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Retail Prices for Non-contestable Electricity Customers 2009/10 – Issues Paper

Thank you for the opportunity to comment upon the Commission's *Issues Paper – Retail Prices for Non-contestable Electricity Customers 2009/10*.

The level of competition in a retail energy market is directly related to the extent to which regulated prices are allowed to transition to market-based levels, facilitating the entry of new retailers and competitive activity. In the ACT, regulated electricity tariffs have been held below market-based levels, whereby the development of competition in the market remains well below that achieved in other Australian jurisdictions. For example, less than 22% of ACT customers are on a market contract, compared to over 60% in Victoria.

Of particular concern is the finding that in the past two years 4,000 additional customers have reverted to the regulated tariff, indicating that they could not obtain a better deal on a market contract. There is no better evidence in a contestable market that price setting arrangements have failed to transition regulated prices to market based levels.

In this context we agree with the Commission's comments:

> *The current arrangements whereby the Commission plays such a significant role in determining the price for both negotiated and non-negotiated contracts in the market is not sustainable or economically efficient and may in fact be reducing the long-term competitiveness of the market.*

The potential impact of price regulation on competitive activity is also confirmed by the January 2009 customer transfer statistics from NEMMCO, which show that high rates of competitive activity have been sustained only in Victoria, the sole jurisdiction to have removed price regulation.

Customer Transfer Rate – January 2009 (NEMMCO)	
Victoria	23.3%
Queensland	14.2%
South Australia	13.9%
New South Wales	11.1%

Whilst the current regulated pricing framework remains, TRUenergy recommends the introduction of an allowance in retail costs for operating in a competitive market. Such an allowance is provided for in all jurisdictions other than the ACT, either through acquisition and retention costs (Victoria, New South Wales, and Queensland) or through a loss of scale allowance (South Australia). The most detailed analysis of the alternative approaches, conducted by Charles River and Associates for the QCA[1], supported an acquisition and retention cost approach, which TRUenergy would also support for the ACT electricity market.

Our only note of caution is that there is the potential for the assumed level of customer transfers in the calculation of customer acquisition costs to be self-fulfilling, whereby if a low level of churn is assumed, the cost allowance will be low, providing only limited scope for acquisition activity. Evidence from other markets, and the table above, is that customer transfer rates above 20% are to be expected providing regulated prices are permitted to transition to market-based levels. Adopting CRA's other assumptions, including a cost to acquire of $177.69, provides an allowance of $35 per customer.

With regard to the need for the inclusion of pass-through arrangements it is unclear why there is a need to specifically identify the circumstances in which the arrangements may be triggered. As the Commission acknowledges in the *Issues Paper …*

> *Pass-through arrangements are often included in regulatory decisions to allow for an adjustment to prices should unforseen events occur during the life of a price path.*

As such events are, by definition "unforeseen," a regulator cannot be expected to have the perfect foresight to identify all the circumstances in which a trigger may be required. A more prudent approach would be to allow for a pass-through consideration in any circumstances in which there is a material change in the retailer's cost base relative to the assumptions of the price path determination.

Please contact me on (03) 8628 1122 if you require additional information.

Yours sincerely,

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[1] http://www.qca.org.au/files/E-NEP09-CRA-DraftReportBRCICalc-Feb08.pdf