Consumer Action Law Centre
Senate Select Committee on Electricity Prices
Opening remarks, 27 September 2012

We would like to thank the committee for inviting us to speak today.

Consumer Action has long had concerns with the trajectory of our energy markets, and whether their design and operation is in the interests of consumers. It was for this reason that we commissioned the draft report that we have provided in confidence, titled "A Policy Trilemma: creating an affordable, secure and sustainable energy market". We will be publishing this report soon, which provides a consumer perspective on many of the current issues of debate in energy markets. A key argument of the report is that consumer welfare has been given insufficient attention by Australian policy makers and regulators—but rather has been assumed to flow from the implementation of market based solutions. We will reflect on some of the comments and recommendations in that report today.

As noted in our submission to the inquiry, when it comes to electricity prices, we do not think there is a silver bullet and believe that there are a range of drivers for ongoing price rises. These relate to both monopoly and competitive aspects of energy provision, as well as government interventions.

At the network level which is monopoly regulated, price increases are driven by not only a need for new investment to replace ageing infrastructure, but also the regulatory system, which has been shown to have a limited ability to limit ongoing cost increases, and may actually encourage the building of assets where cheaper options are possible. The appeals framework for energy regulatory decisions has also led to an additional $3 billion of network revenue, which is all paid for by consumers.

We should note that it has been suggested that the limitations of the regulatory system do not apply to Victorian networks, where private ownership has been in place for over fifteen years. We do agree that there are additional problems for states and territories that own electricity networks. As recently stated by the Expert Panel reviewing the merits review regime, our framework for network regulation is based upon an economic approach developed privately owned utilities, and it does not work as effectively where there is public ownership. We also agree that price increases resulting from network charges in Victoria have been more modest in comparison with other states. However, experience also demonstrates that cost increases in Victoria could be further restrained by a stronger regulatory framework. For example, the Victorian distribution businesses were able to successfully appeal the decision of the independent regulator and recover an additional $300 million in revenue, without the views of consumers being put to the appeal body.

At the government level, particularly in Victoria, we've seen decisions to invest in smart meters resulting in substantial cost increases to Victorian bill payers. While smart meters are designed to ensure better management of energy systems and assist consumers better manage their energy usage, much of these potential benefits are yet to play out. This sort of technology, and their associated policies such as more flexible pricing, are attempting to address a well-documented and costly challenge for the energy system—that of peak demand. We agree that significant efforts should be made to avoid costly expansions of power stations and power lines to deal with peak demand. However, we are concerned of a tendency to push the cost of policy responses back on residential consumers—particularly when twinned with similar assumptions about the effectiveness of market solutions that founds many present problems.

More flexible pricing, for example, will mean greater price risk will sit with residential consumers compared with the supply side of the market. As the Australian Energy Market Commission has recently noted, some households will find increased financial difficulties under new pricing structures. All households will find understanding complex new energy offers and contracts a significant challenge. We think that it should be remembered that residential consumers use only about 25% of all electricity consumption. While there may be some validity to the view that it is residential consumers that particularly contribute to peak usage (through, for example, air conditioner use), we think that there are better policy options other than flexible pricing. It is our view that flexible pricing is actually a blunt tool when it comes to households—much household energy usage is not discretionary and will not respond to price. Moreover, it fails to take account of behavioural influences. Consider for a moment the range of 'tricks' and devices humans engage in to ensure that setting the alarm will result in getting up and going to the gym versus hitting the snooze button. This takes place in less than 24 hours. Consider this analogy in the context of a boiling hot day, the air conditioner remote handy and the bill weeks if not months away. Many houses will seek immediate comfort from the service energy provides, rather than thinking about the cost which will come later with the bill. Pricing reform will also inevitably create winners and losers so if governments are willing to take this path they must commit to enhanced concession arrangements for some of the consumers hardest hit by price increases, and be prepared for some community backlash from non-concession households facing cost of living pressures, such as families with stay at home parents.

In our view, there are significant opportunities to be found other non-price solutions that are less dependent on or work with consumer behaviour. For example, we strongly believe demand load control must be considered for appliances such as air conditioners and pool pumps. Demand load control involves arrangements between a supplier and a residential consumer, where equipment is installed that allows the supplier to manage an electric appliance owned by the consumer for a specified amount of time, in return for a payment to that consumer—air conditions might be cycled off during hot periods, for example. This is the policy equivalent of putting the alarm clock on the other side of the room.

For smaller loads relating to appliances such as dishwashers, washing machines and dryers, we do believe educational campaigns can provide an effective and efficient alternative. Educational campaigns, calling on consumers to 'do the right thing' are a safe and inexpensive way to reduce consumption or shift load. These are simple messages to be conveyed: it is basically why households should aim to use dishwashers and washing machines after 10pm and how we would all benefit if we do. The recent Save Water Target 155 community campaign in Victoria was regarded as successful by the three metropolitan water retailers, who have stated that the campaign saved 60 billion litres of water.

We also note that government green policies—such as energy efficiency schemes, renewable energy targets and the carbon tax—have all contributed to price increases. Our point here is two fold. Firstly, while we are supportive of policies that abate carbon—consumers have a strong interest in energy services being environmentally sustainable—these sort of green schemes need stringent and robust monitoring programs to identify distributional impacts and cost effectiveness. This sort of analysis has not been undertaken sufficiently. Second, these sort of policies assume that retail markets are competitive and that their cost impacts can be mitigated by competitive pressure.

Our experience is that there are real problems with competitive markets for retail energy, and we'll note just three problems:

- first, most competition in energy sales is through door-to-door sales. In our view, door-to-door sales stifle competition, and does little to support it. Competition can occur when a consumer reviews a range of products, considers their features and costs and makes an informed decision about what is right for them. At the doorstep a consumer has no chance to consider other products or their electricity consumption patterns, and are unlikely to be able to compare the offer with their current plan. I know that I've never been able to get a door-to-door salesperson to leave information with me that I can consider in my own time. Door-to-door sales does not promote informed decisions, but instead encourages ill-considered, rash purchases where consumers might end up paying more for electricity.
- second, for those that do try and shop around, marketing can be at best confusing and at worst misleading. Energy retailers commonly market based on percentage savings, which raises the question—saving from what? The saving is generally from that energy retailer's standard rate, and most consumers aren't likely to be on that rate. Even where prices are transparent and the tariff is displayed, a consumer can need a day and a spreadsheet to work out what is best deal for them. There is a further problem for low and fixed in come households—many discounts come with

fine print that often includes a requirement to pay on time. For consumer who find this hard to manage the discount evaporates and fines and penalties may also follow.

- finally, once a consumer chooses a new energy deal, there is nothing stopping a retailer increasing the price throughout the contract. Terms of fixed term contracts commonly provide retailers with the ability to pass on cost increases, which can make household budgeting difficult and any savings very short lived. This in turn makes it less likely that consumers will shop around in the first place as the costs and time of doing so may not be recovered where deals can quickly change.

We think the rules supporting energy retail competition, including the proposed National Energy Customer Framework, need to be reviewed to ensure consumers can benefit from retail energy competition, rather than have all the cards stacked against them.

Finally, in response to the committee's terms of reference about improved consumer advocacy. We have provided the committee with the executive summary of the report, *Making Energy Markets Work*, which advocates for increased resources for energy consumer advocacy. The committee will also have been informed about the work of various consumer and community agencies in progressing the development of a new national consumer energy advocacy body. We are strongly supportive of this initiative and believe an effective national voice for consumers is required to ensure national policy and regulatory decisions are informed by the views and needs of residential and small business consumers.

We'd be happy to answer any questions from the committee.