



# Victoria Government Gazette

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**SPECIAL**

## Office of the Regulator-General Act 1994

### NOTICE OF SPECIAL REFERENCE UNDER PART 4A

#### On-going Review of Retail Electricity Tariffs

To: The Office of the Regulator-General  
1 Floor, 35 Spring Street  
Melbourne

#### WHEREAS:

- (1) pursuant to the provisions of Part 4A of the **Office of the Regulator-General Act 1994** (“the Act”) the Minister administering the **Electricity Industry Act 2000** may, by written notice, refer any matter relating to a regulated industry to the Office of the Regulator-General (“the Office”) for the Office to conduct an investigation into that matter;
- (2) by virtue of section 12 of the **Electricity Industry Act 2000** and section 3 of the Act, the electricity industry is a regulated industry for the purposes of Part 4A;
- (3) the Hon Candy Broad, Minister for Energy and Resources, and Ports (“the Minister”) is the Minister administering the **Electricity Industry Act 2000**;
- (4) each of Citipower Pty Ltd ACN 064 651 056, Origin Energy Electricity Ltd ACN 071 052 287, Pulse Energy Pty Ltd ACN 090 538 337, TXU Electricity Ltd ABN 91 064 651 118 and AGL Electricity Ltd ABN 82 064 651 083 is the holder of a licence to sell electricity issued pursuant to Part 2 of the **Electricity Industry Act 2000**;
- (5) by notice dated 31 May 2001 published in the Victoria Government Gazette on 1 June 2001 (Gazette S 79) as amended by notice dated 8 June 2001 published in the Victoria Government Gazette on that day (Gazette S 86) the Minister, pursuant to Part 4A of the Act, referred to the Office for it to investigate and report on the matter of options for the on-going “light-handed” review of tariffs for the sale of electricity to domestic and small business customers and deemed customers;
- (6) the Office, acting pursuant to the aforesaid special reference, delivered its Final Report “Options for the Review of Retail Electricity Tariffs” to the Minister on 30 September 2001;
- (7) the Minister, having regard to the Final Report of the Office, is desirous that the Office, as and when required by this notice, investigate and report to the Minister on whether retail competition is, or is likely to be, effective for, or in respect of, the sale of electricity to domestic and small business customers and/or deemed customers;
- (8) the Minister is further desirous that the Office, as and when required by this notice, investigate and report to the Minister on any proposal by a retailer for amendment of tariffs for the sale of electricity to domestic and small business customers and/or deemed customers;

NOW THEREFORE, the Minister HEREBY refers to the Office the following matters for the Office to investigate in accordance with the terms of reference specified below and subject to the directions given in this notice:

#### Definitions:

In this notice:

- (a) “deemed customer” means a person for whom there is deemed to be a contract in force pursuant to section 37 of the **Electricity Industry Act 2000**;
- (b) “domestic and small business customer” has the meaning given it by the Order in Council made under section 169A(5) of the **Electricity Industry Act 1993** dated 19 September 2000 and published in the Victoria Government Gazette on 21 September 2000 (Gazette G 38) as amended by the Order in Council dated 22 May 2001 and published in the Victoria Government Gazette on 24 May 2001 (Gazette G 21);
- (c) “Final Report” means the Office’s Final Report “Options for the Review of Retail Electricity Tariffs” dated September 2001; and

- (d) “retailer” means any of Citipower Pty Ltd ACN 064 651 056, Origin Energy Electricity Ltd ACN 071 052 287, Pulse Energy Pty Ltd ACN 090 538 337, TXU Electricity Ltd ABN 91 064 651 118 and AGL Electricity Ltd ABN 82 064 651 083 and includes for each its heirs, successors and assignees howsoever arising and whether direct or indirect.

**Terms of Reference:**

The following are the terms of reference for the investigations specified pursuant to section 34A of the Act:

- (a) The Office is, as and when required by this notice, to investigate and report to the Minister on:
- (i) whether retail competition is, or is likely to be, effective for, or in respect of, the sale of electricity to domestic and small business customers and/or deemed customers; and
  - (ii) any proposal by a retailer for amendment of tariffs for the sale of electricity to domestic and small business customers and/or deemed customers;
- (b) In its investigation and report into whether retail competition is, or is likely to be, effective for, or in respect of, the sale of electricity to domestic and small business customers and/or deemed customers:
- (i) the Office is to have regard to the factors that it identified as potentially relevant in section 4.4 of its Final Report as well as such other factors as the Office may from time to time consider relevant in the circumstances;
  - (ii) the Office is to review those factors on a periodic basis with the time between each review to be determined by the Office;
  - (iii) the investigation shall be in respect of the period commencing from the date of this notice and ending 30 September 2002; and
  - (iv) the investigation shall be commenced as soon as practicable after publication of this notice in the Victoria Government Gazette;
- (c) In its investigation and report into any proposal by a retailer for amendment of tariffs for the sale of electricity to domestic and small business customers and/or deemed customers:
- (i) subject to paragraph (vi), the Office shall commence its investigation as soon as:
    - A. a retailer gives notice (by means of publication in the Victoria Government Gazette or otherwise) of a proposal by that retailer for amendment of tariffs for the sale of electricity to domestic and small business customers and/or deemed customers; or
    - B. it receives from the Minister notice of a proposal by a retailer for amendment of tariffs for the sale of electricity to domestic and small business customers and/or deemed customers;
  - (ii) the investigation and report shall be in respect of that proposal;
  - (iii) the focus of the investigation and report is to be on the effect that the proposal for amendment of tariffs has on the average retail price to domestic and small business customers and/or deemed customers of the retailer for a defined period, rather than on individual tariffs or individual tariff components applying to those customers for that period.  
 For the purposes of this paragraph, “defined period” means a period defined by the Office that it, in its absolute discretion, considers of sufficient length so as to allow a proper or adequate calculation of the effect that the proposal has on the average retail price to domestic and small business customers and/or deemed customers of the retailer;
  - (iv) until such time as the Office has reported to the Minister by a report in final form, that there is, or is likely to be, effective competition for, or in respect of, the sale of electricity to domestic and small business customers and/or deemed customers, the investigation shall commence from benchmarks of the key cost components that are within the control of the retailers, in particular; energy costs, retail costs and profit margin;

- (v) the benchmarks to be used shall be those identified in section 5.1 of the Final Report being:
  - A. retailer specific energy cost component benchmarks based on Australian Financial Markets Association (AFMA) forward contract prices applied to each retailer's load profile;
  - B. retail cost component benchmarks based on Australia-wide retail cost data, with particular focus on the data available from the Victorian electricity retail market; and
  - C. retail profit margin benchmarks based on the retailer profit margins from other jurisdictions within and without Australia,as well as such other benchmarks as the Office may from time to time consider relevant in the circumstances;
- (vi) notwithstanding paragraphs (iv) and (v), the Office may develop benchmarks in accordance with paragraph (v) for a retailer in advance of notice of a proposal by that retailer for amendment of tariffs for the sale of electricity to domestic and small business customers and/or deemed customers; and
- (vii) after the Office has reported to the Minister by a report in final form, that there is, or is likely to be, effective competition for, or in respect of, the sale of electricity to domestic and small business customers and/or deemed customers, the investigation shall instead commence from a comparison between the cost components used in calculating the retailer's proposed tariffs and the cost components used in other retailers' proposed tariffs or actual tariffs (as applicable).

**Directions:**

The following directions are given pursuant to section 34A of the Act:

- (a) Where the investigation is into whether retail competition is, or is likely to be, effective for, or in respect of, the sale of electricity to domestic and small business customers and/or deemed customers:
  - (i) the Office shall conduct its investigation and shall submit its report in final form to the Minister no later than 30 September 2002;
  - (ii) a copy of the report of the Office in draft shall be made available to both the Minister and the retailers for comment no later than 31 August 2002;
  - (iii) the Office may from time to time, and shall when requested by the Minister, provide to the Minister and the retailers interim reports on its investigation; and
  - (iv) interim reports provided pursuant to the preceding paragraph shall report the outcomes of the periodic reviews of factors that the Office carries out in accordance with clause (b)(ii) of the Terms of Reference set out in this notice as well as such other matters as the Office considers relevant in the circumstances;
- (b) Where the investigation is into a proposal by a retailer for amendment of tariffs for the sale of electricity to domestic and small business customers and/or deemed customers:
  - (i) The Office shall advise the Minister in writing, whenever it receives notice of a proposal by a retailer for amendment of tariffs for the sale of electricity to domestic and small business customers and/or deemed customers:
    - A. of the fact that it has received that notice;
    - B. of the nature and/or contents of the notice; and
    - C. of the details of the proposal.Provided that the Office need not provide that advice if the Minister has previously given the Office notice of that same proposal;
  - (ii) the Office shall conduct its investigation and shall submit its report in final form to the Minister no later than 25 days before the day on which the amendment of tariffs is proposed to take effect;

- (iii) a copy of the report of the Office in draft shall be made available to both the Minister and the retailer concerned for comment no later than 32 days before the day on which the amendment of tariffs is proposed to take effect; and
  - (iv) the Office shall provide to the Minister a summary report comparing the average retail prices that would result from the proposed amendment of tariffs to initial benchmarks established in accordance with this reference, no later than 10 days from the day on which it commenced its investigation;
- (c) In conducting its investigations and preparing its reports, the Office shall have specific regard to:
- (i) the provisions of section 13 of the **Electricity Industry Act 2000**, in particular that pursuant to section 13, Orders in Council may be made to regulate retail tariffs for domestic and small business customers and deemed customers;
  - (ii) any projected or actual stages in introduction of effective full retail competition for both domestic and small business customers and deemed customers;
  - (iii) to the extent they are relevant, the overarching principles set out in clause (b) of the Terms of Reference set out in the notice dated 31 May 2001 published in the Victoria Government Gazette on 1 June 2001 (Gazette S 79) as amended by notice dated 8 June 2001 published in the Victoria Government Gazette on that day (Gazette S 86) whereby the Minister, pursuant to Part 4A of the Act, referred to the Office for it to investigate and report on the matter of options for the on-going “light-handed” review of tariffs for the sale of electricity to domestic and small business customers and deemed customers;
  - (iv) the contents of the Final Report and any other report that the Office has completed under Part 4A of the Act in respect of the tariffs payable by domestic and small business customers and/or deemed customers; and
  - (v) the facts and information identified as relevant in section 4.7 of the Final Report as well as any other facts and information the Office, in its absolute discretion, thinks relevant;
- (d) In conducting its investigations and preparing its reports, the Office is not required to hold public hearings, public seminars or workshops but may advertise for, receive and consider such written submissions as it thinks appropriate. For the avoidance of doubt, this direction does not limit (and is not to be taken as limiting) the Office in the exercise of its powers under section 34D of the Act at any time during or for the purposes of the investigation; and
- (e) In performing its functions and exercising its powers in relation to its investigations and reports the Office is to have regard to the following objectives:
- (i) that there be prevention of actual or potential misuse of monopoly or market power especially in respect of domestic and small business customers and/or deemed customers;
  - (ii) the requirement to facilitate the maintenance of a financially viable electricity supply industry and in particular that no retailer should be put in a position whereby it is “trapped” (without being able to have recourse to suitable and cost-effective hedging or contracting measures) between variable wholesale electricity prices and invariable retail tariffs; and
  - (iii) that an investigation should be conducted and completed as expeditiously and efficiently as possible.

Dated 12 October 2001

HON CANDY BROAD  
Minister for Energy and Resources, and Ports  
Minister administering the **Electricity Industry Act 2000**

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**Subordinate Legislation Act 1994**

NOTICE OF PREPARATION OF  
REGULATORY IMPACT STATEMENT

Victorian Qualifications Authority (Interim  
Fees) Regulations 2001

Notice is given, in accordance with section 11 of the **Subordinate Legislation Act 1994** that a Regulatory Impact Statement (RIS) has been prepared in relation to the proposed Victorian Qualifications Authority (Interim Fees) Regulations 2001.

The reason for the proposed regulations is to prescribe fees for services provided by the Victorian Qualifications Authority (VQA) for the vocational education and training sector.

In summary, these services relate to the –

- accreditation of vocational education and training courses,
- registration of organisations to deliver accredited vocational education and training courses and to issue recognised vocational education and training qualifications, and
- approval of providers of courses to overseas students.

The VQA was established by the **Victorian Qualifications Authority Act 2000** and brought together the education and training recognition functions of the Board of Studies, the Adult, Community and Further Education Board and the State Training Board. The Act includes transitional provisions for continuity of administration including the fees charged for various services under the **Vocational Education and Training Act 1990**. The transitional provisions expire on 1 December 2001. As the current fee structure will cease to have effect on this date, new regulations need to be prepared so fees can continue to be charged.

The RIS concludes that, when considered against the fees criterion of the Department of Treasury and Finance Guidelines, the services provided are consistent with those for which fees should be set to recover costs. The fact that the proposed fees are the same as the existing fee levels means that there will not be any impact on training providers from the continuation of the fees in the interim Regulations.

Levying fees is a restriction on competition however the assessment finds that there are substantial public benefit arguments that outweigh the relatively small costs of the restriction.

Copies of the RIS and the proposed regulations may be obtained from the Victorian Qualifications Authority, Level 1, 41A, St Andrews Place, East Melbourne between 8.30am and 5.30pm on working days or on the internet at <http://www.vqa.gov.au>

Copies may also be requested by telephone 9637 3403.

Public comments are invited on the RIS and the proposed regulations. All comments must be in writing and sent to the Director, Victorian Qualifications Authority, Level 1, 41A St Andrews Place East Melbourne, fax: 9637 2422 or email: [vqa@edumail.vic.gov.au](mailto:vqa@edumail.vic.gov.au) by no later than 9am on 12 November 2001.

Dated 10 October 2001

LYNNE KOSKY MP  
Minister for Post Compulsory Education,  
Training and Employment

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