

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Additional Estimates

2016 - 2017

Division/Agency: Australian Competition and Consumer Commission

Question No: 133

Topic: Western Power and WA's integration into the National Energy Market

Reference: Written

Senator: Ketter, Chris

Question:

1. Please provide an update on WA's integration into the National Electricity Market? Why has the process stalled? What impact did the Barnett Government's plan to privatize Western Power have?
2. Were any consumer issues raised or discussed at the COAG Energy Council in the last 2-3 years? Please table these documents and briefing papers – including preparatory briefing papers.
3. What consumer protection arrangements apply to retail consumers in the National Electricity Market, and how do these compare with protections in place for Western Australian electricity consumers?

Answer:

1. The previous Western Australian Government had commenced a process to transfer responsibility for economic regulation of Western Power from the Western Australian Economic Regulation Authority to the Australian Energy Regulator (AER). We are aware that bills to adopt the national energy legislation were introduced into WA Parliament mid-2016 but were not passed. Western Power continues to be regulated by the Economic Regulation Authority. We were not aware of any impacts on the transfer process from plans to privatise Western Power.

2. The Department of Environment and Energy is the Commonwealth government department responsible for CoAG Energy Council. Any questions regarding CoAG Energy Council's operation should be directed to the department.

3. Most energy customers in the National Electricity Market (other than those in Victoria) gain their consumer protections under a framework comprising the National Energy Retail Law, National Energy Retail Rules and National Energy Retail Regulations (the framework). These instruments cover:

- the relationship between retailers and their customers, including obligations to make offers, minimum contract terms and consent requirements for entry into contracts
- the relationship between distributors and customers, including standard contract terms
- retailer authorisations (licences) to sell electricity and/or natural gas to customers
- retailer of last resort arrangements

Victoria's energy retailer arrangements are largely contained in jurisdictional instruments which to a large extent are consistent with the framework. However, Victoria has adopted the electricity small customer connections framework in Chapter 5A of the National Electricity Rules.

The framework aims to promote retail competition and empower customers to negotiate energy contracts that suit their needs. Key protections include requirements for retailers to develop and maintain an AER-approved customer hardship policy, prohibitions on disconnections in particularly circumstances (for example, if a customer owes less than the Minimum Disconnection Amount and has agreed to repay the amount, or if a customer is adhering to a hardship policy or payment plan) and requirements for processes ahead of disconnection. There are also requirements around billing content and frequency, that customers give their explicit informed consent before being transferred to a new retailer or market offer and rules around energy marketing (including cooling off periods for unsolicited sales, prescription around the times customers can be contacted and information provision).

In addition, the framework contains a range of measures designed to help consumers compare and make more informed choices about energy products and how they use energy. This includes the AER's Retail Pricing Information Guidelines, that prescribe the manner and form in which retailers present their offers to customers, electricity bill benchmarks that help customers assess their electricity use against that of similar sized households in their area and the AER's price comparator website, Energy Made Easy, which contains all the generally available offers in a given area, giving customers the opportunity to assess whether a better offer may be available to them.

In Western Australia, the Economic Regulation Authority (ERA) administers the Code of Conduct for the Supply of Electricity to Small Use Customers, which regulates and controls the conduct of retailers, distributors and electricity marketing agents who supply electricity to residential and small business customers. The Code contains rules around marketing, billing, disconnection and payment difficulties/financial hardship. The ERA would be the appropriate body to provide more detailed information on the Code and its operation.

While the AER enforces the energy-specific consumer protections under the National Energy Retail Law and Rules, the ACCC (and jurisdictional fair trading agencies) enforces the Australian Consumer Law (ACL), which provides additional protections to consumers. Australian energy retailers are required to comply with the ACL, and so must ensure that any offers or contracts to consumers don't mislead or deceive or contain any false representations. The ACCC has previously taken action against energy retailers for their savings representations and marketing practices.