



CANEGROWERS



QUEENSLAND FARMERS' FEDERATION



Growing the best

***Agriculture Industries Energy
Taskforce
Response to
COAG Energy Council
Consumer participation in revenue
determinations***

*Supporting industry and jobs through accessible,
reliable and affordable energy*

November 2017

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The Agriculture Industries Energy Taskforce includes: National Irrigators' Council, NSW Irrigators' Council, NSW Farmers Assn, Cotton Australia, National Farmers' Federation, Bundaberg Regional Irrigators Group, Central Irrigation Trust (SA), CANEGROWERS, Winemakers' Federation of Australia, Queensland Farmers Federation, Australian Pork Limited

Contact: Steve Whan
CEO: National Irrigators' Council
02.6273 3637
0429 780 883
ceo@irrigators.org.au

Introduction

It is unacceptable that in an energy rich country like Australia, weak energy policy is compromising our capacity to be a competitive global food producer and to put fresh food on the tables of Australian households.

The National Irrigators' Council (NIC) led the formation of the Agriculture Industries Energy Taskforce (the Taskforce*¹) in 2014, which incorporates membership from Australia's key agricultural peak bodies. The aim of the Taskforce is to specifically advocate on behalf of members to highlight the impacts of the unsustainable cost of electricity on the agriculture sector.

The Taskforce appreciates the opportunity to contribute to the COAG Energy Council consumer participation in revenue determinations discussion paper. We cannot overstate the impact of the current energy costs crisis faced by the agriculture sector. A more positive outcome from this process that enables the sector to better engage in Australia's current energy policy debate will be critical to Australia's future as an agricultural producer – and to our food and fibre producers.

The issue of energy pricing is now a real threat to our highly efficient agriculture sector. At a time when Australian producers have an opportunity to meet the demand of an ever-increasing global need for clean, green food and fibre, they instead face the risk of industry viability against the reality of high electricity costs. High and rising energy costs are imposing **unsustainable cost pressures** on the agriculture sector and driving down Australia's competitive edge. These pressures are causing many irrigators to turn their backs on intensive high value agriculture and convert prime agricultural land to lower value dry land farming. This is having the effect of adding to the resource misallocation driven by inefficient electricity prices.

Taskforce submissions to the recent ACCC review into retail electricity supply and pricing, Finkel review and parliamentary inquiries into electricity have included a range of case studies about the impacts of high energy costs on food and fibre production. These submissions are available on the NIC website (www.irrigators.org.au) and can be made available if required. We will not attempt to reproduce those case studies or the relevant submissions here, but they do reflect a telling story.

Australia's 135,000 farmers produce enough food to feed 80 million people, providing 93 per cent of the domestic food supply, and support an export market valued at more than AU\$41 billion per annum (over 13 per cent of export revenue)². With population growth and rising personal income, the emerging middle class in Asia provides the major market for over 60 per cent of Australian agricultural exports.

Reform of Australia's water resources sector in recent years has resulted in greater competition for water resources. While water savings have been achieved on-farm through investment in infrastructure, the resulting higher use of energy has coincided with a dramatic increase in the cost of electricity. Analyses show that irrigators' and growers' electricity bills have increased in excess of 100% in most cases, and up to 300% for some over the period 2009-2014, mainly due to the rising cost of network charges imposed by the network companies.

¹ National Irrigators' Council, NSW Irrigators' Council, NSW Farmers Association, Cotton Australia, National Farmers' Federation, Bundaberg Regional Irrigators Group, Central Irrigation Trust (SA), CANEGROWERS, Pioneer Valley Water, Winemakers' Federation of Australia, Queensland Farmers Federation, Australian Pork Limited

² Australian Bureau of Agricultural and Resource Economics and Sciences. (2014). Agricultural Commodity Statistics.

Typically, regulated network charges and other costs represent around 50% to 56% of farmers' electricity bills; the actual electricity charges account for around 26%, although this is also changing rapidly. Network charges imposed by the electricity networks continue to have a highly distorting effect on the electricity market. Australian consumers are paying around twice as much for network charges as those in the United Kingdom are around 2.5 times as much as those in the United States.

The Regulated Asset Base (RAB)s of Australia's electricity networks have been artificially inflated and inefficiently grown to excessive levels. Over the past fifteen years, the networks' RABs have increased by around 400%. These growth rates now put Australian electricity networks' RAB levels significantly higher than their international counterparts; we know that the RAB per connection levels of Australia's distribution networks are now up to nine times the levels of networks in the United Kingdom. The Taskforce has advocated for a rule change to change the way electricity networks' regulated asset base (RAB) is calculated. If the methodology was changed³, electricity networks would be entitled only to a return on their useful and used assets, a small step towards real cost reflective pricing.

Australia's agricultural industries play a significant role as economic drivers in local economies and provide flow on benefits to the national economy. Industries include cotton, rice, sugar, wine, almond, horticulture and dairy, which are all major producers of agricultural product, much of which is exported. Across these commodities, energy is used in a variety of ways such as pumping irrigation water, pasteurisation, cool rooms, processing plants and moving products.

Irrigated agriculture users of electricity are forced to operate in a market environment which lacks genuine competition and appears dominated by generators and transmission and distribution infrastructure owners who aim to maximise returns. The absence of competition results in gaming on the spot market which is struggling to cope with the transition to renewables. It is unacceptable that consumers are forced onto the spot market due to an inability to secure quotes from retailers for fixed term contracts. The current ACCC inquiry into retail electricity supply and pricing is attempting to address some of these issues.

The National Electricity Market's (NEM) role must be to provide affordable and reliable power for consumers. Under current market governance arrangements, existing loopholes are enabling price gouging by network businesses and preventing a fair and effective pricing structure for consumers.

The agriculture sector has experienced a high level of frustration and cynicism with the complexity and bureaucracy of the electricity industry. Regulation has become increasingly divorced from reality and unaccountable, built on abstract theoretical ideas that are beyond the reality of the industry and its consumers. Taskforce members engaging over recent years with various responsible bodies regarding these challenges, have witnessed the entrenched culture of institutional and blame shifting with governance and regulation of the industry split between many bodies, where prescriptive rules and processes prevent any positive change.

The challenge for improving stakeholder engagement and consultation is to develop a system which enables genuine and well-informed contribution by consumer groups, enabling decision makers to establish a real understanding of a particular sector's challenges, and which drives actual change and outcomes which result in fair and affordable energy costs. To ensure the contributions made by sector peak bodies are well-informed, better resourcing must be made available.

³ In accordance with the current regulatory framework for gas pipelines.

The second issue is the need for a determination from Government and regulators to ensure that the governance arrangements within the NEM provide the right framework that balances the national economic and social objectives with long term reliability and viability in the system.

Recommendations

The Taskforce recommends:

- AER continue to conduct ongoing and transparent consultation to enable the agriculture sector to participate fully in energy policy to ensure that the specific needs and challenges of the agriculture sector are fully understood and taken into account.
- Consider having some specialised ECA groups and consultations to ensure the specific needs of each group are taken into account, for example:
 - the agriculture sector and small business
 - general consumers and,
 - the social sector.
- Support for the suggestion to establish a purpose-built fund to which all regulated businesses would contribute, with the fund to be potentially administered through ECA. The objective of the fund would be to build capacity for consumer engagement and should provide funding to the Agricultural Industries Energy Taskforce to:
 - employ a staff member with expertise in energy policy and energy market governance arrangements to enable the agriculture sector to participate fully in all activities associated with government related inquiries, panels, attend consultations processes and other activities such as jurisdictional pricing determinations.
 - obtain longer term grants to engage the necessary technical expertise for a particular projects or submissions.
- As part of their regulatory determination and access arrangement decision processes, networks must be required to demonstrate that they have fully engaged with the agriculture sector with detail of their engagement processes, reflecting that they have taken into account and fully understand the very specific needs and challenges of the sector.

Response to Questions

Current funding sources for supporting consumer participation

- *How effective is the current resourcing framework for funding consumer engagement in energy regulatory processes, particularly the AER's revenue determination and access arrangement processes? How can it be improved?*
- *How can the current framework better contribute to increasing the capacity of consumer representatives to engage effectively in the AER's revenue determination and access arrangement processes, noting the complex and technical nature of the subject matter?*
- *What other resources, including non-monetary support programs or funding sources, are currently available to support consumer engagement in the AER's processes?*
- *In previous consultation processes on the review of the LMR regime, some stakeholders suggested the option of introducing a 'purpose built' fund to which all regulated businesses would contribute funding to support consumer participation in the AER's determination and access arrangement process. It has been suggested that contributions could be calculated as a percentage of the regulated businesses' total annual revenue. Such a fund may provide a more cost-effective and sustainable approach to resourcing consumer engagement in the AER's process.*

- *Given regulated revenue amount to billions of dollars, is a small contribution by regulated business to support consumer advocacy justifiable?*
- *What do stakeholders consider are the advantages and disadvantages of the proposal?*

Lack of staff resources and funding to access expert assistance presents a key challenge for agriculture sector stakeholders to properly engage in the regulatory process. It is particularly difficult for the sector to obtain the expert advice often required to participate in complex and technical subject matter. In this context, funding from the Energy Consumers Australia (ECA), while extremely valuable, is limited.

There is considerable imbalance between the resources available to energy companies for preparation of their submissions vis a vis consumers, and in our case where we seek to properly represent the agriculture sector.

Most Taskforce members are small organisations funded by their members with limited resources. The load of submissions in the energy sector alone has become extremely onerous, and this is against the backdrop of other competing demands across the agriculture sector more broadly.

NIC, for example, was established to represent the interests of irrigators, where water policy issues are predominantly the key focus, however, energy policy now comprises around 50% of NIC's activity. The preparation of submissions and engagement in opportunities for consumer participation is a significant cost to NIC's members.

Over a long period, Taskforce members have participated in various ways in a range of national energy related committees, consultations, stakeholder forums and panels with the aim to provide input into achieving a fairer energy policy in Australia and to advocate on behalf of the sector. While this has provided some benefit in terms of access to the often technical detail necessary to understand the issues, this participation comes at a cost to Taskforce member organisations.

National Irrigators' Council (NIC) alone has participated in many Government related and parliamentary inquiries, consumer panels and workshops in recent years in relation to energy policy:

- Competition Policy Review (the Harper Review)
- Australian Government Energy White paper
- Australia's Agricultural Competitiveness Green Paper
- Senate Inquiry into electricity network charges
- AER South Australian Power Networks Regulatory Proposal (2015 – 2020)
- AER Queensland electricity distribution regulatory proposals 2015-16 to 2019-20.
- Appeared before the Australian Competition Tribunal consultations
- Finkel Review
- Numerous ECA workshops, consultative groups and other initiatives
- Electricity Transformation Roadmap forums
- Consumer Challenge Panel.

A similar experience has been provided by NSW Farmers Association and QFF in their submissions. Queensland CANEGROWERS have expended considerable sums of money and staffing resources over the last few years in pursuing an equitable energy policy.

Recently the Taskforce obtained an ECA grant to assist with securing expert advice for the preparation of a submission to this year's ACCC inquiry into retail electricity supply and pricing. We were pleased to note that the ACCC preliminary report released in October 2017 addressed many of the issues raised in the Taskforce's submission. Our ability to secure the necessary technical advice, through the ECA grant, to fully participate in the ACCC inquiry was critical to the process. However, it did not leave us with the resources to participate to the extent we would like in providing a further response to the ACCC preliminary report, complete with the necessary technical detail and recommendations.

This is in stark contrast to the energy companies, including network companies, who have the capacity to retain permanent expertise and are well positioned to advocate their case, including extending to obtaining expensive legal advice when needed.

The Taskforce similarly, through an ECA grant, was able to secure the necessary expert technical advice to provide a submission to the 2014 Senate Inquiry into the performance and management of electricity network companies.

For the agriculture sector, non-monetary support programs or funding sources are not available. We are fortunate that within a number of our participating organisations there are people who are able to dedicate a large portion of their time to understanding the issues in the energy sector and the Taskforce relies heavily on them and the good will of their employers.

This however is not always the level of resourcing that enables the agriculture sector to match the energy companies with their staff numbers and their technical and well-resourced submissions.

We note the question relating to previous consultation processes on the review of the LMR regime and the suggestion of a purpose-built fund to which all regulated businesses would contribute funding. This appears to be a positive measure if it comes in addition to the funding already available through the ECA. Clearly if such a fund was to be established it would need to be independently administered (potentially by the ECA).

The Adequacy of current resourcing for facilitating effective consumer participation

- *What are the barriers to effective consumer engagement in revenue determinations and access arrangement processes?*
- *What are the priority energy issues on which consumer engagement is required across the sector?*
- *Is the key issue the amount of resources or the quality of resources for providing effective consumer engagement?*
 - *What are appropriate methods of measuring the impact of consumer engagement?*
 - *How can improvements to engagement be measured to ensure success?*
- *Is it feasible to build/maintain the complex technical knowledge required for effective participation in the revenue/access arrangement processes within consumer group staffing, or is it likely to be more cost-effective and more practical to outsource this expertise as required?*

The fundamental barrier to effective consumer engagement is access to resources and expertise. Agricultural groups must be able to engage in each state and federal level on decisions relating to the overall operation of the market and design of the regulatory structure, on pricing decisions at state level and on decisions about network design and cost.

At this stage engagement in those areas is limited by the resources available to each organisation and the expertise they are able to access. While some organisations employ staff with strong economic qualifications there are very few whose staff are primarily dedicated to energy policy.

It is not feasible to build and maintain complex technical knowledge required for effective participation in the revenue access arrangement process within agricultural organisations. It is more practical to outsource some of that technical expertise when required and more cost-effective. Unfortunately, this is also beyond the resources of many organisations.

The Taskforce was established in an attempt to bring together the knowledge and resources of a number of different agricultural organisations. Through the efforts of its member organisations and the generous time made available by staff of those organisations we have been able to produce a number of useful submissions to inquiries mentioned here. However, with the sheer number of inquiries underway in the electricity sector it is simply impossible to keep up and it tests the generosity of member organisations to continue to seek in-kind support for writing submissions.

Consumer engagement by the Australian Energy Regulator

- *What support does the AER currently provide to assist consumer participation in regulatory processes?*
- *How can the AER facilitate improved consumer engagement in regulatory processes?*
- *How can the AER help build consumers' knowledge skills and capacity to better participate in regulatory processes?*
- *Is the key issue the amount of resources or the quality of resources for providing effective consumer engagement?*
- *How successful has the AER's CCP been in contributing to improved outcomes for consumers?*
- *What have been the advantages and disadvantages of the CCP process?*

While our sector acknowledges that we have been afforded good access to the AER Chair and Directors through meetings at various time, there is however, a strong perception from agriculture industry bodies that AER processes are dominated by very well-resourced energy companies. This includes the view that AER staffing is dominated by the energy industry and that its outcomes have had a far greater focus on returns for energy companies than on enabling Australia to be a competitive food and fibre producer.

AER consultations are generally complex and require a high degree of knowledge, and this is particularly the case with network pricing determinations. This presents a challenge for our sector with limited resources to engage effectively.

The agriculture sector believes that network pricing determinations have resulted in owners receiving an unjustifiably high return on their investment. We note particularly the recent determination of Ergon tariffs in Queensland where Queensland CANEGROWERS engaged expert advice and provided a submission pointing out that claimed congestion did not exist. This was an expensive process for CANEGROWERS but it was not successful in moderating the charges.

In relation to the Consumer Challenge Panel (CCP) the AER engaged a consultant to review the effectiveness of the CCP initiative, the results of which were poor, with comments reflected in the following review feedback:

- *The impact that the CCP has had on the decision-making process of the AER is difficult to measure.*
- *The AER has expressed the opinion that the advice provided by the CCP did not substantially alter the matters or issues considered in their regulatory decision making. Some business stakeholders expressed concern that the advice of the CCP did not appear to make an impact on AER decisions. The lack of evidence of a relationship between the engagement of the CCP and the responses of the AER to the business proposals made them question the value of the CCP input.*
- *Many CCP members were also uncertain as to when their advice was being heeded. Some CCP members had the perception that the process-driven and risk averse nature of the AER limited the impact and uptake of their advice.*
- *Other CCP members indicated that resource constraints on the AER limited its capacity to listen and respond to the CCP's advice.*

NIC however, valued the information and support from the CCP members and found the panel useful.

The Taskforce has frequently pointed to concerns about the value of the Regulated Asset Base (RAB) of network companies. The overvaluation of the RAB is a significant component in high network prices and we have consistently called for a change to its calculation. Up until the formation of the AER and its adoption of a roll-forward method, the RAB was set using a method called Optimised Depreciated Replacement Cost (ODRC); if this method was utilised now it would be likely to result in a more realistic value for pricing determinations.

This issue relates to the overall market rules rather than individual pricing determinations and these rules have proven difficult for our sector to influence.

The removal of the Limited Merits Review (LMR) process was certainly welcomed by our sector but it does not fundamentally change the problem of very uneven capacity to participate between consumers and asset owners.

Our sector only attempted to participate in the LMR process on a couple of occasions. The cost and need for technical expertise was simply prohibitive, and ultimately it was felt that the massive legal and expert resources available to the energy companies overwhelmed any consumer position.

In terms of the AER's engagement policy, it is interesting to note the AER has recently revised this policy. The relevant discussion paper elicited just seven submissions, mostly dominated by energy companies, thus reflecting a significant flaw in the AER's process. Either agricultural groups did not know the process was underway or were unable to resource participation.

This submission is not suggesting that the model the AER came up with in broad principle is fundamentally wrong, but it does indicate a significant flaw in the AER's consultation process.

Currently the AER is undertaking a consultation process on network returns, which this group was unaware of until very recently. That is despite the fact that the agriculture sector's long held concerns and complaints about the RAB and its calculation of the asset base and returns available for network companies. This is not necessarily the AER's fault but with our collective organisations' limited staff resources, we are simply not in a position to monitor all activity.

In relation to the pricing determinations process, a further issue on which the Taskforce has long advocated is for an examination of the way the networks present information to the AER during the

pricing determinations. This is critical in being able to set appropriate regulatory allowances. Under the arrangement adopted in the NEM and known as the 'propose-respond' model, network businesses submit their business proposals to the regulator, and the regulator responds accordingly to the proposals. The regulator may wish to accept the proposals; alternatively if the regulator rejects network proposals, the onus is on the regulator to provide a justification for doing so.

This model was advocated by network businesses and adopted by the Australian Energy Market Commission (AEMC) and formalised in the National Electricity Rules. Prior to these rules, under the economic regulation performed by the ACCC (for transmission networks) and state regulators (for distribution networks), the regulators determined the information requirements and businesses responded to the regulator's requests. While the networks also submitted their intentions and proposals, there was no obligation on the regulators to respond to these proposals.

With the onus of proof on the regulator under the propose-respond model, we believe network businesses are afforded an unfair advantage. During the 2010 regulatory decision, demand growth was significantly overestimated by Queensland and acknowledged by them during a forum in 2014 where it was stated that they realised after proposals were submitted that the suggested demand would not expand as they had advised the AER it would.

While the AER has the capacity to ask questions and seek further information from network businesses, the AER does not set the agenda. A change of process is needed where the AER would set the agenda, and the onus of proof placed on network businesses to respond to the regulator's questions.

Consumer engagement by energy network businesses

- *What support do network businesses currently provide to assist consumer participation in revenue determination and access arrangement processes?*
- *How can network businesses facilitate improved consumer engagement in revenue determinations and access arrangement decisions processes?*
- *How can network businesses help build consumers' knowledge skills and capacity to better participate in revenue determination and access arrangement processes?*
- *How can networks demonstrate that consumer engagement they undertake is incorporated into the regulatory determination and access arrangement decision processes?*
- *Under the existing framework, are there sufficient incentives for network businesses to invest in consumer engagement?*

This submission will not seek to address engagement by individual energy network businesses though many of our participating bodies do have a direct involvement in those processes and are able to provide their responses. NSW Farmers and QFF have commented on this in their respective submissions. NSW Irrigators Council is also part of a consultation processes being undertaken by Essential Energy in NSW.

As a general point, these consultations once again involve a substantial amount of work from consumer bodies and we highlight that participant bodies do not have the resources to focus full attention on these issues, separate from what could be described as their core business. While we welcome the high level of activity reflected in the large number of inquiries driven by the Australian Government in an attempt to 'fix' Australia's energy challenges, (Energy White Paper, Energy Markets Governments Arrangements, Finkel Review, ACCC review of retail electricity, LMR etc) we again make the point that the level of participation required by our respective organisations by way of input and comment, requires a significant amount of attention, including understanding the technical detailed required.

From a national policy perspective, the frustration with engagement by energy network businesses is that while they are engaging to develop pricing models, they are mostly working towards a particular approved revenue target. Therefore, for a country energy provider our argument for lower network costs is effectively arguing for some other consumer to cover those costs.

We would support funding being provided by regulated businesses and specifically would advocate funding to support an expert resource to be available to the agriculture sector to assist in this area. This would enable Taskforce members to be better positioned to participate; it would assist our respective Taskforce members in the wide range of consultations and inquiries into the energy sector if funding was available to employ a full-time energy specialist along with having access to funding to secure for expert advice.

In terms of networks demonstrating that they have fully engaged with the agriculture sector, as part of their regulatory determination and access arrangement decision processes, networks should be required to include full and transparent detail of their engagement processes with the sector, reflecting that they have taken into account and fully understand the very specific needs and challenges of the sector.

Coordinated stakeholder engagement across the sector

- *What support can other stakeholders provide to consumer groups to build capacity in energy market issues?*
- *How can other stakeholders help build consumers' knowledge, skills and capacity to participate more effectively in revenue determination and access arrangement processes?*

The Taskforce would welcome greater coordination of stakeholder engagement across the sector. However, participation by way of a physical presence requires organisations to dedicate often scarce resources to attend such meetings. Financial support to do so, through a funding mechanism (whether through Energy Consumers Australia or other) would be welcomed. Similarly, funding support would be helpful to enable our organisations to access expert technical advice when needed.

We welcome the role of Energy Consumers Australia (ECA) in this area and are keen to continue to engage with them and develop cross sector collaboration. In this respect it is important for each sector to understand other needs and priorities but it may also be useful to have some specialised groups/consultations to ensure the specific needs of each group are taken into account, for example:

- the agriculture sector and small business
- general consumers and,
- the social sector.

This approach could assist ECA with their understanding of the specific needs of various groups.

Conclusion

The challenges faced by much of Australia's agriculture sector due to the high cost of energy cannot be overstated. This has a significant impact on Australia's capacity to produce fresh food and fibre and to be a competitive exporter. These challenges come therefore, with very real though currently underrated significance to Australia's capacity to meet its national goals of being a 'food bowl' for Asia - growing the jobs and income from export and continuing to supply our own population with home grown product.

The impact of energy prices on food and fibre production on its own therefore warrants allocation of specific resources to better enable the sector to participate in engagement and consultation processes and to assist the sector in better managing its needs.