



24 September 2009

The Executive Officer
Utilities Commission
GPO Box 915
DARWIN NT 0801

Dear Sir/Madam

Review of Full Retail Contestability

The Northern Territory Major Energy Users (NTMEU), comprising large energy users in the Territory, welcomes the opportunity to provide its views on the Utilities Commission Review of Full Retail Contestability in the Northern Territory. As the NTMEU members are supposedly "contestable" they have the ability to provide first hand experience as the actuality of retail contestability as it exists in the Territory.

Effectively what NTMEU members have seen is there is no competition even for large users of electricity and Power and Water Corporation (PWC) is and acts like a monopoly provider with a cost plus mentality.

This means, as the Commission is fully aware, there is no effective electricity wholesale or retail competition in the Territory **at any level of usage**, and with PWC being a vertically integrated business operating the generator, retail and network businesses, as well as being the network planner, this state of affairs is unlikely to change unless there is a significant move by the Territory government to take active steps to develop greater competition in electricity supply.

Whilst much was promised by the Territory Government in 2007/8 with the release of a Treasury Discussion Paper on the path forward with respect to energy reforms, the degree of urgency appears to have abated. This is very disappointing for businesses operating in the Territory. The NTMEU attach a copy of its submission to the Treasury [to this submission](#). The NTMEU is of the

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view that the changes along the lines of its recommendations to Treasury must be implemented if there is to be any effective competition.

Overall, the NTMEU considers that any moves towards greater FRC without significantly increasing competition will result in greater hardship for electricity consumers and allow PWC greater abilities to use its undoubted monopoly position to further limit the entry of any competition to its generation and retail activities. In fact, under the current structure, the NTMEU considers there is merit in consideration of reducing FRC as this would allow large electricity users to discuss their needs and concerns directly with government – an approach which is currently constrained by the assumption there is competition at the large electricity user end of the market

The NTMEU provides its comments to the specific questions raised in the attachment.

Yours sincerely

Michael Williams
Chair, NTMEU

Attachment: A New Legislative Framework For The Northern Territory Electricity Industry [NTMEU] Comments On Draft Policy Paper May 2008

LIST OF ISSUES

Many of the specific responses to the issues raised are addressed more fully in the response we provided Treasury to its Consultation Paper covering proposed changes to the electricity industry in the Northern Territory.

The responses below are consistent with the overall thrust of the NTMEU views provided to Treasury last year.

The NTMEU view on full retail contestability is that to deliver the benefits of FRC implies is that there is competition which will provide a benefit to consumers of electricity. There is no effective competition for electricity supplies in the Territory at the wholesale level and as a result there is no competition at the retail level, even for very large users of electricity.

The NTMEU has seen that the potential for competition at the wholesale level is possible under the Territory Rules but actions of PWC have effectively precluded this from being implemented. What independent generation that could provide power into the network has been either contracted to PWC or prevented from accessing the network.

NTMEU Responses to the Issues raised by the Utilities Commission:

For comment:

- (1) Is the current lack of wholesale price transparency an impediment to FRC and if so, what should be done, if anything to provide greater wholesale price transparency in the Northern Territory prior to introducing FRC?

NTMEU: There is no transparency of the PWC retail and generation activities. Large users have attempted to gain such transparency in order to assess the reasonableness of PWC offers. In the absence of any competition, such transparency is essential to assess offers made by PWC to contestable consumers.

Attempts to secure some transparency through dispute resolution via the UC, is not effective as the UC's powers are inadequate in this regard.

For comment:

- (2) Is the current structure of Power and Water an impediment to FRC and if so, what further changes if any should be made to the structure of Power and Water prior to introduction of FRC?

NTMEU: Yes. There must be structural separation of PWC's generation, network and retail businesses and additional competition implemented. These measures are better outlined in the NTMEU response to Treasury.

For comment:

- (3) What actions might Government take to provide the retail margins required to improve the prospects for competition?

NTMEU: Retail competition may arise only if there is wholesale competition, which could be facilitated (in the first instance) by allowing embedded private generators access into the NT Grid.

Other jurisdictions have implemented some "head room" above reasonable costs to allow for retail competition. However, as any new retailer in the Territory will have to source generation from PWC, there will be no new retail entrants until there is clear segregation between PWC retail and generation, and there is competition to PWC generation. This point is made in the attached NTMEU response to Treasury.

For comment:

- (4) Should the introduction of FRC be staged on a regional basis?
Should unmetered loads be contestable as part of FRC?

NTMEU: Yes and Yes. However NTMEU considers that there must be a number of pre-conditions implemented before FRC should even be considered. These preconditions are more fully developed in the attachment.

For comment:

- (5) Should mandatory interval metering be a precondition of retail contestability? Is there any need to defer FRC until NSMP requirements and any implementation in the Territory have been considered?

NTMEU: In principle, yes (but only if a detailed cost benefit assessment demonstrates that such should be implemented) and yes (implementation of FRC has been achieved in the absence of NSMP in other jurisdictions, but the impacts on consumers of their usage patterns has not been made clear to those consumers and as a result there is considerable cross subsidisation between consumers).

Network usage charges need to reflect usage patterns as well as the current network tariffs in the Territory and other jurisdictions do not send strong price signals to consumers and as a result network tariffs also allow cross subsidisations between consumers.

For comment:

- (6) Is the current bilateral contract market an impediment to FRC and should reform of this market be considered prior to introducing FRC?

NTMEU: No and No.

Retailers can and do operate successfully in a market permitting bilateral contracting providing there is a balancing market for “unders and overs”. The UK has such a market and also has FRC.

The main issue in the Territory is that there is no competition at the generation level and until this occurs, FRC (or even any retail contestability) should not be implemented. The experience of NTMEU members is that even though they are contestable, they have no alternative to securing power supplies from PWC. If large consumers of power have effectively no competition in their electricity supplies, it is hard to imagine that small consumers will be beneficiaries from FRC.

For comment:

- (7) Should Power and Water Generation’s wholesale pricing be subject to oversight and what form should this oversight take?

NTMEU: Emphatically yes. As suggested by NTMEU to Treasury, until there is true competition at the generation level, PWC generation pricing must be transparent and subject to dispute resolution by UC.

For comment:

- (8) Should Power and Water Generation be required to publish firm prices for specified terms and products?

NTMEU: Yes. This is a recommendation from NTMEU to Treasury and more detail is provided in the attachment

For comment:

- (9) Do you have any comments on the load profiling regime proposed for use in the Northern Territory – i.e. simple net system load profiles defined for each regulated network?

NTMEU: The simpler the load profiling, the more cross subsidisation occurs. Load profiling limits the sending of price signals to consumers to modify their usage pattern. In the absence of price signals there is no

encouragement to modify usage patterns and those with good usage patterns subsidise those with poor usage patterns.

For example under a simple load profiling approach, a consumer using more off peak power in preference to using power at peak times effectively pays for another consumer which uses more peak power. The simpler the load profiling approach the less the peak power user pays compared to cost reflectivity and the more the off peak power user pays.

For comment:

(10). Are there any Territory specific terms you think should be included in the standard contract?

NTMEU: Negotiating a commercial contract with a monopoly provider is impossible, and NTMEU members have had direct experience in such negotiations with PWC. PWC refuses to provide substantiation of its price offers and effectively provided on a “take it or leave it” basis. To assume that such negotiations can be carried out on a commercial basis as with other providers is absurd. NTMEU members can attest that negotiation with the PWC is non-existent as they have no alternative supplier and PWC is aware of this.

Until there is true competition at both retail and generation levels, there is a sound basis for the UC to have a role in assessing the PWC standard conditions of supply as well as the price that PWC can offer.

For comment:

(11) Should an electricity ombudsman’s office be established at the time FRC is introduced?

NTMEU: Yes, as has been successfully seen in other States. In the absence of competition at the retail and generation level, the NT ombudsman should also have the ability to examine price.

An alternative to establishing a separate ombudsman, until there is effective retail and generation competition, the UC could fulfil this role.

For comment:

(12) Do you have comments on these options and are there other options this review should consider?

NTMEU: The priority is to establish the conditions for wholesale competition. The NTMEU has provided its view on a way forward and the

options for change in the Territory electricity supply arrangements in its response to Treasury.

Treasury has suggested that the Territory implement a NEM like approach to electricity supplies. The NTMEU believes that such an approach could cause significant harm to NT electricity consumers in the absence of actual competition in retail and generation which was seen as an essential precondition to establishing a NEM like approach for every other Australian and overseas jurisdiction.

The NTMEU also raised the question as to whether a NEM-like approach or a WEM-like approach would be more suited to the Territory needs. AS a result it suggests that research be undertaken to assess the optimal approach to establishing a Territorian market structure