

5 July 2013

Neil Howes
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Reference: AEMC project number RPR0001

Dear Mr Howes

RE: REVIEW OF COMPETITION IN THE RETAIL ELECTRICITY AND NATURAL GAS MARKETS IN NEW SOUTH WALES, DRAFT REPORT

ERM Power Limited welcomes the release of the Australian Energy Market Commission's draft report: *Review of Competition in the Retail Electricity and Natural Gas Markets in New South Wales*. Overall we support the recommendations in this report and look forward to the next stage of market reform in NSW, including price deregulation.

About ERM Power Limited

ERM Power Limited is an energy company listed on the ASX that operates electricity sales, generation, and gas exploration and production businesses across Australia.

Our energy sales business, ERM Power Retail is licensed to sell electricity in all Australian states, the Australian Capital Territory and the Northern Territory, and has grown organically to become the fourth largest seller of electricity in the National Electricity Market by load.

ERM Power Retail (branded as ERM Business Energy) specialises in providing electricity to business and government customers. We have accrued over 13 per cent of the large Commercial and Industrial (C&I) customer market, and this year we have started to offer electricity to the Small to Medium Enterprise (SME) segment of the market.

A Utility Market Intelligence survey by independent research company NTF Group found ERM Power Retail has provided the greatest business customer satisfaction for two years in a row, with the 2012 result setting a new record for the survey with a customer satisfaction rate of 93 per cent.

Our comments on the Commission's draft report

We support the Commission's conclusion about the positive state of energy retail competition in New South Wales, and we particularly support the draft recommendation that the current method of price regulation should be replaced by price monitoring.

We note that the Commission has found that:

- Metro and non-metro customers are benefiting from competition through product choice. There are now multiple market offers in every network area from multiple retailers and customer awareness of choice is high.
- There are no barriers to retailers entering, expanding and exiting the market: retailers are able to source electricity, manage spot price risk through hedges and access economies of scale through outsourcing their billing systems.
- Switching in electricity appears high compared to other industries.
- On the whole customers are satisfied with their market experience. This is supported by a survey by CHOICE which found that 91 per cent of customers rated their current electricity retailer as excellent, very good, good or fair.
- Profit margins are generally consistent with outcomes that might be expected in an effectively competitive market because they are supporting price-based competition across NSW.
- Price regulation does not operate to protect hardship customers because of the hardship they are facing, and it does not reduce the chance of disconnection for non-payment.

These facts stand for themselves in supporting a view that competition is effective and we believe the Commission's research outcomes should give confidence to the NSW government that a decision to deregulate retail energy prices is the right one. This decision would also be in line with the government's commitment to deregulate prices under the Australian Market Energy Agreement.

In fact, ERM Power Retail believes that the reasons to take the step to deregulate have become pressing for NSW. The reasons to deregulate include providing for competitive outcomes to meet consumer expectations about product choice, the need to promote investor confidence in state assets, and to deliver the innovative energy services that consumers require to manage their own demand. Recent studies by a range of policy bodies have supported retail price deregulation as necessary to get the right price and service outcomes for consumers.

Appropriate paths to deregulation

The next question is when and how energy price deregulation in NSW should best occur. The Commission has requested stakeholder views on the appropriate paths to deregulation and has provided some options for transitioning away from price caps, as below:

- **Option 1:** Remove price regulation for all customers at the same time.
- **Option 2:** Remove price caps gradually by reducing thresholds.
- **Option 3:** Remove price caps for different groups of customers at different times.
- **Option 4:** Remove price regulation for all customers at the same time but retain some form of partial regulation for a sub-group of customers.
- **Option 5:** Allow customers to opt-in to a regulated price (the proposal set out in IPART's issues paper).

ERM Power Retail agrees with the Commission that Option 1 is the best approach, where price caps are removed for all customers at the same time so that all customers are able to benefit from increased product choice.

As the Commission has stated, removing price regulation for all customers at the same time is the simplest option, with no chance of distortions between those sections of the market still subject to price regulation and those that have been deregulated. We agree that Option 1 is consistent with the Commission's finding that there is no significant difference in the way small business and residential customers participate in the market.

A disadvantage of Option 1 noted by the Commission is that if price deregulation occurs for all customers at the same time there may be less opportunity to develop targeted messages for different customer segments within the timeframe for removing price caps. The Commission notes, however, that this will depend on the timeframe over which deregulation occurs and does not appear a significant disadvantage. ERM Power Retail would also add that while there continues to be a lack of clarity about what information is required and how this may be targeted for consumer segments, the noted disadvantage lacks real weight. We discuss information requirements below.

Improving customer engagement

The Commission has stated in its draft report that there should be an improvement in consumer engagement and the information available to consumers, and that an information campaign for consumers is required for deregulation.

The Commission also notes that surveys it has commissioned show that many customers find the information provided by retailers to be difficult to understand and unhelpful for choosing an offer. Some customers surveyed felt inundated by information and offers, yet only a third of customers felt they were given sufficient information to make an informed choice on their electricity retailer.

These findings reflect common themes in the policy discussions in the retail energy sector. Consumer engagement and required information are frequently raised as issues of concern for policymakers and consumer advocates, with the claim that there is both too much and not enough information available to consumers. The implicit or explicit conclusion is that these problems with information lead to problems with consumer engagement with the market and better engagement will occur with better information (noting there is no clarity on what "better" might mean):

ERM Power Retail agrees that some form of information campaign about choice of retail energy provider may be useful for NSW consumers around the time of deregulation, such as the approach taken in South Australia. If NSW is to go further than this, we recommend deeper analysis of the issue. We do not want to see the market made yet more complex by another overlay of information that adds to the existing confusion of "too much" information (or perhaps of unhelpful information) as identified by some consumers.

We do not dispute that the broader concerns about information to small consumers are relevant and are worthy of policy debate, and as a second tier retailer seeking to obtain informed and

satisfied small customers in the future we clearly believe that the highest policy and industry objective is to provide for informed and engaged energy consumers.

However, in this consultation and other recent policy discussions (including the Commission's public forum for this consultation) the topic of information has come up and apparently meant very different things to different parties. For example, in the Commission's public forum we heard requests for deregulation related information to cover:

- what deregulation means;
- NECF and other consumer rights under consumer protection rules;
- consumers' ability to switch retailers and the suite of comparison information required for this purpose;
- the offers where consumers will be "better off";
- consumer rights and opportunities to purchase through buying groups; and
- consumer education about smart meters and the products enabled by smart meter technology.

Overlaid on these topics is the need for information to be accessible through a range of channels and in a range of locations and languages, and of course the most vexed question of all is how much information is required on each of these issues, and pitched at what level.

While all of the above information is likely to be useful to some degree at some point in time, an information campaign to be everything to everyone is surely not possible or even desirable given the potential for further consumer confusion.

We also note that the Commission has suggested the possibility of the Tariff Information Label currently proposed by Ofgem in the UK, and so is potentially proposing more than a deregulation campaign per se. It is unclear what benefit this further information would provide over and above the existing NECF Price Fact Sheets and regulatory comparison website. We also note that consumer groups and others in the UK still think this approach is too complex.

The Commission has stated that it will work with stakeholders to develop a "blueprint that sets out measures to make it easier for customers to engage with the market" (p. iii). ERM Power Retail believes that this work should provide a robust and pragmatic analysis about what information and engagement might and should mean for specific purposes, and we request the Commission to work with government to determine actual consumer need given the already high consumer awareness of choice and access to existing information. As noted above, we believe a deregulation information campaign for NSW could be relatively simple, along the lines of the approach taken in South Australia.

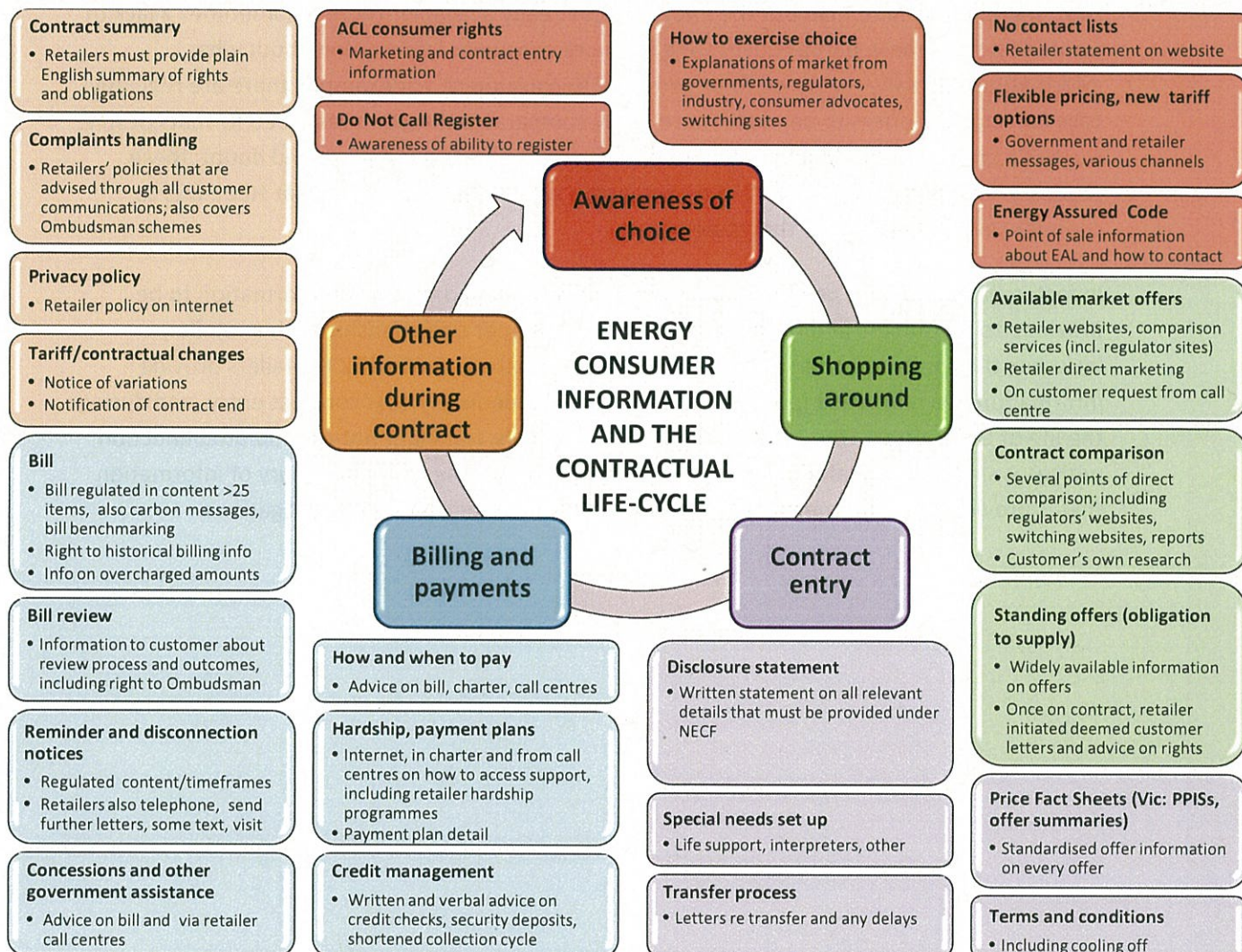
We believe the Commission's blueprint (insofar as it considers yet more regulated consumer information such as the proposed UK Tariff Information Label) should address the following issues if it is to have a meaningful impact.

1. Awareness about current information available

First, there is a need to map out the information already available. There is sometimes a lack of awareness from those parties advocating for more consumer information about what information is already regulated to be provided to consumers. For example, there are regularly calls for retailers' offers to be made more easily comparable through prescribed formats despite the NECF provisions for Price Fact Sheets already meeting this need. (To avoid doubt, these requests have been made in NSW in recent weeks while it has been clear that NECF was to commence on 1 July 2013 in that state.)

In fact, regulations have been created and regularly increased to require information to be provided to consumers at different stages of the consumer's relationship with a retailer, including the content, format and timing of this information. Under NECF retailers provide information at a marketing (pre-contractual) stage, immediately post contract entry, and during the life of the contract. The information available on bills, reminder notices and disconnection notices is similarly regulated. See Figure 1 on the following page for a summary of information that is provided to consumers in NSW under NECF and other compliance obligations.

Figure 1: Information provision to small retail energy consumers



2. Required details for policy objectives

Despite the activity in the policy and regulatory space there has been little evidence-based policy discussion to date about what might constitute reasonable expectations for consumer information requirements. The high level surveys carried out by various parties do not provide sufficient objective analysis of what consumers want in the detail (as opposed to principles, or "more" or "less" information), when they want it, and what they act on (in contrast to what they say they may want in a principle sense).

ERM Power Retail believes that as a policy community we need to start talking about specific messages, specific audiences, our reasonable expectations about the outcomes from these messages being delivered, and what improvements we should expect to occur. We would like to see the policy debates evolve from self-evident statements about the value of simple information to outcomes that will assist customers in a tangible sense.

If this policy discussion cannot occur we will never redefine or solve the apparent paradox of consumers needing both more and less information at the same time. It may also be impossible to manage this paradox if we do not recognise that all consumers' needs are not the same.

Further, we need to understand the learning process of both consumers and policymakers/industry so that consumer outcomes can be measured and feedback mechanisms can lead to further improvements.

The questions that we believe must be answered before embarking on communications campaigns or changing regulation regarding information provision to consumers are:

1. What are we trying to achieve and what is achievable? By this we mean what are the answers to the challenging questions like:
 - What consumer behaviour are we ideally seeking to elicit, and what messages (information) are we seeking to deliver to elicit this behaviour? Do we have evidence that the messages will have the desired effect? Could certain messages have undesirable unintended consequences, such as claims about "savings" or consumers being "better off" leading to misrepresentation (noting that previous and future consumer usage drives bills and is not objectively predictable)?
 - Are there different consumer segments with different information needs and can we get consensus on who they are? Are the segments identified practical, in that they can be identified objectively and reached efficiently and effectively?
 - What level of consumer knowledge are we aiming for and at what stage of their involvement with the market, and how does this vary per consumer segment? Or alternatively, noting that it is not likely to be efficient or reasonable for consumers to be au fait with the detail of the energy market without any prior experience or a motivating factor, what degree of ignorance is acceptable from a community perspective prior to engaging with the market? What is acceptable once someone has sought to engage (as in, first consider their energy contract, however this is brought to their attention)?
 - How do we understand and trade off simple information against necessary information? What is truly necessary and how can we tailor messages to make them clearer? What are the logical limits to tailoring simple messages on a complex issue to a complex customer base?
 - What is a reasonable expectation about how proactive we can expect consumers to be to search for their required level of information? How does this vary per customer segment?
 - What is a reasonable expectation about where consumers (and various consumer segments) should receive information from, both in a proactive and reactive sense?

2. Having mapped out what is required and what is possible and reasonable above, what are the specific gaps in the current regulated approaches? What are the specific further messages required for the different consumer segments? What actions are required to fill these gaps?
 3. Are any proposed changes or new initiatives feasible and truly useful for the consumer's decision-making process? Do we have evidence of this?
 4. Does filling these gaps in any way undermine the overall objective of simple information?
 5. What are the practical and financial implications of the answers to the above (and who pays?), and in turn, how do these in fact shape the decisions made on the above issues?
3. The link between information and engagement

As we note above, there is an implicit and sometimes explicit expectation that the "right amount" and/or the "right information" will have the effect of high levels, or at least the "right amount" of consumer engagement. We believe these expectations about cause and effect may be unrealistic and should be tested. (And as above, what is the "right amount" of anything?) Given that energy is an intangible commodity, we should perhaps consider that there is no perfect amount of information that will create a fully engaged consumer population. Again, this also depends on the consumer segment in question, and treating all consumers as the same will not progress the issue. Energy may be an essential service, but we know enough about consumer psychology by now to know that not all consumers will see it as a first priority to understand the energy market, even if the information is available as and when they may want it.

None of this is to say that information is not important, but our first task must be to understand the situation in its practical reality (as in, what consumers really want and what they really need to make informed choices) before acting to create yet more information and potentially further confusing both the issue and the community.

If you have any queries about this submission please feel free to call me on the number below.

Yours sincerely,



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