



Energy White Paper 2014 – Issues Paper submission template

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Issues for comment are listed against each of the Chapter Headings. In making your submission, you are welcome to make comment against some or all of issues in the fields provided. A field for general comments is provided at the end of the template.

1. The Security of Energy Supplies

The Government seeks comment on:

- ways community expectations can be better understood and reflected in reliability standards;
- the value of developing fuel reserves to meet Australia's international oil security obligations, and augment domestic security;
- ways to increase new gas sources to meet demand and measures to enhance transparency in market conditions; and
- issues relating to the regulation of energy infrastructure.

Please provide any comments on The Security of Energy Supplies below:

Consumer Action believes that the nature of energy as an essential service for every individual, not just an economic input, has not been recognised and incorporated in the development of the Issues Paper. The market for energy is in many ways unique. Energy is an essential service used by all consumers across Australia, supporting fundamental human needs including safe food (storage, preparation) and safe shelter (hygiene, lighting, temperature control). Energy supports equipment that is critical to wellbeing and independence (health, communication). Beyond these fundamentals, energy supports community engagement and family life (social interactions, employment and education).

The Government's policy decisions regarding energy mix, transmission costs, price de-regulation, export structures, resource extraction and foreign ownership need to consider the impacts on end users of this product in Australia and in doing so, the Government needs to ensure that the product that reaches the market addresses the needs of the Australian community in an equitable manner.

While the residential sector represents only 17% of demand, it needs to be understood and emphasised that for this 17%, energy represents an essential service. Disruption of energy, including because of an inability to afford consumption, results in significant reduction in human rights and well being. While an aim of the Issues Paper is to "ease household cost-of-living pressure", the focus of the Issues Paper is more about bolstering the supply side, rather than the need of Australian households.

We encourage the forthcoming Green Paper to refocus on the domestic, residential sector and consider the impact many of the proposed reforms may have on residential consumers. This should particularly consider how reforms impact on the affordable and accessible supply of an essential service.

Affordability of energy is an increasing problem for consumers. Electricity prices have jumped by an average of 45% in the last three years and 82% in just seven years. Even in Melbourne, which boasts Australia's most competitive energy market, prices have increased by 84% in seven years. These price rises have surpassed CPI, placing pressure on household budgets.

The combination of growing supply side costs and the increase in fixed charges mean that consumers have little ability to mitigate the impact of these price rises by their behaviour and are experiencing, therefore, unprecedented high bills.

When those on fixed and low incomes are facing such high prices, combined with the reluctance of the government to increase government allowances, it means that consumers are increasingly having to juggle the costs of accommodation, energy, transport and food, with many going without at least one of these, if not more.

Equity and hardship management

Consumers rely on Government and regulators to make prudent and efficient policy decisions to minimise the price increases and to ensure overall affordability for consumers of non-discretionary energy use. Decision making that leads to duplication of processes, unclear policy direction, cost

barriers, inefficient network design and subsidisation of inefficient, non-renewable resource intensive industries results in unnecessary costs for small energy consumers to bear. It is essential that the Energy White Paper addresses its policy objectives for Australia's energy future by ensuring equitable outcomes for consumers. This could include examining the role of concessions, ensuring markets are accessible and easy to understand, and ensuring energy retailers are compliant and have a comprehensive approach to working with consumers experiencing financial difficulty. Business must have effective hardship policies, but also a proven approach to working with their customers prior to those customers entering into debt or financial distress.

2. Regulatory Reform and Role of Government

The Government seeks comment on:

- priority issues, barriers or gaps within the COAG energy market reform agenda;
- possible approaches and impacts of review of tariff structures including fixed network costs, further time-of-use based electricity tariffs and the use of smart meters;
- possible measures to promote greater price transparency in gas markets; and
- areas where further privatisation of government-owned assets would contribute to more effective regulatory frameworks and better outcomes for consumers.

Please provide any comments on Regulatory Reform and Role of Government below:

COAG Reform package

We have supported the direction of the COAG reform package, specifically the focus on strengthening regulation, empowering consumers, enhancing competition and innovation, and ensuring balanced network investment. However, the Issues Paper does not consider these issues sufficiently and there is opportunity for the final White Paper to enhance the "customers first" roadmap.

For example, the Government could direct the AEMC or another body to specifically consider the effectiveness of the COAG reform package, and whether it is in fact contributing to effective consumer participation and better functioning markets. We note that UK's regulators have taken such an approach with the OFGEM retail market review which resulted in a range of changes with the aim "simpler, clearer, fairer": <https://www.ofgem.gov.uk/simpler-clearer-fairer>

The Issues Paper is also largely silent on issues of improved regulatory processes, dealing with market failure in the retail market, or recognition and control of market power. While we acknowledge that a market-based approach can facilitate good outcomes for consumers, its limitations must also be clearly understood. A market-based approach will not deliver positive outcomes without a well-functioning demand-side. Consumer Action would prefer an approach that sought to ensure that consumers are active and informed market participants prior to the introduction of more market based solutions. It is also important to remain mindful that appropriate regulation can facilitate a good market based approach, and regulation per se should not be regarded as an obstacle to competition.

Strengthening consumer protection and competitive market outcomes

It is now generally agreed that competition and consumer protection are mutually reinforcing. The Productivity Commission has acknowledged 'the role of consumers in facilitating competition, and promoting well-functioning markets, is long recognised'. The Commission stated in its 2008 review of consumer policy:

As a general rule, competition works best when the bulk of consumers are reasonably well-informed and willing to act on information. To this end, a key goal of consumer protection is to overcome significant information failures that can hinder effective competition. ... It is also important to note that good consumer protection benefits goods businesses (and their shareholders) as well as consumers.

A robust consumer protection framework, that is efficiently and effectively enforced, is a prerequisite to efficient and fair energy market outcomes. Without responsive consumer protections, especially in the

retail sector—covering areas such as information provision, marketing, and regulation of terms and conditions—consumer distrust will arise. We have seen this in the energy market with consumer complaints to ombudsman services increasing and levels of consumer trust in the energy markets being very low. As cited in The Essential Report "industries least trusted to act in the public interest were power companies (18%), the media (30%), mining (32%) and banking (33%)". Such consumer sentiments prevent consumers from playing the role that they should play in making choices and thereby providing the market with efficient signals. In our view, such low levels of consumer confidence and trust inhibit competition and efficiency in the energy market. It is essential that the White Paper develop policy proposals to address this.

The fast paced changes occurring in the energy market require a responsive approach by policy makers and regulators alike. Consumers are having to adapt and respond to market conditions introducing new technology, new tariff structures, new products and new market participants or third parties (non-retailers offering energy services). Consumer complaints to our centre, particularly around solar installation and connection, already demonstrate the detriment that can occur due to complex contracting arrangements involving multiple parties. Complaints raise issues as diverse as data security, privacy and the ability to easily resolve consumer disputes.

Our experience is that in changing markets, policy makers and regulators can be tempted to sit on their hands and play a "let's wait and see" role. In our view this is the wrong approach. In evolving markets, businesses experiment with new business models and marketing strategies in an uncertain regulatory environment. In the post deregulation telecommunications market, we saw that policy makers and regulators fail to set the tone for a market, and a culture of poor practices and non-compliance with consumer protections resulted (with which we are still dealing). Similarly, as demand for solar installation grew (encouraged by government subsidies), so did significant poor practices resulting in widespread consumer detriment (see solar complaint updates from Energy and Water Ombudsman Victoria). With alternative energy sellers emerging, particularly those enabled by smart meters, it's important that policy makers and regulators act early to set consumer and market expectations.

There are efficiencies for consumers and business in having a national consumer protection framework such as the National Energy Customer Framework. It is essential that this keep pace with market changes. The framework was developed in 2007-09, and changes to practices have been made since then. For example, the impact of unilateral price variation clauses in retail contracts has become stark for consumers who try to engage in the energy market to shop around, i.e. because energy retailers can increase the price they charge for electricity at any time during a fixed term contract, so advertised prices can be misleading and shopping around is often a waste of time. Consumers can often invest significant time in trying to find an energy deal that suits their needs, only to have the price increased soon after they've committed to a multiyear contract. Consumer Action, together with the Consumer Utilities Advocacy Centre, has submitted a rule change to the AEMC in an effort to correct the power and risk imbalance this anomaly creates.

A report recently released by St Vincent de Paul, "The National Energy Market—Is there a devil in the retail?" also identified ways in which the consumer protection framework has failed to keep pace with market conduct. For example, the significant use of 'pay on time' discounts by retailers which requires that bills be paid within 5 business days in order to receive the discount. The consumer protections provide that for standard contracts consumers should have 12 business days, which allows for a fortnightly payment of salary or other benefits during the period. This doesn't apply to the 'pay on time' discount, meaning those with financial management challenges (i.e. those that cannot pay until their next pay day) are at risk of being penalised.

Empowering consumers

Empowering consumers is not simply about providing them with more information (in fact, more information is never the solution, more simple and accessible information is key). There is a really strong need to understand the way consumers interact with the energy market including their experience in the face of complexity, and then develop a framework focused on simplicity and transparency that enables consumers to develop the confidence to participate in the market, thus empowering them. Anything less unfortunately will continue with the status quo of supporting the significant power imbalance that exists within the energy market, where consumers bear the risk and the cost and energy businesses hide behind complex product offerings, opaque terms and conditions and poor behaviour in the marketplace. We of course welcome efforts to provide useful information to consumers, e.g. My Power Planner, Energy Made Easy, but we note that governments need to take steps to monitor the effectiveness and uptake of these tools, and make them accessible to everyone, for example, through programs to support vulnerable consumers accessing such tools.

Enhancing innovation

Energy businesses have the opportunity to be innovative in the market place. However, Consumer Action also submits that innovation will not always be productive for the economy. Indeed, innovation that is focused on generating short-term returns for industry may result in long-term negative consequences for the economy and the country.

The White Paper should acknowledge that businesses operating in energy markets have a social licence to operate due to the essential nature of energy. This needs to underpin the obligations imposed on energy businesses. We submit that the White Paper should consider ways innovation can be encouraged that contributes to fulfilling a social or economy-wide need, rather than innovation that is only about short-term benefits for the energy industry.

Role of the regulators

The energy market, involving complex areas of public policy, requires strong and independent regulators to ensure good market outcomes. We refer the White Paper Secretariat to our report, **Regulator Watch: The Enforcement Performance of Australia's Consumer Protection Regulators**, for a discussion about the important role and expectations required for regulators. Consumer Action submits that it is essential that regulators are independent and that this independence is maintained and promoted by Governments, to provide assurance to both market participants and consumers.

In relation to the review of energy market bodies scheduled for later this year, we strongly oppose suggestions that the AER be separated from the ACCC. We are supportive for the AER having greater control over its resources, however there are real benefits of having an industry-specific regulator working closely with one with a broad focus—it can keep the regulator independent and focused on the interests it exists to serve, that is, consumers. There are also operational efficiencies and parallels across the organisations that can contribute to better outcomes with strong parallels in legal skills necessary for delivering enforcement and compliance as well as the economic analysis required which has strong parallels across industries.

3. Growth and Investment

The Government seeks comment on:

- commercial or market initiatives that could enhance growth and investment in the energy and resources sectors;
- areas where approvals processes could be further streamlined while maintaining proper environmental and social safeguards;
- further ways that regulatory burdens could be reduced while maintaining appropriate levels of disclosure and transparency in energy markets; and
- the impacts of variable land access policy and ways the community could be better informed and engaged on development in the energy sector.

Please provide any comments on Growth and Investment below:

No comments for this section

4. Trade and International Relations

The Government seeks comment on:

- how to grow the export of value-added energy products and services;
- ways to remove unnecessary barriers to continued foreign investment in Australia's energy sector;
- ways to strengthen support for access to export markets; and
- ways to support business to maximise export opportunities for Australia's energy commodities, products, technologies and services, including the value of Australia's participation in the variety of international forums.

Please provide any comments on Trade and International Relations below:

No comments for this section

5. Workforce Productivity

The Government seeks comment on:

- the nature of any current skills shortages being experienced and how these could be addressed by and with industry;
- the capacity of industry and education sector-led programs to meet long-term training and skills development needs of the energy and resources sectors; and
- specific long-term training and skills development needs for alternative transport fuel, renewable energy, energy management and other clean energy industries.

Please provide any comments on Workforce Productivity below:

No comments for this section

6. Driving Energy Productivity

The Government seeks comment on:

- the current suite of energy efficiency measures, ways these could be enhanced to provide greater energy efficiency or possible new measures that would enhance energy productivity;
- the use of demand-side participation measures to encourage energy productivity and reduce peak energy use; and
- measures to increase energy use efficiency in the transport sector.

Please provide any comments on Driving Energy Productivity below:

Energy efficiency

We agree with the statement in the Issues Paper that "Energy efficiency also allows for more productive use of Australia's finite energy resources." However, the example used to demonstrate this point—"if Australia's natural gas resources are used to heat poorly insulated homes with inefficient gas heaters they are not available to support industrial processes"—misrepresents the role of energy efficiency in the residential sector, as well as at odds with other statements in the Issues Paper. The residential sector represents only 17% of overall energy consumption. Residential consumers can therefore only realistically impact upon the overall use of "Australia's finite energy resources" in a relatively minor way, and the inefficient gas heaters mentioned have an incredibly minor role in this. Further, the focus of energy efficiency programs for poorly insulated homes, while in the long run will ultimately contribute to reducing the peak (and overall demand), should really be about making energy more affordable for consumers and of course about carbon reduction. The policy to support this needs to go beyond the measures listed in the Issues Paper and beyond the low hanging fruit of light globes and draft stoppers. We strongly support a revised emphasis on the issue of building energy standards for new and existing housing standards (this is of particular importance in relation to public housing, where standards are low and the impact of high bills and thermal discomfort is significant for the occupants). As outlined below, we support a need for further work that supports and embraces distributed generation as a way of improving efficiency and moving towards a new market model (away from static monopoly businesses). We support ongoing work to incentivise distribution businesses to defer network augmentation in favour of broader energy efficiency measures.

We are concerned, however, that the reality is that the majority of "Australia's finite energy resources", including natural gas resources, are committed to international trade arrangements. To place such a weight of energy efficiency on Australia's energy consumers without placing similar obligations upon overseas consumers is still contributing to a significant environmental problem. The implications of which will ultimately impact upon Australians in the future as temperatures and sea levels rise.

Demand side participation

Consumer Action submits that demand side solutions should be part of the mix and we agree that the supply-side focus has been too strong historically. However we continue to caution about a policy with too strong focus on domestic demand-side solutions as we do not believe there is enough evidence that information and price-signals can fairly and equitably ensure that change in household behaviour can

necessarily achieve all of the outcomes required. The Issues Paper refers to consumer information and tools, pricing and supply intervention, we refer to our comments previously in relation to consumer information.

With respect to pricing, numerous studies have been conducted into demand elasticity in energy and while the results are varied, there tends to be a general agreement that inelasticity of demand is greater for essential services like energy than other consumer goods. As part of the Australian Energy Market Commission's (AEMC) Power of Choice review, PricewaterhouseCoopers (PwC) was commissioned to produce a report on price signals in the NEM. The PwC report acknowledges the specific electricity characteristics that impact on price sensitivity and states that "electricity consumption is characterised by a relatively low price elasticity of demand, such that an increase in price normally results in a less than proportionate reduction in demand." While overall demand reductions have correlated with price increases over the last few years, we caution an approach that equates correlation with causation. At the same time there has been significant increase in energy efficiency activities and public messaging about energy use that has likely contributed to demand reduction. In any event, an evaluation of the key causes of demand reduction should be undertaken and not merely assume it relates to price increases.

The Government also needs to assess the impact a vertically disaggregated electricity market may have on demand response. The network businesses and the retailers are unlikely to have the exact same preferences when it comes to the timing of their price signals and this issue was highlighted in the PwC report to the AEMC, which explained:

"For a retailer seeking to set an efficient price a further consideration will be the relationship between its different time-varying variable costs, in particular, the extent to which the peak periods it experiences for wholesale electricity align with the peak periods in network prices. While wholesale electricity costs are related to the aggregate demand across the market, network costs for the various levels of network assets are caused by the peak demand expected for the asset in question, with the demand for a particular asset becoming more location-specific for the lower levels of network assets. Thus, if network prices are aligned to network costs, the potential exists for the peak periods to be misaligned between wholesale electricity and network prices for groups of consumers. In turn, this would present a challenge to retailers when aggregating these different costs into a single price offering, including on such matters as when, and for how long, off-peak, shoulder and peak rates apply."

To date, no resolution has been reached on how the market can marry the wholesale peak and the network peak into a peak price signal for consumers and the Government needs to address this issue if it wants price signals and demand response to enhance 'energy productivity'.

In considering the demand side, we also encourage the Government to establish energy market design in a way that first and foremost serves the long term interest of consumers. We caution an approach to the demand side that suggests domestic consumers (the ultimate end user) are somehow the ones who create problems in this market and the Government can as such rightly and fairly demand solutions from them.

We refer the Secretariat to Consumer Action's submission to the AEMC's Power of Choice Draft Report, which summarises more fully our concerns in relation to the way the demand side is understood and prioritised by governments currently.

7. Alternative and Emerging Energy Sources and Technology

The Government seeks comment on:

- ways to encourage a lower emissions energy supply that avoids market distortion or causes increased energy prices;
- the need to review existing network tariff structures in the face of rapidly growing deployment of grid-backed-up distributed energy systems, to ensure proper distribution of costs;
- additional cost-effective means, beyond current mandatory targets and grants, to encourage further development of renewable and other alternative energy sources and their effective integration within the wider energy market;
- how the uptake of high efficiency low emissions intensity electricity generation can be progressed;
- any barriers to increased uptake of LPG in private and commercial vehicles and CNG and LNG in the heavy vehicle fleet; and
- any barriers to the increased uptake of electric vehicles and advanced biofuels.

Please provide any comments on Alternative and Emerging Energy Sources and Technology below:

While the Issues Paper does seek to explore what more can be done in demand side participation, we find it starkly at odds with the comments relating to network tariffs and photovoltaic generators.

With more than a million Australian households with PV on their roof tops, together they are a significant player in the Australian energy market. As solar technology becomes cheaper, as battery storage becomes more feasible, these numbers will increase and the combined impact on the grid will become greater. However, it appears that the Issues Paper argues that those producing photovoltaic (PV) solar installations are perverting energy markets and the “haves” (those with PV) are not paying their way on the network, while the “have nots” subsidise them—or in the words of the Issues Paper are potentially creating market distortion and causing increased energy prices. Currently PV customers are perceived as using the network as much as, if not more than, non-PV households, but they pay disproportionately less, therefore are getting a “free ride” on the network. The network companies want to solve this by charging PV households more for their energy, by increasing the fixed proportion of the network charges payable per household.

This approach does not recognise that those PV owners do not get any compensation for their contribution to delaying the need for new investment in the network. Further, it does not recognise that energy networks (particularly private networks) have operated and profited on the basis that they had risk. That’s because the regulatory framework allowed the companies to build in a risk premium into the prices they set while also recovering the cost of capital investment. This return on cost of capital amounts to billions of dollars. However, if the networks are able to recover costs from households that use less electricity, then it’s pretty clear these businesses never had any risk—they get paid even though they didn’t adapt to the large scale uptake of PV, and the impact this would have on their businesses. As suggested by independent experts (see Grattan Institute, Shock to the System), the appropriate response is to force asset write downs by the businesses to reflect their true value.

Policy makers need to shift their thinking in relation to the sovereignty of network businesses. In a market economy, if a business is producing and selling a product for which there is less demand, we don’t typically bail them out (for example car manufacturers), instead, we should require them to adapt and survive, or perish? Of course it’s more complicated when the business sector in question is providing an essential service, however every business should evolve with the times.

The costs imposed on the system by those with air conditioners is perhaps a more stark problem, for

those consumers are drawing from the grid at a rate that well exceeds those without air conditioners and the cross subsidy for this is significant.

We believe there is a need for a proper, independent, and transparent review of the public interest benefit of distributed generation, including policies to encourage and enable access for low income and vulnerable consumers to cheaper cleaner energy regardless of their residential arrangements.

There is also a difficult decision to be made about cost recovery for networks, and the likely need to force asset write-downs. As the owners of those networks have benefited from risk premiums being added to regulatory revenue allowances, the same owners should bear the risk of those write downs—whether those owners are private shareholders or taxpayers.

General Comments

Any further comments?

We refer the Secretariat to our 2012 report "A Policy Trilemma: Creating an Affordable, Secure and Sustainable Energy Market", which deals with many of the policy issues facing the development of Australia's energy markets.