

**NATIONAL ELECTRICITY CONSUMERS
ADVOCACY PANEL**

**FINAL REPORT ON RESPONSES BY INTERESTED PARTIES TO THE DRAFT
REPORT ON THE FUNDING CRITERIA AND FUNDING APPLICATION
GUIDELINES CONSULTATION PAPER ISSUED ON 7 DECEMBER 2006
AND FINAL DETERMINATION**

5 February 2007

Final determination

Following consideration of comments on its draft report, the National Electricity Consumers Advocacy Panel (the Panel) now publishes this final report, available to all consulted parties, setting out:

1. the conclusions and determinations of the Panel in relation to the 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 comments on the draft report and the Panel's response to each such issue; and

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

The Panel, having in accordance with the consultation provisions of clause 8.9 of the National Electricity Rules (the Rules) sought comments on the proposed new funding criteria and application guidelines and issued a draft report on those comments, has considered the comments received on the draft report and has made the following determination:

The funding criteria and application guidelines set out in attachment A have been developed by the Panel in accordance with the Rules consultation procedures and will be submitted to the Australian Energy Market Commission (AEMC) for its approval.

Readers of this report should refer to the original consultation paper and the draft report on responses to the consultation paper for further information on the background to and the development of this determination. The documents can be found under Latest News and Updates on the Panel's website at www.advocacypanel.com.au.

This final report has been provided to the AEMC for display on its website and is published on the Panel's website.

Consultation process

Calls for submissions

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

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.

On 16 October 2006 the Panel issued a consultation paper 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

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

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

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

On 5 December 2006 the Panel considered the response and on 7 December 2006 published a draft report setting out:

1. the conclusions and 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 considered to be material contained in the response by the MEU and the Panel's response to each such issue; and
5. a notice inviting consulted parties to make written submissions to the Panel on the draft report.

The Panel provided notice of the draft report to NEMMCO for it to distribute to registered participants. The draft report was also provided to the AEMC for publication on its website and was published on the Panel's website. The Panel sought responses to its draft report by 8 January 2007 i.e. at least 10 business days was provided for responses.

Assessment of submissions in response to the draft report of December 2006

By the deadline for submissions on its draft report, the Panel received submissions from the Major Energy Users Inc (MEU), the Centre for Credit and Consumer Law at Griffith Law School (CCCL) and TRUenergy Australia Pty Ltd (TRU).

No respondent requested a meeting with the Panel.

The MEU made no further comment on the funding criteria and application guidelines but made comments on the funding requirement proposed by the Panel for 2007/2008, a separate consultation being conducted by the Panel.

The CCCL commented on the new financial reporting requirements in the application guidelines, the explanation in the guidelines on the diversity principle, and the requirement that applications for funding of salaried positions be made annually.

The Panel notes that it is required to include in its guidelines the reporting requirement referred to by CCCL as a result of clause 8.10.6(e)(7) of the Rules which came into effect on 1 July 2006. The Panel expects that a report on the costs and expenses of a project would contain the same level of detail as the project budget provided by the applicant in its application for funding and therefore the reporting requirement is not anticipated to be onerous.

The CCCL's comment on the diversity principle caused the Panel to review the guidelines to ensure that they clearly expressed its responsibilities in relation to the diversity principles set down in clause 8.10.6 of the Rules. The Panel has now amended its interpretation of the diversity principle in relation to the nature of interests represented and the issues that are the subject of funding. Marked-up versions of the amended statements are as follows:

“Diversity in the nature of interests represented is taken as diversity in *the range of end-user interests represented in successful applications* ~~categories of customers~~ (e.g. *the interests of various categories of business and domestic end-users*, etc).

Diversity in the issues which are the subject of applications for funding is taken as including diversity in *the issues arising within* ~~in~~ the different sectors of the electricity industry, ~~and diversity in as between issues under the Rules and in the national electricity market generally.”~~

CCCL suggested that the Panel consider providing funding for salaried positions on a two year rather than one year basis.

In 2006 the Panel decided that an application for funding of a salaried officer within an end-user organisation would in future be approved for only one financial year at a time and this limitation has been included in the proposed guidelines. In making this decision the Panel was aware that the limitation would introduce an element of uncertainty for an applicant as referred to by CCCL. However, the Panel’s decision recognised the reality that its budget is set on a financial year basis and the reform agenda changes from year to year. If it approved funding for a two or three year term, the Panel could be committing itself to a level of expenditure that it subsequently could not justify in relation to its budget and new issues that develop and require advocacy on behalf of end-users. By limiting funding to a one year term, the Panel will have greater flexibility to respond to future funding requests thus enabling the advocates it funds to be involved in new and emerging issues. The Panel therefore rejected CCCL’s suggestion.

TRU raised a number of issues including a higher priority being given to an application made by a small to medium end-user, a large consumer being required to demonstrate that it cannot afford to fund its proposed project from current or potential financial reserves, further requirements for an applicant who intends to engage a consultant for its project, a restriction on eligible stream 4 projects, and the reimbursement of funding if project milestones are not met.

In relation to giving priority to an application from a small to medium end-user, the Panel noted that its funding criteria are based on principles set down in clause 8.10.6 of the Rules and there is no principle that would currently support the giving of a higher priority to an application from any particular class of end-user.

The MCE has issued for comment draft legislation² which includes a provision that the Panel in performing its functions must pay primary regard to benefiting small to medium consumers of electricity or natural gas³. Once the legislation is in place and any relevant Rules have been made, the Panel will review its funding criteria to allow for the new principle. The Panel will not at this time revise its criteria as recommended by TRU.

TRU commented that funding should not be provided to an organisation that has adequate funds to carry out the advocacy it proposes or has the capacity to raise additional funding through membership fees or other means.

The funding principles set down in the Rules do not provide for a test on the capacity of an applicant to pay the full cost of the proposed project. The focus of the Panel’s funding principles is on the eligibility of the applicant, achieving diversity in the views funded and that the project relates to the national electricity market and its Rules and

² Australian Energy Market Commission Establishment (Consumer Advocacy Panel) Amendment Bill 2006

³ Clause 30

regulatory bodies. The Panel is therefore not required to consider the actual or potential capacity of an applicant to self-fund the project.

If the Panel were to involve itself in the assessment of the capacity of an applicant to pay for the project for which it is seeking funding it would need to consider a range of complex issues e.g. what funds does the applicant have on hand and what actual or possible alternative uses does it have for those funds, if alternative uses exist which of them would be most beneficial for the applicant, and what issues should be considered in determining the capacity of the applicant to raise additional revenue from its members?

The Rules do require the Panel to ensure that a successful applicant makes a contribution towards the cost of a project and if they cannot, the Panel is able to grant a waiver from the co-payment requirement. The capacity of an applicant to contribute to the cost of the project is therefore only considered if a waiver is sought. TRU's suggestion is therefore rejected.

TRU proposed that the Panel seek further information from an applicant for funding who has engaged or intends to engage a consultant to undertake an advocacy project on its behalf. In the light of its experience in considering applications, the Panel sees no need to request a copy of a consultant's proposal to its client as suggested by TRU.

The Panel's guidelines already contain a provision relating to the seeking of quotations for projects which exceed \$40,000 in value, i.e. section 3.3 which requires applicants to

“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 which will be adopted to appoint consultants and the basis on which the cost estimate for consultants included in the budget was calculated.”

In addition, where relevant, the Panel also makes it a condition of the granting of funding that if a consultant is to be engaged after the project is approved by the Panel, the applicant must provide a report on the tenders it received and the reasons why the successful tender was selected. The Panel sees no need for it to routinely request a copy of a consultant's proposal to an applicant.

The Panel's current practice is to require a copy of the consultant's invoice to be submitted with the applicant's request for payment, as suggested by TRU.

The Panel is satisfied that its proposed guidelines and current practices address TRU's comment. However, in the interests of clarity, the Panel has amended section 5.1 of the proposed guidelines to make clear that an applicant may be required to provide a copy of invoices submitted to it by a consultant it engages for the project.

The Panel disagrees with TRU's suggestion that an application for a stream 4 project (an urgent application) should only be accepted if the project does not appear on the Panel's Summary of Work Programs of the principal regulatory and policy-making bodies. The Summary will be based on the current agendas of the various regulatory and policy-making bodies but they will change as time passes with the result that a project or issue that previously had a relatively low priority may later assume a much higher priority and therefore become the subject of an urgent application. TRU's

suggestion would impose an unreasonable restriction on issues that could be the subject of an urgent application.

TRU suggested that the Panel should require reimbursement of part or all of the funding granted to an applicant if the applicant does not meet a milestone outlined in its application for funding. In the light of its current practices, the Panel sees a reimbursement process as unnecessary.

The Panel's practice is that payment of costs in relation to a project is not made until the project is completed or, in the case of a project for which milestones have been agreed at which progress payments will be made, the milestones are achieved. Such milestones are documented in the funding agreement between the applicant and the Panel.

The Panel has removed from the draft guidelines reference to project 'streams' as it felt that applicants may be given an impression that the streams represent a priority or hierarchy for projects. In addition, all applications, whether they be for salary funding or other projects must be considered in relation to the one set of funding criteria and application guidelines and therefore referring to categories of applications (streams) may create an impression that there are different criteria for each category.

Summaries of the issues contained in the responses by interested parties that the Panel considered to be material and the Panel's responses to them are set out in a table below.

Final determination

Having considered the responses to the draft report of 7 December 2006, the Panel makes the following determination:

The funding criteria and application guidelines set out in attachment A have been developed by the Panel in accordance with the Rules consultation procedures and will be submitted to the Australian Energy Market Commission for its approval.

SUMMARY OF RESPONSES

Main comments	Response
Major Energy Users Inc	
MEU had no further comments on the funding criteria and application guidelines but did comment on the funding requirement for 2007/2008.	Noted. The comments on the funding requirement will be dealt with in the report on that consultation.
Centre for Credit and Consumer Law – Griffith Law School	
CCCL noted that the Panel has included in the guidelines new financial reporting requirements for successful applicants. It thinks the additional reporting requirements are necessary but is mindful that this will place an extra burden on report writers.	<p>Section 5.2 of the proposed guidelines contains the requirement that a successful applicant provide a report on the project setting out:</p> <ul style="list-style-type: none"> • the purpose of the project; • the issues considered and the outputs and outcomes of the project as evaluated; and • the costs and expenses of the project. <p>In accordance with clause 8.10.6(e)(7) of the Rules which came into effect on 1 July 2006, the Panel's funding criteria must contain this reporting requirement.</p> <p>The Panel expects that a report on the costs and expenses of a project would contain the same level of detail as the project budget provided by the applicant in its application for funding and therefore the reporting requirement is not anticipated to be onerous.</p> <p>The Panel will therefore retain the reporting requirement.</p>

Main comments

CCCL felt that the comments in the draft guidelines on the diversity issue were unclear and confusing beginning with the reference to diversity based on the number of end-users which could be interpreted as a reference to the number of applicants rather than classes and sectors of applicants.

CCCL suggested the following amendment:

“An objective of funding support is to achieve diversity. Diversity is taken as:

- *Diversity in the number of classes and sectors which end-users are drawn from. This includes diversity in the categories of customers represented (e.g. business and domestic)*
- *Diversity in the geographical areas which end-users are drawn from.*
- *Diversity in the issues which are the subject of the application for funding. This includes diversity within the different sectors of the electricity industry and diversity between issues as defined under the Rules and within the operations of the NEM.”*

The commentary on Eligible Projects should include fuller reference to the stated market objective as confirmed by the MCE – not just in terms of the efficiency and effectiveness in the national electricity market but in the context of maximising efficiencies in the long term interests of consumers etc.

In relation to stream 1 projects, CCCL commended the Panel

Response

CCCL’s comments are helpful. It is essential that potential applicants clearly understand the Panel’s responsibilities in relation to the diversity principles set down in clause 8.10.6 of the Rules.

The Panel has amended the explanations of diversity in relation to the nature of interests represented and the issues that are the subject of funding. Marked-up versions of the amended statements are as follows:

“Diversity in the nature of interests represented is taken as diversity in the range of end-user interests represented in successful applications-categories of customers (e.g. the interests of various categories of business and domestic end-users, etc).

Diversity in the issues which are the subject of applications for funding is taken as including diversity in the issues arising within in the different sectors of the electricity industry, and diversity in as between issues under the Rules and in the national electricity market generally.”

Agree. The guidelines have been amended to include full reference to the national electricity market objective.

In 2006 the Panel decided that an application for funding of a

Main comments

for allowing for the possibility of recurrent funding for salaried positions but asked the Panel to consider undertaking this funding on a two year rather than a one year basis. This would create more certainty within the organisation where the position was located and create an opportunity for more long-term planning in relation to capacity building in respective jurisdictions.

Response

salaried officer position within an end-user organisation would in future be approved for only one financial year at a time and this limitation was included in the proposed guidelines. In making this decision the Panel was aware that the limitation would introduce an element of uncertainty for an applicant as referred to by CCCL. However, the Panel's decision recognised the reality that its budget is set on a financial year basis and the reform agenda changes from year to year. If it approved funding for a two or three year term, the Panel could be committing itself to a level of expenditure that it subsequently could not justify in relation to its budget and new issues that develop and require advocacy on behalf of end-users. By limiting funding to a one year term, the Panel will have greater flexibility to respond to future funding requests thus enabling the advocates it funds to be involved in new and emerging issues.

The Panel will retain the limitation on the term of salary-funded projects.

TRUenergy Australia Pty Ltd

In order to give effect to the Ministerial Council of Energy's (MCE) objective of strengthening the arrangements for consumer advocacy in the energy sector with a particular focus on small to medium end-users, the Panel should introduce a new criteria to the effect that the Panel will give a higher priority to applications made by small to medium end-

The Panel's funding criteria are based on principles set down in clause 8.10.6 of the Rules and there is no principle that would currently support the giving of a higher priority to an application from any particular class of end-user.

The MCE has issued for comment draft legislation⁴ which includes a provision that the Panel in performing its functions

⁴ Australian Energy Market Commission Establishment (Consumer Advocacy Panel) Amendment Bill 2006

Main comments	Response
<p>users by allocating at least 75% of funding to small to medium end-users.</p>	<p>must pay primary regard to benefiting small to medium consumers of electricity or natural gas⁵. Once the legislation is in place and any relevant Rules have been made, the Panel will review its funding criteria to allow for the new principle.</p> <p>The Panel will not at this time revise its criteria as recommended by TRU.</p>
<p>Applications by a large consumer should demonstrate that its current funding level is inadequate to carry out the proposed advocacy and that it does not have the capacity to raise the necessary funds through membership fees or other means.</p>	<p>The assumption behind TRU's comment appears to be that funding should not be provided to an organisation that has adequate funds to carry out the proposed advocacy or has the capacity to raise the additional funding through membership fees or other means.</p> <p>The funding principles set down in the Rules do not provide for a test on the capacity of an applicant to pay the full cost of the proposed project. The focus of the Panel's funding principles is on the eligibility of the applicant, achieving diversity in the views funded and that the project relates to the national electricity market and its Rules and regulatory bodies. The Panel is therefore not required to consider the actual or potential capacity of an applicant to self-fund the project.</p> <p>If the Panel were to involve itself in the assessment of the capacity of an applicant to pay for the project for which it is seeking funding, it would need to consider a range of complex issues e.g. what funds does the applicant have on hand and what actual or possible alternative uses does it have for those funds, if alternative uses exist which of them would be most beneficial for the applicant, and what issues should be</p>

⁵ Clause 30

Main comments

An applicant under streams 1 to 3 who intends to outsource its project to a third party provider (consultant) should be required to submit the consultant's proposal and budget with the application. At the conclusion of the project, the consultant's invoice should be given to the Panel. An applicant should only be entitled to appoint a consultant after the approval of funding for stream 4 projects. Even then, the applicant should be required to outline the process for the selection of the consultant and provide the Panel with the original proposal (including costings) of the successful consultant and the consultant's invoice at the completion of the project.

Response

considered in determining the capacity of the applicant to raise additional revenue from its members?

The Rules do require the Panel to ensure that a successful applicant makes a contribution towards the cost of a project and if they cannot, the Panel is able to grant a waiver from the co-payment requirement. The capacity of an applicant to contribute to the cost of the project is therefore only considered if a waiver is sought.

TRU's suggestion is rejected.

Section 3.3 of the Panel's proposed guidelines require applicants to

“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 which will be adopted to appoint consultants and the basis on which the cost estimate for consultants included in the budget was calculated.”

In addition, where relevant, the Panel also makes it a condition of the granting of funding that if a consultant is to be engaged after the project is approved by the Panel, the applicant must provide a report on the tenders it received and the reasons why the successful tender was selected.

Main comments

Response

An application for a stream 4 project should only be accepted if the project does not appear on the Panel's Summary of Work Programs of the principal regulatory and policy-making bodies.

The Panel should require reimbursement of part or all of the funding granted to an applicant that does not meet a milestone outlined in the application for funding. In the absence of robust criteria for assessing the efficacy of Panel-funded projects, the reimbursement of funding in the event of failing to achieve a milestone would be an incentive for applicants to

The current practice of the Panel is to require a copy of a consultant's invoice to be submitted with the applicant's request for payment.

The Panel is satisfied that its proposed guidelines and current practices address TRU's comment. However, in the interests of clarity, it has amended section 5.1 of the proposed guidelines to make clear that an applicant may be required to provide a copy of invoices submitted to it by a consultant it engaged for the project.

The Panel sees no need to routinely request a copy of a consultant's proposal to an applicant.

The Panel disagrees with this suggestion. The Summary of Work Programs will be based on the current agendas of the various regulatory and policy-making bodies. The agendas will change as time passes with the result that a project or issue that previously had a relatively low priority may later assume a much higher priority and therefore become the subject of an urgent application.

TRU's suggestion would impose an unreasonable restriction on issues that could be the subject of an urgent application.

In the light of the Panel's current practice, a reimbursement process as suggested by TRU is unnecessary.

The Panel's practice is that payment of costs in relation to a project is not made until the project is completed or, in the case of a project for which milestones have been agreed at which progress payments will be made, the milestones are achieved.

Main comments

maximise the effectiveness of Panel funding. The reimbursement would be waived if the failure to meet the milestone was beyond the control of the applicant.

Response

Such milestones are documented in the funding agreement between the applicant and the Panel.

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”⁶.

Clause 8.10 of the National Electricity Rules (the Rules) establishes the Panel and its membership, defines its functions and specifies governance 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 contains 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 be a substitute for resources which 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, 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 approved applications for funding.

⁶ NECA, *End-user advocacy in the national electricity market*, Final report, December 2000, p2

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.

Diversity in the nature of interests represented is taken as diversity in the range of end-user interests represented in successful applications (e.g. the interests of various categories of business and domestic end-users, etc).

Diversity in the issues which are the subject of applications for funding is taken as including diversity in the issues arising within the different sectors of the electricity industry, the Rules and the national electricity market generally.

2.2 Eligible projects

Eligible projects are those that address issues that relate to the promotion of 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.

An eligible project should employ end-user advocacy as a means of achieving its ends.

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.

Projects may relate to capacity building and to other advocacy projects.

Capacity building 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 which fall within the Panel's funding criteria e.g. 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. An applicant should show how the capacity of the organisation to advocate on behalf of end-users will be increased in the long term.

Applications for capacity building 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.

Other advocacy projects, including projects commissioned by the Panel, will address matters which 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. When commissioning its own projects, 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 projects.

At the present time the Panel notes that the interests of consumers in regional areas (for example domestic, business, and local government consumers) are not well represented in current applications.

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 which 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 and, in particular, the applicant should address the Panel's diversity (section 2.1), project eligibility (2.2), and applicant eligibility (2.3) 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 relating 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. The Panel may also require the applicant to provide a report as to the reasons the successful consultants were chosen.

3.4 Preparing and submitting applications

The responsibility for 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 and as to past or anticipated projects. An applicant may, through the Executive Officer, 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 Executive Officer 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 should 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: djlb@axtonjones.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 the project's 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 which 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 applications 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 approved 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 or by email vote.

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.

Where relevant, the Panel may require that copies of invoices submitted to the applicant by the consultant it engaged for the project be provided to the Panel with the applicant's claim for payment.

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.

5.3 Evaluation

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.

5 February 2007