

22ndMay 2007

Chief Executive
Queensland Competition Authority
GPO Box 2257
Brisbane Qld 4001.
Fax: 07-3222 05999

Dear Mr Hall,

Re: Draft Decision: Benchmark Retail Cost Index (BRCI) for Electricity 2006-07 and 2006-08

The Centre for Credit and Consumer Law is an academic centre, hosted by Griffith University Law School. The Centre for Credit and Consumer Law was established in 2004 to be a source of expertise, and a centre of excellence on credit and consumer law issues. It has the overall objective of promoting the attainment of a fairer, safer, and more efficient marketplace for consumers and, in particular, for low income and vulnerable small end-users.

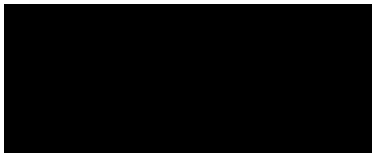
It is of real concern that there is currently no process, regulatory or otherwise, to evaluate the impact of this significant price increases on consumers. In other words the Queensland Competition Authority (QCA) has made a draft decision without reference to the flow on impact of the proposed price rise for consumers. We have outlined our concern about price increases in our previous submission on the Energex CAPEX. This is a significant price rise and while the QCA has clearly enunciated the reasons for this increase, both the haste of the decision making process and the size of the increase means that the process warrants much closer scrutiny. We understand that this will occur in the next round of review for the BRCI but unfortunately that has not occurred in the present decision making process.

We have a particular concern about the costs to consumers associated with the introduction of Full Retail Competition (FRC) particularly as non-contestable customers will be bearing this cost as part of the calculation of the BRCI. While there is a precedent in other jurisdictions for the calculation of retail operating costs, in principle, we strongly oppose retailers being effectively subsidised for FRC related costs in order to smooth their entry into the market. In particular, we adamantly oppose customer acquisition costs. This is completely unnecessary, favours the incumbent retailer and, we believe, is anti-competitive. What is missing from the reasoning in this calculation is that the incumbent, which this calculation favours, has a significant market advantage due to their position in the market. Therefore it is up to the incumbent retailer to preserve its market share, not the Queensland Government. The experience of the UK utilities market indicates that rather than providing choice the market offers have narrowed down to half a dozen large vertically integrated

companies which has significantly dampened the benefits of competition for consumers. While the Australian market is significantly smaller than the United Kingdom market there are lessons to be learned from the UK experience. Allan Asher the CEO of Energy Watch UK has observed that while liberalisation has brought benefits, it has also a consolidation and creation of ‘...an industry of insiders, where the barriers to entry either stop entry altogether or require a new entrant to ally itself with one of the existing players...’.¹ In addition one of the impacts of a ‘non-effective’ wholesale market is that consumers have born the brunt of price increases without ‘...any significant countervailing power’.²

The pressure to increase prices will only get greater in Australia. As the *Australian Financial Review* recently reported – major energy retailers are already writing to State regulators seeking ways of passing soaring wholesale electricity prices on to households and small businesses.³ The Queensland Competition Authority needs to anticipate this pressure appropriately and the Queensland Government needs to find a place to evaluate and address price impacts, either through the regulator or another mechanism in order to address crucial social policy issues which are currently outside the provenance of the QCA.

Yours sincerely,



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Centre for Credit and Consumer Law, Griffith University

¹ Allan Asher (2007) ‘It’s not where you start, it’s where you finish’ in *Consumer Policy Review*, 1-7, 1, Jan/Feb 2007, p.22 (19-26)

² Allan Asher (2007), Op. Cit. p.25

³ Annabel Hepworth (21/05/07) ‘Energy sellers want power over rates’ *The Australian Financial Review*, p.10.