



South Australian Council of Social Service Inc

Submission to the

**Ministerial Council on Energy
Standing Committee of Officials**

on

**Consumer Advocacy
in the Australian Energy Market
Consultation Paper**

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Submission
to the
Ministerial Council on Energy Standing Committee of Officials
from the
South Australian Council of Social Service

Summary

SACOSS supports the KPMG definition of advocacy used in their report accompanying the MCE SCO 'Consumer Advocacy Consultation Paper' (p6):

'the function of making a case on behalf of consumers, in the best interests of consumers, with the intention of influencing policy or rule making.'

This submission discusses how the Energy Market Reform program to date is splitting these 'best interests' of residential consumers further into separately regulated, managed and resourced national and state activities. This submission then proposes a model for consumer advocacy in the NEM that attempts to overcome this fragmentation and ensures advocacy of the residential consumer interest that is as seamless, comprehensive and effective as possible.

The preferred model is one of a national body, which has a focus on issues common to all consumers, with jurisdiction based capacity that has a focus on residential consumers. Resourcing would be via a co-funding model that combines 'national' (NEM levy) and 'state' contributions.

Such a model could be implemented as a variation of the consultation paper's 'Option 4' that builds on existing state-based capacity and expertise.

Introduction

SACOSS is the peak body for social service organisations in South Australia. Our membership of 297 includes peak bodies in the community sector and other membership organisations. Our members offer such services as counseling, family support, emergency relief, emergency accommodation, advocacy, information and referral to people in crisis, people with disabilities, migrants and refugees, youth, aged, people on low incomes and those otherwise disadvantaged.

SACOSS provides representatives to the SA Minister for Energy's Energy Consumers Council, The Essential Services Commission of SA (ESCoSA) Consumer Advisory Committee, AGL's Customer Council and Origin Energy's National Customer Consultative Committee and, previously, to the board of the Energy Industry Ombudsman Scheme in SA. In 2004, SACOSS delivered the 'Electricity Consumer Advocate's Training Project' – a capacity building initiative funded by the National Consumers Electricity Advocacy Panel.

SACOSS has been assisted in its preparation of this submission by funding from the National Consumers Electricity Advocacy Panel. This submission builds on our April 2004 submission to the User Participation Working Group's 'Improving User Participation in the Australian Energy Market' – available from the 'publications' section of our website www.sacoss.org.au

Discussion

One of the constant barriers facing an organisation such as SACOSS in seeking better outcomes for households in the National Electricity Market - and vulnerable households in particular - is the fragmentation of responsibilities and the limited 'scope' of the reform process. SACoSS and others have argued that the market must acknowledge the role that electricity plays as an essential service in social AND economic development AND that it presently comes with significant 'externalities' such as the societal costs of disconnections and the economic costs of climate change as a result of rising greenhouse gas emissions.

The 2004 report from the Australian Senate Community Affairs References Committee Inquiry into Poverty and Financial Hardship (Senate Poverty Inquiry) made the following observation (Ch9, p191):

"Evidence indicated the importance of ensuring access for low income households to essential utilities such as electricity, gas, water and telephone services. These services provide the basic means by which any household is able to function in a modern society."

Similarly, in the April 2005 release of its review of National Competition Policy the Productivity Commission stated (section 8.2 'Energy' p180):

"Reliable, affordable and sustainable energy services are critical to Australia's economic and social wellbeing. They are important inputs for most businesses and are essential for supporting basic quality of life."

However, despite the obvious 'triple bottom line' impacts of the supply and use of electricity, the 'market' is regulated for rather narrow economic purposes only.

The recently passed National Electricity (South Australia) (New National Electricity Law) Amendment Bill 2005 (hereafter referred to as 'NEL') and the 'new' market objective it contains, seems to only further entrench the 'economic' only regulation of the NEM.

Second Reading Speech (9th February 2005), from Energy Market Reform Bulletin No 35 and 39 (available from www.mce.gov.au)

The national electricity market objective in the new National Electricity Law is to promote efficient investment in, and efficient 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 safety, reliability and security of the national electricity system.

The market objective is an economic concept and should be interpreted as such. For example, investment in and use of electricity services will be efficient when services are supplied in the long run at least cost, resources including infrastructure are used to deliver the greatest possible benefit and there is innovation and investment in response to changes in consumer needs and productive opportunities.

The long term interest of consumers of electricity requires the economic welfare of consumers, over the long term, to be maximised. If the National Electricity Market is efficient in an economic sense the long term economic interests of consumers in respect of price, quality, reliability, safety and security of electricity services will be maximised.

Such 'objectives' for the market deny the full role of electricity (and energy overall) in society and hence the economy. As one example, from a community sector perspective, there is an obvious disconnect with the delivery of Community Service Obligations (CSOs such as concessions, emergency payment assistance etc). CSOs remain predominantly a state obligation yet we are embarking on a reform process that turns regulation of the market into a much more national affair.

In March 2004, the MCE Standing Committee of Officials (SCO) released the discussion paper 'Improving User Participation in the Australian Energy Market':

"For the residential sector, consideration needs to be given to balancing the opportunities for improved user participation through more effective price signals and metering technologies, with social policy objectives."

Further, the paper alluded to issues around inter-governmental roles in statements including:

"... removal of cross subsidies should be addressed through the delivery of alternative community service obligations."

Despite these statements, there does not appear to be any explicit link in the NEL that requires State Governments to continue to deliver CSOs (or, alternatively, reverts them to being a commonwealth responsibility) and, importantly, any requirement to index the delivery of such obligations to the 'changing face' of the market in each jurisdiction. Affordability and the preservation of access are surely the objective of CSOs in the first place yet 'affordability' in each state is impacted by numerous, specifically local issues.

Consequently, there is justifiable concern that the end result of the reforms embodied in the NEL may be state governments attempting to back out of their CSO commitments.

Coincidentally, this is a point not lost on the Productivity Commission in their review of National Competition Policy (in relation to the Energy Sector, p198):

"ensuring that low income users have affordable access to power (and other services) is best

handled through transparent community service obligation (CSO) payments, or other support, rather than through the general suppression of prices. Indeed, an emphasis on providing support through transparent CSOs is one of the key principles of NCP. That said, it is very important the funding of such CSOs (or other appropriate measures) is adequate and the effectiveness of these arrangements is regularly monitored."

Monitoring of adequacy and effectiveness is clearly linked to the point about indexation raised above.

Of course, in relation to Consumer Advocacy, the subject of this submission, the interests of residential consumers go well beyond the efficacy of CSOs. The issue of fragmentation of the market from a householder's perspective – highlighted by the issues around CSOs - is central to considering a model for Consumer Advocacy and how effectively it can represent the consumer interest.

To illustrate this further: Hardship issues are presently responded to by a combination of state government-based activities (such as concessions and emergency payments), social service organisations (Financial and Crisis counseling, Emergency Relief), retailer hardship programs and ombudsman dispute resolution schemes. Further, within the next two years, retail and distribution regulation (especially codes and licensing) are scheduled to move from jurisdictional regulators such as the Essential Services Commission of SA (ESCoSA) to the new Australian Energy Regulator (AER). Retail pricing (as opposed to Retail Code issues), at this stage, will stay with the states (ESCoSA in the South Australian case for electricity, the Minister for Energy for gas) unless they volunteer control to the AER - which is a real possibility as the irregularity of work may well make an organisation like ESCoSA no longer viable.

As can be seen, the end result is the major sphere of concern for the consumers that make up the natural constituency of organisations like SACOSS being more deeply fragmented between federal regulation and jurisdictional (state-based) responses.

Of course, this widening gap is virtually invisible to the average householder – they will continue to get a quarterly bill in return for lighting, heating, cooking and hot showers. Advocating their interests 'in the market' however requires concurrent activity in both spheres – a task compounded by the changing regulatory context over time. For an advocacy organisation to effectively and efficiently advocate these interests it makes sense that they will need to engage on both national and state issues.

The consultation paper exacerbates these concerns by simply focusing on advocating interests to the AER and the Australian Energy Markets Commission (AEMC). Getting better outcomes for residential consumers means advocating much wider – including advocating on behalf of consumers directly to 'market participants' such as retailers and distributors.

An effective advocacy model would therefore endeavor to ensure that the reform of regulatory arrangements is integrated with reform of public policy and voluntary initiatives of industry to ensure no 'gaps' remain and that issues of hardship are adequately dealt with.

Scope of Coverage

The KPMG report (para 5.1.1 p22) seeks comment on the 'scope of coverage' – particularly in relation to small consumers only vs 'vulnerable' only vs all consumers – large and small.

There are obvious dimensions to the market where strong advocacy benefits all consumers – in relation to the generation and transmission sectors in particular. Reducing/optimising the overall cost of the 'market' is in everyone's best interests; however, consumer interests often diverge when it comes to the allocation of these 'optimised' overall costs to individual customers. But large vs small is not always the appropriate divide – it can be argued that the dominant variable in terms of the equity of cost allocation to individual consumers relates as much to contributions to 'peak demand' (ie time of use) as it does to the economies of scale resulting from overall energy consumption (ie volume).

Of course, SACOSS expects a higher probability of better outcomes if any future advocacy organisation is as narrowly focused on our 'sphere of concern' as possible. However, pragmatically and in order to facilitate the rapid implementation of a new model, SACOSS would not oppose a model that encompassed all consumers as long as there are sufficient resources dedicated to vulnerable small consumers.

Preferred Model

The advocacy organisation that follows from the above discussion is one that ensures as seamless as possible advocacy of the residential consumer interest. Logically it should therefore be jointly supported by both NEM and State resources.

One model that would achieve this involves a formal partnership that combines NEM revenue and State Government financial commitments towards an organisation with a National head office and an office/capacity located and resourced in each jurisdiction. The state based capacity could focus on residential consumers only (with a charter based on the public interest that emphasised addressing issues of hardship) while the national body would have coordinating and administration roles as well as a focus on the 'common issues' relevant to all consumers (such as generator gaming, transmission, reliability of supply, effectiveness of competition etc).

For some states that would mean committing to formally continuing funding to existing organisations/projects or variations thereof (for example: the Utilities Consumer Advocacy Project 'UCAP' in NSW and the Consumer Utilities Advocacy Centre 'CUAC' in Victoria). For other states, such as SA, this would mean making a new commitment. State based funding could be co-sponsored by each states' energy/infrastructure, consumer affairs AND human services portfolios.

Such an approach would fit comfortably alongside the COAG / Ministerial Council format and would be a model that can adequately deal with the transitional nature of regulatory arrangements in the NEM and the emerging needs expected from the future stages of the reform process. As the KPMG report states (p9):

"In the future, consumer advocacy arrangements will need to be able to adapt to changes in the allocation of economic regulatory responsibilities between the States and Territories and the [Australian Energy Regulator] AER."

and (p19):

"A new advocacy body could be called on to provide funding to support smaller consumer groups in addressing matters that fall within the States' or Territories' areas of responsibility ... in practical terms the boundaries of appropriate scope for a national body may not always be clear."

"A consumer advocacy model must be able to analyse current and future market arrangements ... To ensure a pro-active approach, the work program of any new body needs to be derived from a forward looking strategic planning process which considers new and emerging needs."

One point that does need to be stressed in terms of an organisational model is that the role of governance and the role of strategy and policy must remain separated.

Capacity Building

In preparing this submission, it was felt necessary to form a view of just how much work we anticipate any advocacy organisation doing vs how much we envisage ourselves or our members seeking resources from such a body to do the work required. We have concluded that, consistent with SACOSS philosophy, it is more about making sure it happens rather than doing it ourselves. The issues at stake are NOT about an organisation such as SACOSS 'capturing' funding.

Having said that, a transparent and accountable organisation is vital and SACOSS, as the sector's peak body, would expect an opportunity to nominate a representative (from staff or membership) to the policy/strategic planning structure of any future advocacy organisation. If the advocacy organisation is representing vulnerable small consumers well – the need for more active intervention by organisations like SACOSS is dramatically reduced. The opportunity to access resources to conduct independent projects would, however, remain.

From the MCE SCO 'Consumer Advocacy' consultation paper (p9):

"The central measure of any capacity building would be a website which should be developed by the national consumer advocacy body, supplemented by other communication medium such as newsletters, seminars and forums."

And;

"To supplement the website, it is proposed that the advocacy body conduct seminars/forums concerning issues of particular end user significance, or when end users express a desire for further or more detailed information. This would, as described above, be conducted with consideration of, and co-ordination with, where possible, the forward looking regulatory calendar and the advocacy body's strategic framework."

It is worth highlighting that effective advocacy is bi-directional. The organisation will need to have the

capacity to engage with householders to better capture/refine the 'consumer interest' (to feed into the policy / rule making process) and to communicate back to consumers what is going on and to educate consumers about the market and their choices in it.

Different population groups require differing approaches – whether the difference lies in age, health, culture, language or literacy. Most individuals have a preferred learning style too and this must be reflected in any 'education' initiatives.

Access to Consumption Information

When considering a future advocacy model, it will be essential to ensure that sufficient attention is paid to the collation and publication of relevant reports, studies and data across a range of issues. However, one of the most important elements of this is going to be information related to the consumption patterns of a range of consumers (and related to a range of consumer attributes). This has been an historically neglected area – to the detriment of present and future decision making.

One of the clear messages from energy market reform processes world-wide is 'how and when we use it affects the price'. Reflecting this, ESCoSA made the following comments recently in its review of the standing electricity contract price in SA (Inquiry into Retail Electricity Price Path Final Report March 2005, p 74):

The Commission emphasises that the two main reasons why standing contract prices for small customers are higher in SA than in Victoria are the higher wholesale energy charges and the higher network charges. To some extent, these higher charges reflect the specific nature of the industry in this State, with high cost fuels used for generating electricity and an extensive and dispersed network with low customer density. The most significant factor, however, is the peaky load whereby the peak demand requirement on the system is many times the average load, resulting in much capacity sitting unutilised for much of the year (but requiring a return on capital and maintenance expenditure).

Lower retail prices depend on actions to reduce the peakiness of demand, and the Commission is providing funds to ETSA Utilities in the next regulatory period to commence a number of trials of demand management initiatives that in time may help reduce the impact of the peak demand on costs. In the meantime, the high costs will be passed through to consumers, and the Commission needs to ensure it minimises the harmful impact on vulnerable consumers.

So, it appears that the best thing to do to advocate for lower prices (for South Australian householders in particular) is to tackle this issue of peak demand.