

Independent Competition and Regulatory Commission
PO Box 161
Civic Square ACT 2608

Issues Paper – Report No 7 of 2016, October 2016
Standing offer prices for the supply of electricity to small customers from 1 July 2017

We refer to your Media Release in October 2016 inviting Submissions on the above Issues Paper. Our Submission follows.

ACT Civil and Administrative Tribunal

The ACT Civil and Administrative Tribunal (ACAT) was established by the *ACT Civil and Administrative Tribunal Act 2008* and commenced operation on 2 February 2009. ACAT brought together a large number of ACT tribunals, including the former Energy and Water Consumer Council.

Under Part 12 of the *Utilities Act 2000*, ACAT is responsible for determining hardship applications and complaints made by consumers and customers of ACT energy and water utilities. These may include complaints about:

1. Contravention of a customer contract, a customer retail contract or a customer connection contract made under the *National Energy Retail Law (ACT)*, by a utility.
2. Contravention of an industry code dealing with utility service standards by a utility.
3. Failure (or potential failure) of a utility to provide a utility service to a consumer or the withdrawal (or potential withdrawal) of a utility service from a consumer, where such failure or withdrawal causes (or is likely to cause) substantial hardship to the consumer.
4. Contraventions by a utility in relation to the protection of personal information.
5. Contraventions by a utility of an obligation in relation to network operations under the *Utilities Act* or the *Utilities (Technical Regulation) Act 2014*.
6. Acts or omissions of an authorised person for a utility in relation to network operations.
7. The amount of a capital contribution charge imposed under s 101 of the *Utilities Act* by a utility.

ACAT also has jurisdiction to consider and resolve customer complaints about the original ACT Government feed-in-tariff under the *Electricity Feed-in Code* determined by the Independent Competition and Regulatory Commission (the Commission), and certain complaints relating to credit reference reports made by energy and water utilities.

From 1 July 2012, ACAT has been the jurisdictional energy ombudsman for the ACT for the purposes of the National Energy Customer Framework (NECF).

For more than 20 years, ACAT and its predecessor agencies (the Energy and Water Consumer Council, the Essential Services Consumer Council and the Essential Services Review Committee) have performed statutory functions in the regulation of energy and water utilities in the ACT, including a function of advising the Minister and the ICRC on utility issues in the Territory. As a result of this long association with utilities and their customers, ACAT has built up considerable expertise in dealing with issues relating to the utilities industry in the ACT, including the impact of utility poverty and financial

ENERGY & WATER

(part 12 of the *Utilities Act 2000*)
PO Box 578 CIVIC SQUARE ACT 2608
Ph: 62077740 Fax: 62077739
www.acat.act.gov.au

hardship, systemic issues affecting customers and consumers, and the operational performance of utilities.

The comments which follow in this submission are made in the context of the responsibilities and experience of ACAT as described above.

Chapter 1: Introduction

1.3 - ICRC objectives

As the Commission points out at 1.3.1, s 7 of the ICRC Act sets out three objectives:

- (a) to promote effective competition in the interests of consumers;
- (b) to facilitate an appropriate balance between efficiency and environmental and social considerations;
- (c) to ensure non-discriminatory access to monopoly and near-monopoly infrastructure.

Both objective (b) and objective (c) specifically raise social and environmental considerations and this focus is emphasised by other provisions in s 20(2) to which the Commission is to have regard, including:

- (f) the principles of ecologically sustainable development mentioned in subsection (5); and
- (g) the social impacts of the decision; ...

ACAT observes that these statutory provisions require the Commission to place equal importance on social and environmental outcomes and economic outcomes. In particular, ACAT urges the Commission to consider and prioritise the impact of its decisions on the most vulnerable members of the ACT community, including those with significant medical problems, substantial disability and/or in substantial financial hardship.

ACAT also observes that the overarching objective in new s 19L is similar to those in the National Energy Law and that, ultimately, the "long-term interests of consumers" are the paramount consideration.

Chapter 2: Regulatory Approach and Pricing Model

As in previous Retail Electricity Price Inquiries, ACAT supports the overall regulatory approach adopted by the Commission which involves:

- a price control mechanism;
- the cost-index model; and
- pass-through arrangements.

Specifically, ACAT supports the Commission's approach in relation to:

- 2.2.2 - a weighted average price cap form of regulation;
- 2.2.3 – annual recalibrations updating the parameters of the retail cost index model, but not affecting the determined methodology. In this Review, it may include network costs affected by litigation in the Australian Competition Tribunal;
- 2.2.4 – appropriate cost pass-through arrangements.

Our main concern is to ensure that the Commission does not agree to a "headroom" retail cost allowance in the 2017-2020 price path. This is discussed at 3.5.1 below.

2.3 - Pricing model

The Commission identifies three main cost categories for electricity in the ACT: wholesale energy costs; network costs; and retail costs. While the ACT is located within the NSW wholesale electricity market, the ACAT observes that there are geographic and climatic factors that provide some differentiation between the two markets and tend to keep ACT electricity prices lower than NSW prices

Wholesale Electricity Costs

The ACT climate leads to an electricity demand peak in winter, with a smaller (but growing) peak from air conditioning in summer. This, together with the significant and increasing level of solar generation in the ACT, reduces our electricity costs at times of peak summer pricing, with a corresponding reduction in our overall wholesale cost relative to NSW. At 3.2, the Commission has noted a change in the wholesale electricity spot market in June and July 2016, which suggests that this winter/summer differential may not continue in future because of a shift in electricity generation from coal to gas.

The dominant retailer in the ACT, ActewAGL Retail, can forward purchase to advantage and is not greatly exposed to the short-term vagaries of the spot market.

The ACT's wholesale electricity costs will also be constrained in the medium to long term by the Territory's move to 100% renewable energy at a price which is locked in for 20 years.

Network Costs

While network costs have been a significant driver of overall costs in recent years, "gold plating" of networks has been identified as a significant factor and this is now addressed by the Australian Energy Regulator in Determinations which are currently under challenge in the Australian Competition Tribunal. The network within the ACT is relatively new and geographically contained which assists to mitigate against network cost inflation.

2.3.2 – Energy purchase cost

ACAT relies on the expertise of the Commission for the process of determining the most appropriate method of price data averaging and hedging uplift factor.

2.3.2 – Cost of carbon component

ACAT recommends that the cost of carbon component be retained, initially set at zero. It is very possible that a carbon cost will be imposed on electricity generation in the course of this price determination, albeit with a name other than "carbon tax" or "emissions trading scheme".

Chapter 3: State of the Market and Recent Regulatory Developments

3.2.4 – Customer complaints

ACAT cautions the Commission about reliance on the raw customer complaint numbers published by the AER (Figure 3.9). The AER numbers do not include the hardship complaints handled by ACAT, which are considered "credit complaints" by other energy ombudsman schemes but are not counted by the AER in ACAT complaint numbers. If these complaints were included, ACT complaint numbers would be relatively similar to the mainland States, but with a higher proportion of credit complaints than elsewhere.

3.3 Recent Regulatory Developments

3.3.1 - Smart metering

ACAT supports the proposition that the costs of introducing smart meters should not be included in the standard regulated tariff.

ACAT notes that:

- ActewAGL Distribution currently replaces analog meters with digital meters whenever a replacement meter is required, and all new properties in the ACT have a digital meter installed, initially established with a TOU tariff. Overall this means that a high, and increasing, proportion of electricity meters in the ACT could be used as smart meters if the distributor were to make an investment in remote reading technology and retailers were to make an investment (at their retail customers' cost) in communications and "smart" enhancements.
- The cost benefit analysis for a compulsory smart meter rollout in the ACT is unconvincing and there are limited financial benefits from time of use changes in usage, particularly for low income customers who cannot change when their house needs heating and are unlikely to be able to afford the emerging battery technology.

3.3.2 - Network cost uncertainty

ACAT notes that network costs are currently uncertain because of litigation in the Australian Competition Tribunal. ACAT appreciates that this may lead to price shocks and asks the Commission to smooth these possible shocks in the interests, in particular, of low income and vulnerable customers and consumers.

3.5.1 – Retail competition in the ACT

Electricity retail costs in the ACT are minimised because of the dominant position of ActewAGL Retail in the ACT energy market. There has been little customer churn and relatively low costs in acquiring and retaining customers in recent years. At present, EnergyAustralia (formerly TRUenergy) and Origin are marketing to new domestic energy customers in the ACT, however their total market share is not high. ACAT notes that there is a highly competitive market in the ACT for large electricity customers.

ACAT is strongly opposed to a "headroom" retail competition allowance. We believe it will simply result in a large retail price increase and then "competition" among a few entrants who offer discount prices down to where the regulated tariff would have been in the first place. In the meantime, the vast bulk of inactive customers will simply pay more.

ACAT has observed that many of the discount market contract offers in the ACT market currently are based on a "pay on time" condition. This condition effectively excludes low income customers who pay by CPay or other bill smoothing mechanisms, and is not very useful to a larger group of customers who have strong intentions to pay on time, but are buffeted by ill-chance, or Christmas, or illness, or reduced hours in employment, etc.

The ACT has the lowest electricity price in Australia (Figure 3.11). Lets keep it that way!

Chapter 4 Issues for Consultation: Summary

ACAT offers the following brief responses to the 5 issues identified by the Commission.

Issue 1: Energy purchase costs model

ACAT relies on the expertise of the Commission for the process of determining the most appropriate method of price data averaging and hedging uplift factor; see 2.3.

Issue 2: Commission's hedging strategy

ACAT relies on the expertise of the Commission for the process of determining the most appropriate method of price data averaging and hedging uplift factor; see 2.3.

Issue 3: Competition allowance

ACAT strongly opposes any "headroom" retail competition allowance; see 3.5.1.

Issue 4: Cost categories

See our comments at 2.3 above.

Issue 5: Other issues

While ACAT agrees that ActewAGL Retail should have flexibility in determining prices within a weighted average price cap form of regulation, ACAT considers that the Commission should retain the power to assess and disallow specific fees and charges if:

- they are more than the reasonable cost of providing that particular service; or
- they are discriminatory or unfairly impact on vulnerable consumers.

ACAT points to one example of fees which are highly regressive in impact – the higher total of fees paid where a service is disconnected by ActewAGL for debt rather than de-energised at customer request. Many other retailers write-off disconnection fees where a hardship customer has been identified, however, in ActewAGL's case, they place increased fees on these customers.

ACAT recommends that fees of this nature should be disallowed by the Commission.

Yours sincerely



Linda Crebbin
General President

14 December 2016