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Australian Energy Market Commission
By email to submissions@aemc.gov.au

AEMC Retail Competition Review – CUAC Response to Issues Paper

The Consumer Utilities Advocacy Centre Ltd (CUAC) welcomes the opportunity to respond to the Australian Energy Market Commission's Issues Paper *Review of the Effectiveness of Competition in Gas and Electricity Retail Markets* (the Paper). We would also like to express our appreciation for the Commission's willingness to consult with consumer stakeholders in developing the Review approach and methodology.

CUAC is an independent advocacy organisation, established to represent the interests of Victorian consumers, particularly low-income, disadvantaged, rural and regional and Indigenous consumers, in policy and regulatory decisions on electricity, gas and water. This submission has been made with the interests of those consumers in mind.

A major factor in the Victorian Government's decision to regulate electricity and gas retail prices in the transition to effective competition was the need to ensure that households retain access to affordable energy because energy is an essential service.

CUAC therefore welcomes the Commission's recognition that energy services, particularly electricity, are essential for all members of the community (p 25).

The attached *Charter of Principles for the Supply of Energy*, developed by the participating organisations of the National Consumers Roundtable on Energy, and endorsed by CUAC, articulates how it is an essential service for households:

Electricity supports fundamental human needs including safe food (storage, preparation) and safe shelter (hygiene, lighting, temperature control). Electricity supports equipment that is critical to wellbeing and independence (health, communication). Beyond these fundamentals, electricity supports community engagement and family life (social interactions, employment, education).

Except in rare and exceptional circumstances, a regular connection to electricity supply is not discretionary or optional. In most instances there is no alternative to electricity.

Key issues

In brief, CUAC is concerned that the Commission might recommend the complete deregulation of retail prices. This market is not yet sufficiently mature to rely on competition to provide adequate protection to consumers.

The impediments to effective competition are significant, and are found on both the supply-side and demand-side:

- Supply-side issues include trends towards vertical reintegration and the advantage that provides incumbents, the fact that there are inherent distortions in the market caused by the nature of the service, and exemplified by the Retailer of Last Resort Provisions, the likelihood that the level of retail competition in Victoria will decrease with price rises in other states;
- Demand-side: The market remains characterized by significant market failures - information asymmetries remain a clear problem. Most consumers view energy as a service, not a commodity, whose value is derived from the products whose use it enables. The level of real knowledge in the community about usage – expressed by price/kilowatt hour or by consumption threshold – remains very low, despite the fact that all energy products are sold in those terms. Marketing conduct remains a real problem, and residential consumers do not (and are probably unlikely ever to have) real bargaining power;
- Future events: this is an evolving market. The impact of carbon pricing and interval meters on the effectiveness of competition in the wholesale market is as yet unclear, although coupled with capacity and input constraints, we can expect upward pressure on retail prices to increase.

The following offers comments on the specific questions raised in the Issues Paper.

4.1 Market structure, and conditions of entry, exit and expansion

Are the structural conditions sufficient to support an effectively competitive market? Is there any evidence that incumbent retailers are not constrained by participants? Are there barriers to entry that impact on effective competition? Are there barriers to expansion or exit that impact on effective competition? Are the barriers such that retailers are not influenced by the threat of new entry?

While market structure does not present obvious barriers to competition, there have been developments that give rise to concern, and raise legitimate questions about the maturity of the market.

The most immediate is the trend toward vertical reintegration of retail with generation. The creation of ‘gentailers’ provides those companies, all first tier retailers, with a clear advantage at times of wholesale price volatility by facilitating their capacity to manage risk. While that

business model in and of itself may not be of concern, there are concerns when considered within the short to medium term outlook for wholesale market prices, which are likely to remain uncertain for the following reasons:

- the imposition of a carbon price through an emission trading scheme – the uncertainty leading up to government decision on the nature of the scheme and the implementation of the scheme will both impact on wholesale prices;
- the impact of interval meters on demand curves, and potential changes to peak demand times/prices;
- low rainfall, creating input constraints and upward pressure on prices; and
- reduced reserve generation capacity.

The effectiveness of wholesale market competition is not within the mandate of this review, which means the Commission will need to carefully unpack industry claims that retail price deregulation will assist retailers manage risk more effectively in the wholesale market.

It is worth noting that the theoretical argument that consumers may agree to assume more risk for a lower price is one that just does not hold up when one considers the upward pressure on prices, particularly for small end-users, and considers the bargaining power of small consumers and the degree of market power held by retailers. Pursuing that argument to its logical conclusion, retail price deregulation simply shifts the risk from retailers to consumers, the market participant most vulnerable to price shocks.

It is also important to remember that this is an evolving market. The market's immaturity has been underscored by the circumstances surrounding the recent departure of EnergyOne (and potentially other second tier retailers), and also served to highlight the risk to consumers from the exit of a supplier.

EnergyOne was the first Retailer of Last Resort (ROLR) event and demonstrated that this market can never be perfectly competitive, given the market distortion imposed by the need for a ROLR safety net.

The way in which the Victorian market interacts with other jurisdictions must also be considered in the Commission's analysis. If it is indeed correct that the entry of other retailers to the Victorian market is because companies assessed prices were too low in other jurisdictions, then that is also not a situation likely to continue in the future. Will recent price rises in Queensland and NSW reduce the level of competitive activity in Victoria? While there have been a number of new entrants, we are not confident that will continue in the same way in Victoria.

The size of the incumbent retailers in comparison with the second tiers remains an obvious characteristic of this market and one that does raise questions about market distortion, given customer load provides a natural competitive advantage. The natural tendency of an energy market in Australia and overseas is to oligopoly, with the competitive distortions such a model brings in its train.

We have seen little evidence that incumbent retailers feel required to revisit their price and/or tariff structures following the arrival of new entrants, raising questions about how effective a driver of competition these new entrants have been, particularly given demand inelasticities and upward pressure on prices.

The Commission also sought comment on barriers to entry – we believe that the potential barriers to entry identified by the Essential Services Commission (ESC) in its 2004 Review of the effectiveness of full retail competition are still in place.

The most obvious barrier to entry has clearly been access to wholesale energy supply and risk management products, and we would encourage the Commission to consider that aspect in detail, given consumer stakeholders are not well placed to collect information about how effective a barrier that has become.

Finally it is important to note that the Victorian consumer protection framework has not constrained entry. The Energy and Water Ombudsman Victoria (EWOV) reports on the number of market participants in its annual reports and there has been a steady increase in market participants since full retail contestability was introduced. At the same time, new Government initiatives have resulted in an increase in consumer protection and a strengthening of the regulation relating to hardship customers. As such, there is no reason to believe that consumer protection and regulation cause a barrier to market entry.

4.2 Independent rivalry and the behaviour of retailers

What does the level and extent of marketing indicate about the level of competition? What do the types of marketing indicate about the level of competition? Is there evidence of anti-competitive or misleading behaviour?

Marketing strategies tend to focus on non-price incentives. For customer acquisition, bonuses or ‘gifts with purchase’ have proved effective. For customer retention, retailers have largely attempted to build brand loyalty, including through non-price offers such as provision of energy efficiency advice.

The most effective marketing strategy for retailers is without doubt doorknocking, demonstrating that there remains a significant degree of customer inertia in the marketplace – consumers are not actively seeking to change retailers, but will consider so doing when approached.

Marketing continues to be a significant source of problems in this market –EWOV’s latest *Resolution* report in April 2007 highlighted the high number of marketing complaints in its case load, singling out as a trend the number of complaints it had received in relation to marketing to non-account holders, the elderly and people with limited English.

Concerns in relation to marketing have also been repeated in recent research by the Footscray Community Legal Centre and Financial and Consumer Rights Council (FCRC). The Footscray research found that of 39 respondents who had switched, 27 reported dissatisfaction

with their decision, and many believed they had been misled by the sales representative of the retailer's promise of cheaper bills.

FCRC's research found that consumers were concerned by the way in which they were pressured by marketing agents:

The overall experience across the focus groups was that participants were not happy with the way they had been approached. They felt that the door to door sales people were very pushy and were difficult to deal with. The focus groups overall expressed that the constant telephone calls were intrusive and inconvenient.¹

There is clearly enough evidence of ongoing anti-competitive and misleading behaviour to demonstrate the need for robust consumer protection to provide some assurance that consumers enter into contracts with their explicit informed consent, understanding the tariff, terms and conditions attached to that product.

It also clearly demonstrates ongoing information asymmetries, a demand-side weakness in the market that undermines competition.

Victorian consumer groups previously proposed that the Commission collect information about contractual terms and conditions, as we were concerned that there existed instances of anti-competitive behaviour, and the Review timelines provided no opportunity to collect that information ourselves. We would again recommend that the Commission undertake that research as part of this Review, as we believe that it would demonstrate the inconsistency of products in this market.

4.3 Customer choice and behaviour

What motivates a customer to switch retailer? What evidence is there of customers seeking or obtaining market offers? Are customers switching retailers to take advantage of competitive market offers? What is the relationship between customer switching and marketing activity?

It has been our experience that consumers moving to a market contract are typically prompted by one of three factors

- as the result of a direct approach by a retailer;
- a consumer's desire to change to a more environmentally friendly product;
- when a consumer moves house.

The latter is a significant but invisible portion of churn rates. The only data available publicly about consumers seeking or obtaining market offers is switching rates, but the Commission should carefully unpack customer churn rates in its analysis, given it does not distinguish between 'active shopping' by the customer and 'passive transfers' by energy consumers. By

¹ Financial and Consumer Rights Council, *Coercion, Cost and Confusion*, (forthcoming) p 8

‘passive transfers’ we mean consumers that do not demonstrate any awareness of choice (i.e. signs up with the dominant retailer in the area) or seek to compare offers.²

Is there sufficient awareness about the existence of competition and market offers? Are there differences in customer choice and participation across customer groups? Are customers able to effectively evaluate and search for market offer information such that they can make an informed choice?

Consumers’ lack of understanding of the market and a concomitant lack of bargaining power continue to undermine effective competition.

There have been numerous studies over the past 2-3 years that clearly demonstrate that business and residential consumers remain hampered by a poor understanding of the products in the marketplace, including:

- Research initiated by the City of Greater Bendigo found that even business consumers are ill-equipped to negotiate with energy businesses. Many small, as well as large, businesses are on the wrong tariffs and are paying more than necessary. A survey of manufacturing businesses in the Bendigo region found 23% of companies surveyed were on the wrong tariff, and more than 50% had incorrect contract demand figures;³
- Clulow’s survey of over 1000 small businesses in Victoria⁴ found that there is a relatively low level of awareness of brand options and confusion and lack of understanding of the green energy options (indeed a significant number of respondents listed Green Energy as a supplier). It is also worth noting that respondents also felt annoyance at the way in which energy was promoted;

The above clearly demonstrate that the capacity of the demand side (and these consumers represent the best equipped) to promote competition is severely restricted. Research by UK academic Michael Waterson⁵ demonstrated that reluctance by consumers to search or to switch suppliers can lead to sub-competitive outcomes. If the transaction costs of searching are viewed by consumers as high, the resulting inertia produces no pressure on companies to compete.

The Victorian Government responded to the last FRC Review in 2004 by introducing more stringent regulation around product information disclosure, which makes it easier for consumers to compare offers. The ESC’s online price comparator also facilitates price comparison and has been a welcome introduction to the marketplace. While both have encouraged competition, they were bitterly opposed by retailers.

² CUAC/CLCV Submission to the Ministerial Council on Energy Standing Committee of Officials, September 2006, p 4

³ City of Greater Bendigo, Central Victorian Demand Tariff Project, September 2005

⁴ Clulow, V, Barrett, R and Reimers, V Small Business Consumers and the Energy Retail Market, Dec 2006, Monash University Business and Economics Faculty – available at

⁵ Waterson, M “The role of consumers in competition and competition policy”, International Journal of Industrial Organization, 21 (2003), pp 129-150

However the information asymmetries in this marketplace remain significant, and there remains a long way to go to address them. Providing information to consumers is certainly helpful, but it is also clear that information alone is not the solution.

The lessons of behavioural economics provide a useful analytical framework to identify not only what measures may be useful to help address those asymmetries, but also to formulate a reasonable understanding of what exactly is the 'well-informed consumer' that forms the basis of competition theory.

Consumers have not in the past had to know or understand the unit price of electricity – the amount per kilowatt hour – or to understand in detail the level and type of consumption. The introduction of FRC has not, as may have been expected, prompted consumers to acquire that knowledge as real prices have overall remained stable or in fact reduced as efficiencies from privatisation were passed through. The future outlook however is very different: upward pressure on prices - from wholesale market constraints and from carbon pricing, demand management initiatives to reduce greenhouse gas emissions and the inevitable introduction of more complex tariffs from the roll-out of interval meters will likely require consumers to take more notice of their energy consumption. It must be remembered, however, that this is an essential service, and access to affordable energy must remain a fundamental benchmark in this market.

The Issues Paper does not address an issue of increasing concern to consumer organisations - that while consumers are exercising choice, they are not making choices that are in their best interests.

Retailers' direct marketing (door to door or telemarketing) promises price reductions, but we have heard sufficient cases from a variety of sources, including the Footscray research cited earlier, to demonstrate that promised savings are not being achieved in practice. These concerns were supported by UK research by Wilson and Waddams Price (2006) which found that 27-38% of consumers actually *reduced* their surplus as a result of switching. Misleading sales were deemed not to be the reason for that poor choice, and the researchers suggested that confusing tariff and price structures play a part in poor decision-making.

The reasons for this are likely to be varied, ranging from plain misrepresentation by marketing agents, to poor decision-making by consumers. Victorian consumer groups strongly encouraged the Commission to use its customer survey to identify and contact consumers who have switched suppliers, as they constituted a ready made and reasonably representative sample group who could be asked in further detail about their experiences after switching, to assess whether they made a choice that was in their best interests.

Analysis on the *quality* of switching decisions has not been undertaken in any depth in Victoria (or indeed in Australia), and would provide much-needed information about whether consumers are indeed operating effectively in the market and so promoting competition.

Does the option of receiving dual fuel supply from a retailer influence customer choice?

Dual fuel products have been cited as a major innovation in this market and have certainly been attractive to some consumers. Other consumers, particularly low-income households concerned at the prospect of a single but larger bill, would not find dual fuel convenient.

Dual fuel does however raise a broader question of how ‘innovation’ is defined in this market and how narrow the scope for innovation really is. The product itself does not change – indeed, most consumers view energy as a service, not a commodity, whose value is derived from the products whose use it enables. Innovation has therefore really only been seen in the delivery of the product, the ‘bells and whistles’ that accompany the contract.

If the degree of product innovation is a factor in assessing the effectiveness of competition, the Commission should articulate how it defines that concept, given the restrictions.

4.4 Price and service quality outcomes for customers

What evidence is there of price competition, for example, are prices reflective of the efficient long run costs of supply?

CUAC has not had the time or the resources to collect data to accurately answer these questions. And information about this issues is not easy to collate, given competition centred on price tends to occur only in direct marketing, through door-to-door or telemarketing contacts. We would therefore strongly encourage the AEMC to collect information on details of products in the market and, particularly, information about prices, tariff structures, and non-price incentives and make that available to consumer groups and other stakeholders.

That said, we can make the following observations. There seems to be little evidence that the standing offer is not an accurate indication of retailer costs. The CRA International report for the Energy Supply Association of Australia noted that: “In practice, jurisdictions that set regulated prices below average cost may still experience entry if potential entrants are able to target customers for whom the costs of supply are lower than average (e.g. customers in certain postcodes or with good credit history).”⁶ That has not been the experience in Victoria, where there appears to be little or no evidence of cherry-picking by new entrants, leading to the reasonable conclusion that prices are not set below average cost.

The Victorian Government negotiation of the price path is a process that seems to have been sufficiently rigorous to have not impeded competition in any way, which would seem to indicate that standing offer prices are, for the most part, reflective of long run marginal costs, and so have developed into an accurate ‘price to beat’.

What types of competitive offerings are being made available to customers, and is there evidence of new types of offers being made to customers over a range of customer classes?

We believe accurate switching data overlapped with data on price variations would be a valuable indicator of the effectiveness of competition. An indication of an effective market would be one in which a high level of price variation coincides with a high level of switching (supply side participants seek to attract new customers by lowering their prices and the demand side demonstrate awareness and responsiveness by changing supplier). Large price

⁶ CRA International report for the Energy Supply Association of Australia *The effects of retail price regulation in Australian energy markets*, January 2007, p 25

variations without customer response (through switching) on the other hand would, if consistent over time, indicate that the market is not operating effectively.

We strongly recommend that such data is collected and analysis undertaken to assist this and future market reviews.

Do retailers clearly and accurately communicate information to customers about their market offers?

The difficulty consumers experience in obtaining product information, particularly on price, fees and charges, from retailers before signing onto a contract was unfortunately a common story in this market at the time of the last FRC Review. It was a major factor in the Government's response to the last FRC review, which mandated the online publication of Product Information Disclosure Statements (PIDS), to facilitate price comparison.

In March 2006, after the introduction of the regulation, CUAC undertook research on the effectiveness of the retailers' PIDS, and found that consumers faced significant problems to elicit information about prices from some retailers. That research is out of date, but we recommend the AEMC revisit that research, to assess the amount and quality of information provided to consumers. We have attached a copy of the *CUAC Quarterly*, to inform the Commission of the methodology and original findings of that research.

4.5 The role and impact of retail price regulation

Have the consumer safety net arrangements been effective in ensuring access to supply in Victoria?

Yes. The standing offer has evolved in two ways: as a 'price to beat' point of entry for new entrants, and as a safety net for consumers who do not wish to switch. Contrary to retailers' claims, the Victorian Government has successfully managed to deduce the right tariff for the standing offer, which provides protection for consumers who don't want to move, but also has sufficient headroom to enable new entrants to perceive potential profits. Indeed the CRA report for the ESAA states that "South Australia and Victoria are the stand out candidates for setting price equal to or above average retailer-wide costs."⁷

As a 'price to beat' the standing offer has ensured access to supply in two ways: in providing a public benchmark against which consumers can compare market offers, and through providing a benchmark price against which new entrants could construct their products.

An important and undervalued role of the standing offer has been to provide protection for those consumers – which it should be remembered comprise the majority of households - who do not wish to move to a market contract.

⁷ op cit, p. 26

What are the benefits of the consumer safety net arrangements?

The primary - and a very valuable - benefit to consumers is the protection the standing offer provides consumers against price volatility. That has not been a major concern in the past, given the stability of wholesale market prices, but it is certainly an issue for the future. Exposing residential consumers, who are least well prepared to manage that risk, would certainly imperil access to affordable energy.

Another important and often overlooked has been the facilitating role the standing offer provides to set the ROLR price. Industry has complained about the costs incurred in determining the price of a standing offer, but neglects to mention that having a ROLR safety net requires a similar process regardless. The ESC's decision in identifying the standing offer terms and conditions points out both its value in protecting vulnerable consumers, as well as endorsing the rigour with which it has been set. The ESC's reasoning is worth citing in full:

...the Commission considers that use of the standing offer terms and conditions applicable under the safety net provisions of the Electricity Industry Act and the Gas Industry Act satisfies the key elements of the RoLR pricing criteria – that administration costs should be minimised, a standard contract is in place that protects consumer interests, there is a high degree of regulatory certainty, and implementation should be possible within existing system capabilities. In particular, the Commission considers that use of standard terms and conditions will reduce the cost of the RoLR scheme because these terms and conditions are contained in local retailers' existing standing offer and deemed contracts. It will also ensure that most customers – those who have chosen not to change retailer or enter into a market contract with their local retailer – will continue to be supplied on terms and conditions that are familiar to them.

The Commission further considers that relevant customers of a failed retailer may be in a vulnerable position with respect to terms and conditions because they are allocated to the RoLR rather than exercising an active choice. The application of standing offer terms and conditions provides the necessary protection for RoLR customers without placing them on more advantageous terms and conditions than similar customers served by other retailers.⁸

What are the detriments of the consumer safety net arrangements?

Retailers claim that price regulation has not allowed them to pass through increases in wholesale price to customers, increasing their exposure to price volatility and their risk. The most recent complaints have been made by the Energy Supply Association of Australia and the Energy Retailers Association of Australia.

Industry has however neglected to mention that in Victoria, incumbent retailers have always had the option of returning to government to seek a re-negotiation of the price path agreement, should retailers judge that risk to be too great. That option has not been exercised.

⁸ Essential Services Commission, Final Decision – Energy Retailer of Last Resort, February 2006, p 20 – available at http://www.esc.vic.gov.au/NR/rdonlyres/EE6CE3F5-8EF4-4C23-B1C4-EE20636E6E34/0/FDP_RoLR20060201_Final.pdf

4.6 Impact of competition on vulnerable customers

Which customers are likely to be considered vulnerable customers? What factors contribute to customer vulnerability?

There has been significant work done in recent years to identify vulnerable consumers. A good working definition has been formulated by Consumer Affairs Victoria and is 'a person who is capable of readily or quickly suffering detriment in the process of consumption.'⁹

It is important to remember however that vulnerability is not just about the consumer, but also about the market's perception of the consumer:

The 'market dimension' of consumption incorporates the motivations of buyers and sellers, consumers' information requirements for successful purchases and the capacity of markets to 'fail' in ways that are detrimental to consumers. The 'personal dimension' of consumption incorporates those attributes and circumstances of individuals that affect how purchase decisions are made (particularly access to and use of information) and how a consumer is positioned in transactions relative to sellers.

Variables in each of the market and personal dimensions affect consumer vulnerability, but it is not necessary for there to be problems in both dimensions for concerns about vulnerability to arise. Consumers with normal capacities and in 'ordinary' personal circumstances may still be susceptible to detriment, due to the characteristics of a particular market, product or transaction.¹⁰

A key group of vulnerable consumers is those who are prone to financial hardship. The Commission should also be aware of the demographics in Victoria that indicate a very high proportion of the population is on a fixed or low income:

- 31 per cent of Victorians aged 15 or over hold a concession card;
- By household, approximately 37 per cent of Victorian households have at least one person in the household who is a concession cardholder;
- 43 per cent of concession cardholders are aged 65 and over; and
- In some areas of the state, notably East Gippsland and parts of Central Victoria, the number of concession card holders can be over 40 per cent of the local population.¹¹

UNSW Centre for Social Policy Research, under the auspices of the Committee for Melbourne Utility Debt Spiral Project, found a strong correlation between serious financial deprivation and utility stress. Households experiencing utility stress account for:

- 70 per cent of all households suffering financial hardship;
- 25 per cent of all households in income poverty; and
- 83 per cent of all households suffering both financial hardship and income¹²

⁹ Consumer Affairs Victoria (CAV) Discussion Paper *What do we mean by 'vulnerable' and 'disadvantaged' consumers?*, 2004, p 1, available at [http://www.consumer.vic.gov.au/CA256902000FE154/Lookup/CAV_Publications_Reports_and_Guidelines/\\$file/vulnerabledisadvantaged.pdf](http://www.consumer.vic.gov.au/CA256902000FE154/Lookup/CAV_Publications_Reports_and_Guidelines/$file/vulnerabledisadvantaged.pdf)

¹⁰ *ibid*, p 1

¹¹ Dept of Human Services, *State concessions and hardship program 2005-06*, March 2007, p 8

The reason for that strong relationship is that energy is an essential service, and people will forego other goods and services (including food) to retain access.

Hardship experienced by energy consumers can generally be categorised into three main groups - temporary, chronic and energy inefficient households.¹³

Temporary financial hardship

It is impossible to develop a complete check-list of reasons for why consumers fall into temporary financial hardship. Research shows that certain characteristics have a more pronounced correlation to utility stress than others, but most importantly it has to be remembered that consumers can experience hardship for various but equally critical reasons (interest rate rises that lead to higher mortgage repayments, loss of a job, family break-up, or a sudden unexpected bill for car repairs, to name but a few possible scenarios).

An issue for many customers in temporary financial hardship is that they can be “first timers” and therefore inexperienced in dealing with customer assistance schemes. These customers are very dependent upon the response they receive from energy retailers as their situation often means that they are not linked to the state concession system, Centrelink or other welfare/customer assistance schemes.

Research has demonstrated that retailers’ inflexibility when negotiating payment plans can be a cause of severe utility stress and imminent disconnection.¹⁴ For customers with temporary payment problems an affordable plan can be all that is needed to solve the problem.

Chronic hardship

This customer group includes customers with low income levels who experience a long term struggle to meet basic household expenses (housing, food, transport and utilities). These customers usually experience ongoing difficulty in paying their energy bills but it is not a given that they are always unable to pay for the service. Research has demonstrated that this group of customers often forgoes other essential goods or services to pay for energy as well as under consuming as a way of making the service more affordable.

A key issue for this customer group is that only measures that address the affordability of energy are going to alleviate the problem. There are, however, many ways of addressing affordability, including reducing the cost of energy for this customer group, reducing consumption levels through improved energy efficiency and improving direct financial assistance or income levels.

St Vincent de Paul Society Victoria told the Victorian Committee of Inquiry into energy hardship that between 2001-02 and 2003-04 there was a 230% increase in utility assistance

¹² Siminksi, P “Poverty, hardship and utilities related financial stress in Victoria”, Utility Debt Spiral Project, Committee for Melbourne, November 2004 p5. Available at <http://www.cuac.org.au/docs/Committee%20for%20Melb%20Utility%20Debt%20Spiral%20Report%20Nov04.pdf>

¹³ For a more detailed outline, please refer to the CUAC submission to the Committee of Inquiry into the Hardship of Energy Consumers, available at <http://www.cuac.org.au/docs/CUAC%20Submission%20to%20Hardship%20Inquiry.pdf>

¹⁴ N Rich and M Mauseth, *Access to Energy and Water in Victoria – A research report*, Consumer Law Centre Victoria and Consumer Utilities Advocacy Centre, 2004, p 64-65.

provided to consumers¹⁵. The Commission should take care that any changes to the safety net arrangements do not simply shift responsibility from the retailer to the community sector.

Energy inefficiency

As there is a strong relationship between energy efficiency and energy affordability we would argue that this is not so much a separate customer group as it is a way of addressing energy affordability and assisting customers in chronic financial hardship. Tenants in the private property market are a class of consumers particularly vulnerable in this regard. They do not constitute a homogenous group. However it is well documented that there are more low income consumers in rental properties than amongst home purchasers/owners and there is a positive relationship between tenants and utility stress.

Does the structure and operation of market contribute to customer vulnerability? How does a customer's vulnerability affect their participation in the market?

The matrix overleaf summarises the different variables that cause vulnerability in a market.

¹⁵ Submission to Committee of Inquiry into Financial Hardship of Energy Consumers by St Vincent de Paul, June 2005 p 15, available at [http://www.doi.vic.gov.au/doi/doielect.nsf/2a6bd98dee287482ca256915001cff0c/3bf666a8e99340ecca257030001632f7/\\$FILE/St%20Vincent%20De%20Paul%20Society.pdf](http://www.doi.vic.gov.au/doi/doielect.nsf/2a6bd98dee287482ca256915001cff0c/3bf666a8e99340ecca257030001632f7/$FILE/St%20Vincent%20De%20Paul%20Society.pdf)

Matrix of Consumer Vulnerability¹⁶

Market and Personal variables	Information requirements for satisfactory purchase process								
	Availability and Access				Search		Use		
	Product qualities & price (1)	Alternative suppliers & price (2)	Substitute products & price (3)	Non-discriminatory information provision (4)	Inclination to seek information (5)	Capacity to seek 3rd party information (6)	Understand information (7)	Capacity to complain (8)	Pursue effective redress (9)
Market context									
Asymmetric information	Shaded								
Supplier market power									
Complex product	Shaded								
Complex sale transaction							Shaded		
Supplier motivated to exploit consumer								Shaded	Shaded
'Fad' product (eg 'New Age')	Shaded								
Personal attributes circumstances									
Intellectual disability	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded
Physical disability	Shaded								
Illiterate	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded
Low English proficiency	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded
Limited education	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded
Geographical remoteness	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded	Shaded
Gullibility					Shaded	Shaded	Shaded	Shaded	Shaded
Low income					Shaded	Shaded	Shaded	Shaded	Shaded
Sole parent					Shaded	Shaded	Shaded	Shaded	Shaded
Life event trauma (10)					Shaded	Shaded	Shaded	Shaded	Shaded
'Time deprivation' (11)					Shaded	Shaded	Shaded	Shaded	Shaded

Shaded cells indicate risk of vulnerability i.e. conditions for satisfactory outcome are problematic
See box for notes to diagram

Lower ← → Higher

Notes to Matrix of Consumer Vulnerability (above)

Satisfactory purchases are those that result in the consumer obtaining the utility he or she expected on entering the transaction.

Market variables (i.e. the market context and product/transaction characteristics) and personal variables (i.e. individual attributes and circumstances) will affect how a consumer makes purchase decisions and how he or she is positioned in transactions relative to sellers. Given the significance of information to buyers' decision-making and bargaining positions, personal attributes or circumstances that affect access to and effective use of information are most relevant to the concepts of consumer vulnerability. Major information requirements for effective consumer purchases are summarised in the horizontal headings in the matrix. Where these requirements are not likely to be met the outcome for the consumer is problematic and potential for vulnerability exists.

(1) Product qualities & price: Information about a product's capacity to satisfy a consumer's needs, its quality and price is available from suppliers and a consumer is able to easily access the information.

(2) Alternative suppliers & prices: Information about prices is available from alternative suppliers and the consumer is able to easily access the information.

(3) Substitute products & prices: The consumer is aware substitute products exist and information about potential substitutes and their prices is available from suppliers and the consumer is able to easily access the information.

(4) Non-discriminatory provision: Suppliers of the product in question do not provide to certain categories of customers information which is inferior to or more costly to access than that provided to customers generally (in other words, suppliers do not inform prospective customers on a discriminatory basis due to their perception of customers' capacities/circumstances).

(5) Inclination to search: The consumer is inclined to seek information relevant to his or her purchase decision.

(6) Capacity to obtain third party provided information: The consumer is inclined to search for product and price information provided by third parties and can afford third party provider charges.

(7) Ability to understand: The consumer is able to understand the information provided by suppliers, recognise deficiencies such as likely exaggerations or deceptions and draw reasonable conclusions about the capacity of a particular product to meet his/her needs.

(8) Capacity to complain: The consumer is inclined to complain/seek redress in the event that the expected satisfaction from a particular purchase is not realised after consumption and there is an avenue for complaint handling provided by the supplier.

(9) Pursue effective redress: The consumer has the capacity to pursue redress through available complaint and dispute resolution processes.

(10) 'Life event' trauma: An event, such as the sudden death of an immediate family member, serious acute illness or retrenchment, where a complex and/or infrequent purchase is required urgently and/or the consumer's financial position is significantly adversely affected without notice.

(11) 'Time deprivation': Insufficient time due to work, family, household or other circumstances to access and absorb information relevant to a particular purchase decision.

¹⁶ op cit, p 18

There are two major ways in which market failures in the energy market's structure and operation contribute to customer vulnerability.

The first is information asymmetries, which remain an abiding characteristic of the energy market. As we have noted earlier, consumers do not know or understand the true nature of the product – they are in fact paying for energy as a service to activate their appliances (people think “I will watch television”, not “I will use electricity”). We would note that while there has been interest expressed by private companies in establishing online price comparison services, they have not eventuated.

There are two aspects to this issue, however, which the Commission should be aware of: the first is to understand how access or lack of access to information affects different types of consumers in different ways and for different reasons.

To provide an example, a key source of information to consumers about market contracts is the Product Information Disclosure Statement – it is available online and must be presented to a consumer on request (we would however be amazed if consumers realized they were able to demand that information in writing). But that information is not available to all

- research by Radio for the Print Handicapped in 2002 found that 24% of Victorians have a print disability¹⁷
- low-income consumers may not have internet access
- rural consumers may not have an internet connection that can easily support research on the internet.

The Commission needs to ensure that it understands the variability of the information needs in the energy market, and the difficulties inherent in tailoring solutions to classes of consumers.

The second aspect was noted earlier and relates to the fact that there is no consensus on how much information a consumer is expected to acquire to be considered sufficiently well-informed. In recommending any changes to policy or regulation to address information asymmetries, it would be useful for the Commission to articulate its expectations of consumers.

Another significant contributor to consumers' vulnerability in this market is their lack of bargaining power. The experience internationally and in other Australian jurisdictions leads one to the inevitable conclusion that the reality is that small end-users and, particularly, residential consumers are unlikely to ever have real bargaining power in this market.

And, as above, vulnerability can be caused by a diverse range of factors, including for example, consumption levels, location or technology (such as off-peak appliances).

¹⁷ cited in Vision Australia, *Communicating with all Australians*

How effectively do retailers identify vulnerable customers and assist them?

The answer to that question depends on the type of vulnerability. In relation to consumers experiencing financial hardship, there has been significant movement since the last FRC review, driven by, inter alia, substantial progress by first tier retailers, the Government's Inquiry into financial hardship of energy consumers, and the Committee for Melbourne Utility Debt Spiral project, which produced a set of best practice principles.

The introduction of mandatory hardship policies and the imposition of the wrongful disconnection payment introduced a welcome degree of rigour and oversight to all retailers' hardship policies. Disconnection numbers have fallen significantly and, so far at least, do not seem to have been replaced by high debt levels. The ESC is now developing performance indicators to assess the performance of the retailers' policies and programs, so it remains difficult to assess in any detail the impact at this stage of those new requirements.

Retailers however do not provide assistance to consumers to address information asymmetries or unequal bargaining power. Indeed providing information to consumers has only been driven by government or regulatory intervention.

Do the existing regulatory policies facilitate participation in the market for vulnerable customers?

The existing regulatory policies have been for the most part very effective in ensuring the participation of consumers in financial hardship – regulatory requirements that necessitate retailers to offer an affordable payment plan particularly have been crucial to ensuring ongoing access to energy for consumers in temporary or chronic hardship.

The introduction of regulations to address information asymmetries have reduced transaction costs somewhat, but there remains more work to be done to address those issues.

The protections contained in the Victorian Energy Retail Code and Marketing Code of Conduct have assisted consumers address their lack of bargaining power, including in ensuring that retailers are required to seek consumers' explicit informed consent in entering into a marketing contract, and providing redress and protection from misleading conduct. Those protections remain important.

Are the existing government and retailer initiatives effective in managing vulnerable customers in a competitive market environment?

Again for consumers experiencing temporary or chronic hardship, there has been significant progress made since the last FRC review, but these measures are yet to be fully implemented. As such, it will be at least two years before we can assess whether they have met meeting their objectives. We would be very concerned at any move away from existing programs and regulation given that the second tier retailers have been late to address hardship issues effectively, and have a long way to go.

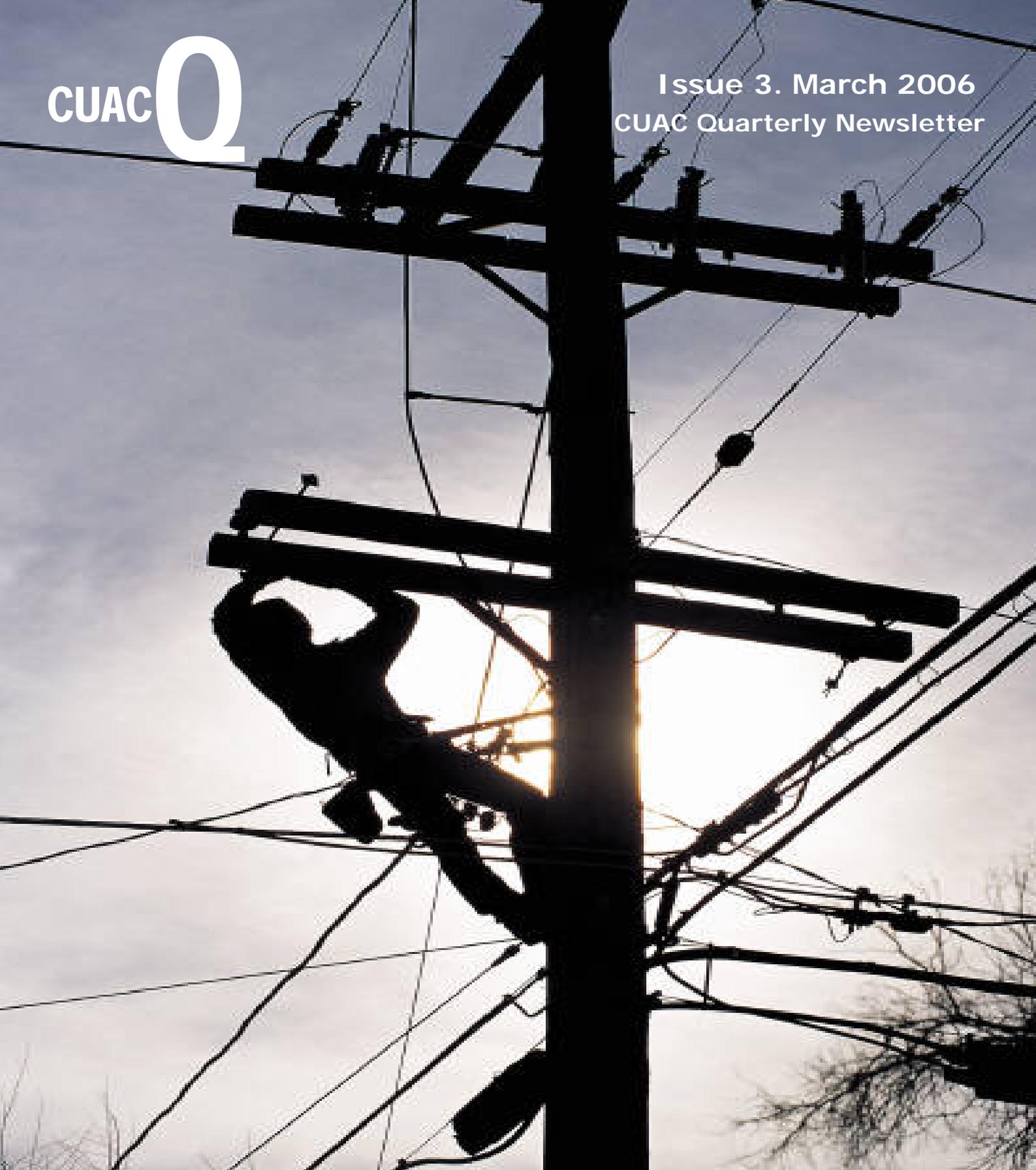
In addressing other measures of vulnerability caused by market failure, government and retailer initiatives have not been effective.

Please do not hesitate to contact me by phone on 03 9639 7600 or by email kerry.connors@cuac.org.au should you have any questions about the above.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Kerry Connors', with a long horizontal flourish extending to the right.

Kerry Connors
Executive Officer



What's up with energy company websites?

Also:
CUAC Grants
Program
details

Interval
meters and
consumers

Electricity
market reform—
who wins?

ESC appeals—
reviewing the
reviewers

Editorial

Welcome to the third edition of CUAC Quarterly.

In a field as complex as utilities regulation, access to clear and accurate information is vital.

If energy consumers can't easily compare for themselves the products on offer from companies, any benefits of the market are seriously diminished. In this edition we examine power company websites and discover just how hard it is to make these comparisons.

We take a look at interval meters—undoubtedly a way of providing more detailed information about energy consumption. The question is, to whose benefit?

Also, a summary of some CUAC funded research suggests not everyone is benefiting from competition in the energy market.

Don't forget applications for CUAC Grants are closing 31 March, so if you have a proposal make sure you have a look at the guidelines on our website.

Kerry Munnery
Publications Officer

Applications are now invited for Research Grants

CUAC provides a voice for Victorian utility consumers in the energy and water regulatory debate.

CUAC's Public Grants Program supports research and capacity-building projects around consumer utility issues, particularly those affecting low income, disadvantaged and rural consumers.

Applications for grants are now invited, closing 31 March 2006.

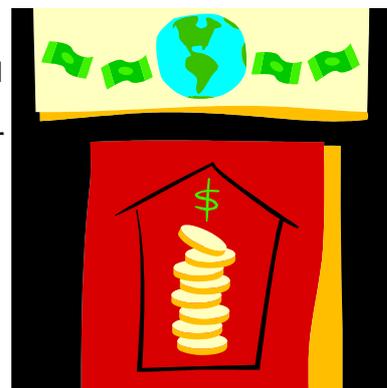
Priority in this round will go to:

1. research partnership between a group representing consumers and an academic organization
2. economic research on consumer utilities issues
3. research on water from a consumer perspective.

Guidelines are available at

www.cuac.org.au

or
contact CUAC on
1300 656 767
or info@cuac.org.au



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CUAC News	11

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Fax: (03) 9639-8966
Email: info@cuac.org.au
Web: www.cuac.org.au



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.

Untangling the web: finding product information on energy websites

By James Henshall
CUAC Policy Officer

Energy is an essential service and all Victorian households should be able to access the price and service benefits which competition can offer. A fundamental tenet of such participation is that consumers can make well-informed decisions before they enter into a contract with a retailer.

Research in Victoria undertaken by the economic regulator, the Essential Services Commission (ESC), in 2004 and 2005 found two key characteristics of consumer participation in the electricity and gas market – consumers' lack of familiarity with the market and its terminology, and the fact that most consumers see the transaction costs as too high. Both have encouraged consumer inertia, which, in turn, constrains competition.

The research also clearly illustrated the need for accurate information on tariffs and the key terms and conditions of an energy contract to be made available to consumers, as well as the absolute necessity that any information be clear and accessible.

CUAC, therefore, strongly supported the Government's decision to require energy retailers to publish price and service details of their products. That information should not only significantly reduce transaction costs for consumers but should, overall, engender greater consumer confidence in the marketplace.

In December 2005, the ESC released Guideline No. 19 *Energy Product Disclosure*, which outlines the obligations of energy retailers to publish tariffs and terms and conditions of sale on the internet, and make a copy of that information available to consumers on their request.

The intent of this guideline is for consumers to get an indicative price and product quote - energy retailers must provide a link on the home page of their internet site to the retailer's Product Information Statement (Statement).



What is a Product Information Statement?

A Statement is a 1-2 page document that outlines key information for the consumer on price, tariff types, contract duration and termination notification, fees and charges.

It should provide enough information for consumers to easily compare offers – either of their own volition or after they've been made an offer by an energy retailer to enable them to shop around.

How useful is a Statement?

CUAC undertook an in-house assessment of the Statements from each of the retailers. Our research objectives were to assess:

- How easily a consumer could access each retailer's Product Information Statement; and
- How easily a consumer could compare products among retailers, based on the information contained in each Statement.

Methodology

The research took two approaches – Part 1 was to look at how the retailers identified the Statement on their website. This was a simple depiction of what links had to be made and how they were identified. Figure 1.0 illustrates

the online screen-based pathway from each retailers' homepage to the Statement as at 6 February.

To obtain a Statement, uniform information was given, to ensure as much consistency as possible within the products. More information was given if sought by the retailer (e.g. about size of house or number of participants) but – in the spirit of the Government's requirement that information be provided without obligation to the consumer – we did not provide any details (such as an address or meter number) that would identify the individual. Statements were downloaded on the same day.

Part 2 was a qualitative assessment of how useful each Statement was according to set criteria. In developing these criteria, we took as our starting point the questions the Australian Consumers Association recommends a customer be able to answer to be assured that they are making a well-informed choice. An assessment tool was developed by CUAC for this part of the project and is shown in Table 1 (see pg.4). The Statement was not sought by reference to a householder's previous energy bill.

Using the assessment grid

Energy websites cont.

outlined in Table 1, each Statement was assessed based on the above criteria. Each criterion was scored from zero to three where zero meant product information was not possible to readily ascertain or comprehend. Conversely, a score of three meant it was very easy to ascertain or comprehend the information. In instances where the criterion did not apply, it was deemed 'not applicable' or the feature was not provided, and was taken out of the scoring.

Because it relates to the consumer's confidence in the information they have been given, we also included information on eligibility as an aspect of assessment. This refers to what information is provided to enable the consumer to readily determine whether or not they meet basic criteria to obtain the product. Such criteria include conditions such as the type of household meter and network or distribution area.

Two CUAC staff members then separately scored each Statement based on these criteria and discussed any differences in assessments where they arose. This research is by, its nature, subjective and the sample used here limited, due to time and resource constraints. It would be useful to test the value and effectiveness of the Statements across a broader sample.

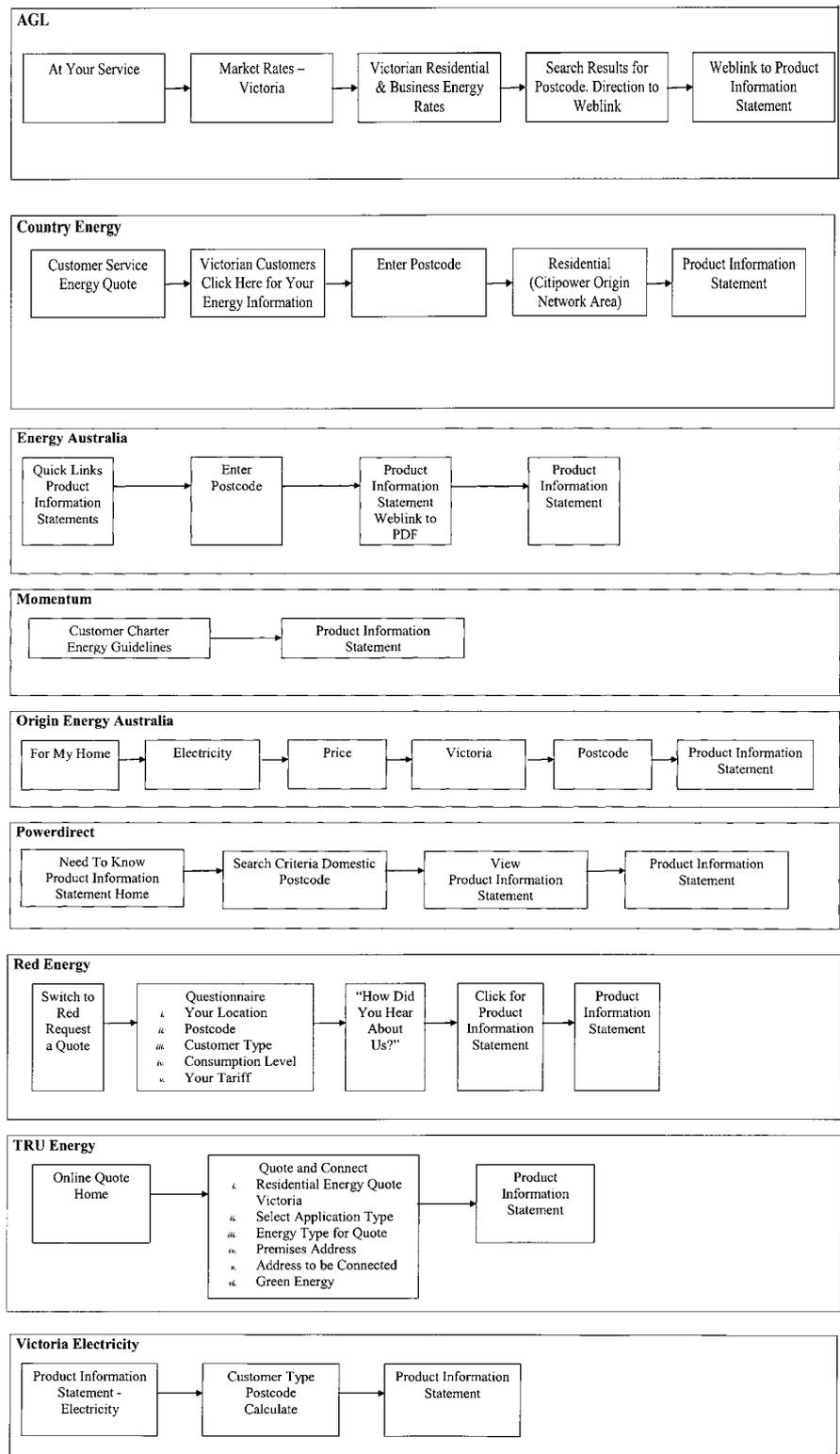
Part 1 - Getting to the Statement

There were several findings by CUAC in regards to this aspect of the project, ranging from commencing the search for a Statement on each retailer's internet site, and getting around and within the site.

- Most retailers do not clearly or consistently identify the Statement on their homepage, leaving the consumer with a multitude of information and pathway links from which to choose. These include how to pay an energy bill, switching inducements, green energy options.

This assessment found that it was not at all easy for the consumer to know *what* to look for in seeking a Statement. Examples include AGL and Momentum where the starting points are not obvious or clear.

Figure 1
Energy Retailer Website Pathway to Product Information Statement
(Commencing from the website Home Page of each Energy Retailer)



Cont. next page

Energy websites cont.



- Consumers would find it equally difficult in their search for relevant product and price information in knowing where to start their search for a Statement. Links and labels such as ‘At Your Service’ or ‘Customer Charter Energy Guidelines’ or ‘Switch to ACME Power’ are not obvious starting points for a search.

As the Statement is a very useful device for consumers to base their choice of retailer, CUAC was dismayed that it was not prominently highlighted and, mostly, peculiarly difficult to locate on almost all retailers’ websites. The websites where the Statement was hardest to identify on the Homepage were AGL, Country Energy and Momentum.

- Once a consumer knows where to commence their search from the homepage, the screen-based mouse click pathway to a Statement was, on the whole, reasonably straightforward. Criticism can be levelled at a couple of retailers for what could be argued was an unduly lengthy pathway.
- One retailer (TRUenergy) required the consumer to complete ‘mandatory fields’ relating to address, which seems to contradict the regulatory requirement that no personal information must be sought from a consumer. When only a postcode was provided, one was able to proceed through the online pathway and still acquire a Statement. CUAC raised this with the ESC, who advised that TRUenergy is addressing the issue.

The review found that, in almost all instances, it was difficult for the consumer to know *what form of words* to look for (i.e. what that retailer called the Statement on its homepage), and

where to start their search for a Statement; thereby presenting some fairly large disincentives to continuing the search.

Part II - How useful is a Product Information Statement for consumers?

Once we had obtained a Product Information Statement from each retailer’s website, CUAC then assessed each of the various aspects of a product or service that a consumer should fully understand before entering into the agreement, using the criteria outlined in Table 1. The results for each assessment are shown in Table 2 (see pg.5).

How useful is the Statement?

Among the findings of the value of each statement were the following:

- Most Statements provide reasonably adequate information for a consumer to decide upon a product’s comparative suitability. Comparison between offers is not easy due to differing terms used. There are, however, several areas in which there is scope for improvement.
- CUAC believes that consumers, in deciding an energy retailer, should be given all practical and relevant information for comparative purposes about the product. This will contribute significantly to overcoming ‘information asymmetry’ or an unequal knowledge between themselves and a retailer.
- Providing a consumer with the capacity to tailor a product based on household size and daily activity within the household is useful.
- Red Energy’s process was the most valuable in this respect, as it allowed the

consumer to input information about how much electricity is used by the household and indicate whether they are an "average or low user". Asking consumers about how they use energy is a useful function – it prompts the customer to provide more accurate information, and makes it easier to tailor the product for the consumer, thereby raising the customer’s confidence that the product they have received meets their needs.

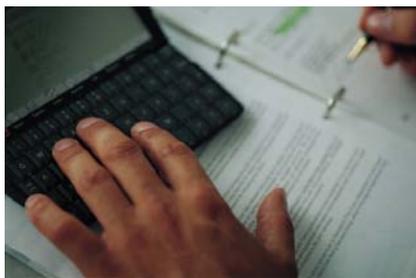
- In regards to price, there was too often an inadequate explanation of tariff structures – particularly relating to peak and off-peak tariffs and the times and periods of the year to which they apply. Some retailers clearly outlined the tariff structure (AGL, EnergyAustralia and Red Energy), but others conveyed confusing and unclear messages as to the relevant and applicable tariff.

Origin Energy, for example, simply lists the tariffs which may be of relevance to the consumer, requiring the consumer to already understand the tariff structure. Listing the Winter tariff GH/GL, Residential Tariffs GD and GR, Residential Tariffs GD and GR (used with off peak load) Off-Peak Load Managed Storage Water, Off-Peak Storage Space Heating Tariff J6/JT and Off-Peak Storage Space Heating Tariff J without any further explanation of what these products are and to whom they apply is unhelpful to say the least. The potential consumer would have little option except to contact Origin for further information. Of all the Statements we assessed, this was the most confusing.

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Outcome / Information Criterion	Question
1. Price in total (Including energy tariffs, supply fee and GST)	<i>i)</i> Is the Peak and Off-peak tariff clear?
	<i>ii)</i> How certain can I be that it applies to me?
2. Consumption level	Is opportunity provided to input consumption information to gain a tailored product? (Incl size of dwelling, no. of occupants)
3. Contract duration	Clarity of contract and duration and ascertaining details
4. Eligibility	Does it adequately inform the consumer of their eligibility for the product?
5. Rebates	How easy was it to ascertain them?
6. Penalties	How easy was it to ascertain them?
7. Billing and payment options	<i>i)</i> Various billing and payment options clearly indicated?
	<i>ii)</i> Where restrictions apply, are they clearly seen on the Statement?

Energy websites cont.



Similarly, confusion is caused by the Country Energy Statement which has named its tariffs “Premium Energy Premium Availability”, “Super Saver Availability” “You’re ‘n Charge Peak Energy” and “You’re ‘n Charge off Peak Energy” again with no assistance to the consumer as to which they should choose.

- We found that clear information on a consumer’s eligibility for the product was very useful (AGL and Energy Australia). Unfortunately, this type of detail was provided only by some of the retailers.

- Information on terms and conditions was generally at a base level, with very few retailers informing the customer on where they could get more information. Powerdirect and TRUenergy, however, did provide details of terms and conditions. In particular, TRUenergy presented the consumer with the online option to scroll through and print detailed conditions of offer – we thought this was a useful adjunct to the Statement in making a fully informed choice.

As can be seen from the total score, Red Energy provided the Statement that was of most value in making an informed decision about how to choose an energy product. Origin Energy provided the Statement which offered the least assistance to a consumer.

Assessing the offer

We also took the opportunity to see whether the Statements provided enough information to allow a consumer to compare it with their current contract. The Essential Services Commission has developed an online Energy Comparator service which we used to compare two Statements we had received and used our own energy bill to make the comparison.

To use the Comparator, the consumer must have available a recent energy bill and information about a new offer; that is a Statement or offer summary. The comparison process takes around 20-30 minutes to complete.

With some Statements, it was difficult to complete the *Electricity Rates* part of the comparator. Although a detailed ‘self-help’ guide is provided by the ESC, it was not always clear what information on the Statement should be put in to the comparator – particularly when the terminology used was different (eg. it is unclear what a ‘step tariff’ is from the Statement), which added to the difficulty a consumer would experience in completing the Comparator exercise.

The Statement, when used in conjunction with the Comparator, is a very useful device to make comparisons and helps the consumer understand the offer they’ve received. Use of the comparator is recommended by CUAC and it can be found at <http://www.esc.vic.gov.au/electricity878.html>.

Conclusion

Following on from our findings, CUAC has some suggestions to improve the value of the Statements for consumers. They are:

- Provide a more easily identifiable starting point on the Homepage of each website. Figure 1 demonstrates the

various and confusing starting points and terms used to direct the consumer to the Statement;

- Ask consumers about their level of consumption, to ensure that the product being offered is in fact the most relevant one – that can be done without asking for personal information that identifies the individual;

- Make clearer the consumer’s eligibility for the product. This could be effectively achieved in dot-point form and gives the consumer greater confidence of the suitability of the product to their situation and household circumstance; and

- Give information on billing options and payment methods to ensure customers are informed of all the relevant features of the product.

The Statements offer real help for consumers by allowing them to shop around more easily. But it is important that they continue to offer substantial assistance and so CUAC strongly recommends that the ESC continue to closely monitor how retailers are fulfilling their obligation to provide clear and accessible information for consumers.

Because of the benefits for consumers, CUAC also strongly supports this type of price disclosure being adopted in a national regulatory regime.

Table 2
Product Information Statement Assessment Results

Criterion	1. Price in total		2. Consumption level	3. Contract duration	4. Eligibility	5. Rebates	6. Penalties	7. Billing and payment options		Total Score
	i)	ii)						i)	ii)	
Retailer										
Red Energy	3/3	3/2	2/3	2/3	3/3	3/3	0/3	3/3	N/A	21 out of 24
Powerdirect	3/3	2/3	0/0	2/3	3/3	3/3	3/3	N/A	N/A	17 out of 21
AGL	3/3	2/3	0/3	2/3	3/3	2/2	2/3	N/A	N/A	17 out of 21
EnergyAustralia	3/3	3/2	0/0	2/3	3/3	3/3	2/2	N/A	N/A	16 out of 21
Momentum	3/3	2/2	0/0	2/3	2/3	3/3	2/3	N/A	N/A	15.5 out of 21
TRUenergy	3/3	2/2	2/0	3/2	0/2	1/3	1/2	N/A	N/A	13 out of 21
Country Energy	0/3	1/2	0/0	0/3	2/2	3/3	2/3	N/A	N/A	12 out of 21
Victoria Electricity	2/3	1/2	0/0	2/2	1/2	2/2	2/2	N/A	N/A	11.5 out of 21
Origin Energy	1/0	1/0	0/0	0/0	0/2	1/0	0/0	N/A	N/A	2.5 out of 21
0 = Not possible to readily comprehend.		1 = Very difficult to comprehend.		2 = Moderately easy to comprehend.		3 = Very Easy to comprehend.				

Interval meters— are they a 'smart' move?

May Mauseth Johnston
CUAC Senior Policy Officer

Would you prefer to pay a flat single rate for your petrol? Would an amount based on the typical annual petrol consumption for your type of car for people in your area with a settlement of the account taking place four times a year be a good or a bad thing? It could be cheaper if you lived in the country, usually filled up your car on Fridays and went on driving holidays during the peak summer season. However if you had access to several large service stations, the ability to plan ahead, and enjoyed the idea of looking out for a bargain, you might pay less if the price at the bowser reflected the price in the market at the time you bought it.

Energy pricing is currently based on an estimated load profile - our meters record total consumption, not when the energy was used, and so usage is distributed along a notional profile. In contrast, in the wholesale market half-hourly energy prices can vary significantly within any 24 hour period. There is therefore a mismatch between the market in which retailers buy energy and the market in which they sell to end users.

Just like petrol, the different ways in which a household uses electricity will determine whether an interval meter that records consumption at set intervals will mean you pay more. If you are at home for most of the day, live in a poorly insulated dwelling, have children or use an air conditioner on hot days you are probably better off paying for your estimated load profile. But if you work most days, tend to go away during the summer holidays and live in an energy efficient house, you may be financially better off paying the actual cost of energy at the time of use.

As it is clear that some consumers will benefit from interval metering while others will lose out, our concerns are: which Victorian customers are less likely to benefit? What will

billing of actual consumption mean to them? And do they have the ability to respond to price signals and reduce or change their pattern of consumption?

Anecdotal evidence (as well as that in related studies) suggests that the answers to these questions are: those least likely to benefit will be the elderly or unemployed on income support; that for those consumers, energy will become less affordable; and that those consumers' capacity to respond to price changes is very limited and only then if price signals are adequately communicated.

Interval meters in Victoria

In 2004, the Essential Services Commission (ESC) recommended to Government that it mandate the gradual roll out of interval meters to all consumers in the State.

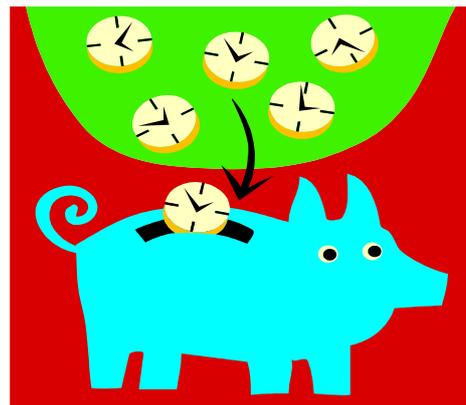
In December 2005 the Department of Infrastructure released its Advanced Communication Interval Meter Communication Study (AIMRO). The cost-benefit analysis in the paper demonstrated that there was a net benefit

"While all interval meters deliver direct benefits to the supply side, very specific technology is needed to ensure adequate direct benefits to consumers."

to rolling out remotely read meters with an advanced two-way communication capability.

The study used the ESC's 2004 decision as a starting point, focusing its investigation on added benefits from more advanced metering technology and/or accelerated deployment. The AIMRO study did not question the assumptions and alleged benefits outlined by the ESC in its original research.

CUAC had a range of concerns about the AIMRO study. We were of the opinion that it had overlooked issues of major importance to consumers, including pricing structures and demand response. CUAC also



strongly recommended that, should the Government decide to move ahead with the AIMRO, any further research should focus on consumer interests.

On the national level, the Council of Australian Governments agreed in February 2006 to improve price signals for energy consumers and investors. One of their agreed actions was a commitment to the progressive national roll out of 'smart' or interval electricity meters from 2007. The aim of the roll-out is to allow the introduction of time of day pricing, and to enable users to better manage their demand for peak power. The agreement was a qualified one - the benefits had to outweigh costs for residential users, and the roll-out would take into account of different market circumstances in each State and Territory.

Metering types and capabilities

Interval meters should increase the overall efficiency of the wholesale market, by providing retailers with more accurate information about the demand they will need to meet, so improving the accuracy of market settlements, and—through cost reflective pricing – provide incentives for customers not to use at times of peak demand, thus reducing strain on the network and the need for over-investment to meet peak demand times (which consumers in the end pay for). However, the benefits available to both the supply and the demand side vary sig-

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Interval meters cont.

nificantly with the technological capabilities of the chosen meter type.

While all interval meters deliver direct benefits to the supply side, very specific technology is needed to ensure adequate direct benefits to consumers.

Manually vs. Remotely read meters

Manually read interval meters have the capacity to measure consumption within set intervals (typically half hourly) but site visits are still required in order to collect the data from the meter.

The Essential Services Commission's 2004 decision recommended manually read interval meters, mainly

“It is crucial that the Government does not go ahead with a roll-out without considering the impact on low-income and disadvantaged consumers.”

because they were then considered to be the most cost effective technology. Although there is nothing in the ESC decision that prevents the supply side from rolling out more advanced meters, there are no real incentives for them to do so.

With a remotely read meter, on the other hand, the energy company can collect the data without having to make a physical visit to the household. Remotely read meters allow for easier retrieval of information and the avoidance of the costs associated with manual reading. Furthermore, remote reading means that the retailer has no excuse for estimating a customer's bill due to costly or difficult site visits.

However unless properly managed, these types of meters can potentially disempower consumers by allowing the supply side to collect consumption data, and allocate costs and structure tariffs to their benefit. That energy suppliers alone should have the capacity to control information and cost allocation, and then bill consumers after the fact simply adds to information asymmetries in the market.

Two-way communication meters: real time price information vs. delayed

Two-way communication means that consumers receive information about prices and their consumption. But it is

not a given that households would be informed about unit prices prior to consumption. The actual communications capability of the applied technology is an important detail. For consumers to make informed decisions about their use of energy in response to changes to price, the timing and method of that communication has to be right.

The AIMRO paper points out that there has been considerable debate about the extent to which adding communication capabilities to meters will enhance demand response. But unfortunately the AIMRO authors did not pursue it in any detail, as it was concluded that there would be substantial

benefits even if only large consumers respond to price signals.

In our view, domestic consumers cannot be expected to respond to price signals if they have to log on to the internet to get the information or it is provided to them post consumption.

A truly 'smart meter' that communicated the price in real time via a display on the meter is the only technology that can possibly deliver direct benefits to consumers.

Time-varying prices and consumer response

Smart meters can be beneficial to some cost conscious consumers, providing them with information that will enable them to identify ways to make energy more cost-efficient - they can be informed about less expensive times of the day to use energy hungry appliances such as air conditioners, washing machines, dryers and dishwashers.

While there is some debate about the value and likelihood of time of use tariffs being imposed on residential consumers, a key assumption underlying any debate about interval meters is that they will allow pricing to be used to encourage changes to consumption.

That assumption however should be subject to challenge on two grounds – the first is consumers' capacity to respond to price signals. Price signals

combined with inelasticity of demand can result in severe affordability problems for some consumers. We know there are now many Victorian energy consumers that cannot afford their current energy bills. It is therefore crucial that the Government does not go ahead with a roll-out without considering the impact on low-income and disadvantaged consumers. Time of Use Tariffs, and not the meters themselves, are the real threat to customers who do not have the capacity to respond to price signals.

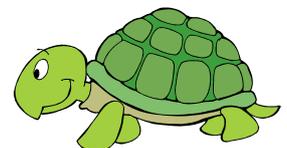
The second ground for challenge is consumers' inclination to respond to price signals – how much does the price have to go up before consumers begin switching off appliances? Considering the importance of tariff structures for consumers, it is imperative that the Government conduct price trials to examine consumer response and impact.

There are already too many theoretical assumptions about what interval meters can and will do, and the Government should not base its assessment on (the very few) price trials conducted in overseas jurisdictions.

As long as the Government is willing to utilise the policy and regulatory tools at its command to ensure that price signals do not result in under or overheated homes for the most vulnerable and financially disadvantaged, smart meters can create a win-win situation for both consumers and suppliers.

The AIMRO study is a step in the right direction as some meter technologies can deliver positive outcomes for both consumers and industry. Furthermore, we agree that price signals can smooth peak demand. But it is only through the active engagement of consumers that the impact of cost reflective pricing can be fully understood and the appropriate policy tools identified.

Price trials and consumer impact assessment may slightly delay the roll-out for domestic consumers, but the tortoise approach seems to be the smarter way to introduce smart meters.



Electricity reform: not everyone wins

By Kerry Munnery
CUAC Publications Officer

Low income and rural consumers benefit the least from electricity market reform, according to a new report.

Electricity Reform in Victoria: Outcomes for Consumers was co-authored by the Consumer Law Centre Victoria and Monash University, and funded by a CUAC Public Grant.

The report examines whether electricity market reform has delivered the improvements in services, access, accountability and price that were promoted in the reform debate and whether benefits are distributed evenly across consumers groups.

Overall the research shows cost benefits have generally gone to higher volume business consumers and metropolitan consumers in preference to low-volume and rural and regional consumers.

Catherine Wolthuizen, Executive



a downward trend in real electricity prices for all Victorian consumers.

different consumer groups and check whether consumers fully understand associated terms and conditions,” said Ms. Wolthuizen.

In terms of non-price benefits, the report argues that though there are some benefits to consumers there are concerns that aggressive marketing can lead to consumers making decisions based on aspects other than price, without necessarily calculating the ultimate costs against a year’s electricity bill.

Aggregation, or the establishment of electricity buying groups, is listed as having potential to increase consumer power in a competitive market, but it is noted that few organisations have the skill, funds, or inclination to establish such groups.

Access

Issues around access can include physical access to infrastructure and problems with affordability including disconnection. Consumers can also be limited in their capacity to choose between services through lack of access to quality information.

“Where consumers are big or rich enough to flex some market muscle, they can take advantage of choice and competition, but this should not be at the expense of those currently excluded from the energy market”

Director of the Consumer Law Centre, said “While there have been some benefits from privatization, too many people are missing out. Where consumers are big or rich enough to flex some market muscle, they can take advantage of choice and competition, but this should not be at the expense of those currently excluded from the energy market.”

Price

The report argues that for most consumers price is the most important indicator of the competitive electricity market. Electricity is an essential service for household functioning and often is a large component of the family budget. Low income families generally spend a larger percentage of their income on utilities bills.

Small differences in these bills can therefore have a large impact on households.

Overall, the report finds that there was

For domestic consumers the decrease has been small, about 1%. However, price benefits have not been distributed equally across consumers, and greater benefits have gone to higher volume business consumers. For example, between 1994 and 2004 residential consumers had a small decrease in price but dairy farmers experienced a 5.9% rise in average electricity bills.

The report points out the difficulty of assessing price in the current framework, with issues of commercial in-confidence, inaccurate projected pricing and lack of data on market contracts. Also for new entrants to the market it is impossible to compare ‘before’ and ‘after’ data.

“The Essential Services Commission should track the performance of market offers over time against pre-privatisation performance, monitor the nature and availability of market offers across

Cont. next page

With regard to physical access to electricity networks, the report finds there has been little change since privatization.

In terms of access to market offers, domestic users generally offer only low margins to retailers compared with business or industrial users. As low-user and rural households generally offer even smaller margins they are not targeted aggressively in terms of offers.

Disconnection levels have increased over the past five years, though have fallen since the introduction of the Victorian Governments wrongful disconnection payment in December 2004.

Quality

Quality issues are defined in the report as including frequent blackouts or interruptions to supply, or voltage that is too high and may damage equipment, as well as the level of customer service.

Quality of electricity supply has

generally improved for consumers, with clear reductions in unplanned interruptions. However, there are still consumers who are no better off and once again these tend to be rural users.

With regards to momentary interruptions, quality was found to have declined.

Customer service had generally improved, but the competitive market had created some new issues for consumers around misleading and deceptive conduct in marketing energy contracts.

Accountability

The establishment of the ESC and the Energy and Water Ombudsman were found to be key to the consumer accountability gains since privatization. However, the report finds that further work in stakeholder consultation and accountability was needed.

The Report Recommendations

The recommendations of the report were:

- 1. A major monitoring exercise should be mounted by the ESC to track both the performance of market contracts over time and their performance against the previous deemed and standing arrangements.**
- 2. Initiatives in market aggregation should be seriously investigated in terms of organizational viability to date, potential for public benefit and economic support desirable to achieve optimum aggregate small consumer benefits.**
- 3. That the ESC include in future monitoring efforts, measures that would establish the degree to which all classes of consumer have market offers made available. Such monitoring should include the price basis on which market offers are being made and the degree to which consumers fully understand the terms and conditions associated with market offers.**
- 4. That changes to consumer accountability arrangements which have occurred throughout electricity reforms be made clearer by the ESC. This would enable accountability improvements to be more easily understood by members of the public.**
- 5. That consumer consultation methods and roles be further clarified so that consumers are clearer as to how they may contribute to the ongoing development of the evolving regulatory arrangements supporting accountability.**



We are always happy to listen...

CUAC is interested in your feedback and ideas

If you have:

- ◆ an issue you would like covered
- ◆ a person or organisation you want to see profiled
- ◆ an article you would like to submit

or
any general feedback on CUAC Quarterly
Please let us know.

You can email kerry.munnery@cuac.org.au
or phone:
(03) 9639 7600
Mondays or Tuesdays

Not so appealing: research study to assess the regulatory review process

The right of regulated businesses to appeal against economic decisions is a key part of the regulatory framework. However, if there is effectively no disincentive for companies to appeal, and consumers do not have equal access to the process, CUAC has concerns about outcomes from a consumer perspective. We have initiated research through our Grants Program to assess the regulatory review process.

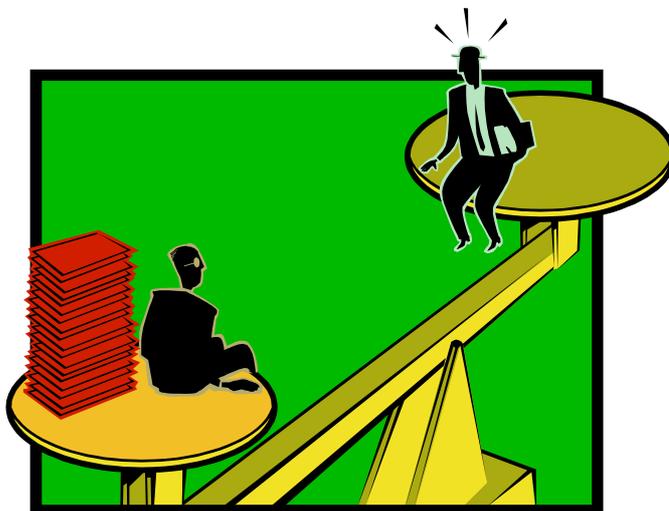
The conclusion in February 2006 of appeals against the latest electricity distribution price determination highlights the need for such research.

The Essential Services Commission (ESC) released its Electricity Distribution Price Review Determination in October 2005. Under the *ESC Act*, an aggrieved person has the right to appeal an ESC decision on the grounds of factual errors and/or bias. An appeal panel, independent of the ESC, is formed and considers the appeal.

for all parties, and in particular consumers.

The regulatory approach in Victoria requires the regulator to evaluate forecasts and determining forward-looking costs. This approach means that the ESC must apply a fairly high level of discretion to its decision making, and while this may be an efficient and reasonable model for reaching well balanced decisions it also complicates the appeal process.

Two issues of major concern have emerged. Firstly, that the DBs have the opportunity to 'cherry pick' parts



process, and could ultimately cost consumers.

Secondly, the regulatory model for price setting of a monopoly service is based on input from both the supply and the demand side. The appeal process however does not recognise consumers as a party to be heard during the process. The right and access to appeal is obviously skewed to favour the concerns the supply side may have with a regulatory decision. This arrangement is at odds with the regulatory decision-making model which is based on extensive consultation with customer groups and other industry stakeholders as well as the DBs.

The scope of the CUAC-funded research is to use the current arrangements in place in Victoria as a starting point to research the extent to which the system provides incentives for companies to 'game' it, and to outline possible improvements based on lessons from other jurisdictions or markets.

The project went out to closed tender and was awarded to Denis Neltorpe and Catriona Lowe. Results of the project will be available in May 2006.

"The regulatory decision-making model is already subject to a substantial risk of 'gaming' and the appeal process provides an opportunity for the Distribution Businesses to have a second bite"

Four of the five Victorian Distribution Businesses (DBs) challenged the ESC Distribution Price Determination and brought their cases to the appeal panel for a merit review.

The electricity distributors lodged a total of nine appeals on 13 grounds. In February 2006 the Appeals Panel found in favour of the ESC on eight grounds of appeal. Three grounds were withdrawn during the proceedings and only two were remitted to the ESC for re-determination.

CUAC accepts the principle that regulated businesses should have the right to appeal economic regulatory decisions. However, we question whether the current grounds for appeal and the procedural arrangements provide fair and reasonable outcomes

of the decision to gain revenue at a comparatively low risk and cost to the business. The regulatory decision-making model is already subject to a substantial risk of 'gaming' and the appeal process provides an opportunity for the DBs to have a second bite.

A decision handed down by a regulator operating within this framework would normally involve a 'bargaining process' which includes some give and take to efficiently produce a fair and reasonable decision for all parties. At the stage of appeal however only the 'takes' are of course challenged by the DBs and the appeal panel has no powers or mandate to assess those claims within the whole decision. This potentially severely undermines the effectiveness of the regulatory price review



National Consumers Roundtable Announced



The Consumer Law Centre Victoria and CUAC will convene two two-day Consumer Roundtables over the next 6 months. The first will be held on May 2nd and 3rd, the second in June/July.

Consumer Roundtables have become a vital and effective method to build capacity across the National Energy Market.

They enable NEM Network members to share information, identify areas of consensus and develop joint strategies for representations to the MCE, and also facilitate direct meetings with national regulatory bodies. By highlighting the issues and implications for consumers, we expect that the Roundtables will contribute to greater engagement in the development of policy and regulation on energy

issues, as well as establish collaborative alliances with influential consumer advocacy organisations.

National Energy Market Network members have now had two face-to-face meetings to discuss energy market reform and its impacts on small-end consumers. The first Roundtable, held in October 2004, facilitated informed NEM Network responses to the Issues Paper published by the MCE on a national energy retail and distribution framework.

The second Roundtable, held in November 2005, enabled NEM Network members to discuss in detail aspects of the paper *Public Consultation on National Framework for Energy Distribution and Retail Regulation*, released by the MCE and prepared by NERA Economic Consulting and Gilbert + Tobin. The Roundtable gathered community and consumer organisations representing residential and low-income consumers from each NEM jurisdiction, as well as WA.

A key outcome of the second Roundtable was consensus on the value that participants found in these meetings, and a strong desire to meet more regularly.

We hope to use the roundtable to engage the new regulators, the Australian Energy Market Commission and the Australian Energy Regulator.

Rural Energy Consumers Forum

Energy consumers living in rural and regional areas will get a chance to have their issues heard in the second Rural Energy Consumers Forum, to be held mid 2006. The Forum will be co-hosted by CUAC and the Victorian Dept. of Infrastructure. It will bring together a wide range of consumer representatives to discuss the key issues affecting rural energy consumers and raise concerns directly with regulatory and government bodies and power companies. This will be the second Forum, following on from one held in Bendigo in June 2004. If you would like input into the agenda, email kerry.connors@cuac.org.au.

Recent CUAC Grants

CUAC has provided an Executive Officer Grant of \$8000 to the Moreland Energy Foundation. The money goes towards convening a seminar with Dr Gill Owen, a noted UK energy expert, to discuss sustainable regulation and, specifically, the possibility of including an environmental mandate in the ESC statutory objectives. Environmental concerns in energy and water are attracting increased attention from policy-makers, while the regulatory agencies have for the most part continued to focus on economic regulation. The ESC now takes into account environmental concerns in its regulation of water, and these considerations could be explicitly incorporated into its regulation of energy.

**CUAC Public Grants program is now taking applications—
see details on page 1 or go to www.cuac.org.au**

CHARTER OF PRINCIPLES FOR ENERGY SUPPLY

The application of competition principles and the creation of markets for electricity and gas have reshaped these industries, especially their relationships with governments and consumers.

When beginning these processes of change, federal, state and territory governments mandated the following:

“The national electricity market objective is to promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to price, quality, reliability and security of supply of electricity and the reliability, safety and security of the national electricity system.”

The roundtable supports this objective but to recognise the industry’s importance and complexity suggests the use of the following caveat:

1. In meeting the objective of the national electricity market, all market participants (including governments and regulators) shall have regard to the essential nature of the service, the pecuniary interests of industry, diversity amongst consumers, and long-term environmental sustainability.
2. Energy should be generated, distributed and consumed in a sustainable manner, to meet the needs of consumers whilst affording effective protection of the environment and the prudent use of natural resources. Demand should be minimised and the use of renewable energy maximised to conserve and enhance environmental and social assets.

What is the Roundtable?

The National Consumers Roundtable on Energy is an informal coalition of advocates for energy consumers. The Roundtable is interested mostly in households and small business.

We consider that the supply of electricity should be regarded as an essential service, on par with water supply and emergency services such as police and ambulance.

We aim to engage with energy market reform and to ensure as far as possible that it does not produce deleterious results for consumers.

Electricity is an essential domestic service

Electricity supports fundamental human needs including safe food (storage, preparation) and safe shelter (hygiene, lighting, temperature control).

Electricity supports equipment that is critical to wellbeing and independence (health, communication). Beyond these fundamentals, electricity supports community engagement and family life (social interactions, employment, education).

Except in rare and exceptional circumstances, a regular connection to electricity supply is not discretionary or optional. In most instances there is no alternative to electricity.

A reliable, safe, affordable supply of electricity is a right rather than a privilege and access must be guaranteed as far as reasonably possible.

This document is specific to electricity, but much of its content is applicable to gas, and some to the provision of water.

CHARTER OF PRINCIPLES FOR ENERGY SUPPLY

Energy supply should be:

SUSTAINABLE

Sustainability - Energy supplies should be derived from a secure mix of sources, including renewable energy sources. Energy should be produced, distributed and consumed in an efficient manner so that energy demand is minimised and energy supply provides beneficial social and environmental outcomes.

ACCESSIBLE

Equity – Energy services should be provided to all people equitably so that pricing and service standards do not discriminate against people according to their geographic location.

AFFORDABLE

Affordability - Energy should be affordable for all consumers. Energy supply should not be denied to any consumer on the basis of financial hardship or other circumstances of vulnerability.

APPROPRIATE

Quality - Energy supply should be of a high quality appropriate to the intended purpose at its point of consumption.

Safety – Energy consumers should be protected from any dangers in the provision of energy services.

Reliability - Energy supply should be reliable and aim to ensure an uninterrupted delivery of supply, as far as practicably possible.

ACCOUNTABLE

Respect – Energy services should be delivered in a way that respects all consumers and their diversity of needs and capacity to participate in an energy market.

Information – Energy consumers should have access to information about energy services that empowers them to make informed choices and to negotiate their interests with service providers.

Rights – Energy consumers have rights to use energy for ensuring adequate standards of living and social participation. These rights are recognised in international human rights standards.

Privacy – Information about consumers held by service providers should be treated with care and shared only with prior permission.

Redress – Energy consumers should have access to free, fair and independent services for complaints resolution.

Representation – Energy consumers ought to be supported to have their interests represented and be able to participate in consultation and decision-making processes.