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15 February 2010

Mr Gary Henry
Queensland Competition Authority
GPO Box 2257
BRISBANE QLD 4001

electricity@qca.org.au

Dear Mr Henry


**QUEENSLAND COMPETITION AUTHORITY
DRAFT DECISION
BENCHMARK RETAIL COST INDEX FOR ELECTRICITY: 2010-2011
DECEMBER 2009**

The CCCL notes the Authority's estimate that the BRCI (the cost of supplying electricity to retail customers, calculated in accordance with the provisions of the Electricity Act and the Electricity Regulations) will increase by 13.83% between 2009-2010 and 2010-2011. The CCCL thanks the Authority for the invitation to provide comment on the estimated increase as proposed in the Draft Decision.

The CCCL has significant concerns with the proposed increase. These concerns are informed by a Report recently commissioned by the Queensland Council of Social Services. The Report, prepared by Etrog Consulting Pty Ltd, highlights a number of issues. These issues have significant implications for the potential accuracy of the Authority's estimate. The Report concludes that a BRCI increase, in the order of 11.88%, would have resulted had the Authority not adjusted ACIL's calculations for 2010-2011 and retained its previous estimate of customers transferring between retailers. These issues are discussed in more detail in the response below.

The CCCL would strongly urge the Authority to undertake further consultation on these matters prior to the release of the Authority's Final Decision. The CCCL will look forward to hearing more from the Authority on these matters. Please contact me on 07 31381230 or 0407 648 389, or email kathryn.mellick@qut.edu.au for further information or to discuss the issues raised in this response in further detail.

Yours sincerely,


Kathryn Mellick
Consumer Advocate, Electricity

INTRODUCTION

1. About the Credit Commercial and Consumer Law Program (CCCL)

The Credit Commercial and Consumer Law Program (CCCL) is a component of the Law and Justice Research Centre at the Faculty of Law at the Queensland University of Technology. The CCCL was established in March 2004 to be a source of expertise on consumer law issues with the objective of promoting a fair, safe and efficient marketplace for consumers.

The CCCL aims to promote a high standard of public debate about the law and regulation of consumer protection generally, as well as to inform decision-makers in government, business and the broader community.

The CCCL's work on consumer issues in the national energy market is led by the Consumer Advocate, Electricity, one of the specialist projects within the CCCL. The Consumer Advocate represents the CCCL's work to build a deeper level of insight and knowledge about issues concerning residential, business, rural and remote small-end consumers of electricity.

DRAFT DECISION – 2010-2011 BRCI

2. General comments

The CCCL has been provided with a copy of the Report on the Authority's Draft Decision, recently prepared by Etrog Consulting Pty Ltd (Report). The Report was commissioned by the Queensland Council of Social Services and contains a review of the Draft Decision and the calculations used by the Authority's consultants, ACIL Tasman, on which the Draft Decision substantially relies.

The Report highlights a number of issues which will have significant implications affecting the potential accuracy of the Authority's Final Decision. The issues include concerns raised in relation to the:

- use of a modeling factor in the calculation of the costs of energy; and
- customer acquisition costs.

The Report indicates that the Authority has not taken exactly the same approach and methodology in calculating the BRCI for 2010-2011 as it did for 2009-10, as originally proposed in the Authority's Interim Consultation Notice published in October 2009. The Report also questions whether the discontinuity in the BRCI calculation represents a potential breach of the legislation and regulatory framework underpinning the BRCI requirements.

The Report concludes that a BRCI increase, in the order of 11.88%, would have resulted had the Authority not adjusted ACIL's calculations for 2010-2011 and retained its previous estimate of customers transferring between retailers. If this view is accepted, the proposed increase in the BRCI should have been in the order of 11.88%, as opposed to the 13.83% estimated by the Authority. This represents a decrease of approximately 2% on the proposed increase in notified electricity prices in Queensland for 2010-2011.

The CCCL endorses the views expressed by the Queensland Council of Social Services in its submission that further increases in the costs of electricity will have a major effect on household expenses, especially for low-income, disadvantaged and vulnerable households. Electricity price increases of reportedly more than 30% in the past three years have already put substantial pressure on Queensland households and small businesses. Trends identified in the Energy Ombudsman's Annual Report 2009 indicate problems for consumers around payment difficulties. The Annual Report gives a clear indication that energy affordability remains a problem which can be expected to continue in 2010. Further increases in the regulated costs of electricity should not be imposed on Queensland consumers where they are unjustified, inaccurate or unnecessary.

Given the issues highlighted in the Report, the CCCL would strongly urge the Authority to undertake further consultation on these issues prior to the release of the Authority's Final Decision. The Final Decision will have a major impact on the costs of electricity for Queensland consumers. The CCCL considers the Authority has a responsibility to further consider the issues that have been raised in the Report and ensure the Final Decision is as accurate as possible.

15 February 2010

