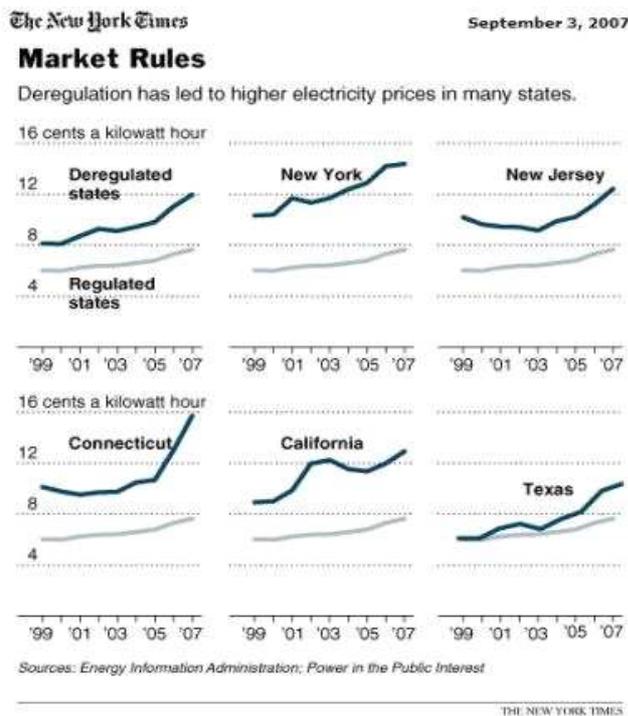




## September 2007, edition 14.

The Australian media and energy markets are again focused upon deregulation as the NSW Government inquiry (the 'Owens Report') was released this month. The report recommended the sale of NSW's state owned energy retailers and the sale or long term lease of its generators. With the privatisation of the sector looking to win the government \$5-8 billion through the sale of assets, it would also alleviate the strain of upgrading generation capacity and its associated costs. Community sector organisations have expressed concern with the report, pointing out lack of consideration of renewable energy and energy efficiency alternatives to new generation investment, as well as the prospect of job losses as successful bidders strive to scale down costs on the bottom line and increase returns to private investors.



In contrast to the push by the Owens Inquiry is an increasing amount of feedback from the American experience of deregulated retail energy markets and their return to a regulated market. American markets have experienced significant price increases in a deregulated market. Recent articles in the [New York Times](#) and USA Today highlight the consumer issues faced by unregulated markets and the unsustainable price hikes.

Further detail on the Owens report is provided in section 2.6.

We welcome feedback on the information provided in *On the Wire*. Further, we encourage you to forward the newsletter throughout your networks. Production of *On the Wire* is funded by the [National Electricity Consumers Advocacy Panel](#). To subscribe to *On the Wire*, please email [info@consumeraction.org.au](mailto:info@consumeraction.org.au) with "On the Wire" in the subject line. The next edition of *On the Wire* is scheduled for release in December 2007. Past and current editions of *On the Wire* can also be found [here](#).

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### **1. Regulatory developments**

#### **1.1 Ministerial Council on Energy**

The Ministerial Council on Energy (**MCE**) has recently released the following consultation papers:

- **National Framework for Energy Efficiency (NFEF)** – This is the second stage in the national program following NFEF Stage 1 which expires at the end of June 2008 (after establishment in December 2004). The [consultation paper](#) focuses on measures including energy efficiency programs for appliances and equipment, energy efficiency standards for buildings and energy efficiency measures across the commercial, government and industrial sectors. NFEF Stage 2 seeks to continue with some of the measures established in NFEF Stage 1, but also introduce new measures. Submissions were due on the 25<sup>th</sup> of September.

Consumer Action broadly supports the NFEF Stage 2, as it represents dual benefits to consumers, with energy efficiency driving down the cost of household bills and reduced greenhouse gas emissions. However, there

continues to be an urgent need to address energy efficiency for private tenanted and low-income households, which is not being addressed by NFEE.

- **National Framework for Distribution Network Planning and Connection Arrangements** – The MCE Standing Committee of Officials has released a [report on distribution network planning and connection arrangements](#) which addresses issues relating to the new national framework for distribution expansion and planning, connection charges and capital works contributions. It also looks at network incentives for distributed generation and demand side response and network losses in the NEM. Submissions were required by the 28<sup>th</sup> of September.

Further MCE Energy Market Reform bulletins can be found [here](#).

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## 1.2 Retail Policy Working Group (RPWG)

In June 2007 a Composite Consultation Paper was released by the RPWG in relation to the proposed National Framework for Non-economic Distribution and Retail Regulation following consultation on four working papers from December 2006 to March 2007 and the Supplementary Working Paper in May 2007. The Composite Paper was prepared by lawyers Allens Arthur Robinson.

Thirty-five submissions have been made to the Composite Paper, including thirteen from community-sector and consumer organisations. This demonstrates the breadth of interest in this area of regulation, particularly those which relate to consumer protections.

Many community and consumer organisations worked together to comment on each of the recommendations in the Composite Paper. Their comments can be found [here](#):

The comments particularly related to ensuring that:

- there is a robust obligation to supply;
- that the standing and market retail contracts include appropriate consumer protections; and
- that there are strong consumer protections around marketing of retail energy.

Submissions also stated that the experience of jurisdictions which have introduced full retail contestability demonstrated that protections specific to the energy market were required, especially at the current level of market development.

Consumer Action additionally provided the RPWG with a detailed [Comparison Table](#) which compared retail consumer protections across NEM jurisdictions and gave an

opinion about best practice. It is hoped that this document will be used by the RPWG in finalising the framework for national retail regulation. The Comparison Table was developed with funding from the [Advocacy Panel](#).

All submissions are detailed on the [MCE website](#).

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### **1.3 Network pricing legislative package**

Amendments to the National Electricity Law and new National Electricity Rules are due to pass through South Australian Parliament at the end of September, whilst the new National Gas Law has been deferred until next year. The Electricity Law and Rules have become a priority, due to the need to begin the reviews of distribution pricing in NSW and the ACT next year.

The introduction into the SA Parliament follows consultations on further exposure drafts of the new laws:

- In July, the MCE released its second exposure drafts of the [National Gas Law and National Gas Rules](#);
- In August, the MCE released its second exposure drafts on amendments to the [National Electricity Law](#); and
- Unfortunately, the MCE have not released a second exposure of the National Electricity Rules. This is despite there being significant concern with the original draft rules, especially from the community sector. In a [joint submission](#) on the draft rules, Consumer Action, Consumer Utilities Advocacy Centre and St Vincent de Paul raised concerns that the proposed rules were too prescriptive, limiting the ability of the regulator to ensure regulation responds to market needs. In August, the MCE did release the SCO response to submissions on the [Draft Rules](#), which indicated that the final draft rules would be amended somewhat. However, to date, this has occurred without additional consultation.

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## 1.4 Australian Energy Market Commission update

The [Australian Energy Market Commission \(AEMC\)](#) is currently reviewing the effectiveness of competition in the retail gas and electricity markets in Victoria, to be followed in South Australia in 2008 and New South Wales in 2010 (with tentative arrangements for ACT in 2010).

In June, the AEMC released an [Issues Paper](#) which outlined the issues on which the AEMC sought feedback from stakeholders.

Twelve submissions have been received from stakeholders, including six from Victorian community organisations.

[Consumer Action's response](#) supports the role of the Commission in establishing a policy framework that ensures a competitive energy market is maintained and achieves market outcomes which satisfy consumer needs and are in the best interests of the community as a whole. Consumer Action's response particularly focused upon:

- Market structure and conditions of entry, exit and expansion;
- Independent rivalry and the behaviour of retailers;
- Customer choice and behaviour;
- Price and service quality outcomes for customers;
- The role and impact of retail price regulation; and
- Impact of competition on vulnerable customers.

Other responses from community organisations included:

- [Consumer Utilities Advocacy Centre](#)
- [Energy And Water Ombudsman Of Victoria](#)
- [Footscray Community Legal Centre](#)
- [St Vincent De Paul Society](#)
- [Tenants Union Of Victoria](#)
- [Victorian Council Of Social Services](#)

John Tamblyn, Chairperson of the AEMC, presented at consultation forums in both Melbourne and Bendigo in the first week of September, to learn from domestic and small business customers about their experiences of the energy retail markets in Victoria. Representatives from consumer groups, government representatives, the retail industry and the domestic market were present. The AEMC also took the opportunity to present the results of its [telephone customer survey](#), which was

undertaken with customers during June and July. The surveys findings of interest to consumer groups included:

- there were high levels of awareness of choice, but low brand awareness of retailers in the market (36% of electricity customers and 52% of gas couldn't name another retailer);
- only 10% of those who'd switched had done so at their own initiative - 73% switched after an approach;
- 60% of electricity customers and 42% of gas were on a market contract (both higher numbers than business customers);
- there was no evidence of retailers excluding any particular customers (although it was stated at Bendigo forum that low volume consumers may not show up well in results);
- of those who didn't switch, 24% said that was because it wasn't worth the effort and 24% said they couldn't be bothered;
- consumers are struggling to access useful information - most said they relied on the retailer for information; and
- consumer confidence in changing retailers had improved since 2004.

One particular concern of consumer organisations was that the survey did not ask whether customers had chosen products that best suited their interests. To further understand whether competition is effective for consumers, it is essential to determine whether consumers who do switch are getting better deals. Recent [research from the UK](#) suggests that consumers who switched in order to gain a lower price actually obtained worse deals.

In addition, following reports that the [Energy Ombudsman](#) continues to receive a high level of complaints regarding marketing conduct, Consumer Action has began some research about marketing conduct, including a focus on the levels of informed consent provided by consumers who enter into market contracts. This research will be finalised for submission to the AEMC's consultation on its Draft Report, due out in September.

For more information about the AEMC's review of competition, visit [www.aemc.gov.au](http://www.aemc.gov.au).

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## 1.5 Australian Energy Regulator (AER) update

### *Victorian bushfires – NEMMCO at fault*

On 16 January 2007, bushfires in the north east of Victoria caused fully loaded 330kV transmission lines between Victoria and New South Wales to trip. The event also caused transmission lines between South Australia and Victoria to trip, resulting in the separation of the national power system into three electrical islands. A major imbalance between supply and demand followed, which led to the activation of the Victorian automatic under-frequency load shedding scheme. Around 2200MW of load was shed.

A recent [review](#) by the AER into the power outages during the January 2007 bushfires has found that NEMMCO could have managed the process of load shedding better if it had anticipated risk and taken precautionary measures. Instead, a large number of Melbourne homes and businesses suffered blackouts for up to four hours.

As a result of the review, AER has made a range of recommendations for operation reforms to improve crisis response.

A further review is being undertaken to investigate the role of the SP AusNet, their management of transmission lines and alleged failure to alert the market.

### *AER on compliance and enforcement*

On the 29 August 2007, the AER issued its 'Statement of Approach' for compliance and enforcement. The AER has developed its approach following a risk assessment of the 1500 obligations in the National Electricity Rules and identifying the implications of an obligation being breached.

With the objective of achieving compliance with the rules, the AER will work with industry by "informing market participants of their obligations and by assisting participants establish effective compliance programs." Outcomes of AER's monitoring, compliance and enforcement are reported to be every quarter.

Regular reporting on compliance and enforcement by the national regulator will contribute to transparency and accountability in the NEM. The AER may have to, however, revisit its approach to compliance and enforcement when distribution and retail regulatory functions are transferred to it over the coming years. Breaches of obligations in the distribution and retails sectors will have a more direct impact on consumers, and it is important for the AER to take this into account in developing its approach.

For more information, visit [www.aer.gov.au](http://www.aer.gov.au).

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## 2. Consumer advocacy and other information

### 2.1 The Essential Services Consumer Council (ESCC) Incentive Discharge Scheme

*Peter Sutherland, Chairperson, ESCC*

The ACT Essential Services Consumer Council (the **ESCC**) has a statutory power, under the *Utilities Act 2000* (ACT), to direct licensed utilities to discharge amounts off a customer's electricity, gas or water/sewerage debts where a customer faces significant hardship because of those debts. The ACT Government reimburses utilities for the amounts discharged as a community service obligation.

The ESCC has always approached its discharge power as a special measure for individual cases of hardship and not as a general poverty alleviation measure – the ACT Government energy and water concessions serve that purpose. Initially, discharge was targeted to special compassionate situations where utility hardship was exacerbated by factors such as relationship breakdown, ill-health, funerals, etc. Now, however, discharges are also approved to achieve systemic debt reduction outcomes through programs such as WEST (energy efficiency and refit), Payment Less Than Consumption (where a payment ceiling has been identified) and the Incentive Discharge Scheme. The amount of debt discharged by the Council is shown in the following table.

<b>Debts Discharged – Grounds for Discharge</b>						
	<b>2006-07</b>	<b>2005-06</b>	<b>2004-05</b>	<b>2003-04</b>	<b>2002-03</b>	<b>2001-02</b>
Special Circumstances	\$53,359.12	\$48,061.20	\$34,798.54	\$28,615.84	\$16,783.21	\$15,840.55
Incentive Scheme	\$47,596.64	\$42,864.32	\$76,784.83	\$36,015.21	\$482.00	-
Less Than Consumption	\$52,638.07	\$31,871.21	\$9,900.47	-	-	-
Interest on Accounts	\$3,034.45	\$539.71	\$39.97	\$21.03	-	-
WEST	\$6,900.00	\$2,000.00	\$5,300.00	\$300.00	\$1,400.00	-
Non-Hardship Complaints	\$60.00	\$0.00	\$0.00	\$987.57	\$54.00	\$0.00
<b>TOTAL AMOUNT</b>	<b>\$163,588.28</b>	<b>\$125,336.62</b>	<b>\$126,823.81</b>	<b>\$64,530.65</b>	<b>\$18,779.21</b>	<b>\$15,840.55</b>

Note: the ACT has approximately 150,000 electricity, 90,000 gas, and 140,000 water customers.

In December 2002, the ESCC approved an Incentive Discharge Scheme which was intended to encourage long-term ESCC clients to free themselves from utility debt. In effect, it involved matching their debt reduction efforts with an equivalent debt discharge by the ESCC.

Under the initial Incentive Discharge Scheme, clients were invited to access the Scheme once their utility payment record had been stable for at least 6 months and if

their utility debt level was in excess of \$500. Participation in the Scheme was entirely voluntary for the client. The incentive worked by the ESCC giving a matching dollar-for-dollar discharge (in arrears) for all amounts paid by the customer above their estimated utility consumption in a three month period. The ESCC saw two important benefits in the Scheme: it gave a positive encouragement to clients to reduce their utility debt and a real hope of becoming debt-free within a foreseeable period; and it encouraged reduction in utility consumption to maximise the amount of debt discharge offered by the Council.

The first discharge under the Scheme was made on 25 March 2003, however very little debt was discharged under the Scheme in 2002-03 because it commenced late in the financial year. The number of clients enrolled in the Scheme, and the amount of debt discharged, grew significantly in 2003-04 and again in 2004-05 when a total of \$76,784.83 was discharged. The increase in participation in the Scheme in 2004-05 was significantly driven by a Hardship File Review undertaken by the ESCC in 2004. As part of the review of hardship case files undertaken by ESCC members, all clients who were eligible for participation in the Scheme were identified and brought into the Scheme with a commencement date which was equitable across the whole of the ESCC's client base.

In 2005-06, the number of clients participating in the Incentive Discharge Scheme (195), and the amount of debt discharged (\$42,864.59), reduced from the high point reached in 2005 to a level which the ESCC expected would continue on a reasonably stable basis into the future. This expectation was met in 2006-07 where 201 clients participated in the Scheme with a total amount of discharge of \$47,596.64.

The amounts discharged under the Incentive Discharge Scheme, and other data on the Scheme, are reported in the following table.

<b>Incentive Discharge Scheme</b>					
	<b>2006-07</b>	<b>2005-06</b>	<b>2004-05</b>	<b>2003-04</b>	<b>2002-03</b>
<b>Amounts Discharged</b>					
Electricity	\$39,811.26	\$33,568.81	\$63,475.40	\$30,936.75	\$402.00
Gas	\$4,896.38	\$6,212.78	\$8,167.43	\$1,394.46	\$30.00
Water & Sewerage	\$2,889.00	\$3,083.00	\$5,142.00	\$3,684.00	\$50.00
<b>TOTAL - Incentive Discharge</b>	<b>\$47,596.64</b>	<b>\$42,864.59</b>	<b>\$76,784.83</b>	<b>\$36,015.21</b>	<b>\$482.00</b>
<b>Arrangements and Clients at 30 June</b>					
Electricity	80	104	148	152	22
Gas	24	23	27	25	6
Water	10	10	11	13	3
<b>TOTAL – Number of Arrangements</b>	<b>114</b>	<b>137</b>	<b>184</b>	<b>190</b>	<b>31</b>
<b>TOTAL – Number of Clients</b>	<b>103</b>	<b>114</b>	<b>167</b>	<b>173</b>	<b>26</b>
<b>Debt and Discharge Information</b>					
Debt Commitment at 30 June	\$179,352	\$132,337.87	\$145,336.96	\$119,018.29	\$21,127.50
Number of Clients receiving a Discharge	201	195	252	151	10

Average Discharge Amount per Client	\$236.80	\$219.82	\$304.70	\$238.51	\$48.20
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In May 2007, as part of its consideration of affordability issues and also in response to the *Client Evaluation of ESCC Hardship Processes*, the ESCC decided to review the guidelines for the Incentive Discharge Scheme. The Council noted, in particular, that:

- rapidly escalating utility prices, and other financial pressures such as the rising costs of rent and petrol, meant that the dollar amount of the incentive was reducing and in many cases was only nominal (eg. \$2 per fortnight);
- the 16.7% increase in the franchise electricity price which commenced on 1 July 2007 is likely to further reduce the discharge amounts for many clients as they will have to find an additional \$5–\$15 per fortnight just to meet the price rise;
- many clients have little realistic prospect of ever getting out of utility debt because of the mismatch between the size of their utility debt and the amount that they can realistically afford to repay off the debt;
- "Enhanced Incentive" discharge, approved for a number of very long-term clients in Special Review Hearings, had enabled them to exit successfully from ESCC hardship protection; and
- the Client Evaluation had identified that clients are not sufficiently aware of the Scheme for it to provide an adequate incentive in many cases.

#### **Case Study – Enhanced Incentive Discharge**

*Ms B, a single person on a disability support pension, had been a client of the Council's since February 2000. Ms B had always made regular payments to her electricity account, however the debt amount was not reducing significantly as she sometimes contacted the Council to request a payment suspension in order to pay other bills. The Council reviewed Ms B's file and agreed that, should Ms B not miss any more payments, an enhanced incentive of an amount that would give Ms B a debt horizon of 12 months would be introduced. Ms B did meet all payments and with the enhanced incentive was debt free within the 12 month period. Ms B contacted the Council to thank them for their assistance and stated that the enhanced incentive had motivated her to change her budgeting patterns for the better.*

At its July 2007 meeting, the ESCC approved revised guidelines for the Incentive Discharge Scheme which introduced two new features to the Scheme:

1. a minimum incentive discharge amount of \$150 each 6 months; and
2. a debt horizon of between 2 – 5 years, depending on the size of the debt, giving clients, who comply with the ESCC's conditions, an assurance (both financial and psychological) that they will eventually be able to free themselves from their utility debt.

The ESCC anticipates that these new guidelines will result in a substantial increase in the amount of Incentive Discharge in 2007-08, possibly to an amount in the range of

\$70,000 - \$90,000. Over time, however, the level of Incentive Discharge should stabilise, and possibly reduce, as the new guidelines assist in reducing the ESCC's overall client numbers.

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## **2.2 Carbon trading – alternative pricing principles that deliver both social equity and environmental outcomes (first published in *The Age*, 14 August 2007)**

*Gavin Dufty Manager of Policy and Research St Vincent de Paul Society Victoria*

With the federal governments announcement of a carbon trading scheme to be implemented no later than 2012 the government has consigned households to an average electricity price increase of approximately \$200 per annum. However when residential electricity income and demand elasticities are factored in it still equates to a \$150 increase.

Not only is this increase in electricity costs a significant financial impact on those whose incomes is currently hovering around the poverty line, these price increases also fail to provide solutions to structural issues faced by many of these households.

Such a price increase may not appear to be a substantial amount, however for lower income households, in particular pension and benefit recipients; this increase is equivalent to a week's income.

Not only is this a relatively large price increase for this group, it also fails to acknowledge that they use less energy than the average household however conversely, as a proportion of their weekly expenditure, they expend almost double the amount compared to the average household.

This highlights the perverse and disproportional impact such a price increase will have on many disadvantaged households, in effect disproportionately penalising them for energy consumption levels that are below the community average.

Furthermore these current policy framework and associated price increases also fail to deal with structural issues faced by many of these households. For example those fortunate enough to be home owners or home purchasers, the trading scheme provides them with no disposable income or other supports to invest in energy efficient appliances. There is nothing that recognises the issues faced by public or private tenants who are not responsible for and have no control over major household appliances such as space, hot water and cooking appliances. It also provides no assistance for those households that have little or no access to alternative fuel sources such as natural gas; this is a particular issue for those in the non-metro area.

These are critical issues and highlight the need for a more detailed policy framework to be immediately announced to ensure that social equity principles complement the environmental outcomes that we strive to achieve as a nation.

The St Vincent de Paul Society proposes that much of the potential detrimental social impacts can be ameliorated through the Government implementing electricity consumption pricing principles.

These pricing principles would not only serve to protect low income, low volume households but support and reward those that implement energy conservation strategies.

It is proposed that pricing principles cap a specific amount of household electricity consumed daily at a fixed price per kilowatt. This "life line" cap would exclude any pass through of cost associated with carbon trading. The pass through of cost associated with carbon trading would then be applied after this daily consumption threshold has been reached.

In effect electricity tariff structures would become an inclining block structure - a pricing structure that reflects the more you use the more you pay.

This would serve a number of policy objectives:

Firstly, it would provide a "life line" price cap for low income households. This price cap would serve to partially protect many low income energy consumers from carbon pricing being loaded up in the first block of electricity consumption. This is a potential risk as the most carbon is produced from base load generation and as such costs associated with carbon trading could be passed through in the first block of consumption rather than consumption at moderate or high levels.

Secondly, such pricing principles would not only provide a reward for those households with low electricity consumption, it would also serve as an incentive for all household to reduce consumption to a particular level, thus supporting and rewarding those households that practice sound environmental practices.

Thirdly, such a proposal would be consistent with and complement calls by some for households to be issued with a carbon emissions budget.

Fourthly, such a proposal while increasing electricity costs for households with large consumption (costs they would be exposed to without the introduction of pricing principles) making alternative energy sources such as solar photo voltaic technologies more cost competitive.

Finally, it would complement the planned interval meter (smart meter) roll out allowing these pricing principles to be implemented as the smart meters are installed in households, providing a real and practical use for this technology.

These pricing principles introduced in conjunction with targeted audit and retrofit programs, adjustments to the broader energy concessions and rebate programs and the introduction of education strategies that assist households with practical behaviour change would go a long way to ameliorate the social impacts of carbon trading and complement and assist the community in achieving meaningful greenhouse emission reductions.

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### **2.3 Energy consumer advocacy in Queensland**

*Tenzin Bathgate, Centre for Credit and Consumer Law, and Ian Jarratt, Queensland Consumers Association, Ian Jarratt*

#### *Consultation on Benchmark Retail Cost Index (**BRCI**) for Electricity*

The Queensland Competition Authority is about to review its calculation of the BRCI. This is now used by the Minister to set the regulated (notified) electricity prices each year. The use of the BRCI rather than the CPI was a major policy change by the government introduced without consultation during 2006-07. It was used for the first time to set the 2007-08 regulated prices and resulted in the significant price rise of 11.37%. The interim consultation notice is available on the QCA's website [www.qca.org.au](http://www.qca.org.au). Submissions are required by 15 October 2007. This consultation is very important because there was limited time available for consultation last year and this is an opportunity to have a detailed look at the underlying principles and the details well before the calculation of the BRCI for 2008=09. No other state seems to use this type of formula to set regulated electricity prices.

#### *FRC and Government engagement with consumers in Queensland*

Depending on who you talk to, retail competition is proceeding slowly or has outstripped Victoria and South Australia in the first two months of competition. Time will tell. It is unclear how much of the take up is with small business or residential users. In the meantime the 'checks and balances' bodies for consumers are finding their feet in Queensland and for the first time consumer groups have formal processes to engage with Government as a result of the establishment of Full Retail Competition (**FRC**). This includes monitoring the introduction of FRC and related matters. The following committees have been established:

- The Queensland Competition Authority consumer advisory committee;
- Queensland Energy Ombudsman consumer and industry advisory council;

- Department of Mines and Energy FRC stakeholders committee; and
- Informal Ministerial consumer committee (Mines and Energy).

These consumer committees provide a vital voice in the state electricity sector. Their establishment directly or indirectly reflects the need for more and better consultation and advisory expressed by consumer advocates during the FRC consultation process.

Perhaps in the not too-distant future a national consumer committee for the NEM can also be established?

### *Selling energy-related government owned corporations.*

Recently the Queensland Power Trading Corporation a statutory body (trading as Enertrade) disbursed its so-called loss making aspects of its business, including its gas business. Proponents of competition would like to see the privatisation of all government owned energy assets. The dilemma faced recently by the NSW government with the release of the Owen report (which recommends the sale of NSW government owned energy assets) raises interesting questions about how state governments will define their role in the delivery of an essential service. In contrast to Victoria which has privatised all its energy assets the Queensland government has, at this stage, chosen a more careful path and only sold its retail business in the south-east corner of Queensland. Significantly, while Victoria has a privatised energy sector it also has the most robust consumer protections for energy in Australia.

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## **2.4 Pricing regulation supports effective competition (first published in *Australian Financial Review*, 16 July 2007)**

*Gerard Brody, Director Policy and Projects, Consumer Action Law Centre*

Pricing regulation currently ensures an efficient and effective energy market. There is a real risk that, if pricing regulation is removed per recent calls, consumers will pay higher prices and industry will generate super-profits.

Pricing regulation does not necessarily mean 'price caps'. In Victoria, pricing regulation involves the incumbent retailers being required to offer all consumers contracts at published tariffs. These tariffs include 'retail headroom', allowing retailers to make sufficient returns and new entrants to price below that rate and retain profits. Retailers are free to charge more than the standing tariff, however, and they do – green energy premiums are a good example. However, the standing tariff provides an important check to ensure retailers do not charge exorbitant prices.

The energy industry has long argued for total deregulation of power prices, so that consumers pay the "true" economic and environmental costs of energy. Such a simplistic solution would have devastating effects for consumers. Wholesale energy

prices are marked by wild volatility, and proposals to ensure that bills rendered to consumers reflect wholesale price changes fail to come to grips with the current operation of the energy market.

First, retailers and generators “hedge” against the risk of soaring prices on the wholesale market. Industry participants are best placed to manage this risk. The recent withdrawal of retailer Energy One from the market highlights the fact that businesses must prudently manage this risk. If not, they can fail, leaving consumers paying additional fees to be transferred to other retailers. Passing wholesale price risks onto consumers, however, who aren’t at all knowledgeable about the operation of the market, would result in inefficiencies and poor outcomes for consumers.

Secondly, claims that increased prices will reduce usage, and thus bills, are unfounded. Much consumption is not discretionary and, where it is discretionary, a price signal that arrives three months after usage is unlikely to change behaviour. Wealthy households may be willing to bear additional costs, and poorer households will be penalised. Industrial and commercial users will just pass the additional cost through to consumers of their goods and services.

Finally, it must be remembered the electricity is an essential service. For the elderly or the sick, air conditioning or heating might be essential for health and wellbeing – for them to be financially penalised for ensuring their wellbeing would be manifestly unfair. For all consumers, access to a safe, secure and reliable electricity supply should be a given.

The Australian Energy Market Commission is currently undertaking a review of competition in Victorian retail energy markets. If competition is found to be effective, the government has committed to phase out pricing regulation. Such regulatory processes ensure that competitive markets work to bring about positive outcomes for consumers. We should be waiting for the outcome of this process before making rash decisions about pricing regulation. Industry should be working with consumers on the future of pricing regulation, rather than making self-serving claims about the abolition of important consumer protections which are fundamental to the operation of competitive markets.

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## **2.5 National Smart Metering Project (Consumer Utilities Advocacy Centre)**

In April 2007, the Council of Australian Governments (**COAG**) endorsed a staged approach for a national mandated roll out of smart meters to areas where benefits to consumers outweigh costs. The cost benefit analysis was set to be completed by the end of 2007.

## Cost benefit analysis

In July, the MCE Smart Metering Working Group (**SMWG**) appointed a consortium of consultants to produce a cost benefit analysis of smart metering and direct load control as required by COAG.

The analysis has been divided into two work phases and the phase 1 reports are now due to be released for public consultation.

Phase 1 focuses on what a smart meter would look like, if it was to be rolled out. As such the phase 1 analysis will include the recommendation of a set of minimum functionalities which smart meters will incorporate should the cost benefit analysis prove the case for their roll-out.

The rationale behind examining functionality specifications prior to analysing where and if a roll out of smart meters should be mandated, was to ensure that the MCE process did not hinder the Victorian Advanced Metering Infrastructure (**AMI**), or smart metering, project. As Victoria is currently seeking to finalise its minimum statewide functionality specification, the articulation of a national minimum functionality specification was regarded as a priority to minimise the risk of "rail gauge" problems occurring.

The cost benefit analysis consists of six work streams and a consortium of consultants, with NERA Economic Consulting as co-ordinator, has been contracted to undertake the analysis and report to the MCE's SMWG. The six work streams and appointed consultants are:

- Stream 1: NERA Economic Consulting co-ordinator and overview
- Stream 2: CRA International is investigating the network benefits and recurring costs
- Stream 3: KPMG analyses retailer impact
- Stream 4: NERA Economic Consulting analyses consumer impact
- Stream 5: CRA International investigates impacts on wholesale electricity market and greenhouse gas emission outcomes
- Stream 6: Energy Market Consulting Associates (**EMCA**) analysing transitional implementation costs

## Phase 1 Analysis of functionalities

The phase 1 analysis will assess the incremental cost and benefit occurring from adding additional functionalities to the meters. These functionalities are regarded as additional as they do not include the core meter functionalities necessary to create a smart meter. Basically, for a meter to be considered 'smart' it must be able to record electricity usage within set intervals (typically half hourly) throughout the day and

allow for communication to and from the meter to occur (this facilitates remote meter readings).

The additional functionalities are thus not strictly needed to create a smart meter, but most people would agree that a roll out allows the opportunity to add more capabilities to the infrastructure if the benefits produced exceed the cost of including them. However, there will always be debate about who benefits from each potential additional functionality. As such, the analysis seeks to break down and allocate the benefits between consumers, distribution businesses, retail businesses and overall market and/or environmental benefits.

### Roll out scenarios

In addition to the cost benefit analysis of the additional functionalities, the phase 1 examination must assess the costs and benefits in relation to four different roll out scenarios. Three of the scenarios relate to mandated smart meter roll outs while one scenario is about assessing the opportunity of retrofitting direct load control devices rather than rolling out smart meters.

The four scenarios are:

1. A distributor-led rollout
2. A retailer-led rollout
3. A non-smart meter direct load control device rollout
4. A centralised communications model in conjunction with a retailer led rollout (where the national communication system is provided and operated by a new or existing central agency/operator)

These scenarios have been explained by the Smart Meter Project team within the Department of Industry, Tourism and Resources (DITR) as four points in a spectrum of various approaches that may be chosen. The consultants will not recommend which approach should be applied, but rather use these scenarios to elicit and assess the impact the roll out approach may have on the business case.

The consultation period for the phase 1 analysis will be four weeks from its release date. The papers will be available on the MCE's website.

### Phase 2 Analysis

The main aim of the various workstreams for the phase 2 analysis is to assess whether the cost of rolling out of smart meters outweighs the benefits, taking jurisdictional differences and geographical or regional differences within jurisdictions into account

The consumer impact work stream will investigate jurisdictional differences as well as distributional effects on consumers for its phase 2 analysis. This analysis will include

the development of consumer profiles within each jurisdiction. The profile break down will incorporate demographic information such as income levels and information about consumption levels including time of use data where available.

Submissions and information that changes the assumptions and/or the findings of the phase 1 analysis will be incorporated into the phase 2 analysis. The phase 2 reports are expected to be released for consultation by the end of the year.

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## **2.6 Putting Power into Private Pockets – Owens Report (Public Interest Advocacy Centre, Media Release, 11 September 2007)**

PIAC today called on the NSW Government to embrace more imaginative solutions to the state's energy needs than those recommended in the Owen Report. "It's a disappointing report", said Mark Byrne, Senior Policy Officer at PIAC, "with few benefits for consumers or the environment."

The report recommends that the electricity sector in NSW be largely privatised and deregulated in order to encourage new investment. Privatisation often leads to cost-cutting and job losses, as companies try to maximise their returns to shareholders. It also leads to pressure for greater deregulation.

"Interstate and overseas experience shows that this usually results in residential consumers being charged higher prices", notes Byrne. "With three companies controlling more than eighty percent of the market in NSW, it's unlikely there will be genuine competition that will lead to lower prices in a deregulated market."

"We need to remember that electricity is an essential service. It's important that not only do we need to 'keep the lights on', as Premier Iemma says, but that we do it without the cost becoming a burden to many consumers. If there are no controls on price and service delivery, the profit motive is likely to adversely affect how much people pay, the kind of service they get, how they are treated if they have trouble paying their bills, and so on."

This is likely to affect groups who are less likely to generate profits for private retailers. These include pensioners and other low income and disadvantaged households, and rural consumers whose power costs more to get to their door than city consumers. "We have a regulatory system in NSW at present which protects these groups, but the Owen Report implies getting rid of IPART after 2010."

"But the need for new power stations is questionable in any case", argues Byrne. "The Owen Inquiry was charged, first of all, with determining whether the state needs more generation capacity. The report recommends that a new gas- or coal-fired power station be built by 2014 to meet the state's needs. However, greater

investments in energy efficiency and renewable energy infrastructure could obviate the need for expensive new plants that will increase our greenhouse gas emissions.”

PIAC therefore called on the Government to work with stakeholders to explore responses to the state’s future energy needs that protect vulnerable groups while also being environmentally sustainable.

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## **2.7 Retailer failure or regulatory failure?**

*Janine Rayner, Senior Policy Officer, Consumer Action*

Part of the MCE Retail Policy Working Group’s work includes examining a new national Retailer of Last Resort (RoLR) scheme. This work is especially important in light of recent events in the market.

In the first half of this year, the energy market reached the highest spikes recorded in the wholesale market (up to \$10,000/MWh). High wholesale prices have been credited as resulting in the first RoLR event to occur in the national energy market.

Energy One, a second-tier energy retailer, was deregistered by NEMMCO in June due to an inability to service consumer contracts. This resulted in its customers being transferred to alternative retailers.

In the case of Energy One, however, the premise of its failure, its inability to pass on rising wholesale prices to consumers is being questioned, and instead could be attributed to bad management practices, such as not adequately hedging against the risk of rising wholesale prices. Energy One retained its highly valuable hedge contracts and continues to trade with a new focus on its billing software systems, suggesting that it was not pushed to withdraw from the market due to solvency concerns. If Energy One’s withdrawal is strategic, it highlights considerable problems with the structure of the national energy market, and its consequent ability to bring about efficient outcomes that are in the long term interests of consumers.

These events are particularly detrimental for consumers who are subject to transferral under RoLR schemes, as they may be charged fees – which in Victoria are \$44 for electricity and \$30 for gas.

Quickly following the Energy One case, Momentum Energy sold all its domestic retail customers to [Australian Power and Gas](#), stating that the ‘increased cost of wholesale power makes it difficult for us to continue with our low prices’. Australian Power and Gas paid a low price for Momentum customers, compared to recent acquisition prices paid by Origin and AGL in Queensland.

Interestingly, the [Victorian Essential Services Commission](#) is currently [amending its Energy Retail Code and Electricity Customer Transfer Code](#) to tighten up the regulation around customer hand over in Victoria. NSW's [Independent Pricing and Regulatory Tribunal](#) is also [reviewing RoLR fees](#).

There is a real need for regulators to quickly address problems caused by the regulatory framework in the event of retailer failure.

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