

**ENERGY MARKETS REFORM FORUM,  
ELECTRICITY CONSUMERS COALITION OF SA,**

**and**

**ENERGY USERS COALITION OF VICTORIA**

**COMMENTS**

**ON THE**

**USER PARTICIPATION POLICY  
STATEMENT**

**A SUBMISSION TO**

**MINISTERIAL COUNCIL ON ENERGY**

**STANDING COMMITTEE OF OFFICIALS**

**November 2004**

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The views expressed herein are those of the Energy Markets Reform Forum, the Electricity Consumers Coalition of South Australia and the Energy Users Coalition of Victoria.

**SUMMARY**

**of**

**MCE USER PARTICIPATION POLICY STATEMENT**

**Consumer Advocacy**

- MCE recognizes the need for more effective consumer advocacy arrangements in the Australian energy market and supports the development of proposals to improve existing arrangements.

**Market Mechanisms to Promote Demand Side Response  
in the National Electricity Market**

- MCE supports the emergence of a demand side aggregation facility in the NEM.
- MCE does not support further work on a 'pay-as-bid' demand response bidding mechanism.
- MCE supports further investigations into a short term forward market.

**Role of Interval Metering Technology**

- MCE endorses a future role for interval meters to facilitate greater user participation in a competitive national energy market and will investigate issues relating to interval meter rollouts and load control technologies. Responsibility for policy decisions on rollout of interval meters to remain with individual jurisdictions.

**Demonstration, Information and Capacity Building**

- MCE acknowledges the need for consistent and clear consumer information through capacity building, demonstration and targeted information provision to support improved demand side response.

## **1. The Context of this Response within the Legislative And Regulatory Framework**

Members of the Energy Markets Reform Forum, the Electricity Consumers Coalition of South Australia, and the Energy Users Coalition of Victoria, respectively represent the major industrial users of energy in NSW, South Australia and Victoria. All member companies compete in international markets, as well as competing with imports in the domestic market. Member companies are; OneSteel, BlueScope Steel, Holden, Mitsubishi, Toyota, Ford, Air International, Unidrive, Seeley International, Amcor, Kimberly Clark, Visy, Adelaide Brighton Cement, Orica, BHP Billiton, Tomago and Hydro Aluminium Kurri Kurri,. These companies represent the top two or three electricity and gas users in each of these States; most companies have operations in two or three of the States mentioned.

Electricity and gas represent significant business input costs for all member companies. For example, energy costs as a proportion of production costs are as high as 20% in the aluminium smelting industry; 20% in paper manufacturing; 11% in steel production and 7% in cement production.

The recent Energy Market Review (Parer Report) identified major deficiencies in the National Energy Market:-

- governance and regulatory arrangements
- demand side participation
- full retail contestability
- natural gas initiatives

Accordingly, the current efforts aimed at developing a national framework for electricity and gas retailing and distribution are a major step in ensuring good governance and regulatory consistency, contributing to reducing transactions costs in the National Energy Market, especially for energy using companies operating across State boundaries. Importantly, it could assist in improving service standards, security and service performance in the energy supply industries.

Nationally-consistent legislative and regulatory objectives are also important. Establishing economically- efficient objectives and rules in the regulatory framework can reduce costs to energy users and retailers operating across jurisdictions, including via provisions for effective benchmarking of the energy supply industries.

Nationally-consistent licensing regimes and service standards should also assist with the operations of retailers across jurisdictions, allowing for more effective competition, greater certainty and better service performance. All these objectives can assist in reducing costs to energy users.

The context of this response must therefore recognize that whilst users can (and do) have a major role to play in ensuring competitive and economically efficient outcomes in the electricity and gas markets, they face major constraints, including the very substantial issue of resourcing, in addressing the complexities of the energy markets, and the legislative and regulatory environment governing the markets. It must also be recognized that electricity and gas supplies are only one of several major operating costs that consumers incur, regardless of whether the consumer is a large industrial user or a small domestic user. With these two observations in mind it must be clear that energy consumers do not always have, as a high priority, detailed involvement and knowledge of energy issues.

The reforms to the energy markets do not just require substantial inputs by consumers but require active and on-going detailed involvement to achieve optimum results from the standpoint of end users. Thus, the changes aimed at getting effective end user participation need to be well focused.

## **2. End User Advocacy**

End user advocacy covers many aspects, ranging from providing consumer views to Governments about specific shortcomings of the new energy markets, through to responding to reviews by regulators of access undertakings. End user advocacy covers a wide range of activities. Many of these are obvious (such as responding to issues raised by others – governments and regulators – but others are less so. The experience to date in developing and implementing the reforms undertaken in the energy markets over the past decade has shown that the views by energy supply side entities have dominated over views offered by the end users.

We particularly draw the attention of the MCE to legal appeals in regard to this issue of energy supply side dominance. This issue is one where the energy supply businesses have the necessary funding to appeal decisions of regulators to the National Electricity Tribunal and the Australian Competition Tribunal. In these cases regulators are often financially constrained. In particular end users are not only financially constrained, but in many cases their rights are also constrained. Appendix 1 to this submission provides some insight into this major element of end user advocacy which has been overlooked.

**The EMRF, ECCSA and EUCV strongly consider that the scope of a new Consumer Advocacy Fund must include an ability to fund consumer interests in appeals and other representations before relevant authorities.**

There are a number of reasons for asymmetry of funding but the two fundamental aspects are that end users have more issues to address than just energy, limiting not only funding but physical resources to dedicate to strongly represent consumer interests on energy issues. The only way to address this asymmetry in funding is by the establishment of a funding body dedicated to ensuring that there

are sufficient funds available to represent end user interests at all levels on issues affecting end users of energy.

**General external funding of end user involvement in the various debates and legal appeals affecting energy supplies is essential and therefore is supported.**

Major industrial energy users are concerned to address the imbalance in the resources committed to National Energy Market issues (including pricing reviews of electricity and gas networks) between the energy supply industry and energy users. The supply side industry derives its total revenues and profits from the energy markets. In contrast energy consumers (even those very large energy consumers) have at most a relatively modest amount of their revenue related to energy supply costs. As a direct result, no individual energy consumer can dedicate anywhere near the same cash investment or physical resources to ensure that the examination of any energy issue reflects a fair, balanced and reasonable approach. Because the issues and reviews are at the core of the energy supply industry's business, major resources are allocated to such activities by the energy supply businesses. In the case of regulatory reviews, costs incurred by the supply side businesses for being involved in such reviews are generally returned to the regulated business by way of regulated revenues (i.e. they are eventually paid by consumers!)

Even though member companies of the EMRF, ECCSA and EUCV may have large revenue streams, they must allocate their funds across a much wider spread of issues and therefore have quite limited resources relative to the energy supply industry to commit exclusively to energy issues. It must be noted that the supply and transport of electricity and gas is a complex and extremely technical field and thus the member companies also have less technical knowledge and understanding in these issues than the energy supplier companies. This requires end use consumers to have access to consultants and experts to assist them in formulating their views and making representations to governments, regulators and inquiries.

The ability to access consumer advocacy funds from a central source does allow the imbalances in the resources, skills, technical knowledge, to be partially addressed. Whilst there are some that attempt to differentiate between the needs of small energy consumers and the needs of large energy consumers with regard to the issues in the energy markets, it is now quite apparent that the needs of both small and large energy users show a high degree of commonality. In fact at most the only differentiation between the interests of large and small energy consumers might be the issue of the allocation of costs awarded to energy transport businesses between different classes of consumer.

It should be remembered that more than 90% of the consumer advocacy work on electricity and gas issues (to achieve competitive and economically-efficient outcomes) provide the same benefit to all consumers (domestic, commercial and industrial) so that to differentiate between the different classes of consumers, for the most part, is perhaps academic. It is on these bases that clearly underpin the

interest of member companies to closely engage in the MCE consultation on end-user advocacy.

There are a number of models of advocacy funding which have been discussed in recent years. The current Advocacy Panel for the Electricity Market is one and another is the model suggested by the Allen Consulting Group on behalf of the Consumers Federation of Australia. Neither of these is seen as an appropriate model for funding.

The existing Advocacy Panel has substantial shortcomings.

- The electricity market sells some 175 million MWh of electricity each year and has a revenue from consumers in excess of \$15 billion annually. The national electricity market Advocacy Panel dispenses about \$1m pa in funding consumer views. This comprises considerably less than 0.01% of the revenue paid by consumers to represent their interests. This level of funding needs to be compared to that invested by supply side businesses which dedicate perhaps 1% of their revenue in maximizing their revenues. This amount is some 100 times the amount the Advocacy Panel allocates
- Despite the fact that industrial activity (i.e. the major industrial users) consumes of the order of 60-70% of the electricity generated, and therefore provides this proportion of the Advocacy Panel funding, the Panel consistently exhibits a view that, for applications for funding by groups representing industry (but not usually those representing domestic consumers), those groups of businesses must fund 30% of the costs involved. This is additional to their own internal costs for being involved (such as staff time, consultancy payments and user group membership costs), thus causing a significant cost premium on those businesses prepared to become involved in electricity issues. As against that, those consumers who do not get involved in the issues, get a “free ride” benefit from the work funded by those businesses who do get involved.
- The Advocacy Panel has equal voting on its decision making by representatives from the electricity supply companies. It is quite clear from the way funds have been already awarded there is a treasonable presumption that the industry representatives have exhibited a partisan approach and have been able to limit funds for issues considered critical by consumers (such as market power by generators and the impact of market volatility on consumers). A funding body controlled by consumers would probably have not refused these applications.
- The Panel members have a responsibility to ensure that the funds allocated are usefully expended. This raises two fundamental questions – who assesses the efficacy of the advocacy funded, and why does the Panel consistently reduce the amount of funding requested? End user advocates have a good understanding of the extent of funds required for successful submission making and follow up advocacy, whereas Panel members have little exposure to the costs involved, or of the challenges faced by end user advocates.

- Since funding began in early 2003, the bulk of funding for domestic consumer groups has focused on building up an understanding of the issues, whereas funding of industry representative groups has been focused on the pricing reviews. During this time many fundamental aspects of supply side costs have been decided, effectively precluding future involvement by the domestic sector in these issues. Funding for ‘contestable’ sectors of the electricity market is negligible, raising important questions.
- There is no funding available for consumers to address issues and imperfections in the gas industry, despite the fact that critical elements of electricity supply is dependent on gas supplies and therefore of the costs involved in supplying that gas. Some 50% of the electricity generated in South Australia uses gas its fuel, and most of Victoria’s peaking capacity is gas fired.
- The current approach by the Advocacy Panel to require a 30% contribution of costs actively discriminates against those consumers which are prepared to be involved by requiring them to not only pay for their direct involvement, but also in funding the Advocacy Fund. In this way the active consumer pays for its direct costs, it pays for the 30% contribution and it contributes its share to the Advocacy Fund. Members of EMRF, ECCSA and EUCV have all been negatively impacted in this way. The “free rider”, not involved in the advocacy gets exactly the same benefit as the active consumer, but only pays the contribution to the Advocacy Fund. The 70% rule used by the Advocacy Panel is discriminatory and encourages consumers not to be involved.

The Consumers Federation of Australia proposed model as drafted by Allen Consulting Group model has major shortcomings.

- There have been quite critical comments made (such as by the Chair of the Advocacy Panel and by the Large Consumer representative of the Panel) about the quality of the ACG report, specifically covering its lack of assessment of, and input from, those consumer groups already addressing issues in the electricity market and operating with the Advocacy Panel, and of its limited assessment of other models for providing funds for advocacy.
- It assumes that the interests of the different classes of consumer are not aligned. This is not supported by the facts as a careful assessment shows that in almost all aspects the interests of the different classes of consumer are aligned, (including such issues as reduction of market volatility to reduce retailer risk premiums, reduction of generator market power, revenues awarded to network businesses, etc). From this assumption it recommends that there be a fund dedicated for domestic consumers.
- The proposal does not provide for direct access to consumers in order to gain an understanding of what issues are of interest to consumers.
- Funding is provided by all consumers but the funds are to be allocated by representatives of consumer groups representing *predominantly* disadvantaged domestic consumers.

- It recommends that a separate funding body be established, but makes no attempt to identify whether this could be achieved within the existing structure of the Advocacy Panel remit and makes no attempt to quantify the additional costs having the separate functions for its proposed advocacy funding..
- The conclusions drawn by and recommendations made, in, the report do not appear to be supported by facts.

Rather than attempt to identify an acceptable model, it is best to first identify what advocacy funding should achieve.

1. The advocacy funding should only be for the benefit of end user consumers and to support consumer views.
2. There should only be one point for advocacy funding. To have a greater number of separate funding bodies increases administrative costs unnecessarily. If a particular class of consumer sees that funding of a central advisory group is needed to provide advice or advocacy on issues unique to that class of consumer (eg as suggested by the Allen report for the CFA), then this can be funded from the Advocacy Fund, rather than having an independent levy to provide funding.
3. Funding for responding to both gas and electricity issues should be available. These two major sources of energy both exhibit features which show minimal competition either in its sourcing and processing or in the delivery to end users. Consumers must have funding to address the monopoly features of both these forms of energy.
4. As the funding for advocacy is for consumer benefit, the input from consumers of their concerns must be as close as possible to the output which goes to the recipient of the advocacy. The issues involved in gas and electricity are technically complex and show a high degree of inter-relationship between supplier and end user. For example the demand profile of the end user impacts greatly on both the transportation of the energy and on the way the energy is sourced, and the way energy is used (eg power factor in electricity systems) has a major impact on the transportation of the energy. For sound advocacy on electricity and gas issues, it is essential that advocates have first hand knowledge of the issues as well of the needs and wants of the end user. The more remote the advocate is from the way consumers use gas and electricity, the more difficult it is for the advocate to identify and respond to the issues raised by the supply side businesses. Thus it has been seen that the more actual end users need are involved in the decision making, the better the outcome of the advocacy representing consumer interests. This means that in many facets of consumer advocacy for end users, the advocate needs to have direct access to actual end users, and not rely on theoretical models or assumptions
5. The funding for advocacy should be a cost to all consumers. For a consumer to be actively involved in issues requires a time commitment and associated costs of providing that time, expertise and direct attendance. There should be no potential for some consumers to “free



- ride” on the activities of those consumers who are prepared to be directly involved. There should be no 70% limit on the provision of funds
6. It should be accepted that those consumers directly involved in the advocacy activities should not be further penalized by requiring additional contributions, such as by the current Advocacy Panel requirement for the 30% contribution.
  7. Funding should be independent of supply side businesses, and should reflect the volume of commodity sold to consumers (eg \$/MWh and \$/GJ). If funding is theoretically levied on supply side businesses (such as with the existing Advocacy Panel) this then provides an argument for input into decision making from the supply side businesses. As regulators are likely to be funded by a levy, then advocacy funding should be part of the system used to fund regulators. There is no suggestion that even though the funds sourced for regulation might be seen to come initially from supply side businesses, therefore regulators should have representation in their directorates from supply side businesses – such a suggestion is ludicrous. In the same way there should not be any power for supply side businesses to influence the amount of funds gathered for end user advocacy, nor for the way these funds might be allocated.
  8. Decisions as to funding should lie only with consumers. There should be no decision making from representatives of supply side businesses or groups.
  9. The fund should be sufficiently large for all consumers to be able to make an input into all the debates and appeals on electricity and gas supplies and transport, including market issues and reviews whether raised by governments, regulators, supply side businesses or initiated by consumers themselves. The current level of funding is totally insufficient for end users to be involved in appeals against decisions. As pointed in appendix 1 to this response, the costs for a consumer to be involved in an appeal could well exceed the current funding levied by the current Advocacy Panel.
  10. To ensure funds are expended wisely, the funding body should clearly plan the requirement for funds for the issues it is advised require attention. This plan must be based on input from consumers themselves. Using the plan a proper budget can be prepared.
  11. The electricity industry (and to a lesser extent the gas industry) is extremely complex, requiring input from a number of unrelated disciplines – engineering design, economics, accountancy, business management, forecasting, construction, and maintenance practices. To expect that the funding body will be expert in all of the fields is unreasonable and unnecessary. The recipient of the funded work is best positioned to assess the quality of the funded work, rather than the funding-body members. This requires the funding body members to discuss the attributes and shortcomings of funded work with the target audience, rather than make assessments themselves
  12. There is a view that inadequate funding will result in less than optimum results. Considering that regulators and supply side businesses devote significantly more funding (and time) to analysis of market issues than is available from the existing Advocacy Panel, the allocation of funds for

consumer input should recognize the need for appropriately well funded (even multiple) submissions from consumers.

13. It is recognized that input from a range of consumers is essential for a balanced response to an issue. The funding approach should recognize the need for multiple consumer responses rather than be limited to a single response.

Certain key principles should guide the establishment of a new Advocacy Panel:-

- There must be transparency in the appointments process and in the operations of the panel.
- There must be strong governance arrangements, including the appointment by the MCE of independent Panel members (who are not representative of any particular group), proper disclosures of actions and the reasons behind them, and directors' obligations must be implemented.
- There must be accountability in the processes established, and these assessed via annual reports and an independent review in 3 to 5 years' time.
- There must be a panel that is proactive and strategic in consumer advocacy, in addition to providing grants.
- There must be independent staffing of the funding body to assist applicants for funds to meet application guidelines

### **3. Mechanisms to Promote Demand Side Responsiveness**

Consumers consider electricity and gas supplies as essential services. Industry uses these forms of energy for different purposes (electricity for motive power, computers and lighting, and gas for feedstock and heat). The loss of either can lead to catastrophic consequences.

Industrial consumers of electricity and gas only use the amounts of these commodities needed to manufacture their products. Thus the loss of the energy needed does impact on operations and therefore on the cost structure of their products. It is often overlooked that the cost of disruption to the production cycle occasioned by the loss of electricity and gas is often significantly higher than the benefit that might accrue by a short term reduction in demand.

Demand responsiveness is a forward looking exercise. It requires an understanding of what energy is going to be used, how much and when. This then needs to be correlated with the *expectation* of what is to happen to demand and price at some point in the future. For an industrial energy user to decide that it will curtail demand, in most cases, requires some forewarning that a demand reduction will be required and what the saving will be that will result. Thus, the precursor of cooperative demand management requires certainty as to what demand reduction is required **and certainty of the price that will be gained**, ie that expected benefit will result.

In the case of domestic consumers, they likewise require prior advice of the price that will apply if they don't limit demand. Unfortunately, the Australian market structure does not give certainty of what the price of electricity will be at some point in the future.

A review undertaken of many of the successful demand management programs in other jurisdictions have the following essential features

1. Voluntary involvement,
2. A benefit being paid for being involved in the program,
3. Forward advice as to what the price of electricity will be at some point in the future, eg between certain hours the next day,
4. Remote switching by the supplier of certain equipment eg air conditioning units.

Pricing penalties for using electricity at certain times, based on using interval metering, is not sufficiently certain of getting the desired outcome (reduction of demand) for decisions to be made by the supply side. As the ESCoV<sup>1</sup> states in their decision to mandate roll out of interval meters

*The Commission has not considered all the options by which demand reductions may occur and it expects that retailers and distributors are best placed to consider innovative market developments. ...Low cost approaches may be available for remotely controlling certain loads or indicating to customers that demand should be reduced, ... That is, the interval meter does not replace these technologies, but it enables them to provide price signals to retailers and also to customers.*

Thus it is clear that interval meters are not the solution to the management of demand but only a method of allocating costs.

### **3.1 Aggregation facility**

**Whilst the principle of demand aggregation is supported, there are a number of issues that need to be addressed in order to make this a truly viable option.**

The EUAA carried out a paper trial of demand responsiveness which indicates that not only is it possible to aggregate a demand response, but that to do so would appear to be commercially viable.

There are a number of issues that were not addressed in the paper trial.

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<sup>1</sup> ESCoV, MANDATORY ROLLOUT OF INTERVAL METERS FOR ELECTRICITY CUSTOMERS, Final Decision, July 2004, Page 39

1. As the trial was only “on paper” it did not include for the potential response that might result from generators reacting to the reduction in demand. There are at least two scenarios that could result. One is that the generators would rebid their capacity at prices less than the demand reduction giving a lower return to the providers of the demand reduction, or the generators could withdraw more capacity to offset the demand reduction, resulting in no overall system price reduction.
2. There is no certainty that the actual demand reduction would have occurred at the times assumed.
3. The reduction in demand probably will occur in a location where there is no stress on the network, so the demand reduction will only impact on the system demand and price. Yet much of the benefit of demand reduction is assessed as coming from savings on investment in the networks.
4. As distribution businesses have their revenue tied to a price cap, they are exposed to any demand reduction as this will reduce their total revenue<sup>2</sup>. It is therefore not in the interests of distribution businesses to be involved in any demand reduction unless there is some compensating mechanism which defeats the purpose of the demand reduction.

### **3.2 Removal of Regulatory and market Barriers**

**The removal of any regulatory and market barriers to encourage and/or permit a demand side response is strongly supported**

### **3.3 Short term forward market**

**Investigating and examining the potential for a short term forward market is supported.**

A short term forward market has the potential for overcoming the uncertainty of future power pricing needed for a demand side response. This is needed as the future wholesale (pool) price is not certain. Whilst the forward market has a greater use when there is an expectation of higher prices due to an expected higher demand, it will have a minimal impact on the high prices occurring when demand is below the peak. A review of the occurrence of the very high system prices shows these very high prices occur more often at times when the actual demand is less than 90% of peak demand.

The short term forward market has greater potential in managing network demands. As the stress on the network increases with both demand and ambient temperature, these causes are more readily identified than system prices. The short term forward market has a role to play in identifying a price outcome associated with network provision at points of stress in the network.

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<sup>2</sup> This point is made by IPART in its “Inquiry into the Role of Demand Management and Other Options in the Provision of Energy Services” Final Report October 2002

The forward market can then provide certainty of financial return to users prepared to shed demand at times critical to the network. This approach follows the overseas experience in advising consumers *in advance* of the need to shed load and the financial benefits of doing so.

#### **4. Role of Interval Metering Technology**

There are two main elements underpinning the use of interval meters.

- To measure the usage of electricity so that the system price can be reflected in the supply price of electricity as a commodity. This relates time of use to the system price for electricity.
- To allocate the costs of transportation to reflect the usage made by each consumer on the delivery networks. This relates time of use to the system demand for electricity.

If system price and system demand are coincident, then there is potential for using one or the other for both purposes. However, there is a relatively low correlation between system demand and system price. This was demonstrated in an earlier submission<sup>3</sup> provided to MCE officials earlier this year.

Interval metering of itself does nothing to assist in demand management – all it records is when and how much electricity was used. As discussed above demand management is a forward looking issue

##### **4.1 Common principles for assessment of interval meters**

There is no doubt that there are differences between jurisdictions as to the commercial efficacy of Interval Metering. Whereas the Victorian regulator has mandated the roll out of interval metering, other jurisdictions are less convinced that there is a net commercial benefit by the roll out to all electricity consumers.

It is therefore supported that a common approach to the assessment of the cost/benefit of interval metering be used incorporating a common set of assumptions which are to be used in the calculation of the cost/benefit.

##### **4.2 Jurisdictional reviews of Interval Meters**

**It is supported that there be a fixed timetable for all jurisdictions to review the cost/benefit of universal interval meter roll out**

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<sup>3</sup> See “Interval Metering of Electricity Supplies to Domestic Consumers”, by Headberry Partners P/L. February 2004

### **4.3 Policy Consideration of Metrology Reviews**

**It is supported that the AEMC be responsible for the integration of the Metrology Procedures Review into market policy**

### **4.4 Low Cost Load Control Technologies**

Interval metering only records the use of electricity by consumers. There is no certainty that pricing pressures alone will drive the desired outcome of consumers managing their demand at times of high system demand, high local network demand or of high system prices. Overseas trials show that there is some consumer response to these issues providing there is forewarning and a benefit from reacting – this has been demonstrated in some US jurisdictions (eg as used in California and Illinois).

What does provide certainty of demand management is where the network or power supplier has the ability to remotely control. Such a program has been successfully used by Florida Light and Power.

## **5. Demonstration, Information and Capacity Building**

### **5.1 Consumer awareness, Information and training needs**

**This policy is supported and the proposed actions are also supported.**

End users of electricity and gas are by and large ignorant of the issues that affect the supply and price of these essential services. There are very few consumers of gas and electricity (predominantly large consumers) which have the knowledge, resources and time to commit to addressing issues in the energy markets and providing thoughtful input reflecting consumer views into the debates.

It has been observed by those consumers prepared to be involved in gas and electricity issues, that representations from those representing small consumers has been limited to ensuring a degree of protection is provided to disadvantaged and small consumers, and little effort has been devoted to addressing other issues which have a major impact on price and security of supply.

One of the major concerns of those consumers actively involved in the various debates concerning energy issues, is the continued pre-occupation that small end consumer representatives have that solutions of issues for small and disadvantaged consumers are diametrically opposed to those of large consumers. This is a result of the previous approach taken by the vertically integrated (mainly government owned) gas and electricity businesses that used the issue of allocation of costs between small and large users as a means to divide consumers opposition and so gain a strong negotiating position.

In fact under the new supply arrangements most of the issues for small and large consumers are identical, with very little reason for the two elements of consumer activism not to work together. Solutions which benefit one end of the consumer spectrum, provide the same benefit for the other end.

It is recommended that as part of the program under this policy, there should be an analysis of all the issues that should be addressed by consumers. This analysis should then identify those issues where the needs of the two ends of the consumer spectrum are aligned, and those where the two groups might not be aligned. With this analysis carried out by an independent body under the aegis of the MCE, it then creates an environment where all consumers can operate in unison to the betterment of all consumers.

Such an approach will engender a greater trust between large and small end users and encourage the ability of those already actively involved to pass knowledge and information onto those less aware of the issues, in a mutually supportive environment.

## **5.2 Minimum Information Disclosure Standards for Small End Users**

### **This policy and proposed action is supported.**

It is widely recognized that there is a major information asymmetry between the supply side of the energy market and all others involved – government, regulators and consumers. This information asymmetry is used to provide a significant benefit to those businesses involved in energy supplies. Information disclosure is critical to ensure that a balance is achieved between the needs of the supply side businesses and the needs of consumers.

In the new energy markets, there are two fundamental areas where information disclosure is essential – in setting charges for regulated businesses and ensuring that competing offers for the commodities of electricity and gas can be compared. At the domestic level the relativity between these two elements is that the regulated charges are probably greater than the cost of the commodity. At the large industrial level, the relativity is in the other direction. The minimum disclosure standards should apply equally to both the regulated costs as to the commodity costs.

It is therefore recommended that the disclosure standards should apply to both the regulated element of the total cost of the supply as well as to the commodity element of the total supply cost.

## **APPENDIX 1**

### **Funding Consumer Representation In Appeals And Representations Before The Australian Competition Tribunal**

Since the commencement of the National Gas Access Regime, consumers have not been able to fully participate in appeals before the Australian Competition Tribunal by gas transmission pipeline operators against the final determinations of the ACCC on access arrangements. In all cases, either the ‘standing’ of certain parties precluded participation, or the costs of participation outweighed the advantage that any single consumer or major industrial user could obtain.

More recently, an appeal to the Tribunal by a number of major industrial users against a decision by the Minister of Industry, Resources and Tourism involving coverage of the EAPL, was withdrawn, as costs became prohibitive and unsustainable, and progressively the three major industrial users withdrew from the appeal.

The above experience indicates that in all appeals (or decisions that were contested) no consumer interest or view was considered by the Tribunal, and therefore would appear to be inconsistent with the Gas Code objectives regarding the need for consideration of the “public interest” and “the interests of users”.

The EMRF, ECCSA and EUCV strongly consider that the scope of a new Consumer Advocacy Fund must include an ability to fund consumer interests in appeals and other representations before relevant authorities.

In the cases mentioned above, most if not all the appeals, resulted in the gas transmission operators improving their economic and commercial interests compared with the ACCC’s earlier determinations. In the case where the Ministerial decision on “coverage” has remained in situ, the scope for significant economic rent recovery by the pipeline owner is considerable.