



9 September 2013

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

Submitted electronically

Dear Sir/Madam,

**Re: Early Termination Fees: Electricity Issues Paper**

Lumo Energy would like to thank the Independent Pricing and Regulatory Tribunal (IPART) for the opportunity to make a submission in response to the Early Termination Fees: Electricity Issues Paper (the Issues Paper).

Lumo Energy is 100% owned by Infratil Limited, a company listed on the New Zealand and Australian Stock Exchanges. Lumo Energy currently retails across the National Electricity Market, and is one of the largest second tier energy retailers. As such, it has a keen interest in the outcome of the proposed amendments and the extent to which it promotes efficient investment in the New South Wales electricity market that is in the long term interests of consumers.

**Competition in New South Wales**

Lumo Energy strongly opposes further regulation by the New South Wales Government in relation to early termination fees (ETFs). A competitive, deregulated market incentivises energy retailers to improve their products and services to meet the needs of consumers. The regulation of ETFs does not meet a competitive market objective that is in the long term interests of consumers.

In the New South Wales market, Lumo Energy ensures that its products are suited to consumers and provides competitive offers. Many of Lumo Energy's products include a 'No Risk Offer' which gives customers peace of mind knowing that they will not be subject to the ETF where they are able to get a competitive rate that Lumo Energy is unable to beat or match. Regulating in this space will impact Lumo Energy's ability to innovate and meet the needs of our customers.

**Basis for the base ETF cap**

In terms of the two main approaches set out in the Issues Paper, Lumo Energy supports the use of 'costs that a retailer would avoid if the customer had not signed the contract'. Lumo Energy considers IPART's analysis on this scenario more accurate than the alternate approach because it more accurately reflects the retail operational costs and wholesale investments made on behalf of the customer.



### **Setting the ETF 'too high' or 'too low'**

Lumo Energy acknowledges that IPART's task of setting a representative retailers cost is both complex and generates significant risk for the market, and subsequently consumers. Lumo Energy supports IPART's view that "some retailers have higher or lower cost structures than other retailers"<sup>1</sup>. Therefore, a base ETF being set by IPART must ensure that it factors in the costs structures of all retailers in the market to ensure that it not only encourages, but allows for competition.

Lumo Energy notes that if the ETF cap is set too high, retailers will have the opportunity to compete to offer products with lower ETFs in order to meet the demands of consumers. Conversely, if an ETF is set too low, retailers may not be able to pass on the true costs from their customers who terminate early. This may lead to higher prices in the longer term, as retailers cover these costs through their prices rather than the ETF. Lumo Energy believes that this is not in the long term interests of consumers and a low ETF would not support the National Energy Retail Objective.

### **Other considerations**

Lumo Energy would like IPART to consider how it will review the ETF in two years, including whether that review will make a determination and recommendations to the Department regarding the effect of the ETF.

Lumo Energy has had the experience of the regulated ETF in Victoria, where the Essential Services Commission set the value in 2006, has since engaged and been unwilling to change it.

Therefore it would be considered prudent for IPART, if the ETF has distortionary impacts on the market, to recommend to the Minister that this regulation be revoked.

Lumo Energy notes that a three month implementation window is challenging. As such Lumo Energy looks forward to assisting to work with IPART and other stakeholders to ensure that the final outcome is agreeable and achieved in a timely manner.

Please contact me on 03 8680 6439 or Stefanie Macri on 03 8683 2427 to discuss this submission further or if you require any further information.

Yours sincerely

A handwritten signature in blue ink, appearing to be "Aneta", with a long horizontal flourish extending to the right.

**Aneta Graham**  
General Manager, Regulatory Affairs & Corporate Relations  
Lumo Energy NSW Pty Ltd

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<sup>1</sup> IPART (2013), *Early Termination Fees – Regulating the fees charged to small electricity customers in NSW*, p.12.