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9 November 2022

Ms Carmel Donnelly
Chair
Independent Pricing and Regulatory Tribunal
Level 16, 2-24 Rawson Place
SYDNEY NSW 2000

Dear Ms Donnelly

Re: Energy Market Monitoring review 2021-22 – draft report

The Australian Energy Regulator (AER) welcomes the opportunity to provide a submission on the Independent Pricing and Regulatory Tribunal's (IPART) *Energy market monitoring review 2021-22* draft report (the draft report). We have received the draft report and have a number of comments and observations on IPART's findings and recommendations.

Draft report findings

As part of our functions we regulate wholesale and retail energy markets, and energy networks in eastern and southern Australia under national energy legislation and rules. We are responsible for reporting on energy retailer performance under the National Energy Retail Law. We publish data on a range of performance indicators, including customer numbers, contract types, complaints, energy debt, payment plans, hardship programs, disconnections and reconnections. We publish this data on a quarterly and annual basis. In our Annual Report we also publish data relating to energy affordability.

The AER is also responsible for determining the default market offer (DMO) price each year. The DMO is a maximum price that retailers can charge electricity customers on default contracts known as standing offer contracts. We made a fourth DMO (DMO 4) on 26 May 2022.

We have reviewed the draft report and note that the findings accord with our observations of the retail energy market in 2021-22. In particular, we agree with the following points of the draft report:

- Unprecedented market volatility in May to July 2022 has increased prices in the wholesale markets for electricity and gas;
- Retailers are facing pressure as a result of increased wholesale electricity and gas prices, with a small number of retailers failing;
- Customers are seeing a decline in energy affordability;

- Market concentration for electricity and gas markets in New South Wales has declined, indicating greater retail contestability.
- DMO 4 prices have increased for standing offer customers in real terms;
- Switching rates for electricity customers have increased.

Further details of our observations of the retail energy market will be discussed in our *Annual retail market report 2021-22*, which is due to be published on 30 November 2022.

We acknowledge that market volatility continues to be felt in 2022-23 by retailers and customers. The ongoing impacts will need to be monitored closely. It is also likely that the market volatility will form part of our considerations when we determine the DMO for 2023-24.

We are aware that more consumers than ever are experiencing some form of vulnerability. We recently launched [Towards energy equity](#) – a strategy for an inclusive energy market (formerly called the consumer vulnerability strategy) on 20 October 2022. This strategy focuses on reducing barriers to consumer participation in the sector, supporting consumers experiencing payment difficulty, ensuring the consumer voice is heard in sector reforms, ensuring the transitioning and future energy sector meets the needs of consumers and improving affordability by reducing the cost to serve energy customers.

We also recommend customers use the [Energy Made Easy](#) website to compare energy plans in the current market to try to find a better deal.

Draft report recommendations

We have also reviewed the recommendations set out in the draft report. We are supportive of the recommendation for the NSW Government to provide consumers with information to understand new innovative energy services and products to help them make informed choices about which service or product would best suit them. We share a similar view to IPART's view in the draft report that we are likely to see more new energy products and service offerings in the future, with products and services becoming more diverse and complex for customers.

As noted in the draft report, the purpose of this information would be to assist consumers effectively choose new products and services while our [Review of consumer protections for future energy services](#) (formerly called the Retailer authorisation and exemption review) is underway and the review recommendations are being subsequently considered by the Commonwealth and Jurisdictions. We agree that these short-term measures would be of value to consumers as longer term reforms are considered.



On 28 October 2022 we published an options paper for stakeholder consultation as part of our Review of consumer protections for future energy services. The options paper sets our preliminary position, based on our assessment to date, that the current energy consumer protection framework will not be fit for purpose for the future energy market. This is primarily because the consumer protection framework is based around the traditional retailer model of the sale of energy to premises through one-way flows from the grid and is therefore limited in its ability to capture new services based around consumer energy resources and two-way flows of electricity.

The options paper sets out three reform model options for a future energy consumer protection framework that is tailored to a broader range of new energy services and products. Stakeholder feedback on the reform model options will help decide which model,

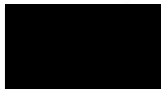
or model elements, should be further developed. Submissions close on 16 December and we would welcome any views which IPART have on the three reform model options.

In relation to the recommendation for the NSW Government to consider options to promote awareness of government initiatives and support programs, prioritising those customers experiencing vulnerability, we agree with the intent of the recommendation. However, we note the challenges in identifying and engaging consumers experiencing vulnerability. Vulnerability can be experienced by anyone due to life circumstances and market characteristics, and can often reduce consumers' ability to engage with available supports. To ensure customers experiencing vulnerability receive timely and effective support, it is also important to support consumer-facing energy businesses to better identify and support customers experiencing vulnerability.

We also note that consumer-facing energy businesses lack the levers and capability to address the broader factors that contribute to vulnerability, while bearing the costs of addressing energy vulnerability across the whole energy supply chain. One of the actions set out in the recently published Towards Energy Equity strategy is to advocate for sector-wide "game changer" reforms. We want to work with the energy sector (including energy businesses, consumer advocates, government and market bodies) to design a game-changing reform proposal that would more equitably and efficiently share cost and risk within the sector to enable better support for consumers experiencing vulnerability. We hope a broad collaboration of the sector will advocate for this reform in 2023.

If you have any questions about our submission, please contact George Huang 
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Yours sincerely



Mark Feather
General Manager
Strategic Policy and Energy Systems Innovation

Sent by email on: 09.11.2022