



public interest
ADVOCACY CENTRE LTD

**Submission on NSW Distribution Network
Service Providers 2009-2014 Regulatory
Proposals**

6 August 2008

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The Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit law and policy organisation that seeks to promote a just and democratic society by making strategic interventions on public interest issues.

PIAC identifies public interest issues and, where possible and appropriate, works co-operatively with other organisations to advocate for individuals and groups affected.

In making strategic interventions on public interest issues PIAC seeks 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.

Established in July 1982 as an initiative of the Law Foundation of New South Wales, with support from the NSW Legal Aid Commission, PIAC was the first, and remains the only, broadly based public interest legal centre in Australia. Financial support for PIAC comes primarily from the NSW Public Purpose Fund and the Commonwealth and State Community Legal Centre Funding Program. PIAC also receives funding from the NSW Government Department of Energy and Water for its work on utilities, and from Allens Arthur Robinson for its Indigenous Justice Program. PIAC also generates income from project and case grants, seminars, consultancy fees, donations and recovery of costs in legal actions.

Energy + Water Consumer Advocacy Program (EWCAP)

This Program was established at PIAC as the Utilities Consumers' Advocacy Program in 1998 with NSW Government funding. The aim of the Program is to develop policy and advocate in the interests of low income and other residential consumers in the NSW energy and water markets. PIAC receives policy input to the Program from a community-based reference group whose members include:

- Council of Social Service of NSW (NCOSS);
- Combined Pensioners and Superannuants Association of NSW (CPSA);
- Park and Village Service;
- Ethnic Communities Council NSW;
- Rural and remote consumers; and
- Institute of Sustainable Futures, University of Technology

1. Introduction

PIAC welcomes the opportunity to provide comment to the Australian Energy Regulator (AER) on the NSW Distribution Network Service Providers (DNSPs) 2009-2014 Regulatory Proposals.

PIAC acknowledges growing pressures on distribution networks to increase capital spending, including from the rising demand for electricity, the retirement of ageing infrastructure and increased reliability requirements. It is noted that these pressures are reflected in the DNSP Regulatory Proposals and will represent significant increases in household electricity prices.

PIAC is concerned, however, that the considerable increases sought under each of the DNSP proposals will significantly impact on consumers, particularly low income and vulnerable households. For this reason it is important that DNSPs implement solutions that address these pressures whilst minimising the need for capital spending and network augmentation wherever possible. PIAC requests the AER take into account the extent to which this principle has been applied when assessing the 2009-2014 Regulatory Proposals and preparing the draft decision.

There are potential alternatives that would enable the AER to reduce the need for price increases and ensure that consumers are not unnecessarily disadvantaged by the 2009-2014 regulatory review. PIAC believes that the principle of addressing cost pressures whilst limiting the impact on low income and vulnerable consumers wherever possible has not been adequately applied by the DNSPs in their Regulatory Proposals. Due to PIAC's limited capacity to comment on the technical aspects of the DNSPs 2009-2014 Regulatory Proposals it asks the AER address this in their assessments.

2. Demand Management

The NSW *Electricity Supply Act*¹ requires DNSPs to investigate and report on demand management strategies when it reasonably expects that it would be cost-effective to avoid or postpone the expansion [of a distribution system] by implementing such strategies. PIAC suggests that it is in the interest of electricity consumers that the AER apply this principle when assessing the Regulatory Proposals.

In doing so, AER should take the consideration of demand management into account when assessing the increased capital expenditure programs of the Regulatory Proposals. As increased demand is a significant driver for the proposed price rises, it is important to ensure that the augmentation programs are appropriate and to explore whether they can be deferred through the implementation of more comprehensive demand management programs.

3. The size of increase to individual bills

The DNSPs 2009-2014 Regulatory Proposals include significant rises to household electricity bills, especially in the initial year of the regulatory period (2009). For example, the EnergyAustralia and Country Energy proposals include a rise in excess of \$100 on yearly charges for the typical household. Integral Energy have similarly proposed an approximate rise of \$89 to household bills in 2009.

PIAC is concerned about the sudden impact of these increases on low-income households, particularly households with little discretionary spending and little ability to absorb this rise in household costs. PIAC believes that householders would be better able to transition to these new costs if the increases were more

¹ *Electricity Supply Act 1995* (NSW). Schedule 2, subsection 6(5)

evenly spread over the period of regulation, rather than the bulk of the increase occurring in just the first year.

PIAC asks the AER to explore the ability of the DNSPs to spread price increases more evenly over the regulated period when considering the Regulatory Proposals.

4. Ability to complete capital works programs within the period of regulation

Given the substantial capital works programs driving the increased cost recovery sought by the DNSP proposals, PIAC is concerned about the risk of over-recovery. The DNSPs are operating in a tight labour market, in an economy facing capacity constraints and an uncertain outlook. A clear majority of the proposed capital expenditure is in asset renewal and network augmentation, so it is important that asset renewal is only undertaken as required and that the asset renewal program is realistic given the projected economic constraints.

PIAC asks the AER to ensure that the DNSP capital programs are reasonable and take into account the realities of the environment in which they are to operate. This is important to minimise the risk of over-recovery, which would see consumers paying for network upgrades regardless of whether they are able to be completed during the period covered by this regulation decision.

5. Increased reliability requirements

PIAC acknowledges that the increased reliability requirements are beyond the scope and jurisdiction of the AER and it's current review. However, PIAC feels the need to highlight the significant cost to the average consumer with little benefit. For this reason PIAC asks the AER to ensure that capital expenditure related to increased reliability requirements not exceed the mandatory licence requirements faced by the DNSPs.

6. Maintenance costs of power poles on private land

PIAC is concerned about the pass through of maintenance costs for power poles on private land and their status under price regulation. In relation to power poles on private land the 2004/05 to 2008/09 IPART Electricity Distribution Pricing Final Report stated that "...it is appropriate that these services be considered non-distribution services".² In PIAC's view this determination is incorrect for a variety of reasons.

PIAC suggests the AER further explore the legal status of power poles on private land in relation to how maintenance costs for these assets are passed on to consumers. PIAC considers that incorrect assumptions underpinning the IPART determination have resulted in a sub-group of consumers being unfairly discriminated against. PIAC is concerned about the equity impact of this determination, and requests the AER assess its position on this matter for the 2009-2014 period of regulation.

7. Conclusion

Given the significant reform of utility industries in NSW and Australia in general, energy consumers have experienced, and will for the foreseeable future continue to experience, significant rises in the basic cost of living through the use of utilities. Most regressively affected by increases in the basic cost of living are low-income and vulnerable households, due to their limited and diminished discretionary spending. At its worst, these rising costs lead to reduced and disconnected access to basic services such as electricity. It is

² IPART, *NSW Electricity Distribution Pricing 2004-05 to 2008-09 - Final Report*, June 2004, p.176

important then that the Australian Energy Regulator ensure only necessary increases to household electricity prices be approved to avoid compounding these issues.

NSW Distribution Network Service Providers 2009-2014 Regulatory Proposals, if implemented, would see significant increases to household electricity bills. It is in the interest of low-income and vulnerable households that the AER considers the impacts of increased costs as they assess the proposals. PIAC strongly recommends that the ambitious capital expenditure programs contained in the Distribution Network Service Providers 2009-2014 Regulatory Proposals be assessed to ensure that they are efficient and necessary before approving any increase in household electricity prices.