

ESSENTIAL SERVICES CONSUMER COUNCIL

(established under Part 11 of the *Utilities Act 2000*)

Retail Prices for Non-Contestable Electricity Customers

Report 12 of 2005

ESCC SUBMISSION

1. The ESCC's comments on the Issues Paper – Retail Prices for Non-Contestable Electricity Customers (Report 12 of 2005) - are set out below against the various subject headings as they appear in the Issues Paper.

2. Size of the market

2.1 From the figures provided in the Issues Paper it is clear that the ACT retail electricity market is very small when compared to other markets, particularly NSW and Victoria. The ACT's market size is not even 60% of the size of the market in the smallest State - Tasmania.

2.2 Because of its small size, there is little incentive for competitors to enter the ACT market, particularly for franchise customers. From our observation of the ACT market, it would seem that those alternative retailers who entered the ACT market have primarily concentrated on major business customers with some limited "cherry picking" of franchise customers.

2.3 In our view, at this stage, the ACT market is not sufficiently competitive to protect franchise customers from price rises that are not cost-based. Given that the ACT population is unlikely to increase beyond 500,000 in the foreseeable future, we also believe that this non-competitive situation for electricity retailers in the ACT could persist for many years.

3. Entry of new electricity retailers

3.1 Even though the ACT has 14 licensed electricity retailers, effectively only two alternative retailers (Country Energy and Energy Australia) have actively entered the ACT market. This suggests that the ACT market is not completely closed off to competition, but, as indicated in 2.2 above, the market is not sufficiently attractive to alternative retailers other than for "cherry-picking" customer niches. It would seem that other alternative retailers have become licensed in the ACT to reserve their position as potential electricity retailers, particularly for large customers.

3.2 The ESCC considers that, at this stage, the interest of potential alternative electricity retailers in entering the ACT franchise market is not sufficiently high to protect franchise customers from price rises that are not cost-based. Furthermore, we do not see this situation changing in the foreseeable future.

4. Information available to customers

4.1 From our dealings with the ACT electricity consumers, it would seem that the information which the industry provided to the community at the time FRC was introduced in the ACT is now largely forgotten. Furthermore, the significant number of franchise customers who are clients of the ESCC have not even tried to access that information. They are too busy managing their difficult lives to even think about the retail options that might be out there which could reduce their electricity charges. Even if they had that interest, the relative complexity of the competitive offers that have been made (including bundling) means that generic information initially provided to the community is of little use. Each offer has to be evaluated specifically (and in detail) to check its suitability to the customer.

4.2 The ESCC is certainly of the view that the level and nature of the information which is available to the community on FRC is not adequate for consumers to make informed decisions about the services they require and to make comparisons between the costs of the services offered. In general, only large consumers have the capacity and interest to effectively analyse their options and to make informed decisions on those options.

4.3 The ESCC is also certainly of the view that the availability of information to consumers is an issue to be resolved.

5. Barriers to further competition

5.1 As discussed above, the main barrier to effective competition in the ACT electricity market is its size. This in turn leads to a lack of real interest in franchise customers from alternative retailers. This lack of interest further enhances the market power and scale of the incumbent retailer ActewAGL. In the ESCC's view, the transitional tariff (TFT) is an effective and necessary restraint on the unbridled use of that power.

5.2 The ESCC does not see increasing the TFT as a sensible approach to attracting more competitors. This would amount to the customer/consumer indirectly subsidising inefficient competition.

6. Customer churn rates

6.1 At less than 2%, the number of customers who have moved to an alternative retailer is very small. This is probably a reflection of the lack of real interest from alternative retailers in the ACT market. It may also be a reflection of the fact that many small customers just do not have the interest (or necessary information) to pursue these options.

6.2 That 11% of the market has switched from the standard customer contract to a negotiated contract with ActewAGL probably reflects ActewAGL's vigorous marketing campaign to encourage ACT consumers to bundle their energy services with TransACT telecommunications and internet access.

6.3 The churn rates in the other States suggest that it is the level of actual retail competition in the market which is the determining factor and the ACT just does not have, and is not expected to have, that level of effective retail competition in the foreseeable future.

7. Pricing

7.1 The ESCC can only see prices increasing if the TFT is removed. As mentioned above, the removal of the TFT is likely to subject franchise customers in the ACT to price rises which would not be cost-based.

7.2 In our view, the potential implications of setting an inaccurate TFT are cushioned by size of the ACT market. The implications described in the Issues Paper could occur in a theoretical environment, but they are less likely to occur in the ACT where the market is so small and alternative retailer interest is so low. The ESCC agrees that effectively the TFT is a maximum price and it is this that protects small electricity consumers in the ACT.

7.3 The ESCC does not have any information on the retail prices charged by ActewAGL in the NSW country regions in which it operates.

8. The emergence of new tariff offerings

8.1 From our analysis, it seems that the emergence of bundling arrangements in the ACT is very limited. It is either bundling arrangements being offered to large customers by the two alternative retailers who have entered the market, or it is ActewAGL trying to build up its TransACT business. The fact that these bundling options are out there does not mean that the ACT electricity market is truly competitive, particularly for the small customer.

9. Safeguards

9.1 The ESCC notes that the approach of ActewAGL to electricity customers facing disconnection is very different to that taken by the AGL Sydney office to ACT gas customers facing disconnection. It is AGL's standard policy to reverse all penalty charges (ie. late fees, attendance fees, disconnection fees and reconnection fees) on the accounts of ACT customers who come under the hardship protection of the ESCC. On the other hand, fees are maintained on the accounts of ESCC electricity clients and these fees can often be a substantial part of the customer's debt. For example, it is not unusual for a new ESCC client to present with several attendance fees, and at least one disconnection cycle, totalling around \$200 in fees. On the basis of this experience, the ESCC suggests that regulation by the ICRC of fees charged by the electricity distributor is a necessary safeguard for franchise electricity customers.

10. Actual or potential competition

10.1 Now that the ACT market has been opened up to FRC for several years, the ESCC is of the view that actual competition should be the primary measure used to determine the competitive state of the market. The use of potential competition can be a back up consideration, but there would need to some analysis of the real interest of alternative retailers, not just reserving their position as many have done.

10.2 The level of actual competition for franchise electricity customers in the ACT is low.

10.3 It is important also not to consider actual competition in the ACT in isolation. Currently, NSW does not have a truly competitive franchise electricity market because of price controls by the NSW Government and the fact that the dominant electricity retailers in NSW are Government-owned. For as long as NSW does not have actual and substantial competition in its franchise electricity market, the ACT should not consider removal of the TFT because to do so would expose the ACT to the inherent distortions of the NSW electricity market.

11 Experience in other jurisdictions

11.1 See para 6.3 above for comments on churn rates.

11.2 The experience of FRC in NSW, Victoria and South Australia is a salutary lesson for the ACT, one which suggests that we should maintain our current, reasonably workable, transitional franchise arrangements.

11.3 As discussed in 10.3, FRC is not fully implemented in NSW because the major distributor/retailers are Government-owned and electricity price controls are still in place.

11.4 There has been a substantial deregulation of the franchise electricity market in Victoria, and the overall outcome appears to have been chaos and social dislocation. As a result of consumer difficulties, the Victorian Government reintroduced price subsidies for rural consumers and the level of hardship and disconnections forced the establishment of a Committee of Inquiry into Electricity Hardship which is yet to report. Pending this Report, the ESCC understands that there has been a defacto halt to disconnections in Victoria, at considerable cost to retailers.

11.5 In South Australia, retail electricity prices have escalated greatly in the several years since FRC, causing electricity prices to become a major political issue in that State. While much of the price rises can actually be attributed to other factors (generation costs and spiralling consumption), FRC seems to be seen by the public in South Australia generally as the "root of all evils".

12. Regulatory context

12.1 As the regulation of retail pricing is to remain with the various jurisdictions under the new NEM arrangements, we cannot see how the new national regulatory context would have any effect on the maintenance of a regulated retail tariff.

13. Options for future regulation

13.1 The ESCC is of the view that little has changed in the ACT to warrant a different approach to that adopted on the last occasion. Accordingly, there seems to be no reason to change the approach adopted in 2003.

14. Franchise tariffs determined by the Commission

14.1 Similarly, in the absence of significant market changes, there seems little reason to depart from the cost build-up approach adopted previously by the Commission.

15. Alternative regulatory options

15.1 See 13.1 and 14.1 above.

16. Duration of price determination

16.1 ESCC is of the firm view that the franchise tariff should continue indefinitely as we see little prospect of the current electricity market in the ACT changing in the foreseeable future. This suggests that the Commission should specify a TFT for a further 3 year period from 1 July 2006 to 30 June 2009, with a further review of the actual market before considering changes to TFT arrangements.

17. Retailer supplier of last resort

17.1 It is the ESCC's view that there should always be a retailer of last resort. For practical reasons, in the ACT this retailer should be ActewAGL. In the ESCC's view, whether or not there is a regulated tariff does not affect this fundamental requirement..

17.2 The current protections under the Act and Code seem to be working very well at present and ESCC sees no reason to change them if the regulated tariff is retained. If, however, contrary to this submission, the regulatory tariff is removed, some Code changes would be necessary to protect small consumers from price rises that are not cost-based. The ESCC would wish to be consulted on the form those amendments might take.

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