

Major Energy Users Inc.

14 November 2005

Manager – MCE Secretariat
Department of Industry, Tourism and Resources
GPO Box 9839
CANBERRA ACT 2601

Dear Sir/Madam,

National Framework for Distribution and Retail Regulation

I attach the Major Energy Users' comments on the high-level listing of functions in relation to the National Framework for Distribution and Retail Regulation.

We will be providing detailed comments on the NERA and the Gilbert and Tobin Consultation Papers in January 2006.

Yours sincerely

Bob Lim
Advisor
Major Energy Users Inc.

Ministerial Council On Energy

Proposed Framework Schedule For Transfer Of

Distribution and Retail Functions

Comments on the Framework

by

The Major Energy Users Inc

November 2005

**Assistance in preparing this submission by the Major Energy Users Inc was provided by
Headberry Partners Pty Ltd and Bob Lim & Co Pty Ltd.**

Preparation of this report has been partly funded by

The National Electricity Consumers Advocacy Panel

The support of the Advocacy Panel is gratefully acknowledged by the MEU and the authors.

**The content and conclusions reached are entirely the work of the Major Energy Users Inc and its
consultants.**

MEU Comments On Proposed Framework Schedule For Transfer Of Distribution and Retail Functions¹

The Major Energy Users (MEU) comprising some 20 major energy using companies in NSW, Victoria, SA, Tasmania and Queensland welcomes the opportunity to provide comments on the Proposed Framework Schedule for Transfer of Distribution and Retail Functions.

The companies represented by the MEU (and their suppliers) have identified that they have an interest in the **cost** of the distribution networks services as these comprise the largest cost element in their electricity and gas bills.

Electricity is now the main source of energy required by each MEU member in order to maintain their operations. A failure of supply of electricity or gas effectively shuts down any business now operating MEU members are no different. Thus the **reliable supply** of electricity and gas is an essential element of each MEU member's business.

With the introduction of highly sensitive equipment required to maintain operations at the highest level of productivity, the **quality** of energy supplies is becoming increasingly important and it is effectively the distribution businesses that control the quality of electricity and gas supplies. The variation of electricity voltage and gas pressure by even small amounts now has the ability to shut down critical elements of many production processes. Thus MEU members have become increasingly more dependent on the quality of electricity and gas supplies.

Each of the businesses represented by MEU has invested considerable capital in establishing their operations and in order that they can recover the capital costs invested, long-term **availability** of energy supplies is required. If reliable supplies of energy are not available into the future these investments will have little value.

It is therefore essential that MEU addresses the issues which impact on the cost, reliability, quality and the long term availability of their gas and electricity supplies.

The MEU applauds the MCE decision on 4 November 2005 which agreed inter alia, on "a clear framework for the transfer of specified retail and distribution functions to national regulatory arrangements, with enabling legislation by the end of 2006 and the transfer of economic regulation of distribution networks to the national regime by 1 January 2007".

The ministerial decision is a significant step towards achieving a National Energy Market in Australia, an objective that is strongly supported by major energy users.

The high-level listing of functions drawn from the Consultant's paper and categorised under "National" and "States/Territories" shown in the consultations paper appear to be correct and supported.

It is noted that service performance targets and standards will be transferred to the National regulator. End users have noted that there is considerable variation between

the States and territories (even between regions within each State) with regard to service standards. To commence a program to bring all service standards to the same high level is to be supported.

We do, however, note that the rules for licensing distribution businesses for technical competence and dispute resolution are to remain with the States and Territories. We accept the logic behind this need for regional attention but we do point to the need for a degree of coordination and standardisation between the different regions. Many users have multi-State operations and to have a degree of commonality between the technical requirements and capability and dispute resolution will be a distinct advantage. Currently there is a need for end users with multi-State operations to have experts based in each region knowledgeable of the local requirements and different approaches.

With regard to the abolition of:-

1. General Business authorisations we support the approach but query whether that is a need to ensure the commercial viability of the businesses, which is part of the regional requirements. Failure of a retailer of distribution business can lead to significant disruption of end user activities, and to have an independent assessment of the financial viability of these businesses will give consumers a degree of comfort.
2. Regional taxes and levies, we strongly applaud the abolition of these regionally based imposts. The Victorian Smelter Levy and the NSW distribution levy and the Transmission Operator's levy (currently suspended) have provided a distinct disincentive to end users in these States and their abolition is welcomed

However, there are three other issues that warrant specific comment by MEU:

Firstly, we understand that the setting of network service providers performance standards is not proposed (from the MCE meeting on 4 November) to be transferred to national jurisdiction. This is unfortunate and we ask that the issue be reconsidered.

Reliability and performance are very important issues for major end users and NSP performance standards currently vary widely in the different jurisdictions. Regulatory standards and requirements are also variable between different jurisdictions, as is the collection of performance data and the incentive regimes that are operating.

There is a very strong imperative for a national approach in this area.

Secondly, the actual protocols for retail price regulatory functions appear not to have been agreed at the MCE 4 November 2005 meeting. It is imperative that the protocols that are to be developed are guided by the objective of establishing a competitive national energy market that is free from inter-jurisdictional economic intervention.

All state-based schemes for "equalising" retail tariffs must be abolished in order that the market can be effectively competitive. There should not be State based regulation other than in the areas of environmental standards, safety (Occupational health &

Safety) consumer fair trading protection, licensing and community service obligations.

Thirdly, we have noted that there are distinct benefits provided to State owned incumbent retailers, particularly in NSW, Queensland and Tasmania, which provide them with unique opportunities to retain their customer base, to the detriment of competitive tension between retailers. We would recommend that the transfer of powers includes the ability of the national regulator to assess the competitive relationships between incumbent retailers (in the interest of competitive neutrality) and those seeking access to these relatively uncontested regions.