



# **E R WALSHE HEAT TREATMENT** ABN 84 276 261

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Heat Treaters of Non Ferrous Metals

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31. 10. 2006

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## **RE: The Current Review into Electricity Retail Pricing**

**Dear Sir / Madam,**

I am writing to request that with this Current Review of Electricity Retail Pricing that you put into place limitations on the amount prices are allowed to increase for retail customers that are rock solid and actually work

Limitations that are worded such that they CANNOT be sidestepped, avoided / modified or changed in any way such that they DO apply to the introduction of or switching to a NEW TARIFF/s or any modifications to a customers tariff or by way of any restructure of the electricity network or the installation of new hardware at a customers premises, or any other trickery that an energy supplier (in my case Energy Australia) comes up with.

**The NSW Electricity Regulated Retail Tariffs 2004/05 to 2006/07 Final Report and Determination** failed to achieve its objective of price protection due to a simple oversight and was / is unable to enforce the **“imposition of a CPI+5% p.a. price limit”** it created as it DID NOT include any limitations / protection where the retail customer is changed to a different tariff.

### ***What happened to me:***

I own a small metal Heat Treatment business at Alexandria. On October 29. 2005 Energy Australia installed new Time Of Use meters and applied its new “Load Smart” tariff (as it has done or will do to ALL small businesses that consume between 40MW p.a. and 160MW p.a.).

They told me (as the Energy Australia letter stated) that they were giving me the “tools to be more efficient” and to help me “save money”.

I already had a modern “Time Of Use” meter and was already on a “Time Of Use” tariff for my furnaces and was already running my operation quite efficiently such that my “Off Peak” consumption is in the order of 80% of my total electricity consumption.

The result of Energy Australia moving me to the “Loadsmart” tariff was not to save me money (as they surely would have known) but actually saw my costs skyrocket by a massive 40% and then in July 06 increase even further. They deceived me as well as (I am sure) many others all the while stating that it is IPART approved!

### ***How IPART failed in the past:***

Energy Australia was able to ignore the IPART Determination's upper price limits of CPI+5% p.a. as IPART did NOT offer BLANKET COVER to those they were meant to protect.

IPART limited its protection to a customer's EXISTING TARIFFS ONLY and made no allowance for Energy Australia switching a customer to a different more expensive tariff.

Whilst Energy Australia pontificated that this was needed due to the instillation of the new meters and its desire to switch customers to Time Of Use tariffs, this was simply a front to cover up the huge money grab that resulted.

### ***How IPART might not fail again:***

IPART needs to state that the price increase limitations of say CPI +5 % (as before) on a customers total bill apply across the board, such that it will apply to ALL tariffs NEW or OLD and will apply to any modification to a tariff or the imposition of any new or additional charges within a tariff or any increases to any part of a tariff that will result in the customer's overall bill for a given / similar amount of power increasing by more than the pricing limit imposed by the new Determination for the period of the Determination.

It could be as simple as that.

I will also suggest that IPART may need to define how any customers cost increases are determined. That is, that a fair before and after comparison be done such that the amount of power consumed (kilo Watt hours) and charging splits (Peak, Shoulder & Off Peak) is identical plus any ancillary charges such as SAC or Peak Capacity charges (or what other new or old items may be added or modified that may inflate a customers bill).

I say this as Energy Australia offered me a written comparison of two billing periods (before Loadsmart and after Loadsmart) that had a similar number of billing days but saw them attempting to compare one period of 11,000 kWhrs with another of more than 26,000 kWhrs and they even had the hide to tell me that they had actually saved me money! Not a fair comparison at all, but they did try it on.

May I also suggest that this time IPART get solid legal advice as to the wording of all the relevant clauses.

### ***Thinking the way Energy Australia does:***

There is a clause in the Energy Australia standard agreement that allows Energy Australia to move any customer on a standard regulated retail agreement from one tariff to another as Energy Australia sees fit.

I envisage that Energy Australia could easily avoid future pricing limitations by placing retail customers who are currently on one tariff onto a more expensive tariff (as they did with me) but by way of reclassifying them.

For example:

Currently Energy Australia places business customers that use from 40MW p.a. to 160 MW p.a. onto their very expensive "Loadsmart" tariff and those that use under 40MW p.a. on the lesser "Powersmart" tariff.

There is NOTHING to stop them from lowering the 40MW lower threshold to say ZERO Watts p.a. (or for that matter raising the upper limit I guess) and placing ALL businesses on the "Loadsmart" tariff.

This would see those affected (if they are on the “Powersmart” tariff) receive a 40% price increase in one hit.

After all what is stopping them from switching all business customers and all domestic (residential) customers to the “Loadsmart” tariff?

This would be a huge price increase and under the current Determination very possible!

*Let me remind you of what your last Determination was supposed to achieve:*

As stated in the exert below, it was supposed to achieve average price increases of between 5.0% and 5.8% p.a. for regulated retail customers (not the 40% + in one hit that I got).

## 1.2 Overview of determination

**The Tribunal’s determination will allow average prices for regulated retail customers to increase by between 5.0 per cent and 5.8 per cent per annum** (nominal) on average over the determination period. The actual increase for each customer will depend on whether the tariff(s) the customer is on is currently greater or less than the relevant target tariff level set by the Tribunal.

*Protection for small retail customers:*

Throughout the **Final Report and Determination** (see exerts below), the need to protect “small retail customers” from “significant price shocks” was clearly identified, as was the need for price increases “to be phased in”.

## 4 TRANSITIONING REGULATED RETAIL TARIFFS TO TARGET LEVELS

There are currently more than 500 regulated retail tariffs in NSW. Some of these are Significantly higher than the applicable target level, while others are close to or much lower than the applicable target level.

**The Tribunal maintains its view that it is not reasonable to move regulated retail tariffs to Target levels immediately as this would result in significant price increases for some small retail customers. Increases need to be phased in over the regulatory period.**

In section 4.2 the **imposition of a “CPI+5%” price limit** was meant to “**set maximum increases on customers’ bills**”. “**To ensure that customers are protected from unacceptable price increases**”.

### 4.2 Limits on increasing customers’ bills

#### 4.2.1 Decision

**The Tribunal has decided that the annual bill (excluding miscellaneous charges) for any customer must not increase by more than \$35 excluding GST or the percentage change in CPI+5% (whichever is greater) for the same pattern and level of consumption.**

#### 4.2.2 Tribunal’s consideration in making its final decision

Each customer’s bill comprises network and retail components (N+R). To ensure that customers are protected from unacceptable price increases, **the Tribunal has decided to Impose price limits that set maximum increases on customers’ bills.**

The following words in the **Determination** totally nullified all the aims stated above.

### 6.1.2 Tribunal’s considerations in making its final decision

During the course of the review, both Energy Australia and Integral Energy requested new regulated retail time of use tariffs to reflect changes being made by their network service provider.<sup>36</sup> The Tribunal sought stakeholder comment on **Energy Australia’s proposed new time of use business tariff**. In coming to its decision on the **two new regulated time of use**

**Tariffs, the Tribunal noted that no submissions objecting to the implementation of Energy Australia's new tariff was received.**

Whilst I have mainly spoken about my experience with Energy Australia and the IPART approved Loadsmart tariff, I am sure that the other energy retailers are watching what has been achieved by Energy Australia and are taking notes.

Please do not limit your next Determination, as your last effort has been the straw for this camel's back.

Whilst I (and I'm sure many others) can't avoid the price increases imposed by Energy Australia my customers can avoid all of mine.

Please feel free to make contact if you would like any clarification of what I have written (it was a little hurried) or any further assistance / comment.

**Yours truly,**

**Howard Kirwan**

**Supplementary Submission**  
**on**  
**The Current Review into Electricity Retail Pricing**  
**By Howard Kirwan 07. 11. 2006**

As stated in my original submission, it “was a little hurried”.

I had not read the current terms of reference or any of the other submissions.

In short it was based only on my recent experience with Energy Australia’s imposition of very large price increases and a limited understanding of the IPART 2004/5 – 2006/7 Final Determination and how it had failed me.

I would appreciate it if I could add the following words to better express my concerns relative to what I have read to date.

***Competition for Competitions Sake:***

**Terms of reference** (excerpt from)

Attachment to the Minister’s letter to the Tribunal (DEUS Ref: SO61160)

**1.2 Matters for consideration**

For the purposes of section 43EB (2)(b) of the *Electricity Supply Act 1995*, the Tribunal must consider the Government's policy aim of reducing customers' reliance on regulated prices and the effect of its determination on competition in the retail electricity market. The level of regulated prices for small retail customers are a crucial factor in encouraging new entry in the retail sector. If the level is set too low, it is not possible for new retailers to attract small retail customers away from the regulated price.

The way I read this is.

To create competition in the market place we must first increase the prices to customers.

By increasing the prices to the customers (especially the “small retail customers”) we will increase the profit margins of all the suppliers of energy.

If there is more profit / more money to be had, we can attract new entrants in the retail market who can then “attract small retail customers away from the regulated price”, by offering discounts on the customers now highly inflated regulated retail prices.

In short; make the regulated retail price so high for small retail customers that they will gladly switch to negotiated contracts, all at a new elevated base cost to the customer.

The competitive market that I operate in is one where competition in a market is meant to result in better prices for the customer. I don’t think that there are many of my customers who are willing to pay extra up front so I can offer a discount.

I am sure that the ACCC would find this form of price setting in the market sector that I operate in of interest and I note that the electricity grids and competition gain a mention in the following overview of the ACCC legislation.

**Overview of the legislation**

**(from ACCC website)**

**The Trade Practices Act**

**Access regime**

Part IIIA of the *Trade Practices Act 1974* establishes a national legislative regime to facilitate third party access to the services of certain facilities of national significance such as electricity grids or natural gas pipelines. Its object is to encourage competition in upstream or downstream markets.

The restrictive trade practices provisions contained in Part IV of the Act —ss. 45 to

50A—prohibit the following types of anti-competitive conduct. However, some can be authorised by the ACCC.

Agreements affecting competition—these are prohibited if they have the purpose or effect of substantially lessening competition.

**Prohibited outright are:**

- most price agreements

I'm sorry but you have lost me with this one.

How is the customer going to benefit from concocting a competitive environment by first inflating the base price structure to the customer?

The only bodies that that will benefit from this increasing of the customer's prices to assist competition is the competitors themselves.

All at a cost to the customers, in particular "small retail customers" which to me reads small business, Mums and Dads.

***Current Effectiveness of Competition in the market place:***

I note that the Minister in his letter to the Tribunal (DEUS Ref: SO61160) seems to be of the belief that: "Since January 2002, every electricity customer in NSW has had the option to negotiate a retail supply contract with any licensed retailer".

Let me suggest to you that this is not quite so.

Recently I had a phone call from Energy One P/L. I was offered (straight off the bat) a 10% discount off Energy Australia's pricing and 7% off any other providers pricing. I was then asked what tariff I was on - that's when the discount offer was withdrawn! I asked to speak with a supervisor and when we had established that I had Type 5 ToU meters and that I was on the "Loadsmart" tariff that too was the end of any discount offer.

I have also contacted others (Origin & Integral) and have been told that they can NOT supply me.

Because of this I take exception with any statement (similar to that on your web site and in the Ministers letter) that suggests that the market is fully contestable and that "every electricity customer in NSW has had the option to negotiate a retail supply contract with any licensed retailer".

Competition does NOT exist. Not for my Business Tariff.

Not in Alexandria NSW and NOT if you have Type 5 meters!

***Holding on to your customers to limit competition***

I believe that part of Energy Australia's strategy for installing so many (101,000) the Type 5 ToU meters in NSW is to limit competition in this market place.

It is apparent to me that because I have Type 5 ToU meters, I DO NOT have "the option to negotiate a retail supply contract with any licensed retailer".

***It would appear that EWON's submission page 14 supports my belief***

***Smart meters and retail competition***

A further issue concerning the roll out of time of use meters that has been raised with EWON is the difficulty some retailers face in honouring the terms of a negotiated contract once advanced metering has been installed at the premises. It appears that some retailers do not have the necessary billing infrastructure to cope with the data generated by the time of use meter. In some circumstances retailers have had to 'return' a customer to the standard supplier as a consequence. This has meant that customers who have received a time of use meter have found themselves excluded from the competitive market and are left with no choice as to their retailer.

### ***Competition on the Home front:***

At my home I have been approached no less than three times by door to door salespeople attempting to get me to sign up to an electricity agreement under the guise of discounted pricing and pricing guarantees.

Each time the salesperson was wearing an Energy Australia uniform (no others) and each time the opening spiel included an offer to save me 10% on my electricity bill.

On one occasion I engaged the sales person and went through all the contract paper work. After he had viewed one of my past accounts he wrote in large print “10” on the contract suggesting that I was indeed eligible to get a “10%” discount. I was then instructed to ring a phone number to complete the contract process.

I did this only to find that the “10” written on the contract was NOT the % discount at all. Instead was to get NO discount and in fact if I persisted with paying my quarterly account by cheque and NOT by direct debit, I would attract a \$2.00 / month management fee such that my electricity would actually COST MORE than before!

Again let me suggest to you that: Competition, real competition does NOT exist.

Not where I work and NOT in the residential market where I live in the inner South West suburbs of Sydney.

### ***Impact of this Determination on customers:***

The “Review of Regulated Retail Tariffs and Charges for Electricity 2007 to 2010 Issues Paper” on Page 2 (in part states):

- “There is no requirement for the Tribunal to have regard to the impact of its determination on customers. If the Tribunal does decide to set price constraints, it must ensure that these constraints allow tariff rationalisation and cost reflectivity.

I find the possibility of the Tribunal not having “the impact of its determination on customers” an amazing possibility.

### ***Maybe Customers can Seek comfort in IPART’s Corporate Governance Statement:***

Surely IPART’s stated objectives, functions and powers are separate and above any request or omission in any request from the Minister that may include a statement/s that could see IPART being requested to act outside its stated objectives, functions and powers.

## **INDEPENDENT PRICING AND REGULATORY TRIBUNAL CORPORATE GOVERNANCE STATEMENT**

(An excerpt from)

### **2. IPART objectives, functions and powers**

IPART’s specific purpose varies according to the different regulatory arrangements in the industries it regulates. However, in general, its goals are to:

- **Regulate monopoly utility prices**
- Promote competition (or simulate its effects) in regulated industries
- **Protect consumers by** ensuring the quality and reliability of regulated services and by **considering the social impacts of its decisions**

The “Review of Regulated Retail Tariffs and Charges for Electricity 2007 to 2010 Issues Paper”.

### **A1.1.2 Matters for consideration**

For the purposes of section 43EB (2)(a) of the *Electricity Supply Act 1995*, the matters the Tribunal is to consider in making its investigation and report on the setting of tariffs for small retail customers to apply from 1 July 2007 to 30 June 2010 include: (in part states)

- the potential to simplify regulated tariff structures including the potential to remove obsolete tariffs.

### ***The Removal of Obsolete Tariffs:***

To the common man the term ‘obsolete’ could suggest that it should go, be rid of as it has had its day. This may be so here, but here ‘obsolete’ means a lot more.

From what I have read just on Energy Australia’s web site list of tariff structures, there are a number of “obsolete tariffs” that are still in use by those that are on existing negotiated contracts.

In my own example (of being on a regulated retail standard agreement and not on a negotiated contract) my Process Heating ToU tariff and my General tariff were / are both deemed as obsolete tariffs and were indeed cancelled / removed when I was moved to the “Loadsmart” tariff.

As Energy Australia had no problem under the current Determination cancelling / removing my access to what is described as an obsolete tariff I can only think that the need for the Tribunal to be looking at this might relate to those customers on negotiated electricity contracts who are still accessing obsolete tariffs, customers who are not on regulated retail pricing.

In short this could give the energy provider the ability to cancel a tariff that a customer on a negotiated contract is on (that was based on an obsolete tariff or a tariff that has since become obsolete) either after or possibly during the contract period.

Whilst you might expect that there will be price escalation clauses imbedded in the customer’s negotiated contract that would see prices rise annually, one cant help but think that the desire to cancel obsolete tariffs is more to do with delivery a significant price shock to customers.

### ***Re: Energy Australia’s Submission.***

(from the IPART web site)

Here I will comment on just some of Energy Australia’s seventy page submission.

I believe that throughout Energy Australia’s published submission that they basically do NOT want any limits or regulation placed on the time periods to which peak, shoulder, and off-peak pricing would apply “or any “individual tariffs”, wanting “more flexibility in setting tariffs” and preferring “competitive market forces” to “provide a sufficient limit on tariff increases”.

Competitive market force driven regulation not unlike that which was given to the Banking Industry some years ago.

Energy Australia initially suggest a few pricing control options, but then they ask for more and more until it all starts to sound very Banking Industry, very Banking Industry record profits and very bad for customers.

#### ***Energy Australia Page 20***

##### ***Complete tariff-basket approach***

The level of price change controls should be directed towards a complete basket of tariffs, as opposed to individual tariffs or even ‘sub baskets’ for, say, business and residential tariffs. Applying price constraints to a complete tariff-basket will provide more flexibility in setting tariffs than applying these constraints at a more granular level.

The “complete tariff-basket approach” if adopted will allow them to charge what ever they like to whom ever they like.



If any customer on any single tariff was to complain to IPART or EWON about a harsh unfair tariff or a massive price increase, Energy Australia can offer a defence such as:  
Yes this tariff may be over recovering but as the “complete tariff-basket” is not, then bad luck.

This “complete tariff-basket approach” would totally remove the ability of any customer to complain about any unfair tariff or over pricing what so ever.

In the current “Regulated” environment Energy Australia increased my prices within a 12 month period by 7.9% then 41% and further again this last July with Off Peak Up 9.96%, Peak Up 22.3% and the Peak Capacity Charge Up 22.3%.

I haven’t had a lot of luck with my challenge to these unfair pricing increases (even in the current “Regulated” environment), so can you imagine what Energy Australia and others will be able to get up to if you totally remove all protection from any single tariff or a customers total bill.  
You will be removing a customer’s ability to speak out?

### ***Further reinforcing my belief:***

#### ***ENERGY Australia Page 18***

If the concern is that any one tariff or tariff component may be consequently ‘over-priced’, and then comfort should be taken that competition will effectively ensure that these customers are quickly lost to other retailers.

Lost after you finally realise your costs have skyrocketed, lost after you fail with any complaint to EWON or IPART, lost after Energy Australia has made a sizable amount of money out of you before you realise.

What competition? What “comfort” will any customer get from a tariff being consequently ‘over-priced’?

#### ***This “complete tariff-basket approach” could lessen competition in the market place:***

There will be no true competition, after all why kill the “golden goose”?

All power providers will be able to charge certain single tariffs that cost “heaps” and whilst any competitor might offer say 10% off “heaps”. The result will still be tariffs that cost “heaps”.

#### ***Increase market share:***

What this approach could do is allow Energy Australia to increase market share by profiteering on some customers (customers like me who find it difficult to switch suppliers or those who live in non permanent rented accommodation) while they buy other bigger customers with discounted cross subsidised (by us) tariffs as the “total basket” increase will not reflect the differences in customer tariff margin.

#### ***Energy One P/L***

I’m told that “Energy One P/L” is part of / or owned by Energy Australia.

Similar to the “Jet Star” and “Qantas” set up.

If what I’m told is so and if the “complete basket tariff approach” covers an organisation in total, then this would allow “Energy One P/L” to actively buy new customers (maybe ones without Type 5 meters) at heavily discounted rates while existing Energy Australia customers pay a lot more, as the “complete tariff basket” for the two companies may not seem to exceed the set “complete basket” limit.

I don’t call this true competition but I do call it control / manipulation of “competitive market forces”.

#### ***Energy Australia Page 24***

##### ***Limiting increases to customers’ bills***

“Energy Australia does not believe there are alternative forms of price limits it should

consider. The average price restrictions under the Target Average Price Cap, coupled with competitive market forces, provide a sufficient limit on tariff increases”

EnergyAustralia considers that a Target Average Price Cap approach, with an overall constraint on price movement, will place sufficient protections in place to avoid customer price shocks.

The current bill limit, particularly in light of network charge increases, has severely curtailed the retailers’ ability to move the bundled tariffs toward cost reflectivity.

### **To Confuse:**

First Energy Australia offered a “Complete tariff-basket approach” now we have a statement that says “Energy Australia does not believe there are alternative forms of price limits it should Consider”.

Energy Australia then offers a “Target Average Price Cap approach”.

Here Energy Australia argues that “The current bill limit, particularly in light of network charge increases, has severely curtailed the retailers’ ability to move the bundled tariffs toward cost reflectivity”.

Energy Australia’s published submission to the IPART 2004 -2007 Regulated Retail Pricing Review (part “III. Price Constraints”), argued the need for an increase in the draft determinations suggested ‘R’ content from CPI+1% to CPI+3%. “CPI + 3% would ensure most tariffs are at cost reflective levels by 30 June 2007”.

“EnergyAustralia seeks the application of the CPI+3% price constraint on the retail component of the tariff to be applied to all retailers.”

Surely as Energy Australia was then given CPI+2.5% they must be very close to achieving “cost reflectivity” by now and need little help through the massively inflated customer pricing that they now want to get there.

### **Energy Australia Page 24**

#### **Experience of the current determination**

The current Determination includes a number of features that have inhibited the movement to time of use tariffs to take advantage of the interval meter rollout.

Really? If so how is it that 70% of all “interval meter” installations are in NSW, over 101,000 of them! Energy Australia didn’t strike me as inhibited when they rolled their meters in to my place.

They simply sent me a letter telling of their intent to change my meters.

They arrived, they installed, they cancelled my existing tariffs and then they began overcharging me with the new “Loadsmart ToU tariff” inclusive of an SAC 5 times my previous and a NEW Peak Capacity Charge.

I didn’t notice any “inhibited the movement” under “The current Determination” and I doubt that the other 100,999 or so customers did either.

I did notice how they were able to “take advantage of the interval meter rollout” and “use tariffs to take advantage” - of me.

### **Demand Management:**

I understand that demand management is very important. I have electrical training and do have a very real understanding of the challenge ahead to see that supply is not outstripped by demand. I understand that if it were possible to remove or greatly lessen peaks in demand and to better spread the load through out the day, then the need to create more power stations would be less and the current generating capacity would indeed cope for longer.

To successfully achieve a situation where customers will actively modify their power usage habits to actively encourage achieving this goal, customers need to be able to monitor the success of any

initiative they may take in a “real time basis”. For some customers change includes costs. Financial incentives to encourage or assist change will see a change happen and happen quicker.

***NO Transparency in Billing + NO incentive to effect change:***

Energy Australia’s current non transparent billing practices that do NOT show past vs. current meter readings for a customer to check, the imposition of the “Peak Capacity Charge” (explained in detail further on) and NO this month Peak Capacity reached, plus their Type 5 interval meters (that do NOT display power usage split totals or Peak data) sees customers getting absolutely NO real time feedback and certainly NO incentive to effect change.

***Energy Australia Page 22***

***Demand management***

Energy Australia has an inherent incentive to send (demand management) price signals to customers as a result of the nature and level of its energy purchase costs. The purchase cost of wholesale electricity during ‘peak’ periods is significantly higher than ‘off-peak’ periods. Encouraging customers, through price signals, to use electricity during an ‘off-peak’ period will reduce the retailer’s overall wholesale purchase costs. Ultimately this will be reflected in lower energy costs to customers.

Believe it or not, I philosophically agree with some of this statement, but that’s NOT what Energy Australia is about.

Yes they are certainly increasing the Peak rates; mine went up again by over 22% last July.

Energy Australia says.

“Encouraging customers, through price signals, to use electricity during an ‘off-peak’ period will reduce the retailer’s overall wholesale purchase costs”. “Ultimately this will be reflected in lower energy costs to customers”.

Sorry, I don’t believe. Energy Australia’s actions speak louder than their words. Last July Energy Australia INCREASED my OFF PEAK rate by nearly 10%!

***COAG says:***

At their meeting of 10 February 2006, CoAG Ministers decided: *Decision 2.2*

Governments will improve the price signals for energy investors and customers by:

(a) committing to the progressive roll out of electricity smart meters to allow the introduction of time of day pricing and to allow users to respond to these prices and reduce demand for peak power;

Do show me how an INCREASE in the OFF PEAK rate of nearly 10% on top of the other annual increases will “ultimately” “be reflected in lower energy costs to customers” and how it will result in “encouraging customers, through price signals, to use electricity during an ‘off-peak’ period”.

Yes that’s correct. Energy Australia rewarded those of us who did “respond to these prices” as COAG hoped and who took measures to “reduce demand for peak power” with a 10% PRICE INCREASE for ToU Off Peak.

***Demand Management – the ‘Peak Capacity Charge’ – now this is a money spinner:***

Of the few submissions I have read, I have yet to see any mention of Energy Australia’s ‘**Peak Capacity Charge**’.

This charge has to be the single biggest money spinner that has ever been concocted as well as being the least effective “incentive to send (demand management) price signals to customers”.

It is basically “Money for Nothing”. It is money for an energy provider being able to provide energy. Nothing else.

***Energy Australia page 13***

***Demand management impacts***

From a demand management perspective, EnergyAustralia considers that providing

the correct pricing signals to customers is the most effective way of obtaining a demand response from the marketplace, which would have cost saving implications throughout the electricity supply chain.

In broad terms, the network benefits relate to the savings associated with reducing the level of capital expenditure required to meet peak demand whilst keeping network performance within acceptable limits. The retail benefits accrue with lower wholesale purchase costs available outside of peak times. To the extent that these price signals are embedded in network charges, it is imperative that these signals are not dampened by the operation of limits on individual price movements.

I agree that “retail benefits accrue with lower wholesale purchase costs available outside of peak times”. Surely there has been a lot of “retail benefits” accrued with Energy Australia’s Peak retail charges being in the order of 325% higher than the Off Peak charges.

A Peak Capacity Charge that is charged regardless of a customer’s daily power usage, a charge that is levied on the ability of the energy provider to supply you the capacity he needs to have to be able to conduct his business of supplying you with power (in the Peak period at the 325% over Off Peak premium Peak rate).

Yes you certainly get “pricing signals” from the Peak Capacity Charge, but NO you do NOT get any feedback as to the worth of any load shedding you may apply to lessen your “Peak Capacity” what so ever.

Any initiative that you employ that may change / lessen your “Peak Capacity” will NOT see the “Peak Capacity Charge” reduce for up to 12 months and can take as long as 23 Months to be reflected in your bill.

This charge is purely a huge money spinner. It is basically a daily tax for an energy provider having the ability to be an energy provider. All the while being disguised as an “incentive to send (demand management) price signals to customers as a result of the nature and level of its energy purchase costs”.

***Explanation of how the ‘Peak Capacity Charge’ is applied:***

(sorry, it is lengthy)

The “Peak Capacity Charge” is charged on the Peak amount of kilo Watts (not kWhrs) reached by a customer in any single moment during the peak billing period of the day (currently 14:00hrs to 20:00hrs).

If you switch a single item or a number of items on at once during the Peak period the total power drawn, (the highest power drawn) is the Peak. This amount in kilo Watts is recorded as your “Peak Capacity”.

It only has to be for a very short duration and can be just seconds.

For a business, this could be because you are testing a repaired or new machine that you would not normally run in the Peak period. It could be that a repair person is using a welder to affect some repairs and the Peak kilo Watts that the welder has attained (on top of your normal Peak load) is well beyond your normal Peak kilo Watt consumption. For which you will pay for many months to come.

The Peak Capacity Charge is currently NOT applied to residential tariffs. I stress – CURRENTLY not. If it were:

During the Peak period, (when you would be cooking dinner) you may have an electric oven + microwave, lights and the TV etc. all on. You will be charged for the total “one off” kilo Watt Peak in consumption reached as well as being charged (as you are now) at the Peak kilo Watt hour rate for the power consumed by these appliances.

If in addition you decided to use a hair dryer or an electric heater, then this would increase your kilo Watt Peak and increase your Peak Capacity Charge further. For which you will pay for months to come.

This “one off” use of a hair dryer or a heater will see you not only pay for the power used to run it in your next bill, but will SEE you PAY the Peak Capacity Charge for MANY MONTHS to come and many more bills to come.

In short you could be charged throughout this Summer and the next Summer for a heater you used just once in Winter.

***What does it cost?***

The "Peak Capacity Charge" is currently listed on my "Loadsmart" bill as \$2.8676 /kW/Mth. Being explained on the bill as  $\text{Peak kW} \times (\text{Monthly Rate} \times 12 \text{ months} / 365) \times \text{No. of billing days in the month}$ .

***Working through an example:***

If I were to have a cuppa between 2:00pm & 8:00pm.

If I boil my 2.2kW kettle (for as little as 30 seconds) I will incur a "Peak Capacity Charge" of  $2.2\text{kW} \times \$2.8676 \times 12 \text{ months} / 365 \times \text{No. of billing days}$  for the current bill. Which over a 12 month period is a total of \$75.70?

If I never use more than that 2.2kW (in fact if I use zero power) in the Peak period for the rest of that fiscal year (as it is reviewed in July) I will pay each and every month (for that cuppa) up to an annual cost of \$75.70.

Heavy?

Well guess what? It's NOT quite as SIMPLE or as CHEAP as that!

As this charge is reviewed only in July each year (let's assume July 1?) and as they look back 12 months for your highest Peak in that 12 month period. If I had boiled that kettle within the 12 months prior to the July (1?) review (say on July 2 or 3 or even in August) and if I hadn't "Peaked" any higher since, then I will be paying that same "Peak Capacity Charge" for a FURTHER 12 MONTHS as that is what they assume is my possible Peak for the coming year!

This is because it is NOT reviewed again until the following July.

So conceivably I could be paying that same "Peak Capacity Charge" for 23 months which sees that cuppa cost \$145.09!

This Christmas while this factory is shut and I'm on Holidays, even if I turn every thing off – everything!

I will still be being charged the same "Peak Capacity Charge"! The only change will be if they decide to increase it.

***Fact:***

1. The "Peak Capacity Charge" does NOT encourage a customer to shift his load to non peak periods.
2. Energy Australia does NOT tell me on my monthly account what Peak I may have reached in the month.
3. The customer can NOT read the Peak usage data from the Type 5 ToU meters.
4. If a customer actively changes his power usage, he does NOT get any feedback or realise any 'real time' benefit or financial encouragement related to the success of his power shifting / Peak reduction initiatives what so ever.
5. The "Peak Capacity Charge" stays up there at the max. for up to a year, but can be closer to two!

***Errant modelling of the impact of ToU on Customers:***

***Energy Australia page 13***

EnergyAustralia acknowledges the need to be aware of the implications of price changes and the impacts on customers. EnergyAustralia therefore proposes that customer impacts on a move from a flat to a ToU tariff could be measured, on average, by assuming the pattern of consumption reflected in the Net System Load Profile.<sup>6</sup> This would allow some insights on customer impacts, acknowledging that some customers (those with relatively more peak consumption) would experience bill increases greater than the average, and that some customers (particularly those with relatively more off peak consumption) would experience bill decreases

You might expect that if customer ToU tariffs were fairly constructed that the words "that some customers (particularly those with relatively more off peak consumption) would experience bill decreases" would be so. But no.

Energy Australia is indeed “aware of the implications of price changes and the impacts on customers” and has structured its new ToU tariffs to eliminate any loss of profit from “some customers (those with relatively more off peak consumption)” who otherwise “would experience bill decreases”.

I have written confirmation from Energy Australia that my consumption pattern after I was switched to the “Loadsmart” ToU tariff consists of “relatively more off peak consumption”.

(E.A. ref: 835 496 721)

“The analysis of electricity consumption at your premise between October 29 2005 and 13 April has revealed that approximately 79% of electricity is used at Off Peak times, 18% at Shoulder times and only 3% is used at Peak times”.

Considering this statement and the fact that my prices increased by over 40% and given the Energy Australia statement about “bill decreases” for those customers “with relatively more off peak consumption”, don’t you find yourself absolutely NOT believing what they have to say will happen to customers bills as they switch customers to their new ToU tariffs.

Keeping in mind that only a small part of my previous ‘total bill’ included a “flat tariff” and given that I was already benefiting from Off Peak rates before all my billing was switched to the “Loadsmart” ToU tariff, one could deduce that the new “Loadsmart” tariff is the “price shock” problem and NOT the ToU meter roll out.

I guess that I got off light with only a 40% increase in costs compared to a customer who is switched to a new ToU tariff who has “relatively more peak consumption” who will “experience bill increases greater than the average”.

This tells me that the new ToU tariffs are greatly inflated and customers need to be protected from their price shock.

### ***Back to Tariff Controls with NO controls:***

Again Energy Australia is asking for there to be NO controls put in place on tariffs.

They do not want IPART to attempt to impose a CPI+X% limit that was imposed in the IPART 2004 - 2007 Determination.

Retention of the CPI-X% limit / side constraint on a customers total bill is VERY important to ALL customers.

### ***Energy Australia Page 12***

#### ***Tariff controls***

A total bill side constraint would significantly curtail retailers’ ability to move customers onto ToU tariffs. While the total bill constraint would apply to the customer bill at the same *level* of consumption, the total bill on a shift to a ToU tariff will also depend on the customer’s *pattern* of consumption.

Limits on tariff movements, and in particular a total bill price constraint, therefore limit the extent to which the ToU peak, shoulder and off peak tariff components can diverge from the flat tariff. In the extreme, assuming the flat tariff is the same as the shoulder period tariff, the side constraints would limit the ability to increase the cost reflectivity of tariffs to increasing only the peak component by the CPI-X side constraint.<sup>4</sup>

The following words “Limits on tariff movements, and in particular a total bill price constraint, is a request to be able to increase any customer’s total bill by any amount with NO controls at all.

Customers should NOT be levied with unfair price shocks and that’s what Energy Australia wants here.

Whilst the current CPI+5% limit did apply to my 2005 Process Heating + General tariffs.

It did NOT stop Energy Australia from moving me to their new “Loadsmart” tariff, nor did it stop Energy Australia from breaching the CPI+5% limit with the increases they imposed on my (now obsolete tariffs) in July 2005.

Energy Australia was fully able to increase my Process Heating and General tariffs such that my total bill increase was 7.9%. The CPI+5% limit for that period set a customer's total bill to a limit of 7.7%.

They were then able to act outside of the CPI+5% limit (through a loophole in the Determination) and increase my total bill by OVER 40% in October 2005 when they installed the type 5 ToU meters.

The current side constraints of CPI+5% did Not "limit the ability to increase the cost reflectivity of tariffs" it did NOT "significantly curtail retailers' ability to move customers onto ToU tariffs". Hell they just went and did it!

In fact I believe that a "CPI-X side constraint" is the simplest method of customer protection there is, as it does NOT need to be dependent on "the ToU peak, shoulder and off peak tariff components" and lot of confusing calculations at all.

It is independent of any other trickery such as a 500% + increased SAC (as was initially done with "Loadsmart) or other previously non existent mega charges like the "Peak Capacity Charge" as it applies to a customer's total bill.

***What happens in the following fiscal year after a customer is switched to ToU?***

This question comes to mind for a very good reason.

Does the CPI+X% limit follow on or does it reset itself on July1?

I say it needs to follow on and apply to a customer's total bill and apply to the total accumulative amount of consecutive CPI+X% rises in the fiscal years that the Determination applies to.

If this Determination covers from 2007 to 2010 the increases are limited to 2007 – 2008 CPI+X% + 2008 – 2009 CPI+X% + 2009 – 2010 CPI+X% etc. Only.

If it resets come a new fiscal year then this will allow for a massive price increase that is then rebated in that fiscal year only, creating a new higher base level of tariff and far higher than the previous base plus the CPI+X%.

If this is the case, come the new fiscal year only new charges on top of the now new increased base rate (from last year) would have the CPI+X% limit being applied.

The energy provider could then apply another massive increase and rebate just the difference and again in the following fiscal year do it again.

The result would be obvious. Eventually each year the energy provider would benefit by a minimum price increase of the CPI+X% limit plus he would get the massive increase to the base rate gained from previous fiscal year and the one before that and on and on. Not Possible?

Well for me that is precisely what has happened.

My total bill increased by over 40% last fiscal year when I was switched to the "Loadsmart" tariff and Energy Australia applied new price increases this fiscal year and deemed that I was on the new "Loadsmart" tariff with no retrospective protection at all. So the current CPI+5% will apply to this fiscal year but only on top of the 40% increased base price that is "Loadsmart".

IPART please DON'T let it happen to me or any others again!

***Question:***

When any limit imposed (CPI+X% or other) is breached, How does the customer find out?

I certainly haven't had a call from Energy Australia advising me of that breach and that they owe me money.

***Tariff controls cont'd***

Limits on tariff movements, and in particular a total bill price constraint, therefore limit the extent to which the ToU peak, shoulder and off peak tariff components can diverge from the flat tariff .



Once the new fiscal year commences, Energy Australia's concerns about divergence are over. It's not a problem!

The customer is now on a ToU tariff structure and a true "like vs. like" comparison within the CPI+X% limit on a customer's total bill can be accurately applied thereafter.

There is no more problem (not that there was) with flat rates vs. ToU application of a CPI+X% limit. To easy!

***IPART please publish a fair billing comparisons method:***

Please do NOT leave any billing comparisons open to confusing interpretation by the energy provider.

Comparison such that Energy Australia presented in their letter (24 April 2006) where they compared a billing period of 176 days and 26,387 kWhrs on my old rate with a billing period of just 167 days and 11,220 kWhrs on the new more expensive "Loadsmart" rate. This letter advised that on "Loadsmart" I would have saved \$ 811.

A second comparison was then forwarded. It was just as one sided and just as erroneous.

Such comparisons only confuse, create frustration and are designed to achieve success by customer attrition.

***Energy Australia want Total Control over when Peak, Off Peak and Shoulder etc. can be charged:***

What happened to all the talk of "Maximum Demand" and Peak periods?

Surely the energy industry and IPART can easily ascertain when the Peak and Off Peak periods are.

The current Determination also specifies the relevant time periods to which peak, shoulder and off-peak pricing would apply. However, these specified time periods do not align to any of the retailers' practices. EnergyAustralia believes that this detailed specification is not necessary in light of its comments on the form of price control in section 3.2.

If Energy Australia (or any energy provider) is allowed to control / alter the "relevant time periods" at will, then any competition will definitely go as will the ability of a customer to assist with lessening the maximum demand.

The ability of a customer to attempt to compare between different providers on a 'like with like' basis will be lost.

Have you tried to compare any of the mobile phone or internet plans lately?

There is this price for this time with this provider and that price for that time with that provider, but this provider gives free time here and you pay extra there! It is designed to confuse on purpose as will this.

If you have organised your load shedding to maximise your efficient use of 'Off Peak' and then they switch the times around or switch you to a different tariff (with its own time periods), then your 'up the creek'.

If you are offered a cheaper tariff but the "relevant time periods" are all very different, you are again 'up the creek'.

***The ability to Pass through cost changes to customers:***

***Energy Australia page 21***

***Pass through of uncontrollable costs in price control formula***

EnergyAustralia believes that it is inappropriate to subject a standard retailer to the risk of a potential windfall gain or loss associated with incorrectly estimating cost

Could I please have a "***Pass through of uncontrollable costs***" mechanism in my price control formula?



I can see my customers agreeing to that. Whilst I quoted you a price I have had to put it up and I expect you to now pay more due to an error “incorrectly estimating cost”.  
It doesn’t happen in the real world, not in my world.

***Summary:***

I am very concerned with what I have read in the Energy Australia’s submissions and at what will result by giving the likes of Energy Australia all or even some of the pricing freedom and other controls that they want.

I’m sure that there is other important items that they want, that I have missed. After all, that is why some submit documents that are many tens of pages thick, documents that are full of ‘speak’ that repeat and repackage the same words and intent. I noted that the published Energy Australia submission to the 2004 – 2007 IPART review was just seven pages in length and was constructed in a very “to the point” “plain English” manner. The reader was in no doubt of its request or intention. Given that, they still got the new tariffs (that I didn’t see disclosed in that document) through with only IPART noting that there was no stakeholder objection received. I also noted that in that submission Energy Australia was requesting an ‘R’ component limit of CPI + 3% limit. Surely they must have been pleased with getting CPI+2.5% and yet today they want far more, as they do not want any limits at all, plus they want to mess with the set time periods to boot.

***They do NOT want:***

- Any constraints on pricing applicable to only the retail component of the price (i.e. no ‘total bill’ constraints);
- Any constraints on price movement should be applied at the aggregate, rather than individual tariff or component level;

***They do WANT:***

- Total Price Control
- Total Tariff Control
- Total Pass through to customers of unforeseen rises in costs
- Total Time Period Control
- Total Customer (total bill) Complaint Control
- Total Scope to introduce new tariffs and to move customers onto those tariffs as appropriate

I have first hand experience of what they are capable of (whilst still in the current ‘Regulated’ environment).

Please don’t give them more control. It will be out of control!

***Customers WANT:***

Fair prices with fair increases that are introduced over time giving businesses the ability to budget.

If a business can add in to their business plan for the future, known fair increases, then they can factor in methods of recovery.

Most small business lose out on CPI increases not to mention fuel and interest rate hikes.

Small business owners often have to take out personal loans or hock their houses to start up or keep afloat.

We directly feel the impact of any increases in overheads as well as the inflationary pressures that flow on from factors such as increased energy costs.

Inflation related costs directly hit the hip pocket as a second shock wave after the initial bills themselves have been paid.

Massive “price shocks” of 40% and more (as I have received), “price shocks” that I am sure many others have also received (given Energy Australia’s now 101,000 meters in NSW role out), can not be

budgeted for or passed on by small business in the short term and will / do, equally cause hardship for families.

Energy Australia's submission talks of low margins for NSW Electricity, quoting figures from 2000 and 2002 with retail net margins of 1.5% and 2.0%, giving the impression that they are basically doing it tough.

***Doing it tough is small business.***

I'd love a balance sheet that included words like "ahead of target" and "higher than target".  
(excerpt from Energy Australia's web site 2004 – 2005 annual report)

**DIRECTORS' REPORT**

The Directors of EnergyAustralia are pleased to present their report for the financial year ended 30 June 2005.

NET PROFIT AFTER TAX    RETURN ON EQUITY

**8.2%**

**\$181 million**

**AHEAD OF TARGET BY 11% HIGHER THAN TARGET BY \$17M**

OPERATING REVENUE

**\$2,836 million**

**HIGHER THAN TARGET BY \$1M**

***To Conclude:***

If you give Energy Australia their head or if you leave any loopholes in this determination (as before) MY VERY REAL example of being MASSIVELY OVERCHARGED will BECOME the NORM!

***Please NO repeat of the past:***

Please close the loophole in part 6.1.2 of the 2004 – 2007 Final Determination such that it does not carry over to this Determination for 2007 - 2010.

Please do not leave important decisions, decisions that affect so many of us left to chance just because "no submissions objecting" to the implementation of an issue is received.

No objection to an issue from any of the stakeholders doesn't mean that said issue by default is good for the community.

Not all Stakeholders have the funds, time or ability to construct or dissect multi page submissions that take many man hours to conceive and to interpret. The Tribunal surely is best skilled in this area and does not need to rely on any stakeholder/s to find every loophole or to comment on every issue.

***People believe in IPART:***

**INDEPENDENT PRICING AND REGULATORY TRIBUNAL  
CORPORATE GOVERNANCE STATEMENT**

**IPART's Commitment to Corporate Governance**

Recognising that external and internal stakeholders and **the community generally, expect high standards of performance**, accountability and ethical behaviour from public institutions, IPART is committed to the implementation and maintenance of **best practice corporate governance standards in all aspects of its decision-making** and corporate activities.

***People believe that IPART will:***

**"Protect consumers by"**

**"considering the social impacts of its decisions"**

**"the community generally, expect high standards of performance"**

**Howard Kirwan**