



**Consumers and electricity privatisation in NSW:
Submission to the NSW Electricity Consultative
Reference Committee**

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Introduction

Public Interest Advocacy Centre

The Public Interest Advocacy Centre (**PIAC**) is an independent, non-profit law and policy organisation that identifies public interest issues and works co-operatively with other organisations to advocate for individuals and groups affected.

PIAC seeks to promote a just and democratic society by making strategic interventions on public interest issues in order to:

- expose unjust or unsafe practices, deficient laws or policies;
- promote accountable, transparent and responsive government;
- encourage, influence and inform public debate;
- promote the development of law—both statutory and common—that reflects the public interest; and
- develop community organisations to pursue the interests of the communities they represent.

Energy + Water Consumers' Advocacy Program (EWCAP)

This Program was established at PIAC as the Utilities Consumers' Advocacy Program (**UCAP**) in 1998 with NSW Government funding. The aim of the Program is to develop public policy positions and advocate in the interests of low-income and other residential consumers in the NSW energy and water markets. PIAC receives policy input to this work from a community-based reference group.

NSW Electricity Consultative Reference Committee Inquiry

PIAC appreciates the opportunity to make a written submission to the Consultative Reference Committee. This submission provides:

- recommendations to the Committee on how to safeguard the public interest in the current privatisation process;
- responses to the 12 criteria to be examined by the Committee in assessing the impact of the plan, including recommendations for protecting consumers, encouraging sustainability and restructuring the industry; and
- a brief discussion of the question of whether the public interest would be better served by selling the retailers, but retaining the generators in public hands.

PIAC's submission largely reflects the report it commissioned from the Institute for Sustainable Futures at the University of Technology, Sydney in late 2007, *Electricity Supply in NSW: Alternatives to Privatisation (the ISF Report)*¹, which has been provided to all Committee members and which constitutes Appendix 1 of this submission. In this report, the Institute analysed the September 2007 report for the NSW Government prepared

¹ The report is available on the PIAC website www.piac.asn.au/publications/pubs/isf101207_20071210.html and in hard copy on request from PIAC, by e-mail to piac@piac.asn.au.

by Professor Anthony Owen, *Inquiry into Electricity Supply in NSW (the Owen Report)* and explored several alternative scenarios for securing the future energy supply of NSW.

Due to the short time frame allowed, PIAC's recommendations are relatively brief, but can be elaborated on in further discussions with the Committee.

The Government's approach to privatisation

PIAC has a number of concerns about the process implemented by the NSW Government to progress its plans to privatise aspects of the NSW energy market. Of particular concern has been the lack of transparency and accountability to the NSW public, the lack of effective community consultation and the hasty processes being implemented.

For the reasons outlined below and in previous commentary on the proposed privatisation², PIAC does not consider this an appropriate time to lease the State-owned electricity generators and sell the retailers. At the very least, the process should be delayed until after the Consultative Reference Committee delivers its report to the Government. Even more critically, given that the Government has no electoral mandate for electricity privatisation it should be debated in Parliament and the public should be actively engaged—for example, through community forums around NSW.

Even if the argument that a new baseload power station is needed by 2014 is accepted, there is no evidence that a more expansive and inclusive consultative process would render its construction and commissioning impossible by that time.

It is unclear what steps the Government has already taken to implement its privatisation plan, other than setting up the current Committee. As the process is likely to be somewhat protracted, there should be a range of measures implemented as a matter of urgency to ensure public accountability and transparency. These include:

- More time should be granted to the Committee for its inquiry and to the public to make submissions to the Committee's inquiry.
- The establishment of a dedicated website with all relevant information and a central point of contact for media and related enquiries.
- Public disclosure of what contracts and other arrangements have already been entered into with financial and legal advisors.
- All current and future contracts should be publicly available, with no exclusions for so-called commercial-in-confidence information.
- The Committee's hearings should be recorded and made available to the public.
- A timetable for the privatisation process should be made available on the dedicated website referred to above.

² See articles by PIAC staff at www.onlineopinion.com.au (9 January 2008) and www.newmatilda.com (29 January 2008).

Response to the Committee’s criteria for impact assessment

1. The direct and indirect social usefulness of a public asset, service or utility

The market for electricity is in many ways unique. Electricity is an essential service used by all consumers across Australia. Except in rare and exceptional circumstances, a regular connection to electricity supply is not discretionary or optional. Electricity supports fundamental human needs including safe food (storage, preparation) and safe shelter (hygiene, lighting, temperature control). Electricity supports equipment that is critical to wellbeing and independence (health, communication). Beyond these fundamentals, electricity supports community engagement and family life (social interactions, employment and education).³

PIAC’s research has shown that those who are disconnected from utility services suffer significant psychological distress, with increased feelings of anxiety and isolation. Not having access to the utility service led to a range of other problems, such as an inability to use medical equipment, the raising of fire hazard levels, and harming children’s education.⁴

It is therefore evident that this public asset is of fundamental social usefulness.

Historically the NSW Government has taken responsibility for delivering this service and has built up a wealth of infrastructure, paid for by taxpayers and electricity consumers. If the Government wishes to sell these assets, the onus is on it to justify the sale as being in the public interest—both in the short and long term—and to ensure that standards of consumer protection and environmental sustainability as well as safety and security would be at least commensurate with those that currently apply. For the reasons discussed below, in PIAC’s view it has not done so.

2. The original purpose of the enterprise and whether that purpose remains valid, is being appropriately addressed through existing arrangements or could be satisfied by alternative arrangements;

and

3. Where the original purpose (as discussed above) has become redundant, the other social, redistributive or regulatory roles that have evolved must be taken into account;

Under section 8 of the *State Owned Corporations Act 1989* (NSW) (**the SOC Act**), the objectives of State Owned Corporations are not only to be successful businesses, but also to ‘exhibit a sense of social responsibility’, to ‘conduct ... operations in compliance with the principles of ecologically sustainable development’ and the ‘exhibit a sense of responsibility towards regional development and decentralisation’.

By contrast, under section 125 of the *Corporations Act 2001* (Cth), private companies are limited by their own constitutions, developed by shareholders and company directors (consistent with that Act), and are therefore

³ National Consumer Roundtable Energy, *Charter for the Principles of Energy Supply*, November 2006.

⁴ S Ross, A Wallace & D Rintoul, *Cut Off: The impact of utility disconnections* (2005), report prepared by Urbis Keys Young for the Public Interest Advocacy Centre., 19-21.

responsible above all for delivering good financial outcomes for shareholders. Any social or environmental objectives they choose to adopt are not mandated and remain largely unregulated.

As indicated in Criteria 1, the delivery of electricity plays an integral part in promoting the welfare and wellbeing of the community. PIAC believes that SOCs, with their broader objectives guidelines, are better placed than private companies to ensure the original purpose.

Indeed, the original purposes for the electricity industry being in public hands are becoming more important with the increasing need to consider the greenhouse and other environmental impacts of the electricity industry; and because a carbon price is likely to lead to substantially higher retail prices in coming years. PIAC therefore considers that Government ownership continues to be appropriate for the electricity industry.

4. The retention value of the enterprise measured against its sale value. Any calculation of retention value should incorporate both commercial and non-commercial functions;

The Government-owned generators and retailers in NSW currently provide the Government a significant income in the form of dividends and tax payments, currently amounting to around \$1.7 billion per year.⁵ The Owen Report suggested that the sale value of the electricity assets could be around \$10 billion.⁶ Therefore the retention value would be greater than the sale value within six years of the date of sale of the electricity assets. This suggests that selling NSW electricity assets is not in the long-term interests of the State, taxpayers or consumers.

Further, much has been said about privatisation allowing the NSW Government to avoid the cost of investing in the industry. However, there are significant doubts about the real cost of the new investment needed to ensure the long-term viability of the industry, with the ISF Report suggesting it could be as low as \$4 billion, comprising \$2 billion for a combined cycle (baseload) gas plant and \$2 billion for the retailers to acquire peaking plants.⁷

Avoiding risk to NSW taxpayers through losses on hedging contracts has been argued as another reason for the Government to divest itself of electricity assets. However, privatising the risk does not avoid the fact that consumers will pay for higher prices on the spot market no matter who owns the assets. If either the Government or private companies are sufficiently vertically integrated to cover most of their demand, the price they charge and/or pay each other is largely irrelevant, and any losses are paper losses only. This is, in fact, a good reason to retain public ownership, as the wider spread of generators and retailers means the risk is spread.

Investment in new infrastructure will need to take place regardless of whether or not the industry is privatised. The people of NSW will eventually pay for that infrastructure investment, either as taxpayers or as consumers. The question is what approach provides the best deal for consumers. As discussed in the Unions NSW submission to the Owen Report, governments generally have access to credit at better rates than private companies.⁸ This suggests that it is in the best interests of residential consumers for the NSW Government to be responsible for the investment and to retain the benefit of the new infrastructure.

⁵ Total profits for Eraring, Delta and Macquarie in 2006/07 were \$589 million, according to a document released by WorkingNSW on 25 January 2008 and compiled from the companies' financial reports. Total payments from SOCs to the Government were \$1,203 million, according to NSW State Government Budget Papers.

⁶ Professor Anthony Owen, *Inquiry into Electricity Supply in NSW* (2007) 6-27.

⁷ Institute of Sustainable Futures, *Electricity Supply in NSW: Alternatives to Privatisation* (2007) 19.

⁸ Unions NSW: *Submission to the Owen Inquiry into Electricity Supply in NSW* (2007) 8.

Thirdly, the NSW Government has the responsibility for the provision of this essential service. Outsourcing the means to provide this service will not remove this responsibility. In other words, profits may be privatised, but much of the underlying risk remains with the Government. In other jurisdictions, relying on private enterprise and investment to provide essential infrastructure has not had favourable outcomes for governments and consumers. For example, in 2001 the Government of California was forced to make substantial emergency investments into the electricity industry due to failures by the private electricity supply companies to ensure the integrity of the market.⁹

Finally, analysts have suggested that the Government will be under considerable pressure to offer indemnities to buyers of the State's electricity assets; for instance, indemnities against future carbon cost liabilities have been estimated at \$15 billion.¹⁰ In recent infrastructure developments, the NSW Government has provided contractual terms designed to ensure the profits of private companies at the expense of the public interest.¹¹ The more attractive the sale conditions for new private sector investment, the higher the long-term costs that could be incurred by NSW taxpayers.

5. The current structure of the market place, ie, monopoly, oligopoly or competitive, and the public sector's role as a competitor and/or regulator in that market

Serious problems arise when naturally monopolistic services are in private hands. Experience from the United Kingdom has shown that despite many retailers entering the electricity market after privatisation and deregulation, over time the market has consolidated so that six companies control 98% of the retail market. This illustrates the naturally monopolistic tendencies of electricity markets.

Currently, EnergyAustralia (**EA**) and Integral Energy (**IE**) retain about 80 per cent of retail market share in their supply areas. The market is concentrated even more heavily in regional areas, with Country Energy (**CE**) controlling 97% of the market in its standard supply area.¹² Should these SOCs be sold to the private sector, the new owners would immediately have significant market share. While changing market conditions could lead to more entrants and competition in the longer term, in the short term there is a strong possibility of anti-competitive behaviour. As previously discussed, SOCs have broader social responsibilities and are therefore better placed to provide the necessary protection for consumers against being exploited by the electricity market.

In the longer term, the introduction of a carbon price, energy efficiency measures and other responses to climate change will substantially increase the retail price of electricity. Whether or not the retailers and generators are sold, the electricity industry will therefore need to be restructured so that retailers can develop business models that encourage consumers to conserve rather than consume energy.¹³ This will be a long, costly and complex process but is critical to efforts to combat climate change and will be forced on NSW by

⁹ S Beder, *Power Play* (2003) 120.

¹⁰ The Australia Institute, *Carbon liabilities of NSW Electricity Generators*. Research Paper No. 51 (2008) 3.

¹¹ For example, the owners of the Cross City Tunnel are indemnified by the Government if public transport improvements lead to a loss of revenue: see <http://www.news.com.au/couriermail/story/0,23739,19513793-5003660,00.html>.

¹² Independent Pricing and Regulatory Tribunal (**IPART**), *Regulated electricity retail tariffs and charges for small customers 2007 to 2010 - Final Report and Determination* (2007) 33 & 34.

¹³ Companies with this business model are referred to as Energy Service Companies (ESCOs).

Federal initiatives (especially the National Emissions Trading Scheme [NETS] and the Mandatory Renewable Energy Target [MRET]) as well as the State's own greenhouse emissions target.

Much of the cost of this transformation will be paid for by consumers. However, given the increasing urgency of making significant reductions in emissions, it is likely that the costs will be lower if work begins on industry restructure sooner rather than later.¹⁴ Indeed, restructuring the industry to focus more on energy efficiency may have financial advantages for consumers, by reducing energy bills and making distributed generation (eg, rooftop photovoltaic [PV] panels and feed-in tariffs) more attractive.

It will also be necessary to regulate the retail industry to encourage a change of business model; for instance, by introducing a NSW or national energy efficiency trading scheme, perhaps similar to the Victorian Energy Efficiency Trading Scheme (VEET) to be introduced in 2009.¹⁵ Since such schemes inevitably result in higher costs to consumers, PIAC will endeavour to ensure that low-income and other vulnerable consumers are not disadvantaged in this process.

6. The impact on specific groups or regional areas especially those groups or areas that are already disadvantaged. The assessment should include all factors including the real costs of compensation and/or support that will be needed if the role of the public sector were to change

Customers of Country Energy already pay more because distribution and retail costs are higher in sparsely populated rural and regional areas. This is also why there has been so little competition from other retailers in CE's supply area. It is likely that selling CE will lead to greater pressure for price deregulation in rural and regional NSW. A private retailer may also seek to increase profits by closing rural service centres.

Research into the outcomes for consumers resulting from the privatisation of the Victorian electricity industry has shown that regional consumers have not received the same level of quality improvements said to have been delivered to city consumers by privatisation.¹⁶ The quality of service, including hardship programs, currently provided by Country Energy is generally very good, and it is important to ensure that consumer satisfaction is maintained.

More generally, it is highly likely that wholesale electricity prices will rise substantially following the introduction of a carbon price. Privatisation is likely to lead to greater pressure for price deregulation, which would also add to price pressure (since the current regulated price is not a maximum). PIAC believes that continuing the role of the Independent Pricing and Regulatory Tribunal (**IPART**) in setting regulated tariffs is in consumers' best interests.

¹⁴ This is because the longer it takes for emissions reductions to begin, the steeper the cuts that are needed over the same period, and thus the more likely it is that there will be more significant costs associated with abatement measures. See, eg, HM Treasury, *Stern Review on the economics of climate change*, Executive Summary, i-ii & xxvii: www.hm-treasury.gov.uk/independent_reviews/stern_review_economics_climate_change/stern_review_report.cfm.

¹⁵ For information on VEET, see www.dpi.vic.gov.au/DPI/dpinenergy.nsf/childdocs/-3F827E74C37E0836CA25729D00101EB0-866B51F390263BA1CA2572B2001634F9-25F3A72717ED1F21CA2572B2001BF39D?open

¹⁶ Consumer Action Law Centre, *Electricity Reform in Victoria: Outcomes for Consumers* (2006) ii.

If the privatisation plan does proceed, PIAC recommends the following additional consumer protection measures:

- Section 3 of the *Electricity Supply Act* should be replaced with the energy policy objectives that the Victorian Government introduced at the time the Victorian energy industry was privatised and opened up to full retail competition. These objectives would help to ensure that the original purpose of providing consumers with electricity in a safe and socially responsible manner.¹⁷
- A 'Three Pillars' policy should be adopted by the NSW Government. That is, the three largest energy supply companies would be prohibited from merging with each other. Although PIAC recognises that the Australian Competition and Consumer Commission (**ACCC**) has some powers under the *Trade Practices Act 1975* (Cth) to regulate mergers materially affecting competition in an industry, specific electricity industry protection would provide stronger safeguards for consumers. It would also be consistent with procedures in other important industries, such as in the banking industry.
- Removal of the caveat relating to the continued availability of regulated contracts until 2013 'or until [the Government] was satisfied there was sufficient competition in the retail energy market'.¹⁸ Given that the Australian Energy Market Commission's (**AEMC**) Review of the Effectiveness of Competition in the Victorian market found that prices there should be deregulated even though there is effective competition there with a regulated price in place, it is likely that the AEMC will make a similar finding when it does its planned review in NSW in 2009.¹⁹ As Victorian consumer groups have argued, the retention of a regulated price can be an effective means to encourage competition by constituting a 'price to beat'. There is simply no evidence of long-term lower prices for residential consumers following privatisation and deregulation anywhere in Australia.²⁰
- Establishment of an Electricity Consumers' Fund using part of the proceeds of the leases and sales, to compensate consumers affected by higher prices. The annual interest from a \$1 billion fund could be used to fund:
 - a. Rebates on electricity bills for all concession card holders: either a flat amount such as \$10 per month; a fixed percentage such as 10% of every bill; or a cap to ensure that eligible consumers do not spend more than a fixed percentage of their income (eg, 2%) on electricity.²¹

¹⁷ The key objectives for Victoria's energy policy are as follows:

1. Ensure an efficient and secure energy system – requiring the ongoing investment in the supply of energy and the efficient use of those supplies.
2. Ensure those supplies are delivered reliably and safely.
3. Ensure consumers can access energy at affordable prices. The Government is committed to ensuring that all consumers, especially low-income earners, can access essential energy services at affordable prices.
4. Ensure our energy supplies and the way we use them are environmentally sustainable and in particular less greenhouse intensive.

See <http://www.dpi.vic.gov.au/DPI/dpinenergy.nsf/childdocs/-3F827E74C37E0836CA25729D00101EB0?open#key>.

¹⁸ 'Lemma Government Acts to Protect Electricity Consumers', NSW Government media release, 10 December 2007.

¹⁹ The AEMC has indicated that the NSW review may be postponed until 2010 if the privatisation plan proceeds.

²⁰ While prices dropped in Victoria after privatisation of the retail sector in 1995, with increases of 13-17% this year they are now higher than before the State Government 'fattened up' the industry prior to selling it in 1995.

²¹ There are similar concessions for disadvantaged groups other than pensioners, for example, for holders of Centrelink Health Care Cards, in Victoria, South Australia, Western Australia and the Australian Capital Territory.

- b. Rebates of \$100 on smart meters with in-home displays (the cost of which is estimated at up to \$140).²²
 - c. Increases to the (currently under-funded) Electricity Account Payment Assistance (**EAPA**) voucher scheme (for emergency assistance) from \$7 million to \$20 million, with the voucher value rising from \$30 to \$50 and wider distribution—ie, by all energy retailers instead of welfare agencies.
 - d. Audits and refits for low-income households (discussed below).
- As a condition of their licenses, the new retailers and the existing second-tier, ie, non-State-owned, retailers should all be required to set up a customer council (as is currently required of the three State-owned retailers) with an advisory role.
 - Changes to the of Retailer of Last Resort (**RoLR**) procedures so that consumers will not be charged a RoLR transfer fee.²³
 - Elimination of early termination fees for residential consumer energy contracts, as the fees represent significant barriers to competition and can adversely affect disadvantaged consumers.
 - Tighter regulation of the marketing and selling of electricity products to prevent private companies exploiting residential consumers, particularly those who are vulnerable or disadvantaged.²⁴

7. The impact on employment, skills, training and conditions and the protection of the existing workforce and/or the reform of industrial relations practices in any new enterprise or project

Like UnionsNSW, PIAC is concerned that privatising the electricity retailers will result in a decline in customer service standards, caused by a reduction in the number and quality of workers able to respond to consumer issues.

As observed above, this is a particular problem for regional areas where the quality customer focused services provided by Country Energy are more likely to be reduced.

Recent research from IPART shows that many private retail companies perform at a lower standard than the

Other categories of recipients in some jurisdictions include holders of Commonwealth Seniors Health Cards and Repatriation Health Cards.

²² Reports by consultants for the AEMC's Smart Meters Working Group suggest that, while in-home displays are the feature of most benefit to consumers, their up-front cost is unlikely to be offset by lower consumption and bills within a reasonable period. The provision of a rebate will eliminate the payback period and therefore contribute to lower emissions.

²³ In its submission to IPART's review of the RoLR Supply Fee for Small Retail Customers, PIAC argued that a fee should not be applied because it is ineffective and inequitable. As an alternative, PIAC recommended that an industry wide RoLR fund should be implemented in order for RoLRs to recover costs. PIAC's submission can be found at: http://www.piac.asn.au/publications/pubs/sub2007112_20071129.html

²⁴ For example, establishment of a 'do-not-knock' register (like the 'do-not-call' register) so that marketers are banned from selling at registered premises; the removal of commission-based marketing to counter the incentive to coerce consumers into signing energy contracts; and evidence that consumers signed a contract with explicit informed consent.

SOCs for telephone complaints/enquiries.²⁵ This disparity may be caused by inexperience in providing services in the industry, but it may also be the result of cost cutting to improve profit margins.

8. The existing competing demands on the NSW public sector and existing budgetary constraints and/or the alternative sources of funds for public sector investment

The whole privatisation plan is based on the finding of the Owen Inquiry that NSW needs a new baseload power station by around 2014. However, this finding was the inevitable outcome of the Inquiry's limited Terms of Reference. Indeed, in its submission to the Owen Inquiry, the National Electricity Market Management Company (NEMMCO) pointed out that '[i]t may be uneconomic to meet [the growing need for] additional capacity requirement using baseload plant'.²⁶ The Owen Report acknowledges that most of the increasing demand is at peak times, but does not seriously consider the possibility of augmenting peaking plant generation only.

Neither did the Owen Inquiry adequately consider the potential role of more investment in, and regulation of, energy efficiency to respond to increasing demand (see response to criteria 9 below). Even if increasing demand requires a new power station, the extra demand is for peakload, not baseload, power, and the private sector is already investing in peakload, for example, TRUenergy's gas-fired plant at Tallawarra, and renewable plants, for example, the proposed Epuron wind farm at Silverton, which will supply four per cent of the State's energy needs, and Origin's recent deal to build five new wind farms with Epuron, without the need for the Government to sell public assets.

The Government's arguments that it needs to lease the generators and sell the retailers in order to encourage new investment and to protect the State's AAA credit rating are therefore spurious. In view of the extent of dividends paid by both sectors to the Government, the possibility that new investment may cost as little as \$4 billion (discussed above), and the extent of investment in new generation capacity already being constructed or committed to by the private sector, it is feasible for both sectors to remain in public hands without jeopardising the State's finances.

9. The current environmental impact and the need to continue to enhance environmental protection

The current 'public versus private' ownership debate is perhaps less important than facing the longer term challenge for the NSW electricity industry of how to restructure to face the challenge of a carbon-constrained world; and how to engage and protect consumers in this process. As stated earlier, such major restructuring is likely to be easier to achieve while much of the industry remains in public hands, because it can more easily consider the broader public interest, rather than profit alone.

However, if the plan does proceed, PIAC recommends the following:

- That the NSW Government guarantee that no new coal-fired power stations will be built. Whether or not the market would avoid such development anyway, such a guarantee would provide the people of NSW with an important reassurance of the Government's commitment to tackling climate change.

²⁵ Compare figures 11 and 12 in Independent Pricing and Regulatory Tribunal, *NSW Electricity Information Paper No 1/2008 - Electricity retail businesses performance against customer service indicators*.

²⁶ NEMMCO, Submission to the Owen Inquiry, 28 July 2007, 2: www.dpc.nsw.gov.au/business/owen_inquiry_into_electricity_supply_in_nsw/owen_inquiry_submissions.

- That the NSW Government guarantee that it will give no indemnities to buyers for State-owned assets against the impact of carbon pricing. This is critical in ensuring that NSW is able to play its part in the forthcoming National Emissions Trading Scheme from the outset.
- That the NSW Government commit not to support attempts to get a free allocation of emissions permits for generators under NRET.

It is widely recognised that energy efficiency is the cheapest way to reduce emissions.²⁷ It also benefits consumers through lower energy bills. Because low-income households spend a higher proportion of their incomes on energy, improvements in energy efficiency can be socially progressive even when not specifically targeted to them.

The ISF Report identifies considerable savings in energy consumption that could delay the need for a new baseload power station in NSW well beyond 2014. These potential savings are in addition to NSW Government support for the package of measures for delivery of the National Framework for Energy Efficiency Stage Two.

PIAC therefore supports, in principle, the Government's proposal to support the introduction of a national energy efficiency trading scheme as an interim measure until NRET has been operational for long enough to result in substantial energy savings and emissions reductions. PIAC also supports the Energy Efficiency Strategy outlined in the privatisation announcement on 10 December 2007.

However, low-income households usually do not have the disposable income to invest in energy efficiency, and therefore require incentives from governments or retailers. Such assistance will be critical in view of the likelihood of substantial retail price rises following the introduction of NRET. PIAC therefore recommends that the proposal for '[a]n energy efficiency audit and refit program for households to help low income earners improve the energy efficiency of their homes through practical measures like replacing inefficient appliances'²⁸ should be funded through the Electricity Consumers' Fund referred to above.

More specifically, PIAC believes that the following criteria should apply to this program:

- All beneficiaries of Centrelink payments other than Family Payments and Family Tax Benefits²⁹ should be eligible for the free installation of ceiling insulation (where appropriate) and low-energy lighting and the replacement of electric storage hot water systems with gas or (where possible) solar hot water systems.³⁰
- All low-income households not covered above (as assessed by means test) should be eligible for the above initiatives at a fixed, uniform low cost.
- The same initiatives should be installed in all appropriate public housing at no charge to tenants.

²⁷ This is, for instance, the rationale behind the Australian Government's Low Emission Technology and Abatement (LETA) initiative: see www.greenhouse.gov.au/leta.

²⁸ 'Lemma Government announces new Energy Efficiency Strategy', NSW Government media release, 10 December 2007.

²⁹ As an indication, in 1999 there were 1,935,384 people in these categories in NSW: see Australian Parliamentary Library, Recipients of Centrelink Benefits in Commonwealth Electoral Divisions, June 1999, , Research Paper 6 1999-2000: <http://www.aph.gov.au/library/Pubs/RP/1999-2000/2000rp06.htm>.

³⁰ These are the incentives already available as rebates under the NSW Government's Climate Change Fund, with the addition of the low-energy lighting initiative.

- All the above recipients of Centrelink benefits and low-income households should be provided with significant rebates for the purchase of new appliances with a minimum of four star energy ratings to encourage the replacement of old, inefficient appliances at a cost commensurate with, or lower than, less efficient new appliances
- Landlords should be required, under the *Residential Tenancies Act 1987* (NSW), at the start of every new lease, to install or maintain plumbing products, sanitary ware and whitegoods with ratings of at least four stars under the national Water Efficiency Labelling and Standards (WELS) Scheme.³¹

10. The administrative economies of scale and co-ordination that are facilitated by public ownership and control

Full retail competition was introduced to the NSW the electricity market in 2002. The market currently operates such that SOCs compete against private companies in a competitive market that is regulated by IPART. The purpose of this restructuring was to remove the possibility of market domination. From a consumer perspective, effective regulation and vigorous competition are more likely to deliver benefits to consumers than economies of scale resulting from a large market share.

As SOCs currently cannot deliver benefits to consumers through economies of scale, PIAC does not believe privatisation would significantly advantage or adversely affect consumers.

11. Appropriate weighting of long-term as well as short- to medium-term considerations

This topic has been covered in answer to points 4, 8 and 9 above.

12. Where the money is going, ie, ensuring that the proceeds of the disposal of assets are responsibly directed to priority public capital needs

PIAC believes that the Government has overstated the need for new investment in the electricity industry and the advantages to the State of privatising the generation and retails sectors in order to justify a sale that would provide money for other infrastructure projects. PIAC believes that justifying selling essential service assets, particularly those that provide a steady income stream to the Government, in order to fund investment in other Government assets reflects short-term thinking and fails to properly deal with the economic demands of effective government in NSW. This is especially true in view of the fact that, as discussed above, the proceeds of the privatisation may have been recouped in only six years of dividends from ongoing ownership of the generators and retailers.

For example, one of the major new projects that the NSW Government has announced will be funded from the sale proceeds is the extension of the M4 motorway. It is not clear why an essential service relied on by every citizen of NSW should be privatised to fund a toll road used by a minority of Sydney residents, especially given that there are other privately funded toll roads in Sydney.

Notwithstanding, should the privatisation plan proceed, PIAC recommends that some of the proceeds should be used to fund consumer protection, energy efficiency and industry restructuring, as discussed above.

³¹ See, PIAC, Encouraging consumer benefits in water for tenants: Submission to NSW Office of Fair Trading – Residential tenancy law reform, 21 December 2007: www.piac.asn.au/publications/pubs/sub2007122_20071221.html.

Compromise plan

In view of the problems outlined earlier and the considerable opposition to the Government's plan, it has been suggested that a reasonable compromise solution would be to sell the retailers but keep the generators in public hands.³²

The advantages of this alternative plan include the fact that the Government will avoid the need for the generators to be sold at a time when, for reasons outlined earlier, there is considerable uncertainty regarding the price that could be obtained.

In the unlikely event that new baseload generation is needed by 2014, selling one or more of the retailers to a company which is not sufficiently vertically integrated to balance its exposure to price spikes in the wholesale markets would create a strong incentive for it to acquire or build a new baseload power station.

Further, as stated above, under section 8 of the *State Owned Corporations Act 1989*, the objectives of SOCs give equal weighting to financial, social, environmental and regional development goals, whereas the primary legal responsibility of private companies is to maximise financial returns to shareholders. Since the generators currently make higher profits by selling more energy, the necessary restructuring of the industry also discussed above will therefore be easier to achieve if they remain in public hands.

However, this applies also to the retailers, which are likely to be less amenable to major changes in their methods of operation while increasing profits through greater energy sales and higher profit margins remains their core business. Private retailers are also likely to increase pressure on the NSW Government to deregulate retail prices.

For these reasons, PIAC's view is that, while this compromise plan is superior to privatising both the retail and generation sectors, it is less advantageous to the public interest than keeping both sectors in public hands.

³² Personality clash threatens \$10bn power sell-off, *Business Spectator*, 3 February 2008: www.businessspectator.com.au/bs.nsf/Article/Personality-clash-threatens-10bn-power-sell-off-BG3AF?OpenDocument.