



Tel: 1300 137 245
Fax: 1800 654 337

AGL Energy Sales & Marketing Limited
ABN 18 076 092 067

AGL Centre
226 Greenhill Road
Eastwood SA 5063

GPO Box 888
Adelaide SA 5001
www.agl.com.au

3 March 2006

Mr Paul Baxter
Senior Commissioner
The Independent Competition and Regulatory Commission
Level 7 Eclipse House
197 London Circuit
CIVIC ACT

Dear Mr Baxter

Draft Decision on Retail Prices for Non-Contestable Electricity Customers

AGL¹ welcomes the opportunity to provide comments on the 'Draft Decision on Retail Prices for Non-Contestable Electricity Customers' by the Independent Competition and Regulatory Commission ("Commission").

AGL agrees with the Commission that the ACT market is competitive and that regulation of retail tariffs through the use of the transitional franchise tariffs ("TFT") can be removed once the relevant legislation is amended to support this development.

As outlined in our submission to the Issues Paper², AGL strongly supports market based retail energy pricing and believes that competition is the best mechanism for producing efficient prices, providing the price signals for new investment and providing incentives for the most efficient use of energy.

AGL also supports the Commission's view that restricting general retail tariffs via regulation is a poor means of addressing social policy issues and that targeted assistance programs by government to be a more effective and equitable way to address customer difficulties³.

Price regulation and assistance to customers in financial hardship should be managed as two separate issues. Effective and efficient assistance to customers in financial hardship requires adequate, well targeted and transparent community service obligations.

The draft decision by the Commission to phase out retail price regulation is consistent with the intent and will of The Council of Australian Governments ("COAG"), who met on 10 February 2006. At this meeting agreement was reached to implement significant energy market

¹ AGL represents the retail businesses of AGL.

² ICRC Issues Paper on Retail Prices for Non-Contestable Electricity Customers

³ ICRC Draft Decision on Retail Prices for Non-Contestable Electricity Customers, pg. 35

reforms, one of which is a phase out of energy retail price regulation where effective competition can be demonstrated.⁴

AGL's detailed comments are contained in the following attachment. Please contact Carol Lydford, Manager Regulatory Development on 02-9921 2511 if you wish to discuss any aspect of our submission or require any additional information.

Yours Sincerely,

Sean Kelly

General Manager Retail Regulation

⁴ Council of Australian Governments' Meeting 10 February 2006 Communique, Appendix A, pg.10

AGL Submission on Draft Decision - Retail Prices for Non-Contestable Electricity Customers

Competition in the ACT market

AGL agrees with the Commission's decision that the ACT market is competitive, and that as a result, the regulation of retail tariffs will cease from 1 July 2007 following completion of any necessary changes to legislation.

AGL is of the view that the removal of retail price regulation will ensure cost reflective prices that will:

- Promote private sector investment in new generation and retail supply;
- Promote appropriate demand management and energy efficiency measures which will assist in reducing the need for new investment, and reducing greenhouse gas emissions;
- Limit the possibility for future significant price increases for customers to facilitate the required investment or participation in the energy market;
- Reduce significant regulatory costs of price reviews arising from the complexity and analysis required under current arrangements; and
- Enable the government, community groups and industry to provide targeted assistance to customers in financial hardship.

In determining the competitive state of the market, the Commission has identified a number of measures to indicate the existence of competitiveness including⁵:

- The existence of a number of competing retailers and/or the imminent potential entry of new competitors;
- Actual and/or potential competition between these retailers; and
- Innovations in the products and services offered to consumers by active retailers.

AGL believes that the findings of the Commission that there are sufficient active retailers as well as the potential entry of new competitors to provide an effective competitive environment, that will ensure prices are maintained at competitive levels are well founded and based on sufficient evidence.

In addition, while there is already a broad range of energy products available to consumers in the ACT market, there is evidence of further innovation in products and services offered, such as the potential introduction of pre-payment meters that is being considered by Aurora Energy⁶.

Market based retail energy pricing will promote product innovation and is the best mechanism for producing efficient prices, providing the price signals for new investment and providing incentives for the most efficient use of energy.

Consumer Protection

AGL supports the Commission in its view that the TFT is not to be considered as a form of safety net or social policy instrument to protect more vulnerable customers.

A competitive market environment represents the most effective and efficient form of customer protection, and that the removal of price controls, such as the TFT will not impact on customers rights and obligations (customer protection provisions) under the Consumer

⁵ *ibid*, pg. 1

⁶ *ibid*, pg. 1

Protection Code and voluntary measures such as retailers hardship policies adopted by the incumbent and new entrant retailers.

AGL believes that a model of 'shared responsibility' is the most effective and efficient arrangement to deal with issues of financial hardship, and that assisting customers in financial hardship is a mutual social obligation to be shared between retailers, governments, customers and welfare and community groups.

As outlined in our submission to the Issues paper, the protection of customers in financial hardship will be more effectively achieved through adequate, well targeted, and transparent community service obligations that are currently being administered under the Consumer Protection Code by retailers and the Essential Services Consumer Council ("ESCC").

A holistic approach based on a shared responsibility as outlined above would be the most effective means of providing assistance for customers that are experiencing financial hardship.

ActewAGL, the incumbent retailer, has submitted that it intends to maintain a standard customer contract in the event that the Commission decides a price direction is not required⁷. AGL suggests that this arrangement would be similar to that in place for the gas market in the ACT, whereby ActewAGL has maintained a competitive unregulated default price for customers who choose not to participate in the competitive market or are between market contracts. AGL is not aware of any customer protection issues arising for gas customers and as such, will strongly support the adoption of the same approach for electricity.

Transitional Pricing and Legislation Arrangements

The Commission has outlined its draft recommendation that as a result of the requirement to amend the Utilities Act 2000 ("Utilities Act") and the Consumer Protection Code ("the Code") the removal of price regulation will not be achievable on 1 July 2006, rather, the TFT is to remain in operation for a further 12-months period until 30 June 2007.

In the interim period prior to the removal of regulation on retail tariffs, AGL strongly believes that a light handed approach should be adopted to facilitate the transition to market based prices, and that the proposal outlined by the Commission as an interim arrangement for the 2006-07 year whereby the existing tariffs will be adjusted by the Consumer Price Index ("CPI") is appropriate and will provide price stability for consumers.

The Commission has noted that difficulties may rise in any attempt to amend legislation in a tight timeframe, and that, in preparation for the transfer of responsibility for electricity distribution and retail regulations (except retail pricing) to the Australian Energy Regulatory ("AER") the Government will be amending the Utilities Act during the course of 2006⁸. As a result, the Commission has suggested that a 'price variation trigger' or similar event mechanism may be incorporated into a new TFT price direction to commence from 1 July 2006 such that the TFT will continue until such time as the legislation is amended. The amendment of the legislation will act as the price variation trigger.

AGL considers it essential that the Commission implement an agreed timetable to ensure that the required legislation changes are expedited and that there is a firm commitment reached by the Commission and Government to enable the removal of retail price regulation on 1 July 2007 as recommended.

⁷ *ibid*, pg. 40

⁸ *ibid*, pg. 60