

**NATIONAL CONSUMERS ELECTRICITY
ADVOCACY PANEL**

**DRAFT REPORT ON RESPONSES BY INTERESTED
PARTIES TO THE DRAFT FUNDING CRITERIA ISSUED
BY THE PANEL ON 18 MARCH 2005**

David J L Bremner
Executive Officer
Advocacy Panel
8 August 2005

Call for submissions to the draft report

Code participants, intending participants and interested parties are invited to make written submissions to the Advocacy Panel (the Panel) on this draft report. Submissions should be forwarded to reach the Panel's office by no later than 5.00 pm on 29 August 2005.

The Panel's contact details are as follows:

The National Consumers Electricity Advocacy Panel
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For further details please contact the Panel's executive officer, David Bremner.

Consultation Process

Call for Submissions

At its meeting on 2 March 2005, the Panel considered a report entitled "A review of funding criteria and guidelines" prepared at its request by the consultant, ACIL Tasman. The Panel reviewed the report and resolved to adopt amended draft funding criteria and guidelines for publishing and processing in accordance with the code consultation procedures of cl 8.9 of the National Electricity Code.

On 18 March 2005 the Panel published a notice in *The Australian* newspaper advising interested parties of the draft funding criteria and calling for submissions (see attachment A).

The notice was also provided to the National Electricity Code Administrator (NECA) with a request that it be distributed to code participants, intending participants and interested parties on the NECA email distribution list. The notice was also displayed on the Panel's website. A copy of the notice was also mailed to each person or organisation that had applied to the Panel for funding. The notice was also provided to NEMMCO for its information.

The notice called for submissions to be made by no later than 5.00 pm on 29 April 2005 i.e. at least 25 working days was provided for responses.

Submissions

The Panel received seven submissions. The respondents were:

- Energy Markets Reform Forum, the Electricity Consumers Coalition of South Australia, and the Energy Users Coalition of Victoria
- Australian Gas Light Company
- Energy Retailers Association of Australia
- Energy Action Group
- Mr J G McLeod, business consumer representative on the Panel
- Energy Users Association of Australia, and
- Paul Bidwell, Commerce Queensland

The submissions were generally supportive of the new criteria and guidelines although a number of comments, suggestions and recommendations were made.

It is noted that the only response from a representative of domestic end-users was from the Energy Action Group. Other domestic representatives who have been funded by

the Panel and who did not respond to the draft criteria include the Consumer Law Centre Victoria, South Australian Council of Social Services, Moreland Energy Foundation, Tasmanian Council of Social Services, South Australian Council of Social Services Alternative Technology Association and the Centre for Credit and Consumer Law at Griffith University.

No respondent requested that it meet with the Panel to discuss its response.

Process for further consultation

Under the consultation provisions, the Panel must within 20 business days of 29 April 2005 (i.e. by 27 May) consider the submissions made by respondents. On 26 May the Panel received a report on the submissions for consideration. Following its consideration, the Panel publishes this draft report setting out:

1. the conclusions and any determinations of the Panel in relation to the funding criteria and 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 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.

The draft report includes the revised Funding Criteria and Guidelines set out at attachment B.

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 provided its draft report to the Australian Energy Market Commission (AEMC) on 9 August 2005 for it to publish on its website. The draft report is also published on the Panel's website.

The Panel seeks responses to its draft report by 29 August 2005 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 funding criteria and 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;

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

The final report will be provided to the AEMC for it to display on its website and will be published on the Panel's website. The Panel will then apply the new funding criteria and guidelines for use in assessing applications for funding.

Assessment of submissions in response to the notice of March 2005

A summary of issues raised in submissions to the notice was prepared and considered by the Panel. The table set out below contains a summary of the issues that the Panel considered to be material and the Panel's response to each issue. Where relevant, the Panel has made modifications to the original draft criteria and guidelines and has provided reasons for the modifications.

During its consideration of submissions, the Panel noted that in section 1.2 there is reference to an objective of increased end-user input for various reasons including "by fostering a more innovative and efficient retail market". The Panel noted that its remit under the Rules is the wholesale market and therefore the reference to the retail market has been removed.

Party	Comments	Response
Energy Markets Reform Forum		
	Section 1.2 – The Panel’s aim to increase the overall resources committed to advocacy and not substitute resources that end-users would otherwise commit should not be used to disadvantage those already involved in advocacy by rejecting their applications or reducing funding requests.	The comment is on the way the Panel seeks to achieve this objective rather than on the criteria i.e. the objective should not be used to disadvantage existing advocates. The point is noted but no change to criteria is required.
	Section 1.3 – EMRF queries whether the second “or” in the first paragraph should be ‘and’.	Inserting ‘and’ would change the meaning of the sentence to require advocacy to be in the interests of all three groups of end-users, and would be onerous. It is not proposed to alter the wording.
	Section 1.4 - The Panel should have a mechanism for conducting independent evaluation of the work it funds and should address any concerns about the work with the applicant.	The Panel already has the option to conduct an independent review of a funded work. In order to make this express, the draft funding criteria has been amended by adding the following to section 2.4 “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.”
	Stream 2 projects – The Panel should not commission projects to meet diversity without first discussing the commissioning with experienced end-user organisations. The Panel should avoid potential conflicts of interest or infringing applicant’s intellectual property.	It is appropriate that the Panel be conscious of not unnecessarily duplicating the work of others through a stream 2 project. Section 1.4 of the draft criteria has been amended by including the following “When considering a stream 2 project, the Panel will avoid unnecessarily duplicating the work of end-user advocates and may consult with the advocates on the necessity for and objectives of the stream 2 project.”

	<p>Stream 3 projects</p> <ul style="list-style-type: none"> • Amend to include 'current' regulators. • Due to short periods for responses to issues papers, the Panel must either approve applications quickly or approve anticipatory applications that can be refined when the details of the project are known. • Panel should meet annually with end-users to determine issues that end-users see as critical over the next year or two 	<p>The draft criteria have been amended by removing the words “the proposed new” so the criteria now refer to all regulators. Section 3 ‘Determination of Applications’ has been included and provides that the Panel may expedite consideration of an application by use of a telephone conference.</p> <p>This is desirable and the Panel is open to such meetings.</p>
	<p>Stream 4 projects</p> <ul style="list-style-type: none"> • The criteria assume that urgent projects will have budgets of less than \$15,000 – not necessarily true. If the cost exceeds \$15,000, the project becomes stream 2 which may exclude the likelihood of approval if the issue could have been foreseen. • Panel needs to be flexible eg provide retrospective funding subject to an in-principle agreement that the work is required and that funding will reflect the response provided. • Alternatively, the Panel could have different approval arrangements for urgent applications based on the budgeted value for the project. 	<p>Noted. The project would not become stream 2 as they are projects commissioned by the Panel. It would be stream 3. Organisations with the capacity to plan their advocacy should be expected to provide for unforeseen events based on their past experience.</p> <p>Under the Code, the Panel cannot provide retrospective funding but it may be able to determine to approve a project and then settle the amount of funding later – see cl 8.10.3(f) of the Code.</p>

<p>Section 1.5</p> <ul style="list-style-type: none"> • The different levels of funding for business and domestic end-users are arbitrary and not in the spirit of the Code. They do not take account of the input of businesses into the work of their advocates or of the fact that a business submission can also produce benefits for domestic users. • The criteria provide no guidelines as to funding levels for special interest groups eg environmentalists, local councils. • The level of funding should be based on whether the outcome will provide a benefit to all users. If all or a significant proportion of end-users benefit, there should be no difference in the level of funding or no requirement of co-funding by the applicant. If an applicant is likely to produce a benefit for only a few consumers, it should be required to fund a higher proportion of the budgeted cost. • The Code states that the applicant must represent the interests of a reasonable number of end-users; it does not refer to the prime activity of the applicant. 	<p>The Code/Rules require applicants to make a contribution to the cost of the project unless the Panel grants a waiver. The Panel determines the extent of the contribution. The factors raised in the submission may be relevant to discretion, but do not in the Panel's view warrant more detailed rules. EUAA and Mr J McLeod in their responses also raise the matter of the different levels of funding proposed for business and domestic representative bodies. No change to the draft criteria is proposed.</p> <p>No further guidelines are necessary. No change to the draft criteria is proposed.</p> <p>Disagree. Business advocates are normally better resourced than advocates for domestic end-users. No change to the draft criteria is proposed.</p> <p>The Code/Rules require applicants to make a contribution to the cost of the project unless the Panel grants a waiver. The Panel determines the extent of the contribution by different classes of applicant.</p>
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	Section 2.1.3 – applicants should use consultants who have not acted previously to the detriment of end-users or should demonstrate that the work will maximise the benefit to end-users.	The criteria leave the selection of consultants to the applicant. To exclude consultants who have previously acted to the detriment of end-users may unnecessarily restrict the applicant’s choice of consultant.
	<p>Section 2.1.4</p> <ul style="list-style-type: none"> • The Panel should determine what stream an application fits into rather than the applicant having to state it in its application. • Hard copy of an application slows down the approval process. • Three page limit for an application is unrealistic. 	<p>The description of the four streams is for the assistance of applicants so they may indicate the stream under which they consider their applications fall. The Panel will also consider which stream an application should be considered under.</p> <p>Agree. Section 2.1.4 of the criteria has been modified to indicate that where possible an electronic copy must be provided.</p> <p>Agree. The criteria have been modified to provide for a limit of eight pages.</p>
Australian Gas Light Company		
	The funding criteria and guidelines document should be updated to refer to the new regulatory bodies and the new National Electricity Rules. References to section numbers in the Code should be removed to avoid inconsistencies arising if the Code or Rules change in future.	Agree. The Rules commenced on 1 July 2005. The criteria have been updated to conform to the Rules.
	Section 1.3 – some of the text is a duplication of earlier statements.	Disagree. The text describes the end-users who are to be represented, the reasonableness of their number and the representational nature of the applicant-body.
	Section 1.2 – All parties funded by the Panel should publish a report (on the funded project).	Section 2.4 requires the applicant to provide to the Panel a report on the project. However, the criteria have been modified to expressly state that an applicant must provide a report setting out the purpose of the project and the issues considered and the outcomes of the project. The report must be in electronic form.
	Section 1.3 – It should be specified that applicant organisations must be recognised as representing end-users.	This would exclude applications that are in the interests of end-users or a particular group of end-users. It is appropriate to anticipate such applications as not all groups of end-users have representatives. No change is proposed.

	Section 1.4 – It should be made clear that eligible projects should not relate to a specific determination under Chapter 6 of the Rules.	Agreed. Draft has been amended to conform to the latest version the Panel has of the National Electricity Rules to come into effect on 2 June 2005.
	Stream 3 <ul style="list-style-type: none"> • Provide a source reference for "Energy Market Reform". • "Panel notes the priority..." – provide a source reference. 	Source now quoted. Source now quoted.
	Stream 4 – remove stream 4 projects because the funding approvals must be made for specific calendar quarters and in advance of each quarter.	It is considered that stream 4 projects, like the other streams, will comply with CI 8.10.3(e) which relevantly requires that the Panel meet and determine applications on a quarterly basis. The requirement to meet on a quarterly basis is seen as a minimum requirement.
	Section 2.1.2 – the description of the project should include how and when the outcomes will be published.	Agree. Section 2.1.2 has been amended to require the applicant to describe how and when the study or other work will be published.
	Section 2.1.3 – should require three tenders for projects of over \$100,000 in value.	Agree. Section 2.1.3 has been amended to require a detailed written analysis of at least three tenders for projects of over \$100,000 in value.
Energy Retailers Association of Australia		
	Section 1.1 – drafting suggestion - replace "in recognition of the fact" with "in response to a concern". Also suggestions changing references to the Code to reference to the Rules.	Disagree with drafting suggestion. The foundational statements of NECA, in proposing the Panel, are now quoted. Draft criteria have been amended to refer to the Rules rather than the Code.

<p>Section 1.2</p> <ul style="list-style-type: none"> • Insert the market objective extract. • Drafting suggestion - is diversity in categories of customers the same as diversity in classes and sectors? • In relation to diversity of issues, queries whether it is correct to say "diversity as between issues under the National Electricity Rules and the national electricity market." Suggests that the national electricity market is the market established by the National Electricity Rules. • Include a requirement that funded bodies should publish [(8.10.3(d)(7) of the Code] a report on the purpose, issues considered and the outcomes of the project within 2 months or for longer projects, at the Panel's request. 	<p>Section 1.2 has been amended to include the national electricity market objective. Section 1.2 has been amended to clarify diversity as it relates to the classes of end-users and to give an example of categories of customers. No change proposed. Diversity includes the issues arising under the Rules and the market's operations.</p> <p>Agreed, see earlier amendment.</p>
<p>Section 1.3</p> <ul style="list-style-type: none"> • Suggests that 'end-users' be defined. • In the 2nd paragraph replace "are" with "include". • First dot point – add "where the applicant body is a recognised organisation representing end-users;" • Second dot point – add "where those organisations are recognised as representing end-users;" • The paragraph and dot points commencing "The applicant may be" are repetitive to the statement on eligibility. 	<p>Agree. Section 1.3 has been amended to include a definition of 'end-users'. 'Include' would potentially widen the description of end-users. See no need to do this. Agree. Section 1.3 has been modified.</p> <p>Agree. Section 1.3 has been modified.</p> <p>Disagree; they clarify who may apply including that an applicant may apply to carry out a commission on behalf of the Panel.</p>

	<p>Section 1.4</p> <ul style="list-style-type: none"> • Third dot point should be followed by the word "or". • It should be made clear that eligible projects should not relate to a specific determination under Chapter 6 of the Rules. • Notes that under the Code/Rules funding approvals are made for specific calendar quarters and in advance of each quarter. 	<p>Agree. Section 1.4 has been modified.</p> <p>The comment is irrelevant as the Rules do not include an exclusion for determinations under Chapter 6.</p> <p>Cl 8.10.3(f) requires that the Panel meet and determine applications on a quarterly basis. The requirement to meet quarterly is considered by the Panel to be a minimum requirement.</p>
	<p>Stream 1 projects – drafting suggestions</p> <ul style="list-style-type: none"> • In the example given in the first paragraph add "for a defined project or capacity building within an end-user organisation. • In the second sentence of first paragraph replace "consider whether it expects to" with "demonstrate how the officer or consultant will". • After "Energy Market Reform" add "or other market reviews". • Delete "and make allowance for this in any application." Add new sentence "If the appointment is for capacity building, the application should show how the capacity of the organisation will be increased in the long term." 	<p>Agree. Section 1.4 has been amended as suggested.</p> <p>Disagree, the criteria is referring to what an applicant should consider prior to making an application. However, in the same sentence have replaced the word "expects" with "desires" to provide greater flexibility to applicants.</p> <p>Agree. Section 1.4 has been amended as suggested.</p> <p>Agree. Section 1.4 has been amended as suggested.</p>
	<p>Stream 3 projects Add the following sentence to the second last paragraph "if the Energy Market Reform process has identified a particular consultation but that consultation period has not been specifically defined, the Panel may consider a conditional application".[should cover off the old stream 4]</p>	<p>Disagree, not needed as the Panel can consider stream 4 projects.</p>
	<p>Stream 4 projects – delete as the Panel does not have this power – see cl 8.10.3(f).</p>	<p>Disagree, see above. The issue of timing of approvals by reference to this clause applies to all streams and to all past approvals of the Panel.</p>

	Section 2.1.2 – to the second dot point add "including how and when it will be published;"	Agree. Section 2.1.2 has been amended as suggested.
	2.1.3 – recommends at least three tenders for projects of over \$100,000 in value.	Agree. Section 2.1.3 has been amended.
Energy Action Group		
	<p>Notes that the Panel is the single most important source of funding to utilities advocates and comments that</p> <ul style="list-style-type: none"> • Its experience is that not for profit membership based organisations representing small consumers could not exist under the ACCC proposed funding arrangements and this has been borne out by experience with the Panel funding arrangements. Such representative bodies need additional funding for advocacy work. • The Panel must make provision in the criteria for continuity of advocacy effort by representatives of small consumers. • EAG is concerned at the lack of expertise relating to market knowledge and the lack of particular expertise available to less than 160 MWh consumers. • Other advocacy bodies (EUAA, PIAC and CUAC) have different funding arrangements and resources. • The Panels' funding criteria will not work for almost all less than 160MWh consumer groups unless they have other interests and responsibilities; • Panel's decision making in the past has been particularly unhelpful. • The Panel's grants processes tend towards time consuming and inappropriate micro management 	It is considered that these submissions are comments or opinions which do not propose changes to the draft criteria.

	<p>of projects thus stifling consumer participation in the market.</p> <ul style="list-style-type: none"> • EAG's experience is that the Panel will not fund joint proposals. • In summary, the Panels funding processes are currently tortuous and appear inconsistent. • EAG supports the EUAA's submission on the criteria. • The Panel should develop in-house expertise within an organisation and ensure that funding does not duplicate projects. • Minimal funding has been provided to examine regulated capital expenditure and industry running costs. • Stream 1 proposal provides an opportunity for the Panel to build up the capacity of representatives of small consumers. • The finding criteria on page 3 need to be clarified. • There needs to be flexible funding for projects without micro management. • Generally, priority should be given to developing in-house resources in representative bodies in preference to using external consultants. • The Panel's current micro management arrangements should cease in order to permit more effective use of consultants. • The Panel should fully explain to applicants why projects are rejected. • The Panel must significantly shorten the turnaround on the provision of funding after projects have been approved. 	
<p>Mr J G McLeod – Business Consumer Representative on the Advocacy Panel</p>		

	<p>Section 1.3</p> <ul style="list-style-type: none"> • Delete the sentence commencing “The Panel’s preference...” as it may deter organisations who are not end-user bodies. • Should provide an example of end-users with special needs or circumstances. 	<p>Disagree – this is the Panel’s preference. However, in order to clarify the issue have amended section 1.3 by adding “but applications by non-representative bodies will be considered”.</p> <p>Agree. Section 1.4 has been modified to include a clarifying example.</p>
	<p>Section 1.4</p> <ul style="list-style-type: none"> • The requirements for stream 3 are too severe, especially as to whether a project could have been foreseen. • Should advise that the usual procedures apply to urgent projects over \$15,000 in value. • ‘Exceptional projects’ – what are they? Since they are not urgent, can they wait for the next scheduled meeting? 	<p>Disagree; The word “reasonably” softens the exclusion from funding. The objective of stream 1 is to have applicants carefully consider and plan their long-term advocacy needs. This helps the Panel to plan its expenditure and to identify the issues it will fund. That objective will not be achieved if stream 1 applicants can later seek to increase their funding by applying under stream 3 for projects that were obvious when the stream 1 funding was approved.</p> <p>Section 1.4 – Stream 3 Projects has been modified by including “or other market issues” in the issues that stream 3 applications can address.</p> <p>Section 1.4 – Stream 4 Projects has been modified to make it clear that projects over \$14,000 in value will be dealt with as stream 3 projects.</p> <p>Yes, however if the exceptional project is within the \$15,000 limit it can be considered in stream 4. No change required.</p>
	<p>Section 1.5 - the only purpose of the in-house funding percentages is to discriminate in favour of some end-users who would often be eligible for a waiver. Settle for 85% funding for all users.</p>	<p>The Panel’s view is that the funding percentages take into account the internal resources available to domestic and business advocates and should be retained.</p>
	<p>Section 2.1.2 – applicant is asked to describe its eligibility under criteria 1.2 but this deals with diversity which is not an issue for an individual application.</p>	<p>The applicant is invited to demonstrate how the project achieves the objectives of funding support, including increasing end-user input in order to make the market more effective, and the diversity objective.</p>

	<p>Section 2.1.3(b)</p> <ul style="list-style-type: none"> • Include a requirement that date of expected completion be provided. • Regarding competitive quotes, some end-users groups have in-house staff that is cheaper and more knowledgeable than consultants. This exception should be advised. <p>Should be a requirement that applications are provided in electronic form for ease of circulation.</p>	<p>Agree. Section 2.1.3(b) has been modified.</p> <p>Agree. Applicants are free to use in-house staff or consultants as they see fit. However, Section 2.1.3 has been modified to indicate that competitive quotes are only required if consultants are to be engaged.</p> <p>Agree, section 2.1.4 has been modified to require where possible that application be submitted in electronic form.</p>
Energy Users Association of Australia		
	<p>Section 1.4</p> <ul style="list-style-type: none"> • Do all of the listed criteria need to be met? A project should be eligible if it satisfies at least one of the criteria. • The existing criteria limit important advocacy work e.g. building customer awareness. • Note that gas issues are not covered by the Panel 	<p>Agree, section 1.4 has been modified so a project need only satisfy one criterion.</p> <p>The Panel is restricted to the criteria set down in the Rules.</p> <p>The Panel is restricted to the criteria set down in the Rules. Gas coverage is not a decision for the Panel.</p>
	<p>Stream 3 – these projects will not be eligible for funding if the need for the project could have reasonably been foreseen when applying for stream 1 funding for a project. This can lead to uncertainty.</p>	<p>The uncertainty can be removed if an applicant under stream 1 sets out a detailed program explaining what issues it foresees addressing. If, when the Panel considers the application, both it and the applicant do not foresee an issue that later develops, the issue would be stream 3.</p>

	<p>Section 1.5</p> <ul style="list-style-type: none"> • Queries why funding support is limited to 80% for business end-users when they are the largest consumers of power and are fully exposed to the contestable market. In addition domestic users benefit from the work of bodies such as EUAA. • Do not understand why funding has to be based on obtaining external consultants. If EUAA could receive funding for internal resources it would not have to rely so heavily on external consultants and therefore could well reduce the cost of the work. The Panel should look more favourably on applications that involve a greater degree of in-house capability and building that capability. 	<p>The co-funding requirement for business is higher than for domestic because business groups have a membership with greater capacity to pay. This may change in the future, eg if domestic customers are given the option to fund organisations they nominate.</p> <p>There is no requirement that external consultants be engaged in order for funding to be approved. Projects can be carried out by in-house resources if they have the required skills and experience. The objective of stream 1 projects is to encourage capacity building.</p>
	<p>Section 2.1.3 - concerned at the requirement of having to state the qualifications and capability of consultants and staff who will work on a projects because:</p> <ul style="list-style-type: none"> • Consultants will not offer their services unless they know the approximate sum they will be paid. The applicant therefore runs the risk of having to engage a consultant before funding is applied for. • Stream 1 applications may not at the time of application contain sufficient detail of a future requirement to enable consultants to be identified. 	<p>Section 2.1.3 has been modified to make it clear that applicants are required to state the actual or required qualifications and capability of consultants and not have to engage consultants beforehand.</p>
	<p>Decisions – the Panel should provide the reasoning behind their decisions.</p>	<p>Agreed. Section 3 – Determination of Applications has been added and provides that the Panel will provide reasons where an application is rejected or deferred.</p>
Mr P Bidwell – Commerce Queensland		
	<p>New criteria and guidelines are sound and creating four funding streams is a sensible approach.</p>	<p>Noted.</p>

National Consumers Electricity Advocacy Panel

New Focussed Funding Criteria - Call for Submissions

Pursuant to cl 8.10.3(d) of the National Electricity Code, the Advocacy Panel has developed new criteria to fund the case for electricity customers before energy and economic regulators and other authorities, including the Ministerial Council on Energy. Funding would be in four streams: long term funding for budgeted salary/consultant costs; commissioned funding, especially to achieve diversity; project by project grants; and streamlined approval for small urgent projects. Co-funding requirements are eased, among other changes.

The new criteria are available from the Panel's website at www.advocacypanel.com.au or from the Panel's office.

Code Participants, Intending Participants and interested parties are invited to make written submissions to the Panel concerning the criteria. Submissions should be forwarded to reach the Panel's office by no later than 5 pm on 29 April 2005.

Energy Advocacy Development - Funding Round

The Panel wishes to develop the capacity of domestic and business organisations to represent electricity customers' interests affected by the national electricity market, the National Electricity Code and the underlying policies and by the regulators of the market and the code, and will consider applications for this purpose at its meeting on 4 May 2005.

Who may apply: (i) energy customer organisations and other bodies such as consumer, welfare, business or industry organisations, and progress and regional development organisations, with the potential to represent electricity customers; (ii) persons or bodies wishing to form representative organisations eligible for funding.

How to apply: complete the application form which is available from the Panel's website at www.advocacypanel.com.au or the Panel's office. Parties interested in forming organisations are invited to write to the Executive Officer with proposals or enquiries.

When: applications and proposals should be lodged by 20 April 2005.

Further details and enquiries:

David Bremner, Executive Officer

The National Consumers Electricity Advocacy Panel

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Surrey Hills Vic 3127

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Draft Funding Criteria and Guidelines

1 Funding Criteria

1.1 Preamble

The National Consumers Electricity Advocacy Panel (the Panel), was developed by the National Electricity Code Administrator 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”¹.

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 assistance for advocacy, establishing criteria and guidelines for funding and allocating funds in accordance with these criteria and guidelines.

The following Criteria and Guidelines are published pursuant to clause 8.9 of the Rules. They draw on Clause 8.10.3(d) and (e) 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 goal of increased end-user involvement in the national electricity market and making that market more efficient and effective.

In accordance with clause 8.10.3 of the Rules, an objective of funding is to achieve diversity in:

- the end-users represented in consultations;
- the nature of the interests represented; and
- the issues that are put forward for consideration for funding.

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

¹ 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).

Diversity in the issues that are put forward is taken as including diversity in the different sectors of the energy industry, and diversity as between issues under the National Electricity Rules and the national electricity market.

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.

1.3 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:

- the direct members of an applicant, where the applicant body is a recognised 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. low income end-users.

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.

1.4 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, its regulations, rules and codes that may apply from time to time;
- relate directly to:
 - the responsibilities of the Australian Energy Market Commission (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.

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

Stream 1 projects

These address longer term issues and will be considered by the Panel following application by eligible applicants for funding in the context of periodic funding rounds. Examples of stream 1 projects include long term funding of a salaried officer or of a retained consultant for a defined project or capacity building within an end-user organisation. An applicant in this stream should consider whether it desires to be involved in consultation or inquiry processes associated with energy market reform or other market reviews including regulation and rule change and make allowance for this in any application. If the appointment is for capacity building, the application should show how the capacity of the organisation will be increased in the long term.

When assessing stream 1 projects, the Panel will take into account:

- the expected benefits to accrue compared with the cost;
- the extent to which the project will contribute to the efficiency and effectiveness of the electricity market;
- the extent to which the project contributes to diversity in allocation of funds with respect to

- the number of end-users represented;
- the nature of the interests represented;
- the issues that are subject of the application of funding.

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 diversity as interpreted in criterion 1.2 or where it is apparent 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 the advocates on the necessity for and objectives of the stream 2 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 special cases 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. An eligible applicant funded in stream 1 will not be eligible for this stream unless the need for the stream 3 project could not have reasonably been foreseen when stream 1 funding was applied for.

For example, stream 3 projects will be considered by the Panel as they arise during energy market reform processes or Rules change and related consultation processes including by energy regulators.

The Panel notes that implementation of energy market reform will require end-user input into consultation processes.

The Panel notes the priority given by the Ministerial Council on Energy² to:

- the implications for consumers resulting from the introduction of full retail contestability and the policies to protect some consumers from the exercise of market power by retailers; and
- the desire to encourage a demand side response pool in the national electricity market.

The work program of the User Participation Working Group of the Standing Committee of Officials also identifies issues for public consultation.

In these cases the Panel will only consider projects that are timely and related to the inquiry underway.

² Discussion Paper – Improving User Participation in the Australian Energy Market. User Participation Working Group, MCE SCO March 2004

The Panel is prepared to consider funding for a reasonable period to cover preparation of submissions and for representation during Energy Market Reform consultation processes.

Stream 4 Projects

Stream 4 projects are projects that require streamlined approval because they are genuinely urgent or exceptional and which are subject to appropriate dollar limits.

Stream 4 projects will be for budgets of less than \$15,000 and will be determined by the Chairman and a nominated delegate of the Panel, subject to prior notice to all Panel members and the right of a member to participate in a determination. Urgent or exceptional projects with a budget of \$15,000 or higher will be dealt with as stream 3 projects.

The Chairman will report on funding of stream 4 projects to the full Panel on a periodic basis, not later than the following meeting.

1.5 Funding

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 megawatt hours).

The Panel may, at its discretion, reduce or waive the applicant's proportion of budgeted costs and for this purpose will have regard to, for example:

- whether in the case of an applicant it has access to any other funds;
- in the case of applicants generally:
 - whether the outcome of the project is considered to be of benefit to the majority of end-users;
 - whether additional expenditure can be justified by the expected benefits of the project;
 - whether the ultimate benefits are long term.

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

2 Guidelines for Applications

2.1 Requirements of an application

2.1.1 Name and representation

An application must state the name of the applicant and how it is eligible under criterion 1.3 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 included with the electronic and paper form of the application.

2.1.2 Description of the project

The objectives and scope of the project for which funds are sought must be described to show it is eligible under criteria 1.2 and 1.4.

The project should describe

- the title and description of the project;
- the study or other work to be produced including how and when it will be published;
- the plan for communication or advocacy to the appropriate authority or decision maker;
- benefits to end-users.

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.

2.1.3 Work program and budget

The work program and budget 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 completion of the project;
- c) The time 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 1.5;
- 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 in terms of criterion 1.5;

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 would 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 of the cost estimate for consultants included in the budget.

2.1.4 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 above assistance.

Applications must be submitted on the form available from 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 2.1.3 above. The application should address any other relevant criteria. Applications, apart from qualifications (item 2.1.3 d above), should comprise no more than eight pages where practical.

The Panel may seek additional details of an application.

Applications should be addressed to:
The Executive Officer
National Consumers Electricity Advocacy Panel
PO Box 43
Surrey Hills Vic 3127

Tel: 03 9899 5111 Email: advocacypanel@axtonjones.com.au

2.2 Conditions

An application may be approved on 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.

2.3 Agreement

The Executive Officer will prepare an agreement between the applicant and the Panel to give effect to its granting an application. A pro forma agreement is available on www.advocacypanel.com.au.

2.4 Execution

A project should be completed in accordance with the time 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 agreement.

A successful applicant must within 2 months of the completion of the project or as soon as reasonably practicable after receipt of a written request for a report from the Panel publish a report setting out:

- a) The purpose of the project; and
- b) The issues considered and outcomes 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 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.

3 Determination of Applications

The panel will determine an application having regard to these criteria, including the timetable for the advocacy, and the principle that there should be diversity in the allocation of funds with 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.

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

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

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