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Mr Glenn Appleyard
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Dear Mr Appleyard

The Tasmanian Council of Social Service (TasCOSS) welcomes the opportunity to comment on the Aurora Pay As You Go Review Draft Report (the Report).

We have significant concerns with the content and conclusions of this Report and hope that our comments will inform your decision on whether to declare APAYG a regulated service.

Please find our comments below relating to each of the Terms of Reference (TOR).

1. Whether Aurora Energy has substantial market power in respect of the APAYG product;

Aurora Energy has complete market power in respect of the APAYG product. The Tasmanian residential electricity sector is uncontested and Aurora is the only supplier. The company has no competitors and may increase prices without regulatory penalty.

The Report states that, "APAYG prices still remain cost reflective, ie. the prices reflect the underlying efficient costs and are not the result of Aurora extracting monopoly profits from this customer group. That is, the existence of the regulated standard residential tariffs does provide a constraint on Aurora such that Aurora is unable to increase APAYG charges above their cost reflective levels." (p. 48)

TasCOSS suggests that this statement is unfounded. The fact that the Regulator considers that Aurora is not extracting monopoly profits (although TasCOSS contests this argument under TOR 2 below) presently, does not alter the fact that it has substantial market power and could (and we believe does) exercise this power.

The number of customers choosing to continue with the APAYG service despite disparate price rises between it and standard tariffs is reflective of APAYG customers' relatively higher elasticity to price rises (a point expanded further below), a fact that Aurora would certainly have noted. Aurora would also have noted the Government's willingness to step in and increase concessions for low income Aurora customers, providing added incentive to increase prices with even less risk of losing their APAYG market.

Although the Report suggests that the APAYG product is in competition with standard tariffs, this is like saying that if MacDonalds were the only food supplier, a fixed price for a 'Big Mac' would provide appropriate competition for and constrict price rises of a 'Fillet of Fish'. The choice between two alternatives does not reduce the fact that one company is supplying both services and can manipulate these products and therefore customers to its own ends.

Because of Aurora's market power, which TasCOSS considers to be very clear, the public interest would be served by giving APAYG customers the same regulatory protections as standard tariff customers and regulating APAYG pricing.

2. Whether the promotion of competition, efficiency or the public interest requires the making of a declaration under regulation 19(2) of the Electricity Supply Industry (Price Control) Regulations 2003, in respect of the APAYG service;

TasCOSS considers that the promotion of the public interest requires the making of a declaration under regulation 19(2) of the Electricity Supply Industry (Price Control) Regulations 2003 in respect of the APAYG service. As shown on page 7 of the Report, APAYG customers make up more than 20% of residential electricity customers. Furthermore, a higher proportion of APAYG customers are concession customers compared to customers on standard tariffs. As the Report states, this could "well suggest a preference for the budgetary control that APAYG offers" for those living on a low income. APAYG is clearly a valued alternative to standard tariffs for residential customers, particularly those living on low incomes.

The costs of living, and in particular essential services, are rising much faster than government payments and benefits, to the extent that Tasmanians living on low incomes are experiencing fuel poverty and many cannot afford to adequately heat their homes. While the APAYG service does not resolve this issue, it offers customers living on a low income the best opportunity to manage their electricity usage, budget on a daily basis and avoid unmanageable debt.

APAYG is a unique service and not substitutable

TasCOSS considers the argument in the Report that APAYG is substitutable with PrePay and EasyPay options under standard tariffs and that therefore APAYG does not need to be regulated, to be unfounded.

Upfront payment methods under standard tariffs do not give consumers feedback on their electricity use and spending on a day-to-day basis, which is a capacity that many living on a low income find necessary to budget. EasyPay and PrePay options under standard tariffs only allow quarterly review of usage and costs. There are also considerable barriers to using the EasyPay service, as consumers must be existing customers with at least 12 months of consumption history at that location to be eligible.

Furthermore, in an environment of frequent price rises, the capacity of customers to budget appropriately using PrePay and EasyPay options are further reduced. Customers may be roughly aware of standard tariff pricing, but given the complexity of the tariff pricing system, customers will find it very difficult to assess how price rises are going to impact on their bill. This problem is further exacerbated by the low level of adult literacy in Tasmania, with only around 45% of adults having adequate numeracy skills needed for everyday life.¹ For a Tasmanian living on a low income, a substantial price increase has a very real potential of propelling that person into unmanageable debt. Once a quarter is far too infrequent for many customers to review their usage and costs. TasCOSS reiterates that APAYG is a unique service whose customers need and deserve the protections that price regulation offers.

Although APAYG is a product of genuine choice from standard tariffs and should remain as such, it does not remove the imperative to regulate the service. APAYG may be a choice, but for many it is a choice with no real practical alternative. The non-substitutability of APAYG is further addressed under TOR 6 below.

The Government's willingness to increase concessions for eligible APAYG customers is also evidence that the Government recognises the importance of APAYG to low income customers and its non-substitutability with EasyPay and PrePay options. TasCOSS is of the opinion, however, that an increased concession for eligible APAYG customers does not resolve the underlying need to regulate APAYG prices, and does nothing for those APAYG customers who do not receive a concession, and find it difficult to budget for electricity costs.

¹ Australian Bureau of Statistics, *Adult Literacy and Life Skills Survey 2006*.

Market share reflects APAYG's uniqueness

The uniqueness of the APAYG product is further reflected by its market share and the unwillingness of many of its customers to change to standard tariffs – despite obvious disadvantages in overall costs.

If, as the Report states, the Regulator considered that it might be time to formalise regulation of APAYG in 2004 due to the growth of the service, when only 13% of customers used APAYG, surely there is greater imperative now, that more than 20% of all residential customers prefer to use APAYG? Furthermore, this percentage would likely be higher if it were not for Aurora's difficulty in sourcing code compliant meters, which has meant that no new customers have been connected to the service since early 2008 (although we understand that this issue may have been resolved).

The Regulator cites the number of requests from customers to revert to standard tariffs from APAYG following the recent price rises as evidence that customers can and do exercise their right to revert to the safety net, and that therefore APAYG is a product of choice. TasCOSS urges the Regulator to consider, however, the very large number of customers who did **not** ask to be reverted to standard tariffs, despite widespread publicity of the disparity between the 2009 price rises, and the obvious savings available to most customers on standard tariffs. TasCOSS considers this as evidence that many APAYG customers depend on the service and are unable to budget appropriately with quarterly billing.

This is not evidence that cost does not matter to APAYG customers on a low income, it is evidence that customers on a low income need to keep a very tight reign on their spending. Customers who rely on APAYG need and deserve the same price protections as standard tariff customers.

Monitoring does not constitute adequate regulation

The Report argues that although the APAYG product is not regulated, it has been monitored and reported on by the Regulator, ensuring that customer protections are comparable to standard tariffs and that customers have been able to revert to standard tariffs.

TasCOSS asserts, however, that a monitoring and reporting regime is not comparable to price regulation. Without a formal price investigation and a regulatory mechanism to allow auditing, the Regulator cannot possibly make a final judgement as to the appropriateness of price structures or price rises. The performance monitoring regime under chapter 9A of the Tasmanian Electricity Code has delivered improvements in customer protections, but it does not address price regulation, and TasCOSS feels it is therefore inadequate.

We do not support the Report's argument on page 46 that Aurora has significant incentive to avoid increasing prices above efficient costs because of customer ability to revert to standard tariffs and Aurora's significant investment in the system, thus reducing the need for price regulation. We are of the opinion that Aurora is aware of the fact that many APAYG customers rely on the service to enable budget management, and will bear increased costs because of their reduced ability to budget for quarterly bills.

This Report was precipitated by public concern over the 2009 APAYG price rises, and subsequent increases in concessions for eligible APAYG customers. TasCOSS is of the opinion, however, that regardless of whether the Regulator feels these price rises may have been justified, APAYG customers deserve the same protections as standard tariff customers and that APAYG prices and ToU tariff structure needs to be regulated.

Monopoly abuse is occurring

TasCOSS does not contest that the supply of electricity is becoming more expensive, and that social policy objectives should be met through separately funded community service mechanisms. TasCOSS also acknowledges that prices should be cost reflective and that the removal of cross subsidies is a key objective of the National Competition Policy. This does not reduce the argument, however, for appropriate price regulation to prevent abuse of market power and we believe this abuse may be occurring, particularly in the manner in which costs are passed on to customers.

For example, in the recent APAYG price rises, prices were raised variably in different time blocks. A comparison of the APAYG rates and charges of 1 July 2008 and 8 July 2009 reveals that the largest increases in prices occurred during winter, in the evening and overnight ToU brackets. Thus, most of the large price rises occurred at the very time when customers use the most power and find it difficult to shift consumption patterns. Standard and OffPeak APAYG customers, for example, faced a 35% increase in prices for the period between 4pm and 10.30pm.

The justification offered for the higher increases to APAYG retail prices than standard tariffs has been an increase in costs mainly in retail and network costs. Network costs have risen because prices need to reflect the cost of energy, which varies during the day due to demand profiles. These network cost changes and increases are reflected in the new general residential ToU network tariff charged by Aurora distribution (the old APAYG standard network tariff now being obsolete), which has increased by 13%. These increases in network costs roughly reflect what the Regulator considers to have been average APAYG retail price rises of around 12%. TasCOSS, however, strongly contests that the APAYG retail price rises have in fact been an average of 12%.

Aurora Retail has said that the new network ToU tariff blocks do not line up with APAYG retail ToU blocks, so previously very low APAYG retail tariffs in shoulder and off-peak time periods are no longer sustainable. This explains the APAYG retail price

rises over many time periods, but we have doubts as to the necessity of a 46% price rise for off-peak customers in the off-peak time period of 10.30pm to 6am. Nor does it address why some of the largest retail APAYG price rises occurred during the peak 4pm to 10.30pm time block, or why, now that Aurora Distribution uses the same general residential ToU network tariff, these very large price increases have not been passed on to both standard and APAYG customers.

Although the Regulator has calculated that the APAYG retail price increases averaged around 12% in 2009, we believe that because of the very large increases in APAYG prices in winter evening peak periods, the impact on most residential customers' bills has been much higher than suggested. In essence we contest the Regulator's profiles for 'typical customers'. We find it hard to believe that average standard or HydroHeat low or medium consumption residential customers in Tasmania use the same amount of electricity in summer as in winter

During winter in Tasmania customers need to heat their homes, turn on more lights, use clothes dryers and use greater amounts of hot water than in summer. Also, unlike most of the rest of Australia, Tasmanian residential customers do not tend to use air-conditioning.

Furthermore, the daily consumption profile of demand on the network clearly shows that the evening period is one of the two highest peaks throughout the day. Customers may be able to do laundry at different times, but evening periods are when people need to heat their homes, prepare food and use hot water. TasCOSS has profound doubts that the average price rises the Regulator has reported for 'typical customers' is truly reflective, particularly in light of mounting anecdotal evidence from our member organisations about much larger increases in low income customers' APAYG electricity costs than the reported 12% average.

Aurora would also be well aware of the assumptions that the Regulator uses when calculating consumer profiles and the impact this has on the apparently 'average' price rise for the APAYG service.

Even if the profile of 'typical customers' were correct, an 'average' price rise of 12% is not sufficient reason to argue that regulation is not worthwhile, as there may be many 'atypical' customers experiencing the effects of monopoly abuse. All customers deserve a tariff structure that is appropriately designed and not unfairly taking advantage of those who cannot shift their consumption patterns. Unaffordable price increases during peak time brackets may force some living on low incomes to sacrifice their quality of life and health by failing to adequately heat their homes of an evening.

We are of the opinion that regulating APAYG prices could result in a more simplified and fairer pricing structure. We acknowledge that as of 2010 all APAYG customers will be on the same underlying ToU structure and that prices between standard tariffs and APAYG

will be more comparable, but we reiterate that the pricing in each block of those structures still needs to be regulated.

There is a need to alter the standing daily charge policies

TasCOSS is also of the opinion that the public interest would be served by altering the balance between the standing daily charge and the consumptive tariffs, to allow a greater weighting of the consumptive tariff to give customers greater capacity and incentive to save by altering usage patterns.

Aurora has conceded that it is a matter of judgement as to which costs are recovered through the standing charges, and the Report admits that the Regulator does not understand the initial assumptions underpinning the proportion of daily fixed charges for APAYG (p. 26). This adds considerable weight to our call to regulate APAYG tariffs. If customers are to react to price signals, they need the opportunity to be able to save money by altering consumptive behaviour. TasCOSS is of the opinion that in a monopoly market, the Regulator should determine which costs are to be recovered through standing daily charges and which through consumption tariffs.

In addition, the policy that determines that APAYG customers who self disconnect are still charged the 'standing daily charge' is in our opinion unfair and inequitable. APAYG customers living on a low income sometimes use the self disconnect option as a way to manage their budget. While TasCOSS feels that this is an unacceptable long term solution for people living on a low income, we accept that it may be the best option available to some people. We strongly believe that continuing to charge customers who are not receiving electricity into their homes a standing daily charge should be discontinued, and that the Code or Regulations should be altered to reflect this, regardless of whether APAYG prices are regulated or not.

Efficiency may be improved by APAYG price regulation

As the Report states, Aurora intends to introduce a new residential Time of Use (ToU) tariff common to all new customers, and over time phase out current anytime network tariffs. As this new network tariff will be regulated for standard tariff customers (and indirectly APAYG customers as well), this would also lower the cost of regulating APAYG tariffs as a whole – reducing the Report's contention that the costs of regulating APAYG will outweigh the benefits.

As we are of the opinion that market power exists for the APAYG product, and that it is being exercised, TasCOSS contends that regulation of APAYG pricing would improve efficiency in the market. It would help to ensure customers spend appropriate amounts on energy, leaving as much disposable income as possible to be spent elsewhere, possibly improving the quality of life and health outcomes of people living on a low income.

Price regulation of APAYG should not result in substantially greater regulatory costs and reduce the efficiency of the market. Considering the price investigation and monitoring that already occurs, regulation of APAYG should mostly result in a reshuffle of existing resources, removing the need for price comparison reports and separate monitoring and reporting of APAYG, and adding it to the scope of the standard tariff price investigations that already occur.

TasCOSS is not arguing for cross subsidies or the misallocation of resources that would distort the market and reduce efficiency, but merely an appropriate regulatory framework for customers of a unique service who are presently not receiving the protection they deserve.

Competition will not be harmed by APAYG price regulation

TasCOSS understands the benefits of promoting innovation and competition and ensuring the safety net is not too wide and regulation not too constricting to stifle them, but as we have explained, for some customers APAYG is the 'safety net'. Nor would regulating APAYG necessarily stifle the growth of the service, or the innovation of other products. In fact, TasCOSS suspects that APAYG would become more popular if customers knew the price they were paying was fair and transparent. Under price regulation, Aurora should still achieve appropriate profits. Therefore the innovation of the APAYG product remains a good investment, and the regulation of APAYG will not discourage Aurora from the development of further customer service innovations.

TasCOSS also wonders how competition could be harmed when there is no residential retail competition in Tasmania. TasCOSS draws the Regulator's attention to his conclusions in the *Draft Public Benefit Assessment into Full Retail Competition 2008*, that stated introducing competition into the residential retail sector in 2010 would not be advisable as it would likely lead to increases in prices for customers and worsened consumer outcomes. The Regulator is also fully aware that price regulation of APAYG would not necessarily need to be maintained if Tasmanian residential customers became fully contestable. Regulation should be instituted and maintained while Aurora is the monopoly supplier. If and when the decision to allow competition was made, the issue could be reviewed.

Regulation would not remove a customer's choice

TasCOSS fails to see how the regulation of APAYG tariffs would mean the service is no longer a true product of choice, an argument presented on page 49 of the Report. We cannot envisage a situation where a customer's choice would be removed and they would be forced to take up APAYG rather than standard tariff billing, unless Aurora was allowed to adopt such a policy. Regulation of both standard and APAYG tariffs would merely mean that when making a choice, the customer has peace of mind that the prices

for both products, offered by the same monopoly supplier, have been appropriately examined and determined.

3. Increases in input costs incurred by Aurora Energy in providing APAYG that have contributed to the price increases for APAYG from 8 July 2009;

TasCOSS has no comment to make on the increases to input costs. As we are of the opinion that many customers are unaware of EasyPay and PrePay services, however, we feel that if Aurora is willing to expend funds to advertise the APAYG service to win more customers, this advertising should include information on prepayment options under standard tariffs.

4. Why APAYG prices are higher, on average, than prices for tariff customers;

We recognise that the cost of providing the APAYG service is greater than the standard tariff at present. TasCOSS has addressed our opinion on the fairness of recent price rises, however, under TOR 2 above.

5. The adequacy of customer protection arrangements for tariff customers as specified in the Electricity Supply Industry (Tariff Customers) Regulations 2008 and the Tasmanian Electricity Code with respect to:

a) payment methods that must be offered to tariff customers, particularly prepayment options available to disadvantaged customers;

TasCOSS objects to the fact that consumers must be existing customers with at least 12 months consumption history at the particular address, with no outstanding balance, before they can qualify for the EasyPay service. These are clear impediments to customers on a low income from taking up the service. These conditions are unfair, remove customer choice and are discriminatory to the young, recently homeless or moved, and those on payment plans who are already experiencing budgeting problems. We believe the Code should be altered to ensure that any customer may take up EasyPay or PrePay options at any time.

b) the mandatory provision of information relating to payment methods, particularly prepayment methods, available to tariff customers; and

We agree that the mandatory information relating to payment methods is inadequate and that the Code should be altered to ensure that information on all payment options, including EasyPay and PrePay, should be included on each bill and told to all new customers upon connection and when discussing payment options or difficulties.

We are also of the opinion that the Code should require Aurora to provide to customers via its website and in the mail upon request, and advise customers of its existence upon

connection, a single document in plain English that allows customers to easily compare the prices, fees and charges associated with all products offered to residential customers, including APAYG. This document should also highlight the possibility of price rises due to unexpected rises in costs, and the manner in which these rises will be passed on and advertised.

c) any impediments to the take-up of these options and accessibility to consumers of information regarding these options;

As stated above, we believe the qualifying conditions for the EasyPay service to be unfair and too restrictive. We believe EasyPay and PrePay options should be available to any customer at any time and that this should be reflected in the Code.

TasCOSS also has concerns that customers may not be told about standard tariff prepayment options by Aurora customer service staff when speaking to them about payments options, and that this may be deliberate to increase the APAYG customer base. We believe there should be independent monitoring of Aurora customer service and communication to ensure the company is carrying out its obligations under the Code.

6. Whether customers are likely to have the necessary understanding of time of use pricing and their own consumption patterns in order to make informed decisions relating to the relative benefit of APAYG and tariff pricing;

The Report has acknowledged that due to tariff structures, it has been very difficult for customers to directly compare standard tariff and APAYG prices, which is one of the reasons the Regulator prepares an annual APAYG price comparison report.

As stated above, however, many Tasmanians have a very low level of adult literacy and even with the assessment provided by the Regulator, which is far from 'plain English', would have a limited grasp of pricing and their own consumption patterns to make informed decisions on the relative benefits of APAYG and tariff pricing. Therefore, we have suggested under 5 (b) above that it should be mandatory under the Code to provide simple comparative information, approved by the Regulator, on all prices and services to all customers.

7. The ability of customers to revert to the regulated tariff from APAYG, having regard to the provisions of Chapter 9A of the Tasmanian Electricity Code; and

Due to many customers' limited understanding of the impacts of price rises, we would like to see the fee for reverting to standard tariffs from APAYG removed completely. While we understand that customers may revert free for a certain period following a price rise, we feel it may take some time for customers to feel the impact of price rises, especially considering the recent disparity between summer price rises and winter prices

risers, which were publicised together. We feel that the fee may be prohibitive for some customers on a low income to revert to standard tariffs.

8. Whether the ability to revert to the standard tariff provides APAYG customers with protection from the adverse effects of the exercise of substantial market power in relation to prices and pricing policies commensurate to that provided to tariff customers through the Price Control Regulations.

Because TasCOSS considers APAYG to be a unique and unsubstitutable service, the ability to revert to standard tariffs does not provide APAYG customers with protection from the adverse affects of the exercise of substantial market power commensurate with those provided to tariff customers. We have addressed these issues under TOR 2 above.

9. Whether Chapter 9A of the Code has achieved its objective in respect of providing APAYG customers with protections commensurate with customer protections available to tariff customers through the Tariff Customers Regulations and Chapter 9 of the Code.

We have addressed our issues with customer protections for APAYG customers above.

We hope our comments have been helpful. Please contact Miranda Kellett on 6231 0755 if you require any further information or clarification.

Yours sincerely



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