

## Appeals process favours energy industry

Letter to the Editor of the *Australian Financial Review* from CUAC and the Consumer Action Law Centre, published 11 January 2012

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The continued money-grab from the energy industry is astounding. Following an unreported decision of the Australian Competition Tribunal, it appears that United Energy will gain an additional \$80 million revenue from customers over 2013-15, over and above the \$1.05 billion allowed by the regulator (“DUET takes on regulator, wins \$80m”, January 10).

This may be good news for United Energy’s shareholders; however, the additional costs will be borne by its consumer base of 634,508 households and businesses. The

“win” underscores the urgent need to abolish the ability of distribution businesses appealing the merits of independent regulatory decisions.

The five Victorian distribution businesses appealed the Australian Energy Regulator’s 2010 decision in early 2011. The Consumer Action Law Centre and the Consumer Utilities Advocacy Centre attempted to intervene in the appeals process but were forced to withdraw due to insurmountable barriers including lack of access to information, resources and technical expertise.

Without independent consumer

views being put to the tribunal, the distribution businesses are able to cherry-pick aspects of the decision which they can feasibly win.

Unfortunately no-one can challenge aspects of the AER’s decision that might be detrimental to consumers.

The release of the appeal decision has not been transparent – DUET, United Energy’s owner, has claimed victory before the tribunal’s decision has been released publicly.

Of even more concern is the statement from DUET’s chief executive, David Bartholomew, that the decision demonstrates the

importance of the merits appeal process in the regulatory framework. It, in fact, demonstrates the opposite – the need to abolish an appeals process that favours energy businesses over consumers and the need to strengthen the AER’s powers to facilitate a regulatory decision where the views of all sides of the debate are fairly represented.

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[A full copy of CUAC and Consumer Action’s joint research report on merits review appeals of Australian Energy Regulator distribution pricing decisions can be found here.](#) The legislation that allows merits review appeals of AER pricing decisions will be under review in 2012.