

NATIONAL CONSUMERS ELECTRICITY ADVOCACY PANEL

7 May 2004

DRAFT REPORT ON PROVISIONAL FUNDING REQUIREMENTS FOR END USER ADVOCACY FOR 2004 – 2007 INCLUDING CONSIDERATION OF SUBMISSION

1.0 Introduction

Under cl 8.10.3 (a) of the National Electricity Code the panel is required to determine the provisional funding requirements for end user advocacy for the next three years. This is the first opportunity for the panel to discharge this duty, which will be an annual one.

These requirements were set out in a draft report notified in The Australian of January 2004 and on the website of NECA and the panel about that time. One submission was received, from TransGrid, and this was considered by the panel at its next scheduled meeting, on 10 March 2004. This is the draft report relating to that submission, made for the purposes of 8.9(f) of the National Electricity Code.

2.0 Consideration of TransGrid's submission

TransGrid say that some of the applicants for funds approved by the panel have been private companies, consultants or researchers. An organisation receiving funds should have as its "primary purpose . . . set out in that organisation's charter or constitution . . . to represent end users of electricity." There should be more scrutiny of applicants and if they meet the suggested criterion the panel should publish the end users represented and the nature of representation. It is not the intention of the code that eligibility does not merely come because an organisation's "members use electricity". The submission does not seek any modification of the draft report on the panel's provisional funding requirements.

As the submission is about the panel's processes and not about the draft report on the panel's provisional funding requirements, we will continue to adopt the report, unchanged. Those requirements are set out below.

However we will respond to the submission that eligibility for funding should be more scrutinised and should be changed.

The relevant eligibility requirement, in cl 8.10.3(d)(3) of the code, is that an applicant "represents the interests of a reasonable number of end-users". Cl 2 of our funding criteria make this more specific as follows:

An applicant for . . . funds must represent the interests of a reasonable number of end users, whether as a representative of an organisation of end users or because the advocacy is in the interests of a reasonable number of end users.

In those cases where we have granted funds to private companies, consultants or researchers we had evidence of endorsement by a body that spoke for a reasonable number of end users or the nature of the work showed that it was in the interests of a reasonable number of end users. Eg the Retirement Villages Association of Victoria has endorsed the project of Trans Tasman Energy on embedded networks. As you mention Bob Lim & Co Pty Ltd, that company's project on 'regulatory risk' (one of the very first applications approved) had the potential, when approved, to be in the interests of end users generally and the report for a stage of the project, recently received, has been endorsed by Energy Markets Reform Forum, which represents significant large business consumers.

In fact we are quite stringent with our scrutiny of applicants, as the number of rejected applications shows.

It is agreed that mere use of electricity by members of an organisation does not make it eligible for funding. However where an organisation takes on the interests of members as such users, eg where a chamber of commerce or industry body or a national or state consumer or welfare body does this, one can see an organisation that can represent the interests of huge numbers and very large sectors of end users. Such an

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organisation could do this job without having as its primary purpose the representation of electricity end users. Also, among many sectors of end users there are no electricity or energy specific organisations to represent their interests.

Thus the suggestion that eligibility for funding be changed to require organisations that have a primary purpose of representing electricity end users would exclude those other representative bodies, and even private firms or researchers, who, at present, are the only parties able to represent many end user interests. For this reason the suggestion should not be implemented. Further the change would require alteration not only of our funding criteria but probably also of cl 8.10.3(d)(3) of the code.

There now follow our original funding requirements and the report which accompanied those requirements.

3.0 Provisional funding requirements

For 2004-2005 our draft provision is \$1.1 million, for the following year \$1.2 million and for the year after \$1.1 million. The public may make submissions on this determination, which is more fully set out in sec 4, and on the rest of this report, as provided by the code consultation procedures in cl 8.9 of the code. After we have considered those submissions we will finalise this report and determination.

3.0 Income and expenditure of the panel

The Final Report by NECA entitled End-user Advocacy in the National Electricity Market, of December 2000, recommended, at p 11, that the panel have access to \$1 million provisionally allocated to end user advocacy in the 2000-2001 fee determination for market participants. We understand that the \$1 million was not fixed by reference to any calculation of the anticipated costs of end user advocacy. The sum was incorporated into NEMMCO's annual budget in 2001 – 2002 with effect from October 2001. This budget is in substantial part collected from among market participants. Since October 2001 NEMMCO has remitted a component of the fees collected into an account established by NECA for the panel.

From October 2001 to the end of August 2003 a total of \$1.88 million has been remitted by NEMMCO to the panel's account.

Up to the panel's meeting of 11 December \$1,008,186 had been granted or conditionally committed for end user advocacy projects being for 24 eight projects among 46 for which applications were received.

These projects may be summarised and categorised as follows:

NO.	APPLICANT	DATE	PROJECT	RESULT
TRANSMISSION				
1	Energy Users Association Of Australia (EUAA)/Energy Action Group (EAG)	8.4.03	Submission to ACCC review of Regulatory Test	\$28,000 approved, project incomplete
2	EUAA/EAG	8.4.03	Submission to ACCC on Transend revenue application	\$28,000 paid, for submission
3	Bob Lim & Co. Pty Ltd	14.4.03	Review of "Regulatory Risk" in relation to electricity transmission businesses	\$45,000 approved, project incomplete
26	Power Down Under	28.8.03	Objection to Milmerran-Middle Ridge transmission line of Powerlink ; whether 'regulatory test' correctly applied	Funds approved but objection discontinued by applicant
31/03	EUAA,/EAG	19.9.03	Submission to ACCC review of 'Statement of Regulatory Principles for Transmission'	\$20,000 approved; incomplete
37/03	Centre for Credit and Consumer Law, Griffith University, Qld	2.10.03	Consultation with consumer organisations for submission to ACCC review of Statement of Regulatory Principles for Transmission	\$11,770 approved; incomplete
38/03	Energy Markets Reform Forum	9.10.03	Business end user submission to ACCC review of Transgrid and Energy Australia revenue cap	\$14,000 approved

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44/03	Australian Business Ltd, Australian Consumers Assn, EAG, EUAA, National Farmers Federation	17.11.03	Submissions to ACCC on Transgrid and EA revenue applications	Rejected 11.12.03 in view of funding for EUAA in applics 1 and 25
6	Headberry Partners Pty Ltd	24.4.03	Study to assess the levels of market risk premium and beta appropriate for regulated electricity businesses	\$41,600 approved; 1 st instalment \$12,000 paid; report for purpose of second instalment overdue.
DISTRIBUTION				
13	EUAA/EAG	8.8.03	Advocacy to IPART on its 2004 electricity network review	\$50,000 approved of which \$25,000 paid.
21	EAG	19.8.03	Submissions to SA electricity distribution price review	Rejected
27	Electricity Consumers Coalition of South Australia	29.8.03	Submission to ESCOSA electricity distribution price review	\$67,500 approved; \$17,500 paid.
28	SA Centre for Economic Studies	11.9.03	Analysis of discussion paper by ESCOSA on 'Return on Assets' for a submission by domestic consumer groups to the ESCOSA price review.	\$17,500 paid
32/03	EUAA and EAG	19.9.03	Additional submissions to IPART NSW distribution price review	\$30,000 approved;
46/03	Consumer Law Centre ACT and ACTCOSS	1.12.03	Response to price determination by Independent Competition and Regulatory Commission	\$13,200 approved
RETAIL				
14	Consumer Consultative Committee of the ACCC	6.8.03	Harmonisation of retail codes in the national electricity market (NEM)	\$48,352 approved; has yet to start
17	Western Research Institute	8.8.03	Review of consumer participation in NEM in rural and regional Australia.	Withdrawn
DEMAND MANAGEMENT				
16	Moreland Energy Foundation (MEF)	7.8.03	Demand management for small consumers	Withdrawn
18	Total Environment Centre	11.8.03	DSM study in particular of transmission network augmentation in Sydney CBD and certain Victorian tendering processes	\$41,800 approved; first draft of study report submitted to panel
24	EUAA, Australian Business Council for Sustainable Energy and EAG	18.8.03	Conference to plan future demand side advocacy	Rejected
30/03	EUAA, Australian Business Council for Sustainable Energy and EAG	19.9.03	Conference to plan future demand side advocacy	\$6,500 approved for Stage 1 (workshop agenda and materials) by Distributed Power Pty Ltd. The balance of the application was rejected.
39/03	Energy Response Pty Ltd	23.11.03	Commercial pilot of demand aggregation project	Rejected
45/03	MEF	26.11.03	DM organisational meeting for environmental, consumer and social groups	Rejected

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CAPACITY BUILDING				
4	Consumer Law Centre Victoria	5.5.03	"Capacity building in the consumer sector: a project to create informed consumer contributions regarding the National Electricity Code and the National Electricity Market"	\$130,000 approved; 1 st instalment of \$32,500 paid; coordinator apptd; 1 st progress report.
19	EAG	11.8.03	12 months salary for Vice President to engage in end user advocacy projects	Rejected
20	EAG	11.8.03	NEM Library information project	Rejected
23	EUAA	17.8.03	Capacity building for EUAA in Queensland	Rejected
25	EUAA	19.8.03	Employment of a national electricity market specialist by EUAA	\$130,000 approved annually for 3 years; \$20,000 paid for interim specialist and first instalment totalling. Permanent appointment not yet made.
35/03	Tasmanian Council for Social Service	22.10.03	Capacity building – train domestic customers in NEM	\$20,000 approved
40/03	SA Council for Social Service	28.11.03	NEM training	\$ 41,684 approved
42/03	ACT Council for Social Service (ACTCOSS)	27.11.03	Training domestic customers	\$24,000 approved
WHOLESALE MARKET DESIGN				
5	Headberry Partners Pty Ltd	23.4.03	Proposal for funding PhD research study of electricity price volatility	Rejected
12	Electricity Consumers Coalition of South Australia and Energy Users Coalition of Victoria	6.8.03	Assessing impact of price volatility on end-user customers in the NEM	Rejected
15	Consumer Law Centre Victoria and Monash University Centre for the Study of Privatisation and Public Accountability	6 8.03	Whether NEM has improved electricity services, lowered electricity prices and given greater access for electricity consumers and "improved public accountability"	Rejected
22	EUAA and Energy Markets Review Forum	8.8.03	Study of Market Power in the NEM	Rejected
29/03	EUAA	19.9.03	Submission to Reliability Panel review of VOLL	\$17,500 approved
33/03	Energy Users Coalition of Victoria, Electricity Consumers Coalition of South Australia	23.09.03	Assessing impact of price volatility in NEM on end use customers	Withdrawn
CONNECTION				
10	Exigency Management Pty Ltd	16.7.03	Investigation of connection and network price information to assist planning by business users	\$44,800 and expenses up to \$7000 approved; incomplete
OTHER				
7	Sustainability Centre Pty Ltd	17.5.03	Production of information paper and articles for lay persona about the national electricity market and National Electricity Code – related to public	Rejected

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			workshops - report and briefing to panel on changes to Code and market structure to better inform consumers and environment	
8	Institute of Public Affairs	9.5.03	Examination of policy approaches for transmission under the Victorian gas arrangements and the national electricity market	Rejected
9	South Australian Council of Social Service	27.5.03	Research and advocacy on the impact of the national electricity market and retail contestability on low income domestic electricity consumers	Rejected
11	Institute of Public Affairs	30.7.03	Examination of the policy approaches for transmission under the Victorian gas arrangements and the national electricity market (similar to no.8)	Further information required to enable final decision
34/03	Business South Australia	26.09.03	Study of South Australian business customer understanding of NEM	Deferred
36/03	Alternative Technology Association	23.09.03	Reducing impediments to renewable embedded generators	\$48,080 approved
41/03	MEF	23.11.03	Improving Demand Management Choices for Small Customers	\$81,900 approved
43/03	EAG	26.11.03	Salary for EAG personnel	Deferred 11.12.03 for reports on EAG operations by the two end user panel members
TOTAL grants and commitments				\$1,008,186

The success rate of applications has increased, from 8/25 or 32% up to August to 24/46 or 52% up to this month. It may be expected as applicants become more familiar with our funding criteria and as the panel becomes aware of unmet advocacy needs that more advocacy applications will be successful.

The panel believes that its funds not yet granted or committed could be absorbed by June 2004 by grants made pursuant to applications or possibly by the panel commissioning projects. However, based on our recent experience with applications there is a significant chance of the year finishing with a surplus. We have taken this potential surplus into account in the provision for 2004-5.

4.0 Anticipated demand for funds

To provide funds for end user advocacy after the present financial year, that is for the years 2004-5, 2005-6 and 2006-7, we have anticipated the demand for funds for those years first by reference to the categories of work that we might expect to fund in those years. The categories and numbers of applications and grants or commitments that we have already made are as follows:

Category	No. of applications	Grants/commitments
Transmission	9	7
Distribution	6	5
Retail	2	1
Demand Management	6	2
Capacity Building	8	5
Wholesale Market Design	6	1
Connection	1	1
Related Matters	8	2

Looking to the future based on applications, we expect further applications about transmission and distribution in the coming years because there is a continuum of transmission and distribution price reviews by the ACCC and other regulators and since transmission and distribution pricing is inherently problematic. We will anticipate applications about retail prices or retail competition because full retail contestability is in its infancy and because these matters directly involve electricity customers. We will expect applications about demand management because of the strong support for the concept and because it has been identified in the communiqués of the Ministerial Council on Energy of 1 August 2003 and 11 December as an aspect of user participation in energy markets and which the council will further consider next year. The slow

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realisation of demand management - for example in a recent draft report by SKM to IPART on its 2004 Electricity Network Review a proposal to introduce "congestion pricing" (an aspect of demand management) was planned to take up to 5 years – suggests that it will require much further practical work, including work from the perspective of end users.

In our view the total of applications in the first 4 categories above is likely to grow in the coming years. These are already the areas in which we have been making grants.

Most organizations within the community sector currently lack the expertise to fully participate in the consultative processes within the national market. Their capacity will need to be built up and applications for this propose can be expected over the next couple of years. Also, the domestic consumer network may require some small recurrent support.

We will anticipate new categories of applications on environmental matters and those related to the broader energy market. We have already had two proposals (not formal applications) relating to environmental impact and one application which sought funds for the writing of descriptions, to be published to a general audience, of the electricity market and its role in relation to greenhouse gas emissions, which was not approved. More applications in this category can be expected because environmental issues are an aspect of the National Electricity Code's neutrality to different forms of generation (see cl 1.3 (b)(5) of the code), because such issues are put before end users by schemes such as the Mandatory Renewable Energy Trading Scheme and the NSW Greenhouse Abatement Certificate scheme and because in their August communiqué the Ministerial Council on Energy said that they will work closely with the CoAG High Level group on Greenhouse to address greenhouse gas emissions from the energy sector.

A further category of future applications which we should anticipate relates to the impact of the new regulatory structure for the code or the market that is now being examined by the Australian government and the Ministerial Council on Energy. We have received two applications dealing with the impact of the electricity market on the poor or those less well to do. It is difficult to see that advocacy on this issue will fall within our funding criteria. However those who do anticipate advocacy in this category are welcome to let us know in a submission to this report so that we can better decide what provision should be made for this category of application.

Finally as the panel becomes better known we anticipate that there will be more applications to the panel. At the end of July we published on our website and via NECA and the trade media an update on our activities. This report may have been a factor in us receiving 14 applications within about three weeks, as many as we had received since February when we were established.

In the future there is also likely to be advocacy commissioned by the panel. More commissioned advocacy could lessen the need for applications for funding but it is likely to be in the categories where applications would have been made, as well as in areas where in the panel's view end user interests have not been pursued by others.

Having regard to all the above we do not expect the need for funding to diminish, whether based on categories of applications or categories of commissioned work. We believe we should modestly provide for an increase in the need for funding because of the complexity and continuing nature of transmission and distribution pricing reviews; regulatory restructuring; the persistence of demand management and environmental issues and because of increased recognition of the panel.

5.0 Provision of funds

What is a modest provision for what we anticipate will be an increased demand for funding? In our view since the existing annual provision of \$1 million is likely to be used up by existing demand, and since that demand is anticipated to increase, although we cannot measure by how much, the sensible thing to do is to allow for a modest increase in the \$1 million.

Thus we propose that provision for 2004-5 for funds for end user advocacy be \$1.1 million, an increase of 10% on the present year. For 2005-6 the provision should be \$1.2 million as we do not anticipate any diminution of applications and it is prudent to be prepared for some increase. For the third year 2006-7 we propose a provision of \$1.2 million, recognising that there may be some plateauing off of applications by then.

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A further reason for making a modest increase is that in time and with the panel becoming more experienced it should be possible to more efficiently finance end user advocacy. Thus where it is known that a major review on transmission or distribution pricing is imminent the panel might, as an alternative to merely receiving applications for funding, itself call for applications on specific issues in the review. The panel could then competitively choose an expert or body to be commissioned. This could avoid the need for wide ranging and thus more expensive submissions and avoid the risk of financing multiple advocacy on the same or overlapping issues.

We are aware of the huge sums of money and huge efforts made by IPART and ESCOSA in conducting their present reviews and inquiries into distribution pricing in their respective states. The affected utilities would also incur much cost and effort in their submissions to these reviews. In making the present provision for the next three years we have not investigated what should be allowed for end user advocacy for these types of reviews. This will need to be considered in the context of specific future major pricing reviews and if necessary the cost implications for end user advocacy to those reviews will have to be reflected in the annual budgets for the panel, which are set by a further process under the code.

We also propose that in the actual budget for the coming years we include provision for collections from participants to be suspended if these projections are considerably greater than the grants we make. The details of this suspension procedure would be included in the budget for each of these years, having regard also to obligations on NEMMCO to take into account under-expenditure under cl 2. 11.3(b)(6) and (7) of the code.

6.0 Submissions

Submissions on this draft report may be sent to the panel by email to the chairman at advocacypanel@axtonjones.com.au or by writing to him care of Axton Jones, PO Box 43, Surrey Hills, 3127.

Submissions must be received by the chairman by 27 May 2004. The panel will then consider any submissions received and issue a final report, in accordance with the code consultation procedures.

For the panel

A Bisits
Chairman