

Unauthorised disclosure of the Chair's draft

Introduction

7.1 On 31 October 2012, the committee became aware of a possible unauthorised disclosure of the Chair's draft because of an article published by Lenore Taylor in *The Sydney Morning Herald*, 'Switch off and get paid', referring to the contents of the draft report.

7.2 The committee, in accordance with *Procedural Orders of Continuing Effect No 3 — Unauthorised disclosure of committee proceedings, documents or evidence*, has sought to discover the source of the disclosure.

Background

7.3 On the evening of 29 October 2012, the Chair's draft was provided to certain senators via email by the Committee Secretary.

7.4 On 31 October 2012, an article and video by Lenore Taylor titled 'Switch off and get paid' were published on the website of *The Sydney Morning Herald*.¹ The article referred to the contents of the Chair's draft, in particular 'government-backed recommendations from a special inquiry to be tabled in the Senate tomorrow'.² The article went on to summarise some of the recommendations in the Chair's draft.

7.5 In light of Ms Taylor's article, the committee considered that an unauthorised disclosure had occurred and resolved to investigate the source of this disclosure.

Investigation of unauthorised disclosure of a committee document

7.6 The committee wrote to the persons whom the committee understood to have been provided with the Chair's draft prior to its scheduled tabling in the Senate and subsequent publication on 1 November 2012 asking if they could explain the disclosure. Those persons were:

- committee members and their staff; and
- the Committee Secretary and staff of the secretariat.

7.7 The committee also wrote to the Hon Martin Ferguson AM MP, Minister for Resources and Energy, and the Hon Greg Combet AM MP, Minister for Climate Change and Energy Efficiency asking if they or their staff could explain the unauthorised disclosure.

7.8 The committee received responses from the following:

1 Lenore Taylor, 'Switch off and get paid', *The Sydney Morning Herald*, 31 October 2012.

2 Lenore Taylor, 'Switch off and get paid', *The Sydney Morning Herald*, 31 October 2012.

- Senators Thistlethwaite, Cormann, Edwards, Gallacher, McEwen, Milne, Thorp and Williams;
- Mr Matthew Marozzi and Ms Suzie Trifunovic from the office of Senator Gallacher;
- the Secretary, Senate Select Committee on Electricity Prices;
- the Hon Martin Ferguson AM MP, Minister for Resources and Energy, and the Hon Greg Combet AM MP, the Minister for Climate Change and Energy Efficiency.

7.9 The committee notes that, in responding, Senator Milne called for the committee to also investigate a possible unauthorised disclosure related to an Australian Broadcasting Corporation (ABC) radio report by Fran Kelly on 1 November 2012. As the committee did not wish to delay tabling of its important report on electricity prices, the committee resolved not to investigate this possible unauthorised disclosure.

7.10 On the basis of the responses received, the committee has not been able to discover the source of the unauthorised disclosure.

Conclusion

7.11 The committee has considered the responses received and noted the terms of *Procedural Orders of Continuing Effect No 4 — Unauthorised disclosure of committee proceedings*. The committee concludes that the disclosure of the Chair's draft was a serious breach of the committee's confidence. Therefore, the committee has determined to raise the unauthorised disclosure of the Chair's draft as a matter of privilege under standing order 81.

Senator Matthew Thistlethwaite
Chair

Additional comments from the Coalition

The sudden realisation by the Gillard Labor government that Australian families are hurting from rising electricity prices has only come after the government has made the situation worse by adding a carbon tax.

The Consumer Price Index (CPI) figures for the first quarter in which the carbon tax applied clearly confirmed the impact of the carbon tax on the cost of electricity and the cost of living.

Electricity prices have seen a 15.3 per cent rise with household gas and miscellaneous fuels seeing a 14.2 per cent rise. These are the largest quarterly increases since records have been kept.¹

The establishment of this committee is part of a co-ordinated attempt to deflect attention away from the government and the breaking of its emphatic pre-election promise not to introduce a carbon tax.

The government is seeking to blame everyone except itself for the added cost of living pressures on households and the increases in the cost of doing business in Australia.

Electricity prices have been a growing concern for Australian households and business.

One of the key arguments the government has pursued recently was to blame the increase in power prices on network costs—a transparent attempt by the Gillard government and its alliance partner, the Greens, to shift blame to the states.

Coalition senators acknowledge that network costs do contribute to the costs and have been rising. However this is not a new development.

Two years ago, Prime Minister Gillard was encouraging further investment in the networks and encouraging the power companies to increase prices:

The current price rises in a number of states have been principally caused by a sustained period of under-investment.²

And Minister for Resources and Energy Martin Ferguson has clearly acknowledged that the states should not be blamed:

The states do not control the regulatory authorities that set prices and any suggestion that they do has no basis in fact and is a cheap shot.

The states might be getting good dividends but they do not determine the price setting rules.³

1 Australian Bureau of Statistics (ABS) Data Series 6401.0: Consumer Price Index, Australia, September 2012.

2 The Hon. Julia Gillard, Prime Minister, Speech to the Australian Industry Group, 26 October 2010, available at: <http://www.pm.gov.au/press-office/speech-australian-industry-group> (accessed 31 October 2012).

Importantly, the Prime Minister and others across government only started to try and blame the states for increases in electricity prices after relatively recent changes of government in Queensland and New South Wales.

This is all about diverting attention away from the single policy change that would have the most immediate impact in terms of lowering the cost of electricity—the repeal of the carbon tax.

The impact of the carbon tax on electricity prices

One of the primary goals of the government's carbon tax is to increase electricity prices and thereby reduce the quantity of electricity demanded. Indeed, the government's own carbon tax modelling states that:

Electricity demand is an important source of abatement in the early years, comprising over 40 per cent of the cumulative abatement to 2020.⁴

It is no surprise then that the empirical evidence demonstrates that the imposition of the carbon tax has led to a record increase in household electricity prices. After all, that is precisely what the carbon tax was intended to achieve. Of course, it is highly questionable whether this increase in prices actually reduces the quantity of electricity demanded. We know that the government expects domestic emissions to continue to rise and, given increased business costs and lower international competitiveness as a result of the carbon tax is likely to help overseas competitors take market share away from Australian business, any reduction in emissions in Australia as a result will be offset by an increase in emissions in other parts of the world—arguably at times by more.

By the same token, electricity price experts agree that removing the carbon tax—in other words, implementing the Coalition's policy—would reduce electricity prices.⁵

Data from the Australian Bureau of Statistics CPI for the September 2012 quarter (which covers the months of July to September of 2012) shows that the 15.35 per cent increase in electricity prices in this quarter was the largest single quarterly increase in 32 years. That is, the introduction of the carbon tax led to the highest increase in electricity prices in the entire history of the series.

Statistical analysis of the historical data, which is summarised in Figure 1 below, puts some additional context around the data and shows how large an outlier the September

3 Sydney Morning Herald, *Ferguson swipes Gillard over electricity prices*, 28 September 2012, available at: <http://www.smh.com.au/opinion/political-news/ferguson-swipes-gillard-over-electricity-prices-20120927-26o99.html> (accessed 31 October 2012).

4 The Treasury, *Strong growth, low pollution: Modelling a carbon price*, 10 July 2011, p. 10, available at: http://archive.treasury.gov.au/carbonpricemodelling/content/report/downloads/Modelling_Report_Consolidated_update.pdf (accessed 31 October 2012).

5 For example see Professor Paul Kerin, Chief Executive, South Australian Essential Services Commission, quoted in the Courier Mail, *Power prices to fall if carbon tax axed*, 4 October 2012, available at: <http://www.couriermail.com.au/news/breaking-news/prices-to-fall-if-carbon-tax-axed-boss/story-e6freono-1226488263578> (accessed 31 October 2012).

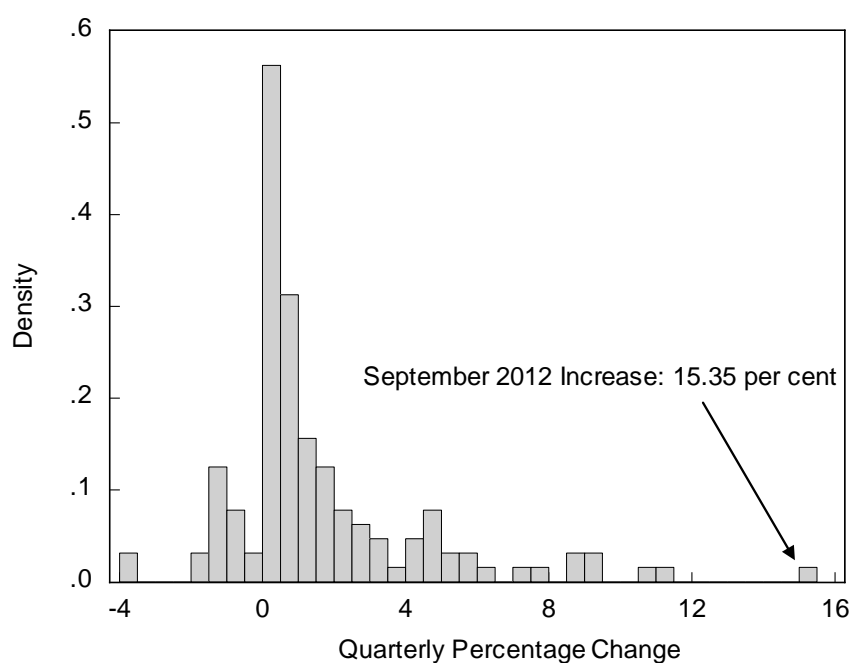
increase actually was. The data shows that over the last 32 years, the historical average of quarterly increases in household electricity prices in Australia has been 1.6 per cent. In other words, the introduction of the carbon tax led an increase in electricity prices of nearly 10 times the historical average.

Figure 1: Data summary of quarterly historical increases in household electricity prices, 1980 to 2012⁶

Statistical Measure	Value
Mean	1.61 per cent
Median	0.67 per cent
Maximum	15.35 per cent
Minimum	-3.85 per cent
Std. Dev.	2.95
No. Observations	128

Figure 2 below illustrates graphically the record increase in electricity prices following the introduction of the carbon tax.

Figure 2: Histogram of historical electricity price increases⁷



6 ABS, *Catalogue. No. 6401.0: Consumer Price Index, Australia, September 2012.*

7 ABS, *Catalogue No. 6401.0: Consumer Price Index, Australia, Sep 2012, Coalition analysis.*

The government has chosen to ignore this evidence, and has instead claimed that the carbon tax would lead to a "modest" increase in household electricity prices.⁸ It is difficult to understand how a record increase of nearly ten times the historical average—the largest increase in prices in at least 32 years—constitutes a "modest" increase.

The government's carbon tax modelling also claimed that:

The carbon price leads to an average increase in household electricity prices of 10 per cent over the first five years of the scheme.⁹

The Prime Minister even went so far as to say that:

When the government priced carbon, we forecast an electricity price impact on consumers of around ten per cent—a forecast which has now become reality.¹⁰

But forecasts from computer models are not reality—they are forecasts. The actual data and the government's own Budget papers suggests that the 10 per cent forecast over five years is very far from "reality".

First, the evidence reviewed above suggests that contrary to the Prime Minister's claims, the increase in household electricity prices since the introduction of the carbon tax has already easily exceeded 10 per cent. In addition to the Australian Bureau of Statistics (ABS) data outlined above, the TD Securities /Melbourne Institute Inflation Gauge for the month of July stated that '[d]ue to the introduction of the carbon tax from 1 July, the price of electricity rose by 14.9 per cent'.¹¹

Second, the government's goal is not for the carbon tax to remain at its current level. There are still four years and nine months' worth of carbon tax increases until we reach the end of the government's "first five years of the scheme".

The carbon tax increases that are expected over the next few years have been deliberately designed by the government to lead to further increases in electricity prices, in order to reduce the quantity of electricity that is demanded which, as discussed above, is the government's goal.

Specifically, the government's own modelling (which is incorporated into the Budget forecasts and projections of carbon tax revenue and upon which the government is

8 The Treasury, *Strong growth, low pollution: Modelling a carbon price*, 10 July 2011, p. 10.

9 The Treasury, *Strong growth, low pollution: Modelling a carbon price*, 10 July 2011, p. 10.

10 The Hon. Julia Gillard, Prime Minister, Speech to the Energy Policy Institute of Australia, 7 August 2012, <http://www.pm.gov.au/press-office/electricity-prices-facts-speech-energy-policy-institute-australia> (accessed 31 October 2012).

11 TD Securities and Melbourne Institute, Press release, 6 August 2012, available at: http://melbourneinstitute.com/downloads/media_release/2012/TDsec_MI/TD-MI_PR_Jul12.pdf (accessed 31 October 2012).

relying to achieve a promised surplus), suggests that the carbon tax will increase by at least a further 35 per cent over its current level over this period.¹²

In other words, even though Australians have been hit with a record increase in electricity prices, the government is expecting (indeed, it is relying upon) sizeable increases in the carbon tax over the next few years, with further associated increases in electricity prices.

Disturbingly, under the government's own modelling assumptions, by the end of the first decade of the scheme, the carbon tax will have more than doubled in nominal terms from today's level.

It cannot be denied that the carbon tax is the largest, most easily addressed component of electricity price increases, as admitted by the Department of Resources, Energy and Tourism in recent Senate Estimates hearings:

Senator CORMANN: What are the five biggest drivers of increases in electricity prices?

Mr Morling: It is probably best to look at it on a jurisdiction-by-jurisdiction basis. If you look at New South Wales, for example, the average price increased by around 18 per cent in 2011-12. If you break that down, about 8½ per cent was network costs, about nine per cent carbon costs, 1.2 per cent retail costs, 0.8 per cent wholesale energy costs and 0.3 per cent other green schemes costs.

...

Senator CORMANN: So the biggest driver of the ones you have just mentioned for increasing the cost of electricity is the carbon tax?

Mr Morling: The point has been made elsewhere that that was expected and it is slightly below the expected impact of the carbon price.¹³

The repeal of the carbon tax should be the first step in putting downward pressure on electricity prices.

Recommendation 1

That the government act immediately to reduce the upward pressure on electricity prices on consumers and business by repealing the carbon tax.

The state of the electricity market

The committee's report contains much useful information about the state of electricity markets in Australia. We support many of its recommendations to improve the regulation of electricity prices and to investigate the potential to invest in more

12 This is made up of an increase to \$29 per tonne of CO² emissions by 2015–16, plus an additional 7.5 per cent increase in 2016–17 which is identical to the government's own modelling assumptions.

13 Mr Brendan Morling, Head of Energy Division, Department of Resources, Energy and Tourism, Senate Economics Legislation Committee, *Proof Committee Hansard*, 18 October 2012, p. 14.

demand management tools which can help to moderate the peaks in electricity demand. For instance, we agree with the report's findings that there has been an historic increase in electricity prices of 90 per cent since 2007.

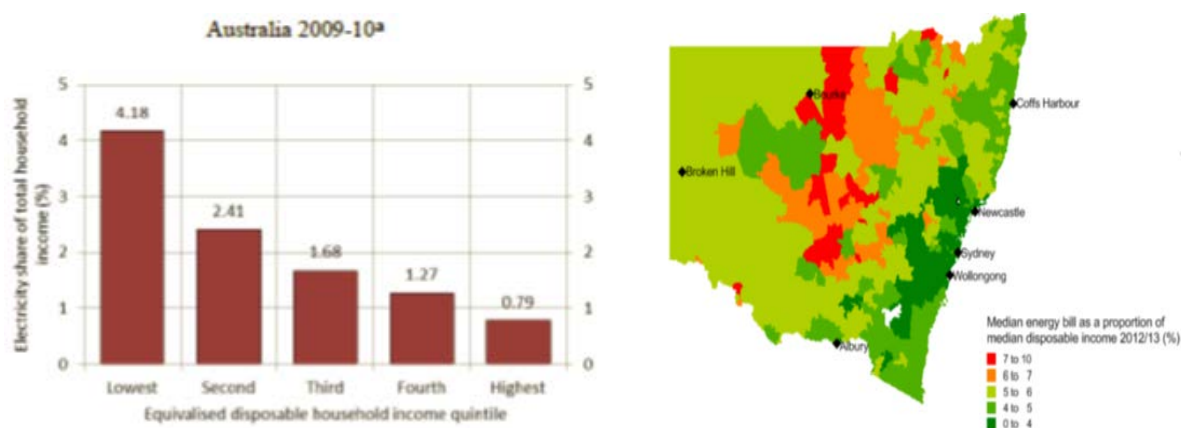
Nonetheless, the Committee's report:

- fails to stress that the objective of electricity regulation should be to deliver the most affordable electricity to the consumer with a level of reliability commensurate with the consumer's willingness to pay;
- places too great an emphasis on the increase in network and distribution costs as causes for the recent increases and hence puts too much weight on changes to network regulation as a potential solution for high electricity prices; and
- downplays the impact of the carbon tax and other green schemes in increasing electricity prices.

Australians are hurting from the increase in electricity prices since 2007

Since 2007 electricity prices for Australian households have increased by 90 per cent in nominal terms. The Australian government is adding to this burden with a carbon tax that will increase the costs of electricity every year.

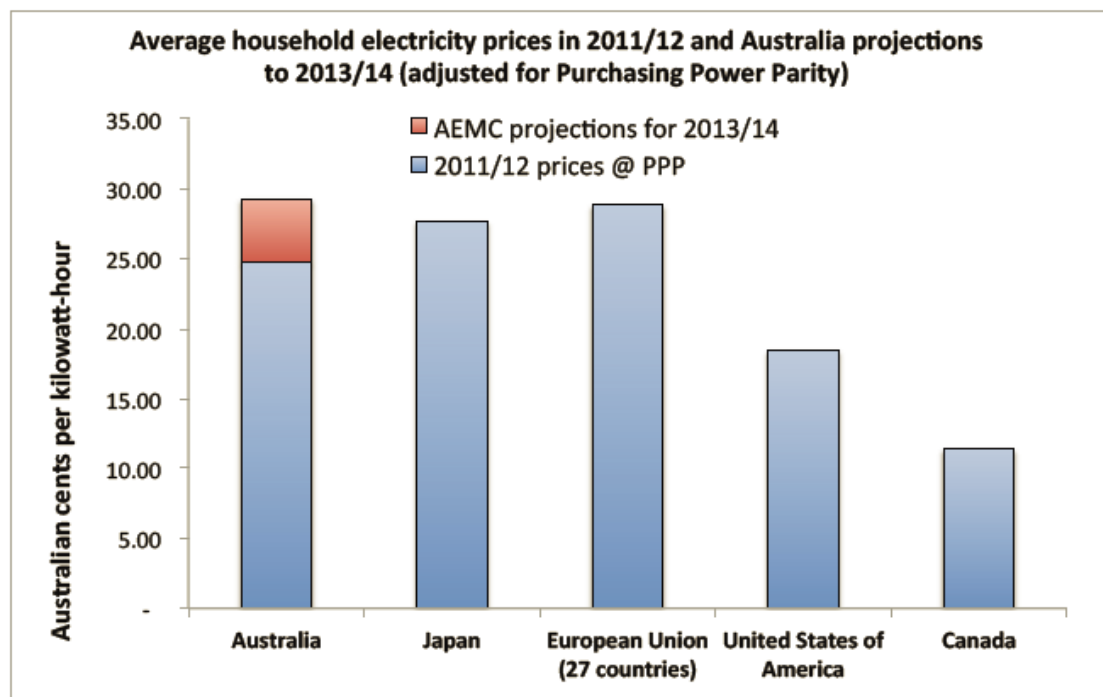
These historic increases in costs have placed a significant additional burden on Australian households, particularly lower income households and Australians living in regional areas.



Higher electricity prices also make it harder for Australian businesses to compete. The rapid increases have meant that Australia's electricity prices are some of the highest in the world and much greater than those in the United States and Canada (see below). These effects are greater in industries that are energy intensive, such as heavy manufacturing, which is already struggling from a high Australian dollar. Higher electricity prices have therefore exacerbated the impact of the "two-speed" economy by making it harder for Australian industry to compete.

Figure 3: Average household electricity prices in Australia in 2011 compared to common monetary areas and other major economies at Purchasing Power Parity¹⁴

Figure 5. Average household electricity prices in Australia in 2011 compared to common monetary areas and other major economies at Purchasing Power Parity^{vi}



Government policy has been too slow to respond

Prices have been increasing consistently over the past five years yet the government has failed to take action to respond to these rapid increases in costs. In 2008, the Australian government transferred the power to regulate the prices of electricity distribution and transmission companies to the Australian Energy Regulator (AER).

The government has belatedly established a number of reviews to try and get a handle on the runaway price increases. These reviews, however, are unlikely to take any action to reduce prices from their current levels, even if they may seek to moderate the size of future price increases.

We note that the committee has not provided any estimates of how much electricity prices could fall by if its recommendations are implemented. That is, because the question of whether the investment in network infrastructure is a complex one, something that is discussed further below. While strengthening the AER's power to reject proposals to roll in investment into the regulatory asset base, may help moderate future potential price increases, these proposals are unlikely to reduce the current level of prices.

14 Carbon Energy and Markets 2012, Electricity Prices in Australia: An international comparison, A report to the Energy Users Association of Australia, March, p. 13.

Note: The date here differs somewhat from that in the committee's report because it uses the most up to date information on electricity prices.

The only concrete proposal to reduce electricity prices from their current levels is to remove the carbon tax.

The consumer should be at the heart of Australia's energy policy

We believe that Australia's energy policy should be designed with the interests of end consumers at its heart. The pricing of, and investment in, our electricity sector should balance the need for consumers to have access to reliable electricity against the need to deliver that electricity at the cheapest power possible. Achieving this goal is doubly important: We should strive to deliver the cheapest possible power to take pressure off the cost of living for those doing it tough, and delivering cheaper power helps increase the productivity of all sectors of the economy given that it is such an important input to business costs.

For this reason, we are concerned about Recommendation 8 to require the "AEMC consider how broader environmental considerations could better align with the operation and regulation of the NEM".

The Australian Energy Market Commission (AEMC) should focus on delivering its core objective to: ... As the AEMC told the Committee:

We of course would apply and pursue whatever objective Parliament see fit to give to us. This issue is not a new one. The way I think about it is with a football team analogy: everyone on the team has the same objective; it is just that we have different positions and different roles. Apologies to those who do not come from rugby states but, if the bonehead thinks that the five-eighth is not doing a good job, the worst thing he can do is try and do the five-eighth's job for him. Our role in relation to rules that relate to economic efficiency is part of one role in what people expect out of this sector. There are other manifestations of government that obviously deal with environmental issues in a systemic sense, such as climate change and, in a local sense, land use planning and emissions—NOX and SOX and salts and things from the plants.¹⁵

Moreover, adding additional objectives to the AEMC is inconsistent with the recent recommendations of the Productivity Commission, which found that:

The overarching objective of the regulatory regime is the long-term interests of electricity consumers. This objective has lost its primacy as the main consideration for regulatory and policy decisions. Its pre-eminence should be restored by giving consumers much more power in the regulatory process.¹⁶

Coincidentally, the committee gave its support to this finding of the Productivity Commission even though it would appear to be inconsistent with its Recommendation 8.

15 Mr John Pierce, Chairman, Australian Energy Market Commission (AEMC), *Proof Committee Hansard*, 25 September 2012, p. 16.

16 Productivity Commission, Draft Report, *Electricity Networks Regulatory Frameworks: Volume 1*, October 2012, p. 2.

We believe that the government should seek to restore the primacy of the consumer by implementing the draft recommendations of the Productivity Commission. In our view, the committee's report has played only "lip service" to this concept without making concrete recommendations for its implementation.

Network costs are important but they are not the answer

The committee's report puts great emphasis on the role that increases in network investment have played in increasing electricity prices. While these have played a role in recent price increases there are other significant factors at play. For instance, the Productivity Commission has compared the components of an average bill in New South Wales in 2012–13 against an average bill in 2007–08.

There is widespread acceptance that there was a need for further investment in electricity networks, something that the committee has also recognised. While there are questions over whether these price increases have been excessive, the question is whether these benefits outweigh consumers' willingness to pay for greater reliability and fewer outages. The committee has not provided a clear answer to that question.

It is incumbent on those claiming that network costs have been too high to identify what reliability standards should be reduced. While the committee has called for a number of reviews of the electricity sector it has not identified one specific example of a reliability standard that it would reduce to help bring down electricity prices.

There is some evidence that consumers place a high value on reliability standards. For instance, the Energy Networks Association said that:

The AEMC has tested customer attitudes as part of its review into reliability standards. The results confirm that most customers place a high value on reliability and are not attracted to trading off reliability for modest savings in costs.

AEMC analysis also reveals the limited savings which can be achieved by relaxing standards. According to the AEMC, lowering reliability standards in New South Wales would yield annual savings of only \$3 to \$18 per household once fully implemented (i.e. in 2028/29).¹⁷

Indeed, we note that there are divergent views within the government over whether investments in network infrastructure have in fact been excessive. In late September, the Minister for Energy, Martin Ferguson, rejected a plan by the Member for Lyne, Mr Rob Oakeshott, for a federal takeover of electricity price regulation. Minister Ferguson said:

The states do not control the regulatory authorities that set prices and any suggestion that they do has no basis in fact and is a cheap shot.

The states might be getting good dividends but they do not determine the price setting rules.

17 Energy Networks Association, *Submission 64*, p. 12.

It is a complex reform that won't be solved by cheap front-page headlines.¹⁸

In our view, the government's attempts to try and blame state governments for recent electricity price increases have been clumsy and are not helpful in trying to formulate better energy policy. In this regard, we note that the committee has identified "dividend extraction by state governments" as a factor in contributing to household electricity price increases with no evidence that this has been the case. Indeed, elsewhere in the report, the committee notes that dividends from electricity companies are actually falling in New South Wales.

Engaging in a blame game with the states is not the way to help reduce electricity prices, particularly given that it has been federal regulation, through the Australian Electricity Regulator, which has overseen many of these very price increases.

Lack of attention to Western Australia and the Northern Territory

The Coalition notes that the overwhelming majority of recommendations appear to apply directly to states that participate in the National Electricity Market (NEM) and not to Western Australia and the Northern Territory, which do not participate in the NEM. For those recommendations that do not specifically refer to NEM jurisdictions, it is unclear whether they apply to non-NEM jurisdictions as well and, if they do, how they would be implemented in those jurisdictions, given their separate and different regulatory arrangements.

As such, it is unclear from the report what the direct or indirect implications of the recommendations would be for the non-NEM jurisdictions.

Indeed, none of the evidence brought before the committee regarding the regulatory arrangements of non-NEM jurisdictions - including similarities and differences with the NEM and advantages and disadvantages of various arrangements - appear to have been considered in any great detail in the report.

The Coalition considers this is a major oversight.

Concluding remarks

Coalition senators are deeply concerned about the impact of electricity price rises on the cost of living.

Coalition members of the committee conditionally support the recommendations of the majority, with the following qualifier:

Any changes to the electricity sector should be based on the creation of a more open, transparent and competitive market, not through the imposition of more red-tape and regulation.

The dead hand of government is already imposing a significant new cost in the form of a carbon tax. Any future changes should undergo a rigorous cost-benefit analysis and only proceed if clear benefits to consumers—particularly households, older Australians and those living in regional Australia—can be demonstrated.

18 Sydney Morning Herald, *Ferguson swipes Gillard over electricity prices*, 28 September 2012.

Coalition members of the committee make the following additional recommendation:

Recommendation 1

That the government act immediately to reduce the upward pressure on electricity prices on consumers and business by repealing the carbon tax.

**Senator Mathias Cormann
Senator for Western Australia**

**Senator Sean Edwards
Senator for South Australia**

**Senator John Williams
Senator for New South Wales**

