



**LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY**

**12th Assembly**

**Committee on the Northern Territory's Energy Future**

**Public Hearing Transcript**

12.45 pm – 1.30 pm, Friday, 28 November 2014

Litchfield Room, Level 3, Parliament House

**Members:** Mr Gary Higgins, MLA, Chair, Member for Daly  
Mr Gerry Wood, MLA, Deputy Chair, Member for Nelson  
Mr Nathan Barrett, MLA, Member for Blain  
Mr Gerry McCarthy, MLA, Member for Barkly

**Apologies:** Mr Francis Kurrupuwu, MLA, Member for Arafura

**Australian Energy Regulator**

**Witnesses:** Mr Chris Pattas: General Manager Networks (Investment and Pricing)  
Mr Adam Petersen: Director Network Regulation  
Mr Bruno Coelho: Assistant Director

**Mr CHAIR:** This is Gary Higgins, the Chair, can you hear me?

**Mr PATTAS:** Hello, Gary, yes, it is Chris Pattas here, I can hear you loud and clear.

**Mr CHAIR:** Can you hear me, Adam?

**Mr PETERSEN:** I can hear you from Adelaide as well.

**Mr CHAIR:** I will quickly tell you who is here with us and we will get into the formalities. I am the member for Daly, the Chair of the committee. We have Nicole Manison, member for Wanguri; Gerry McCarthy, member for Barkly, Nathan Barrett, the member for Blain; and Gerry Wood, the member for Nelson. We have Julia, the secretary lady who is the most important one and the one you send the flowers and chocolates to. If we get on with it from there and, hopefully, you will be able to hear us.

On behalf of the committee, I welcome everyone to the public hearing into electricity pricing options and welcome to the table to give evidence to the committee from the Australian Energy Regulator Mr Chris Pattas, General Manager, Networks (Investment and Pricing), and Mr Adam Petersen, Director, Network Regulation.

Thank you for coming before the committee. We appreciate you taking the time to speak to the committee and look forward to hearing from you today. This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. Being a public hearing, it is being webcast through the Assembly's website and a transcript will be made for use of the committee and may be put on the committee's website. If, at any time during the hearing, you are concerned that what you say should not be made public you can ask the committee to go into a closed session and take your evidence in private.

I will ask each witness to state their name for the record, and the capacity in which they appear. I will then ask you to make a brief opening statement before proceeding to the committee's questions.

Each time you talk, can you then state your first name would be sufficient at this stage, so we know which one of you are talking. Could you both please state your name and the capacity in which you appear. Chris, if you would like to give an opening statement.

**Mr PATTAS:** Thank you Mr Chair. I just want to clarify one thing. In Adelaide do we also have another Bruno Coelho or is it just Adam?

**Mr COELHO:** It is Bruno here as well.

**Mr PATTAS:** Okay, just to be clear we have three people.

**Mr CHAIR:** Sorry, Bruno, I did not think you were there but we will come to you.

**Mr PATTAS:** Thank you, Mr Chair. I will make an opening statement. It will not be a very long one, I can assure you, before we move to your questions. I am Chris Pattas. I am General Manager of Networks at the Australian Energy Regulator. One of the things I have in my portfolio is issues of pricing and tariffs, the type of issues we are going to be talking about this afternoon. In Adelaide, as I mentioned, Adam Petersen is a director in the broader team and Bruno is an assistant director. Both Adam and Bruno deal with pricing and tariffing issues in the way we will be discussing this afternoon.

First of all, I should clarify the extent of our regulatory role in relation to electricity pricing. Some of the matters that might be of interest to the committee may fall outside our remit. For example, I note that the terms of reference to this inquiry include issues pertaining to feed-in tariffs or renewables such as solar panels, but these are issues that currently fall to the policies of state and territory governments. The impact on these on prices is reflected in retail tariffs directly as well.

Our role in electricity pricing in the regulatory role is in relation to prices of the networks, not prices charged by retailers. We do not regulate retail prices, but we do regulate network prices. That is important to keep in mind. The role we have in network pricing is specified in the national electricity rules, but our role will be expanded, to a rather material extent, under new rules which the Australian Energy Market Commission has now made. That was announced yesterday. I am not sure if you have the AEMC appearing before your committee, but it has made a number of changes to the network tariff provisions in the rules and we will go into those a little later.

Our role is essentially at the distribution and transmission end, it does not cover the retail pricing end. The other thing the AER is responsible for is oversight of wholesale and energy markets, but that is a broader compliance role rather than a role where we regulate prices. Wholesale markets are competitive and retail markets are competitive in many cases, although I know some jurisdictions such as the Northern Territory still regulate retail prices.

Those are my open-ended comments on the role of the AER in this area.

**Mr CHAIR:** Thank you for that, Chris. I will start and each of us will tell you who is asking the question beforehand.

On 1 July 2015 the economic regulation of the Northern Territory's prescribed electricity networks and electricity retail in the NT is to be transferred from the Utilities Commission to the Australian Energy Regulator. The committee understands that, where appropriate, the Northern Territory government may seek some exemptions from the national electricity rules and the retail rules. How are these requests for exemption determined?

**Mr PATTAS:** The process at the moment is one of agreements being reached between the Territory and the Commonwealth and the other jurisdictions - the broader COAG energy council. At the moment, as I understand it a number of discussions have been going on between the Territory government and the Commonwealth in particular in relation to certain agreements around the role of the AER in taking over administration of the current determination the utilities regulator made.

Secondly, it is in relation to the application of the National Electricity Law and rules so that, typically, the jurisdiction (the Territory) will look at the law and the rules and see what needs to be applied. They can apply it all lock stock and barrel, or in some cases the jurisdiction may decide it wishes to apply it in a particular manner or apply particular provisions but not others. In any case, these are matters between the Commonwealth in the first instance and the Territory government.

**Mr CHAIR:** In your submission you refer to the Australian Energy Market Commission's draft rule determination regarding distribution network pricing arrangements. Can you briefly summarise the objectives of this rule and how it will impact on the network pricing process?

**Mr PATTAS:** I will provide some context around this because you mentioned the AER's role. It is important to recognise the process begins with the regulator, the AER, making a decision on the total allowances - the total revenues a network business can recover from its customers. That is known as a reset pricing or revenue determination.

We made a number of draft revenue determinations only yesterday in relation to New South Wales businesses and a Tasmanian transition business. That is the revenue determination that determines the total amount a business can recover from its customers, that is the first stage.

The second stage is the business then decides how it structures its tariffs in order to recover those revenues. It structures its tariffs in terms of the customer class - a residential user versus a business user versus a large industrial user, and also between someone living in the city area, an urban area or a rural area. Those tariffs recover the total allowances the AER has already set.

What we are talking about this afternoon is the second stage. It is the stage of where you recover those total allowances the regulator has ticked off. The principle we are trying to ensure is we should be recovering those costs in an efficient way and in the least distortionary manner.

For instance, in the principles that have been outlined by the AMC, and which are in a large measure already reflected in the current rules, we are looking at network tariffs being based on efficient costs. The terminology in the rules is on the basis of a long-run incremental cost, or marginal cost. The revenue to be recovered must be done in such a way that minimises distortions to price signals that encourage efficient use. This is the notion that the structures must be efficient. We can get a bit more into that.

The other principle that is relevant in making a decision about network tariffs and changes to network tariffs more particularly, is what is known as the new customer impact principle that requires network businesses to consider the impact on consumers of changes to network prices, and develop price structures that are able to be understood by consumers. This will enable consumers to be able to respond appropriately to change in network prices, because if they do not respond appropriately, then it is likely they are not going to make an efficient decision. This is all about communication, information to customers and, potentially, transition periods over which prices move from their current levels to more efficient levels.

The other thing the tariffs must be doing is complying with existing, or any, jurisdiction pricing obligations that are imposed by state or territory governments. To the extent they need to depart from efficient principles in order to meet those obligations, then they should do so in a way that is transparent and is only to the minimum extent necessary.

They are the key principles that govern the way that network businesses should develop their tariffs. It is important to emphasise the customer impact principle, because that is a key way by which we are trying, if you like, to move from the existing tariff structures we see in a number of jurisdictions today to more efficient or more cost-reflective tariff structures in the future.

**Mr CHAIR:** With the NT changing over from 1 July 2015, when will these new distribution network pricing arrangements be applicable in the Northern Territory? On 1 July or ...

**Mr PATTAS:** In the case of the NT - and I might get either Adam or Bruno to clarify this a bit more - at the moment the AEMC's intention is that these principles, or these new tariff requirements - and there is also a set of other requirements around the process which I have not gone into yet, but I will do that soon - will begin by about 2017.

In the case of the NT - and this is for the current jurisdiction; there are jurisdictions that are already part of the national scheme - there are a couple of possibilities or particular issues. One option is that the Northern Territory begins when it enters its next regulatory period, which is after 2019. I think 2019 or 2020 is the first year. That is one option.

It will depend on what exemptions or other provisions apply in the short term. I am not sure whether, Adam or Bruno, you know any more about that? It is something the NT government is able to control in that sense.

**Mr PETERSON:** In the work we have been doing in conjunction with the Northern Territory government, the question about network tariffs and the new national legislative rules around that has not been discussed in that particular detail. As Chris mentioned, there are a number of ways of approaching it.

The current approach, more generally, has the national electricity rules, in part, commence in 1 July 2016 to allow the AER to commence its work in the lead-up to the next determination process in 2019. But the full extent of the national electricity law and rules will not commence until 1 July 2019 - the full lot of rules.

At this stage, the Northern Territory government is discussing issues around what those exemptions should be and what this legislation will look like. At this stage it appears it will be 2019 when the full extent of the national energy rules are applied to Northern Territory.

**Mr WOOD:** Chris, I am learning this game. You said your role is one of price determination in regard to networks, so do you have a set of standard criteria which you base pricing on and is there a public document which shows how you do that?

**Mr PATTAS:** If we are talking about network tariffs there are two stages. The first stage is us determining efficient revenues or efficient costs, and the second stage is about recovery of those costs through efficient tariffs. If we are talking about the second part, which is how network tariffs are determined, there are a number of these high level principles which are as I explained before and they relate to tariffs being cost-reflective. Those principles are in the rules and it is up to the network businesses to put forward those tariffs to the regulator for approval on the basis they meet those principles.

The regulator does not set the charge or determine or develop the charge in that sense. That is determined by the business, which will then put an argument about why it satisfies the principles. If the regulator is satisfied it satisfies the principles it will allow that tariff to be approved.

**Mr WOOD:** Does the business have an ability to appeal if it does not agree with your decision or your view?

**Mr PATTAS:** Yes, they have. In this case, as they do for any other decision made by the AER, they can appeal the regulator's decision in the Australian Competition Tribunal on the merits. They can also appeal the decision itself through the federal court.

**Mr WOOD:** Once that tariff has been set do you keep an eye out to make sure there are no changes that might slip under the radar?

**Mr PATTAS:** Yes, one of our key roles - I should make this point clear - is essentially a compliance role. I spoke about the pricing principles being cost-reflective, but the other role is more of a compliance role because this is all about recovery of the efficient costs or the efficient revenues we have already set in stage one. One of our key roles, when we look at network prices on an annual basis, is to determine and ensure that the tariffs in total mean the business is earning no more than what has already been determined or allowed in the revenue or price determination. It is a compliance check that the total revenue is no higher than the total revenue the regulator has already set.

**Mr WOOD:** As a regulator, do you have the power to set in if you think someone has gone beyond what they are allowed to do?

**Mr PATTAS:** Yes, if we find the tariffs as a whole, or a particular tariff, are leading to a higher return or higher recovery than is allowed we can adjust that tariff accordingly.

**Mr WOOD:** Is that something you can enforce by the powers you have been given?

**Mr PATTAS:** We do that. In the annual tariff process we will say to a business, 'You haven't got this right, change it'. If they do not change it we can change it for them.

**Mr WOOD:** You have power to do that?

**Mr PATTAS:** Yes, that is right.

**Mr WOOD:** Thank you.

**Mr BARRETT:** Has step one been undertaken yet in regard to the total revenue limit the network determination says you are not allowed to charge more than?

**Mr PATTAS:** Yes, typically we have - first of all you have the revenue determination process first and the tariff process second. All the businesses in the NEM, National Electricity Market - all states and territories except at the moment NT and WA - we have made revenue determinations with all businesses which are ongoing so we review their tariffs accordingly.

At the moment we are going through a reset process or a price determination process for New South Wales businesses which will be finished by early next year. We look at their tariffs after that, and these determination processes mean we set the revenues for a five-year period. In that five-year period we review the tariffs on an annual basis. We do that with all businesses in the market.

**Mr BARRETT:** Have you set the revenue total for the Northern Territory?

**Mr PATTAS:** No, we have not because we do not have any responsibility for the Northern Territory Power and Water business. That is still the responsibility of the local regulator up there until next year. We have not set the current prices or current revenues, if you like, of that business. That was set by the Utilities Commission and the first set of tariffs under that determination have already been set by the commission, or have been determined by the business and approved by the commission. Those are the tariffs that are currently in force in the Territory.

**Mr BARRETT:** Have you done any modelling around what you would do yet?

**Mr PATTAS:** The next process for Power and Water, as Adam said, begins in 2019. We will be gearing up for that process from about 2016 onwards. We will be applying our national framework to the extent we can that is practicable to Power and Water. We will be issuing new information requirements to get information on their costs and their other operating measures so we have a bit of a history, if you like, of Power and Water's business before we set revenues and before they put the proposal to us. Following that, we would, of course, be looking at their tariffs as well.

In the meantime, when we take over the current Utilities Commission role from 1 July 2015, we will be, essentially, sitting in the shoes of the commission for at least a few years in administering the current determination. In sitting in the shoes of the Utilities Commission, that means we would also have to oversight the network tariffs that the Power and Water puts to the regulator, in the same way the Utilities Commission is doing at the moment.

**Mr BARRETT:** Understood.

**Mr CHAIR:** So that would be through until 2017 or 2019?

**Mr PATTAS:** Effectively 2019, the current period where they are subject to the current determination.

**Mr CHAIR:** In doing all the pricing structure and efficiencies, one of the problems in the Territory is the absence of advanced metering technology. What are the views of the commission on how fast they should be rolled out up here, or does it not have a view?

**Mr PATTAS:** Yes, one of the preconditions of more cost-reflective pricing, particularly the kind of pricing which the AeMC is talking about in its decision - which is that you need to make sure that customers are paying for or are meeting the costs they are incurring. They are incurring different costs at different times of the day and perhaps at different parts of the network.

In order to have those pricing structures, you do need to have more sophisticated metering technology so you can determine the usage of the network by the customer at different times, in different areas and different times of the year, days of week and hours of the day. You need more sophisticated metering. Currently, the only jurisdiction that has done a full roll-out of smart meters, as they call them, is Victoria. Other jurisdictions, if they wish to go down this more cost-reflective approach to pricing we are talking about here will need to allow these newer metering types to be installed.

One of the other things that then means is you need to work out what is the best model for smart meter roll-outs. Victoria had it with a particular model; they mandated it to distributors. The model we are looking at in the rest of the NEM, the national market, is essentially a market-driven roll-out of smart meters. Therefore, that activity is no longer seen as a monopoly service by the network business, but rather is seen as a competitive service that can be provided by retailers, or perhaps even other third-party providers, similar to the way metering is currently provided to larger businesses.

**Mr CHAIR:** We had a presentation this morning from NTCOSS and we were talking about Victoria. Did Victoria when it put - I presume from what you are saying it was mandated to go to smart meters with some of the low-income earners there was a cooling off period. If people wanted to go to the new metering and new charging structure they could, but if they found it was not for them and wanted to go back to the flat rate charge they could after a certain period. Is that a true reflection of what is happening in Victoria and something you would be recommending for the rest of Australia?

**Mr PATTAS:** Yes. I will go through a couple of those issues; it is fairly complex. What is happening in Victoria - I will not go through the history because it will take too long - Victoria chose to go down this mandated path and distributors had that responsibility. As I said, that is not necessarily the best model. A market-driven model is probably a better model, but once you go down whatever path you still need to have a policy around the pricing approach. In other words, do you have an opt-in type system where customers choose to go to a flexible tariff otherwise they have the option to remain on their current flat tariffs, or do you have an opt-out option where you will go to a cost-reflective unless you chose to opt out? There are issues around opt-in and opt-out, which each jurisdiction will have to come to a view on.

In Victoria we have a kind of opt-in system at the moment, and this was after a moratorium which you alluded to. Yes, it is an opt-in system and the customer, even when they opt-in, can decide to return to their old tariff - there is a cooling off period of sorts where even after 12 months they can still return to their old tariff. That approach has led to a very small uptake in Victoria of what they call flexible tariffs, or time-of-use tariffs, which is what they really are - off-peak type tariffs. There is a small take up of that kind of system.

Others would say if you wish to have a larger number of customers taking up these tariffs or having these tariffs you need more of a market-driven approach where the retailer has a real incentive to provide a compelling price offering. Secondly, they should be more in the nature of an opt-out approach so when you take a meter under a market-driven approach you automatically go to the time of use tariff or to the flexible tariff and that is part of the package of services offered to you.

**Mr WOOD:** Chris, a few years ago there was a lot of concern about companies gold plating their networks. Do you have a role to make sure that does not occur and upgrades to network are essential rather than someone undertaking upgrades that are not really necessary?

**Mr PATTAS:** Yes. One of the AER's core functions it to make sure when we set the efficient revenues they are the efficient revenues, they are what is required to provide electricity services in a prudent efficient way and to meet safety and other requirements and nothing more than that. The decision we made yesterday in relation to New South Wales - the draft determinations - were very much geared towards making sure that businesses only

recover costs that were efficient and prudent and nothing more, and that investment was no more than what was necessary to meet the obligations they have.

We saw a period in the last five years where, because of assumptions and expectations around demand and network reliability that were not met, not required or did not turn out to be the case, expenditure was much higher than necessary. I think some people characterised that as gold plating. I would not use that word myself, but it has been characterised as that. It was based on significant demand growth, significant customer growth, population growth and very high input costs, including finance costs, in the aftermath of the GFC. For all those reasons expenditure was a lot higher than it had been in previous years. We are now seeing that that has completely changed. Demand growth has gone right back. Even peak demand is not increasing the way it was. Financing costs have fallen and network reliability standards have been reduced.

All of those factors mean that expenditures can be a lot lower in the next five years than they were in the previous five years. You can see that in the decisions we made yesterday where we reduced total revenues by between 25% and 30%, which led to very significant price reductions.

**Mr WOOD:** Do you keep an eye on and make sure that those savings are passed on to the consumer?

**Mr PATTAS:** As far as our role. For instance, now we have made some draft determinations, when we finalise those determinations, whatever price cuts come out of that process will need to be reflected in the network tariffs in 2015 for New South Wales, Tasmanian and ACT customers. Those network prices will fall and then we expect that, as they get passed through to retail prices, that means those prices will also be correspondingly lower as well.

**Mr WOOD:** Could that be counterbalanced by possible increases in things like gas prices, which seem to be going up quite substantially?

**Mr PATTAS:** Yes. Obviously, the retail tariff - if you are talking about electricity, it also has the wholesale price, which is the electricity price, if you like. There are retail components there. All those things being equal, that retail price will fall because of the fall in the network price.

In relation to gas, yes, it is quite true that whilst the transport cost, which is the cost we regulate in gas, may go down or may not increase, the gas price may still go up because the price of gas itself – the gas fuel - going up. We cannot control all the factors in retail prices, but at least for those factors we can, we have an influence on, we can say that those things are heading in the other direction.

**Mr WOOD:** What role do you play in the transport of gas?

**Mr PATTAS:** The transport of gas is, basically, the pipeline costs or the gas networks costs. We regulate a number of gas pipelines or gas networks in Australia, including the Amadeus Basin in the Northern Territory. We have that role in the Northern Territory already. That is a transmission pipeline. We also regulate a number of distribution networks in most states. We also still regulate at least two or three transmission pipelines or networks. Most of the pipelines in Australia are not regulated.

**Mr WOOD:** Do you regulate that pipeline similar to the way you regulate the network for electricity?

**Mr PATTAS:** It is a similar concept of setting the efficient costs that the business can recover. It is very similar to that. The gas regime is a little different to electricity. In the kind of revenues, the way we look at the efficient revenues or the efficient costs of the network, it is very similar to what we do in electricity.

**Mr CHAIR:** Thank you all for your time today. Before we let you go, are there any other issues associated with electricity pricing that you think we need to be aware of?

**Mr PATTAS:** Under the new approach that AEMC announced yesterday, one of the things that will occur - I alluded to this earlier – is each network business, as part of its resets or its price determination process, will put to the regulator what we call a tariff structure statement. That will be assessed. That will set out its approach to tariffs, its structure of tariffs going forward. The business is required to consult with its customers in putting that statement together, and we will be assessing how that process occurs. That will be a part of our new pricing role going forward.

**Mr CHAIR:** Thank you. Thanks to the three of you. I am sure we will talk again in the future. Thanks for making the time available today.

**Mr PATTAS:** Thank you.

**Mr PETERSEN:** Thank you very much.