



14 September 2012

By email: electricityprices.sen@aph.gov.au

Committee Secretary
Senate Select Committee on Electricity Prices
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Dear Committee Secretary

Inquiry on Electricity Prices

Consumer Action Law Centre welcome the opportunity to provide a submission to the Select Senate Committee on Electricity Prices.

Consumer Action is an independent, not-for-profit, campaign-focused casework and policy organisation. Consumer Action provides free legal assistance and financial counselling to vulnerable and disadvantaged consumers across Victoria, and is the largest specialist consumer legal practice in Australia. Consumer Action is also a nationally-recognised and influential policy and research body, pursuing a law reform agenda across a range of important consumer issues at a governmental level, in the media, and in the community directly.

Since 2003, Consumer Action (and its predecessor) has received funding from the Consumer Advocacy Panel to undertake consumer advocacy in relation to national energy policy and regulatory processes. Over this time, we have provided consumer input into important reviews and process, including the development of the National Energy Customer Framework, the framework for the economic regulation of monopoly service providers, reviews of the effectiveness of competition, and processes monitoring the adoption of new metering technologies. We have sought to intervene in economic regulatory processes, including the Victorian Distribution Price Review at the Australian Competition Tribunal.¹ We are represented on the Australian Energy Regulator's Customer Consultative Group, as well as the Essential Service Commission Victoria's Customer Consultative Committee.

We believe this inquiry is timely, and particularly well-placed to consider the cause and impacts of the now familiar year on year double digit electricity retail price rises. Undoubtedly, there is no silver bullet and there are a range of drivers for ongoing price rises, including:

- the need for new investment to replace ageing infrastructure;
- the need to provide sufficient generation capacity to meet growing demand, particularly peak demand;
- the installation of new 'smarter' technologies, designed to better manage energy systems;

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- the regulation of monopoly infrastructure, and the limited ability of the regulatory framework to limit ongoing price rises; and
- policies to help the Australian community respond and adapt to climate change.

In spite of these drivers, given that end-users pay for the delivery of energy services, there is a need for the system to deliver reliable and sustainable energy services at least cost. In the main, Australia relies on the rubric of the market to delivery energy services. While we acknowledge that a market-based approach can facilitate efficient and low-cost outcomes for consumers, we have been concerned that the limitations of markets and existing regulatory frameworks have not been well understood.

A similar point was noted by the Expert Panel considering the Limited Merits Review Regime when it said that the approach to implementing the regulatory regime:

was relatively detached from the promotion of the objectives set out in the National Electricity Law (NEL) and National Gas Law (NGL), and particularly from the requirement that regulatory decisions be directed toward encouraging outcomes that are in the long term interests of consumers.ⁱⁱ

In light of such a concern, Consumer Action commissioned a report from the Foundation for Effective Markets and Governance at the Australian National University to analyse whether, drawing on international experience, Australia's energy market design is delivering for consumers. A confidential draft of this report is attached.ⁱⁱⁱ

The draft report provides a comprehensive overview of policy and regulatory developments with a specific focus on wholesale and retail markets, demand side interaction, market structure and efforts to tackle carbon emission reductions. The draft report argues that in Australia at present, consumer welfare is given insufficient attention by Australian policy makers and regulators, and throughout the report recommendations are made to inform a policy and regulatory framework that has a more rigorous focus on the interests of consumers. The draft report draws on international development, particularly from Europe and the UK, where there has been acknowledgment that the interests of industry did not 'trickle down' to satisfy the needs of consumers. The draft report responds to many of the inquiry's terms of reference and we recommend it to the committee.

We also note that the committee's terms of reference particularly considers opportunities for improved customer advocacy and representation arrangements. We strongly welcome this and agree that there is a significant need to strengthen national consumer advocacy arrangements to balance the supply side's promotion of its interests and ensure that consumer interests are effectively taken into account by decisions makers in governments, regulators and energy supply businesses.

In 2010, together with three other consumer advocacy organisations, we published the report, *Making Energy Markets Work for Consumers: The Role of Consumer Advocacy*. That report found that while there are strengths in current arrangements for consumer advocacy relating to energy, there is a need for increased resources for energy consumer advocacy. In particular, the report found that we currently lack an effective national voice and there is a need for more

technical expertise in consumer advocacy. A copy of the executive summary of this report is also attached.

Following this report, a number of consumer advocacy organisations have joined together to establish a working group tasked to support the creation of a national energy advocacy body.^{iv} The working group, led by a skilled independent consultant,^v will identify an appropriate governance model for the proposed body, develop a business plan, and provide an implementation plan for the consideration of the Standing Council on Energy and Resources (**SCER**) at its December meeting.

An effective, well-resourced national energy consumer advocacy body can operate to ensure consumer interests are central to decision-making by governments, regulators and energy businesses. Working closely with existing advocacy and community agencies to leverage existing skills, knowledge and experience, a new body focused on national key priorities can contribute to more responsible, effective, sustainable and fair energy markets.

We would welcome discussing this proposal, or any aspect of our submission and attachments, with Senators further.

Yours sincerely

CONSUMER ACTION LAW CENTRE

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Co-CEO

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ⁱ This intervention was ultimately unsuccessful, but we published a report of the experience jointly with Consumer Utilities Advocacy Centre, *Barriers to Fair Network Prices: An analysis of consumer participation in the merits review of the Victorian EDPR determinations* (August 2011).

ⁱⁱ Professor George Yarrow, Hon Michael Egan & Dr John Tamblyn, *Review of Limited Merits Review Regime: Interim Stage Two Report*, page 3.

ⁱⁱⁱ The report will be released publicly in the coming months.

^{iv} The sponsoring organisations for this initiative are the Australian Council of Social Service, the Alternative Technologies Association, the Consumer Action Law Centre, the Consumer Utilities Advocacy Centre and the Public Interest Law Clearing House.

^v The consultant leading the working group is Fiona McLeod, ex-Energy & Water Ombudsman Victoria.