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13 July 2016

Changing the Contractual Relationship between the Electricity Distributor, Customers and Retailers

The Australian Energy Council (the Energy Council) welcomes the opportunity to make a submission to the Public Utilities Office Electricity Market Review Position Paper into the contractual relationship of electricity market participants.

The Energy Council is the industry body representing 22 electricity and downstream natural gas businesses operating in the competitive wholesale and retail energy markets. These businesses collectively generate the overwhelming majority of electricity in Australia and sell gas and electricity to over 10 million homes and businesses.

The Energy Council supports Western Australia's government in progressing Western Australia's electricity market toward a nationally consistent framework. The Energy Council commends the Government's work to reform the energy sector and bring Western Australia's energy users the benefits of a more effective energy contracting framework. Implementing a framework consistent with National regulation lowers barriers to competition in the future and decreases inefficiencies due to regulatory complexity. However, consideration for transitional arrangements, under the constraints of regulated tariffs need to be considered.

Transitional arrangements (existing customers and retailers)

The Position Paper does not set out sufficient detail for transitional arrangements for existing customers with contracts in place. The absence of transitional arrangements expose retailers to the risk that they may be unable to recover additional costs arising from changes to network tariffs or tariff reassignment prior to the Australian Energy Regulator's (AER) network determination coming into effect in July 2018¹. Given the existing constraint on retailers to provide a regulated retail tariff, set by the Government of Western Australia, should a distributor change the network charges for existing customers, the retailer may be required to absorb the cost. Conversely, if the retailer passes on the cost of the network tariff under a change of law clause, customer dissatisfaction with the new tariff or service increases the risk of a dispute with the retailer.

The Energy Council notes that any additional costs incurred by retailers resulting from changes in network tariffs should be expected to be passed through via retail contracts (including if Western Power restructures its existing tariffs);

Appropriate side restrictions on Western Power's tariff setting should be implemented, that limit the rate of change of tariffs, for example constraining the proportion of network revenue to be recovered via fixed charges. This type of constraint is compatible with the adoption of a national framework, as it has been used in NEM states. Such side restrictions would reduce the chance of consumer dissatisfaction as network tariffs are

¹ Australian Energy Regulator, 2016, Statement of Intent to COAG,
<https://www.aer.gov.au/system/files/AER%20Statement%20of%20Intent%20for%202016%E2%80%9317%20in%20response%20to%20the%20COAG%20Energy%20Council%27s%20Statement%20of%20Expectations.pdf>

redesigned and adjusted again for a transitional period. This would provide retailers with greater certainty when contracting with customers prior to the AER determination in July 2018.

The Position Paper states that development of a distributor-customer contract under the proposed triangular model is not expected to result in any significant changes to customer experience. However, under some existing contracts, a variation in the network tariff structure or service standard may trigger contract cancellation or dispute. If customer network tariffs or level of service are changed during the interim period, customers who are not aware of upcoming changes may be dissatisfied. It is necessary for the Government to actively communicate the impact of the reforms to customers, including direct liability for network damage, and to communicate the long term benefits of Energy Market Reform to Western Australia's energy users. The industry is happy to support such communication, but it requires clear ownership by government.

Industry engagement

The legislative instruments which support the triangular arrangements were tabled in Western Australia's Parliament seven days after the Position Paper was published². The Energy Council and its members would welcome greater opportunity for formal and timely engagement in the Electricity Market Reform process going forward to mitigate the risk of unintended consequences of policy change and to plan for changes necessitated by the reform. We appreciate the general willingness of Public Utilities Office officials to engage with stakeholders, but this is not a substitute for allowing sufficient time to respond to formal papers such as this one before legislation is introduced.

The Energy Council welcomes Western Australia's intent to create a framework that is nationally consistent, reducing the regulatory compliance costs for retailers and encouraging future competition. We look forward to further engagement with the Government and the Public Utilities Office to clarify uncertainty around the transitional arrangements for existing customers, and consider how best to communicate the reforms to customers.

Any questions about our submission should be addressed to Emma Richardson, Policy Adviser by email to emma.richardson@energycouncil.com.au or by telephone on (03) 9205 3103.

Yours sincerely,



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² Parliament of Western Australia, 2016,
<http://www.parliament.wa.gov.au/Parliament/Bills.nsf/BillProgressPopup?openForm&ParentUNID=71DAAE5FC8720B7048257FDA00093867>