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Manager – Energy Market Reform Team
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Dear Sir/Madam

Development of a National Framework for Distribution and Retailing Issues Paper

Thank you for the opportunity to comment on a Development of a National Framework for the Regulation of Electricity and Gas Distribution and Retailing Issues Paper.

The attached brief submission is provided for discussion purposes in the expectation that the Ministerial Council on Energy will continue the consultation process with all stakeholders on the recommendations made as the result of the Issues Paper.

Please contact me on 96135120 should you require any additional information.

Karen Piper
Manager
Concessions Unit



Department of Human Services' Submission to the Development of a National Framework for the Regulation of Electricity and Gas Distribution and Retailing Issues Paper (D&R Issues Paper)

This submission responds to the Development of a National Framework for the Regulation of Electricity and Gas Distribution and Retailing Issues Paper released in August 2004 by the Ministerial Council on Energy (MCE).

Background

The Department of Human Services (DHS) is responsible for managing the delivery of State Government concessions which are designed to improve affordability of key services to low-income households.

Key services are defined by reference to their importance to health, well-being and the impact on the household budget and include energy, water, transport, health and housing related services.

In the energy sector, current Government policy is to provide concessions on energy bills to eligible low-income households to reduce the cost of electricity and/or gas consumption and one-off grants to customers facing financial hardship.

It is estimated that 674,000 Victorian households received the energy concessions in 2003/04 to the total of \$95.9 million.

The energy concessions and grants are delivered through private energy retailers as Community Service Obligations (CSOs). This type of obligation exists when Government expressly requires a business enterprise to carry out an activity which it would not elect to provide on a commercial basis.

The rules and procedures governing the delivery of the energy concessions are described in Community Service Obligations Agreements.

The Agreements outline the type of services to be delivered, eligible recipients of those services, fraud control measures and information dissemination obligations. They also define terms under which retailers are reimbursed for the cost of the community services and the cost of administering the community services.

The DHS is responsible for managing the Agreements and monitoring the retailers performance in relation to the concessions delivery.

The current regulatory framework which underpins community service obligations provision is based on the following documents:

- Electricity Industry Act 2000 and Gas Industry Act 2001
- Electricity and Gas Retail Licences
- Energy Retail Code 2004

Electricity Industry Act 2000 and Gas Industry Act 2001

The Acts establish the broad regulatory framework by describing the Community Services Agreements and determining powers of the Secretary to the Department of Human Services in the context of Community Services.

Electricity and Gas Retail Licences

An Energy Retail Licence imposes on the Licensee the obligation to enter into an agreement with the State for the provision of community services on terms and conditions determined and agreed in accordance to the Electricity and Gas Acts.

Energy Retail Code

Each retailer must observe a number of industry rules and codes which set standards of energy supply and service. The most relevant code for the provision of community services is the Energy Retail Code 2004 which details minimum and safety net terms and conditions for Victorian gas and electricity consumers.

The Code specifically requires retailers to provide information regarding the availability of concessions and grants.

It also contains other provisions which are of particular importance in protecting low-income and disadvantaged customers, including:

- Credit Management, including refundable advances, shortened collection cycle, payment difficulties and instalment plans.
- Disconnection of supply, including grounds for disconnection and no disconnection.
- Complaints and dispute resolution
- Privacy and confidentiality

The DHS would like to contribute the following comments on issues of interest raised in the paper which are relevant in the context of community service provisions.

The DHS understands that the separate jurisdictional systems for regulating distribution and retailing for electricity and natural gas may create inefficiencies and increased costs for industry participants and consumers. Furthermore, differences in the rights and obligations imposed on industry participants may impede the development of a truly national energy market.

The objectives for energy market reform, in particular, the objective to promote the long-term interest of consumers with regard to price, quality and reliability of electricity and gas services, are strongly supported.

Issue 6 – Interaction of Australian Energy Regulator (AER) with Other Bodies (p.31)

Currently a memorandum of understanding exists between the Essential Services Commission and the DHS describing in detail the consultation and exchange of

information requirements. The DHS would strongly support a development of similar memorandum of understanding between the AER and the DHS.

Issue 11 – Suggested Licence Conditions (p.53)

Contents of Licences

Where feasible, the establishment and development of uniform regulatory requirements and instruments that are to apply to electricity and gas retailers and distributors across each of Australian States and Territories is supported.

It is agreed, in principle, that the reallocation of particular provisions, which would reflect the necessary degree of certainty and flexibility required in relation to the subject of the relevant provisions (legislation, regulation, licences, codes, rules and guidelines) would improve the current regulatory regime.

The view that only fundamental, largely generic, obligations are to be retained as suggested licence conditions, providing there is a capacity to deal with jurisdiction-specific matters through additional mechanisms is supported.

The key principles underlying the changes and the suggested reallocation of provisions as described in Appendix 1, and the resultant licence descriptions contained in Appendix 2 are also supported.

The proposition that jurisdiction-specific differences should be accommodated and contained in a jurisdiction-specific licence schedule as a repository of such conditions is preferred.

The following matters could be covered in the schedule:

- Payment methods
- Dispute resolution scheme
- Retailer of last resort
- Provision of community service type obligations.

A separate consultation process involving relevant stakeholders would need to be undertaken before any future re-evaluation of the rights and obligations that are currently imposed on energy retailers.

Issue 20 – Single Consumer Protection Code (p.66)

In principal, the development of a single consumer protection code is supported. The possible content of consumer protection code, as described in Table 9, is being considered as a good starting point.

However, any future code would need to offer the same minimum set of conditions as currently provided by the Energy Retail Code to ensure that low-income and vulnerable customers continue to be protected.

An independent consultation process of stakeholders would be required before the details of a single protection code were to be finalised.

Issue 25 – Community Service Obligations (p.71)

The current regulatory framework for the provision of community service obligations where those obligations are enshrined in the relevant legislation and are imposed as the licence condition would need to be maintained. Linking the community obligations to legislation, licence and a code ensures that consistent benefits are delivered to concession customers, the services can be monitored regularly and there is a capacity to enforce the delivery of consistent services across the energy industry.

Conclusion

The development of a national framework for electricity and gas distribution and retailing is supported. However, it is recommended that before any changes to the regulatory framework are implemented further consultations on the details of the proposed new regulatory regime should be undertaken to ensure that the interest of all domestic customers, in particular, low-income and vulnerable customers are being protected.