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COAG Energy Council Secretariat
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Working for your business.
Working for South Australia

Dear Sir/Madam

I write in response to the COAG Energy Council's request for feedback on the state of consumer participation in revenue determinations and associated regulatory processes.

Established in 1839, Business SA is the state's peak business representative organisation with over 3,500 members across all sectors of industry and commerce. Energy is the now the number one issue impacting our members but we have been directly participating in a range of policy and regulatory processes related to energy costs and reliability for many years. Affordable energy has and will always be a key factor in how competitive our members can be, particularly in export markets but also in domestic markets where competitors come from lower cost jurisdictions.

Part of our commitment to energy costs involves representation on a range of committees including customer reference groups for ESCOSA, SA Power Networks, ElectraNet and Australian Gas Networks, in addition to our representation on the Australian Chamber of Commerce and Industry committees. We also administer an Energy, Water & Sustainability Reference Group of members to ensure our policy positions are adequately informed from businesses most directly impacted by costs and reliability.

Business SA is a not-for-profit organisation which is not government funded and relies on membership fees and commercial services revenue from consulting, training, exports and events. Energy is one of a broad range of issues impacting small to medium sized businesses and Business SA has only one dedicated person to manage energy matters, in addition to a range of other policy matters he is responsible for. Our situation typifies the resource constraints at membership organisations and the reality which much be considered by COAG Energy Council and others as they seek to improve consumer participation in matters of energy policy development and regulation which are by their very nature, highly complex.

While the topic of consumer participation in energy policy and regulatory processes is complex, the overarching goals needs to be simplification of market structures and accountabilities to better enable consumers to participate, not necessarily having to contend with inefficient bureaucracy.

Should you require any further information or have questions, please contact Andrew McKenna on (08) 8300 0000 or andrewm@business-sa.com.

Yours sincerely,

Anthony Penney

Executive Director – Industry and Government Engagement





Responses to consultation questions:

- 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?

R. Often matters relating to energy policy evolve quickly and the grants process can be slow to respond to energy consumers in a manner which enables timely input into either policy debates, or other regulatory processes.

While on one hand COAG Energy Council and others can look at helping consumers to participate, the reality is that the whole market structure and processes, including for development of energy policy, are unnecessarily complex and this should be a priority area, not just helping consumers to adapt to the process which indirectly accepts it will not be improved. For a start, there should be a review as to whether all energy policy would be better situated at a Federal Government level. While this may require an increase in resourcing and expertise, as we increasingly move towards more national energy policies, there is much less need for states to develop their own energy policy and like the AER is currently structured, a new improved Federal energy department could still have a physical presence across the states but would have a uniform decision making process.

- 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?

R. This is a challenging question – remember the more complex the framework becomes, the less likely governments or regulators will get meaningful engagement from consumers. While governments can go further down the path of funding capacity on behalf of consumer representatives, this is a catch 22 as ongoing involvement then relies upon that specific government funding which is inherently at the mercy of government changes.

- What other resources, including non-monetary support programs or funding sources, are currently available to support consumer engagement in the AER's processes?

R. For small to medium sized business, only funding available is through Energy Consumers Australia grants.

- 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?

R. We need to be somewhat careful here in that all these costs will be ultimately borne by other energy consumers. Any funding should be streamlined and given many issues impact across NEM jurisdictions, it makes sense for that to be coordinated on a national level.

○ What do stakeholders consider are the advantages and disadvantages of the proposal?

R. Refer above.



- What are the barriers to effective consumer engagement in revenue determinations and access arrangement processes?
 - R. Asymmetries of information is key barrier and consumer representatives, particularly from SME business perspective, are never going to have the teams of lawyers and consultants on hand to adequately argue every aspect of a revenue determination or access arrangement.
- What are the priority energy issues on which consumer engagement is required across the sector?
 - R. Issues of cost and reliability where the feedback from consumers matters in how the policy or regulation is actually implemented? Consultation should not be a 'tick the box' exercise which only ends up wasting the limited time and resources of consumer representatives. Judgement must be exercised by governments and regulators, with careful consideration of how material likely impacts are on consumers used to gauge to what extent consumers need to be consulted.

In some respects, if regulators are only ever going to take into account expert opinions on key determinants of price outcomes, eg rate of return, then what is the value of consumer engagement?
- 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?
 - R. Difficult as governments or regulators never acknowledge when a consumer representative organisation has influenced their decision.
 - How can improvements to engagement be measured to ensure success?
 - R. Refer above.
- 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?
 - R. It is a combination of both as you need to have a reasonable degree of understanding to even know what to look for from external consultants.

Another issue to consider is that often the most knowledgeable consultants cannot work for consumer representatives because of their conflict of interest with their more profitable industry work.
- What support does the AER currently provide to assist consumer participation in regulatory processes?
 - R. AER staff are quite accessible and the AER is always keen to help consumers understand key issues of regulatory processes and other determinations. Key for consumer representatives is having those more intimate forums with AER where issues can be discussed from a consumer perspective, without other government or energy industry representatives involved.

One thing to bear in mind though is that consumer representatives need plenty of notice to both participate in engagement type processes, and to solicit feedback from our own members to help inform our engagement.
- How can the AER facilitate improved consumer engagement in regulatory processes?
 - R. Refer above.
- How can the AER help build consumers' knowledge skills and capacity to better participate in regulatory processes?



R. Provide more consumable indexes etc. of how priority drivers of price outcomes are shifting over time, for example regulated asset bases. Also push networks to provide better information as to how their cost impacts impact across the consumer spectrum, not just to the average residential consumer.

- What support do network businesses currently provide to assist consumer participation in revenue determination and access arrangement processes?

R. Run workshops and other forums for interested parties to understand where they're going with regulatory determinations and other processes such as tariff reforms.

- How can network businesses facilitate improved consumer engagement in revenue determinations and access arrangement decisions processes?

R. Key is to only engage consumer representatives, or indeed all consumers for that matter, where they are actually going to take on board their feedback, not just to tick a box. Also, network businesses need to realise that time of consumer representatives is quite limited, and as in the case of Business SA, we don't have people dedicated to just respond to energy related policy issues.

Network businesses also need to be very careful in how they rely on 'willingness to pay' and other types of consumer engagement, particularly where respondents may not be as fully informed about the broader ramifications of their responses – or why they may not be asked some questions over others which is typically only obvious to consumer representatives.

Networks need to better understand that gauging consumers preferences gives them an indication of what they prioritise, but it is not necessarily an absolute measure. Ie they may prioritise spending on reliability over improved tree lopping, but it does not mean that on the balance of all the networks' spending, they necessarily want to pay an additional price.

- How can network businesses help build consumers' knowledge skills and capacity to better participate in revenue determination and access arrangement processes?

R. Best approach is to provide as much transparency in relation to costs, impacts etc. to help consumer representatives better understand their proposals and to enable us to, where we believe there is value, procure external expertise to obtain an independent opinion. Network businesses also need to engage in a way which maximises the value of their engagement, ie there is typically a marked difference in background on energy policy issues for consumer representatives versus consumers more broadly and to get the most out of our limited time, we prefer not to have to go back to square one to always accommodate for consumers starting from scratch.

- How can networks demonstrate that consumer engagement they undertake is incorporated into the regulatory determination and access arrangement decision processes?

R. This is an administrative consideration.

- Under the existing framework, are there sufficient incentives for network businesses to invest in consumer engagement?

R. Why does there need to be an incentive if both networks and regulators believe there is genuine value in engaging with consumers? Our member businesses do it to better understand their customers which they need to know for the sustainability of their individual businesses.

- What support can other stakeholders provide to consumer groups to build capacity in energy market issues?

R. Governments need to better recognise that consumer representatives are typically non-partisan and our role is hold governments and regulators to account. There is often a tendency not to consult on key issues relating to energy policy outcomes, particularly from governments themselves, when they might not like the response they get.



- How can other stakeholders help build consumers' knowledge, skills and capacity to participate more effectively in revenue determination and access arrangement processes?
 - R. By ensuring that any material changes are given advance notice and that impacted consumer representatives are contacted directly, with a preference for one on one briefings.

- Is the key issue the amount of resources or the quality of resources for providing effective consumer engagement?
 - R. It is really down to the quality, as organisations such as ours recognise that if funding increases for consumer participation in regulatory processes, that money has to come from somewhere, but we would say the quality has to be improved and there also needs to be some relatively in terms of funding for consumers representative cohorts to ensure there is not an imbalance between business (small and medium), residential, low income etc.

- How successful has the AER's CCP been in contributing to improved outcomes for consumers?
 - R. From Business SA's interactions, the CCP members are typically quite well informed and passionate people about improving cost and reliability outcomes for energy consumers. However, it is hard to judge how much impact these panels are having but that may also be a function of regulators not acknowledging when they have been influenced by a CCP.

- What have been the advantages and disadvantages of the CCP process?
 - R. The advantage of a CCP process is that there are adequately remunerated consumer representatives who have a specific responsibility to pressure test the regulatory proposals of network businesses. However, the CCP process has quite a narrow reach and for example, does not extend to energy policy changes more broadly. One also wonders whether or not the CCP resources would be better focused on broader whole of market issues rather than just specific determinations where much of the decision making is consistent with the way the whole market is treated.