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ACAT Response to Draft Report No 2 of 2020
Retail electricity price investigation 2020-24

ACT CIVIL AND ADMINISTRATIVE TRIBUNAL

The ACT Civil and Administrative Tribunal (the ACAT) was established by the *ACT Civil and Administrative Tribunal Act 2008* and commenced operation on 2 February 2009. The functions of ACAT and its important role in relation to energy and water hardship and complaints in the ACT are described in the ACAT Submission to the Commission's *Issues Paper – Report No 9 of 2019*, made on 14 October 2019.

Over the years that the regulated standing offer price for electricity has operated in the ACT, the ACAT (and its predecessor the Energy and Water Consumer Council) have been strongly supportive of this form of price regulation and the Commission's methodology for setting its level. The ACAT considers that price regulation is in the interests of low income and vulnerable consumers, and that it has made an important contribution to keeping residential electricity prices in the ACT at the lowest level in Australia.

The ACAT has consistently supported the cost component build up model adopted by the Commission and strongly supported the decisions of the Commission in each of its previous Determinations to exclude Customer Acquisition and Retention Costs (CARC costs) as a retail cost component.

This ACAT Response to Draft Report No 2 is based on the structure of the Draft Report.

1. INTRODUCTION

The ACAT notes the additional term of reference – clause 4(4) – in the price investigation for 2020-24 and has commented on the Commission's discussion of transparency and comparability of electricity offers in the ACT at 7. below.

2. COMMISSION'S REGULATORY APPROACH

2.2. Length of regulatory period

The ACAT notes that the regulatory period is specified to be four years from 1 July 2020 to 30 June 2024, a longer period than in previous Price Directions. While this will assist consumers by the certainty it offers, it also increases the risk that the regulated price could fail to meet market developments, either to the disadvantage of consumers if the regulated price fails to reflect savings achieved in other States, or to the disadvantage of ActewAGL Retail (AAR) if the regulated price becomes uneconomic because of upward market pressures.

This points to the desirability, if not necessity, for annual recalibration in key components of the cost stack and pass-through arrangements, which are discussed in Chapter 6.

2.3. Form of price control

The ACAT notes that the Commission did not accept its recommendation that the form of price control include regulation of the nature and number of price offers. The Commission's consideration of "Reference price" at 7.6.1 suggests that there may be utility in the ACAT's approach.

The ACAT supports the proposal for a 2.0 per cent side constraint as this will help protect particular groups of customers from unfair price increases.

The ACAT observes that there is currently a problem in the fact that the Commission does not approve fees and charges within the regulatory framework. The ACAT is concerned that some current fees and charges in the ACT are possibly higher than the general range of fees charged by energy utilities elsewhere in Australia and might be considered harsh in effect (on vulnerable customers). Consideration should be given by the Commission to approving the proposed AAR schedule of fees and charges as well as the proposed regulated tariffs.

2.4. Annual recalibrations

The ACAT supports three annual price recalibrations during the regulatory period.

2.5. Cost pass-through arrangements

The ACAT supports the proposed cost pass-through arrangements which are consistent with previous regulatory periods. See 3.10 for a suggestion about a possible pass-through event.

3. PRICING MODEL FOR THE REGULATORY PERIOD 2020-24

3.1: Energy purchase cost

The ACAT welcomes the Commission's decision to use an ACT specific heuristic to determine the contract position within its pricing model, because of some distinctive elements of the ACT electricity market: its smaller industrial sector; winter heating requirements; and the higher proportion of customers with gas heating and hot water systems.

The ACAT does not have the expertise necessary to comment on the specific methodology proposed by the Commission.

In relation to the use of half hourly load profiles, does the Commission intend to move to a shorter interval when AEMO implements the proposed reduction from 30-minute intervals in the NEM?

3.2: Volatility allowance

The ACAT supports the proposed method for, and frequency of, calculation of the volatility allowance.

3.3: National green scheme costs

The ACAT does not have the expertise necessary to comment on the specific methodology proposed by the Commission.

The ACAT welcomes the fact that ACT electricity customers will benefit significantly from the reduction in these costs, which are consequential on ACT Government renewable energy policies.

3.4: Energy losses; 3.5: NEM fees; 3.6: Network costs

The ACAT supports the Commission's intentions in relation to these cost components.

3.7: Retail operating costs

The ACAT has consistently opposed the inclusion of a separate allowance for CARC costs in the retail operating costs component. The ACAT considers it to be against the interest of customers to increase the default retail price of electricity in order to allow retailers to "compete" by offering discounts from that increased amount.

The ACAT notes that the Commission does not propose to allow a separate CARC cost, however the proposed benchmarking approach, in practical terms, includes a CARC cost because the proposed retail operating cost for the ACT is drawn from other jurisdictions where a CARC cost component is explicitly or implicitly included in

the retail operating cost. The proposed amount of \$127.81 in 2020-21 is similar to NSW and a small amount more than South Australia.

3.8: Energy Efficiency Improvement Scheme (EEIS)

The ACAT supports the EEIS program which has delivered considerable energy efficiency benefits to ACT customers, including vulnerable customers. The ACAT relies on the Commission in relation to the methodology for determining the cost of the EEIS and to ensure that AAR's fees for the EEIS are prudent and efficient.

3.9: Power of Choice pass-through costs

The ACAT has concerns that the Power of Choice regulatory changes have had negative impacts on ACT electricity customers in relation to delays, increased fees and costs, and implementation issues; see the discussion at 3.10.

These concerns, however, do not mean that AAR should not be entitled to the proposed pass-through costs. The Power of Choice changes were mandated by the AER and AAR has no choice but to incur the administrative and IT system costs of implementing the new metering arrangements. The ACAT supports the continued pass-through of Power of Choice implementation costs in each year from 2020-21 to 2022-23.

3.10: Smart meter costs

ACAT position

In relation to the inclusion of type 4 smart meter costs in the cost stack, the ACAT supports the Commission's draft decision to exclude this cost from the cost stack, generally for the reasons advanced by the Commission.

The ACAT is, however, concerned about whether smart meter costs should be included in the cost stack or smeared across the customer base, as discussed below. At present the ACAT supports non-inclusion, however our information base is limited because current fee arrangements are difficult to ascertain, the numbers of smart meter customers may rise rapidly from the present small base (18,000 customers), and further time is required to properly understand how the Power of Choice arrangements actually work in practice.

The ACAT asks the Commission to consider whether this issue should be revisited two years into the regulatory period (possibly as a pass-through event).

Background discussion

The cost of type 4 smart meters upgrades in the ACT before the introduction of Power of Choice in December 2017 was met by the ACT electricity distributor Evoenergy and passed through to customers on a smeared basis (except in solar energy meter installations). The overall revenue base of Evoenergy is subject to AER regulation, but not individual fees such as those relating to meters. Changes to

regulatory arrangements under the Power of Choice has led to the cost of the roll out and maintenance of type 4 smart meters being borne by the retailer.

The Power of Choice reforms have resulted in electricity retailers charging for metering co-ordination services for new meters in areas such as:

- a. Meter works administration fees
- b. Move, remove, inspect or reconfigure meter
- c. Establish supply
- d. Meter test fees
 - i. Faults investigation (meter malfunction)
 - ii. Faults investigation (meter by-passed)
 - iii. Faults investigation (customer's side of network boundary)

The ACAT considers that these charges should be transparent and comparable between retailers. At present, they are very difficult to ascertain from retailers' web sites and other documentation.

At pages 39 and 40 of the draft decision, the Commission advises that AAR does not smear across their customer base the cost of new type 4 smart meters, whereas Origin Energy and Energy Australia, the other electricity retailers operating in the ACT domestic electricity market, do smear this cost. Origin Energy and Energy Australia have a smaller number of customers in the ACT than AAR, however they have a larger base of customers nationally on which to smear these costs.

AAR currently has different standing offers for customers with basic analogue meters and those with type 4 smart meters. A higher fixed charge is set for type 4 smart meters for both standing and market offers. The Commission noted that this is a business choice made by AAR.

The annual costs of type 4 smart meters range between \$110 to \$123.40 per type 4 meter, per year. The Commission stated (at p 39):

"... if smart meter costs were smeared across all customers (by being included in the Commission's cost stack), the Commission estimates that it would lead to an increase in costs of around \$1per MWh per year. The Commission expects this amount would increase over time as the take up of smart meters increases in the ACT."

Basic analogue meters can last up to 30 years, however if a basic meter becomes faulty before this time it is replaced. Since 1 December 2017, all replacement meters must be a type 4 meter (but not necessarily with smart meter communications technology). This has had a direct impact on tariffs, including a significant increase in use of Time of Use (TOU) tariffs. TOU tariffs usually are more expensive for vulnerable customers than accumulation meter tariffs, because heating cannot be shifted away from the evening peak period.

The Commission's analysis in the draft decision does not consider the issue that customers may be required to pay for a new smart meter due to a fault in, or the age of, their existing analogue meter, with a consequential financial impact on those customers, and on AAR as the default electricity retailer in the ACT. Where the customer is an AAR customer, AAR will bear the initial cost of the meter replacement, with cost recovery from an increased supply charge. However, the customer is free to change retailers to a retailer who is smearing the costs across a broad, national range of consumers.

Over time, the cost to Evoenergy of maintaining existing analogue meters will decrease, however this decrease will not necessarily be proportionate to the reduction in analogue meter numbers, as some fixed costs will continue unchanged.

Problems with Power of Choice

The ACAT is observing problems in the Power of Choice arrangements through its electricity ombudsman complaint function, including delays in meter installation, high fees, varying practices between retailers in respect of costs and meter coordinator functions, and customers falling into service gaps between competing retailers, and between retailers and the distributor Evoenergy.

Many of the problems which arise appear to have no clear policy guidance from the AER, making it difficult to determine what good industry practice should be. These problems are emerging slowly over time and the ACAT is not yet in a position to make definitive recommendations for regulatory change.

The ACAT recommends that there be further study of smart meter issues during the 2020-2024 regulatory period.

3.11: Retail margin

The ACAT support the Commission's draft decision.

Please note that Table 3.4 is based on incorrect information. The Commission draws the conclusion that "the ACT has relatively low levels of customer debt, hardship and disconnection rates" from Table 3.4 without appreciating that the source cited, the "AER 2017-18 Compliance and Performance of Retail Energy Market" report, is based only on utility hardship programs and therefore fails to include data from the ACAT hardship program. This program, which is unique in Australia, included 651 electricity customers (at March 2020) whose debt levels and payment histories generally are significantly worse than customers currently in utility hardship programs. The ACAT hardship program operates to support energy and water customers who have been exited from utility hardship programs.

4. ESTIMATE OF EFFICIENT COSTS FOR 2020-21

The ACAT notes the estimates prepared by the Commission in this Chapter of the Draft Report and welcomes the reduction in costs which will result from a lower wholesale energy purchase cost (-6.05%) and lower national green scheme costs (-40.84%)

5. CUSTOMER IMPACTS FOR 2020-21

5.1: Average residential electricity consumption in the ACT

The ACAT support the Commission's intention to use 6,500 kWh as the benchmark average annual electricity consumption of an ACT household as it is consistent with Evoenergy's data and the AER's benchmark.

Consumption varies widely between households for many reasons including the energy efficiency of the house and appliances, customer behavior and lifestyle, medical and other frailty issues, and use of gas as an energy source. For this reason, it is important that the Commission stress, in **all** public communications, that this is an average household figure and actual usage may vary substantially from the notional average household.

6. ANNUAL RECALIBRATION AND PASS-THROUGH ARRANGEMENTS

The ACAT supports the Commission's approach to annual recalibration and pass-through arrangements.

7. TRANSPARENCY AND COMPARABILITY OF ELECTRICITY OFFERS IN THE ACT

The ACCC implemented a default market offer (DMO) arrangement in July 2019 which applied to States in the NEM which did not regulate electricity prices: NSW, South East Queensland and South Australia. Victoria implemented a similar price mechanism, the Victorian Default Offer (VDO). The ACT's electricity market has price regulation and therefore the ACCC reforms did not apply.

However, concerns regarding the lack of comparability and transparency of retail offers still arise in the ACT.

The Commission's Report addresses some of the problems which energy consumers in the ACT face when deciding the best energy offer for their circumstances, such as:

- a. The Commonwealth Government's Energy Made Easy website being difficult to navigate for vulnerable customers, such as customers with English with a second language, without internet and/or computer access or customers with low computer literacy.

- b. Retailers in the ACT benchmark the comparison of their offers on their own standing offer rates which differ between retailers.
- c. ACT retailers have different definitions for a household which is a low, medium and high energy user.
- d. The discount offered applies to different parts of a bill depending on which retailer you are with, that is some retailers discount on both consumption and supply while others discount on consumption only.
- e. The terms and conditions of discounts vary between retailers such as pay on time, electronic bills, dual fuel offers.

The ACAT notes that the Commission has referred to the results of a MySay survey which indicated consumers support introducing a benchmark price which all electricity plans must be advertised against in order to assist with comparisons.

The ACAT supports measures which will result in a general harmonisation of the electricity market, provided they do not adversely impact on vulnerable customers.

7.6.1: Reference price

The Commission has stated that it wishes to establish a reference price in order to enable customers comparability with their existing bills. One difficulty will be that AAR is not smearing their smart meter costs while other retailers are.

The Commission notes that the ACCC and the Victorian government reviews into the retail electricity market found that the best offers were obtained only by active customers who switched regularly and remained engaged. However, to remain engaged requires a customer who has the time, access to technology, skill, education level and English language skills to do so. Many of the ACT's vulnerable customers do not meet these requirements.

In order to resolve this in other jurisdictions, the DMO and the VDO were introduced.

The DMO is the midpoint between the median market offer and median standing offer. It is not the lowest price. It is used to allow ease of comparison with standing and market offers that have different tariffs.

The VDO has a fixed daily charge and a variable usage charge and is also reported as an indicative annual bill. It is based on average consumption. The actual savings will vary from customer to customer.

Both the DMO and VDO present problems for vulnerable ACT customers. In order to allay concerns in relation to the potential for misleading consumers, the ACAT supports the ACTCOSS submission in relation to other measures, introduced with the VDO, which would be beneficial to consumers, such as:

- a. Potential benefits of the 'best offer' – retailers are required to regularly display their best offer on customer's bills in using the customers usage data
- b. Bill change notices – customers must be notified at least five business days prior to a price change
- c. Clear advice entitlement – retailers must explain contractual terms to customers which result in them paying more than they expect.

The Commission states that the reference price should be developed using AAR's regulated standing offer rates. The Commission has not finalised which of the five AAR standing offer rates should be used to form the reference price. If the Commission decides to have only one reference price, the ACAT suggests that it should be the flat rate tariff, which applies to analogue meter customers who form the majority of the current ACT customer base.

AAR has offers based on demand tariffs (the maximum half hourly demand during the peak time period in each calendar month (or part thereof) in a billing period). This type of offer requires the customer to be constantly monitoring their usage within peak time (5pm to 8pm daily) in order to achieve savings. This requires a very engaged customer. Further ActewAGL customers who have this tariff structure do not receive bills with meter readings on them but are required to get their actual usage from ActewAGL's on-line system.

Transparency for customers who have moved to smart meters needs to be considered. The customer should be advised of best offers given the customer's consumption and their circumstances, such as:

- a. The type of meter the customer has
- b. Whether the customer can access the billing system IT which allows customers to monitor their usage
- c. Access issues for customers who have English as a second language, low literacy and/or poor access to the internet
- d. The ability for customers who have a smart meter to opt into a flat rate tariff

7.7: Draft recommendations

1. The ACAT supports development of a reference bill amount to provide ACT consumers with a common point of comparison for assessing electricity offers.
2. The ACAT supports a new regulatory obligation on retailers to notify their customers whether they are on the best tariff offered by that retailer, taking account of the customers' circumstances. The form of the regulatory obligation, including timing and how a best offer is identified, must be subject of extensive consultation with consumers, utilities and consumer interest groups before it is implemented.

