



Equitable access to the essential:

**PIAC submission to the Senate Select Committee on
Electricity Prices**

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The Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit law and policy organisation that works for a fair, just and democratic society, empowering citizens, consumers and communities by taking strategic action on public interest issues.

PIAC identifies public interest issues and, where possible and appropriate, works co-operatively with other organisations to advocate for individuals and groups affected. PIAC seeks to:

- expose and redress unjust or unsafe practices, deficient laws or policies;
- promote accountable, transparent and responsive government;
- encourage, influence and inform public debate on issues affecting legal and democratic rights; and
- promote the development of law that reflects the public interest;
- develop and assist community organisations with a public interest focus to pursue the interests of the communities they represent;
- develop models to respond to unmet legal need; and
- maintain an effective and sustainable organisation.

Established in July 1982 as an initiative of the (then) Law Foundation of New South Wales, with support from the NSW Legal Aid Commission, PIAC was the first, and remains the only broadly based public interest legal centre in Australia. Financial support for PIAC comes primarily from the NSW Public Purpose Fund and the Commonwealth and State Community Legal Services Program. PIAC also receives funding from Trade and Investment, Regional Infrastructure and Services NSW for its work on energy and water, and from Allens for its Indigenous Justice Program. PIAC also generates income from project and case grants, seminars, consultancy fees, donations and recovery of costs in legal actions.

Energy + Water Consumers' Advocacy Program

This Program was established at PIAC as the Utilities Consumers' Advocacy Program in 1998 with NSW Government funding. The aim of the program is to develop policy and advocate in the interests of low-income and other residential consumers in the NSW energy and water markets. PIAC receives policy input to the program from a community-based reference group whose members include:

- Council of Social Service of NSW (NCOSS);
- Combined Pensioners and Superannuants Association of NSW;
- Park and Village Service;
- Ethnic Communities Council NSW;
- Rural and remote consumers;
- Retirement Villages Residents Association;
- Physical Disability Council NSW; and
- Affiliated Residential Park Residents Association.

Introduction

PIAC thanks the Senate Select Committee on Electricity Prices (the Committee) for the opportunity to comment on a number of factors associated with the challenge of electricity affordability. In making the following comments and recommendations, PIAC is guided by the fundamental principle that adequate and affordable access to energy is an essential precondition to living a dignified life and the fulfilment of a number of human rights. It is, therefore, incumbent on policy makers, regulators and electricity companies to ensure that all consumers are able to remain connected to the essential service of electricity, including the increasing number who face difficulty in paying their bills due to the significant recent increases in prices.

PIAC's comments and recommendations are outlined below under the individual Terms of Reference (ToR) to which they respond. It should be noted that, because primary responsibility for electricity regulation has historically rested with the States and Territories, PIAC's primary focus in this submission is on the situation in PIAC's home State of NSW. PIAC nonetheless believes that many of these comments are more broadly applicable to other jurisdictions in the National Energy Market (NEM) and across Australia.

ToR 1(a): identification of the key causes of electricity price increases over recent years and those likely in the future

Electricity prices have increased significantly in recent years, rising by 50% in NSW since 2009. While it is possible to identify that, for example, there have been significant increases in network expenditure, the reasons for these increases are not easily identifiable. In PIAC's view, the complex and opaque nature of electricity pricing is one of the key sources of consumer frustration in this area. The extreme complexity of electricity pricing processes, at both the distribution network service provider (DNSP) and retail levels, makes engaging with these processes extremely difficult for consumers and consumer organisations with limited resources and technical expertise. Consumer organisations understand well the social impacts of rising electricity prices; however, these matters do not fall within the scope of price-setting processes.

That said, it is possible to highlight a number of contributing factors that have influenced recent electricity price increases, including:

- DNSP reliability standards;
- the introduction of green schemes, (including, but not limited to, the carbon tax);
- State-based feed-in tariffs for domestic solar panels;
- regulatory frameworks for price setting; and
- the productivity of State-owned DNSPs, which has fallen behind that of privatised DNSPs (see Attachment 1).

In the case of NSW, PIAC also submits that the NSW retail electricity price regulator, the Independent Pricing and Regulatory Tribunal (IPART), has not been given a 'suitable degree of discretion in making the determination' that would benefit consumers and facilitate 'a stable and efficient electricity market'.¹ PIAC draws attention to IPART's analysis that the requirement for IPART to base a retailer's energy purchase cost on the higher of market price and long-run marginal cost has led to customer bills being between 7.1% and 9.5% higher than would

¹ IPART, *Changes in regulated electricity retail prices from 1 July 2012–Final report* (2012), 90.

otherwise be the case.² PIAC would like to see IPART given discretion regarding issues such as calculating energy purchase costs to prevent such unnecessary price increases.

While many of these factors are assessed individually, there has been no attempt to undertake a holistic and thorough analysis of the way all these inputs interact to place electricity prices on a steep upward trajectory. For example, IPART recently noted that DNSP costs were being ‘driven by their major capital investment program to ... meet more rigorous licensing conditions intended to improve network security and reliability’.³ Nevertheless, the AEMC’s recent examination of reliability standards in NSW modelled the effect of only modest reductions in those standards—with those models then projecting only very small potential advantage to consumers—without examining the interaction of reliability standards with other electricity cost drivers.

Because they involve long-term investment, many of these inputs have ramifications on price over a number of years, so it is important to get policy settings right as quickly as possible. For instance, NSW distribution network prices will soon be reset for a five-year period. As DNSPs must provide their proposals to the Australian Energy Regulator in June 2013, any augmentation of the regulatory framework, such as introducing benchmarks for performance (which is being examined by the Productivity Commission—see Attachment 1), must come into force well in advance of that date to see improvements realised before 2019.

Recommendation 1

PIAC recommends that a holistic examination of all facets of the retail electricity cost stack be undertaken for each jurisdiction, to examine outcomes including the possible interaction of different elements to produce unnecessarily high costs.

ToR 1(b): legislative and regulatory arrangements and drivers in relation to network transmission and distribution investment decision making and the consequent impacts on electricity bills, and on the long term interests of consumers

Transmission and distribution investments are a key determinant of retail electricity prices. Network costs constitute up to 56.8%⁴ of annual electricity bills for NSW residential consumers (see breakdown of electricity bills under (e) (iv), below). As a result, the legislative and regulatory arrangements and drivers in relation to these investment decisions are a key issue for any inquiry into electricity prices to consider.

However, different aspects of network regulation are currently being examined by three separate inquiries, in addition to this inquiry. These are:

- the Productivity Commission inquiry into aspects of national electricity network regulation, due to publish its draft report in October 2012 and deliver its final report to the Australian Government on 9 April 2013;⁵
- the Standing Council on Energy and Resources’ review of the limited merits review regime for electricity network price determinations, due to be completed by

² Ibid.

³ Ibid 4.

⁴ Ibid 10.

⁵ Productivity Commission, *Electricity network regulation* (2012), <www.pc.gov.au/projects/inquiry/electricity> at 3 September 2012.

- 30 September 2012;⁶ and
- the Australian Energy Market Commission's (AEMC) review of the National Electricity Rules in relation to matters including the economic regulation of distribution network service providers, due for completion in November 2012.⁷

The fact that these processes are ongoing makes it difficult to provide meaningful comment on regulatory arrangements, as these arrangements may be on the verge of significant change. PIAC's submission to the Productivity Commission inquiry is included as Attachment 1. That submission details some of the changes PIAC would like to see made to electricity network regulation.

In addition, PIAC affirms the need for network transmission and distribution price determinations to be guided by the principles of the National Electricity Objective (NEO), as outlined in the National Electricity Law, namely:

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

1. price, quality, safety, reliability, and security of supply of electricity; and
2. the reliability, safety and security of the national electricity system.⁸

PIAC takes the view that the electricity system can only be considered to be working in the long-term interests of consumers with regard to price and security of supply if issues related to affordability are considered and addressed as part of energy policy initiatives. PIAC submits that this cannot be considered to be the case where residential customer disconnections in NSW have increased from 15,835 in 2009/10 to 18,561 in 2010/11 (the two most recent years for which figures are available).⁹ There has also been a significant increase in complaints to the Energy and Water Ombudsman of NSW (EWON), with the number for 2011/12 projected to be 30% higher than the previous year.¹⁰ If investment decisions price consumers out of access to an essential service, and produce such significant increases in disconnection and customer complaints, PIAC questions whether the system can be considered to be working in the long-term interests of consumers.

Efficiency is a primary concern within the NEO yet there is no explicit reference to maintaining access to an essential service. This is also reflected in more recent forms of energy policy development with the draft of the Australian Government's Energy White Paper noting that the most efficient way to deal with affordability is through a social safety net and not by market or price regulation.¹¹

This may indeed be the case from a purely efficiency-based point of view. However, relegating affordability to a social safety net that is not funded by the market means that prices are free to rise without any consideration to the funds needed to augment the safety net accordingly. The

⁶ SCER, *Limited merits review* <www.scer.gov.au/workstreams/energy-market-reform/limited-merits-review/> at 3 September 2012.

⁷ AEMC, *Economic regulation of network service providers* (2012), www.aemc.gov.au/electricity/rule-changes/open/economic-regulation-of-network-service-providers-.html as at 3 September 2012.

⁸ *National Electricity Act 1996* (SA), pt 1, cl 7.

⁹ IPART, *Electricity retail businesses' performance against customer service indicators in NSW*, 2012, 36.

¹⁰ EWON, *Latest complaint statistics*, (2012), <http://www.ewon.com.au/index.cfm/publications/newsletters/ewonews-issue-25/latest-complaint-statistics/#Snapshot_Growth> at 6 September 2012.

¹¹ Australian Government, *Draft Energy White Paper* (2012), 109.

result has been, and continues to be, sizeable and regular electricity price rises while social payments, emergency assistance and concessions increase at a vastly slower pace, because the governments funding them are under significant budgetary pressure.

In PIAC's view, any analysis of electricity prices must include an analysis of the social safety net that is struggling to keep people connected to this essential service. Allowing these two issues to continue without any link will see the divide between electricity costs and assistance grow even greater than it is today – with the inevitable result that more and more vulnerable consumers will lose access to electricity, or only be able to maintain access by making unreasonable sacrifices in other aspects of their spending.

PIAC agrees that governments are right to investigate and work towards energy security. However, there is a growing risk that by favouring security and efficiency in future policy discussion we are facilitating a very secure electricity market that fewer people can remain connected to. For this reason, PIAC submits that the NEO should be amended to insert the words 'affordable access' in point 1. This would ensure that investment and operation of the electricity system takes account of the challenges an increasing number of consumers face in staying connected (ie, retaining their access) to electricity.

Recommendation 2

PIAC recommends that the National Electricity Objective be amended to read:

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

- 1. price, quality, affordable access, safety, reliability, and security of supply of electricity; and*
- 2. the reliability, safety and security of the national electricity system.*

ToR 1(d): investigation of mechanisms that could assist households and business to reduce their energy costs, including:

ToR 1(d)(i): the identification of practical low cost energy efficiency opportunities to assist low income earners reduce their electricity costs

PIAC submits that there is limited remaining scope to help low-income consumers through measures such as energy efficient light bulbs, door snakes and water-saving showerheads. These products have been aggressively distributed, including by energy providers, and have therefore achieved significant market penetration, if not saturation. Alternative, more impactful approaches are now required in order to help low-income consumers share some of the benefits of reduced energy consumption.

Help purchasing energy-efficient appliances

A key energy efficiency opportunity available to help low-income consumers reduce their electricity costs is to provide assistance in purchasing more energy-efficient appliances. Low-income consumers often buy appliances with a low purchase price but which use higher amounts of electricity and are therefore ultimately more expensive.

The key existing program that assists low-income consumers to purchase energy efficient whitegoods is the No Interest Loan Scheme (NILS). NILS-type schemes exist throughout

Australia, and are typically administered by charities and community sector organisations. NILS loans can generally only be used to purchase essential appliances, such as refrigerators or washing machines, or to pay for urgent medical or dental treatment.¹² NILS loans are generally only available to people with a Health Care Card or other Centrelink concession card. The amount lent is up to \$1200, with the average around \$800.¹³

In PIAC's view, NILS-type schemes can be an effective way to help low-income consumers purchase energy efficient whitegoods. The Australian Government has recently provided funds to increase the number of NILS loans specifically for the purchase of energy efficient whitegoods, through the Home Energy Saver Scheme (HESS), part of the Clean Energy Future Package. HESS also provides access to energy efficiency and financial management information, education and support. HESS has been given funding of \$29.9 million over four years to 2014-15.¹⁴

However, because NILS loans need to be repaid, they will not necessarily overcome the problem of low-income consumers purchasing lower cost but less energy efficient appliances. This problem could be addressed through an augmented NILS program that would provide a grant to low-income consumers to contribute to the purchase an energy efficient appliance. Many consumers explain that they are aware of energy ratings when purchasing larger appliances, yet the higher price for these items is cost prohibitive. By helping to cover the difference in cost between inefficient and efficient appliances, such a scheme could increase the uptake of energy efficient whitegoods among low-income consumers.

Recommendation 3

PIAC recommends that a grant scheme be developed to assist low-income consumers to purchase energy efficient whitegoods.

Energy efficiency in public housing

PIAC contends that there is also significant scope to help low-income residents in public housing to improve the energy efficiency of their homes. Many energy efficiency measures are the responsibility of landlords to implement, including insulation and energy-efficient water heaters. This means that it can be difficult for low-income consumers living in rental accommodation to take up these options.

However, where government is the landlord, as with public housing, funds should be made available to address the most glaring examples of inefficient electricity use. In particular, a significant number of public housing tenants still have inefficient electric water heaters. Ausgrid estimates that water heaters are the single largest user of electricity in a typical home – accounting for approximately 37% of household use, well ahead of heating and cooling at 22%.¹⁵ Where tenants have no control over whether such appliances are replaced, home energy-efficiency audits and information cannot offer realistic opportunities to significantly reduce

¹² NSW Department of Fair Trading, *No Interest Loan Scheme* (2012), <www.fairtrading.nsw.gov.au/Consumers/Using_credit/Using_credit_carefully/No_interest_loans_scheme.html> at 3 September 2012

¹³ Ibid.

¹⁴ Australian Government Department of Families, Housing, Community Services and Indigenous Affairs, *Financial Management Program*, (2012), <www.fahcsia.gov.au/sa/communities/progserv/financial_management_program/Pages/default.aspx#5> at 3 September 2012.

¹⁵ Ausgrid, *Where does your household energy go?* (2011), 5.

consumption.

Given that State and Territory Governments own a high proportion of public housing, the Australian Government should work with housing authorities in each jurisdiction to implement a grants program to proactively replace inefficient water heaters, rather than doing so only as the old appliances completely break down. Because public housing budgets are under significant pressure, such a grants program offers the best opportunity for the quick delivery of a positive outcome in this area. Replacing outdated electric water heaters in public housing represents an opportunity to help low-income consumers significantly benefit from energy efficiency measures.

Recommendation 4

PIAC recommends that a program be implemented to proactively replace old and inefficient water heaters with modern, energy-efficient models.

ToR 1(d)(ii): the opportunities for improved customer advocacy and representation arrangements bringing together current diffuse consumer representations around the country

PIAC's work advocating for NSW residential energy and water consumers is funded by the NSW Government. Therefore, PIAC acknowledges that, on one view, it has a financial interest in this issue.

That said, there is an overwhelming argument that energy advocacy, which focuses especially on one particular State or Territory, provides an important contribution to understanding how national and State-based energy policies affect a diverse range of consumers within that State or Territory. This is because energy policy and the impact of the energy market has both national, and sub-national, dimensions. This means that there is inherent value in understanding how each Australian jurisdiction's policies and programs, cost of living pressures, employment opportunities and other dynamics interact within the jurisdiction to produce diverse consumer experiences and capacity to pay for essential services.

For example, PIAC recently made a submission to the review of the *Residential Parks Act 1998* (NSW). This submission focused particularly on energy provision by exempt suppliers. PIAC's ability to advocate for residential park residents was strengthened by its knowledge of the interaction of separate pieces of NSW legislation related to electricity supply, consumer affairs and the governance of residential parks. PIAC's understanding of the Australian Energy Regulator's (AER) *Exempt Selling Guideline*, which will come into place when NSW implements the National Energy Customer Framework, and its thorough understanding of the delivery of energy rebates, emergency assistance, dispute resolution and its long standing relationships with key residential park resident advocacy bodies, allowed PIAC to provide specialised and informed recommendations to this review. Because of the interplay between utility costs and rent, these recommendations could, if adopted, not only help people avoid disconnection but also eviction.

Due to the highly technical and complex nature of electricity and gas markets it is often difficult for consumers and their advocates to engage effectively in energy processes. In recognition of this, PIAC is currently working to build the capacity of community sector workers to advocate for their constituents in energy and water policy processes. PIAC does this by providing training, policy advice, briefings and presentations to community sector staff and consumer groups.

Notwithstanding PIAC's efforts, there is little capacity for community sector workers to build the high level of skills needed to achieve better results for NSW consumers, especially in relation to distribution price setting, rule changes and other technical matters, such as reviews of reliability standards. Apart from requiring an overall understanding of energy markets and their regulatory environments, the legal and technical skills needed to advocate effectively in these processes attract premium rates. Though some funding is available from the Consumer Advocacy Panel for discreet projects, it is impossible under current arrangements, for consumer advocacy bodies to maintain access to these skills in an ongoing manner.

There are strong financial incentives for industry to advocate in its own interest and retain specialist technical teams, regulatory specialists and access to legal and financial experts. Apart from the fact that industry has its own reliable and ongoing funding stream for its advocacy, which ultimately comes from consumers, it also benefits from the capacity to develop an organisational memory and experience, which are extremely valuable in high-level cyclical processes such as network price determinations.

In contrast, energy consumer advocates seek the best results for residential consumers with fewer resources, no repository for a nation-wide organisational memory and a degree of access to high-level skills that is insignificant in comparison to industry. The rapid evolution of energy markets and policy environments with a growing appetite for consumer engagement also means that energy consumer advocates face competing priorities that constrain their ability to capitalise on opportunities for better consumer outcomes.

In PIAC's view, a national body would be a welcome addition to the current landscape as a structure that could set the course for long-term national reform, house a nation-wide organisational memory and retain the high-level skills needed to advocate more effectively for energy consumers—especially in high level and cyclical processes.

Having a national energy advocacy body that repeatedly engages in high-level processes, such as network price determinations, would provide an efficiency gain as the experience in each process would strengthen its capacity to be effective in subsequent processes. Staff turnover and the use of external consultants make it extremely difficult for small State/Territory-focused energy advocacy organisations to gain a body of experience in network price determinations, which occur in five-year cycles.

Ideally, a national body would work cooperatively with State/Territory-based energy advocates, creating efficiencies in the sourcing of data and analysis that are relevant across multiple jurisdictions, as well as improving the quality of the research and advocacy that each such State/Territory-based energy advocate can provide. It could also amplify the voices of a range of consumers, to help guide action for reform and capitalise on opportunities for outcomes that more closely align with the needs of residential energy consumers.

Recommendation 5

PIAC recommends that funding be provided for the establishment and ongoing operation of a national energy consumer advocacy body in Australia.

ToR 1(d)(iii): the opportunities and possible mechanisms for the wider adoption of technologies to provide consumers with greater information to assist in managing their energy use

An inclusive roll out of new technologies

The *Report of the Prime Minister's Task Group on Energy Efficiency* notes that

[s]mart meter and grid technologies will fundamentally change the tools available to consumers, retailers and networks for increasing energy efficiency. New tools could include visible real-time monitoring and enhanced information (for both consumer response and loss detection), a wide range of off-peak tariffs, and direct load control of appliances.¹⁶

If these tools are key aspects of the energy market of the future, PIAC argues that there is a need to assess how accessible these tools are and whether they are effective for a diverse range of consumers. For instance, some consumers may not have the skills or the access to technology needed to gain benefits from more complex product offerings.

Real-time monitoring relies on access to technology. Whether that means a simple in-home display device, a more advanced Home Area Network device or access to usage data via a web-based portal, PIAC is concerned that low-income consumers may have less access to this technology and therefore be less able to make informed choices about their energy consumption.

Low-income households, households without children under 15 and households in non-urban areas are less likely to be connected to a computer and/or the Internet.¹⁷ Similarly, in-home display units may not be affordable for low-income households to purchase outright. Where these devices are provided as part of a market offer, PIAC has concerns that people may sign up for longer-term contracts, thereby reducing their access to the competitive market and tariffs that may be more suitable for their needs.

There may also be groups of consumers that have difficulty gaining the benefits from real-time data because they do not have the computer skills or confidence with technology to operate electronic devices. A 'lack of skills, anxiety about technology' and 'security fears' have been cited in consumer research as reasons why older people have lower internet usage than other groups.¹⁸

In PIAC's view, it is important to educate consumers about new electricity tariffs and means to manage consumption. After decades of purchasing electricity as a generic product, consumers are moving to an era in which energy offers are increasingly complex — with inclusions such as remote load control, time of use pricing, energy storage and other value adds. PIAC contends that, without community education and simply explained contracts and tariffs, consumers who do not understand these new product offerings may end up either with bills that are higher than expected or bills that are higher than would have been the case under their previous contract.

¹⁶ Australian Government, *Report of the Prime Minister's Task Group on Energy Efficiency* (2010), 168.

¹⁷ Australian Bureau of Statistics, '8146 Household Use of Information Technology, Australia, 2008-09' (2009), 6.

¹⁸ S Palmer, 'Where do I start? Female seniors and the Internet' (Council on the Ageing (WA) with support from the Australian Communications Consumer Action Network (2010), 5.

It is important that the broad-scale innovation in the energy market does not only provide benefits to consumers who are technically savvy, well-resourced and proactive researchers. Avoiding this possibility will require specific programs aimed at consumers who may otherwise miss out on the benefits of new technology.

Recommendation 6

PIAC recommends that the roll out of smart grids and related electricity technology be accompanied by:

- *education programs targeting a diverse range of consumers to explain the technology that enables the delivery of real-time data, as well as actions consumers can take when high cost pricing signals are received;*
- *targeted programs to provide and install in-home devices to low income and/or vulnerable consumers;*
- *incentives for bespoke energy efficiency programs aimed at particular consumer groups, such as rural and regional consumers, tenants of public or social housing and people with physical disability;*
- *widely-publicised, simplified information about innovative tariffs, which is available in a range of languages and accessible formats; and*
- *trial periods for innovative energy offers, such as those that include direct load control, to reduce the risk of consumers attracting exit penalties if these products are not suitable for their circumstances.*

Some consumers require extra assistance to benefit from new technologies

The innovations in the energy market discussed above are being heralded as ways to give consumers more choice and the ability to respond to price signals through behaviour change. These innovations are generally grouped by the term ‘demand side participation’.

There is a theory that where electricity prices are cost-reflective, and residential consumers are armed with knowledge and skills to make informed choices, they will use electricity more efficiently.¹⁹ While this may be true as a general principle, cost reflective pricing could mean that efficient use will enable people to avoid high or extreme costs—while not necessarily making electricity affordable to low-income consumers.

It is not unreasonable to say that innovations will provide well-resourced and technologically-savvy consumers with choices about how to manage their energy consumption. For instance, remote load control may allow a consumer to turn off their pool pump or air conditioning using a web-portal or smart phone application on receipt of a peak-pricing message. However, care should be taken not to assume that all residential consumers have a number of options to consider when making choices about their electricity consumption. For those who have low levels of discretionary electricity use, necessity will trump choice.

The market does not need to be designed specifically for consumers who have low incomes or are otherwise vulnerable, but it does have to include mechanisms to ensure that these consumers have ongoing access to an essential service in such a way as live a life of dignity. Consumers with a physical disability, for example, have strong motivation to use energy efficiently. However, in many cases they will require specific assistance to achieve this goal due

¹⁹ AEMC, *Power of Choice—Giving consumers options in the way they use electricity*, Directions Paper (2012), 43.

to their unique energy use needs, such as the need for medical heating or cooling, the increased use of appliances due to low levels of mobility and the need to charge batteries for wheelchairs.

Recommendation 7

PIAC recommends that the governments ensure that consumers who require extra assistance to benefit from demand side participation are given appropriate support, as well as being protected from any possible disadvantages that stem from the introduction of load control technology and time-of-use or cost-reflective pricing.

ToR 1(d)(iv): the adequacy of current consumer information, choice and protection measures, including the benefits to consumers and industry of uniform adoption of the National Energy Consumer Framework (NECF)?

PIAC contends that there are a number of benefits to energy consumers in NSW from the introduction of the NECF, which will not be realised until the framework is fully implemented. While PIAC's comments relate particularly to consumers in NSW, many are similarly applicable to those in other States and Territories.

PIAC submits that there are benefits to fully implementing the NECF in the area of consumer information in particular, through both the AER's affordability report and the national price comparator website. While the NECF remains unimplemented, and if uncertainty persists about whether this will occur, consumers also face risks regarding the capacity of existing regulators to perform their tasks effectively.

A national affordability report

Under the NECF, the AER has the responsibility to compile an affordability report for all jurisdictions where the NECF has been implemented. Such a report will be extremely valuable for policy makers, consumer advocates and retailers in their efforts to keep consumers connected to electricity. In particular, the comparison of performance across jurisdictions provided by such a report would be extremely valuable in assessing the relative effectiveness of the various State-based energy concessions and retailer hardship programs. The AER is also well placed to make recommendations for improving the customer assistance measures in a particular jurisdiction as part of such a report.

While the AER has indicated that it still intends to compile an affordability report for all jurisdictions in the National Energy Market (NEM), this task will be made more challenging when only the two jurisdictions to have implemented the NECF (Tasmania and the ACT) are required to submit data to the AER in its role as the responsible energy regulator. PIAC believes that the quality and reliability of this important document will increase as more jurisdictions adopt the NECF and provide data related to affordability to the AER in its role as the regulatory authority.

National electricity offer comparator services

The second consequence of the limited adoption of the NECF is that the AER's price comparator website, www.energymadeeasy.gov.au, only operates for those jurisdictions where implementation of the framework has occurred. While comparing offers between different Australian jurisdictions can be problematic due to factors such as differences in network charges, making prices from all NEM jurisdictions freely available in a single location has the potential to exert competitive pressure on retailers across the NEM, particularly in those areas where prices

are highest. While NSW, for example, retains its existing independent comparator website, this site does not contain information about other jurisdictions.

Retail Pricing Information Guideline

In preparation for the NECF, the AER also developed a Retail Pricing Information Guideline (the Guideline) that serves as a framework for the provision of contract information, assists customers to understand and compare energy contracts, and specifies the standard for the manner and form in which contract information is to be presented.²⁰ Under the Guideline, the AER has developed a standardised table for the presentation of all energy contract information, known as an Energy Price Fact Sheet.²¹ This approach ensures the information is clear and easy to read for consumers, and that retailers meet all minimum requirements. The fact sheets also allow consumers to make easy and accurate comparison between certain aspects of offers, including not only price and other aspects of the offer, including any associated fees and charges (e.g. for late payment or early termination).

The delay in implementing the NECF has meant that NSW consumers do not currently have access to this useful resource for comparing different energy offers and understanding related costs in a transparent and consistent manner. Similarly, energy advocates and the community sector are unable to use the guideline to assist vulnerable clients to navigate the complex world of retail energy offers.

Resourcing of regulators

PIAC has concerns that the decision by some jurisdictions not to implement the NECF may have left State-based regulatory authorities under-resourced to continue to carry out their functions effectively. There is a danger of this occurring because these agencies were expected to surrender responsibility for regulating electricity retailers to the AER when the NECF was introduced, and in anticipation of this occurring, some may have had their resources reduced accordingly.

In addition, the delay in implementing the NECF has resulted in IPART's regulatory responsibilities increasing. Under the NECF, the AER would grant national retailer authorisations for companies wishing to operate outside their 'home' jurisdiction. In making changes to the Electricity Supply (General) Regulations (2001) to accompany the postponement of NECF implementation, the NSW Government introduced a 'transitional interstate suppliers' licence category to cover retailers who had intended to operate under a national authorisation.²² IPART is responsible for assessing these licence applications, including against criteria related to the company's financial, technical and operational capacity for ensuring continued compliance. If IPART is not resourced to undertake these increased responsibilities, there are potentially serious consequences for NSW energy consumers.

Recommendation 8

PIAC recommends that the governments ensure that regulatory agencies are sufficiently resourced to carry out their responsibilities, including where these have increased as a result of delays in implementing the NECF.

²⁰ AER, *Retail Pricing Information Guideline* (2011), 2, <www.aer.gov.au/node/6718> at 5 September 2012.

²¹ Ibid.

²² *Electricity Supply (General) Regulations (2001) (NSW)*, cl 72A, 72B & 59 (2) (b).

ToR 1(d)(v): the arrangements to support and assist low income and vulnerable consumers with electricity pricing, in particular relating to the role and extent of dividend redistribution from electricity infrastructure

Customer assistance measures have an important role to play in helping low-income and vulnerable consumers remain connected to the essential service of electricity. As previously stated, the Australian Government's Draft Energy White Paper asserts that 'concerns over energy affordability for low-income households are most effectively addressed ... through the various social safety nets rather than through market or price regulation'.²³ If this is to be the Australian Government's position, PIAC submits that the structure and delivery of electricity customer assistance measures should be comprehensively reviewed.

In the long term, it is important to find the most effective and efficient means of assisting consumers facing problems of energy affordability. This may mean moving away from historical methods of providing assistance and moving toward a suite of programs that can work holistically in the modern energy market. Such a review could examine different forms of assistance throughout the country, including the Victorian model of paying assistance as a percentage of total bills.²⁴

In PIAC's view, percentage-based energy rebates represent optimal value for consumers because they have the capacity to recognise variations in price across distribution areas and increase in accordance with electricity price rises. Currently, energy rebates offered in NSW are set at fixed rates while average annual electricity costs between distribution areas can vary by approximately \$600 for an indicative household using 7,000 kWh.²⁵

However, PIAC recognises that there would be a need to set some parameters for percentage-based rebates. In particular, a floor value would be necessary to ensure that consumers who only use small amounts of electricity were not made worse off by the introduction of such a scheme. It may also be necessary to cap the rebate amount. PIAC acknowledges that customer assistance measures are funded from a limited pool of resources and such measures should not be allowed to place an excessive burden on those resources. Customer assistance measures should be both effective and financially sustainable.

A review of customer assistance could also make recommendations regarding principles for a best practice model for the delivery of electricity customer assistance. Another important area of inquiry could be opportunities to fund electricity customer assistance measures, for example from industry contributions, including dividends from electricity infrastructure, State and Commonwealth Government concessions and other social programs.

PIAC submits that the Productivity Commission would be an appropriate body to conduct such an inquiry, as the issue relates to maximising the efficiency and effectiveness of the distribution of financial assistance.

²³ Australian Government, as above n 11.

²⁴ Victorian Government, Department of Human Services, *Annual electricity concession* (2012), <www.dhs.vic.gov.au/for-individuals/financial-support/concessions/energy/annual-electricity-concession> at 10 September 2012.

²⁵ IPART, as above n 1, 8.

Recommendation 9

PIAC recommends that the Australian Government undertake an examination of electricity assistance measures, including developing principles for a best-practice model of delivering such assistance, and the role of dividends from electricity infrastructure in funding such assistance.

Without pre-empting the findings of any such review, this submission discusses a number of more specific issues related to customer assistance below.

Indexing customer assistance

While recent electricity price increases have placed pressure on all consumers, the impact has been even more severe for those on low or fixed incomes. This has been compounded by the inability of most energy concessions to keep pace with increases in prices. A clear example of how customer assistance has failed to keep pace with energy price increases is that of the NSW Life Support Rebate.

As illustrated in Table 1 below, rates in many categories have remained unchanged since 2002, even though NSW electricity prices have more than doubled in this period. In 2002, Energy Australia's regulated retail price for electricity was 10.68 cents per kilowatt-hour; as of 1 July 2012, it is 26.84 cents per kilowatt-hour. At the same time, the rebate rate for an enteral feeding pump remains unchanged since 2002, at a rate of 20 cents per day.

Table 1 - Regulated retail electricity prices and Life Support Rebate Approved Equipment Rates for the years 2002, 2009, 2010 and 2011.²⁶

Year	2002	2009	2010	2011	2012
Electricity prices per kilowatt hour ²⁷	\$0.1068	\$0.1716	\$0.19085	\$0.2266	\$0.2684
Selected approved devices	Life Support Rebate rates (per day, unless otherwise stated)				
Positive airways pressure device	\$0.13	\$0.16 \$0.32 for 24 hour usage	\$0.16 \$0.32 for 24 hour usage	\$0.16 \$0.32 for 24 hour usage	\$0.16 \$0.32 for 24 hour usage
Enteral feeding pump	\$0.20	\$0.20	\$0.20	\$0.20	\$0.20
Phototherapy equipment	\$1.66	\$1.66	\$1.66	\$1.66	\$1.66
Home dialysis	\$0.50	\$0.69	\$0.69	\$0.69	\$0.69

²⁶ Department of Energy, Utilities and Sustainability, *Life Support Rebate Scheme: Guidelines for Electricity Retail Suppliers* (2002), 3; Minister for Energy, *Retailer Guidelines: Life Support Rebate* (2009), 9; Paul Lynch MP, Minister for Energy *Ministerial Direction for Social Programs issued to NSW Electricity Retailers* (2010), annexure 1 sch 2; Chris Hartcher MP, Minister for Energy *Ministerial Direction for Social Programs issued to NSW Electricity Retailers* (2011), annexure 1 sch 2.

²⁷ Based on regulated retail electricity prices of Energy Australia (inc GST). IPART, *Consumer Information – Electricity* (2011), <www.ipart.nsw.gov.au/consumer-information-electricity.asp#Q13> at 12 August 2011 and Energy Australia, *Residential Customer Price List* (1 July 2011), <www.energyaustralia.com.au/State/NSW/Residential/Products-and-services/Electricity/~media/Files/Residential/Pricing/2011/NSW_RES_PL_2011b.ashx> at 12 August 2011 and Energy Australia, *Residential Customer Price List* (1 July 2012), <www.energyaustralia.com.au/data/assets/pdf_file/0005/54824/EA_Resi_Final_v1.0.pdf> at 2 July 2012.

The *Ministerial Direction for Social Programs issued to NSW Electricity Retailers*²⁸ (the Direction) provides the framework for delivering the Low Income Household Rebate, the Medical Energy Rebate and the Life Support Rebate. Under the current Direction, both the Low Income Household Rebate and the Medical Energy Rebate increase on 1 July every year until 2014.²⁹ The Direction includes no rate increases or formula for indexation for the Life Support Rebate. With no schedule to increase the Life Support Rebate in place, its value is eroded with every electricity price rise.

The Life Support Rebate is offered to assist eligible consumers with the electricity costs of running essential equipment. These costs are not discretionary and households can do little to reduce them through energy efficiency measures or load shifting to take advantage of off-peak pricing. As such, each electricity price rise must be absorbed by rebate recipients, often requiring significant sacrifices. PIAC and the Physical Disability Council of NSW recently conducted a survey focused on the electricity use of people with a physical disability. The survey results showed that people were most likely to give up heating and cooling in efforts to keep their electricity bill at a level they could afford. This is particularly concerning given that 70% of survey participants noted having a physical condition that required them to heat or cool their living space.

PIAC submits that all energy rebates should be indexed to increase in proportion to the electricity costs faced by consumers. Adopting such a model would mean that energy concessions are more able to retain their effectiveness in assisting vulnerable and low-income consumers in an environment of increasing electricity prices.

Recommendation 10

PIAC recommends that energy assistance measures be indexed annually to the price of electricity and the process for indexing them be publicly recorded in a Ministerial Direction.

Eligibility for low-income and emergency energy assistance

One of the key principles that should govern energy assistance measures is equity of access, including recognising that customers buy their energy in different ways. In particular, residents of retirement villages and residential parks will often buy their energy from the park's operator. Unfortunately, in NSW this has meant that residents of such facilities are unable to access the emergency assistance Energy Accounts Payment Assistance (EAPA) vouchers because they are only available to customers who buy their electricity direct from a retailer.

Under the EAPA scheme, community welfare organisations, such as St Vincent de Paul or the Salvation Army, distribute vouchers that can be used to pay an outstanding bill. Those organisations have responsibility for assessing the eligibility of applicants to receive EAPA vouchers. According to the NSW Government, the EAPA scheme is designed to help 'people experiencing difficulty paying their electricity or gas bill because of a crisis or emergency situation'.³⁰ The scheme is not intended to support vulnerable consumers on an ongoing basis.

²⁸ Chris Hartcher, MP, Minister for Energy, *Ministerial Direction for Social Programs issued to NSW Electricity Retailers* (2011), annexure 1, sch 2.

²⁹ Ibid 4, 13.

³⁰ NSW Government, Department of trade and Investment, *Energy Accounts payment Assistance (EAPA)* (2012), <www.trade.nsw.gov.au/energy/customers/help> at 6 September 2012.

The NSW Government established EAPA Advisory Group (EAPA AG), of which PIAC is a member, to examine issues including access to EAPA for customers of exempt sellers. The EAPA AG has delivered a report to the Minister for Energy, which PIAC understands is currently being considered.

In addition, in NSW, the Low-Income Household Rebate is open to customers of retail suppliers who hold an eligible Commonwealth Health Care or Concession Card.³¹ While an administrative system has been set up to facilitate access to the NSW Low-Income Household Rebate for residents of residential parks, no such system has been made available to residents of retirement villages who purchase their electricity from the village operator rather than as a direct account holder of a retail electricity supplier.³²

PIAC takes the view that retirement village residents, who are otherwise eligible, should not be disadvantaged simply by virtue of the arrangements under which they purchase their electricity. PIAC submits that the administrative system that facilitates access to the Low-Income Household Rebate for long-term residents of residential parks could be easily modified to open access to the rebate to eligible retirement village residents who purchase their electricity from the village operator. Access to electricity concessions and emergency assistance has the potential to significantly impact the price paid by eligible consumers.

Recommendation 11

PIAC recommends that the NSW Energy Accounts Payment Assistance scheme be made available to customers who purchase their electricity from exempt sellers.

Recommendation 12

PIAC recommends that the principles of access and equity should be applied to assessing the eligibility of all residents to electricity concessions and emergency assistance

Strong regulation

Another important part of addressing affordability is ensuring that regulations—and the bodies charged with enforcing them—are strong enough to ensure that energy costs, in particular network costs, are not rising unnecessarily. As previously stated, there are a number of processes underway in Australia that are examining network regulation. While these processes are ongoing, there would be little value in PIAC making detailed comments about possible changes to electricity regulation, as these changes may be in train. Nonetheless, PIAC submits that a stronger, more agile regulatory framework that is fully enforced would reduce the likelihood of residential electricity bills increasing sharply to fund large profits for DNSPs.

However, having the necessary regulation in place will not bear the desired results if the agencies charged with enforcing them are not sufficiently resourced to complete such work effectively. Tasks such as examining regulatory proposals from distribution network service providers are extremely complex, but are also extremely important, given the that impact network price determinations have on the electricity prices faced by consumers. PIAC reaffirms that regulators must be sufficiently resourced to carry out their responsibilities effectively (see Recommendation 6).

³¹ Paul Lynch MP, Minister for Energy *Ministerial Direction for Social Programs issued to NSW Electricity Retailers* (2010), sch 1 s 1 c. Ibid sched 1, Definitions s 4.

³² Paul Lynch MP, Minister for Energy, *Retailer Guidelines: Energy Rebate Scheme (2010)* s 8.

Wider contributions to electricity customer hardship programs

Options should be explored for requiring businesses along the energy supply chain to contribute to customer hardship programs. At present, electricity retailers are required to assist hardship customers through running payment plans and administering some forms of assistance, while distribution, transmission and generation companies face no such requirements. PIAC believes that as the revenue of DNSPs, in particular, increases, there is scope to require such companies to contribute to the social safety net for their more vulnerable customers.

Recommendation 13

PIAC recommends that options be explored to require businesses along the energy supply chain to contribute to the cost of hardship programs for electricity consumers.

The Government Guarantee Fee

PIAC submits that there is potential to assist low income and vulnerable consumers in NSW through a redistribution of the Government Guarantee Fee (GGF). According to NSW Treasury, a GGF is a fee that serves as compensation

to the government (and taxpayers) for the real risk that the Government accepts in borrowing using its AAA rating and on lending to entities that have lower credit ratings.³³

In relation to energy, the entities involved are State-owned electricity distribution network service providers.

NSW Treasury states that payment of the GGF is a legislative requirement.³⁴ However, s 22D of the *Public Authorities (Financial Arrangements) Act 1987* (NSW) (the Act) states that an authority must pay a GGF 'if the Treasurer requires.'³⁵ The Act therefore seems to grant the Treasurer some discretion in levying the GGF.

PIAC acknowledges that the NSW Government and taxpayers are exposed to risk under borrowing arrangements that take advantage of the NSW Government's AAA rating. While the NSW Government accepts the GGF as a return for taking on this risk, in this instance, the return to taxpayers is less clear as these costs remain an input to rising electricity prices. PIAC believes that consumers should experience clear benefits from State ownership of corporations. At present, the GGF negates any direct advantage consumers may gain from the State's AAA credit rating. PIAC therefore recommends that the NSW government should examine whether there is scope to remove the GGF as a way of placing downward pressure on network costs for consumers.

Recommendation 14

PIAC recommends that the NSW Treasurer's discretion be used to reduce the GGF charged to State-owned electricity distribution network service providers, resulting in lower network costs that could be passed on to consumers.

³³ NSW Government, The Treasury, *Submission to AEMC on Economic Regulation of Network Service Providers Rule Change Request* (2011), 3
< <http://www.aemc.gov.au/Media/docs/NSW%20Treasury%20-%20%20received%2023%20December%202011-9feb79aa-199c-41a9-89f9-ea186b22e600-0.PDF>> at 27 March 2012.

³⁴ Ibid.

³⁵ *Public Authorities (Financial Arrangements) Act 1987* (NSW) s 22D.

However, PIAC notes that in a recent submission to the AEMC, the NSW Treasury claimed the need to levy the GGF as a party to the *Competition Principles Agreement (CPA)*. Competitive Neutrality Policy and Principles within the CPA require parties to impose

[d]ebt guarantee fees directed towards offsetting the competitive advantages provided by government guarantees.³⁶

NSW electricity network service providers are monopoly services. If Treasury is certain that a GGF must be applied to prevent monopoly services gaining a competitive advantage, then the equitable course of action would be to use GGF revenue to assist NSW electricity consumers deal with high electricity prices. The funds could be used give an increased rebate to all low-income and vulnerable electricity consumers in NSW.

One of the principal objectives of the *State Owned Corporations Act 1989 (NSW)* is that a State-owned corporation must

exhibit a sense of social responsibility by having regard to the interests of the community in which it operates.³⁷

Consumers rely on electricity as an essential service. Funds derived from the GGF may benefit consumers in a number of indirect ways through the funding of schools or healthcare. However, PIAC argues that essential services are no less important and must remain accessible to all consumers — especially the vulnerable.

Recommendation 15

PIAC recommends that the GGF received by the NSW Government from DNSPs be used to assist low-income and vulnerable electricity consumers in NSW to deal with the increasing cost of electricity.

ToR 1(e): investigation of opportunities and barriers to the wider deployment of new and innovative technologies, including:

ToR 1(e)(iv): distributed clean and renewable energy generation

PIAC submits that there has not been sufficient consideration by policy makers of the price impacts on vulnerable consumers from new energy initiatives, including in the area of distributed generation. Such impacts need to be considered as part of the policy development process, with mechanisms to offset them designed at the outset, rather than passing the responsibility to adjust the safety net for vulnerable consumers to other jurisdictions or areas of government to take up as a secondary consideration. PIAC notes that this approach was taken with the introduction of a carbon price, where the Australian Government recognised that carbon pricing will increase household costs such as energy and developed an assistance package including measures ‘specifically targeted towards the needs of low-income groups’.³⁸ Conversely, no assistance targeting vulnerable consumers is offered to offset the price impact of the Large-scale Renewable Energy Target (LRET) and Small-scale Renewable Energy Scheme (SRES).

³⁶ Australian Government, *Competition Principles Agreement (1995)*, s 4(b)(ii).

³⁷ *State Owned Corporations Act 1989 (NSW)* s 8(1)(b).

³⁸ Australian Government, as above n 11, 46.

Such compensation and protection measures are necessary because green schemes constitute a significant proportion of bills for residential consumers in NSW. As can be seen in Table 2 below, green schemes excluding the carbon tax account for at least 5.8%, or more than \$140, for a typical residential account holder in NSW. It should further be noted that in reality green schemes contribute even more to electricity bills, as contributions to the NSW Government's Climate Change Fund, which pays for the Solar Bonus Scheme, are included in bills as part of network costs.

Table 2 Cost components of a typical NSW residential electricity bill across the three standard supply areas, 2012/13

	Energy Australia		Integral Energy		Country Energy	
	\$	%	\$	%	\$	%
Network	1,039	48.9	854	43.3	1,472	56.8
Energy	552	26.0	591	30.0	544	21.4
Carbon	166	7.8	165	8.4	171	6.6
Other green	143	6.7	150	7.6	151	5.8
Retail	226	10.6	211	10.7	253	9.8
Total	2,127	100	1,972	100	2590	100

Note: Bill based on 7,000 kW/h of consumption per year. Percentage figures may not add to 100 due to rounding.

Source: IPART, *Changes in regulated electricity retail prices from 1 July 2012–Final report* (2012), 10.

PIAC submits that the model of policy development used for the carbon price should be consistently adopted by all jurisdictions as part of any new energy policy that will have price impacts, such as green schemes.

Further, in order to avoid any negative impacts on electricity consumers, green schemes should be funded from a progressive revenue source such as general revenue, rather than regressive methods, for example including the cost as part of network charges in energy bills. This method has a much stronger impact on low-income households, who spend a higher proportion of their disposable income (ie, income after accommodation expenses) on electricity bills. For example, IPART estimates that households with an income of less than \$38,000 per year spend between 5.5% and 8% of disposable income on electricity bills, compared to between 2% and 4% for those earning more than \$46,000 per year.³⁹ Where green schemes cannot be funded out of general revenue due to budgetary constraints, appropriate compensation should be designed to overcome the price impacts of such schemes on vulnerable consumers.

Recommendation 16

PIAC recommends that electricity green schemes should be funded from a progressive revenue source, such as general taxation. Where this is not possible, compensation packages should be developed to shield vulnerable consumers from the impact such schemes have on their electricity bills.

³⁹ IPART, as above n 9, 72.

ToR 1(f): any other related matter

The issue of energy affordability and consumer protection warrants careful and ongoing consideration by policy makers and other interested stakeholders, such as energy suppliers, regulators, community organisations and consumer advocates. Rather than affordability issues being considered as an afterthought in the development of new energy policy initiatives, the issue must be considered as a key part of policy development. To do this, a dedicated forum of stakeholders and other interested parties should be convened.

Such a forum should take the form of an affordability taskforce, which is convened by the Australian Government Minister for Energy and Resources, in his capacity as the Chair of the Standing Council on Energy and Resources (SCER). This taskforce should have membership including representatives from government, regulators, consumers and electricity companies and be charged with scoping issues and opportunities related to improving electricity affordability.

Resources should also be provided for a national working group to further explore the issues raised and develop an electricity affordability strategy. The working group should be run by a national body, with existing relationships with a wide variety of electricity stakeholders (who would form the membership of the forum), and awareness of market structures and the policy environment. Finally, the affordability strategy should be made publicly available, and include a timeline for a response from SCER and all Australian jurisdictions.

Recommendation 17

PIAC recommends that SCER provide funding to convene an electricity affordability taskforce, which would scope issues related to affordability to be examined in greater detail by a dedicated working group. The working group should be run by a national organisation with experience on energy markets and in policy development, as well as existing relationships with all concerned stakeholders. The taskforce should deliver to SCER an affordability strategy. The affordability strategy should be made publicly available and include a timeline for a response from SCER and all Australian jurisdictions.

Conclusion

PIAC reiterates its thanks to the Committee for the opportunity to provide input on such a wide range of important issues related to electricity affordability. Electricity price increases in recent years have impacted on an increasing number of consumers, and have hit low-income and vulnerable people particularly hard. The recommendations contained in this report would go some way to the true realisation of the National Electricity Objective, by ensuring that the system in Australia operates in the long-term interests of all Australian consumers with respect to price, quality, safety, reliability and security of supply. In seeking to achieve this outcome, particular attention must be paid to the ensuring inclusive arrangements for the increasing number who face difficulties in staying connected to this essential service.