



DEPUTY CHIEF MINISTER
TREASURER

Parliament House
State Square
Darwin NT 0800
minister.manison@nt.gov.au

GPO Box 3146
Darwin NT 0801
Telephone: 08 8936 5547
Facsimile: 08 8936 5609

Dr Andrew Gaczol
Acting Committee Secretary
Senate Economics Legislation Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Dr Gaczol

Thank you for your correspondence of 20 September 2019, to the Chief Minister, the Hon Michael Gunner MLA, inviting the Northern Territory Government to make a submission to the Senate Economics Legislation Committee on the Treasury Laws Amendment (Prohibiting Energy Market Misconduct) Bill 2019.

I previously provided a response on behalf of the Northern Territory Government to the consultation on the Senate Economics Legislation Committee on the Treasury Laws Amendment (Prohibiting Energy Market Misconduct) Bill 2018.

In reviewing the revised draft legislation, the Northern Territory welcomes the proposed amendments to Section 153E Prohibited conduct – retail pricing (specifically Section 153E (3)), which should provide scope to recognise the role Commonwealth, State and Territory legislation has in regulating electricity retail prices.

However, I note that the issues regarding the broad application of the legislation, the Australian Competition and Consumer Commission (ACCC) review did not consider the Territory and the provisions related to the wholesale electricity generation sector are still relevant for the Territory. As such, the points I make are consistent with comments I provided in my previous submission.

Broad scope of the legislation

The Bill is intended to provide the ACCC with powers to respond to misconduct identified through an ongoing Electricity Price Monitoring Inquiry across the National Electricity Market (NEM) between 2018 and 2025. Notwithstanding the scope of the ACCC's inquiry

is limited to the NEM, the provisions of the Bill will apply nationwide, including areas not connected with the NEM such as the Northern Territory.

The Territory is concerned that the need for or appropriateness of the application of the legislative framework outlined in the Bill has not been demonstrated, particularly in non-NEM electricity markets such as the Territory's. The Territory considers that the legislative framework proposed in the Bill should be subject to the established governance framework for energy markets and be considered by the Council of Australian Governments (COAG) Energy Council for implementation in the National Electricity Law.

Consideration by the Council of Australian Governments Energy Council for implementation in the National Electricity Law would enable the legislative framework to be considered by all states and territories and provide an avenue for NEM-only application of the framework or for derogations (modifications) to be considered for the Territory. Given the significant differences between the Territory's electricity supply industry and the NEM, the Territory Government requests that the Senate Economics Legislation Committee gives due consideration to the applicability of the proposed Bill to the Territory.

Northern Territory electricity supply industry

The Northern Territory's electricity supply industry comprises three geographically separated regulated networks (Darwin-Katherine, Alice Springs and Tennant Creek) and 82 isolated electricity systems subject to limited regulation. The characteristics and market arrangements differ between systems, and in particular, between regulated and limited regulation systems.

Each of the Territory's electricity systems have a small customer base. In contrast to the NEM which has about nine million customers, there are approximately 81 700 customers in the Territory's regulated systems including 67 700 in Darwin-Katherine, in Alice Springs and 1700 customers in Tennant Creek.

The contestable segments of the Northern Territory's electricity supply industry are dominated by government owned corporations.

- Generation – Territory Generation, a Territory Government owned corporation, is the dominant electricity generator in each of the three regulated systems. A private gas-fired generator has entered the market in the Darwin-Katherine system. Further, the Utilities Commission approved generation licences for two private proponents to operate in the Darwin-Katherine system, one for three solar farms and another for a gas-fired generator. At present, wholesale electricity is traded directly between individual generators and retailers through bilateral contracts.
- Retail – Jacana Energy, a Territory Government owned retailer, is the dominant retailer to customers all consumption levels despite retail contestability being introduced in 2010. Currently one private retailer is active in the small to medium-sized customer market (consumption of up to 750 megawatt hours per annum), with a material number of medium-sized customers (and some small-sized customers) in Darwin-Katherine and Alice Springs.

Establishment of a wholesale electricity market

On 8 October 2018, the Territory Government announced the implementation of competitive wholesale electricity market in the Darwin-Katherine system, to be called the Northern Territory Electricity Market. The move to the Northern Territory Electricity Market

will be a managed transition and is intended to facilitate improved competition in both generation and retail, enabling reduction in wholesale costs of electricity and reduced subsidies, which are currently met by all taxpayers.

The design of wholesale market arrangements is currently being developed and will be subject to stakeholder consultation. A key challenge for the Territory Government is to design arrangements that enable new energy investment that delivers lower electricity supply costs while minimising the cost to taxpayers associated with lower utilisation of existing publicly-owned generation assets.

As with the establishment of other electricity markets, including the NEM, it is anticipated that the establishment of a wholesale electricity market will require transitional arrangements or obligations for participants to facilitate a smooth transition to a competitive wholesale market. Given these transitional mechanisms are still being considered and will be subject to stakeholder consultation, the territory is concerned that the proposed Bill may influence the transitional arrangements adopted.

If you wish to discuss these matters, or would like further information on the Northern Territory's electricity supply industry, please contact [REDACTED], Senior Director Economic Policy, Department of Treasury and Finance, on [REDACTED] or [REDACTED]

Yours sincerely

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NICOLE MANISON

- 3 OCT 2019