



Level 2, 172 Flinders St  
Melbourne VIC 3000  
Phone: 03 9639 7600  
Fax: 03 9639 8966  
ACN 100 188 752

3 August 2009  
Australian Energy Market Commission  
Level 5, 201 Elizabeth St  
Sydney NSW, 2000

Via email to  
[submissions@aemc.gov.au](mailto:submissions@aemc.gov.au)

## **Australian Energy Market Commission – Review of Energy market Design in Light of CPRS and MRET: 2nd Interim Report**

This submission has been prepared by the Consumer Utilities Advocacy Centre Ltd (CUAC), an independent consumer advocacy organisation, established to ensure the interests of Victorian consumers, especially low-income, disadvantaged, rural, regional and indigenous consumers are effectively represented in the policy and regulatory debate on electricity, gas and water.

We thank the Australian Energy Market Commission (AEMC) for the opportunity to inform its work on energy market design through this and previous rounds of consultation.

CUAC has actively worked to incorporate the insights and views of consumer advocates across Australia into this submission to better facilitate community consultation with the AEMC. The submission has been formally endorsed by the following organisations:

- Public Interest Advocacy Centre
- Consumer Action Law Centre

CUAC has been actively engaged in this and other reform processes such as: the AEMC Review of Demand Side Participation; the development of the National Energy Customer Framework; Advanced Metering Infrastructure working groups; the development of distribution network planning and connection arrangements; and many more. This gives us a broad perspective on how consumers are affected by reform processes, and how each reform process is interdependent on others.

## **Issues for further consideration**

CUAC remains concerned that the AEMC has not adequately considered the potential for competition to be undermined by the concentration of market power that may occur as a result of climate change policies. We are of the view that the AEMC has still not given sufficient attention to the potential for strategic behaviour in the NEM to erode effective competition in the energy market. We reiterate the need for greater consideration of this issue and how it will impact energy consumers in the NEM.

CUAC is also of the view that there are significant dangers of moving to a more flexible approach to retail pricing in the absence of sufficient consumer protections. The AEMC proposes that, as a result of expected price volatility resulting from the CPRS, the retail price of electricity in the NEM states maintaining retail price regulation could be subject to adjustment every six months. While we recognize the need for cost pass-through, we are concerned that the proposed mechanism for retail price flexibility is not linked to the introduction of complementary consumer protections. Without such protections, the risk of price volatility is borne by consumers and for many, particularly low-income consumers, this could restrict their access to essential energy supplies. This need for appropriate consumer protections in the NEM becomes even more important when the impact on consumers of price rises is considered in concert with the potential for CPRS-related market power concentrations.

CUAC is of the view that increased flexibility in retail price arrangements must be accompanied with sufficiently robust consumer protections. We note that full retail price competition in Victoria is accompanied by a robust consumer protection framework that assists Victorian consumers to manage income/price shocks. This is achieved through mechanisms that provide repayment flexibility and recognition of financial hardship. We also note that s. 35 of the Electricity Industry Act 2000 (Vic) requires Victorian electricity consumers to be given notice one month prior to a change in tariff. We think an essential feature of any flexibility mechanism is that consumers are given appropriate forewarning of tariff increases.

At a broad level, CUAC is of the view that the additional regulatory flexibility recommended in the interim report will only be necessary in the short term. When the carbon market is fully established, we believe that price volatility and any difficulties in forecasting will become less pronounced, which will invalidate the need for additional flexibility in existing retail price regulatory regimes. As such, CUAC recommends the flexibility arrangements be introduced solely as a transitory arrangement as the uncertainties around climate change response policies are resolved.

## **Chapter 2: Connecting Remote Generation**

*Q2b) Does the recommended assessment process appropriately balance customer risk with potential customer benefits?*

While CUAC acknowledges the economies of scale in the connection of remote generation and the need to plan ahead for the desirable clustering of additional generation capacity, we remain concerned that the risk to consumers remains high under the proposed assessment framework. In our response to the first interim report, CUAC suggested additional investigations as to the viability of the ‘third option’ that would involve greater central planning of connection assets and may be a superior approach to minimising consumer risk. While we acknowledge the involvement of the AER in the current preferred assessment process, we think that there is a strong argument for greater central coordination of remote connections across the NEM. We note that this issue is also worthy of attention in the parallel AEMC Review of Distribution and Network Planning.

## **Chapter 3: Efficient utilisation and provision of the network**

*Q3a) Do you agree that we have accurately identified which elements of the existing framework are considered inadequate and therefore require change?*

CUAC believes that the AEMC has identified the inadequate elements of the existing system. We are, however, concerned that this review has given insufficient attention to the potential role for distributed generation and demand side participation in minimising congestion. We urge the AEMC to consider this issue alongside the proposed congestion charge.

## **Chapter 5: Regulated retail prices**

*Q5a) Do you agree that wholesale energy costs will be less certain, less able to be hedged and harder to forecast following the introduction of the CPRS?*

CUAC acknowledges the possibility of short-term price uncertainty as well as the difficulties in hedging and forecasting in the energy market under the CPRS. However, as emissions trading becomes well established, it is likely that the market for pollution permits will become easier to forecast and hedge. In time, it will be possible to effectively incorporate this carbon price into the forward estimates of energy prices. Essentially, there is currently some uncertainty as to the likely carbon price. However, once the market has been established and is in operation the carbon price will be more certain and less volatile. As a result, it will be able to be worked into the estimated cost of production along with the range of other inputs to the energy production process.

*Q5b) If jurisdictions and/or pricing regulators incorporate additional flexibility in pricing instruments, as set out in the recommended principles, does this sufficiently decrease the risks to retail competition and of retail failure?*

CUAC is of the view that the additional pricing flexibilities are sufficient to reduce the risk of retailers failing. As previously mentioned, we reiterate the need for the consideration of consumer protections to complement the additional flexibility in the retail price. We also call for the proposed system of six monthly price reviews to be a transitory measure until such a time as the CPRS is well-established.

### **Chapter 6: Generation capacity in the short term**

CUAC welcomes the fact that AEMC is examining mechanisms to facilitate demand side participation in order to address short-term capacity issues. CUAC supports the AEMC's draft recommendations on this issue. We are also of the view that active load shedding and other demand-side responses to peak demand are worthy of further consideration as low-cost options to guarantee reliability and restrain costs at times of peak demand.

*Q6b) Active load shedding management could mitigate the need for involuntary load shedding. Should we recommend this mechanism as part of our final advice to MCE?*

CUAC is of the view that active load shedding can be an appropriate response to peak demand and short-term capacity constraints. The significant consumer cost burden of peak electricity demand periods leads to the conclusion that voluntary load-shedding, with appropriate compensation, is likely to be a cost effective method of managing system capacity constraints. CUAC is mindful of the dangers of poorly targeted load shedding. Voluntary load shedding needs to occur among willing, fully informed customers and in such a way that it causes minimal disruption to their activities.

### **Chapter 7: Investment in capacity to meet reliability standards**

*Q7a) Do you agree with our description and assessment of how the current framework operates, and our finding that the framework for the medium to long-term is resilient to the stresses created by the CPRS and expanded RET?*

CUAC agrees with the AEMC's findings in relation to system reliability. CUAC is of the view that, once the climate change mitigation policies have been established, the market will provide sufficient signals for appropriate investments in relation to reliability in the medium to long-term.

*Q7b) Do you agree with our characterisation of the risks under existing frameworks, and how could they be managed or mitigated?*

CUAC agrees with the AEMC's analysis that there is scope for transitory market power to emerge and be exercised as a result of the CPRS and RET. We urge the AEMC to consider the role that development of robust consumer protection frameworks can have in mitigating the impacts on consumers of the exercise of such market power. We are of the view that current provisions in the Trade Practices Act are insufficient to regulate such excesses and specific energy market regulations should be developed to protect consumers.

### **Chapter 8: Convergence of gas and electricity markets**

*Q8b) Do you agree that the current energy market frameworks would allow for AEMO to effectively review the existing rules provisions relating to market interventions?*

CUAC remains concerned that the convergence of gas and electricity markets is an issue and that existing frameworks may not be sufficiently robust to manage the convergence of these markets. CUAC is of the view that a rule change may be required in order to explicitly allow the AEMO to consider the interactions between the two markets when it intervenes in order to 'co-optimize' interventions. Given the potential weakness of the existing frameworks, CUAC is of the view that this review provides a good opportunity to review the existing rules and potentially improve them to allow AEMO to better coordinate its interventions in both the electricity and gas markets.

### **Chapter 10: Distribution networks**

*Q10a) Do you agree that the energy framework for distribution is able to manage the challenges imposed by the CPRS and expanded RET?*

CUAC agrees that existing distribution regulatory determinations are sufficient to manage challenges imposed by the CPRS and expanded RET.

*Q10b) Is there merit in introducing formal, but temporary, arrangements to allow distribution businesses to recover the costs of accredited innovation projects?*

CUAC agrees that there may be merit in allowing distribution businesses to access funding for particular innovation projects. We question, however, whether this should be achieved through energy markets rules and regulations or through specific government grant programmes for such innovation. We think that this issue requires further consideration and should be coordinated through the policy processes of Australian governments.

Once again, we thank the AEMC for the opportunity to participate in this consultation process. If you have any further queries please contact David Stanford, Policy Officer on (03) 9639 7600.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Jo Benvenuti'.

Jo Benvenuti  
**Executive Officer**  
**CUAC**