



Mr Frank Peach  
Chairperson  
National Consumers Electricity Advocacy Panel  
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24 July 2008

Dear Mr Peach

**Re: Panel commissioned report – Advocacy process**  
Final report on the gaps and overlaps in advocacy

This letter is sent in response to your request for comment on advocacy processes that was issued concurrently with the [confidential] final report of the consultancy. Thank you for the invitation and the opportunity.

From the commencement of this project ACOSS has had and expressed considerable concern about its purpose, scope, cost and processes, including the process of hiring consultants. We are firmly of the view that the firm selected for this work, ACIL Tasman, was an inappropriate choice. While the firm may well be expert to some extent in the workings of Australia's energy industry, it clearly has little understanding of regulatory frameworks mediating the interface with customers or current regulatory reform processes, and little understanding of the function of not-for profit advocates (especially as contextualised by the Panel's formulation of 'advocacy' with regard to 'capacity building').

We are concerned by the methodology adopted, analysis of data, the findings and recommendations. Our concerns extend to the manner in which ACIL Tasman seems to have misunderstood the roles and functions of other advocacy organisations but we have limited our remarks to issues specific to ACOSS, other COSS's and disadvantaged consumers.

If the purpose of the project is to assist the Panel to consider how its funding budget ought to be allocated in order to best promote the interests of consumers of electricity, it seems to do so without regard to other recent developmental processes undertaken by the Panel and without regard to changes in the Panel's legislative and regulatory foundations, scope of work and budget that came into effect recently (but could have been anticipated).

### **The Panel's resources, advocacy and need**

We reiterate our view, expressed previously in response to your draft strategic plan for 2007-2009, that with regard to your program of grants for advocacy, the Panel should focus on small and medium consumers. Although we understand that your legislatively mandated brief is “to promote the interests of all consumers...” we suggest that your welcome but limited financial contribution to advocacy should primarily focus on “paying particular regard to benefiting small to medium consumers”. Medium to large consumers, businesses, will make decisions about the costs of their inputs and act accordingly. They tend to have the interests, incentives and resources to advocate independently.

While we acknowledge that there are inconsistencies in the definitions adopted by various parties to the NEM we draw your attention to a Policy Response Paper released by MCE SCO in June of this year. The paper “A National Framework for Regulating Electricity and Gas (Energy) Distribution and Retail Services to Customers” sets out recommended definitions of small customer such that “a ‘small customer’ is

- a residential customer: or
- a non-residential customer whose actual or estimated energy consumption is less than a threshold level specified in the regulation”.

The paper states that the proposed threshold for [coverage by] the national customer framework will be 1 TJ gas per annum and 100 MWh per annum. The paper goes on to suggest that customers consuming between 40 – 100 MWh electricity per year will be regarded differently, to the extent that retailers need not offer standing offer contracts to these customers. In processes over the last two years and conversations about these definitions there have been reasoned arguments put to the effect that small customers should be defined as exclusively as residential customers and/or customers consuming 20 MWh per annum or less.

### **Process**

We note that the consultant held discussions with several ‘stakeholders’ in the course of this project. We note that there is very little detail reported of those consultations. We have put the view previously, to both of the executive officer and the consultant (in the context of the outputs/outcomes exercise late last year) that neither of the Australian Energy Market Commission (AEMC) nor the Australian Energy Regulator (AER) would be especially familiar with much of the work undertaken by Panel-funded advocates for domestic customers. Although many of us participated in the AEMC review of the effectiveness of competition in Victoria and although the AER has attended meetings of the Consumer Roundtable to provided briefings on their current work, much of our work is simply outside their interests. In parallel, given limited resources for advocacy, the need to prioritise work and the state of the market, where our interests do coincide we are sometimes unable to participate as we or they might wish. However, it should be noted that all of our works fits the Panel’s advocacy agenda.

We were pleased to note that the consultants held some discussions with the Department of Resources Energy and Tourism (DRET). However, it seems that the consultants did not make contact with any of the jurisdictional officers involved in projects of significance to us, notably the Retail Policy Working Group and smart meters. The consultants may have developed quite different assessments of advocacy had they taken the time to consult with key officials in the states and territories who, in many cases, lead national reform projects.

## **The advocacy environment**

With regard to funding ‘allocations’ by the Panel we highlight two matters regarding the text and tables on pp 3 and 4 of the report.

The first is that the use of these two particular years (2006-07 and 2007-08) to demonstrate a bias towards funding domestic applicants is entirely specious. From the time of the Panel’s inception through until the 2006-07 year the relativities were reversed with a significant imbalance towards business customers. One of the factors that has tipped this balance is the funding of staff positions to undertake capacity building and advocacy in the domestic sector. This sub-program of Panel funding would seem to have developed in response to the dearth of applicants for Panel funding and/or evidence of advocacy on behalf this sector. It seems rather odd that the success of these projects should become a rationale for their rationalisation.

This in turn raises a concern that we have voiced previously such that rather than try to do more advocacy (or more seemingly diverse advocacy) within a budget envelope predicated on historical funding levels, the Panel should consider increasing its budget to allow for more advocacy or more diverse advocacy to fill any gaps.

The second matter relates to ‘indigenous’ interest in and capacity for advocacy. We reiterate information provided by the Energy Supply Association of Australia such that the residential sector is responsible for approximately 30% of consumption but 88% of customers. When businesses are affected sufficiently by any issue, this being one amongst many, they tend to represent their views with vigour and to have a ready hearing. It is widely acknowledged that residential customers, of all stripes, tend towards being uninterested in electricity. The fact of relatively more Panel funding (numerically or financially) going to domestic advocates is evidence of nothing in particular.

The report seems also to suggest that all projects are competitive in the same pool of funding. This is not the case. The Panel has in place a distinction between ‘advocacy’ and ‘capacity building’ projects and divides its total pool of funds between the two types. This division has proved inflexible in recent times; high quality project proposals categorised as ‘capacity building’ have been rejected as a result of that sub-pool being spent even when sufficient funds were available in the other sub-pool. In the most recent round of funding for capacity-building projects, successful proposals were trimmed of travel-related expenses as these were regarded as a cost of ‘advocacy’.

## **Duplication in advocacy**

At p 29 the report states that “[half] of respondents to the survey indicated that more than one organisation advocated on behalf of their constituents”. The fact of the actual number of respondents to this question being only four [4], and those respondents divided evenly but with nuanced responses, would usually have been sufficient to dissuade analysts from making findings of significance or issuing them without caveat. ACIL Tasman, however, has bravely pursued their divinations and made recommendations accordingly.

ACOSS shares the view (as we confidently understand it) of other advocates for residential customers such that the interests of residential consumers tend to be homogenous in terms of type if not priority; that is, the range of issues of concern is common but different ‘classes’ of residential customer may be more concerned about particular issues at particular times. The fact of more than one advocate voicing the same perspective about a particular matter might be regarded as duplication. However, what matters is that the perspective being put is derived from and represents the interests of different groups of consumers in what are and will remain different situations. ACOSS and TasCOSS for example may well express the same view on a particular issue but that view is shaped by the particular experiences of quite distinct constituencies which may happen to have some similar characteristics.

The reality of ‘duplication’ might usefully be tested against the quantum of advocacy enabled by Panel funding relative to the dimensions of the national electricity market, the range and complexity of reform and development work in train, the shifting contexts for this work over the short-, medium- and long-term.

### **Market reform and jurisdictionally retained, controlled and transitional matters**

The consultant mounts an argument for a ‘consolidated approach to advocacy’ based in part on its incomplete and/or flawed understanding of market reform processes and their likely outcomes. With regard, for example, to the National Energy Customer Framework, the long running and oft-delayed processes of the Retail Policy Working Group are intended to raise a new market-wide framework for the regulation of retail (non-price) and distribution (non-economic) matters.

Although the promise of this new framework was, initially, a nationally consistent regulatory structure the likely outcome is a framework to which states and territories subscribe only in part and only as local circumstances allow. We refer the Panel to pp108 through 110 of the MCE SCO paper referred to previously and to the explication of transitional arrangements.

The consultant “suggests that projects with a jurisdictional focus should only be funded where a proven material difference has been identified”. We suggest that price, tariff structure and related regulatory matters including time-of-use, prepayment, hardship, community service obligations constitute material differences. Beyond these predictable differences are those that are the subject of consideration through the RPWG towards the NECF and the subject of continuing assessment and eventual transitional arrangements.

### **“Interval” meters**

We cite one particular example of the consultant seemingly misunderstanding the nature and scope of a national market development project and the manner in which advocates for domestic consumers have been working with the project. At the instigation of the Council of Australian Governments (COAG), under the auspices of the MCE, and since February 2007, DRET has been managing the Smart Meter Working Group (SMWG, comprised of jurisdictional officials) and the Smart Meter Stakeholder Working Group (SMSWG). The object of the project is a national roll-out of smart meters in jurisdictions where benefits outweigh costs. The project will effect considerable changes in institutional and regulatory arrangements, market operations and business systems, and the customer interface, even where meters are not installed. The project will affect matters subject to NEM law and Rules and those the subject of jurisdictional control.

Many advocates for domestic consumers have been engaged with this project including a core group represented on the SMSWG. Consultants engaged by DRET to carry out the extensive cost/benefit analyses (NERA, KPMG, CRA, EMCa) worked with consumer advocates to ensure a sound understanding of issues and impacts.

At p 24 the report offers that “consultation with other agencies for this project suggests that the level of coincidence between the domestic (disadvantaged) and the domestic (general) may diverge in response to reform. Issues such as feed-in tariffs, interval meters, potential price increases and the introduction of an emissions trading scheme may not be of equal interest to both classifications”. Surely any one of these issues may not be of equal interest to either all disadvantaged consumers or all general consumers.

ACIL Tasman seems to misunderstand the nature of smart [rather than ‘interval] meters and the range of issues that are affected by the implementation of smart metering. This range covers price and tariffs structures, greenhouse emissions and other environmental matters, demand management, pre-payment and other customer and credit facilities, disconnection and reconnection, feed-in tariffs [whether and how meters enable these tariffs] to name only some.

These issues may not be of “equal interest to both classifications of consumers” but some of the issues have dimensions that affect both classes similarly, some differently and all significantly.

The fact of there being advocates from all NEM jurisdictions, representing both general and disadvantaged domestic customers, participating in the smart meter project should mean that the costs and benefits, functionality and related specifications, regulatory frameworks (and links with other frameworks including the National Energy Customer Framework), roll-out and outcomes are more consistent, appropriate and effective than otherwise. This is a project of significant scale and cost that will affect all domestic consumers.

### **National Consumer Roundtable on Energy**

We note for the record that the consultant seems to have an entirely erroneous understanding (pp xii, 48, 50) of the composition and function of the Consumer Roundtable. The Roundtable serves to bring together a diverse range of advocates for domestic consumers. Some of these advocates work on Panel-funded projects, others work with state and territory funding, some are unpaid. The Roundtable comprises participants whose work variously, separately and simultaneously is on account of domestic (general), domestic (disadvantaged), and domestic (green). A list of current participants list is appended below. The Roundtable is not corporate and would likely not exist in the absence of the Panel funding that supports its infrastructure and operations. Its role is to create a forum for sharing knowledge, developing approaches to advocacy, engaging with relevant institutions.

Should the Panel have a continuing interest in reviewing the effectiveness of capacity building or advocacy undertaken by funded projects we would be pleased to suggest a number of consultants with appropriate expertise. We would be happy to arrange a meeting to discuss the report and its place in the future operations of the Panel.

Yours sincerely  
Australian Council of Social Service

Tony Westmore  
Senior Policy Officer

### **National Energy Consumers' Roundtable – Participant Organisations**

Australian Capital Territory Council of Social Service  
Australian Council of Social Service  
Alternative Technology Association  
Centre for Credit and Consumer Law (Queensland)  
Consumer Action Law Centre (Victoria)  
Consumer Utilities Advocacy Centre (Victoria)  
Ethnic Communities Council NSW  
Kildonan Child and Family Services (Victoria)  
Public Interest Advocacy Centre (New South Wales)  
Queensland Consumers' Association  
Queensland Financial Counsellors  
South Australian Council of Social Service  
St Vincent de Paul Society (Victoria)  
Tasmanian Council of Social Service  
Tenants Union of Victoria  
Total Environment Centre (New South Wales)  
Uniting Care Wesley Adelaide (South Australia)  
Victorian Council of Social Service  
West Australian Council of Social Service