



EnergyAustralia

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Mr Mike Phillipson
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Dear Mr Phillipson

NERL Review Issues Paper – Methodology for Review

EnergyAustralia welcomes the opportunity to make a submission in response to the NERL Review Issues paper – Methodology for Review (the Issues Paper), which ESCOSA released for consultation in November 2013.

EnergyAustralia is one of Australia's largest energy companies, providing gas and electricity to over 2.7 million household and business customers in NSW, Victoria, Queensland, South Australia and the Australian Capital Territory. EnergyAustralia owns and operates a multi-billion dollar portfolio of energy generation and storage facilities across Australia, including coal, gas and wind assets with control of over 5,600 MW of generation in the National Electricity Market.

EnergyAustralia looks forward to working with ESCOSA in providing input into the review and appreciates their early engagement on this matter. We believe that it is crucial to determine the appropriate methodology to ensure that the review results in meaningful.

Objectives of the Review

The legislation establishing the NERL Review requires that the review must focus on the impact of the NERL on the consumers of energy and whether its implementation has:

- (a) resulted in increased efficiencies; or
- (b) adversely affected customer protection in pursuit of national consistency, and may address such other matters as the Commission thinks fit.

Recognising that the AER is the regulator of South Australia's retail energy market, we believe that the Issues Paper, in a number of areas, exceeds the intent of the requirements of the review and ESCOSA's terms of reference in conducting it, specifically:

- Competition;
- Pricing; and
- Matters impacting the market which are unrelated to NERL implementation.

At the time of price deregulation, the Government was satisfied that competition in South Australia was effective and that appropriate structures existed to allow market forces to continue to deliver competitive outcomes to consumers. ESCOSA's proposal to further examine the issues outlined above undermines the original view that competition was already effective.

External Factors Influencing Market Developments

The Issues Paper touches on a number of matters which, in our opinion, are outside the terms of reference for the review in that they may reflect trends that have occurred as a result of factors other than the introduction of NECF.

The collection of statistics around customer hardship for example, will certainly provide some insight into the appropriateness of consumer protections under NECF, however increasing hardship numbers may be a symptom of external factors. An increase in this indicator may in fact be a sign of NECF working exactly as intended as retailers become more effective at pro-actively identifying customers in hardship, so we urge that appropriate qualitative analysis is undertaken to highlight the true meaning of statistical data.

Any findings which simply suggest that the introduction of NECF is the stimulus for any statistical trends will be overly simplistic, and in our opinion will exceed ESCOSA's remit on the basis that the review will be examining the market in light of wider influences than just the NERL. We do not consider statistics of this nature to be appropriate in terms assessing the appropriateness of the NERL's customer protections.

Further to this, we disagree with the Commission's assertion that normalisation of externalities should not occur. Normalisation of externalities including carbon and for example the introduction of new billing systems is essential in any analysis to provide to provide a complete and valid perspective of market dynamics. We are unable to reconcile the Commission's view that the introduction of a common customer protection framework will reduce externalities. On the contrary, a common framework may be impacted to an even greater extent than before given that retailer processes will be less compartmentalised meaning that an event which occurs in one jurisdiction may impact a retailer's operations across the entire NEM.

Retail Pricing

Although the objectives of the review allow ESCOSA to focus on "matters as the Commission thinks fit", it is necessary to demonstrate a nexus between such matters and the NERL. For this reason pricing matters are beyond ESCOSA's remit for this exercise.

Pricing is one issue that will be subject to external influences. Although it is important for Government to monitor the progress of its other major reform, the removal of price caps, the context of this review is not an appropriate mechanism. EnergyAustralia considers that examination of pricing within the context of a review of NECF may lead to findings which suggest a causative relationship between NECF and price movements when the reality is that other factors are more likely to play a part.

Although pricing is often a key consideration for customers in choosing a retail offer, the market is delivering a number of products which offer non-price benefits and EnergyAustralia would argue that drawing conclusions of the efficiency of the market based on retail prices alone is likely to provide a distorted picture. The review should instead focus on the variety of product offerings available and the non-price benefits which consumers can select.

When the South Australian Government de-regulated pricing, it ensured that ESCOSA's framework for monitoring pricing was appropriately determined. EnergyAustralia is concerned that the price reporting requirements outlined in the Issues Paper are essentially a proxy for the reporting obligations that ceased when NECF was implemented and hence do not believe that this reflects the Government's intent.

We also consider that a review of competition in the South Australian retail energy market is beyond the intended scope. South Australia is a signatory to the Australian Energy Markets Agreement. This agreement recognises the Australian Energy Market Commission (AEMC) as the key body responsible for energy market development, and as the AEMC has traditionally undertaken reviews of competition in NEM jurisdiction we believe it is rational that it should continue in this role.

Realisation of Efficiencies

EnergyAustralia wishes to stress that even two years after the implementation of NECF, not all efficiencies will be fully realised. We have long advocated for the need for nationally consistent regulation and until such time as NECF has been implemented and settled in all jurisdictions, its full benefits will not be realised. Under the current circumstances where QLD and VIC have not yet implemented NECF, retailers are required to employ parallel processes to ensure that they operate in a compliant manner in each jurisdiction. This will obviously lead to increased costs which are passed on to consumers and a dilution of potential efficiency gains.

The fractured nature of regulation across also leads to a delay in the provision of innovative new products as the processes to administer them must be duplicated. Even if NECF is adopted in the remaining jurisdictions at the time the review is undertaken it is important that any findings consider this timing issue and recognise that the review is not a comprehensive cost benefit analysis, but rather a review of what will still be at that point a relatively immature regulatory framework.

EnergyAustralia notes that the review will examine outcomes to consumers, and consequently the Issues Paper has a strong focus on retail energy businesses as the main link in the supply chain with a customer facing role. Given that the NERL applies to both retailers and distributors, and that actions of distributors impact retailers and have a flow on effect to consumers, the Commission should ensure that SA Power Networks is considered in scope for the review.

Summary

EnergyAustralia appreciates ESCOSA's early consultation with stakeholders to ensure that the scope of the review is appropriate. We look forward to working with ESCOSA on its review of the NERL and can commit to providing information to assist in a timely manner to help ensure its success.

If you require any further information with regard to this issue, please contact me on (03) 8628 1731 or email joe.kremzer@energyaustralia.com.au.

Yours sincerely



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