



National Energy Consumers Framework: How is it shaping up?

Also:

ESC
Consultative
Committee

Federal
Budget on
clean energy

Compliance
costs of AMI
rollout

State based
access regime
for water

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CUAC is an independent consumer advocacy organisation which ensures the interests of Victorian electricity, gas and water consumers—especially low income, disadvantaged, rural and regional, and Indigenous consumers—are effectively represented in the policy and regulatory debate.

CUAC believes all Victorians have a right to:

- ♦ affordable and sustainable electricity, gas and water
- ♦ have their interests heard in policy and regulatory decisions on electricity, gas and water
- ♦ not be disconnected from electricity, gas and/or water due solely to an inability to pay

CUAC:

- ♦ Provides a voice for, and strengthens the input of Victorian utility consumers—particularly low income, disadvantaged, and rural and regional consumers—in the policy and regulatory debate
- ♦ Initiates and supports research into issues of concern to Victorian utility consumers, through in-house research and building the capacity of consumers through its Grants program
- ♦ Investigates and responds to systemic issues affecting Victorian consumers in the competitive electricity and gas markets and with regard to water.

National Energy Customer Framework

By Deanna Foong
CUAC Senior Policy Officer

Consumer groups including CUAC have raised a number of concerns about the proposed National Energy Customer Framework (NECF), following an information session held in Melbourne on May 18 to 20.

On 30 April 2009, the Ministerial Council on Energy (MCE) Standing Committee of Officials (SCO) released the First Exposure Draft of the NECF for consultation. This consists of the first draft of the National Energy Retail Law (NERL), National Energy Retail Regulations (Regulations) and National Energy Retail Rules (Rules), accompanied by an Explanatory Memorandum¹.

The NECF information session and workshop was attended by representatives from government departments, industry, consumer representatives, and ombudsman schemes. Over the course of three days, the program covered: an overview of the NECF including its enforcement mechanism; retailer and customer issues, including standard retail contracts, market retail contracts, energy marketing and customer hardship regimes; and distributor customer issues.

Consumer groups highlighted a number of key concerns in the forum.

NECF Objective

Given the essential nature of energy, consumer groups argued for the inclusion of a consumer focused objective in the NERL to ensure affordability of supply for consumers. The point was made that the objective should also include action on the need for environmental sustainability.

Terminology

'De-energisation' instead of 'disconnection'

The NECF uses the term 'de-energisation' instead of 'disconnection'². The two terms are not interchangeable but distinct and used to describe different activities undertaken by two different arms of the energy industry. A distributor 'de-energises' a connection when there is a planned outage such as during a meter replacement, line upgrade, or for safety reasons. A retailer 'disconnects', that is, withdraws energy for non-payment of bills. A customer may also request the retailer to disconnect when he/she finalises his/her contract (such as through move in/move outs). The term 'de-energisation' should not be used in relation to energy retailers. Rather, the term 'disconnection' should be

used to reflect retailer-initiated actions. This is the term which is more commonly understood by consumers in their relationship with their retailers.

There is a real risk that the removal of the term 'disconnection' will result in the diminishing of consumer protections across Australia.

Consumers, especially those who are not from English speaking backgrounds, may not understand what 'de-energisation' means. Therefore, they may fail to take the necessary steps to avoid a disconnection upon receipt of a 'de-energisation' notice or fail to contact their retailer when they have payment difficulties. The argument for appropriate terminology also impacts upon the reporting requirements. To monitor compliance and performance of

the industry it is important to ensure that retailer-initiated disconnections arising from breach of contract including non payment of bills, are reported separately as a distinct category from distributor initiated de-energisations. The use of the term 'de-energisation' may obviate that distinction with the result that disconnections due to breach of contract including non payment of bills, and de-energisations which are distributor initiated, are reported together.

Payment plans

The definition of payment plan³ anticipates that consumers are obliged to pay all their arrears. This is because

the definition makes no allowance for incentive schemes (for example: partial waiver of arrears, matching payments etc.) offered by some retailers to consumers in hardship. (More on payment plans overleaf.)

Disconnection

Consumer groups were disappointed with the lack of provision for a wrongful disconnection payment under the NECF. In Victoria, consumers who have been wrongfully disconnected are entitled, under legislation, to a wrongful disconnection payment⁴. While the NECF allows consumers who have suffered loss or damage to take legal action⁵, in practical terms, consumers rarely do so due to the costs of litigation.

In Victoria, there is a threshold under which disconnections are not permitted. Disconnections are prohibited if the amount outstanding to the retailer is less than \$120⁶. No similar provision exists in the NECF.



Hardship provisions

Under the NECF hardship provisions, retailers are obliged to develop and implement a customer hardship policy for residential customers⁷. Each retailer determines, in accordance with its hardship policy, who a hardship customer is⁸. While minimum requirements for a customer hardship policy are stipulated⁹, there is no requirement that a hardship policy be approved by the Australian Energy Regulator (AER), which is the enforcing arm of the NECF. The AER, however, 'may carry out compliance audits' of the retailers' obligations vis-à-vis their hardship customers and the implementation by retailers of their hardship policies¹⁰. At present, not every retailer has a robust hardship policy. There is also the possibility that every retailer may not be audited since the AER is not obliged to carry out compliance audits on each retailer. To encourage higher standards and benchmarking, we are of the view that the AER should approve customer hardship policies, as well as be obliged to conduct compliance audits of each retailer's obligations

The hardship provisions under the NECF oblige a retailer only to provide payment plans for consumers who are in 'hardship'... We believe that payment plans should be available to all consumers experiencing payment difficulties.

vis-à-vis its hardship customers and the implementation by each retailer of its hardship policy. In Victoria, 'financial hardship policies' are approved by the Minister or the Essential Services Commission.¹¹

The hardship provisions under the NECF oblige a retailer only to provide payment plans for consumers who are in hardship. While retailers have the option of extending payment plans to customers who are not in hardship, there is no obligation to do so¹³. We believe that payment plans should be available to all consumers experiencing payment difficulties. A consumer who may have a higher than expected bill but who is not in hardship, might benefit from a payment plan which would assist him/her to better manage payments in the interim.

The NECF provisions on payment plans are located within the hardship provisions, suggesting that payment plans form the basis of a hardship program¹⁴. CUAC is of the view that a robust hardship policy must provide multiple options to consumers experiencing hardship and not merely payment plans. This is because consumers experiencing hardship have individual needs; their circumstances vary. CUAC believes that payment plans alone must not form the basis of a hardship program.

The NECF fails to adequately protect consumers in hardship from disconnection. Disconnection of the premises of a hardship customer due to inability to pay is permitted, albeit as 'a last resort option'¹⁵. CUAC is of the view that no one who is on a hardship program should be disconnected due to an inability to pay.

In Victoria, 'a retailer must consider conducting an energy efficiency field audit to assist a domestic customer to address the difficulties the customer may have in paying

the retailer's bills.'¹⁶ There is no such requirement under the NECF. Not all retailers will be as forthcoming with regard to offering field energy audits. We believe that energy audits would contribute towards the Government's aim of energy efficiency, and would also help consumers reduce usage thereby moving towards a sustainable outcome. Therefore, we would like to see a requirement for energy efficiency field audits in the NECF.

Security deposits

A situation in which a retailer may ask a consumer for a security deposit is when a consumer owes money to the retailer for the sale and supply of energy to other premises.¹⁷ In Victoria, a retailer is unable to ask a consumer for a security deposit if the amount outstanding on the other premises is less than \$120.¹⁸ There is no similar threshold under the NECF. Low income consumers are particularly vulnerable as they may be unable to provide a security deposit upfront. The consequence for failing to provide a security deposit is severe as this is one of the grounds for disconnection. Currently as drafted, the NECF permits disconnection for non payment of a security deposit as long as the requisite notices are served on the consumer.¹⁹ The NECF contemplates payment of a security deposit via instalments.²⁰ However, failure to make periodic payments towards the required security deposit via a payment plan is not mentioned as a pre-condition before disconnection.

Late payment fees

The NECF allows retailers to charge late payment fees.²¹ However, in hardship cases, the retailer must waive such fees.²² In Victoria, an energy contract which imposes a late payment fee is void. This is because 'a term or a condition in a contract is void to the extent that it permits the licensee to charge the customer a fee or charge for late payment of an electricity bill.'²³ There is a similar provision in relation to gas.²⁴

'Informed consent' instead of 'explicit informed consent'

Under the NECF, informed consent is required for certain transactions including the transfer of the customer to a retailer from another retailer, and the entry by the customer into a market retail contract with the retailer.²⁵ In Victoria, 'explicit informed consent' is required for certain transactions. The definition of 'explicit informed consent' includes an obligation on the retailer to 'clearly, fully and adequately disclos[e] in plain English all matters relevant to the consent of the customer' and consent given 'by a person competent to do so.'²⁶ The definition of 'informed consent' under the NECF does not contain these two requirements. Given the fact that vulnerable groups including the elderly, those who lack capacity, and those who have English language difficulties, may be targeted by marketing campaigns, it is important that similar provisions be included within the NECF framework.

Unlike Victoria where 'explicit informed consent' is

required for direct debit arrangements,²⁷ no provision for 'informed consent' in direct debit arrangements exists within the NECF. Our view is that there should be a requirement for 'explicit informed consent' in any direct debit arrangement including any changes to the arrangement.

Marketing

Under the NECF, a consumer need not be provided with relevant information about the market contract at the time the market contract is entered into. Under the NECF, a retail marketer has the option to 'provide required information to a small customer in relation to the market retail contract concerned (a) before the formation of the contract; or (b) as soon as practicable after the formation of the contract.'²⁸ 'Required information' includes information about 'all applicable prices, charges, early termination payments and penalties', contract termination, the consumer's right to rescind the contract during the cooling off period, complaints mechanisms etc.²⁹ In Victoria, '[a] retailer must provide an offer summary in writing to a small retail customer (a) on request by the customer; and (b) when providing the customer the terms or information about the terms of any new retail contract, including when engaging in any marketing activity.'³⁰ To ensure that consumers have the basis to make an informed

decision as to whether to enter into a market contract, it is important that consumers are provided with relevant information about the market contract upfront and not after they have entered into the contract.

Guaranteed service levels (GSLs)

The NECF appears to leave GSLs as a matter falling within state jurisdiction.³¹ GSLs are covered under the AER's *Electricity distribution network service providers: Service target performance incentive scheme*.³² However, the GSL provisions do not apply where jurisdictional electricity legislation imposes an obligation on a distribution network service provider to operate a GSL scheme. CUAC is looking at how GSL provisions in Victoria can be maintained under the national framework.

CUAC is one of a number of consumer groups represented on the National Consumers Roundtable on Energy, who have provided a combined response to the Ministerial Council on Energy (MCE) Secretariat. Submissions on the NECF closed on 12 June, and the MCE will consider these prior to releasing a second exposure draft in October 2009.

CUAC will provide further updates on the NECF.

Notes:

1. See Department of Resources, Energy and Tourism's website for more information:

<http://www.ret.gov.au/Documents/mce/emr/rpwwg/necffed.html>

2. See definition in s 103, *National Energy Retail Law* (First Exposure Draft)

3. s 103, *National Energy Retail Rules* (First Exposure Draft): Payment plan means a plan for a small customer to pay a retailer, by periodic instalments, all arrears (including any de-energisation or re-energisation charges) and charges relating to continued use of energy.

4. s 40B, *Electricity Industry Act 2000* (Vic); s 48A, *Gas Industry Act 2001* (Vic)

5. s 233, *National Energy Retail Law* (First Exposure Draft)

6. s 14(a), *Energy Retail Code* (Version 5, January 2009, Victoria)

7. s 232, *National Energy Retail Law* (First Exposure Draft)

8. s 103, *National Energy Retail Law* (First Exposure Draft): hardship customer means a residential customer of a retailer who is identified as a customer experiencing financial payment difficulties due to hardship in accordance with the retailer's customer hardship policy.

9. s 233, *National Energy Retail Law* (First Exposure Draft)

10. s 1004(2), *National Energy Retail Law* (First Exposure Draft)

11. See s 41, 43, 45, 46, *Electricity Industry Act 2000* (Vic); s 48E, 48G, 48I and 48J, *Gas Industry Act 2001* (Vic)

12. s 235(1), *National Energy Retail Law* (First Exposure Draft)

13. s 235(2), *National Energy Retail Law* (First Exposure Draft)

14. See s 233(2)(c), s 235, *National Energy Retail Law*; s 302, *National Energy Retail Rules*.

15. s 236, *National Energy Retail Rules*.

16. s 11.3, *Energy Retail Code* (Version 5, January 2009,

17. s 226(a), *National Energy Retail Rules* (First Exposure Draft)

18. s 8.1(a), *Energy Retail Code* (Version 5, January 2009, Victoria)

19. s 606, *National Energy Retail Rules* (First Exposure Draft)

20. s 227, *National Energy Retail Rules* (First Exposure Draft): A security deposit may be paid by instalments if the small customer is a residential customer and the customer and retailer so agree.

21. s 10.4, Schedule 1, *National Energy Retail Rules* (First Exposure Draft)

22. s 303, *National Energy Retail Rules* (First Exposure Draft)

23. s 40C, *Electricity Industry Act 2000* (Vic)

24. s 48B, *Gas Industry Act 2001* (Vic)

25. s 218, *National Energy Retail Law* (First Exposure Draft)

26. s 34, *Energy Retail Code* (Version 5, January 2009, Victoria)

27. s 7.2(b), *Energy Retail Code* (Version 5, January 2009, Victoria). s 221(3) and (4), *National Energy Retail Rules* (First Exposure Draft) do not mention informed consent.

28. s 2(2), Schedule 4, *National Energy Retail Rules* (First Exposure Draft)

29. s 4(1), Schedule 4, *National Energy Retail Rules* (First Exposure Draft)

30. Clause 4.1, Guideline No. 19, Energy Price and Product Disclosure Issue 3 (June 2009)

31. s 103, *National Energy Retail Law* (First Exposure Draft): **GSL scheme** means a scheme set out in jurisdictional energy legislation under which there are customer service standards to which an associated payment (a Guaranteed Service Level payment or GSL payment) is payable by a distributor to the customer where the distributor fails to meet the service standard.

32. See s 6, *Electricity distribution network service providers: Service target performance incentive scheme* (May 2009), available on AER's website:

[http://www.aer.gov.au/content/item.phtml?itemId=728340&nodeId=e78c6918dbd53c5f506f6b7c0f2d01c7&fn=Appendix%20C%20%20E%20%93%20A%20distribution%20STPIS%20\(15%20May%202009\).pdf](http://www.aer.gov.au/content/item.phtml?itemId=728340&nodeId=e78c6918dbd53c5f506f6b7c0f2d01c7&fn=Appendix%20C%20%20E%20%93%20A%20distribution%20STPIS%20(15%20May%202009).pdf)

ESC CCC

By Deanna Foong
CUAC Senior Policy Officer

The Essential Services Commission (ESC) Customer Consultative Committee met in Bendigo on 16 June 2009.

The Committee was briefed on current ESC activities in particular:

- an update on the Victorian Energy Efficiency Target (VEET) scheme (promoted as Energy Saver Incentive);
- the retail energy customer information campaign;
- marketing issues;
- the Advanced Metering Infrastructure (AMI) rollout;
- and the water price review in Metropolitan Melbourne.

Bendigo Bank gave a presentation on its solar cities project and EWOV provided an overview of its activities since the last Committee meeting in March 2009.

There was extensive discussion on marketing during the meeting:

Under the VEET scheme which commenced on 1 January 2009, energy retailers are obliged to surrender energy efficiency certificates (VEECs) equivalent to the legislated target. For the first three-year phase (2009-2011), the target is 2.7 million VEECs per year which is equivalent to more than 8 million tons of green house gas abatement. One issue identified in the VEET scheme was energy installers door-knocking in regional areas to market their products, for example, offering installation of energy efficiency lighting, to consumers. As at 12 June 2009, there were 86 scheme participants including 57 installation companies and 10 energy retailers. A marketing code of conduct is anticipated for scheme participants. CUAC strongly believes that consumer groups must be consulted in the development of this code.

CUAC welcomes the release of the ESC paper *Respecting Customers – Regulating Marketing Conduct 2009–10*.¹ CUAC believes that the ESC's inclusion of 'Respecting Customers' in the title provides a strong recognition of its intent to ensure that market behaviour changes for the better. However, more action to address poor market behaviour is long overdue. CUAC notes that marketing and transfer cases constitute a notable part in the general increase in complaints handled by the Energy and Water Ombudsman—Victoria (EWOV)². In CUAC's experience, low income and disadvantaged consumers have been exposed to, and are particularly vulnerable to, misleading marketing conduct and entering energy contracts without explicit informed consent. This is evident from the March 2009 report on *The African Consumer Experience of the Contestable Energy Market in the West of Melbourne* jointly prepared by the Footscray Community Legal Centre and the Financial Counselling Service Inc.³ CUAC is pleased to note that in the ESC paper, Mr Ron Ben-David, Chairperson of the ESC, emphasised that the ESC expects that the marketing practices of licensed retailers will:

- Be respectful, polite and courteous – that marketers will only contact customers during legitimate hours, will ter-

minate contacts when asked to and will always speak to customers with care and respect

- Be accurate and informative – that the data and facts provided are truthful and comprehensive to enable customers to make the proper decision for their circumstances
- Not bring the market into disrepute – that marketers will not mislead or deceive customers and will adhere always to their obligations under the consumer and fair trading laws⁴

CUAC strongly supports continued consultation with consumer groups and agencies regarding marketing issues as outlined in the paper.

The ESC's regulatory program for 2009-2010 includes compliance reviews of all retailers' complaints handling processes; a review of *Guideline No. 19: Energy Product Disclosure* (Issue 3, June 2009), to ensure that retailers are complying with the obligation to provide a written offer summary to consumers; and a review of retailers' marketing material.

CUAC is, however, concerned that the monitoring and compliance mechanisms are not robust enough. The ESC has stated that sanctions will be imposed where there is 'serious and systemic breaches of the obligations by retailers, supported by evidence and substantive customer complaints which have not been able to be resolved by the Energy Ombudsman.'⁵ CUAC is of the view that individual marketing complaints can indicate 'serious and systemic' issues. E.g. poor marketing behaviour by one marketer can impact a large number of consumers along streets, within neighbourhoods or apartment blocks. 'Serious and systemic breaches' can still exist even if the matter has been resolved by EWOV. Further, marketing issues may be more widespread, as not all consumers who have been the target of unprofessional marketing behaviour may be unaware of their rights in these situations, including their right to complain to EWOV or Consumer Affairs Victoria (CAV). In view of this, CUAC strongly commends the ESC's initiative to work with EWOV and CAV in identifying systemic breaches regardless of whether the matter has been resolved or not. CUAC also strongly recommends that the ESC undertake compliance audits of retailers' marketing obligations under the relevant law, including the *Trade Practices Act 1974* (Cth), *Fair Trading Act 1999* (Vic) and the ESC's *Code of Conduct for Marketing Retail Energy in Victoria* (January 2009). Compliance audits will reveal whether there are systemic breaches and if so, the extent of the problem.

1. see ESC website, www.esc.vic.gov.au

2. See Frances Wood, EWOV, 'What's going on with Energy Marketing and Transfer?' in FCRC, *Devil Advocates* (April 2009, No. 198) p. 15

3. Footscray Community Legal Centre and the Financial Counselling Service Inc, *The African Consumer Experience of the Contestable Energy Market in the West of Melbourne* (March 2009).

4. *Respecting Customers*, ESC, above, page 2.

5. www.esc.vic.gov.au/NR/rdonlyres/6D784109-2C81-43C7-B093-C4789CE60966/0/Guideline19PriceandProductDisclosureMay2009.pdf



Federal Budget Wrap: Clean energy

By Tosh Szatow
CUAC Policy Officer

The 2009-10 Federal Government Budget delivered elements of hope as well as some disappointments in relation to clean energy. Progress is being made, but significant steps are yet to be taken to ensure the national strategy on clean energy and energy efficiency delivers positive outcomes for Australians.

While significant allocations have been made to developing low emissions and clean coal (\$2.4b over nine years), the timeframe for spending should allay concerns that good money is being spent chasing an illusion. There will be plenty of time to back out of the budget allocation, without risking the lot, should the promise of clean coal not be fulfilled. Many remain skeptical of the potential for clean coal, with some suggesting it will be too expensive, too complex and potentially un-bankable. Yet the scale of the coal problem in Australia and overseas, particularly China, appears such that the clean coal option cannot be ignored... yet.

Thankfully, the research and development (R&D) approach to energy now looks far more balanced. \$1.6b will go to large scale solar over six years. On a per annum basis, we now have the same quantity of funding allocated for

A mix of income support and targeted energy efficiency will be the best way to ensure energy remains affordable, and living conditions acceptable, for society's most vulnerable.

solar and fossil fuel based technologies. From where we were two to three years ago, that is a massive turnaround. Nearly 10 per cent of total research and development in Australia was devoted to energy research in 2006–07, of which nearly 75 per cent focused on the mining and extraction of energy resources. Solar may not be a cure-all for the world's energy problems, but Australia appears to have recognised it cannot ignore its huge potential worldwide – some estimates have the global market for renewable power exceeding the global market for coal by 2012. If Australia can re-establish its position as a genuine world leader in solar technology, Australia may be better placed to recoup the investment of its intellectual property in this field.

One unknown seems to be how 'renewable' Renewable Australia (RA) will be with its \$450m (approx). As well as providing industry capacity building, Government and community advice, it will be tasked with strategically



developing renewable energy technologies in Australia, so should provide a wide angle lens to Government. This should help ensure Australia's strategy on developing clean energy is not binary – a false choice between solar or clean coal.

\$100m has been allocated for 'Smart Grid' – aimed at demonstrating the value of an intelligently managed network of electricity generating and consuming devices. In essence, smart grids involve 'intelligent agent' driven by computer algorithms deciding when devices such as fridges and air conditioners can be turned on and off, without affecting service delivery (that is, fridge and room temperature), but in a way which reduces peak demand on the distribution and/or transmission network. These intelligent agents will also be able to make decisions based on when intermittent, but predictable sources of renewable energy, such as wind or solar, are generating electricity. For instance in summer, when wind or solar is available, refrigeration and room temperatures may be taken to their lowest acceptable level, set by the user, effectively using refrigerators and living spaces as distributed energy storage devices. This has the potential to increase the ability of a network to handle increasing amounts of intermittent generators.

It is hypothesized that such a network can reduce costs of network management, allowing better network asset utilisation by cutting peak demand, and in theory this makes sense. However the proof of this pudding will be in the eating. Perhaps of concern is that solar cities being developed around Australia are intended to demonstrate a similar concept. This may suggest a degree of duplication, or perhaps lack of confidence that solar cities will deliver the outcomes they were designed to achieve.

The missing piece seems to be that assistance to low

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Hardship and compliance costs of AMI rollout

Deanna Foong
CUAC Senior Policy Officer

CUAC is concerned that there is currently no hardship provision for low income consumers who are forced to pay the cost of making their properties compliant with the needs of the Advanced Metering Infrastructure rollout.

In early 2006, the Victorian Government formally endorsed the deployment of Advanced Metering Infrastructure (AMI) to all Victorian electricity consumers taking supply of less than 160 MWh per annum (which covers residential and small/medium business customers). The smart meter roll out in Victoria is expected to commence in late 2009 and to run until the end of 2013. During the roll out, a consumer's old meter will be replaced with the new smart meter. The Victorian smart meter roll out is aligned with the roll out of smart meters on a national level.

It is anticipated that the smart meter roll out will uncover premises which have site defects which must be rectified before the smart meter can be installed at the premises. The owner of the premises is responsible for the cost of rectification as well as arranging for someone such as a Registered Electrical Contractor (REC) to preform the rectification works. This would have a material impact on low income consumers who may not have the financial resources to pay for the cost of these works.

CUAC and other consumer groups are working to ensure that low income and vulnerable groups within the community have the means to access hardship and/or financial assistance when they lack the financial resources to rectify defects on their property impacting on the AMI meter exchange. In the context of the global financial crisis, there may be a larger percentage of people within the community who are unable to pay to rectify the non compliance and therefore face imminent and prolonged disconnection. In



Examples of how the new smart meters may look

the event of a level 1 defect which may lead to immediate disconnection for safety reasons, someone who is unable to afford to rectify the defect could find himself/herself off supply indefinitely.

Currently, the hardship programs which are offered by the retailers are targeted at consumers who are unable to pay their bills. The Victorian Government's utility relief grant scheme and the non-mains utility relief grant scheme provide assistance for domestic customers who are unable to pay their utility bills due to a temporary financial crisis.

The Department of Primary Industries (DPI) is in discussions with the Department of Human Services (DHS) to ensure that appropriate arrangements are in place to provide financial assistance to disadvantaged consumers who may be required to incur significant costs in rectifying site defects. It is important that this program be accessible and quickly available to prevent customers being off supply for long periods.

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income households is limited to an income increase to offset Carbon Pollution Reduction Scheme (CPRS) costs. CPRS costs will be one of many factors driving energy prices over the coming decade, and arguably it will be a small driver. The Mandatory Renewable Energy Target, associated transmission network investment, and upgrades needed for ageing distribution networks around the country will all be big drivers of energy prices.

To combat rising prices amongst those who cannot afford it, we effectively have three choices: increase income levels; increase energy efficiency in the home; or decrease energy consumption levels. A great challenge for our sector will be ensuring the third option is not relied upon. A mix of

income support and targeted energy efficiency will be the best way to ensure energy remains affordable, and living conditions acceptable, for society's most vulnerable.

At this stage, it is not clear exactly how the various energy efficiency programs and related rebates will target the households that need it most. There appears to be funding directed at business and community agencies for investing capital in energy efficiency, but the detail for this has not been resolved.

It is imperative that as a sector, community groups ensure energy efficiency programs are designed and delivered with low income and vulnerable households in mind.

Who gets access to water infrastructure?

By Anita Lumbus
CUAC Policy Officer

CUAC is advocating for a full analysis of the costs and benefits to Victorian consumers of allowing third party access to the water network, following State Government moves to enable private parties to share water and sewerage infrastructure facilities, such as water and sewerage pipelines.

As part of the State Government's water reform program, the Essential Services Commission (ESC) has been given the task of conducting an inquiry into an access regime for water and sewerage infrastructure services across Victoria. The premise for an access regime is that it will promote efficient use of water and sewerage infrastructure, and competition within aspects of the water network, such as water sourcing and sewerage treatment.

In February 2009 the ESC released an issues paper on a state based access regime for public comment. CUAC developed a submission which was endorsed by the Consumer Action Law Centre and the Victorian Council of Social Services (VCOSS). CUAC's submission indicated support for water reform which results in benefits to consumers, without compromise on customer protection including health and safety standards. It stressed, however, that measures should be in the interests of the public, including residential consumers, low income and disadvantaged households, and vulnerable communities.

CUAC's central recommendation was for the ESC to undertake a multi staged analysis of the benefits and potential disadvantages to Victorian consumers that may result from introducing a state based access regime. The decision making process of the ESC must be underpinned by its primary objective as outlined in the *Essential Services Commission Act 2001*, which is to protect the long-term interests of Victorian consumers with regard to the price, quality and reliability of essential services. CUAC discussed a number of issues in the submission which added weight to the central premise for a cost-benefit analysis.

CUAC's submission noted that access regimes for water are a recent development in water policy in Australia, with New South Wales being the predominant state to recently implement an access regime, and therefore evidence of

benefits to consumers is yet to be revealed. Internationally, research has shown some disadvantages of private participation in water. For example, since privatisation of water in the United Kingdom, consumers have faced significant increases in prices. According to the Consumer Council for Water, which represents consumers in England and Wales, since privatisation water bills have risen to

around 44% higher in real terms, and by 2010 it is expected that 12% of consumers will face water and sewerage bills which are more than 3% of their disposable income.¹ There has also been an increase in consumer complaints, with record complaints recorded over 2007-08², yet a low level of awareness among consumers about their rights, including the minimum levels of service they are entitled to from their water companies.³

CUAC also pointed to the fact that reform of the energy industry in Victoria has coincided with an increase in customer complaints. CUAC stressed that the low level of water complaints needs to be maintained. CUAC

recommended that the ESC consult with the Energy and Water Ombudsman of Victoria (EWOV) on reform issues that may impact on customer complaints.

CUAC highlighted that savings must be delivered to consumers. Access to the water network may require additional infrastructure to be built, putting additional strain on the existing network, and risking additional costs to consumers. CUAC argued that placing the onus on water suppliers to pay for costs was necessary to ensure benefits flow to consumers.

Importantly, there also exists the issue of accountability. CUAC's research showed that public concern for accountability is an issue of major significance in the third party access debate⁴. Unbundling of the wastewater sector and breaking up obligations along the supply chain, for example, may make it easier for businesses to avoid responsibility for supply failures⁵. Ensuring that water is safe for public health, is reliable and secure⁶ is paramount to successful implementation of third party access and the accountability of governments. Adequate health and safety standards need to be clearly established to protect consumers and which entrants must meet, with robust monitoring in place.



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On June 9 the ESC released its draft report and recommendations on establishing an access regime. The draft report noted some of CUAC's recommendations, including reviewing the institutional framework for customer protections, efficient network planning, accountability and access pricing.

The ESC has so far recommended a staged implementation period for an access regime and that the Victorian Government require water businesses to prepare 'access commitments' giving third parties the right to negotiate access to nominated infrastructure. Upon the release of the report, the Chairperson of the ESC, Mr Ron Ben-David, commented that "A well-developed access regime has the potential to promote the economically-efficient operation of, use of and investment in water and sewerage infrastructure, by facilitating the sharing of natural monopoly facilities by potential new service providers."

An access regime is one aspect of the Victorian Government's water reform program, which according to the government aims for the efficient use of water to protect the long-term interests of consumers with respect to water security, quality, reliability and price.⁷

Responses to the ESC draft report are due by July 27. CUAC will be developing a submission. The ESC will present its final recommendations on an access regime to the Victorian Government before 28 September 2009.

Notes:

1. Consumer Council for Water, 2008, *Affordability and bills*, <http://www.ccwater.org.uk/server.php?show=ConWebDoc.1779>
2. BBC 2008, *Record complaints to water firms*, <http://news.bbc.co.uk/2/hi/business/7604644.stm>
3. Consumer Council for Water, 2009, *Awareness low on rights*, <http://www.ccwater.org.uk/server.php?show=ConWebDoc.2025>
4. Marsden Jacob Associates 2005, *Third party access in water and sewerage infrastructure: implications for Australia*, p. 89 http://www.daffa.gov.au/data/assets/pdf_file/0019/29260/3_water_sew_infr.pdf
5. Janice Gray & Alex Gardner 2008, Exploiting the unspeakable: Third-party access to sewage and public-sector sewerage infrastructure in *Troubled waters: confronting the water crisis in Australia's cities* ed. Troy, P. p. 145 http://epress.anu.edu.au/troubled_waters/mobile_devices/ch07s14.html
6. Marsden Jacob Associates, p. x
7. Victorian Government 2008, *Victorian Government Response to the VCEC Final Report, Water Ways: Inquiry into Reform of the Metropolitan Retail Water Sector*, July, p. 5.



Keeping Cool & MS



Victorian people with Multiple Sclerosis may need to run their air conditioners up to 15 times as much as the average Australian household, according to a study by the MS Society. This adds up to a considerable expense for consumers for whom the majority have an income of less than \$26,000.

CUAC, along with other organisations, contributed funding to *Keeping Cool Survey: air conditioner use by Australians with MS*, prepared by Dr. Michael Summers and Dr. Rex Simmons. The research found that of the 20,000 people in Australia with Multiple Sclerosis, 90% have increased sensitivity to heat which requires them to run air conditioners more frequently. For people with MS, less than half a degree increase in core body temperature can significantly increase symptoms. Exposure to high temperatures has been found to be one of the three most commonly cited adverse factors in relation to MS symptoms, and in rare cases this can result in symptoms which are non-reversible, or even in death.

As well as the increased importance of keeping cool, many cannot work full time because of their symptoms, and thus are more likely to be home during peak times for air conditioning use.

The research indicates that increased expense of cooling is often combined with limited income. Though 52% of people with MS have annual incomes below \$26,000, on average they spend almost 10 times more on keeping cool than the average Australian household. This is despite the fact that a higher than average number use energy efficiency measures to keep usage down.

In the light of electricity costs which are likely to continue increasing, the report highlights the need for an effective public policy response which takes into account the needs of people who are heat intolerant.

The report argues that while initiatives such as differential pricing 'may be a good thing for many households and for the environment, people with MS (and other heat intolerant conditions) are likely to find that this creates a serious financial burden that they are unable to meet.'

Recommendations include that electricity rebates be set at meaningful levels and regularly adjusted to take price increases into account. Also, that energy efficiency programs be developed or better targeted towards people with a medical need for cooling, to minimise economic and environmental costs. And finally, the report argues it is essential that energy retailers and suppliers, and governments, develop heat wave and electricity blackout responses with specific reference to people with heat intolerant conditions.

The Keeping Cool Survey: Air Conditioner Use by Australians with MS: Public Policy Related Results and Recommendations by Dr. Michael Summers and Dr. Rex Simmons, 2009 is available in electronic form from CUAC. For further information contact Dr. Michael Summers email msummers@mssociety.com.au or phone: 03 9845 2730

CUAC submissions

CUAC has argued strongly that the views of consumer, community and environmental groups need to be better represented in the development of the **Energy White Paper by the Department of Energy, Resources and Tourism**.

CUAC's submission points out that of the committee of 19 people involved in developing the paper, 10 are from companies principally involved in fossil fuels, with only one representing alternative energy and only two who are principally representing community and environmental groups. Also, these last two were appointed only after the strategic directions and discussion papers were developed, limiting their capacity to have input to the broader directions. The CUAC submission argues that 'representatives of community and environment interests should represent a diverse range of the Australian community, and be at least equal in number to industry representatives' to address the stated policy principles, and to gain broad acceptance in the community.

CUAC argues that redressing this would result in a strategy that would be more broadly supported by the wider community and more likely to deliver the policy principles stated in the strategic directions paper.

Because of this imbalance, issues such as affordability have been overlooked, and the CUAC argues that this should be made a policy principle.

Also, CUAC maintains that the strategic directions paper places too high a priority on markets and the CPRS to deliver innovation incentive and an efficient transition to a low carbon economy and that market rules and regulation, Research and Development (R&D) funding and policies complementary to CPRS will be critical to ensuring an efficient transition to a low carbon economy.

The Green Paper is expected to be produced in August 2009.

More details about the process can be found at www.ret.gov.au/ENERGY/FACTS/WHITE_PAPER/Pages/energy_white_paper.aspx

Other recent CUAC Submissions:

AEMC demand side participation in NEM

Further information:

www.aemc.gov.au/Market-Reviews/Open/Review-of-Demand-Side-Participation-in-the-National-Electricity-Market.html

AMI Non Compliance Process Maps

(see article p.6)

Inquiry into access regime for water and sewerage infrastructure services

(see p.7)

ESC Metropolitan Melbourne Water Price Review

Further information

<http://www.esc.vic.gov.au/public/Water/Consultations/Melbourne+metropolitan+water+price+review+2009-10+to+2012-13.htm>

CUAC provided a submission to the **Senate Select Committee on Climate Policy** which provided detailed recommendations including:

- That in designing policy tools to reduce emissions, the Government must consider both economic costs of action and economic benefits of action.
- That the Australian Government adopt a policy objective to maximise domestic economic benefits for Australia, and global emission reductions, through an efficient transition to a low/no carbon economy, considering a full range of direct and indirect cost associated with Australia's domestic economic activity and international trade.
- In order to facilitate a more accurate consideration of long run costs associated with climate change, an emission price equivalent to the 'social cost of carbon' should be delivered through a tax.
- That the Government adopts a comprehensive feed in tariff for a full diversity of renewable energy generators.
- That if the MRET is pursued, it be amended to ensure any clean electricity generation technology has access to incentive created by the scheme by broadening the role of the multiplier.
- That Government policy explicitly address the need to manage risks associated with dangerous climate change, being fully cognisant of climate tipping points or points of no return.
- That the choice of policy tools used to reduce Australia's and global emissions must be fully cognisant of the global equity impacts of climate change itself, as well as the equity impacts of the policies chosen.

The submission emphasises that when considering equity impacts, it is fundamental to understand that for society's most vulnerable constituents, consumption of essential services is inelastic to price. Price is often considered an effective way to encourage resource conservation and/or improved resource consumption efficiency, however, price is a very blunt instrument for the disadvantaged and can lead to debt issues, under consumption of essential services that leads to physical and social health issues, or a combination of both.

CUAC argues that the most efficient and transparent way to ensure cost attributed to carbon pollution is allocated equitably across the domestic sector would be through a carbon tax reflecting the full social cost of carbon, with concession frameworks and other taxation mechanisms to protect those members of society least able to afford the cost of carbon pollution.

For further information go to www.aph.gov.au/SENATE/committee/climate_cte

**All CUAC public submissions can be viewed on the CUAC website:
www.cuac.org.au**

From the EO

It has been a very busy and productive period for CUAC since our last Quarterly.

A highlight has been work with other consumer agencies from the National Consumers' Roundtable on Energy, in responding to the First Exposure Draft of the National Energy Consumer Framework. Influencing the shape of these laws and rules is particularly important for Victorian consumers as we believe that our current protections provide best overall protection compared to other states and territories.

It has been pleasing to see the way in which the consumer agencies nationally came together to discuss approaches and to contribute to a substantial submission. Special thanks go to Janine Rayner from Consumer Advocacy Law Centre (CALC) for getting us across the line on time and to Sarah Toohey at the Victorian Council of Social Service and Gavin Dufty of St Vincent de Paul Society Victoria who also helped in pulling the final document together. We will be continuing to work on these issues prior to and following the second draft which is expected to be released in November 2009.

I was also pleased to be invited to address staff from the Australian Energy Regulator about consumer engagement at one of their training seminars. CUAC has been working towards improving the consultation processes of the national regulator, along with Catriona Lowe, joint CEO of CALC. We have had additional discussions with their senior staff since then.

You will see from our submissions page that this has also been another busy time with consultation processes in place for the Federal Government's Energy White Paper and Australian Energy Market Commission consultation on Demand Side Participation and their review of Energy Market Design in the Light of Climate Change. Tosh Szatow represented CUAC on the expert panel at the AEMC Forum on this issue in Melbourne.

Water utility issues have also been bubbling away. CUAC joined with CALC in putting forward a second submission to the ESC Metropolitan Water Pricing Review and a review of Third Party Access. In addition we have given feedback to the Department of Sustainability and Environment on our concerns about government plans to amend the Water Act to include the jurisdiction of metropolitan water retailers and the failure of the government to address current legislative inequities for rural water consumers.

We have also been working with ACOSS and PIAC to host the Water Reform National Consumer Forum.

Finally, CUAC has also been focused on building skills and knowledge in our new team members, and I acknowledge the generosity of other agencies who have been willing to share their time and expertise with CUAC. We are very excited about the progress we are making and are intent on continuing to provide excellent consumer advocacy.

Jo Benvenuti
CUAC Executive Officer

Farewell Tosh...

CUAC is bidding farewell to Policy Officer Tosh Szatow, who is leaving us for the sunny (!) climes of Hobart, Tasmania. Many of you will know Tosh from his work on the CUAC Reference Group as well as his enthusiastic participation in CUAC events and activities.

Also, he is known for his commitment to sustainability issues, both within, and outside of, his work at CUAC.

Tosh will be sadly missed in the CUAC office and the sector, and we can only hope the Tasmanians appreciate our latest export.



...welcome Deanna



CUAC would like to introduce Deanna Foong, our new Senior Policy Officer. Deanna is a qualified lawyer who also holds Masters qualifications in Law and in Conflict Resolution.

She has previously worked for organisations including the Law Reform Committee of the Victorian Parliament, the Energy and Water Ombudsman of Victoria and the

Dispute Settlement Centre of Victoria.

With her experience in energy and water issues, her legal background and her impressive qualifications, we know Deanna will be a valuable addition to the CUAC policy team.

Deanna will be applying her expertise to a range of issues, particularly in the energy area.

...and David

CUAC is also pleased to welcome David Stanford to the role of Policy Officer. David has a Bachelor of Commerce Degree from Melbourne University with a focus on the economics of natural resource management. He also has a Master of Asian Studies from Monash University with a focus on Indonesian politics and civil society.

David has recently been working as an advocacy consultant with the Indonesian Consumers Association, a position supported by AusAid. He previously worked as an economist at the Victorian Department of Treasury and Finance and has an excellent knowledge of energy and water markets.





Water Reform

A National Consumer Forum

The Federal Government *Water for the Future* program involves significant national policy development and investment. Policy makers are changing our understanding of water as a public and essential service to water as a commodity. Consumer advocates have recognised the need for greater consumer engagement in decision making on water policy and a strong voice in representing consumers, including low income and disadvantaged households and vulnerable communities, as policy and programs are developed. This forum aims to bring together consumer, welfare and environmental advocates to develop a greater understanding of national water reform in Australia and build an approach to water policy in the interests of consumers.

Program

8:30 Registration

9:00 Welcome: Why this forum? An overview of the day, aims and outcomes

Tony Westmore, Senior Policy Officer, Australian Council of Social Service (ACOSS)

9:15 What's going on now? National reform initiatives and processes

Jo Benvenuti, Executive Officer, Consumer Utilities Advocacy Centre (CUAC)

9:45 National water reform – impacts for consumers

Mark Ludbrooke, Senior Policy Officer, Public Interest Advocacy Centre (PIAC)

Liz McAloon and Wayne Chamley, Project Officers, Watermark Australia

10:15 National water reform – impacts for the environment

Tim Stubbs, Policy Analyst, The Wentworth Group of Concerned Scientists

Alan Gregory, Research Scientist, Sustainable Ecosystems, CSIRO

10:45 Break

11:15 Panel: consumers and environment: questions and discussion

12:15 Issues in reform policy

Ross Martin, General Manager, National Water Commission (NWC)

1:00 Lunch

1:45 Water For the Future Program

Ian Robinson, First Assistant Secretary, Department of the Environment, Water, Heritage and the Arts (DEWHA)

2:30 Models for engagement and advocacy

Gordon Renouf, Director Policy and Campaigns, CHOICE

3:15. Break

3:45 Where to from here? Panel and discussion

4:30 Close

Water Reform – A National Consumer Forum is an initiative of consumer, welfare and environmental organisations concerned with increasing community understanding of proposals for national water reform and ensuring that consumers are represented in public policy processes.

ACOSS: www.acoss.org.au CUAC: www.cuac.org.au PIAC: www.piac.asn.au

Venue: Karstens at CQ, 123 Queen Street, Melbourne

Date: Friday 03 July 2009 Time: 8:30 am – 4:30 pm

The cost of registration is \$85.00 per person (so that we can recover actual costs). However, organisations unable to meet this expense can request a waiver of the fee.

Please register by 1 July.

Register online at acoss.org.au, or by email to al@acoss.org.au or see registration form next page.

For further information about the forum please contact

Jo Benvenuti on 03 9639 7600 Tony Westmore at ACOSS on 02 9310 6207.

Water Reform – A National Consumer Forum Registration Form

Karstens at CQ, 123 Queen Street, Melbourne

Friday 03 July 2009 8:30 am – 4:30 pm

Register online at acoss.org.au, or by email to events@acoss.org.au with details below, or print this form and return by fax or post. Places are limited. Please register right away.

This form serves as a tax invoice when payment is made. Prices quoted include GST. Receipts are issued for all payments. Australian Council of Social Service ACOSS ABN: 72 757 927 533

Please complete one form for each participant. ** indicates required information.

Personal details

Title: Mr Ms Dr Other

Name: **

E-mail: **

Position:

Organisation:

Address:

.....

Postcode:

Phone:

Fax:

Dietary/other requirements:.....

Payment details: the organisations presenting this Forum are seeking cost recovery for your participation. If your organisation is not able to meet this expense, please tick the first box below. Otherwise please indicate your preferred method of payment.

- Please waive the registration fee **OR**
- Cheque payable to Australian Council of Social Service **OR**
- Direct deposit to: ACOSS BSB 062-033 Account: 901648 Reference: Organisation or Surname **OR**
- Visa MasterCard Amex

Card no: _____ / _____ / _____ / _____

Expiry date: ____ / ____ Amount: \$85

Name on card: _____ Signature: _____

Thanks for your interest. If you have questions or comments about the program, please call Jo Benvenuti at CUAC on 03 9369 7600 or Tony Westmore at ACOSS on 02 9310 6207.

We will confirm your registration by email or by fax if you do not provide an email address.

Payment must be made in advance of the event.

Please direct inquiries to events@acoss.org.au

Australian Council of Social Service (ACOSS)

Email: events@acoss.org.au Web: www.acoss.org.au

Phone: 02 9310 6200 Fax: 02 9310 4822

Post: Locked Bag 4777, Strawberry Hills NSW 2012