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9 December 2015

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The Hon. Mike Baird, MP
Premier
GPO Box 5341
SYDNEY NSW 2001

Contact John Smith
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Dear Premier

IPART REVIEW OF EARLY TERMINATION FEES

In July 2013 IPART was requested under section 12A of the IPART Act to specify a cap to apply to early termination fees (ETFs) in fixed term retail electricity contracts in NSW. The terms of reference required that IPART release its final report by 15 December 2013 and review its findings every two years. In our December 2013 final report we set caps of:

- ▼ \$130 within 12 months of the date of first supply, and
- ▼ \$45 thereafter (until the end of the fixed term contract or fixed benefit period of a market retail contract).

These amounts exclude GST.

Over the past few months we have held discussions with representatives from the Department of Industry regarding the on-going review of ETFs. In our first annual report to Government on competition in the retail electricity market in NSW we noted that competitive pressure had led the 'big three' retailers to remove ETFs from most of their market offers. Both AGL and Origin Energy have removed ETFs from their market offers, whereas EnergyAustralia still retains ETFs on some of their fixed rate products.

We found that around 80% of market contracts for electricity either do not include an ETF or have ETFs well below the caps that IPART set in the 2013 review. For those offers that include an ETF, many are a flat rate between \$20 to \$30. The offers with higher ETFs tend to offer a greater percentage price discount or other upfront incentive, relative to those offers without ETFs. We found that competition is providing a better form of protection for customers relative to regulated ETF caps.

In our view a further review of ETFs is not necessary at this time as competition is protecting customers. We recommend that the period to review the existing caps be extended to 20 December 2017, or by a subsequent date advised by the Premier.

For any further information on this letter, the contact officer in IPART is John Smith on (02) 9113 7742.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Peter J. Boxall'.

Peter J. Boxall AO
Chairman