



5 September 2006

Manager, MCE Secretariat
Department of Industry Tourism and Resources
GPO Box 9839
Canberra ACT 2601
MCEMarketReform@industry.gov.au

Dear Sir /Madam

RE: Draft Criteria for Assessing the Effectiveness of Competition

The Energy Retailers Association of Australia (ERAA) welcomes the opportunity to comment on the "Draft Criteria for Assessing the Effectiveness of Competition" released by the MCE SCO.

The ERAA supports the commitment made by Premiers and Chief Ministers in signing the Amended Australian Energy Market Agreement to the "phasing out of retail price regulation for electricity and gas where effective competition can be demonstrated", however remains concerned by the recent comments of some jurisdictions about their commitment to the process.

In indicating our support we would encourage the MCE to begin the process of assessing the effectiveness of competition from 1 January 2007 in markets such as Victoria or South Australia where it is generally acknowledged competition in the retail market clearly evident.

Ongoing price regulation in retail energy markets prevents effective competition. Tariffs set below cost-reflective levels, act as a barrier to new entrants and the introduction of innovative pricing structures. Price regulation, with its inherent cross-subsidies, distorts efficient market outcomes and prevents appropriate price signals reaching customers which would otherwise influence their behaviour and consumption.

The Association believes there is no justifiable link between price regulation and consumer protection, and that the most effective approach to assisting those customer facing energy hardship is through direct and transparent government subsidies. The ERAA recognises that effective competition represents the best form of customer protection; in that customers have the ability to choose the retailer which best meets their needs.

Finally the ERAA acknowledges the interest of governments in promoting demand side response however recognise that such projects would be greatly supported with the removal of retail price caps which would enable cost reflective pricing structures.

Should you require any further information in relation to this matter please feel free to give me a call on (02) 9369 3263.

Yours sincerely

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Cameron O'Reilly
Executive Director
Energy Retailers Association of Australia

Introduction

The ERAA supports the removal of retail price controls in the energy sector, and we have established a position paper that outlines the basis under which retailers believe that retail price controls can be removed, while ensuring that vulnerable customers, are not excluded from participating in the market.

We have attached this paper titled 'Retail Price Regulation and the Protection of Vulnerable Customers', for your reference.

The intent of removing retail price controls is supported by the Productivity Commission's, 'Final Report on the Review of National Competition Policy', which stated;

"In retail infrastructure markets, once effective competition has been established, regulatory constraints on prices should be removed. Ensuring that disadvantaged groups continue to have adequate access to services at affordable prices should be pursued through adequate, well targeted and transparent community service obligations (or other appropriate mechanisms), that are monitored regularly for effectiveness."

The ERAA also supports that an independent body (the Australian Energy Market Commission – AEMC) establish clear and measurable criteria so that industry participants are provided with a degree of certainty, and procedural fairness in this assessment process.

While the Consultation Paper discusses the measures that could be used to assess or prove that competition exists we believe that like any other market the focus should be on;

- identifying market failures or barriers to competition,
- removing existing barriers to competition within an agreed timetable in the jurisdictions that are open to competition, and
- implementing a light handed pricing regime that allows retailers to unwind existing cross subsidies in regulated tariffs, and allows for a transition to market based pricing.

We also believe that any attempt to measure the effectiveness of competition can be imprecise and somewhat arbitrary. The presence of customer choice with respect to energy supply arrangements, and ensuring that customers are aware (or can easily become aware) that they have choice are the primary characteristics of a market that protects customers over the longer-term.

The ERAA notes that Table 1 of the consultation paper contains numerous indicators that have the potential to make any assessment unnecessarily complex and difficult to interpret. Some indicators will be difficult to measure or quantify, for example "*the*

general operation of gas and electricity markets” and others that are causal factors, for example *“technical and cost conditions of supply and vertical integration”* rather than indicators of effective competition. It is therefore important that any indicators for the assessment of effective competition are relevant, measurable and help identify factors contributing to lack of effective competition so that appropriate actions may be taken to address market failures.

Specific comments

Prescriptiveness of the criteria/indicators –should the criteria developed specify in detail the form of the measures and thresholds to be used?

We believe that there needs to be mix of qualitative and quantitative data that should be considered in the assessment process.

The ERAA strongly supports the establishment of clear and concise measures that can be utilised in the quantitative process, so that industry participants can appreciate the key factors that are drawn upon to assess whether competition is effective or not.

These measures however do not need to be overly prescriptive, and at a high level, as noted by KPMG¹, can be simple indicators such as;

- Customers are aware that they have a choice,
- Customers know how to exercise choice and it is easy to do, and
- Choices (i.e. offers) are being made available to them.

Following indicators may be used individually or as a combination to substantiate primary indicators outlined above;

- Numbers of retailers licensed in a market,
- % of customers who have accepted market based offers, and
- Customer transfer rates.

While the ERAA recognises that these types of measures alone can not always be a clear indication that competition is effective, they can however indicate that a market is operating in a competitive fashion.

¹ KPMG “The Effectiveness of Competition and Retail Energy Price Regulation”, A discussion paper prepared by KPMG for the Energy Retailers Association of Australia, December 2003, p.4

Weighting of criteria – should the criteria specify the weightings attributable to each of the indicators specified?

The ERAA does not believe that specific weightings should be applied to the measures as this may tend to skew the assessment process, and would not provide a balanced approach.

However, we believe that some guidance should be given to the AEMC regarding which factors should be considered as more relevant to assessing the effectiveness of competition. Those indicators listed above, which directly relate to the competitiveness of the market, should be given greater weighting than some of the more marginal indicators listed in the discussion paper. For example, there is limited scope for product innovation in the retail energy market beyond the scope of the discounted, green and bundled products currently available. Innovation is more an outcome of product type than effective competition. Similarly, brand awareness and customer satisfaction should not be considered as indicators of effective competition. It should be sufficient for consumers to know how to identify potential retailers (ie web, yellow pages, advertising etc) and that if they are dissatisfied with their current retailer they have the ability to exercise choice.



**Energy Retailers
Association of Australia**

Retail Price Regulation

Policy Position Paper

Issued June 2005

Introduction

In Australia, Governments have made significant progress in implementing electricity and gas market reforms. Nearly all jurisdictions have now implemented full retail contestability or committed to a timetable to do so. In some jurisdictions, the energy markets have now been open to full retail competition for over three years.

At the time competition was introduced at the retail level, Governments and regulators expressed a desire to also provide safety net arrangements in the form of transitional price controls for customers who were not able to, or chose not to, participate in the competitive market. The price controls were introduced as a transitional measure and were intended to prevent the abuse of monopoly power by gas and electricity suppliers, by imposing a regulatory discipline as a proxy for market discipline. The presumption was that competition provides the most efficient outcome, which will ensure an acceptable level of customer price protection. Accordingly, it was expected that retail price controls would be removed once competition was established. (See Appendix 1)

Jurisdictional regulators have retained retail price controls for certain customers in electricity and gas in markets that are now open to competition. Retail price regulation appears to be directed at protecting customers in genuine hardship and those who choose not to participate in the competitive market, resulting in a distortion of competition.

Governments continue to allow energy policy to be used to deliver social welfare outcomes. The ERAA believes welfare policy objectives are better addressed through a suite of programs targeted to provide direct and transparent payments to those in genuine hardship.

The ERAA strongly supports arrangements to protect customers in genuine financial hardship but does not support the use of price regulation as a means to do this. In retaining price regulation, governments and jurisdictional regulators are stifling competition and thus preventing the full benefits of competition from being realised.

Current Price Regulation

Gas pricing in the ACT is the only gas market which has become unregulated. The ERAA hopes this precedent will be extended to other jurisdictions when the current price paths lapse.

Table 1: Jurisdictional price paths to 2007 and beyond:

Jurisdiction/fuel	Period
NSW electricity and gas	30 June 2007
Victoria electricity and gas	31 December 2007
ACT electricity	30 June 2006
ACT gas	No price regulation beyond June 2004
SA electricity	31 December 2007
SA gas	Expected until 30 June 2008
The MCE agreed that the Australian Energy Regulator will be responsible for the regulation of distribution and retailing (other than retail pricing), following development of an agreed national framework - Ministerial Council on Energy Report to COAG on Reform of Energy Markets – 11 December 2003.	

Governments can and should strengthen competition in jurisdictional markets by identifying and removing any remaining barriers to effective competition. The ERAA advocates the removal of price caps as a barrier to competition and price regulation should not be extended beyond the current price paths established by jurisdictions.

Position Summary

The ERAA's position is that:

- Prices in a competitive market should not be regulated. Price regulation is inefficient, stifles price and service competition, stifles product innovation and prevents the full benefits of competition from being realised.
- Retail price regulation for electricity and gas should be phased out and more targeted programs for assisting customers in financial hardship should be implemented.
- Similarly, default pricing as a safety net for customers choosing not to participate in the competitive market should only be a transitional measure. General consumer protection laws provide sufficient protection for energy consumers against unfair practices by retailers such as unreasonably high energy prices.
- Price regulation should not be extended beyond current price paths. In the time prior to the expiry of these periods governments should identify and remove any market failures or dysfunctions.
- The responsibility for retail price regulation should remain with the jurisdictions until such time as it is removed.

Rationale for the Removal of Retail Price Regulation

Benefits of unregulated pricing

Removal of retail price regulation will:

- Promote competition in the electricity and gas markets and increase the overall efficiency of the energy industry.
- Expedite the achievement of more cost-reflective pricing. Cost reflective pricing will lead to a more efficient use of resources, and:
 - allow cross-subsidies to be unwound;
 - provide greater incentives for the promotion of energy efficiency;
 - provide price signals to encourage demand management;
 - reduce the need for new investment in generation capacity and transmission and distribution networks;

- increase penetration of renewable energy technologies where economic; and
- support initiatives to reduce greenhouse gas emissions.
- Promote investment in supply and demand side initiatives enhancing the security and reliability of energy supply;
- Remove barriers to entry for second-tier retailers;
- Avoid the need for future significant price increases for customers to facilitate future required investment in the energy market;
- Reduce significant regulatory costs of complex and intrusive price reviews; and
- Create an incentive to implement a more targeted and effective mechanism for assisting vulnerable customers.

Economic efficiency

The ERAA believes that market forces lead to the most efficient use of resources in all but exceptional circumstances – ie where market failure results in less efficient outcomes than might otherwise be possible. Ongoing price regulation of retail energy is stifling competition, particularly where tariffs have been set below cost-reflective levels, creating a barrier for new entrants.

Price regulation, with its inherent cross-subsidies, distorts efficient market outcomes and prevents appropriate price signals reaching customers. Such price signals otherwise influence customer behaviour and consumption. The Parer Review¹ noted that retail price caps prevent flexible and innovative pricing structures and impede demand side response. Price controls (and side constraints) prevent these innovations from developing, and thus frustrate the very objectives that governments are seeking from demand side response.

The Productivity Commission in its Inquiry Report on the Review of Competition Policy Reforms released in February 2005 recommended that once effective competition is established retail price controls be removed. Adequate, well-targeted and transparent community service obligations should be implemented to ensure that disadvantaged groups continue to have access to energy (refer Appendix 1).

When market competition sets retail prices for all customers more efficient outcomes will be realised in the market.

Customer protection

The ERAA believes the removal of price regulation will make way for more efficient pricing outcomes for customers. ERAA considers there is no justifiable link between price regulation and consumer protection, and it recognises that more targeted arrangements are required to assist customers in genuine financial hardship.

The ERAA strongly supports arrangements to protect customers in genuine financial hardship, however more effective policies are needed to address customers in hardship and continued price regulation is not part of the solution.

Customers with insufficient income need to be adequately supported with direct and transparent government subsidies through government welfare programs that are

¹ Towards a Truly National and Efficient Energy Market, COAG Independent Review of Energy Market Directions, December 2002, p.177

simple to administer and which would not interfere with the operation of the retail market. Energy retailers and community groups can assist governments in implementing such programs.

The combination of Government support and successful retailer vulnerable customer hardship programs will support competition in vulnerable customer segments and ensure programs are effective, transparent and efficient.

Default pricing has also been used by Governments to provide a safety net for customers choosing not to participate in the competitive market. It is the ERAA view that this should only be a transitional measure until such time as the market is shown to have effective competition and the customer has a variety of retailers to choose from.

It is well accepted that existing general consumer laws (consisting of State fair-trading legislation, the Commonwealth Trade Practices Act and common law) provide robust protection for consumers in other markets against unconscionable practices by retailers. It is the ERAA view that general consumer protection laws are similarly effective in the retail energy market to ensure that consumers are protected from unconscionable conduct in the form of unreasonably high energy prices.

Some jurisdictions have used retail price regulation as a mechanism for maintaining a level of pricing equity between customers in urban and regional areas. The ERAA believes that these customers should be assisted through transparent subsidies that do not distort the operation of the retail market and that assist in the facilitation of retail competition.

Effectiveness of Competition

The decision of governments in the mid 1990s to introduce competition into retail energy markets was based on the proposition that market based outcomes are the most effective and efficient way to deliver goods and services to customers. Retail prices in the energy market were regulated to prevent abuse of monopoly power by energy suppliers', thereby imposing a regulatory discipline as a proxy for market discipline.

With the introduction of competition in the energy market it is important that price controls are removed to allow prices to move to market-based prices, reflecting the costs and risks of supplying customers. Some jurisdictions and regulators have indicated a willingness to remove price regulation once it has been demonstrated that competition is sufficiently developed.

ERAA is concerned with the current assessment by regulators about what is considered sufficient levels of competition. It can be seen from the results of an IPART survey² released in December 2004 that a high level of customers (74 percent) were aware that they can choose their gas or electricity supplier and that the main reason for changing supplier was that the competitive offer was cheaper. The main reason given for not changing (gas or electricity) supplier was that the customer was happy with their current supplier. The conclusion to be drawn from this is that customers have made a conscious choice and this is what should be measured.

² Residential energy use in Sydney, the Blue Mountains and Illawarra, Results from the 2003 household survey. Independent Pricing and Regulatory Tribunal of New South Wales, Research Paper RP27, December 2004, at p.35

This finding highlights the ERAA's concern that indicators of effective competition chosen by regulators may not actually reflect the effectiveness of competition. For example, some regulators are presuming that a high churn rate indicates competition is more effective than a low churn rate (which can and does arise where customers are satisfied with their existing supplier). Whilst a high churn rate may reflect effective competition a low churn rate does not necessarily indicate a lack of effective competition or market failure/dysfunction. A better indicator might be the number of market offers made to customers or customers indicating that they have made a conscious and informed choice to either churn or remain with their current retailer.

The seeking of positive confirmation that competition is effective is a flawed process and one which is unlikely to result in a level of satisfaction that will justify the decision to remove retail price regulation

The ERAA is strongly of the view that rather than placing the onus of proving that there is effective competition on the industry, jurisdictional regulators and governments should be focusing on the identification and removal of factors causing market failures and dysfunctions, thereby focusing on correction of the market rather than increasing the level and extent of regulation.

The ERAA believes that to rely upon evidence to suggest that competition exists or is sufficiently developed in the energy market, before discontinuing price regulation is somewhat of a paradox. Price regulation is a key impediment to effective competition as market forces should determine prices.

Difficulty in regulating prices

Aside from the fact that price regulation impedes the development of a competitive market, there is the added difficulty associated with determining an appropriate regulated price. This difficulty was articulated by the United Kingdom (UK) regulator Ofgem following its review of gas and electricity competition and supply price regulation³. On the option of continued price caps for suppliers Ofgem commented that:

"Ofgem considers that this option has a number of identified regulatory risks that could unjustifiably prevent or distort competition to the detriment of customers' interests."

In a 2003 press release⁴ Ofgem's Chief Executive Callum McCarthy stated that:

"... All the evidence suggests price competition is a key driver of consumer choice. To artificially set one price for all customers would kill competition, as well as stopping those who shop around from getting better deals. It would also remove the competitive pressure on prices for those customers who remain with their traditional supplier."

Ofgem concluded that price controls would do more harm than good in a competitive market and as a result took the decision to remove price controls from April 2002 following four years of full retail contestability in gas and three years of full retail contestability in electricity.

³ Review of domestic gas and electricity competition and supply price regulation, Conclusions and final proposals, February 2002

⁴ Ofgem Press Release "Vigorous Competition for domestic customers, but Ofgem remains vigilant" – 16 June 2003

The ERAA's position on regulation of retail prices in competitive markets is reinforced by the view taken by the UK regulator Ofgem⁵ with respect to its objectives:

"Protecting Customers

Everything Ofgem does is designed to protect and advance the interests of consumers present and future.

Ofgem does this by:

- *Promoting effective competition, wherever appropriate;*
- *Regulating only where necessary; and*
- *Ensuring that special help is targeted to vulnerable customers."*

In February 2005, the South Australian energy regulator, Lew Owens, stated he would like to remove price caps in the FRC environment as:

*"It is an impossibly difficult task to set caps over a long period. 'This is particularly the case where summer peak loads have a major impact on costs and where tariffs cannot adequately reflect the price variations', he says."*⁶

Cost-reflective tariffs

ERAA advocates a light-handed regulatory approach to setting regulated prices. Whilst price regulation remains in the energy market, tariffs should be set at cost-reflective levels to promote competition by encouraging customers to transfer to market contracts, thus allowing for easy removal of price regulation at the end of the transition period. The setting of regulated tariffs below cost stifles competition and acts as a barrier to new market entrants.

MCE Reforms, AER and pricing

The Ministerial Council on Energy is currently implementing wide-ranging energy market reforms. A new national regulator, the Australian Energy Regulator (AER), has been established and a new national distribution and retail regulatory framework will be implemented from 2006.

In settling the future retail regulatory framework, the ERAA does not support the transfer of retail price regulation to the AER. The ERAA further believes that the current price paths should be left to run their course and then cease.

⁵ Protecting Customers 11/12/2002, Ofgem main page www.ofgem.gov.uk

⁶ esaa Energy Supply Magazine, February 2005, p9

APPENDIX 1

GOVERNMENT AND REGULATORS VIEWS ON PRICE REGULATION IN A COMPETITIVE MARKET

Regulators recognise that safety net arrangements are transitional measures and that they will become unnecessary when effective competition is achieved in the energy market(s):

The Office of Gas and Electricity Markets (UK)

Callum McCarthy, CEO, press release 16 June 2003:

“All evidence suggests that price competition is the key driver of customer choice. To artificially set one price for all customers would kill competition, as well as stopping those who shop around from getting better deals. It would also remove competitive pressures on prices for those customers who remain with their traditional supplier.”

The Independent Pricing and Regulatory Tribunal of NSW

The Independent Pricing and Regulatory Tribunal of NSW, Issues Paper – Review of Gas and Electricity Regulated Retail Tariffs, October 2003 (p.4):

“Extending choice and competition to all retail customers is predicated on the principle that an efficient, competitive market can deliver benefits for customers in terms of both price and quality of service.”

The Essential Services Commission of Victoria

The Essential Services Commission of Victoria, Special Investigation: Review of the Effectiveness of Full Retail Competition for Electricity — Final Report, September 2002 (p.18):

“Competition is not an end in itself, but a means of achieving more efficient use of the community’s resources in the production, supply and consumption of goods and services. Effective competition contributes to this objective by forcing businesses to produce at least cost, to charge cost-based prices and to be innovative in product and process design and in service delivery. In a competitive market place failure to operate in these ways would simply result in loss of sales to more efficient competitors supplying substitute goods and services at the prices and quality preferred by consumers.

For these reasons promoting effective competition is also an efficient means of protecting final customers from the misuse of market power, compared to other more interventionist regulatory approaches.”

The Office of the Regulator General Victoria, Approach to Benchmarking Electricity Retail Costs – Issues Paper, November 2001 (p.4):

“Once retail competition is judged to be effective, the assessment of standing offer tariffs can be less intrusive, since the presence of competition will itself provide protection for consumers.”

The Essential Services Commission of South Australia

The Essential Services Commission of South Australia – Monitoring The Development of Electricity Retail Competition in South Australia - Proposed Approach, ESCOSA, April 2003 (p.22):

“The introduction of full contestability to the retail electricity market was a policy decision implemented by successive South Australian Governments. Underpinning this policy decision is a view that it is the process of competition, rather than regulation, which can, ultimately, deliver maximum benefits to consumers through lower prices, better goods and services and increased efficiency. Competition, it is argued, provides these outcomes in a more expeditious and efficient manner than does direct intervention into a market by a Government.”

The Essential Services Commission of South Australia – Monitoring The Development of Electricity Retail Competition in South Australia - Proposed Approach, ESCOSA, April 2003 (p.1):

“If ESCOSA is to protect the long term interests of South Australian consumers, and given that the electricity retail market in South Australia is now based on the concept that competition will ultimately provide the best protection for consumers, then it is important for ESCOSA to monitor the state of competition in the South Australian electricity retail market.”

The Independent Competition and Regulatory Commission of the ACT

The Independent Competition and Regulatory Commission of the ACT, Final Determination, Review of natural gas prices, May 2001 (p.8):

“Once effective competition is established, market forces should ensure that suppliers provide services of quality demanded by customers, and that they do not earn excessive profits.”

NSW Government

The Ministry of Energy and Utilities, New South Wales Policy Framework to Support Full Retail Competition in Gas, 21 December 2000:

“Therefore, an appropriate level of retail price regulation is required to protect residential and small business customers until there are sufficient competitive pressures in the gas retail market.”

NSW Treasury – Electricity Reform Statement, May 1995 at item 2.6, page 20:

“In the initial period of the market’s operation, continued formal oversight of retail prices which are currently subject to cross subsidy will be required. In addition, it will be desirable for all retail prices to be subject to careful monitoring until such time as the market is shown to be operating effectively”.

Retail Competition in Electricity Supply, Treasury Policy Paper TPP96-1, June 1996, at page 23

“Historically, customers have paid a “total” price for delivered electricity....In a fully competitive market, only the transportation will be regulated. The energy price and any retail charge not included in the energy price will be competitively determined”.

The Productivity Commission

“Community Service Obligations (CSOs) are government requirements for service providers to engage in non-commercial activities to meet affordability and access objectives.”

....all governments have adopted a commonly agreed definition of CSOs and have accepted the principle that costs of CSOs should be transparent and funded directly from consolidated revenue.”

PC Recommendation 10.5

“In retail infrastructure markets, once effective competition has been established, regulatory constraints on prices should be removed. Ensuring that disadvantaged groups continue to have adequate access to services at affordable prices should be pursued through adequate, well targeted and transparent community service obligations (or other appropriate mechanisms), that are monitored regularly for effectiveness.”

Productivity Commission Inquiry Report: Review of Competition Policy Reforms, February 2005.



**Energy Retailers
Association of Australia**

**Vulnerable Customer
Position Paper**

Issued June 2005

ERAA Position Paper - Vulnerable Customers

PREFACE

This policy was prepared in light of the establishment of the Committee of Inquiry into Financial Hardship of Energy Customers by the Victorian Government on 13 March 2005.

This paper is designed to be read in conjunction with the ERAA's Retail Price Regulation Paper which was drafted at the same time as this Hardship policy.

Historically governments through their ownership of utilities have administered social policy relating to customer hardship. Energy reform in recent years has resulted in the introduction of competition and in some States the complete privatisation of the energy industry.

Despite the introduction of these reforms jurisdictional regulators have retained price controls for certain customers in electricity and gas markets that are now open to competition. One of the main arguments put forward for maintaining regulated pricing of energy is to protect those customers in genuine hardship.

ERAA considers there is no justifiable link between price regulation and consumer protection, and sees that more targeted arrangements are required to assist customers in genuine financial hardship.

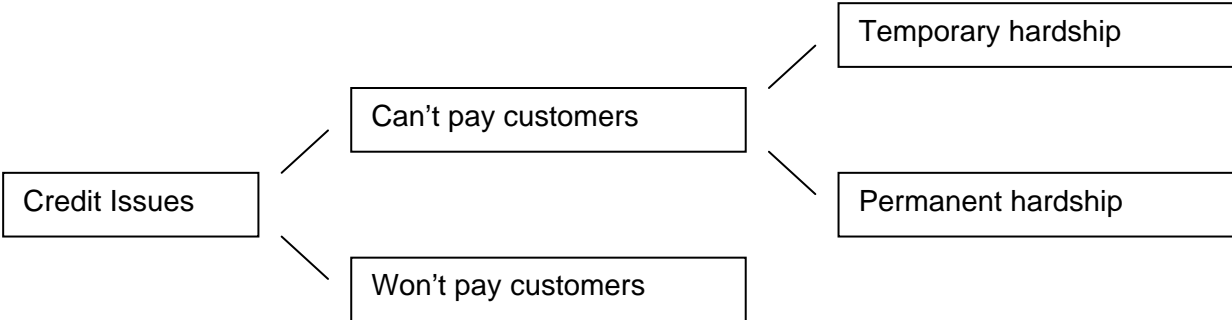
The ERAA strongly supports arrangements to protect customers in genuine financial hardship, however more effective policies are needed to address customers in hardship and continued price regulation is not part of the solution.

Customers with insufficient income need to be adequately supported with direct and transparent government subsidies through government welfare programs that are simple to administer and which do not interfere with the operation of the retail market. Energy retailers and community groups can assist governments in implementing such programs.

The combination of Government support and successful retailer vulnerable customer hardship programs will support competition in vulnerable customer segments and ensure programs are effective, transparent and efficient.

INTRODUCTION

Customers who do not pay their bills fall into two classes of customers: those who are in genuine financial hardship – the vulnerable or “can’t pay” customers; and those who choose not to pay: the “won’t pay” customers. Vulnerable or “can’t pay” customers can further be classified as being in either temporary hardship or in permanent hardship.



The ERAA believes it is important to recognise these distinctions, as different approaches are needed to appropriately manage the different issues associated with these different customer classes.

This paper only discusses the ERAA’s position with respect to the management of the vulnerable or “can’t pay” customers. (As retailers have collections and debt recovery procedures already established in relation to those customers who “won’t pay”.)

ERAA POSITION

The ERAA recognises that sections of our community can face financial hardship and personal and social difficulties.

Historically, Australian government-owned energy utility companies have administered social policy relating to customer hardship. However, energy industry reform in recent years has resulted in Governments introducing competition, and in some states, with complete privatisation of the energy industry. Utility companies have now been separated into discrete companies responsible for generation, transmission, distribution and retailing.

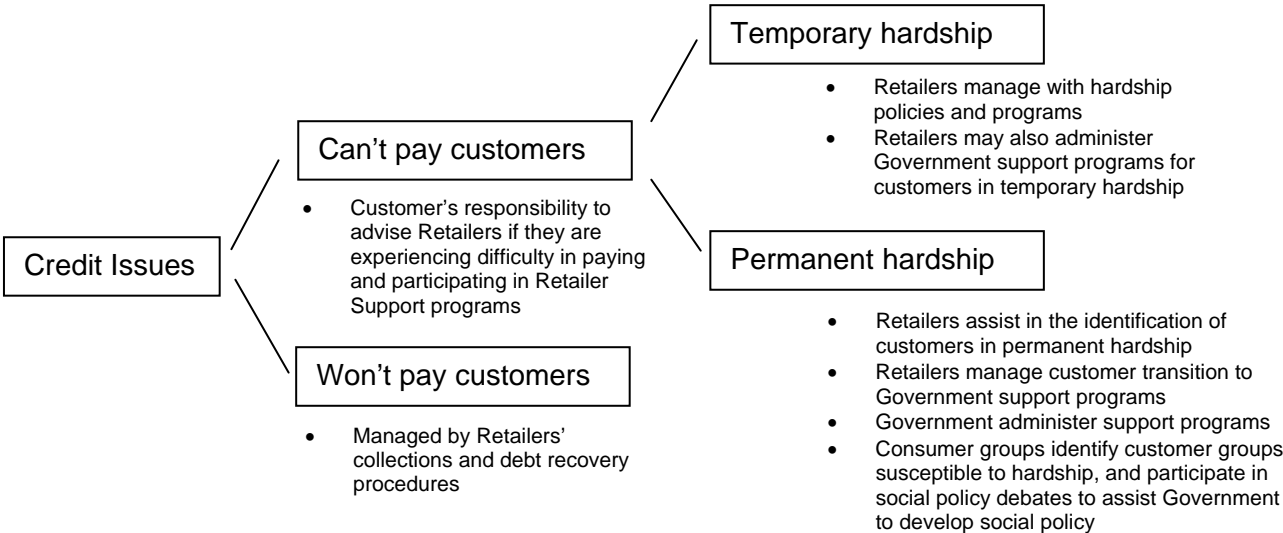
The development of sustainable solutions for managing customer hardship has not kept pace with these reforms. The ERAA believes that there needs to be a realignment of objectives and the approach to protecting customers in genuine financial hardship and will seek to engage governments, consumer groups and welfare organisations to address this important issue.

The ERAA’s position is that:

- The implementation of vulnerable customer frameworks is a mutual social obligation, shared between customers, the energy industry, Governments and the broader community.
- Vulnerable customers are defined as those customers who, due to genuine financial hardship, are unable to pay for the energy they have used, be it permanent or temporary in nature.
- Vulnerable protection frameworks should be available to all vulnerable customers as defined above.
- Retailers should continue to assist those customers in temporary hardship through the provision of energy on credit, offering extended collections periods and payment plans, referral for financial advisers, government support agencies, and providing advice on energy efficiency.
- Energy affordability for vulnerable customers with permanent difficulties is best managed through comprehensive, direct social support programs, which are funded by governments, and are transparent and simple to administer. Energy retailers and community groups can assist governments in implementing such programs.
- The combination of transparent Government support and successful retailer Vulnerable Customer hardship programs will support competition in vulnerable customer segments and ensure programs are effective, transparent and efficient.
- Price regulation should not be used as a means to protect vulnerable customers. Price regulation is ineffective in protecting the vulnerable customers and has other unintended consequences including the introduction of cross-subsidies, which are inefficient and stifle market development; product innovation; investment in supply and demand management initiatives and energy efficiency.
- The ERAA will continue to work with Governments and the community to ensure that interaction with vulnerable customers is fair and equitable, and that the energy industry is providing efficient and effective hardship programs to its vulnerable customers.

SUMMARY OF RESPONSIBILITIES

In support of the ERAA’s position, the following diagram summarises the responsibilities for managing vulnerable customers.



Part A of this paper provides a background and rationale to vulnerable customer policy

Part B outlines a role for Retailers in dealing with vulnerable customers, and

Part C presents the rationale for the policy principles adopted by the ERAA.

PART A. BACKGROUND

Definition of a Vulnerable Customer

The paper on Background Information on Vulnerable Customers provides analysis of various vulnerable customer policies from organisations in Australia and overseas. In these policies, each organisation has attempted to define “vulnerable customers”, and not surprisingly given the complexity of the issues involved, each organisation has a different definition. However, one recurring theme is that “vulnerable” customers cannot afford to pay for the energy that they have used due to genuine financial hardship.

Vulnerable customers can be further characterised as follows, and may require different types of assistance:

- Permanent hardship customers are generally those with low or fixed incomes and may require ongoing assistance.
- Temporary hardship customers are those who have experienced a sudden change in living circumstances such as ill health, unemployment, a death in the family, a loss arising from an accident, or some other genuine financial difficulty. These customers generally require flexibility and temporary assistance such as an extension of time to pay, a one-off grant, or a payment arrangement.

Vulnerable customers can therefore be defined as those that are genuinely not able to afford to pay for their energy usage as a result of social or personal circumstances beyond their reasonable control, be it permanent or temporary in nature. These customers, due to their inability to pay, are at risk of being disconnected if left unaided.

Responsibility for Vulnerable Customers

Hardship situations are driven by a number of social and personal problems. Some of these circumstances are temporary in nature, while others are permanent. They impact on essentials of life such as food, clothing, health and utilities and therefore affect livelihood. With respect to utilities and in particular energy, lack of affordability and accessibility may exacerbate these customers’ particular situation and lifestyle.

Historically, Australian government-owned energy utility companies have administered social policy relating to customer hardship. However, energy industry reform in recent years has resulted in Governments introducing competition, and in some states, with complete privatisation of the energy industry. Utility companies have now been separated into discrete companies responsible for generation, transmission, distribution and retailing.

The development of sustainable solutions for managing customers in genuine financial hardship has not kept pace with these reforms. As a result, traditional expectations for the management of hardship have shifted the burden for social policy to a very small group in the Australian community, the energy retailers.

The ERAA acknowledges that customer vulnerability is of serious concern for all Australians, including energy retailers. However, it is becoming increasingly clear that a solution cannot be found in one small section of the community. As a result, the ERAA recommends a shared social responsibility between the customer; the energy industry; State and Federal Governments; and the Australian community.

Responsibility should be shared as follows:

- **Customer** – Receives the energy and is obliged to pay. Customers are also responsible for advising retailers if they are having difficulty and seeking out and participating in programs designed to assist them.
- **Energy Industry** – Produces, distributes and sells the energy to the customer in a safe, reliable and least cost method. Energy retailers provide support to customers in genuine temporary financial hardship by providing reasonable payment plans, referral of customers to other available sources of help, and advice on energy efficiency (via hardship policies and programs). This support may also include administration of Government support programs. Retailers also assist in the identification of vulnerable customers in genuine permanent financial hardship and can assist in the transition of these customers to Government support programs.
- **Governments** – Determine social policy and put in place agencies and arrangements to fund and implement these policies. Governments are responsible for the administration of support programs for customers in permanent hardship, and also provide support to low-income earners by way of financial support through pensions and allowances, etc. (The paper on Background Information on Vulnerable Customers, Section B, outlines the various government concessions and rebate assistance schemes currently available to energy customers.)
- **Community** – Shares the responsibility for seeking to ensure Australia is a fair and equitable society. Community groups play an important role in identifying customer groups and individuals who are susceptible to genuine financial hardship, referring customers to available sources for help, and participating in social policy debates to assist Governments to develop appropriate policy.

Lack of access to energy supply has a significant impact on customers and their participation in society. However, given that energy only comprises 2-5% of average weekly household expenditure¹, solving energy hardship alone for vulnerable customers will do little to improve their participation in society.

In addition, energy industry specific programs to identify and assist customers with low income will result in duplication of effort, lead to unnecessary and multiple assessments by the different utilities causing customer frustration, and can result in the customers in most need of help not getting the assistance due to lack of coordination of support.

¹ Source: ABS Household Expenditure Survey, 2001. Households earning \$1,000 per week spend approximately 2% of income on domestic fuel and power, while households earning \$200 per week spend approximately 5%.

A sustainable, “whole of community” approach is required which is targeted to those in genuine need. Only a holistic strategy developed by Governments to address the affordability of those customers genuinely unable to pay for energy use will ensure a transparent and focused targeting of those customers who are in real need of support.

While there is a growing understanding of the importance of the need for a whole of community approach (refer to footnotes ² & ³ below), there appears to be a lack of recognition in some circles that energy affordability is a broader social issue.

PART B ROLE FOR RETAILERS

The challenge for industry

The challenge to industry is to identify vulnerable customers in genuine financial hardship situations and work with Governments to assist those customers at risk due to their inability to pay for energy used.

Participation by Energy Retailers

Energy retailers are positioned to support customers who may be experiencing genuine financial hardship and then moving these customers into a more sustainable program with mutual obligations from all sectors.

The ERAA recognises that early identification and support by retailers is important in assisting in the reduction of long-term energy hardship. It is also important that customers advise energy retailers of their inability to pay, otherwise it is very difficult to differentiate between customers who genuinely can't pay as opposed to customers who won't pay.

Energy Retailers are also well positioned to assist in the early identification of inefficient appliances and poor quality housing, and providing this information to the owners of these assets (being either Government or private investors). However, unless there is a “whole of community” approach, which includes participation by housing stock owners, this information will not result in an improvement of the quality of housing for vulnerable customers.

There are currently obligations on retailers to provide ongoing support to vulnerable customers, such as:

- Flexible debt recovery options,
- Advice on the best payment solutions available to make payments manageable,
- Advice on the relevant concessions available, from pensioner to life support rebates,
- Free referral to registered financial support and community organisations on a voluntary basis as required,
- Energy consumption information and advice on ways to make cost savings,

² Comments from ^{Final Report} by the Essential Services Commission of Victoria to Minister Special Investigation: Effectiveness of Retail Competition and Consumer Safety Net in Gas and Electricity, page 33, “The Commission considers that these issues could be addressed more effectively on a whole-of-government basis, which sought to better focus and coordinate existing government programs that are designed to address aspects of these customer problems.”

³ Comments from Productivity Competition’s Report on transitional and distributional impacts of competition reforms, discussion draft, page 174, that the interests of vulnerable users are “best handled through transparent community service obligation payments, rather than through the general suppression of prices.”

Retailers provide information to customers on how to access support from government relief agencies and charities to assist with a temporary problem or to address a more long-term issue. It is at the point when the customer contacts the Retailer and advises of their difficulty in paying the bill, that the customer can be assessed by the Retailer (with input from a relevant agency) and be identified as a vulnerable energy customer and receive the necessary support to ensure continued access to energy services.

The majority of Retailers have voluntarily developed Vulnerable Customer Hardship programs (in some cases, over and above Code requirements) that provide specialised and targeted support to vulnerable customers, and provide dedicated staff to assist customers in hardship. All retailers offer payment plans to assist customers with temporary problems.

Retailers are committed to continuing the development of their support programs for customers experiencing genuine financial hardship in an endeavour to mitigate the risk of increasing debt and disconnection.

PART C. PRINCIPLES

Economic Efficiency

Economic efficiency requires that pricing of products and services are such that they do not result in distorted signals in the market.

Equity and transparency

Access to energy is considered to be essential to minimum standard of living and is a right of all.

Governments may have views on equity grounds that customers in certain situations should pay a particular price. For example, some governments assist customers in remote locations through rebate schemes to ensure that they are not disadvantaged due to their location and that their charges do not vary significantly from those paid by customers in city regions.

Jurisdictions implementing such equity policies should do so in a transparent manner such that the true pricing signals remain.

Administrative Simplicity

Administrative simplicity requires that the complexity and cost of regulatory arrangements supporting equity principles and vulnerable customers be minimised. This includes the administration costs of measurement, monitoring, verification and compliance associated with relevant schemes to achieve governments' objectives.

Regulatory Certainty

Regulatory certainty requires that governments take a national, long-term approach to Vulnerable Customer policies. This includes the establishment of a regulatory framework that has well thought out objectives, which are nationally consistent.