

6 August 2009

Manager, MCE Secretariat,  
Department of Industry, Tourism and Resources  
GPO Box 9839

By email: [MCETMarketReform@ret.gov.au](mailto:MCETMarketReform@ret.gov.au)

Dear MCE Secretariat,

**Submission on the Second Exposure Draft of the Amendment to the National Electricity Law in Relation to Smart Meters and the Draft Initial Rule**

The Consumer Utilities Advocacy Centre Ltd (CUAC), an independent consumer advocacy organisation, established to ensure the interests of Victorian consumers, especially low-income, disadvantaged, rural, regional and indigenous consumers are effectively represented in the policy and regulatory debate on electricity, gas and water.

We welcome the opportunity to provide feedback on the smart meter National Electricity Law (NEL) second exposure draft and the draft initial rule. CUAC is a member of the National Smart Metering Program (NSMP) Regulatory Working Group (RWG). The RWG has through its sub-group of retailers, distributors and consumers made a National Stakeholder Steering Committee (NSSC) submission on the smart meter NEL second exposure draft and the draft initial rule to the MCE Secretariat. In this individual submission, CUAC would like to raise particular concerns to the MCE Secretariat.

**Legislative package is immature**

CUAC strongly supports deferral of the legislative package as it is premature in the light of the uncertainties arising from the still to be developed regulatory framework (this includes the matters that are yet to be reviewed by the AEMC, the definitions, cost recovery etc). It is highly likely that if the legislative package is progressed, amendments will be required later, once there is more clarity regarding the regulatory framework. There is also the risk that any legislation enacted now, may constrain the drafting of supporting legislative instruments which normally would give effect to the legislative intent of the primary legislation.

However, if the package is to be pursued, CUAC believes it should be limited to the pilot trials and assessments and not the roll out.

### **Retailer cost recovery**

CUAC supports the development of a nationally consistent model that allows retailers to recover costs incurred directly as a result of their participation in pilots and trials, and later for their participation in a roll out. CUAC is of the view that smart meter infrastructure (SMI) related retailer costs must be independently assessed, the costs must be SMI-specific, and that the cost recovery process must be transparent and subject to scrutiny. Costs and resulting pass through for the roll out must also be thoroughly assessed in advance.

### **Transition in specifying smart metering services**

CUAC strongly supports prescribing a date by which all smart meter services which are the subject of the Minister's determination are to be activated or provided. Consumers will be paying for the smart meters some time before this date and it is fair and reasonable that they are aware of the timeframe in which they can expect to receive these services. CUAC recommends that there should be penalties in place for non compliance with the stipulated timeframes for smart meter service provision.

### **End date of amendments**

It is CUAC's view that there should be a mandatory review of the NEL in 2020. This acts as a safeguard against Ministers continuing to hold powers indefinitely, that is, beyond the period necessary to achieve the policy objectives of the roll out.

### **Consultation provisions**

It is unclear why the consultation mechanism, for a Ministerial pilot determination (s 118C NEL) is different and weaker than the provision in s 118 F, NEL on the Ministerial smart meter roll out metering determination. s 118C grants the Minister the discretion to consult with a person or body 'that the Minister considers has an interest' in the pilot determination. s 118F, however, obliges the Minister 'to consult with the public' before making a smart meter roll out metering determination.

CUAC urges the MCE to develop stronger consultation mechanisms and to establish a framework within which consultation is to take place. CUAC is of the view that there should be an obligation on the Minister to consult interested persons (which should include retailers, distributors, consumer groups) in relation to the pilot determination. CUAC is also of the view that the consultation provisions for both the pilot and roll out determinations are inadequate.

If you have any queries on the above, please do not hesitate to contact me on (03) 96397600.

Yours faithfully



Deanna Foong  
Senior Policy Officer