CLIMATE ENERGY FINANCE

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REPORT OF FELS INQUIRY FINDS WIDESPREAD PRICE GOUGING & UNFAIR PRICING IN ELECTRICITY MARKET

Tim Buckley, director of independent think tank Climate Energy Finance, said:

"Australians have been smashed by a cost of living crisis over the last 3 years, and undue market power and concentration in many sectors is a leading cause, as concluded by the inquiry into price gouging chaired by Professor Allan Fels AO.

"The Australian energy sector is one clear example of this, with automotive fuel prices up 45%, gas 36% and electricity 22%, a rise of double to quadruple the underlying inflation rate of 13% (March 2021 to Sept 2023).

"There is price gouging in the electricity market and widespread gaming of the system by gentailers, as there has been in transmission, meaning consumers are paying too much and exacerbating the cost of living crisis.

"Meanwhile Australian cartels – including the gas cartel – continue to be both very profitable and prevalent.

"Corporate gross operating profits rose 45% in the last three years in Australia, and for 2022 as a whole, corporate profits equalled 28.7% of GDP – the highest on record.

"To ensure fair pricing for consumers, more resources should be provided to the ACCC and ASIC for enforcement, along with modernisation of laws to better protect everyday Australians from unfair pricing and gouging as corporates enjoy rising profits.

"CEF supports the review's recommendations that network prices should continue to be subject to close regulatory scrutiny keeping the long-term interests of consumers first; that there be a regulatory review of the high degree of concentration of control and associated price discrimination in the retail electricity and gas markets; and that State Governments and regulators should continue to introduce initiatives to improve retail domestic and commercial and industrial (C&I) price outcomes brought about by flaws in the current system."

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The greatest concern of Australians is the cost of living. It has two components: incomes and prices. There is a widespread lack of competition in Australian markets, with high prices in Australia reflecting the many markets where there is less than fully effective competition.

The impact of inflation on the Australian community has been immense, and the Fels report concludes that excessive business pricing has added significantly to inflation in recent times.

National accounting aggregates demonstrate the surge in profits in the post-pandemic period. Corporate gross operating profits rose 45% between end-2019 and mid-2022 (see Figure 1). They have moderated recently but remain high by historic standards.

For 2022 as a whole, corporate profits equalled 28.7% of GDP – the highest on record.

This report shows that despite its prevalence, excessive pricing, even extreme price gouging, is not unlawful in Australia. But it should be. Cartels continue to be very profitable and prevalent.

There needs to be greater ongoing monitoring and review, with more resources provided to the ACCC for enforcement. There is also a case for the government to establish a Commission on Competition and Prices.

FIGURE 1. CORPORATE OPERATING SURPLUSES, 2015-2023

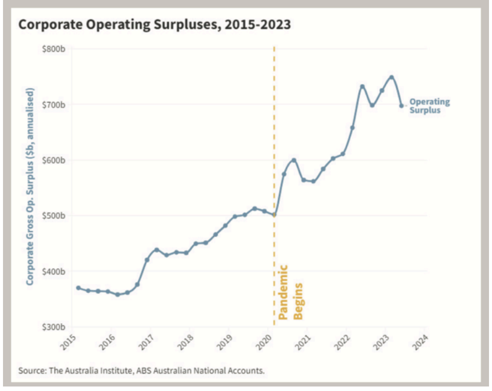
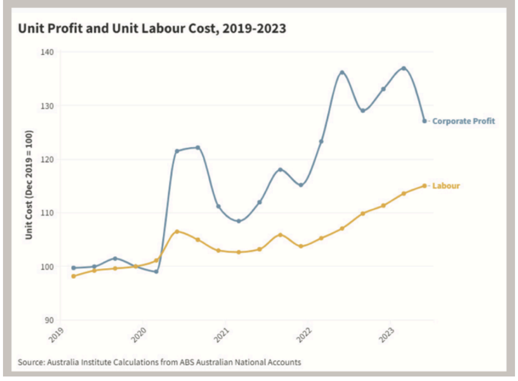


FIGURE 2. UNIT PROFIT AND UNIT LABOUR COST, 2019-2023



Energy Sector

Some of the highest price increases occur in sectors which are characterised by disproportionate concentration of market power, power over their consumers, or even regulated monopoly power over their supply chain and workforce. The energy market is a case in point. The concentration in the Australian energy sector is clearly problematic

Between March 2021 and September 2023, while the level of headline inflation increased a total 14.8% and core inflation of 13%, prices for gas were up 36%, electricity 22% and automotive fuel, 45% – a rise of double to quadruple the underlying inflation rate.

Low-income households are especially vulnerable to energy price hikes, as they typically spend a higher proportion of their income on energy. This situation is exacerbated by their limited capacity to reduce energy demand due to factors such as housing age, the condition of their homes, and the composition of their households, as well as the lack of funds to install renewable energy systems.

There should be a regulatory review of price discrimination (charging different prices for the same product) in the retail electricity and gas markets, with plan complexity and loyalty taxed. As an example of market power, AGL (see Tables 3 and 4 below) provides evidence of price discrimination against retail customers, who are charged significantly higher rates than large business customers.

TABLE 2 AGL ELECTRICITY UNIT PRICES: CONSUMERS AND LARGE BUSINESS COMPARED

	Residential & Small business consumers	Large business customers	Difference
	$/MWh	$/MWh	$/MWh
Revenue	292.3	163.8	128.5
Network costs	124.0	55.6	68.4
Fuel cost	23.3	23.3	0.0
Other costs	33.0	33.0	0.0
Margins	112.0	51.9	60.1

Source: AGL (2023) Annual Report 2023.

TABLE 3: AGL GAS UNIT PRICES: CONSUMERS AND LARGE BUSINESS COMPARED

	Residential and Small business consumer	Large Business customers	Difference
	$/Gj	$/Gj	$/Gj
Revenue	31.3	11.6	19.7
Network costs	9	1.4	7.6
Other costs	1.3	0.1	1.2
Wholesale costs	10.5	10.5	0
Margin	10.5	-0.4	10.9

Source: AGL (2023) Annual Report 2023.

Further, when plans are hard to understand it is easy to misrepresent competitors' prices. The electricity oligopoly has been pursued by the Australian Energy Regulator (AER) for just this.

Network prices should continue to be subject to close AER regulatory scrutiny with the long-term interests of consumers put first to ensure the gold plating of the previous decade – overspending on poles and wires as a basis to gouge customers – is prevented from reoccuring.

The December 2023 report of the ACCC Inquiry into the national electricity market (NEM) found that existing customers pay a loyalty penalty leaving them hundreds of dollars worse off every year.

The AER default market offer (DMO), which sets a price cap on how much energy retailers can charge electricity consumers on default plans, has been a good regulatory intervention since 2019, but energy plans need to be simplified and benchmarked against the DMO in simple language.

There are also practices in the energy derivatives market which require deeper ASIC probing, to ensure incumbent energy generator-retailers (gentailers) reduce their gaming of the system given information asymmetry and the ability to manipulate supply and hence pricing without repercussions.

Professor Fels' report questions whether the current market design remains fit for purpose given the energy transition underway.

CEF disagrees with the report's recommendation for consideration to be given to the need for a capacity market approach, as used in the US and Western Australia, where generators are paid for the power produced as well as for maintaining excessive reserve capacity to ensure grid reliability in times of high demand.

Capacity mechanisms have been widely subverted by incumbent fossil fuel players, who get paid for stand-by capacity given its perceived value in supply availability relative to variable renewable energy generation. This ignores that end of life coal plants are increasingly unavailable, and unpredictable, and in fact were the key cause of the collapse of the National Electricity Market (NEM) in June 2022.

Our price-only 5-minute interval NEM wholesale market is world leading, and is enhancing the deployment of grid orchestration, demand response management, battery time-shifting of solar power to peak usage times, and realising the value of electric vehicle to grid (V2G) charging.

CEF is confident that with the current strong government clarity on the need to boost firmed renewables to drive deflation of power prices and decarbonisation, steps are well underway, but agrees that strong future facing policy framing is needed.

This should accelerate distributed controllable consumer energy resources such as rooftop solar, heat pumps and batteries, as well as V2G, smart meters and solar soaker low pricing (stimulating demand to "soak up" peak levels of solar power generated during the middle of the day).

This inquiry recommends that the independent review of the wholesale energy market consider whether an excess profit tax is warranted given recent windfall gains to electricity generators. CEF has long argued for a super profits tax on fossil fuel commodity exporters who have enjoyed a surge in war-profits driven by the Russian war on Ukraine, stripping supply out of our domestic market, then leveraging this fabricated shortage to gouge Australians and domestic industry with up to tenfold price rises.

Rather than the Fels report's recommendation to consider such a new tax on fossil fuel electricity generators, we would rather the government stop subsidising fossil fuels by capping the diesel fuel rebate, and better equip our regulators to enforce existing laws to prevent gaming of the system.

We also need to see planning departments staffed up to accelerate evaluation and approval of new zero-emissions, low-cost firmed renewable projects, increasing electricity supply and permanently driving down energy prices for all. This will help to solve the cost of living crisis whilst pivoting the Australian economy to seize the massive investment, employment and net export opportunities in front of us from the global energy transition.