



# ***The Merits Review: What's at stake for consumers?***

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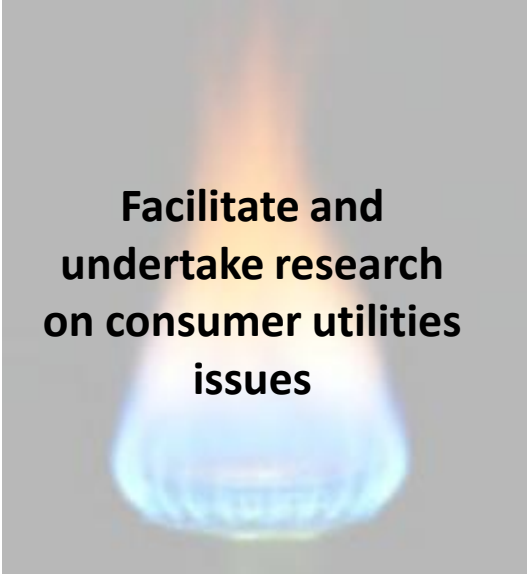
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# About CUAC

- Established in 2002 to:



**Represent all  
Victorian energy  
and water  
consumers in policy  
and regulatory  
processes**



**Facilitate and  
undertake research  
on consumer utilities  
issues**



**Monitor grassroots  
consumer utilities  
issues with  
particular regard for  
low-income,  
disadvantaged and  
rural consumers**

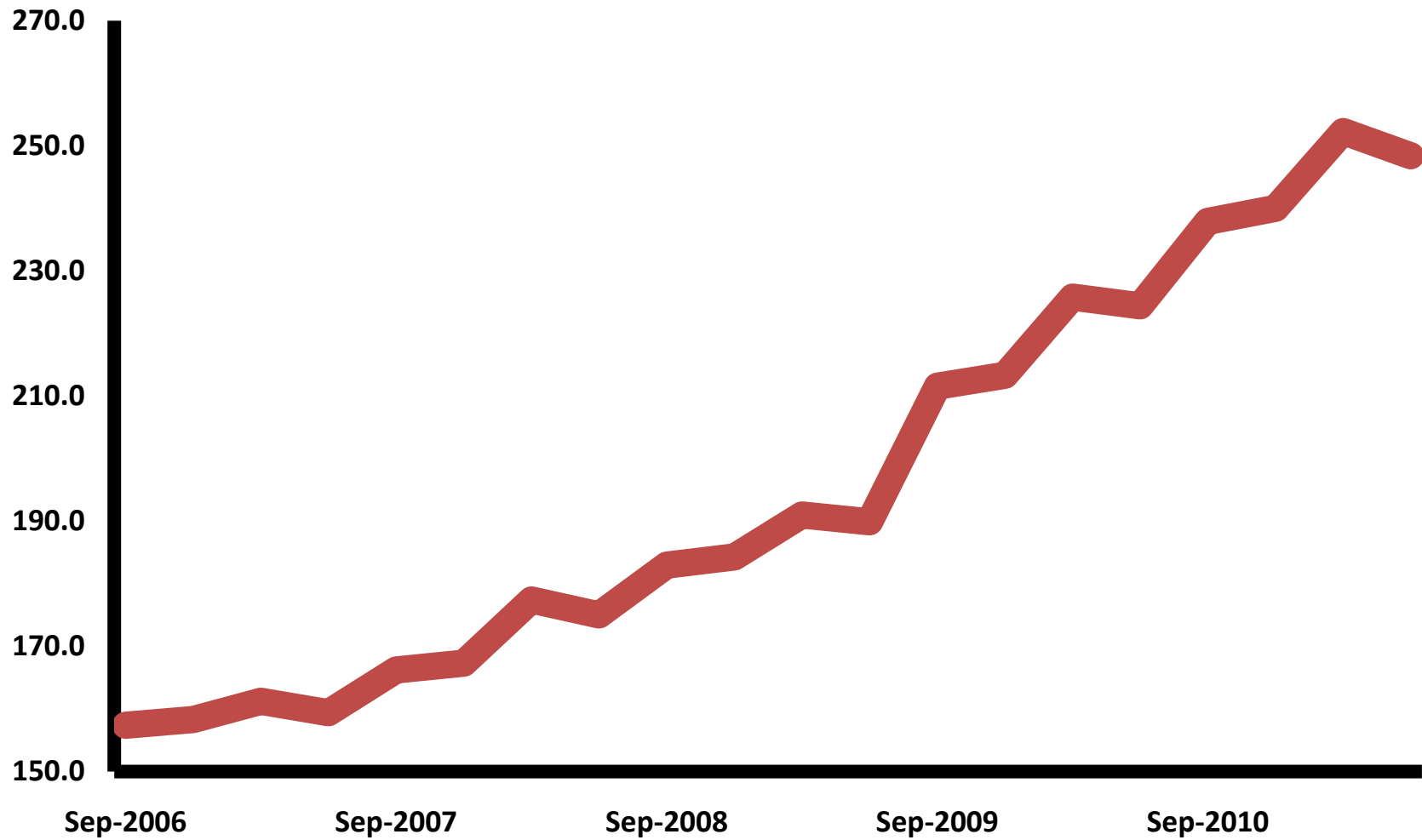


# About Consumer Action

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- Legal practice
  - 1000s of contacts with consumers per year
- MoneyHelp
  - 1000s of financial counselling sessions per year
- Policy & campaigns
  - Research, submissions, advocacy, media, tools eg Do Not Knock sticker

# Rising electricity prices



## Victorian 2011-2015 EDPR process

Date	Event
19 December 2008	The AER published its Framework and Approach Position Paper
6 March 2009	Submissions closed on the Framework and Approach Position Paper
29 May 2009	The AER published its Framework and Approach
30 November 2009	The Distributors submitted their Regulatory Proposals to the AER
17 December 2009	The AER held a public forum on the Distributors' Regulatory Proposals
December 2009	The AER consulted on the proposed negotiated distribution service criteria
February 2010	Submissions closed on the regulatory proposal
May 2010	Release of the AER's draft determinations and consultants' reports
June 2010	The AER held a public forum on its draft determinations
23 July 2010	The Distributors submitted their Revised Proposals
19 August 2010	Submissions closed on revised proposals and draft determination
29 October 2010	The AER released its Final Decision and Determinations

# Need for community engagement

It is important that community expectations and concerns are incorporated into decision making.

Regulators and businesses need to take account of consumer perspectives.

# EDPR final decision – Nominal % price increases by company

	Citipower	Powercor	Jemena	SP AusNet	UED
2011	-4%	2.7%	7.7%	12.8%	3%
2012-2015 (Average)	7.2%	6%	5.7%	7.2%	6.4%

Based on Table 4 in AER, Final Decision, Victorian electricity distribution network service providers, Distribution determination 2011–2015, October 2010, p X

## Total revenue per customer in draft and final decision by company

Distributor	Draft Report	Final Report	Change (%)
Citipower	\$3,465	\$3,636	4.9%
Powercor	\$3,095	\$3,380	9.2%
Jemena	\$2,830	\$3,119	10.2%
SP AusNet	\$3,255	\$3,778	16.1%
United Energy	\$2,239	\$2,615	16.8%
<b>Averages</b>	\$2,943	\$3,296	12.0%



# Terminology

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- Full merits or de novo review
- 'Limited' merits review
- Administrative review
- Judicial review

## **Appeal seems to be the default option**

Since the AER took on the function as the economic regulator of distribution businesses across the NEM in 2008, it has conducted EDPRs in Queensland, South Australia, ACT, New South Wales and Victoria.


Appeals against the final decision have been lodged by DBs in all jurisdictions except the ACT

# Some barriers to consumer interventions

1. Access to sufficient resources
2. Access to legal counsel
3. Access to expert witnesses advice
4. Short timelines
5. Access to information from regulators and businesses

# Policy issues

- If an appeals process is to exist, consumers should have an automatic right to representation and should be supported in their advocacy.
- Litigious processes are never an ideal forum for consumer views to be advanced even though consumer representation is often necessary. Thought needs to be given to the structure of any appeals process.
- There is no doubt significant reform needs to occur with the current appeals process.



*Any review model chosen in relation to economic regulatory decision making should have real as well as theoretical capacity to maximise access to public interest organisations and to minimise the possibility of gaming by regulated entities to the ultimate cost of end use consumers.*

*(Lowe & Nelthorpe, Grounds for Appeal, Sept 2006)*



# Criteria for assessment

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- Maximising accountability
- Maximising regulatory certainty
- Maximising the conditions for the decision-maker to make a correct initial decision
- Achieving the best decisions possible
- Ensuring that all stakeholders' interests are taken into account, including those of service and network providers and consumers
- Minimising the risk of gaming
- Minimising time delays and costs.

# Questions

