



 Federal Energy and Environment Minister Josh Frydenberg in Parliament House, Canberra. Picture: AAP Image/Mick Tsikas

Opinion

Josh Frydenberg: Power to the people who need a fairer deal

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MORE than seven million people in NSW and the ACT could see their electricity bills increase by more than \$100 a year. It is the result of an obscure, little known process called Limited Merits Review (LMR).

Last week the Federal Court upheld a decision of the Australian Competition Tribunal to allow electricity companies which own the poles and wires in NSW to charge consumers \$3

billion more than what was originally decided by the Australian Energy Regulator (AER). The Turnbull government, which has been backed by the governments of Victoria and South Australia, believes this should not be allowed to occur.



Adelaide's Danny Salamon — with daughters Aleisha and Mikayla — bought a camp generator for household emergencies, but it has come in handy during South Australia's frequent power blackouts. Picture: Kelly Barnes/The Australian

The AER is an expert independent body and its decisions should be decisive and adhered to. Simply because networks feel that the AER's decision was unreasonable, or that its discretion should have been exercised in a way more favourable to the networks, should not be grounds for appeal.

Abolishing such Limited Merit Reviews will see three things happen.

First, it will reduce pressure on power prices. Since 2008 electricity networks have used reviews to challenge 32 out of 51 AER decisions, amounting to some \$6.5 billion being passed on to consumers in their electricity bills. In not one instance has an appeal by the networks led to reduced cost for consumers.

With higher electricity prices putting real pressure on families it's time that states such as NSW and Queensland put aside the fact they own significant stakes in their network

companies and move to reverse their opposition to the abolition of LMR.



📷 South Australian baker Vili Militsis has three powerful diesel generators to protect his business from blackouts. Picture: Kelly Barnes/The Australian

Second, abolishing LMR will restore integrity to the system.

Knowing they have a “free option” of appeal, according to the AER the networks “often provide complex, technical or extensive information late in the regulatory process meaning that other stakeholders and ourselves are precluded from considering and making informed responses”.

This gaming of the system prevents consumer groups getting a real say and means that the only winners are the lawyers recruited by the networks for the appeals. In one NSW case involving more than 1.2 million pages of submitted documentation, consumers were represented by two counsel compared with 14 on the other side.

It’s no wonder that when the Turnbull government moved to abolish the LMR it received good support from the Consumer Action Law Centre, National Irrigators Council and AER among others, but strong opposition from the Commercial Bar Association, big banks and the electricity and gas networks themselves.



📷 Stirling pharmacist Kirrily Chambers had to throw out medicine from the pharmacy fridges after a power blackout in Adelaide last year. Picture: Kelly Barnes/The Australian

Third, networks will continue to invest and be profitable despite claims the sky will fall in. Of the privately owned transmission and distribution businesses across Australia, 76 per cent are partly or fully in foreign hands.

The reason they attract foreign investors is they are regulated monopolies with a rated return of about 7 per cent. The question must be asked why should electricity and gas networks have access to LMR when companies operating in Australia's telecommunications, water, postage and air services sectors do not?

When one looks internationally the electricity networks in Australia are getting a very good deal.

In similar jurisdictions such as Canada or New Zealand the networks do not have access to the same appeal rights that they do here.

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The system has to change. Independent observers such as the Grattan Institute have commented that the review process is farcical.

It is simply not sustainable to have the Australian Competition Tribunal acting as a second regulator as it has neither the resources nor the expertise to undertake such a role.

With electricity prices rising across the country there is no better time to put consumer interests first, which is what the Turnbull government is doing and hopes the state governments will follow, too.

Josh Frydenberg is the federal Minister for the Environment and Energy.