

**NATIONAL ELECTRICITY CONSUMERS
ADVOCACY PANEL**

**DRAFT REPORT ON RESPONSES BY INTERESTED PARTIES
TO THE FUNDING CRITERIA AND FUNDING APPLICATION
GUIDELINES CONSULTATION PAPER ISSUED ON
16 OCTOBER 2006 AND DRAFT DETERMINATION**

7 December 2006

Call for submissions to the draft report

Registered participants, intending participants and interested parties are invited to make written responses to the Advocacy Panel (the Panel) on this draft report. Responses should be forwarded by email to reach the Panel's office by no later than 5.00 pm on 8 January 2007.

The Panel's contact details are as follows:

The National Electricity Consumers Advocacy Panel
PO Box 43
Surrey Hills Vic 3127
Tel: 03 9899 5111
Email: djlb@axtonjones.com.au
Web: www.advocacypanel.com.au

For further details please contact the Panel's Executive Officer.

Consultation Process

Call for Submissions

Under the National Electricity Rules (the Rules), the Panel is required to review its current funding criteria and funding application guidelines (the guidelines) prior to 1 March 2007¹ and to publish the guidelines for the information of potential applicants for funding.

The Panel must determine the guidelines in accordance with the Rules consultation procedures and therefore a consultation paper was issued on 16 October 2006 in order that interested parties could comment on the proposed guidelines.

A notice advising of the consultation paper and inviting responses to it was provided to the National Electricity Market Management Company (NEMMCO) for distribution to registered participants and intending participants. The notice was also displayed on the Panel's website and forwarded to each organisation on the Panel's distribution list of former applicants. The notice was also provided to the Australian Energy Market Commission (the AEMC) for its information.

The guidelines determined by the Panel must be provided to the AEMC for its approval. The AEMC may approve the proposed funding criteria if it is satisfied that the criteria are, to the extent practicable, consistent with the principles set down in clause 8.10.6(e) of the Rules. It must approve the proposed funding application guidelines if they have been developed in accordance with the Rules consultation procedures, are consistent with the Rules and the National Electricity Market objective and specify the procedure for making applications.

The notice called for responses to be made by no later than 5.00 pm on 22 November 2006 i.e. at least 25 working days was provided for responses.

Submissions

By the deadline for the submission of responses to the consultation paper only one submission had been received. The submission was from the Major Energy Users Inc (MEU) on behalf of its members. The lack of responses may be due to a variety of reasons – to busy to respond, disinterested because the funding criteria are likely to change again in 2007, satisfied with the proposed funding criteria and guidelines, etc.

The respondent did not request a meeting with the Panel to discuss its response.

Process for further consultation

Under the Rules consultation procedures, the Panel must within 20 business days of the deadline for responses to the consultation paper consider the responses received. On 5 December 2006 the Panel considered the responses and now publishes this draft report setting out:

1. the conclusions and any determinations of the Panel in relation to the proposed funding criteria and application guidelines;

¹ National Electricity Rules, clauses 8.10.6 and 11.3.1(b)(5)

2. its reasons for those conclusions;
3. the procedure followed by the Panel in considering the matter;
4. summaries of each issue, that the Panel reasonably considers to be material, contained in the responses by interested parties and the Panel's response to each such issue; and
5. in a notice in the front of the draft report, an invitation to the consulted parties to make written submissions to the Panel on the draft report.

Subject to any confidential issues in the responses, the Panel will provide on request by a consulted party copies of any material submitted to the Panel.

The Panel has provided notice of this draft report to NEMMCO for it to distribute to registered participants. The draft report has been provided to the AEMC for publication on its website and is also published on the Panel's website.

The Panel seeks responses to its draft report by 8 January 2007 being at least 10 business days from the date the draft report was provided to the AEMC. Following the deadline for responses to the draft report, the Panel will consider all valid responses within a period of not more than a further 30 business days. It will then publish a final report, available to all consulted parties, setting out:

1. the conclusions and any determinations of the Panel in relation to the proposed funding criteria and application guidelines;
2. its reasons for those conclusions;
3. the procedure followed by the Panel in considering the matter;
4. summaries of each issue, that the Panel reasonably considers to be material, contained in the responses and the Panel's response to each such issue;

Subject to any confidential issues in the responses, the Panel will provide on request by a consulted party copies of any material submitted.

The final report and determination will be provided to the AEMC for its consideration.

Draft Determination

Having considered the responses to the consultation paper of October 2006, the Panel makes the following draft Determination:

The proposed Advocacy Panel funding criteria and funding application guidelines set out in attachment A be submitted to the AEMC for its consideration.

Assessment of submissions in response to the notice of October 2006

By the deadline for the submission of responses to the consultation paper, 22 November 2006, only one submission had been received. The submission was from the Major Energy Users Inc (MEU) on behalf of its members. The lack of responses may be due to a variety of reasons – too busy to respond, disinterested because the funding criteria are likely to change again in 2007, satisfied with the proposed funding criteria and guidelines, etc.

Generally, the MEU supports the proposed criteria and guidelines but with two qualifications – the efficacy of each Panel-funded project should be assessed and the Panel should not commission its own projects without discussion with end-user advocates.

The assessment of project outcomes has been a vexed question for the Panel in the past and has been discussed at a number of its meetings. The Panel has on occasions conducted its own reviews of projects or has engaged an external consultant to carry out such tasks.

Implicitly, a project would be rated as successful if it achieves its objectives. However, if the Panel were to revert to only funding advocates who could demonstrate a track record of having achieved their objectives with earlier projects, it is likely that many projects that do not achieve their express objectives but do inform the debate would not be funded.

The new Panel which took office on 1 December 2006 will consider whether criteria should be established for assessing the outcomes of projects and whether such assessments should be considered when new applications are made by the same applicants.

In relation to projects commissioned by the Panel, the intention is that the Panel will discuss the proposed projects with interested parties.

The comments made by the MEU and the Panel's responses to them are set out in the following table:

SUMMARY OF RESPONSES

Main comments

Response

Major Energy Users Inc

In general MEU supports the proposed criteria and guidelines subject to two qualifications:

- The consultation paper does not contain any criteria against which the Panel will assess the efficacy of the funded projects. The MEU wants the Panel to ensure there is full accountability and a definite and positive outcome from Panel-funded advocacy. Without assessment criteria the MEU sees an implicit assumption that capacity building projects will continue to be funded in future years. The assessment criteria would also enable the Panel to provide feedback to funded advocates as to how their advocacy might be made more effective.

The consultation paper does not contain criteria for assessing the efficacy of Panel-funded projects. The Panel has on a number of occasions discussed the merit of conducting assessments of projects and has on occasions conducted such assessments either by reviewing the project outcomes itself or by engaging external consultants to carry out reviews. With this in mind, in section 3.2 of the consultation paper the Panel included a provision that the description of a project should include a description of how the applicant and the Panel will evaluate the planned outputs and outcomes of the project. In section 5.2 of the paper the applicant is required to provide a report on the project which includes an evaluation of the outputs and outcomes achieved. The Panel is thus asking the applicant to conduct a self-assessment and to report on it to the Panel.

In relation to capacity building projects, there is no implicit assumption that the projects will continue to be funded in future. The consultation paper makes it clear that annual applications need to be made for such projects.

- In relation to stream 2 projects, the MEU sees it as essential that the Panel consult with advocates on the necessity for and objectives of such projects because the advocates have a better knowledge as to what

Agreed, consultation will lead to the best outcome and it is the Panel's intention to consult on projects it commissions. In section 2.2 of the paper the Panel proposes to publish a plan outlining the work programs of the principal regulatory

Main comments

issues are critical than does the Panel.

Response

authorities and policy-making bodies as a guide for discussion with potential applications.

NATIONAL ELECTRICITY CONSUMERS ADVOCACY PANEL

Funding Criteria and Funding Application Guidelines

1 Preamble

1.1 The Panel

The National Electricity Consumers Advocacy Panel (the Panel) was developed by the National Electricity Code Administrator (NECA) in 2001. NECA stated that “(e)nd use customers have the same rights to be involved in national electricity market decision making as participants in the market”².

Clause 8.10 of the National Electricity Rules (the Rules) establishes the Panel and its membership, defines its functions and specifies review arrangements. The Panel is responsible for determining the total resources to be available for funding of end-user advocacy, establishing criteria and guidelines for applications for funding and allocating funds in accordance with the criteria and guidelines.

The following Funding Criteria and Funding Application Guidelines are published pursuant to clause 8.10 of the Rules and draw on that clause of the Rules.

1.2 Objectives of funding support

The National Electricity Law provides a national electricity market objective - 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 reliability, safety and security of the national electricity system.

The prime objective of funding support is to increase end-user input into consultation processes towards the longer term goals of increased end-user involvement in the national electricity market and ensuring that the market achieves the long term interests of consumers.

The Panel aims to increase the overall resources committed by end-users to advocacy and not substitute resources that end-users would otherwise commit. It also seeks to achieve effectiveness, balance and diversity in advocacy that is responsive to issues arising in policy formulation, market reform and regulation and Rule change and the conduct and operation of the electricity market.

2. Funding criteria

Based on the principles set down in clause 8.10.6 of the Rules, the Panel has determined the funding criteria listed below.

2.1 Diversity

An objective of funding support is to achieve diversity in respect to:

- The number of end-users represented;
- The nature of the interests represented; and
- The issues which are the subject of the application for funding.

Diversity in the number of end-users represented is taken as diversity in the number of classes and sectors, and geographical areas, of end-users.

² NECA, *End-user advocacy in the national electricity market*, Final report, December 2000, p2

Diversity in the nature of interests represented is taken as diversity in categories of customers (e.g. business and domestic, etc).

Diversity in the issues that are the subjects of applications for funding is taken as including diversity in the different sectors of the electricity industry, and diversity as between issues under the Rules and in the national electricity market.

2.2 Eligible projects

Eligible projects are those that address issues that relate to the efficiency and effectiveness of the national electricity market or of the retail electricity market where that market or an aspect of that market affects the efficiency and effectiveness of the national electricity market. Eligible projects must:

- Relate to the development, design or policy behind the national electricity market or the Rules; or
- Relate directly to:
 - the responsibilities of the AEMC or the National Electricity Market Management Company (NEMMCO) under the National Electricity Law and the Rules; or
 - the monitoring, investigation or enforcement responsibilities of the Australian Energy Regulator (AER) or functions of the AER relating to the exemption from registration of network service providers, under the National Electricity Law and the Rules; or
- Have implications for the national electricity market as a whole.

Commencing April 2007 the Panel will publish for consultation a summary of the work programs that the principal regulatory authorities and policy-making bodies plan to undertake in the next financial year. The summary will be a guide for potential applicants as to issues they may wish to consider addressing either as individual projects or as part of their on-going advocacy programs.

As a matter of practice, the Panel will consider eligible projects in four streams:

Stream 1 projects

These projects address longer term issues and involve creating and sustaining the capacity of applicants to be involved in and contribute to advocacy on behalf of end-users on issues that fall within the Panel's funding criteria. Examples of stream 1 projects include long term funding of a salaried officer for capacity building within an end-user organisation or of a retained consultant for a defined long term project. If the appointment is for capacity building, the application should show how the capacity of the organisation will be increased in the long term.

Applications for stream 1 projects for the following financial year will be considered each May. Applications for funding in the current financial year will be considered at any time but if approved, will only be approved for the period to 30 June next.

Stream 2 projects

Stream 2 comprises projects that may be commissioned by the Panel from time to time.

The Panel may, for example, commission projects to meet its diversity criterion or where it is apparent in its view or from submissions to the Panel that new involvement is required in particular fields or matters. If necessary, the Panel may commission work to assist in the development of projects to address identified deficiencies.

When considering a stream 2 project, the Panel will avoid unnecessarily duplicating the work of end-user advocates and may consult with advocates on the necessity for and objectives of the project.

At the present time the Panel notes that regional interests in agribusiness and local government and small business generally are not well represented in current applications.

Stream 3 projects

Stream 3 projects address matters that may arise from time to time in relation to consultation or inquiry processes associated with energy market reform, regulation and Rule change or other market issues.

Stream 4 Projects

Stream 4 projects are projects that require streamlined approval because they are genuinely urgent.

2.3 Eligible applicants

The funds of the Panel are available for advocacy by or in the interests of domestic, commercial or industrial consumers of electricity (end-users) supplied through the national electricity market.

To be eligible to receive funding an applicant must be in a position to represent the common interests of a reasonable number of end-users. For this purpose end-users are:

- Direct members of an applicant body , where the body is recognised as an organisation representing end-users;
- Members of organisations supporting an application, where those organisations are recognised as representing end-users;
- End-users whose interests are likely to be affected in common with the direct members;
- In the case of a non-representative body that is an applicant, such as a consultant or a single end-user, end-users in whose interest the applicant proposes to carry out a project.

The Panel's preference is to fund end-user organisations but applications by non-representative bodies will be considered.

The reasonableness of the number of end-users whose interests are represented will be considered in the context of a particular application, having regard to:

- The relationship of that number to the overall number of end-users, e.g. some applications will be in the interests of all end-users or a very large portion of domestic and or business end-users;
- The implications for the efficiency and effectiveness of the national electricity market of the interests in question of those end-users;
- The special needs or circumstances of those end-users, e.g. retirement villages.

The applicant may be:

- A representative organisation acting on behalf of a reasonable number of end-user members;

- An organisation or person acting in the interests of a reasonable number of end-users.
- An organisation or person applying to carry out a project or commission for or on behalf of the Panel.

2.4 Funding and co-payment

Funding support will be limited to 80% of the budgeted cost of a project for business end-users and 90% of the budgeted cost of a project for domestic end-users (less than 40 mega watt hours). The applicant must therefore fund a share of the project costs from a source other than funding provided by the Panel (the co-payment).

Non-financial contributions in lieu of direct pecuniary contributions are permissible provided the resources are fully allocated to the project for a specified period and the cost of the resources allocated is consistent with the level of service provided.

The Panel may, at its discretion, reduce or waive the applicant's co-payment and for this purpose will have regard to factors such as whether;

- The applicant has access to any other funds;
- The outcome of the project is considered to be of benefit to the majority of end-users;
- Additional expenditure by the Panel can be justified by the expected benefits of the project;
- The ultimate benefits of the project are long term.

2.5 Project plan, records and reporting

To be eligible for funding an applicant must:

- Submit an application which conforms with the guidelines set out below;
- Maintain and make available to the Panel records of the expenditure incurred on the project; and
- Publish a report on the project.

Details of these requirements are set out below.

3 Funding application guidelines

3.1 Name and representation

An application must state the name of the applicant and how it is eligible for funding under criterion 2.3 and separately indicate any bodies that have expressed support for the proposed project. Any expression of support for the proposed project from an organisation, and on which the applicant relies to meet relevant criteria, should be confirmed in writing from the organisation and the correspondence included with the application form.

3.2 Description of the project

The objectives and scope of the project for which funds are sought must be described to show how it is eligible under the Panel's funding criteria.

The application should describe:

- The title for the project and include a succinct description of the project proposed to be undertaken;

- The outputs of the project e.g. a study or other work to be produced including how and when it will be published;
- The planned outcomes of the project in terms of what the applicant expects to achieve as a result of the project;
- How the applicant and the Panel will evaluate the planned outputs and outcomes of the project, including the timing of significant milestones in major projects.
- The plan for communication or advocacy to the appropriate authority or decision maker;
- The benefits to end-users of the proposed project.

Applications related to consultations on energy market reform should address priorities identified from time to time by the Ministerial Council on Energy or the Standing Committee of Officials.

3.3 Work program and budget

The work program for the project should be outlined including:

- a) The budget and any related income;
- b) The timetable for the project by key elements including the expected date of commencement and completion of the project;
- c) The time commitment and cost of each consultant or staff to be engaged in the project;
- d) The actual or required qualifications and capability of consultants and/or professional staff who will carry out the specified work;
- e) The cost of disbursements such as travel, conference rooms, printing and telecommunications;
- f) The cost of in kind support including project management and supervision by the applicant and how the inclusion of in kind support meets criterion 2.4;
- g) The proportion of budgeted funds sought, the timetable and milestones for which progress payments are to be made;
- h) The arguments in support of any application for waiver of the applicant's co-payment.

The application should explain how value for money is ensured. As a general rule, if consultants are to be engaged, it is expected that applicants will seek competitive quotes from at least two potential providers of consulting services for projects over \$40,000 in value and provide a detailed written analysis of at least three tenders for projects of over \$100,000 in value.

If consultants are to be appointed after approval of an application, the application should state the procedures that will be adopted to appoint consultants and the basis on which the cost estimate for consultants included in the budget was calculated.

3.4 Preparing and submitting applications

The responsibility of submitting applications is with the applicant. Applicants or prospective applicants may seek assistance from the Panel's Executive Officer in ensuring compliance with these criteria, the choice of stream, and as to past or anticipated projects. An applicant may seek advice from a Panel member on these matters but may not seek to involve the member as agent, broker or consultant to the

project, whether paid or unpaid. An applicant may submit a draft application to the Panel for the purposes of the above assistance.

Applications must be submitted on the form available from the Panel's website at www.advocacypanel.com.au or the Executive Officer.

Where possible, an application must be submitted in electronic form. The application should include discussion of each matter under headings corresponding to matters a to h in 3.3 above. The application should address any other relevant criteria. Applications, apart from qualifications (item 3.3 d above), should comprise no more than eight pages, where practical.

The Panel may seek additional details from an applicant.

Applications should be addressed to:

The Executive Officer
National Electricity Consumers Advocacy Panel
PO Box 43
Surrey Hills Vic 3127
Tel: 03 9899 5111 Email: info@advocacypanel.com.au

4 Determination of applications

When assessing an application, the Panel will apply the criteria and funding objectives listed above in considering the eligibility of the applicant and the project. The Panel will also consider the priority of the project in relation to the funds available to the Panel.

When prioritising applications for funding, the Panel will consider matters such as:

- The potential impact of the project outcomes as opposed to its cost;
- The importance of the issue to end-users;
- The likelihood the project will influence decision makers;
- The likelihood the project will increase diversity of end-users' views;
- The importance of end-users' views being heard on the issue that is the subject of the application;
- In relation to requests for funding of staff positions, the effect of the project on the capacity of the applicant to advocate in future on behalf of end-users.

An application may be granted in whole or as to part only and on conditions, including that the project be modified.

The Panel will meet at least quarterly to determine applications and will regulate its meetings and conduct its business in accordance with the Rules and any guidelines published on its website. The date of the Panel's next meeting will be published on its website together with the date by which an application must be received by the Panel in order to be considered at the meeting.

4.1 Conditions

An application may be approved subject to certain conditions in order to make express an aspect of the project approved, such as the scope, timetable or other aspect of implementation, or to make a project come within these criteria.

4.2 Agreement

The Executive Officer will prepare an agreement between the applicant and the Panel to give effect to its grant of funding for an application. A pro forma agreement is available at www.advocacypanel.com.au.

Where considered necessary in order to expedite consideration of an application, the Panel may consider the application at a telephone conference.

The Panel will provide reasons where an application is rejected or deferred.

5 Execution

5.1 Records

A successful applicant must maintain and make available to the Panel appropriate records, accounts and reports on the expenditure of funding provided by the Panel. The Panel may require a successful applicant to conduct an audit of its financial records, accounts and expenditure reports. The Panel will bear the cost of the audit.

5.2 Reporting

A project should be completed in accordance with the timetable and other terms agreed between the applicant and the Panel. The applicant must keep appropriate records and provide progress reports as set out in the funding agreement.

A successful applicant must within two months of the completion of the project or as soon as practicable after receipt of a written request for a report from the Panel publish a report setting out:

- The purpose of the project;
- The issues considered and the outputs and outcomes of the project as evaluated (see Section 3.2); and
- The costs and expenses of the project.

An electronic copy of the report or study comprising the advocacy in the project must be given to the Panel on completion. For advocacy comprising oral submissions, the speaking notes or a transcript of the submissions should be provided to the Panel within one month of submission.

The Panel will publish on its website reports, studies and submissions funded by it. In due course the results of advocacy should be advised to the Panel.

The Panel may, at its discretion, seek an independent evaluation of a work funded by it and may raise with the applicant any relevant issues arising from the evaluation.

10 October 2006

