

18 November 2013

Early Termination Fees Draft Report  
Independent Pricing and Regulatory Tribunal  
PO Box Q290  
QVB Post Office NSW 1230

Dear Sir/Madam,

**RE: Early Termination Fees Draft Report**

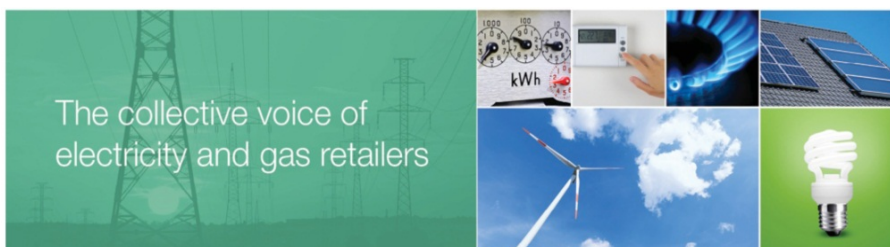
The Energy Retailers Association of Australia (ERAA) welcomes the opportunity to provide input to the Independent and Regulatory Tribunal's (IPART) *Early Termination Fees Draft Report* (the Draft Report). This submission compliments our response to the *Early Termination Fees Issues Paper* and comments made at the Public Forum held on Monday 4 November.

The ERAA represents the organisations providing electricity and gas to almost 10 million Australian households and businesses. Our member organisations are mostly privately owned, vary in size and operate in all areas within the National Electricity Market (NEM) and are the first point of contact for end use customers of both electricity and gas.

The ERAA does not agree that further regulation of Early Termination Fees (ETFs) is in the long-term interests of consumers. Whilst the ERAA supports the waiver of ETFs for customers in hardship, placing overly restrictive limitations on ETFs will result in a number of adverse consequences. In NSW, retailers currently offer products with a range of ETFs, products with no ETFs and products which waive ETFs if the customer leaves for a better offer. Should retailers not be able to recover the costs of early termination from customers, these costs will have to be collected from the broader customer base, potentially in the form of higher retail electricity prices. This can hinder innovation in the market, and limit the ability of retailers to tailor products to meet the needs of customers.

The ERAA notes that IPART are required to determine a suitable cap for ETFs in fixed term contracts in NSW. Given this requirement, the ERAA supports IPART's use of the costs retailers would avoid if the customer had not signed a contract to calculate the regulated ETF cap. Utilising this methodology, the Draft Report recommends base caps of \$130 within 12 months of the date of first supply and \$45 thereafter (until the end of the fixed term contract or fixed benefit period of a market retail contract). These costs are based on a customer terminating their contract after 6 and 18 months respectively, and were calculated using an average of retailer costs. This use of average costs will restrict the ability of retailers to recover the actual costs of early termination should they wish to do so, as some of these costs will be above the average. In such circumstances, this will lead to adverse outcomes including increases to retail prices and reduced variation on product offerings.

The terms of reference provided by the NSW Government require IPART to consider the reasonable costs of giving effect to early termination, whilst also considering the potential impacts on consumer prices and on competition in relevant retail markets. As IPART has used average costs to calculate their draft cap, the ERAA recommends that further consideration is given to the trade-off between an ETF cap which is not cost-reflective, and the impact this may have on consumer prices and competition.



The collective voice of  
electricity and gas retailers

The ERAA would also like to seek clarification regarding the definition of the start of the 12 month period. The Draft Report states that this will occur “from the date on which the retailer commenced selling energy to the customer under the contract”<sup>1</sup>. The ERAA assumes that the 12 month period begins once a contract commences, although we suggest that IPART provides clarification on this issue.

Should you wish to discuss the details of this submission, please contact me on (02) 8241 1800 and I will be happy to facilitate such discussions with my member companies.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Cameron O'Reilly', written in a cursive style.

Cameron O'Reilly  
CEO  
Energy Retailers Association of Australia

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<sup>1</sup> IPART (2013), *Early Termination Fees Draft Report*, p.34