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Competition Tribunal rules on sewerage system access

An intervention by PIAC in the public interest has borne some fruit with a recent decision of the Australian Competition Tribunal. The issue was whether Services Sydney, a private company, should be given access to the sewerage system owned by Sydney Water in order to compete against the public company to provide sewerage services to Sydney households.

Third party access to infrastructure cannot be granted where that access would be contrary to the public interest. Sewerage services are an essential service and, as such, residential consumers cannot remove themselves from the market. So the way in which competitors vie for customers can have a big social impact. PIAC's submission to the Tribunal presented some of the potential negative impacts on consumers if the access was declared and the residential sewerage market was opened to competition. The Tribunal considered the following concerns raised by PIAC;

- pressure to inflate prices above efficient levels to encourage new entrants;
- the potential for competitive locational access pricing to undermine existing equitable postage-stamp pricing and encourage cherry-picking of profitable customers;
- the administrative and technical costs to be levied on the customers of the incumbent supplier; and,
- the costs to consumers of 'stranded assets' arising from competition.

The Tribunal found that these concerns, and particularly the risks to postage stamp pricing, were valid but could be substantially addressed by the pricing methodology employed in the access arrangement. The services were declared and private companies will now be able to negotiate an access arrangement with Sydney Water. The expectation will be that these negotiations use the pricing methodology known as ECPR, which will ensure that competition takes place on economic efficiency, rather than cherry-picked customers.

It was very pleasing that the Tribunal was prepared to give such detailed consideration of public interest concerns raised by this application for access. In particular, the reasons given for the Tribunal's decision have further clarified the scope of the public interest test in relation to creating competitive markets. The comments in relation to pricing principles also will inform future discussions about an access undertaking to be decided for Sydney Water.

Electricity prices keep rising

The cost of electricity for NSW households is set to keep rising with Government changes to the licences for the publicly owned energy companies. As one of his last acts as Minister for Utilities, and without any public consultation, the Hon Frank Sartor last year approved changes to licence conditions for reliability of supply. It is claimed this was done in response to concern over possible future blackouts. The electricity companies now have sought approval for higher prices to meet the new requirements which they say necessitate around $1.5 billion in extra spending.

Rulings made in 2004 by the industry regulator, the Independent Pricing and Regulatory Tribunal (IPART), mean consumer prices for electricity will rise by as much as 20% between 2004 and 2009. This new increase could add a further 5% or more to bills. IPART will determine

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how much of a rise is necessary but the decision of the Government to introduce the new obligations leaves little room for consumers or the Tribunal.

The new licence conditions contains a mixture of new standards and payments by the distributors to customers effected by a loss of supply. The new standards will require significant investment in new equipment by the distributors as well as improved systems to track and count interruptions to supply.

A major focus of the new standards is the Sydney CBD. The other important change should be improved reliability of electricity supply in some areas which currently are prone to frequent blackouts from storms.

It seems that recent media interest in blackouts has prompted the new standards as a political response from the Government. Unfortunately, it is a concern that the Government, or at least the then Minister, appears not to have tried to balance the competing interests in the community around improved supply and affordability. Some consumers, especially business users, are concerned about constant supply and are prepared to pay for that. On the other hand a minority of NSW households have difficulty in paying for electricity supply even before the prices rise.

PIAC late last year wrote to the Minister for Utilities, the Hon Carl Scully, urging the Government review the way it provides financial assistance to households struggling to pay their utility bills. With a new Minister for Energy now overseeing these issues, the third in eight months, it remains to be seen whether the Government will address these concerns.

10% 'green' energy for households

In a move to bolster the Green Power scheme, the NSW Government has decided that it will require electricity retailers to offer 'new' contracts with a minimum 10% of electricity generated from renewable sources. A key part of the new policy is that consumers will be able to 'opt out' of the 10% Green Power component. The offer will be made to customers each time they move house or change electricity retailer.

The new policy was announced in late 2005 as part of the NSW Greenhouse Strategy. The collection of policies that make up the Strategy arose from the work of a NSW Government inter-agency working party. While the working party undertook some consultation outside Government circles, PIAC is not aware that the 10% Green Power option was ever canvassed with community or consumer groups.

The regulated 10% offering marks a significant change to the existing Green Power scheme. This is a national scheme that allows retailers to offer consumers supply contracts for electricity with varying amounts of energy sourced from renewable generation such as wind-power, biomass or solar. The scheme was designed to provide incentives for investment in new renewable generation, meaning that over time more such sources of energy would be built and greenhouse gas emissions from the electricity industry might be reduced.

Retailers generally have at least one 'green' product with, say, 10% or 50% of the equivalent energy purchased from a renewable generator. These products come at a higher price to the customer which reflects the higher cost of renewable generation compared to coal or gas and the need for a lot of investment to increase the amount of electricity produced from these sources.

However, less than 1% of NSW households currently buy accredited Green Power electricity. One of the reasons is the higher cost. Linked to this is the nature of the scheme and its reliance on 'equivalent' energy. Customers may pay for power from renewable sources but this generation simply feeds into a national 'pool'. While the proportion of electricity from renewable sources may increase, an individual customer has no way of knowing whether their energy comes from solar or coal.

A further problem for Green Power has been a lack of control over what is offered as a 'green' electricity product. Several retailers currently offer 'green' products which do not meet the Green Power rules and are not accredited under the scheme.

By contrast, in the United States it is more common for governments to impose obligations on generators to meet benchmarks with higher levels of electricity to be bought from renewable sources.

The NSW Government has sought the views of consumers and electricity retailers about the implementation of the new policy. While PIAC supports better environmental outcomes and more 'renewable' electricity it remains to be seen whether this new policy will achieve its aims.

Among the concerns PIAC has already raised with the NSW Government are:

- how well the 'opt out' choice is communicated to consumers;
- the timing of a decision to take up or opt out of Green Power, eg, will consumers be limited to making the choice when they first take up a contract for electricity;
- better reporting of compliance with the Green

Power rules to assure consumers they will get what they pay for; and

- the likely impact of higher prices for renewable energy based on consumer take up of new the 10% component.

We've stalled Desal by the seashore

Community groups have welcomed the Premier's decision to move away from desalination as the final solution to Sydney's unsustainable use of water.

Public meetings held around Sydney last month demonstrated the community's scepticism and disappointment with the desalination decision. The meetings raised a range of issues including the unknown environmental effects of desalination, the relative benefits of large-scale recycling, and future costs to customers. This public sentiment overwhelmingly supports the Government's decision to drop plans for a 125megalitre capacity desalination plant and reaffirms the need for effective community consultation around water supply decisions.

The NSW Government has not permanently stalled its investment in desalination. It will go ahead with land purchases at Kurnell and continue the tender process to establish a desalination testing facility. Given how little is known about the environmental impacts of a desalination plant in the locality, the test facility will enable better informed debate when investment in a desalination planted inevitably resurfaces in the future.

The debate around Sydney's water needs has not ended. Sydney Water and the NSW Government will continue to determine how to plan for our future water supply and demand based on a range of identified options. This time investment decisions must be made in the public sphere and with proper consultation. Planning documents must be publicly available, specialist advisors must be apolitical and the community and Parliament must have the opportunity to fully engage with the available options.

PIAC looks forward to working on these issues with Minister Campbell, the newly appointed NSW Minister for Water.

New electricity meters on the way?

New electricity meters could come to millions of Australian homes following a decision of the recent meeting of the Council of Australian Goverments (CoAG). The Federal Government, in particular, remains convinced these meters would lead to more competition in the retail electricity market. Others predict these meters will lower prices by enabling consumers to better plan their electricity consumption.

'Time-of-use' (ToU) pricing requires digital meters that measure demand at different times of the day. Typically ToU tariffs contain three to five bands for different parts of the day or night and each has a different price. The argument runs that consumers will want to have as much consumption as possible during the lower-priced periods. By shifting demand away from the peak periods they can save money and lower the costs of supply. Others believe this basic response will encourage energy retailers to develop new options for supply contracts and cause consumers to 'shop around' more actively. Whichever argument is preferred there is no doubt ToU bills will be more complex.

The most obvious difficulty arising from the CoAG decision is that the evidence suggests that price does not have the same effect on demand in electricity as it does for non-essential items like chocolate bars or washing powder. Peak periods of demand occur precisely because that is when consumers need to use electricity, for example, cooling on very hot days, heating on very cold nights and preparing evening meals.

Beyond that, the electricity industry is not about to accept less revenue to cover the cost of its very expensive and long-lived assets. Lower peak demand should result in less spending on distribution systems in future years so savings are possible over the medium term. However, those savings would represent only a tiny fraction of the total bills faced by household users. The general rule of thumb is that lower demand results in a higher price 'per unit' (kilowatt hours in the case of electricity) as the suppliers protect their total revenue. Households in Sydney and the NSW Central Coast have experienced this in recent times as mandatory water restrictions and lower consumption in turn have led to applications by industry for higher water prices.

Added to these dubious benefits comes the cost of the new meters and their installation, a cost borne by those same household consumers.

Victoria already has decided to require the majority of households to be given ToU meters. Reportedly, the process of implementing the decision has become bogged down over questions of which technology should be used. Perhaps more importantly, the Victorian regulator has not required the electricity retailers to pass on ToU prices in customer bills. While many consumers prefer 'flat' tariffs the lack of obligations on the retailers means the money spent on rolling out the new meters could be wasted. The view of CoAG on this question is not known but it seems most governments would prefer not to proscribe the types of tariffs offered in the 'competitive' retail energy industry.

Pricing water for affordability and security of supply on the Central Coast

As the Independent Pricing and Regulatory Tribunal (IPART) considers the level and structure of charges in the region during 2006-2009, all indicators suggest that extensive water restrictions will persist. In addition to record-low dam levels and level 3 water restrictions, the Central Coast community is facing significant price increases in essential water and wastewater services over the next three years.

IPART is responsible for determining the prices charged by Gosford and Wyong Councils for water and wastewater services. As part of its determination, IPART is charged with considering the specific social impacts of its determination. At the public hearing held last month, PIAC highlighted the tension between managing persistent drought to secure supply and ensuring affordable access to essential water needs in a region of high socio-economic disadvantage.

Last year IPART handed down a one-year determination for the prices of water and wastewater services delivered by Gosford and Wyong Councils. The limited determination was made based on uncertainty around future capital expenditure requirements. Given the clear need for capital investments, and the associated price increases, the Councils were asked to submit broader and more detailed social policies to address increasing water prices.

Social policies play an important role in managing the impacts of unavoidable cost increases stemming from investment needs, as well as general tariff reforms. PIAC's research indicates that it is specific segments of the community such as public and private tenants, pensioners and large, low-income households that face the greatest financial pressure from higher water prices.

At the public hearing, NCOSS and PIAC raised concerns about the lack of development in transparent and broad social policies. The two organisations also expressed concerns about the emphasis on sending a demand signal though higher volumetric water charges. The strategy fails to consider that the communities are already amongst the most efficient in the state, with average residential water consumption at 188kL pa (a figure well below Sydney's average consumption of 249kL pa).

PIAC is seeking a better balance between volumetric and fixed water charges and more comprehensive social and water conservation programs for residents, especially tenants and large households. IPART is due to make its draft determination in March/April.

Regulating essential services

Energy and water are essential services and should be treated as a special category when governments set the rules for these industries. This was the key conclusion of a major research report published by PIAC last December.

The report had been commissioned following a proposal from the Ministerial Council on Energy (MCE) for a single national system of operating licences for electricity and gas companies. These licences generally set down many of the obligations for utility suppliers around consumer protection, standards of supply and environmental performance. The other major conclusions of the report include:

- the community expects governments to ensure provision of or equitable access to essential services;
- without effective regulation competitive markets in energy are unlikely to deliver benefits for most consumers;
- licences as a form of regulation allow for more effective compliance and enforcement of obligations; and
- enforcement is a key to achieving the objectives of regulation.

More recently the MCE has proposed that licences be removed from the regulatory framework for the national energy market and the current obligations imposed through other means. PIAC and other community groups have argued that this could weaken consumer protection and lead to more consumers 'losing out' in the energy market.

The report, *Regulation and Consumer Benefit : Compliance in the National Energy Market,* was funded by a grant from the Advocacy Panel of the Australian Energy Market Commission (AEMC). Copies are available from the PIAC website.

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