

COAG Energy Council Secretariat  
GPO Box 9839  
Canberra ACT 2601  
[energycouncil@environment.gov.au](mailto:energycouncil@environment.gov.au)

3<sup>rd</sup> November 2017

## THE EUAA

The Energy Users Association of Australia (EUAA) is the peak national body representing major Australian electricity and gas users. Our membership covers a broad cross-section of the Australian economy including significant retail, mining, manufacturing, materials and food processing industries.

The EUAA is a strong advocate for energy users and firmly believe that the primary objective of energy markets should be to serve the long-term interests of the consumer as stated in the NEO and NGO. There can be no doubt that energy users, both large and small are experiencing unprecedented increases in both electricity and gas costs while reliability of the system appears to be in some peril. This situation is clearly at odds with both the NGO and NEO.

Over the last 10 years Australia has given up its comparative advantage in competitively priced, highly reliable energy that has underpinned significant industrial development and employment for many decades. It is inconceivable to think that a country with resources that are the envy of the world cannot deliver competitively priced energy to its own population. If allowed to continue on this trajectory this comparative advantage will be permanently lost and along with it, a majority of energy intensive industry including many industrial, food processing and manufacturing industries.

## CONSUMER PARTICIPATION

We are at a turning point in consumer participation in revenue determinations and associated regulatory processes. For many years consumer trust that the regulatory process will deliver balanced outcomes has been very low as has consumer trust that the energy industry has the customer as a central focus. We have noticed in recent times a willingness of some industry participants to move toward a more customer oriented focus. A number of important factors are working to facilitate a considerable expansion in this participation:

- The general move across all parts of the energy sector to recognise the centrality of the consumer and a genuine re-focus on the National Electricity and Gas Objectives of the long-term interests of consumers.
- AER Chair, Paula Conboy's speech at the July 2017 ENA conference outlining the proposed AER 2.0 approach to move from the highly adversarial approach of the past to build a more constructive working relationship between networks, the AER and consumers
- The joint AER/ECA/ENA work on exploring ways to improve sector engagement and to identify opportunities for regulatory innovation.
- The genuine desire from an expanding number of networks to improve their consumer engagement following reforms in the AER Better Regulation initiative, Consumer Engagement Guideline and, more recently, the development of the Customer Engagement Handbook as part of the Electricity Transformation Roadmap.
- The ending of Limited Merits Review (LMR) appeals so that networks will see the AER network revenue determination process as something real and not simply a step on the way to an appeal.

The EUAA recognised these significant “cultural” improvements and congratulate those industry participants who have shown a commitment to increased consumer engagement. The EUAA would welcome continued improvement in this area with the objective of network operators moving along the spectrum of public participation as described below.

## iap2 public participation spectrum

developed by the international association for public participation

	INFORM	CONSULT	INVOLVE	COLLABORATE	EMPOWER
PUBLIC PARTICIPATION GOAL	To provide the public with balanced and objective information to assist them in understanding the problems, alternatives and/or solutions.	To obtain public feedback on analysis, alternatives and/or decision.	To work directly with the public throughout the process to ensure that public issues and concerns are consistently understood and considered.	To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.	To place final decision-making in the hands of the public.
PROMISE TO THE PUBLIC	We will keep you informed.	We will keep you informed, listen to and acknowledge concerns and provide feedback on how public input influenced the decision.	We will work with you to ensure that your concerns and issues are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision.	We will look to you for direct advice and innovation in formulating solutions and incorporate your advise and recommendations into the decisions to the maximum extent possible.	We will implement what you decide.
EXAMPLE TOOLS	<ul style="list-style-type: none"> <li>• Fact sheets</li> <li>• Websites</li> <li>• Open houses</li> </ul>	<ul style="list-style-type: none"> <li>• Public comment</li> <li>• Focus groups</li> <li>• Surveys</li> <li>• Public meetings</li> </ul>	<ul style="list-style-type: none"> <li>• Workshops</li> <li>• Deliberate polling</li> </ul>	<ul style="list-style-type: none"> <li>• Citizen Advisory committees</li> <li>• Consensus-building</li> <li>• Participatory decision-making</li> </ul>	<ul style="list-style-type: none"> <li>• Citizen juries</li> <li>• Ballots</li> <li>• Delegated decisions</li> </ul>

At present, most network operators tend to work in the inform and consult sectors of this spectrum with a small number working in the involve sector. If deep stakeholder engagement and buy-in is the desired outcome then network operators must strive to move along this spectrum as far as they can in as many areas as possible. Assisting greater stakeholder participation through increased resources, knowledge and understanding builds overall trust in the process and will lead to better outcomes for all stakeholders and participants.

This consumer engagement can be greatly enhanced with a considerable expansion in consumer resources and capability. Some limited increases in resourcing in recent years has helped but the increased demands on consumers means there is still a huge resource (financial and physical) and capability asymmetry between the regulated entities and their customers.

This will not be addressed quickly, irrespective of the funding that might be made available as it can take a long time for someone to acquire the skills to be able to engage with networks or the AER in any meaningful way on network regulation.

Consumer advocates are now faced with a bewildering array of opportunities to participate in development of energy policy and regulation of which network regulation is but one part. Often multiple organisations are investigating the same matter but each with a slightly different view, approach or desired outcome, but all seek consumer input. Every day the EUAA has to make tough decisions on what it will/will not be involved in. Many activities of high value to its members, and consumers generally, have to be passed by. We hear the same experience from other consumer organisations.

To give one example. The EUAA advocated for years about the impact of developing three LNG plants in Gladstone on the price and availability of gas for domestic customers. Many reports downplayed the risks, until the ACCC East Coast Gas report in April 2016. This was very welcome and endorsed what the EUAA had been saying. This has produced an avalanche of reform on the gas market, pipeline regulation and development of the spot market, which is very welcome.

Unfortunately, the EUAA has only been able to participate in a fraction of these activities and in the those it has not been able to participate in, it has effectively relied on the co-ordinating organisations (e.g. COAG GMRG and AEMC) to ensure the outcomes are in the long-term interests of consumers.

Now we are invited to participate in implementation of the Finkel review recommendations and soon the development of the National Energy Guarantee (NEG). While this is welcomed it does not leave much capability and resources for critical long-term issues such as network regulation.

It is our firm view that in the absence of greater resources being made for consumer advocates such as the EUAA, there will have limited opportunity to participate in many critical regulatory processes that are on the horizon. This will necessarily result in two things:

- The organisation focussing on a small number of high priority issues that it believes will have the biggest impact for consumers. This will mean that a large number of important processes will have little to no consumer participation.
- In lieu of greater participation in the process, bodies like the EUAA will have no choice but to raise issues via media and with policy makers directly as the most efficient use of scarce resources.

Neither of these outcomes are desirable but will be the only realistic path available in the face of limited resources and opportunity.

## **SUBMISSION SUMMARY**

The attachment responds in some detail to the specific questions asked in the Consultation Paper with the main points being:

- Current funding resources are only of very limited effectiveness in funding consumer engagement so considerable capability and resources asymmetry exists between consumers and regulated entities
- The limited funding and resource availability is particularly acute for consumers in regional and rural areas
- The EUAA strongly supports detailed consideration of the “purpose built” funding model and provides commentary on scope, amount and source and governance

- The barriers to effective consumer engagement stem from the lack of capability and resources, the nature of the regulatory process and the attitude of the network
- There has been considerable improvement over the last 12 months in the AER's consumer engagement, particularly around the revamped Consumer Challenge Panel. This should continue to be expanded. We provide some ideas on how to further improve the AER's consumer engagement.
- Networks have a widely varying approach to the consumer engagement – ranging from a positive experience that is embraced and facilitated by considerable resources, to a necessary burden or, finally, "...a waste of time and resources"
- The possibility of new funding for consumer participation on regulatory determinations and associated regulatory processes is very welcome. However, it will be most effective if it is seen as part of a long-term strategy to improve consumer advocacy at all levels – small, medium and large energy users. It should not focus solely on AER revenue determinations but be a holistic approach to overall consumer engagement capability and resources across urban, regional and rural areas.
- Much of the knowledge required to effectively engage in AER matters can be applied to engagement with the AEMC, AEMO and other organisations.

As always, we would welcome the opportunity to engage with you further on these issues of critical importance to energy users.

Andrew Richards



Chief Executive Officer  
Energy Users Association of Australia

## ATTACHEMENT – RESPONSE TO SPECIFIC QUESTIONS

### 1. Current funding sources for supporting consumer participation

#### *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?
- 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?

#### *EUAA Response:*

The current public resourcing framework is better than it was a few years ago but still only of very limited effectiveness in funding the required level of consumer engagement.

- While the ECA is the major source of funding for consumer engagement, this is limited to funding for residential and small business consumer advocates as reflected in its charter and the total funds available are relatively small.
- As the Consultation Paper notes, there is also State and Territory Government support for energy advocacy e.g. the NSW Government’s support of PIAC, however this also appears weighted to small consumer representation.
- The AER provides funding for consumer advocacy through the Consumer Challenge Panel, which is also directed to residential and small business consumer representation.
- Networks support various consumer consultation forums for their particular network

As a representative of medium to large energy users, the EUAA has received no ECA funding in recent years. For a number of years prior to the ECA’s establishment, the EUAA did receive around \$200,000 per year funding from the ECA’s predecessor, the Consumer Advocacy Panel (CAP). We understand that advocates for residential and smaller business energy users often find the ECA funding application and progress reporting very complex and time consuming.

The vast majority of funding for the EUAA’s advocacy, capability building and research comes from member contributions.

When the EUAA had access to the CAP funding, The EUAA would spend between \$50,000-75,000 to make detailed submissions on each electricity network revenue reset with a combination of CAP and internal funding. These submissions were substantially undertaken by two main consultants used to ensure continuity of knowledge. Even

with the CAP funding support, the rates we could afford to pay these consultants were well below their market rates and well below the rates charged by the consultants used by the networks. These consultants did the work for the EUAA because they “believed in the cause”.

Following the end of CAP funding, the EUAA stopped providing submissions to individual resets. This was not just because of the lack of funds but due to our experience that our individual network submissions were having little or no impact on the AER’s final decision, because networks considered the AER process simply a stepping stone to a LMR appeal.

Because of these factors, the EUAA’s focus has moved to “network wide” matters such as LMR and COAG Gas Reform of pipeline regulation. These are worthwhile processes to be involved in but still consume considerable resources. With the recent announcements regarding the National Energy Guarantee, there is already a significant call on time and expertise from consumer advocates who will need to draw on a small pool of resources and by necessity, disengage from other important processes.

In our experience, the total level of funding available to all consumers groups from various funding sources (Governments, organisations, members) is a small percentage of the funding that seems to be available to regulated networks and which is paid for by consumers in their network charges. The revealed costs approach to opex regulation means there is no transparent way to understand what that level of funding might be. What we do know is that networks have spent significant funding on LMR and Federal Court appeals in recent years. Consumers have had no involvement in this aspect of network regulation, leaving it to the AER to represent consumer interests. Some years ago, the EUAA did consider intervening in an ACT appeal but quickly found we could not match the resources available from the networks.

While the abolition of the Limited Merits Review (LMR) will improve this situation marginally (as funding for those appeals is now available for advocacy during the revenue determination process), the resource and knowledge asymmetry will still be large.

If networks turn to more Federal Court administrative law appeals in the absence of LMR, then the benefits of the improved funding availability from the abolition of LMR will quickly disappear.

We would warn however, it is not simply a matter of quickly increasing the funding and getting results. Historically low levels of consumer funding have meant that there are now very few people with the requisite skills to engage with the networks in the regulatory process. The significant expansion in demand for consumer engagement means that the same people are continually called upon and are often pulled in all directions.

While this consultation is focussed on consumer advocacy related to the AER’s network regulation, consumer advocates are constantly called upon to participate in a vast range of energy related process by the AEMC, AEMO, Federal and State Governments, COAG initiatives and independent reviews such as the Finkel and Vertigan reviews. Every day the EUAA makes decisions about which matters it will be involved in given it can only participate in a fraction of the matters it is invited to.

It takes time, as well as funding, to equip people with the necessary skills. The lack of long-term funding certainty can mean people who gain the capability have knowledge that is marketable at a price much higher than the consumer group can pay. The lack of long-term funding also prevents the training of sufficient people to create a succession plan when experienced advocates move on.

There needs to be a long-term strategy to improve consumer advocacy at all levels – small, medium and large energy users. It should not focus solely on AER revenue determinations but be a holistic approach to overall consumer engagement capability and resources. Much of the knowledge required to effectively engage in AER matters can be applied to engagement with the AEMC, AEMO and other organisations. It should also ensure

appropriate coverage of consumer interests across urban, regional and rural areas. The EUAA hears many concerns from regional and rural energy advocates that they are forgotten about in the energy debates. Not only do they have limited funds to capacity build, they do not have the funds to participate in many AER/AEMC forums which are traditionally held in Sydney or Melbourne with rare opportunities for video-conferencing or teleconferencing. These advocates also argue that, while the focus on vulnerable residential consumers in urban and regional centres is appropriate, this often means little focus on vulnerable small and medium businesses in regional and rural areas.

The EUAA's experience is that an increasing number of small and large businesses are now vulnerable consumers with the large rises in energy costs. A quick way to create a large number of vulnerable residential consumers is for a vulnerable medium to large energy users to go out of business because of energy costs.

#### Comments on a "purpose built" funding model

The EUAA was involved in discussions earlier this year around a "purpose built" fund to which all regulated businesses would contribute to funding support for consumer participation in AER's determination and access arrangements.

We strongly support further discussion and development of this proposal. Here are some initial thoughts for consideration:

#### *Scope*

- Funds should be available for the broad range of electricity and gas network regulation issues such as:
  - The regular 5 year AER revenue cap processes
  - COAG work such as the Gas Markets Reform Group
  - AEMC reviews and rule changes that impact on networks
  - Representation at various inquiries such as Parliamentary inquiries on network regulation or special purpose inquiries that have relevance to network matters such as the Finkel Review
- Funds should be available to:
  - Increase capability within consumer organisations
  - Employ consultants to provide specialist advice and reports on particular topics – this can be reports designed to educate consumer advocates on particular issues or reports that form the substantive basis of a consumer submission to a particular consultation process
  - Enable continuity in the employment of both in-house and consultant resources
- Capability building is crucial:
  - It should provide on-going internal expertise to assist the consumer organisation in understanding not just individual issues but also their linkages; to understand how a particular issue might impact on the consumer organisation's stakeholders, to understand how to brief and supervise an expert consultant
  - A key requirement for a consultant's appointment is their ability to increase the commissioning consumer organisation's capability

#### *Amount and source*

- While the level of funding available to consumers will never match the funding available to the networks the funds available should ensure consumers can provide a competitive and professional response to networks
  - We would suggest that 25% of the funds spent by networks would be a reasonable start
  - This means there should be more transparency around the funds used by networks in regulatory matters
- There are two potential sources:

- Increase in the existing AEMO levy that finances the ECA
- As mentioned in the COAG Energy Ministers Communique in December 2016 – the networks themselves fund the cost of AER network reviews<sup>1</sup>
- The EUAA is not opposed to any funding being provided by the networks being allowable costs for their revenue cap.
- Consider a three-year rolling funding model with perhaps a mechanism for additional funding to particulate in Federal Court appeals.

### *Governance*

- The governance structure should involve a Board that is representative of all consumer groups – residential, commercial and industrial; small, medium and large; urban, regional and rural.
- There should be two broad categories of funding being;
  - For particular reviews, resets etc, involving specific funding for a specific time period
  - For broader capability building, involving funding to support a staff member for a period of time e.g. 2-3 years that is long enough for the person to build that capability and potentially pass on the knowledge to any successor
- There should be a strong bias in favour of the consumer response being co-ordinated where possible such as one for a particular network revenue reset that combines all the consumer groups in that network’s area; one for consumer participation in major reviews e.g. the forthcoming AER work on a binding WACC guideline
- With a co-ordinated consumer response, there is an important role for the Board and the appointed consultant to ensure wide engagement with relevant consumer groups in preparing any submission as well as in disseminating the outcomes of the particular review process

## 2. The adequacy of current resourcing for facilitating effective consumer participation

### *Consultation questions:*

- 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?

### *Response:*

The barriers stem from the lack of capability and resources, the nature of the regulatory process and the attitude of some network operators. This section focusses on the first two, Section 4 below on the third.

The priority issues are around consumers’ ability to participate in the stakeholder engagement processes of:

- both the networks and the AER during the now 3 year revenue setting determination process

---

1

<http://www.coagenergycouncil.gov.au/sites/prod.energycouncil/files/publications/documents/Energy%20Council%20Communique%20-%202014%20December%202016%20Version%201.0.pdf>

- the AER as it considers specific issues e.g. binding rate of return guideline
- the AEMC as it reviews rule changes on how the AER is to conduct the revenue determination and
- COAG processes that may impact on network regulation e.g. GMRG

Effective consumer engagement is limited by a lack of both the level and quality of resources.

The most effective current way of measuring the impact of consumer engagement on AER revenue determinations are the reports of the Consumer Challenge Panel. There is currently no objective way of measuring the impact of consumer engagement in respect of the other areas e.g. AEMC rule changes impacting on AER regulation. The EUAA has a view on the processes it has been involved in – but these are only a small sample of all the work that is underway.

The EUAA strongly favours the development of an appropriate balance of in-house and consultant expertise, with emphasis on the former, rather than one or the other. In-house expertise is required to ensure continuity, train other staff for succession planning and understand the inter-relationships between various advocacy issues concurrently being considered by the organisation. Consultant expertise is needed to meet specialist needs, help out in peak times and assist in the development of in-house expertise. In-house staff also need to develop expertise in managing consultants.

### 3. The quality of consumer participation processes

*Consultation questions:*

- 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?

*Response:*

Currently the major forms of assistance the AER provides are:

- Funding of the Consumer Challenge Panel (CCP) to provide advice to the AER on the effectiveness of a network's consumer engagement and whether the network's proposal is in the long- term interests of consumers
- The Stakeholder Engagement Framework to guide the AER's engagement process
- Preparation of Issues Papers to assist consumers understanding of sometimes quite complex matters
- Opportunities for attending various forums and provide submissions, and
- Formation of Consumer Reference Groups for major reviews

The CCP is now in its second incarnation following a review of its first. The resources available have been expanded considerably for network reviews, additional sub-panels have been appointed on specific issues e.g. expected inflation and rate of return, and specific members expertise has been drawn on to provide further insights into particular issues e.g. contingent projects. These developments are very welcome and the EUAA believes they will make a significant contribution to improving the Panel's effectiveness. This expansion in scope and resources should continue.

The recent revised Stakeholder Engagement Framework<sup>2</sup> sets out the four key principles that the EUAA supports:

Principle 1 – Communicating in a clear, accurate and timely way

Principle 2 – Being accessible, proactive and inclusive

Principle 3 – Transparent and Accountable

Principle 4 – Measuring and evaluating the effectiveness of our engagement

In terms of the International Association for Public Participation's (IAP2) public participation spectrum<sup>3</sup> of 'Inform', 'Consult', 'Involve', 'Collaborate' and 'Empower', the Framework does not refer to "empower" given the AER retains accountability for regulatory decision making. The current AER/ECA/ENA collaboration will involve greater consumer engagement and may lead to the inclusion of some form of "empower" i.e. influence on the regulatory outcome, in a future AER guideline.

The key issue for the AER is how to develop the skills and capacity of consumer advocates outside the CCP – it is both the amount and quality of resources. Here are some suggestions for further consideration:

*Develop internal/purchase external expertise in consumer engagement to improve the various forums the AER runs on network matters*

Our experience is the AER is very good at content but could improve process. For example, the current AEMO consultation on developing the high level design of a electricity security mechanism (implementing a Finkel recommendation) has benefitted greatly from having an external facilitator runs the process; while the membership of the Working Group developing the design principles was heavily weighted to supply side representatives, the consumer representatives feel that the process ensures a very collaborative outcome that reflects the long term interests of consumers. The AER's consumer engagement activities would benefit from having access to greater internal consumer engagement expertise.

*Provide more funding support for participation of consumer representatives from regional and rural areas*

AER consultation forums are rarely held outside of capital cities. Video conferencing or teleconferencing facilities are rarely available due to logistical difficulties. The best way for these representatives to increase their ability to productively participate in the AER processes is to actually start participating in them face to face. Yes, travel expenses would be welcome but this assume the representative has an independent funding source to pay for their time. The limits on ECA and other funding sources discussed above mean that this is rarely the case.

*Expand the use of Consumer Reference Groups and resource them appropriately*

CRGs have been used in the past and are now re-appearing. It is fair to say that they are a "work in progress". The first one formed for the current Inflation review did not really function as intended.

The recent formation of the CRG for the development of the binding WACC guideline seeks to learn from that experience. It is encouraging to see the stated willingness of the AER to devote resources to assisting members to understand the issues under consideration. The matters to be considered are very complex and it remains to be seen how detailed the CRG's involvement will be. The willingness to pay travel costs and sitting fees for face to face meetings is welcome. However, no matter how many resources the AER provides to assist members understand issues, there will be a limit on the ability of members to devote time to the CRG in the absence of a sitting fee payment.

<sup>2</sup> <https://www.aer.gov.au/system/files/AER%20-%20final%20decision%20-%20Stakeholder%20Engagement%20Framework.pdf>

<sup>3</sup> <https://www.iap2.org.au/Home>

Consideration of additional AER funding for travel and sitting fees should be considered in the context on the “purpose built” fund discussed above. Consumers are less concerned about whether the funding to enable their active participation comes from – just that it is available.

On a more medium-term perspective, it will be interesting to see how the AER/ECA/ENA Regulatory Innovation Project develops. This offers the potential for a fast track network revenue determination with much more direct consumer involvement through an Early Engagement Process. We await to see how the proposed trial progresses. The outcome of this current process will need to take account of the potential development of much more “consumer intensive” regulatory processes that may flow from the RIP.

#### 4. Consumer engagement by energy network businesses

##### *Consultation questions*

- 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?

##### *Response*

Network support to consumers takes a number of forms, e.g.

- Their attitude and approach to consumer engagement e.g. do they see it as a positive experience, a necessary burden or a waste of time?
- How early they start the process for the next revenue determination?
- How they support consumer participation - with education/capacity building and funding?

Networks’ Stakeholder Engagement Plans include a variety of means e.g.:

- Formal stakeholder engagement processes e.g. Customer Councils/Forums which meet regularly and are informed and consulted – these exist in an ongoing basis and cover all forms of engagement including the revenue reset process
- Specific purpose groups looking at particular topics e.g. a pricing committee formed to engage with a network as they develop their Tariff Structure Statement for a regulatory reset
- One-off deliberative forums examining a particular user group or issue

While there has been a significant change in approach of many networks in recent years to improve the quality of their consumer engagement, there is still a wide variety of approaches. In terms of the International Association for

Public Participation's (IAP2) public participation spectrum<sup>4</sup> of 'Inform', 'Consult', 'Involve', 'Collaborate' and 'Empower', most are at the involve stage, some at collaborate and a small number are only at inform.

This varied approach can be seen in recent Consumer Challenge Panel reports.

CCP 11 made the following comments on the Australian Gas Networks revenue reset/access arrangements for 2018-2022:

“AGN prepared and executed a comprehensive Stakeholder Engagement Strategy to inform the development of its Victoria and Albury Access Arrangement (AA) 2018-2022 proposal. Engagement activities commenced in November 2015 and included the establishment of two dedicated reference groups, and the conduct of a series of customer and stakeholder workshops.

CCP11 welcomed the care taken by AGN in the Final Plan to lay out very clearly within each section of its proposal document how stakeholders had been engaged on that topic and how the engagement had informed their approach.

A highlight of AGN's stakeholder engagement program was the release of a Draft Plan on 5 July 2016, 6 months in advance of the date for lodgement of AGN's AA proposal. This was the first time that a gas distributor has released a draft of their entire proposal. We commend AGN for this important initiative.

AGN has stated that 'Our overarching objective is to submit a plan that delivers for customers, is underpinned by effective stakeholder engagement and is capable of being accepted by the AER.'

Overall, CCP11 considers that AGN has clearly met its objective of presenting an Access Arrangement Proposal which is underpinned by effective stakeholder engagement. AGN has now established a solid foundation and track record for effective stakeholder engagement.”<sup>5</sup>

By contrast, CCP 11 made the following comments on the Ausnet and Multinet revenue determination and access arrangements for 2018-2022:

CCP11 is of the view that AusNet has not effectively engaged with stakeholders to discuss and seek feedback on those plans.

Apart from participation in the AER Public Forum, Multinet elected not to undertake any stakeholder engagement on the AER Draft Decision or its revised access arrangement. This was explained to be because of Multinet's intention to accept the AER's decision in large part, anticipating only minor changes in the Revised Proposal.

CCP11 considers Multinet's stakeholder engagement during this phase of the access arrangement review process to be ineffective.<sup>6</sup>

<sup>4</sup> <https://www.iap2.org.au/Home>

<sup>5</sup> <https://www.aer.gov.au/system/files/Consumer%20Challenge%20Panel%20%28CCP%2011%29%20-%20Response%20to%20proposals%20from%20AGN%2C%20AusNet%20and%20Multinet%20for%20the%202018-2022%20Access%20Arrangements%20-%203%20March%202017.PDF> p.5

<sup>6</sup> [https://www.aer.gov.au/system/files/CCP%2011\\_Distribution\\_Final%20Advice%20to%20AER%20following%20Draft%20Decisions%20and%20Re...\\_1.pdf](https://www.aer.gov.au/system/files/CCP%2011_Distribution_Final%20Advice%20to%20AER%20following%20Draft%20Decisions%20and%20Re..._1.pdf) p.5-6

The final example comes from the current review of access arrangements for APA’s Victorian gas transmission system. The draft AER decision criticised the lack of APA engagement.<sup>7</sup>

APA’s submission in response<sup>8</sup> argues that the AER’s push for greater stakeholder engagement is driven by the situation for gas and electricity distribution where a large number of customers have traditionally been disengaged with their customers. By contrast, gas transmission has a small number of large shipper with long term direct contracts with APA. APA argued that this means there are close long-term relationships between APA and its customers independently of the revenue reset process – some of these customers have contractual relationship with APA for pipeline services on pipelines not under regulatory review – and this drives a continual customer engagement process.

APA argued that it was not necessary to engage with end use gas customers because the impact of its proposal on transmission costs would result in an increase of only ~\$3/yr. in end use customers’ bills:

“APA VTS understands that consumer groups have limited resources and, in the context of the significant energy price rises that are currently occurring that are driven by changing costs in other parts of the energy supply chain, this access arrangement revision process is not one that they have indicated that they are interested in engaging with.”<sup>9</sup>

Leading to their conclusion that:

“APA VTS is firmly of the view that the AER’s (and consumer panel’s) expectation of public consultation on gas transmission business proposals is unrealistic and would ultimately be a waste of time and resources. It would be a very poor outcome if it replaced actual engagement that occurs between APA VTS and various shippers on an almost daily basis.”<sup>10</sup>

So, APA seems to be arguing that they should not engage with consumer groups because consumer groups have insufficient resources to engage. This is a stark illustration of the problem consumer groups face in engagement in regulatory matters and why they need additional funding.

CCP11 challenged APA’s assertion. The CCP argued that it (and the AER) expect APA will develop and execute a Stakeholder Engagement Plan and undertake stakeholder engagement as an on-going business-as-usual activity. This involves responding to the large number of residential, small business and industrial customers. As they note:

“Ultimately, it is these customers who provide a significant proportion of APA’s revenue. It is important that APA understands and responds to the needs of these customers, as well as to the needs of the 25 direct customers of the business. This is the intent of the AER’s Consumer Engagement Guideline.”<sup>11</sup>

A proposed small change in transmission costs is not a reason for no engagement. Consumer groups wanted transparency and considered that they had been rebuffed by APA. Electricity transmission companies similarly have

<sup>7</sup> <https://www.aer.gov.au/networks-pipelines/determinations-access-arrangements/apa-victorian-transmission-system-access-arrangement-2018-22/draft-decision> 6 July 2017

<sup>8</sup> APA “Victorian transmission system access arrangement revised proposal – submission response to draft decision” 14 August 2017 <https://www.aer.gov.au/networks-pipelines/determinations-access-arrangements/apa-victorian-transmission-system-access-arrangement-2018-22/revised-proposal>

<sup>9</sup> Ibid p.8

<sup>10</sup> Ibid

<sup>11</sup>

[https://www.aer.gov.au/system/files/CCP11\\_Transmission\\_Final%20Advice%20to%20AER%20following%20Draft%20Decision%20and%20Revi....pdf](https://www.aer.gov.au/system/files/CCP11_Transmission_Final%20Advice%20to%20AER%20following%20Draft%20Decision%20and%20Revi....pdf) p.9

a relatively low number of customers, but they have developed effective consumer engagement programs. The CCP also found evidence that there was not a close engagement between APA and its direct customers.

The CCP concluded:

“Overall, CCP11 considers that APA’s engagement with its Victorian end-use consumers has been inadequate and ineffective.”<sup>12</sup>

The EUAA’s experience is that the willingness of networks to expand their consumer engagement has increased significantly in the last 1-2 years because they see it as good business practice. Some are now starting this engagement 12-18 months prior to their submission of their Framework and Approach which is the first formal milestone for electricity networks in their revenue reset process.

The early start is welcome but for it to be effective consumers need resources and capability to effectively participate. Network Consumer Committees can be involved in a review proposal for 2-3 years. This significant time commitment is impossible unless the member’s organisation has the financial ability to support participation. Most do not. Sometimes members from outside the capital city of the network receive travel costs, but this still means their organisation has to fund their working time.

The final consideration is whether there should be real (i.e. financial) consequences from the failure of a network to meet at least a minimum standard of consumer engagement. This is a matter that deserves further consideration.

## 5. Coordinated stakeholder engagement across the sector

### *Consultation questions*

- 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?

### *Response*

It was noted above that the support for consumer engagement should also include the AEMC rule change processes associated with the AER regulatory process. Consumer involvement in the consideration of these rule changes is usually very low with submissions and discussion forum attendance dominated by the supply side stakeholders.

Historically retailers have taken little if any role in the AER revenue determination process. Network costs were simply regarded as a pass through over which the retailer had no control. Now the move towards cost reflective network prices and Tariff Structure Statements, means that the retailer has a central role to play. They are the party that gets to decide how the cost reflective network prices provided by networks are passed on to consumers.

This highlights the need to take a holistic approach to consumer engagement. Consumers need to increase their resources and capability across the whole energy supply chain. The AER, networks, AEMC, AEMO, retailers, Governments etc. all have a role to play in a coordinated approach.

---

<sup>12</sup> Op cit p. 10