



Tel: 02 9921 2999
Fax: 02 9921 2552

AGL Energy Limited
ABN 95 052 167 405

72 Christie Street
St Leonards NSW 2065

Locked Bag 1837
St Leonards NSW 2065
www.agl.com.au

23 May 2008

The Independent Competition and Regulatory Commission
GPO Box 296
CANBERRA ACT 2601

icrc@act.gov.au

Draft Decision Retail Prices for Non-contestable Electricity Customers, April 2008

AGL Energy Limited (**AGL**) welcomes the opportunity to comment on the Draft Decision on Retail Prices for Non-contestable Electricity Customers (**the Draft Decision**) by the Independent Competition and Regulatory Commission (**the Commission**). This Commission is required to undertake this review following a reference made by the Attorney-General on 7 February 2008 requiring the Commission to provide a price direction for the supply of electricity to franchise customers for the period 1 July 2008 to 30 June 2009 (**the reference**).

AGL continues to maintain its support for the removal of retail price regulation in those markets that are open to competition. The promotion of efficient investment in generation, the efficient use of energy, product and service innovation and the consumers long term interests with respect to price, quality and reliability will best be achieved through cost reflective market based retail prices. The Commission has the unique opportunity to address any areas pertaining to retail prices in the ACT that may be improved to ensure continued competition through this review process.

While AGL generally agrees with the process undertaken by the Commission to determine retail prices for non-contestable electricity customers, there are some aspects of the review to which AGL suggests that further consideration is required. These are set out below:

Transitional Pricing and Effectiveness of Competition

It is disappointing that the ACT Government has again requested a price direction for electricity tariffs in the ACT. The reference issued by the ACT Government during February 2008 is the second reference¹ issued to the Commission for a review to be undertaken following the effectiveness of competition review in the ACT undertaken by the Commission and the subsequent recommendation for the removal of retail price regulation. AGL notes that the recommendation by the Commission for removal of price controls suggested that price regulation may need to continue for an additional 12 months only for the period to 30

¹ The first and second references referred to are for the periods 1 July 2007 to 30 June 2008 and 1 July 2008 to 30 June 2009. It is assumed that any reference made for the period 1 July 2006 to 30 June 2007 was to enable legislation changes.

June 2007 to allow for the required changes to the Utilities Act 2000 and the Consumer Protection Code.

Under the Australian Energy Market Agreement, the Commonwealth and the State and Territory governments have agreed to phase out the exercise of retail price regulation for electricity and natural gas where effective competition can be demonstrated. AGL therefore considers it essential that the Commission implement an agreed timetable with the ACT Government to ensure that any required legislation changes are expedited and that there is a 'firm commitment' reached by the Commission and the Government to enable the removal of retail price regulation.

Removal of retail price regulation will encourage competition to develop further and allow electricity customers in the ACT to enjoy the significant benefits that arise from a fully competitive market. We agree with the Commission that the ability for consumers to shop around for a retailer to supply their needs at the lowest price is the best way for small consumers to reap the benefits of competition². Where retail price regulation is maintained, best way to replicate a competitive market outcome is through ensuring cost reflective retail market tariffs, which promote retailer entry to the ACT and subsequent retailer rivalry.

AGL are particularly pleased that the Commission recognises that the transitional franchise tariff (**TFT**) is not intended to be a 'safety net' to be used for social or targeted support to small customers. That there are other mechanisms mandated and funded through government and community programs are in place to fulfil that need³. The ACT Government should be cognisant of this when enabling the remove retail price controls.

Allowance for Efficient Retail Costs

AGL considers that an allowance for operating costs should be set at a level that includes all costs in attaining, retaining and servicing customers. They should be set in such a manner so as to allow and encourage a range of retailers to compete in the ACT electricity market.

The proposed costs of \$97.12 per customer for the 2008/09 year do not, in AGL's view reflect the cost per customer for combined costs of retail operating and acquisition/retention costs. The under recovery of costs for a participating retailer, whether that retailer is ActewAGL acting as incumbent or a new entrant retailer attempting to compete in the market, may be detrimental to the continued development of competition in the ACT electricity market.

With specific reference to acquisition costs, which are increasingly being associated with the activities of incumbent retailers as well as new entrant retailers, we strongly agree with the Commission that

"the development of competition would likely be fostered by allowing these costs into the cost recovery for the TFT customer base. This would support the objective of s. 20(2)(c) by reducing the barrier to entry for competing electricity retailers, which would allow competing price discounts to be offered to the TFT customer base"⁴.

The Commission, throughout the review has appeared to consider the analysis and decisions of the Independent Pricing and Regulatory Tribunal (**IPART**) when making its own draft decision. While AGL does not necessarily agree with all of the decisions made by IPART in its final determination of June 2007⁵, we do believe that benchmarking activities and comparisons with regulatory decisions in other jurisdictions may assist the Commission in deriving an appropriate customer acquisition cost to be included in the total retail cost per customer. To the extent that the Commission adopts the position of regulators in other jurisdictions that customer acquisition costs should be fully included in the retail operating

² ICRC: *Retail Prices for Non-contestable Electricity Customers – Report 2 of 2008*, April 2008 pg 11.

³ Ibid, pg 21

⁴ Ibid, pg 24

⁵ IPART: *Regulated Electricity Retail Tariffs and Charges for Small Customers 2007-2010 – Final Report and Final Determination*, June 2007.

cost benchmark, then consideration should be given to establishing a retail operating cost allowance that is at a minimum the equivalent level as NSW, ie \$110 per customer.

AGL looks forward to contributing further to the Commission's review. For any enquiries in relation to this submission please contact Carol Lydford, Manager Regulatory Development (02) 9921 2511 or Carol.Lydford@agl.com.au

Yours sincerely,

Elizabeth Molyneux
General Manager, Energy Regulation