

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates

2016 - 2017

Division/Agency: Australian Energy Regulator & Australian Competition and Consumer Commission

Question No: 86

Topic: Customer rights and protections in retail energy markets

Reference: Written

Senator: Ketter, Chris

Question:

1) Please provide an update on WA's integration into the National Electricity Market? What engagement has been undertaken with the WA Government on this? How will this process be affected by the WA Government's plans to privatise Western Power?

2) Were any consumer issues raised or discussed at the COAG Energy Council in the last 2-3 years? Please provide these documents and briefing papers – including preparatory briefing papers.

3) How is the ACCC and Australian Energy Regulator working together in terms of consumer rights and protections? Are there any cross organisational working groups, or reporting lines which ensure that this is a key focus?

4) Please explain how the ACCC is providing information to consumers about their rights and protections in retail energy markets?

5) Have these rights and protections been improved at all since 2013?

6) What are the greatest challenges in terms of protecting consumers in the National Electricity Market?

Answer:

1) In June 2016 the WA Government introduced a package of bills into WA Parliament to provide for the transfer of Western Power from WA specific regulatory arrangements to the national electricity regulatory framework. It was intended that these bills would be passed by WA Parliament by late November 2016, to allow Western Power to transfer to the national regulatory framework from December 2016 (with the AER's first revenue determination to apply from 1 July 2018). It became apparent that the WA Government's proposed timeframe to enact the bills could not be met by the end of 2016. Until the bills are passed by the WA Government, Western Power will continue to be regulated under its State-based regulatory framework.

The AER has been engaging with the Western Australia Public Utilities Office (PUO) since mid-2015 regarding the transfer of Western Power to the national energy framework. This involved AER staff attending PUO working groups meetings; responding to questions about the operation of the national energy framework; and providing comments

on transitional rules that were proposed to apply to the AER's initial determination for Western Power.

Had the bills been passed by the WA Parliament, the process would not have been affected by plans to privatise Western Power because the national regulatory framework is the same for both government-owned and privately owned network businesses.

- 2) The Department of Environment and Energy is the Commonwealth government department responsible for the Council of Australian Governments (COAG) Energy Council. Any questions regarding COAG Energy Council's operation should be directed to the department.
- 3) The ACCC and AER work closely across a range of areas – including information and outreach, enforcement, compliance and market issues such as exclusive dealing arrangements – to inform and protect energy consumers.

A good example of this was the enforcement action taken by both agencies against EnergyAustralia in relation to telemarketing conduct that breached both the National Energy Retail Law (NERL) and the Australian Consumer Law (ACL). At the time, the NERL applied only in the ACT, Tasmania and South Australia, while the conduct was also occurring in New South Wales and Victoria. The AER and ACCC therefore determined to undertake a joint investigation covering conduct across all jurisdictions that resulted in each agency instituting proceedings against EnergyAustralia under their respective legislation. In March 2015, the Federal Court ordered (by consent) that EnergyAustralia pay a total of \$1.5 million in penalties for the conduct. More on that matter: <http://www.aer.gov.au/news-release/energyaustralia-ordered-to-pay-penalties-of-500-000-for-failing-to-obtain-explicit-informed-consent>

More broadly, the AER's Infoline shares staff with the ACCC Infocentre. This means consumer complaints about energy have a common entry point into the two agencies. Those complaints are considered at the ACCC's weekly 'under assessment' meeting, which is also attended by an AER staff member to ensure matters are considered from both an ACL and a NERL perspective and allocated to the agency best-placed to progress them. Issues that come to our attention in other ways (for example, through compulsory self-reporting of certain breaches to the AER, or through our respective consumer consultative groups) are discussed at General Manager level and advice sought from the other agency as appropriate.

- 4) The AER's price comparator website, Energy Made Easy, is a key consumer resource and contains a range of fact sheets and other publications aimed at explaining energy consumers' rights and obligations. To avoid duplication, the ACCC also promotes those fact sheets and publications on its website, increasing audience reach. In addition, ACCC publications on unsolicited selling (such as door to door sales), while having a broader application, are generally pertinent to energy issues.

In addition to general outreach and publications, the AER Board and ACCC Commission members frequently attend and speak at conferences and meetings of key consumer organisations (such as the recent South Australian Council of Social Services (SACOSS) conference on vulnerability and hardship) to reach consumer representatives and policy makers.

Further, the ACCC and the AER each have consumer reference groups (Consumer Consultative Committee and Customer Consultative Group, respectively) that play a vital role in our information efforts. The groups act as both a source of market intelligence on

consumer issues and a vehicle through which we can communicate consumer protection messages. We have previously held joint sessions with the two groups and are hoping to do so again in 2017.

- 5) Since the commencement of the NERL in 2012, there have been two changes to the National Energy Retail Rules aimed at improving customer outcomes, these deal with improved information provision to customers about price variations within a contract and increasing the likelihood of customers receiving a bill based on a meter read, rather than an estimate.

More generally, while the rules have not significantly changed, there have been changes in the market which could be seen as beneficial or positive for consumers. These include; the majority of electricity retailers ceasing door-to-door sales; the development of a voluntary code of practice for energy price comparator website; and retailers looking to improve the efficacy of their customer hardship programs, including through signing up to the AER's voluntary Sustainable Payment Plans framework, a non-regulatory measure aimed at improving the discussions between retailers and customers when establishing payment plans and making those agreements more sustainable.

There are a number of reviews and consultation processes currently underway, the most progressed of which is the Review of the ACL, which may also lead to enhancements of energy consumers' rights and protections, but that is yet to be determined.

- 6) The fast and diverse nature of new products and services entering the energy market, while providing some real opportunities, can also present challenges for consumers in terms of making informed decisions about their participation in the market.

We know that consumers can find navigating the traditional energy market difficult and complex. Striking the right balance between providing simple but accurate and meaningful information continues to be a challenge that we address through our Energy Made Easy price comparator website and other consumer information products. The AER's *Retail pricing information guidelines* also have a role in assisting consumers to more easily compare offers, prescribing the content and form in which retailers present their offers. The guidelines also prescribe and prohibit the use of certain terminology in order to promote greater consistency of language and ease of comparison for consumers.

A related challenge is providing information that caters to different types of consumers who have different levels of energy understanding and general literacy levels. The resources we provide on Energy Made Easy and the AER website, such as Easy English and Plain English factsheets, are intended to cater to these different audiences.