

## CONSUMER ADVOCACY PANEL

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### Grant Allocation and Application Guidelines

#### Preamble

Under the *Australian Energy Market Commission Establishment (Consumer Advocacy Panel) Amendment Act 2007* (the Act) the primary role of the Consumer Advocacy Panel (the Panel) is to allocate grants to fund advocacy on behalf of consumers of electricity and natural gas in relation to policy, rules and regulation that govern the national electricity and gas markets.

Under the Act, the Panel's functions include:

*to develop, and submit for the approval of the MCE, guidelines for the allocation of grants for consumer advocacy projects and research projects for the benefit of consumers of electricity or natural gas (or both);<sup>1</sup> and*

*to prepare, and submit for the approval of the MCE, guidelines for the assistance of applicants for grants for consumer advocacy projects and research projects for the benefit of consumers of electricity or natural gas (or both);<sup>2</sup>*

The following funding criteria and application guidelines are published pursuant to the Panel's functions under the Act and will be used in the assessment of applications for funding of advocacy or research projects.

Clause 45 of the Act requires that the guidelines for grant allocation be consistent with criteria promulgated by the Ministerial Council on Energy (the MCE) in the *Australian Market Commission Establishment (Variation) Regulations 2007* (the Regulations). The criteria form an important part of these guidelines and are italicised where they occur below. Extracts from the Act are also italicised.

#### 1. Eligible projects

To be considered for funding, proposed projects must satisfy the following criteria:

##### 1.1 Projects must be directed to advocacy or research

The Panel grants funding for two types of activity:

- advocacy projects in the form of either discrete advocacy projects or advocacy/capacity building programmes; and
- research projects.

A discrete advocacy project generally arises as a response by an applicant to a request for a submission in relation to an issue, such as a policy, rule, or regulatory review. In some cases the applicant will initiate a project whose objective is for a specific review or issue to be put on the public agenda.

An advocacy/capacity building programme has two elements:

- discrete advocacy projects; and
- ongoing development of the applicant's capacity to advocate effectively.

Funding for advocacy/capacity building programmes is generally directed to paying the salary, or part salary, of a person engaged by the funded applicant to undertake the project. Funding is provided for a defined period of time, normally twelve months. Within the funding period,

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<sup>1</sup> Part 3, Division 1, cl 29(1)(b)

<sup>2</sup> Part 3, Division 1, cl 29(1)(e)

the applicant will enhance and expand its capacity to advocate - through the development of expertise and experience, and the sharing of knowledge within its organisation - and will also advocate positions in specific policy, rule and regulatory reviews that are relevant to its consumer constituency.

Applicants and the Panel may also propose research projects in order to explore an important issue provided the project is consistent with the other eligibility criteria. When commissioning its own research, the Panel will avoid unnecessarily duplicating the work of consumer advocates and will consult with advocates on the necessity for and objectives of the research.

## **1.2 Projects must address electricity and/or gas market issues**

To be eligible a project must address national electricity and/or gas market issues as follows:

### Electricity Projects

*A project intended to benefit consumers of electricity should—*

- (a) relate to the development, design or operation of, or policies associated with, the national electricity market or the retailing of electricity, or relate to other issues covered by the National Electricity Law or the National Electricity Rules; or*
- (b) directly relate to an aspect of the responsibilities of the AER, the AEMC or NEMMCO under the National Electricity Law or the National Electricity Rules; or*
- (c) have some other relevance to the national electricity market or the retailing of electricity, when viewed as a whole.<sup>3</sup>*

### Gas Projects

*A project intended to benefit consumers of gas should—*

- (a) relate to the development or operation of gas pipelines, or policies associated with obtaining access to gas pipelines, or relate to other issues covered by the National Gas Law or the National Gas Rules; or*
- (b) directly relate to an aspect of the responsibilities of the AER or the AEMC under the National Gas Law or the National Gas Rules, or the responsibilities of the Economic Regulation Authority under that law or those rules in Western Australia; or*
- (c) have some other relevance to the national gas market or the retailing of gas, when viewed as a whole.<sup>4</sup>*

## **1.3 Projects must seek to benefit a material number of consumers**

The Act requires that:

In performing its functions:

- (a) the Panel must seek to promote the interests of all consumers of electricity or natural gas while paying particular regard to benefiting small to medium consumers of electricity or natural gas.<sup>5</sup>*

The Regulations require that:

*A proposal for grant funding must relate to an issue that is relevant to a material number of consumers.<sup>6</sup>*

To be eligible, a proposal for grant funding must promote the interests of a material number of consumers. While the Panel must have particular regard to benefiting small to medium consumers, the Hon PF Conlon has made it clear that all energy consumer advocates will be eligible to be considered for funding:

“The Panel is required to seek to promote the interests of all consumers of electricity or natural gas while paying particular regard to benefiting small to medium consumers of electricity or natural gas. The proposed focus on small to medium consumers is not designed to limit consumer advocacy and research funding to a defined group, but

<sup>3</sup> Regulations: Schedule 1, cl 2

<sup>4</sup> Regulations: Schedule 1, cl 3

<sup>5</sup> Part 3, Division 1, cl 30(b)

<sup>6</sup> Regulations: Schedule 1, cl 4

recognises that small to medium consumers are less likely to have detailed knowledge of the operations of the energy market and are less likely to have the financial resources to support advocacy. Nevertheless, all energy consumer advocates will be eligible to be considered for funding.”<sup>7</sup>

Small to medium consumers are defined in the Regulations as those who consume less than 4000 megawatt hours of electricity or 100 terajoules of natural gas per year. The means by which the Panel will give effect to paying particular regard to benefiting small to medium consumers of electricity or gas is set out in section 3.3.

#### **1.4 Projects should include co-payments**

The Regulations state that:

*There is an expectation (but not a strict requirement) that a successful applicant for grant funding will fund a share of the costs of the project himself or herself (which may be achieved by the applicant gaining access to other sources of funds, or by the applicant making a contribution to the project by providing staff, facilities or other resources).<sup>8</sup>*

Grant funding will be limited to 80% of the project cost for projects proposed on behalf of business consumers and 90% for projects proposed on behalf of domestic consumers. Applicants should therefore fund a share of the project costs from a source other than funding provided by the Panel (the co-payment).

Any internal resources to be committed by the applicant must be fully allocated to the project for the specified period and the cost of the resources allocated must be consistent with the level of service provided.

The Panel may, at its discretion, reduce or waive an 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 consumers;
- additional expenditure by the Panel can be justified by the expected benefits of the project;
- the ultimate benefits of the project are long term.

#### **1.5 Project applications must include a project plan**

*An applicant for funding must furnish a project plan that includes—*

- (a) an outline of the objectives of the project; and*
- (b) information identifying whether the project is intended to be for the benefit of consumers of electricity, consumers of natural gas, or both consumers of electricity and consumers of natural gas; and*
- (c) a proposed budget; and*
- (d) the amount of funding sought from the Panel.<sup>9</sup>*

## **2. Application Guidelines**

### **2.1 Standard application form**

Applications must be submitted on a standard application form that can be found on the Panel’s website at [www.advocacypanel.com.au](http://www.advocacypanel.com.au).

### **2.2 Project plan**

The applicant must furnish a project plan that includes an outline of the objectives of the project, the beneficiaries of the project, the proposed budget, and the amount of funding sought from the Panel.

<sup>7</sup> Hon PF Conlon; Minister for Energy; reading speech to South Australian House of Assembly

<sup>8</sup> Regulations: Schedule 1, cl 5

<sup>9</sup> Regulations: Schedule 1, cl 6

### 2.2.1 Objectives

The application form addresses the objectives of the project under two headings:

- the outputs of the project; and
- the desired outcomes of the project;

Outputs are goods or services that are delivered to external bodies. Outcomes are the results achieved by outputs. An output could be an identified report, analysis or process that is provided to a policy maker or regulator. The desired outcome, to be achieved through the output, could, for example, be the retention (or amendment) of a policy, rule or regulatory outcome that is the subject of a review process.

### 2.2.2 The beneficiaries of the project

The consumers to benefit from the project are to be identified:

- as consumers of electricity or gas, or both;
- as to the class of consumer (e.g. domestic general, domestic disadvantaged, small business, large business, etc);
- as to the number of consumers to benefit; and
- as to how many of the consumers use less than 4000 megawatts of electricity or 100 terajoules of natural gas per year.

### 2.2.3 Budget

The proposed budget should include details of:

- the costs to be incurred under the project;
- the time commitment and cost of each consultant or staff to be engaged on the project and their actual or required qualifications and capabilities;
- any income to be generated by the project;
- the cost of in-kind support including project management and supervision by the applicant and how the inclusion of in-kind support meets criterion 1.4;
- any arguments in support of an application for waiver of the applicant's co-payment.

Generally, any new additional cost to be incurred by an applicant when undertaking a project is a cost that can be included in the project budget and, if the application is successful, will be funded by the Panel subject to the co-payment obligation of the applicant. The cost to an applicant of any existing internal resources to be devoted to the project (e.g. supervision, support from senior advocates, space costs, equipment costs and other overhead costs) may be included in the project budget and will be treated as part of the co-payment the applicant is expected to make.

Imputed costs cannot be included in a project budget but may be mentioned as a note, if considered to be material. Imputed costs are costs that may be incurred during a project but are not costs that the applicant has to pay, for example an assumed value for the time of unpaid volunteers, the value of time spent on an applicant's project by employees of another organisation or a market-based value for an employee of the applicant that is greater than the actual remuneration cost for the employee.

As a general rule, if consultants are to be engaged, it is expected that applicants will seek competitive quotes from at least three potential providers of consulting services for projects over \$10,000 in value and provide a detailed written analysis of at least three quotes received as a result of a competitive tender for projects over \$80,000 in value.

If consultants are to be appointed after approval of an application, the application should state the procedures that will be followed to appoint consultants and the basis on which the cost estimate for consultants included in the budget was calculated. The Panel may require the applicant to provide a report as to the reasons the successful consultants were chosen.

### 2.2.4 Funding sought from Panel

The application must state the amount of funding being sought from the Panel.

## 2.3 Assistance

The responsibility for submitting applications is with the applicant. Applicants or prospective applicants may seek assistance from the Panel's Executive Director in ensuring compliance with these criteria and as to past or anticipated projects. An applicant may, through the Executive Director, 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 Director for the purposes of the above assistance.

## 2.4 Applications

Applications must be submitted on the form available from the Panel's website at [www.advocacypanel.com.au](http://www.advocacypanel.com.au).

Where possible, an application should be submitted in electronic form. The application should address any relevant criteria and, apart from statements of qualifications (item 2.2.3), 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 Director at [info@advocacypanel.com.au](mailto:info@advocacypanel.com.au) and confirmation copies may be sent to the Consumer Advocacy Panel, PO Box A2258, Sydney South NSW 1235.

## 3. Determination of applications

When assessing an application, the Panel will first make an assessment of whether the proposed project is eligible (see section 1 above). Projects that are eligible will be assessed according to the following criteria:

- significance and likelihood of success;
- increases advocacy;
- adds to diversity of consumer views;
- benefits small and medium consumers.

### 3.1 Significance and likelihood of success

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 consumers;
- the likelihood the project will influence decision makers;
- the likelihood the project will increase diversity of consumers' views;
- the importance of consumers' 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 organisation to advocate in future on behalf of consumers.

### 3.2 Project increases advocacy.

Clause 30 of the Act requires that in performing its functions the Panel must have regard to any relevant objectives set out in a National Energy Law.

The National Electricity Law contains a national electricity objective:

“to promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to—

- price, quality, safety, reliability and security of supply of electricity; and
- the reliability, safety and security of the national electricity system”.

The National Gas Law provides that:

“The objective of this Law is to promote efficient investment in, and efficient operation and use of, natural gas services for the long term interests of consumers of natural gas with respect to price, quality, safety, reliability and security of supply of natural gas.”

For these objectives to be achieved there must be input on market issues by all sectors, including consumers who often lack the level of advocacy resources available to other market participants. To this end, the Panel will give greater weight to projects that will lead to greater consumer input into consultation processes by (for example):

- adding to the resources committed to advocacy rather than substituting resources that would otherwise be committed;
- giving priority to a project that seeks to advocate interests that are not being advocated over a project that is advocating interests that are already being advocated.

### **3.3 Adds to diversity of consumer views and benefits small to medium consumers;**

The Regulations require that:

*There should be diversity in the allocation of funding after taking into account—*

- (a) the number and range of consumers who may benefit from the relevant projects; and*
- (b) the nature of the interest represented across the projects; and*
- (c) the issues to which the projects will relate,*

*while recognising (from a general perspective) the Panel's objective set out in section 30(b) of the Act.<sup>10</sup>*

The Panel will give effect to this criterion by taking into account the diversity of its existing portfolio of funded projects when it is assessing a proposed project and by considering whether the proposed project will contribute to a portfolio of funded projects that promotes the interests of all consumers, especially small to medium consumers. To this end, the Panel will have particular regard to whether the proposed project demonstrates benefits for small to medium consumers.

### **3.4 Other matters**

Under the Act, there is a limit on the grants that can be made for research projects initiated by the Panel. The Panel must, in preparing its budget:

*ensure that money that is proposed to be made available for research projects initiated by the Panel does not exceed 25% of the Panel's total budget...<sup>11</sup>*

Funding for a project 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.

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

The Panel will meet at least quarterly to determine applications and will regulate its meetings and conduct its business in accordance with the Act 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.

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

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

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<sup>10</sup> Regulations: Schedule 1, cl 1

<sup>11</sup> Part 4, cl 41(6)(b)

## 4. Execution, records and reporting

### 4.1 Funding agreement and conditions

If the Panel resolves to grant funding for a consumer advocacy or research project, it will give a direction to the AEMC that it enters into a funding agreement with the applicant. The direction must be consistent with the Panel's approved budget, the MCE's criteria for grant allocation and the above guidelines.

A pro forma agreement is available at [www.advocacypanel.com.au](http://www.advocacypanel.com.au).

*A successful applicant for funding must, as a condition of a grant, be willing to agree—*

(a) *to maintain, and to make available to the Panel on request, appropriate records, accounts and reports concerning the expenditure of funding provided by the Panel for the purpose of the relevant project; and*

(b) *to furnish to the Panel—*

(i) *as soon as is reasonably practicable after receiving a written request from the Panel during the course of the relevant project; and*

(ii) *in any event, within 2 months after the completion of the relevant project,*

*a report that sets out—*

(iii) *a comprehensive description of the objectives of the project; and*

(iv) *the issues that have been considered for the purposes of the project; and*

(v) *the outcomes that have been achieved in connection with the project; and*

(vi) *the costs and expenses associated with the project.*<sup>12</sup>

### 4.2 Execution of the project

A successful applicant is expected to execute the project in accordance with the project plan and timetable and the funding agreement. Should changes be contemplated or required in the project plan or timetable, they must be immediately notified to the Panel. A failure to execute the project in accordance with the funding agreement may result in variation of the agreement or its termination and possible cessation of the funding.

### 4.3 Records and reporting

A successful application must maintain records and provide reports as set out under 4.1 above. In its report on the project (the project completion report) the applicant must specifically deal with the issues the applicant and the Panel will address in any evaluation of the effectiveness of the outputs and desired outcomes of the project.

The Panel may also require that progress reports be provided during the conduct of the project.

An electronic copy of the report or study comprising the advocacy in the project must be provided 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.

### 4.4 Evaluation of project outcomes

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

The Panel has implemented a process for regularly evaluating the effectiveness of projects that it funds details of which can be obtained from the Panel's website at <http://advocacypanel.com.au/applications.htm>.

<sup>12</sup> Regulations: Schedule 1, cl 7

The purpose of the evaluation process is to:

- improve the effectiveness and efficiency of advocacy by providing specific feedback and guidance to applicants whose work is evaluated and by providing a general 'lessons learnt' available to all applicants;
- provide information on the effectiveness and efficiency of the Panel's grant allocation program.

Evaluations are conducted of a sample of projects the Panel funds. Generally, the sample is randomly selected based on the quantum of the project budget although the Panel may also select particular projects for evaluation where it sees a need to do so.

Evaluations are conducted by a suitably experienced external resource who will consult with stakeholders involved in the project in order to evaluate its effectiveness. The stakeholders include the funded applicant and bodies such as the AEMC, AER, MCE and SCO, or other organisations to which the advocacy was directed.

Evaluations begin with a review of the project completion reports provided by applicants. The outputs and outcomes reported by the applicants are compared against those outlined in the applications for funding in order to arrive at a preliminary evaluation of the effectiveness of the projects.

The Panel will advise applicants whose projects are to be evaluated and will involve them in the process and seek their comments on the evaluation reports. The final evaluation reports will usually be published on the Panel's website.

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