



AEMC Review of the Effectiveness of Competition in Electricity and Gas Retail Markets in Victoria

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Introduction

The Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) seeks to promote a just and democratic society by making strategic interventions on public interest issues.

PIAC is an independent, non-profit law and policy organisation that identifies public interest issues and works co-operatively with other organisations to advocate for individuals and groups affected. In making strategic interventions on public interest issues PIAC seeks to:

- expose unjust or unsafe practices, deficient laws or policies;
- promote accountable, transparent and responsive government;
- encourage, influence and inform public debate;
- promote the development of law—both statutory and common—that reflects the public interest; and
- develop community organisations to pursue the interests of the communities they represent.

Energy + Water Consumers' Advocacy Program (EWCAP)

This Program was established at PIAC as the Utilities Consumers' Advocacy Program in 1998 with NSW Government funding. The aim of the Program is to develop policy and advocate in the interests of low-income and other residential consumers in the NSW energy and water markets. PIAC receives policy input to the Program from a community-based reference group.

Terms of Reference

In responding to the Australian Energy Market Commission's (AEMC's) draft review, PIAC has limited its comments to several issues of relevance to the planned review of competition in the NSW energy market in 2009. In view of the limited penetration of gas in the NSW energy market, PIAC's comments are restricted to electricity.

Under clauses 14.10-14.16 of the Australian Energy Market Agreement (AEMA), the criteria against which the AEMC is required to review the effectiveness of competition in the Victorian market are solely economic. This is an unfortunate and inappropriate limit on the review at a time when the need for 'triple bottom line' accounting and corporate social responsibility (CSR) are widely accepted. Short-term economic benefits, especially to industry, should not be allowed to outweigh longer-term issues of social and environmental sustainability.

The need for a broader approach was recognised by the Federal Government in the principles of good regulatory process adopted by the Office of Best Practice Regulation. One of these principles is that 'Only the option that generates the greatest net benefit for the community, taking into account all the impacts, should be adopted.'¹

The impact of competition on the situation of low-income households and on demand management and pricing are therefore relevant factors in considering its effectiveness.

¹ Australian Government Office of Best Practice Regulation, 'Regulatory reform and impact analysis' (2007) <<http://www.obpr.gov.au/reform>> at 8 November 2007.

There is also a need to consider what impact competition is having on Australia's energy demand and sustainability. Private companies have a clear income-generation incentive to sell more energy, and this may compromise their commitment to demand management. The challenge is therefore to find ways to balance concerns for profitability and sustainability in an integrated policy and regulatory framework, as the UK attempted in its 2003 *Energy White Paper*.²

Another emerging challenge is to assess the interaction of competition and climate change-related measures, such as an emissions-trading scheme and renewable energy and energy efficiency targets, and to consider whether the competition framework enables an effective and equitable spread of the inevitable cost burden over time and across different sectors of society. This is important because low-income households spend a greater proportion of their disposable income on energy and have a lower capacity to undertake retrofitting, update to more energy-saving appliances, take advantage of energy efficiency rebate schemes, and so on. The need for measures such as social tariffs, which guarantee that a basic level of consumption is available to low-income households at low cost, appears to run counter to the AEMC's enthusiasm for further deregulation and, as such, to be outside its preferred scope for this review.

Benefits to consumers

The draft review report identifies several impacts that it proposes are benefits to consumers of greater retail competition. Switching behaviour and a greater choice of products and retailers are only effective measures of consumer benefit if they can be shown to result in lower prices, better service or safer or more secure supply. Since the service standards and security of supply are not at issue here, it was important for the AEMC to have determined whether or not competition has led to lower prices in the Victorian market. However, it has relied only on consumers' subjective assessments of the price benefits of competition. Since consumers have a vested interest in viewing their purchases in a positive light, it is critical for the AEMC to independently assess claimed price benefits. For instance, recent UK research showed that 'more than a fifth switch to a more expensive tariff for their consumption characteristics'.³

The draft review report identifies two groups of residential consumers who may not benefit from full retail competition (FRC): those experiencing financial hardship, and those who may be less attractive to retailers. Such consumers may be particularly vulnerable to marketing practices that may leave them worse off than previously. Retaining the option of a regulated tariff ('standing offer' or 'price to beat') is the best way to ensure that these groups of consumers are not forced onto disadvantageous market contracts.

Retail price deregulation

Having found that 'competition in electricity and gas retailing in Victoria is effective' (page 10), the AEMC is 'required to consider ways to phase out the current retail price regulation arrangements'. This assumes that if some competition is good, more must be even better.

The draft review report notes that the existence of a regulated price in Victoria has not been a barrier to entry, competition or profit for retailers. It is therefore not clear why further deregulation is necessary or even desirable. From a consumer's perspective, full price deregulation may result in greater price volatility and confusion.

² UK Department of Trade and Industry, *Our energy future – creating a low carbon economy*, (2003).

³ Catherine Waddams Price, *Deregulating Residential Electricity Markets: What's on Offer?* Papers from the Consumer Utilities Advocacy Centre Expert Forum on Electricity Pricing, (2007) 13.

Conclusion

Reflecting its narrow terms of reference, the draft AEMC review report is heavily weighted towards economic rather than social and environmental criteria for assessing the effectiveness of competition in the Victorian energy market.

Even on those narrow economic terms, it focuses on the costs and benefits for industry much more than for consumers. It therefore does not provide a balanced, comprehensive and long-range assessment of the effectiveness of competition in the Victorian energy market.

PIAC, therefore, recommends that future reviews into the effectiveness of competition:

1. Give weight to social and environmental criteria for assessing the effectiveness of competition.
2. Give weight to the economic costs and benefits of competition for consumers.
3. Include data on the actual impacts of competition on consumers' bills.
4. Examine the potential impacts on consumers of further price deregulation.