



**EnergyAustralia**

19<sup>th</sup> March 2013

Independent Pricing and Regulatory Tribunal of NSW (IPART)  
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Dear IPART

### **Positive Pass Through Event Application – 2013 Small-scale renewable energy scheme costs**

In accordance with clause 3.1(a) of Schedule 4 of IPART's 2010 electricity regulated retail price determination (the **2010 Determination**),<sup>1</sup> EnergyAustralia gives notice to IPART that a Positive Pass Through Event (**PPTE**) has occurred.

The binding Small-scale Technology Percentage (**STP**) prescribed for 2013 under the *Renewable Energy (Electricity) Amendment Regulation 2013 (No. 2)*<sup>2</sup> (the **Regulation**) is materially different to the 2013 STP obligation assumed by IPART in the 2012 regulated electricity retail prices update (**2012 Annual Review**)<sup>3</sup>. Accordingly, EnergyAustralia is seeking IPART's approval to pass through to customers the resultant increase in costs associated with the actual obligations imposed on EnergyAustralia under the Regulation.

This cost pass through application sets out the information required under clause 3.1(b) of Schedule 4 of the 2010 Determination.

### **Details and date of PPTE (clauses 3.1(b)(1) and (2) of Schedule 4 of the 2010 Determination)**

This Regulation was made on 14 March 2013 and commences on the day after registration.

The Regulation set the binding STP for 2013 at 19.70% increasing from the indicative non-binding STP of 7.94% for 2013 used by IPART in the 2012 Annual Review. The binding 2013 STP therefore represents a significantly larger liability on EnergyAustralia under the small-scale renewable energy scheme (**SRES**) than the indicative non-binding STP used by IPART in the 2012 Annual Review.

<sup>1</sup> IPART, Review of Regulated Retail Tariffs and Charges for Electricity 2010 to 2013 - Final Determination (March 2010), page 23.

<sup>2</sup> [http://www.comlaw.gov.au/Details/F2013L00475/Html/Text#\\_Toc350853874](http://www.comlaw.gov.au/Details/F2013L00475/Html/Text#_Toc350853874), dated 14 March 2013

<sup>3</sup> IPART, Changes in regulated electricity retail prices from 1 July 2012 - Final Report (June 2012).

Under the 2010 Determination, a Pass Through Event includes a Regulatory Change Event (**RCE**). A RCE is defined to include:<sup>4</sup>

*'...(b) the coming into operation of an Applicable Law...  
that has the effect of substantially varying...  
(d) the nature, scope, standard or risk of the Pass Through Services<sup>5</sup>; or  
(e) the manner in which a Standard Retail Supplier is required to undertake any activity in order to provide the Pass Through Services, including obligations...  
3) under any Green Energy Scheme...'*

**Criteria (b)**

The 2013 STP prescribed by the Regulation, is the coming into operation of an amendment to an Applicable Law as defined in the 2010 Determination.

**Criteria (d)**

The binding 2013 STP satisfies criteria (d) of the REC definition, because retailers now face different obligations under the SRES as the binding 2012 STP is significantly higher than the 2013 STP estimate used by IPART in the 2012 Annual Review and incorporated in the current 2012/13 prices. The requirement for retailers to meet significantly increased SRES targets will impose greater, or 'different', obligations on retailers, and will have the effect of substantially varying the nature, scope, standard and risk of their electricity services. Accordingly, the setting of the binding 2013 STP qualifies as a RCE under the pass through provisions of the 2010 Determination.

**Criteria (e)**

The binding 2013 STP also satisfies criteria (e) of the REC definition, because SRES meets the definition of a Green Energy Scheme.<sup>6</sup> The binding 2013 STP is significantly higher than the 2013 STP estimate used by IPART in the 2012 Annual Review and incorporated in the current 2012/13 prices. Consequently, the 'manner' in which retailers meet their SRES obligations has substantially varied. Accordingly, the setting of the binding 2013 STP is a RCE under the pass through provisions of the 2010 Determination.

In order for the Regulation to be considered a PPTE, the Materiality Test is required to be satisfied. This is discussed below.

**Increase in costs due to the PPTE (clause 3.1(b)(3) of Schedule 4 of the 2010 Determination)**

As a result of the PPTE, the incremental efficient costs of the binding 2013 STP are the costs of complying with the binding 2013 STP, less the costs already accounted for in retailers' 2012/2013 prices.

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<sup>4</sup> IPART, Review of Regulated Retail Tariffs and Charges for Electricity 2010 to 2013 - Final Determination (March 2010), page 46.

<sup>5</sup> Pass Through Services means services of or in relation to Supplying electricity to Small Retail Customers under a Standard Form Customer Supply Contract.

<sup>6</sup> Green Energy Scheme means any mandatory scheme that imposes financial obligations on a Standard Retail Supplier in order to produce a Green Energy Outcome, excluding the Carbon Pollution Reduction Scheme but including the Commonwealth mandatory renewable energy target scheme under the *Renewable Energy (Electricity) Act 2000* (Cth) and the New South Wales Government's energy savings scheme under the ESA.

This means that the calculation of the revised efficient costs must be reduced by the SRES costs set in IPART's 2012 Annual Review, which incorporated a 2013 STP estimate of 7.94%.<sup>7</sup> This accords with IPART's obligation to ensure that a retailer does not recover costs to the extent provision for such costs has already been made.<sup>8</sup>

This is consistent with IPART's approach to the 2011 cost pass through for the Renewable Energy Target (RET) split. It is also consistent with the cost pass through approach, which was successfully applied in 2012 under similar circumstances to those we face now.<sup>9</sup>

The detailed calculations are outlined in the attached (confidential) spreadsheet. For the 2013 calendar year, the total impact of the increase in the STP is \$20.0M (\$11/12).

### **Proposed amount and timing of PPTE (clauses 3.1(b)(4) and (5) of Schedule 4 of the 2010 Determination)**

EnergyAustralia notes that, as occurred in 2012, the increased cost for 2013/14 from this PPTE should be addressed as part of the review being conducted by IPART, and should apply to the 2013/14 year.

Last year, for a similar SRES pass through item, IPART added a retail margin of 5.4% and applied nine months worth of the real pre-tax WACC to derive the amount to be recovered in the following year's tariff.<sup>10</sup> To ensure consistency with previous IPART decisions EnergyAustralia has used the same approach in this application.

The detailed calculations are outlined in the attached (confidential) spreadsheet. The SRES cost arising from 1 January to 30 June 2013 that EnergyAustralia is proposing to pass through in 2013/14 tariffs is \$3.18/MWh (\$11/12).

### **Materiality Test (clause 2(c)(1)) of Schedule 4 of the 2010 Determination)**

The change in costs resulting from the Regulation must pass the Materiality Threshold Test. The appropriate application of 'average annual costs'<sup>11</sup> in the Materiality Test in the 2010 Determination requires the PPTE to result in a retailers efficient, incremental and justified average annual costs incurred from 1 July 2010 to 30 June 2013 to exceed 0.25% of the retailer's total revenue arising out of the regulated retail tariffs for the financial year in which the event occurs. As the 2013 STP is an annual figure the appropriate amount may be the \$20.0M as outlined above.

As the attached spreadsheet shows, the Materiality Threshold Test of 0.25% of total revenue is easily met.

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<sup>7</sup> IPART, Changes in regulated electricity retail prices from 1 July 2012 - Final Report (June 2012), page 42.

<sup>8</sup> IPART, Review of Regulated Retail Tariffs and Charges for Electricity 2010 to 2013 - Final Determination (March 2010), Schedule 4 clause 3.3(d).

<sup>9</sup> IPART, Changes in regulated electricity retail prices from 1 July 2012 - Final Report (June 2012), pages 46-55.

<sup>10</sup> IPART, Changes in regulated electricity retail prices from 1 July 2012 - Final Report (June 2012), page 50.

<sup>11</sup> IPART, Review of Regulated Retail Tariffs and Charges for Electricity 2010 to 2013 - Final Determination (March 2010), page 22.

## **Conclusion**

EnergyAustralia is applying for a PPTTE resulting from the final STP for 2013 prescribed under the Regulation. The setting of the binding 2013 STP meets the definition of a Regulatory Change Event and the cost impact of the changes meets the Materiality Threshold Test set in the 2010 Determination. As both the definition of a Regulatory Change Event and the Materiality Threshold Test are met, the Regulation meets the definition of a Positive Pass Through Event.

The efficient, incremental and justified costs resulting from this PPTTE for the 2013 calendar year are \$20.0M (\$11/12). Part of this cost from 1 July 2013 to 31 December 2013 should be accounted for as part of the review to be undertaken by IPART for the 2013/14 year and for the remainder EnergyAustralia is seeking IPART's approval to pass through a cost of \$3.18/MWh (\$11/12) in the 2013/14 regulated prices.

If you would like to contact me about this application, please call me on (03) 8628 1242.

Yours sincerely

**Melinda Green**

Regulatory Manager - Pricing