

Mr Malcolm Gray
Senior Commissioner
ICRC
PO Box 161
CIVIC SQUARE ACT 2608

Dear Malcolm

**ACAT RESPONSE TO DRAFT REPORT – REPORT NO 2 OF 2012
RETAIL PRICES FOR FRANCHISE ELECTRICITY CUSTOMERS 2012-14**

Thank you for inviting the ACT Civil and Administrative Tribunal (ACAT) to comment on the Draft Report. There are a number of general comments as well as responses to specific issues that we wish to make.

ACT Civil and Administrative Tribunal

The ACT Civil and Administrative Tribunal 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 non-hardship complaints made by consumers and customers of ACT energy and water utilities.

On 1 March 2009, ACAT was also given jurisdiction to consider and resolve customer complaints about the feed-in-tariff. This responsibility is vested in the ACAT by the *Electricity Feed-in Code* determined by the Commission.

For more than 15 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 Commission on utility issues in the Territory. As a result of this long association with utilities and their customers, ACAT has accrued considerable knowledge and expertise about the utilities industry in the ACT, in particular about the impact of utility poverty and financial 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.

General Comments

ACAT is supportive of the methodology adopted by the Commission and is pleased that the Commission has excluded a "Customer Acquisition and Retention Cost" from the TFT cost base. ACAT

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(part 12 of the *Utilities Act 2000*)
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also notes that the Commission has agreed with its recommendation that the "Energy Purchase Cost" element should be reviewed in 2013 to allow a new TFT price to be set for 2013-14.

The ACAT continues to suggest that the "Retail Margin" should be returned to 5%. The overall electricity price increase from 1 July 2012 will be 17.22%. While some of the increase will be offset by the carbon tax compensation arrangements, the ACAT remains concerned about the social impact of such a high price increase on low income customers.

Specific Issues

2.2 Impact of the price on carbon on energy purchase costs

ACAT notes that the Commission is still reviewing the possible use of Over-The-Counter data in place of SFE futures data. We suggest that OTC data be used for the 2012-13 TFT period only if it results in a reduction of the Energy Purchase Cost from the currently proposed 70.91 \$/MWh. The use of SFE data appears to have resulted in a reasonable reflection of the initial carbon price of \$23 per tonne of CO₂-e.

3.2 Energy purchase cost

ACAT supports the analysis of EPC on a quarterly basis, given the highly seasonal nature of energy use in the ACT and the fact that the ACT load shape is different from the East Coast capital cities.

3.2 Green costs

ACAT supports the proposed methodology for calculating green costs which is based on cost recovery without additions for risk, etc.

3.2 Retail margin

As discussed above, ACAT proposes that the retail margin be returned to 5.0%.

3.2 Network costs

At p 6, the Commission describes network costs as "unavoidable". This is the case insofar as the Commission has no role in the setting of this price – the responsibility is held by the AER. However, network prices, in the long-term, are subject to choices and constraints and ACAT believes that this cost element should be strictly controlled in future, in particular in relation to over-engineering of the network and the high weighted cost of capital.

4.2 Proposed 2013-14 methodology

ACAT supports the Commission's intention to have a mid-term price review, particularly in relation to energy purchase costs, green costs, network costs (set by the AER) and any pass-throughs.

6.5 Pass-throughs

ACAT sees no reason for "any customer hardship program" to be treated as a regulatory change event. The NECF rules for hardship programs are already legislated. Most large energy utilities in Australia have been operating hardship programs for a number of years. There is no reason to treat the ActewAGL retail hardship program as a pass-through, simply because the company has only recently introduced a complying hardship program. ACAT opposes inclusion of "any customer hardship program" as a pass-through in the Price Direction.

ACAT supports the proposed materiality threshold.

Social Impact

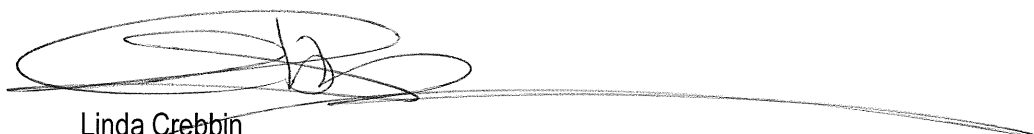
ACAT is concerned about the impact of a 17.22% increase in the price of electricity on and from 1 July 2012.

ACAT recommends that the Commission undertake two activities supportive of its objective to "facilitate an appropriate balance between efficiency and environmental and social considerations":

1. The Commission should support the provision of adequate Government concessions to offset the impact of the price rises on low income energy consumers in the ACT; and
2. The Commission should map the effect of carbon price policies on the price of energy to Canberra consumers. This is an area of considerable controversy. The social and political debate would be greatly assisted if it was informed by objective data, specifically relevant to ACT energy consumers. The Commission is probably the ACT agency best placed to undertake this role.

The ACAT would be interested in participating in any public hearing.

Yours sincerely

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Linda Crebbin
General President

7 May 2012