



A competitive market to benefit all

IPART Review of the performance and competitiveness of the retail electricity market in NSW

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1. The Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit law and policy organisation that works for a fair, just and democratic society, empowering citizens, consumers and communities by taking strategic action on public interest issues.

The Energy and Water Consumers' Advocacy Program was established at PIAC 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 whose members include:

- Council of Social Service of NSW (NCOSS)
- Combined Pensioners and Superannuants Association of NSW
- Tenants Union of NSW
- Ethnic Communities Council of NSW
- Physical Disability Council of NSW
- St Vincent de Paul Society of NSW
- Good Shepherd Microfinance
- Affiliated Residential Park Residents Association
- Financial Rights Legal Centre, and
- The Salvation Army.

2. Introduction

The Public Interest Advocacy Centre (PIAC) welcomes the opportunity to comment on the Independent Pricing and Regulatory Tribunal's (IPART) draft report on the *Review of the performance and competitiveness of the retail electricity market in NSW*.¹

The NSW Government removed retail electricity price regulation from 1 July 2014 and, as part of its decision to deregulate, gave IPART a new role to independently monitor and report annually on competition in the retail electricity market.² This consultation is IPART's second review.³

IPART used a number of competition indicators in its review and found that 'competition is working well'. It made recommendations that it considers would encourage further competition in the retail electricity market.⁴ These recommendations are the winding down of components of state-based green energy and energy efficiency schemes that duplicate federal schemes, as well as the removal of the cap on early termination fees (ETF). In response to the NSW Government's request for an in-depth review of retail price rises from 1 July 2016, IPART submitted that a review was not needed as the rising cost of wholesale electricity and green schemes was responsible for increased retail costs.

¹ IPART, *Review of the performance and competitiveness of the retail electricity market in NSW*, 2016.

² *Ibid*, 8.

³ *Ibid*, 1.

⁴ *Ibid*, 1.

PIAC is of the view that the strongest indicator of the effectiveness of competition is whether consumers are paying lower prices.⁵ In theory, businesses in a competitive market compete on costs, promising lower prices and more innovative products and services for consumers. PIAC considers the competitive retail electricity market is not yet delivering what competition set out to achieve. Since the deregulation of electricity prices in NSW in 2014, the number of consumers seeking payment plans and accessing hardship programs has risen, suggesting that affordability has worsened.⁶ PIAC is specifically concerned about the recent increase in the retail component of energy bills, despite the findings of IPART's review.

In this submission, PIAC makes a number of recommendations that aim to broaden the indicators that IPART uses to review competition in the electricity market.

3. IPART's assessment method

IPART considers competition is 'working well' based on the competition indicators used in its review. These indicators are:

- barriers to entering, expanding and exiting the market
- customer participation and outcomes
- price movements (including prices in regional areas), and
- the extent of rivalry between retailers including price and product diversity.⁷

IPART's indicators are largely focused on retail businesses, such as the barriers for entry, price movements and rivalry between retailers. PIAC considers the review would benefit from including more indicators that measure the impact competition has on residential consumers, particularly vulnerable or disadvantaged consumers.

Consumers are central to a competitive market. For the market to operate effectively businesses must compete to deliver lower prices and increased innovation. Consumers drive competition by engaging with the market and making informed choices about the products available.

Consumers who access the electricity market come from a range of life circumstances, some of which present barriers to accessing the benefits of competition. PIAC does not consider retail competition to be effective if it benefits only those who have the capacity to engage meaningfully with the market.

⁵ PIAC, *Electricity prices too high*, 2016, available at: <http://www.piac.asn.au/news/2016/08/electricity-retail-prices-too-high>

⁶ According to the AER, 85,636 consumers in NSW were on a payment plan in March 2016 compared to 58,324 NSW consumers in March 2014. Similarly, 23,913 consumers in NSW were in a hardship program in March 2016 compared to 18,293 consumers in June 2014. See: <https://www.aer.gov.au/retail-markets/retail-statistics/nsw-customers-on-payment-plans> and, AER Annual Report on the performance of the retail energy market 2013/14, at: <https://www.aer.gov.au/system/files/Annual%20report%20on%20the%20performance%20of%20the%20retail%20energy%20market%202013-14.PDF>

⁷ Above n1,12.

PIAC recommends that IPART undertake a more thorough analysis of the impact of competition on consumers, focusing on consumers who are least able to benefit from the market. PIAC suggests a broader set of indicators to assist with this process.

Customer satisfaction and attitude.

IPART refers to research by Energy Consumers Australia (ECA) that shows 'around half of the NSW households are satisfied with the value for money for electricity services, which is above the national average'.⁸ There are still approximately 50% of households in NSW that remain unsatisfied or believe they are not getting value for money. PIAC believes this figure is too substantial to ignore and suggests that it indicates the market is not effectively competitive.

Moreover, CHOICE's recent report, *Consumer Pulse: Australians' attitudes to cost of living 2015-2016*, states that electricity bills are the main cause of financial stress in Australian households.⁹ The report reveals this is being felt across both high-income households (82% for electricity) and low-income households (81% for electricity).¹⁰ PIAC considers that one measure of a competitive market is the level of consumer trust in the market, which provides some insight into whether the market is perceived to be working in consumers' favour. PIAC recommends that IPART consider customer satisfaction measures in its review of competition.

Customer engagement with retailers and access to information on products and services.

Only one in 10 NSW consumers are aware of the Australian Energy Regulator's (AER) energy made easy website;¹¹ consumers are twice as likely to recall commercial online price comparators.¹² Commercial comparator websites only include information about a selection of offers and do not provide consumers with information about the range of retail products and services available in the market.¹³ This barrier is increased for consumers who are from non-English speaking backgrounds or who have limited online access.¹⁴ PIAC would like to see retailers diminish these barriers, where possible.

The AEMC's competition review looked at the reasons vulnerable consumers may not be investigating options and switching.¹⁵ These include consumers' difficulty in understanding offers and fear of making the wrong decision.¹⁶ A market is not effectively competitive if consumers are unable to understand information in order to make effective decisions and participate in the market. If switching is to be considered an indicator of effective competition, these barriers need to be acknowledged and addressed. PIAC considers that high rates of switching do not always indicate effective competition. It merely provides a picture of how many consumers switch retailers, rather than the quality of consumer outcomes brought about by switching.

⁸ Ibid, 28.

⁹ CHOICE, *Consumer Pulse Report*, July 2016, p.8.

¹⁰ Above n1, 8.

¹¹ Ibid, 27.

¹² Ibid, 27.

¹³ CME, *Australia's retail electricity markets: who is serving whom? A report prepared for GetUp!*, August 2016, p.10.

¹⁴ Above n1, 5.

¹⁵ AEMC, *Retail Competition Review*, 2016, p.51.

¹⁶ Above n1, 52.

Price impact on vulnerable consumers: customer hardship, debt and disconnection.

Increased prices have meant that more consumers are at risk of hardship, accumulating debt and being disconnected from their electricity supply. PIAC notes that 85,636 electricity customers in NSW were on payment plan in March 2016.¹⁷ According to EWON, this is a 10% increase since 2015 and a 40% increase since 2014.¹⁸ It is concerning that there has been a rise in the number of customers requiring payment assistance after price deregulation. These figures indicate worsening affordability and PIAC considers that there is a need to closely monitor retailer price movements, discussed further below.

PIAC considers it useful for IPART to monitor a range of affordability indicators to measure whether a competitive market is delivering on its promise of lower prices.

Recommendation 1

PIAC recommends that IPART broaden the set of indicators it uses to assess the effectiveness of competition in the retail electricity market. In particular, PIAC recommends that IPART consider further analysis of customer satisfaction and attitude, customer engagement with retailers and access to information on products and services, and price impacts on vulnerable consumers.

4. IPART's draft recommendations

Draft recommendation 1

That, to reduce the barriers for small retailers entering the NSW retail electricity market, the NSW Government wind down duplicative components of state-based green energy and energy efficiency schemes, with the option to transfer any residual functions that are complementary to a national scheme such as the Emissions Reduction Fund. (This would be a similar process to the winding down of the NSW Greenhouse Gas Reduction Scheme (GGAS) in June 2012). Clear transition arrangements would need to be put into place to maintain certainty for businesses investing in state-based energy efficiency schemes.¹⁹

In principle, PIAC supports this recommendation. PIAC concurs with IPART's view that there is likely duplication between state and federal green energy and energy efficiency schemes, which increase costs for customers.²⁰

Careful analysis will be needed to examine the overall impact of this recommendation to ensure that if schemes such as the NSW Energy Savings Scheme are wound down, the benefits to low-income households are not lost.

Recommendation 2

PIAC recommends IPART conduct careful analysis of the overlap between the state and federal green energy and energy efficiency schemes, taking into account the overall impact on NSW household consumers.

¹⁷ AER, 2016-16 Q3 Customers on a payment plan – by jurisdiction, available at: <https://www.aer.gov.au/retail-markets/retail-statistics/2015-16-q3-customers-on-a-payment-plan-by-jurisdiction>

¹⁸ EWON, *Annual report 2015/16*, p.26.

¹⁹ Above n1, 18.

²⁰ Ibid, 18.

Draft recommendation 2

That price regulation of early termination fees (ETFs) caps under the National Energy Retail Rules (NSW) is removed as the competitive market is providing a more effective means of protecting customers.²¹

PIAC does not support this recommendation. Without an ETF cap electricity retailers can decide the fee they charge if a customer wishes to terminate their contract early. IPART argues that since most market contracts either do not have ETFs or have EFTs that are below the cap, competition is providing a better form of customer protection.²²

PIAC has argued in a number of submissions for ETFs to be banned altogether.²³ However, if IPART considers that ETFs are here to stay, then the cap should remain as a safety net so that consumers are protected from the potential for large fees.

Recommendation 3

PIAC recommends that the cap on early termination fees be retained. PIAC recommends that IPART consider banning ETFs because of their impact on competition.

5. Retail prices and profit margins

Overall draft finding

That competition for residential and small business customers in the NSW retail electricity market is working well, and that a detailed review of retail prices and profit margins is not necessary.²⁴

IPART explains that the recent rise in NSW retail prices is due to a combination of wholesale costs and green energy and energy efficiency scheme costs, and is, therefore, not due to a retailer's profit margin.²⁵

Recent research by Carbon and Energy Markets (CME) looked at how much retailers are charging consumers.²⁶ It shows the three electricity retailers Energy Australia, Origin Energy and AGL (who together control 92 per cent of the NSW market) are charging two to three times more to sell electricity in NSW, Victoria, Queensland and South Australia than a regulated retailer charges in the Australian Capital Territory.²⁷ In light of this research, PIAC considers that a deeper economic analysis of the retail market by IPART will assist in understanding the extent to which the market is working for all consumers.

²¹ Above n1, 67.

²² Ibid, 4.

²³ See: PIAC, *A friendly goodbye: PIAC submission to IPART's Issues Paper: Early termination fees - Regulating the fees charged to small electricity customers in NSW*, 2013, p.2.

PIAC, *Marking the market: PIAC submission to the AEMC Issues paper: Review of competition in retail electricity and gas markets in NSW*, 2013, available at: www.piac.asn.au/publication/2013/03/marketing-market; www.piac.asn.au/publication/2013/08/where-and-how.

²⁴ Above n1, 6.

²⁵ Ibid, 3.

²⁶ Above n13.

²⁷ Ibid, 23.

Recommendation 4

PIAC recommends IPART conduct an in-depth review of retail prices and profit margins.

6. Conclusion

In conclusion, PIAC considers further analysis is needed to assess the impact NSW retail competition has on vulnerable and disadvantaged consumers. PIAC believes IPART's role as an independent monitoring body is vital in ensuring a competitive energy market delivers its intended benefits, such as lower prices for consumers.