



**Energy White Paper: Response to Strategic
Directions Paper and Discussion Papers**

29 May 2009

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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 works for a fair, just and democratic society, empowering citizens, consumers and communities by taking strategic action 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. PIAC seeks to:

- expose and redress unjust or unsafe practices, deficient laws or policies;
- promote accountable, transparent and responsive government;
- encourage, influence and inform public debate on issues affecting legal and democratic rights;
- promote the development of law that reflects the public interest;
- develop and assist community organisations with a public interest focus to pursue the interests of the communities they represent;
- develop models to respond to unmet legal need; and
- maintain an effective and sustainable organisation.

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 Services Program. PIAC also receives funding from the NSW Government Department of Water and Energy 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;
- Institute of Sustainable Futures (ISF), University of Technology (UTS);
- Indigenous consumer representative; and
- Western Sydney Community Forum (WSCF).

1. Introduction

The Public Interest Advocacy Centre (PIAC) welcomes this opportunity to comment on the Energy White Paper process.

PIAC is concerned about the likely impact of the Energy White Paper consultation process and the assumptions appearing in the White Paper documents released thus far. This submission will not focus on the detail of the discussion papers. It will instead discuss concerns with the process and assumptions, which PIAC contends must be amended for this review to ensure Australia meets its long-term energy needs in an economically, socially and environmentally sustainable manner.

2. The Consultation Process

PIAC submits that the consultation process is flawed because of its capture by business-as-usual interests, guided by industry and by economic ideology. The results of the process will therefore be to the detriment of energy consumers.

PIAC is particularly concerned about the composition of the consultative committee. PIAC welcomes the recent addition of committee members with environmental and social perspectives but highlights that their inclusion comes after the release of the strategic directions paper and after the release of the discussion papers. PIAC also questions the level of influence of one environmental consumer representative and one community representative in a committee of 10 industry members representing fossil fuel interests. PIAC is also concerned by the absence of government representatives from departments with a focus on social or environmental outcomes.

PIAC has identified the following areas where the composition of the consultative panel may have biased the Energy White Paper process.

2.1 Energy Needs Assumptions

The projection of energy needs neglects to consider any scenario beyond business-as-usual forecasts out to 2030. The discussion papers use this forecast to guide policy on meeting these energy needs.

The strategic directions paper and the discussion papers quote the *World energy outlook 2008* in relation to expected Australian energy needs until 2030. However, the figures quoted in this document are, by the Government's own admission, based on a business-as-usual scenario.¹ That is, the Government appears to have failed to account for changes in energy needs following the implementation of new energy policies and practices. These include the Carbon Pollution Reduction Scheme (CPRS); technological changes; higher Mandatory Renewable Energy Target (MRET) targets; household energy efficiency programs; state-based energy savings schemes; urban and land-use planning; and mandatory energy efficiency standards for both households and industry.

Whilst debate continues about the appropriateness of an Australian emissions trading scheme, PIAC submits that the weight of scientific and public opinion about the need to respond to climate change means it is misleading to assume that Australia will continue to use carbon intensive energy under business-as-usual projections.

¹ Department of Resources, Energy and Tourism *National Energy Policy Framework – Strategic Directions Paper* (2009) 4.

2.2 Lower Emission Energy Sources

PIAC is concerned to note the limited focus on the potential for renewable sources of energy to meet significant parts of Australia's energy needs out to 2030. Whilst acknowledging the technological and investment challenges of removing carbon intensive generation from our electricity sources, PIAC looks forward to a strategic policy direction that prohibits any growth in the use of coal in the generation of electricity unless the carbon emissions can safely be stored by a proven technology.

PIAC is also disappointed at the lack of focus on the potential use of gas as a replacement fuel for coal in the generation of base-load electricity. This has implications for how Australia uses its gas resources and how this commodity is priced, as well as for the expansion of reticulated gas to new households.

2.3 End-user Policy

Whilst claiming to address Australia's energy needs until 2030, the White Paper neglects to adequately consider both access to and affordability of energy. As an example, when discussing the benefits of competitive markets, Part B of the discussion paper entitled "Investments, competitive markets and structural reform", suggests:

...Competitive markets therefore provide the conditions for gaining the highest possible standards of living for the community.²

PIAC is concerned that this ideological approach to market regulation fails to consider the adverse impact of markets on some sectors of the community, specifically the low-income and other disadvantaged households.

Whilst acknowledging the benefits that competitive markets can and do provide to consumers, PIAC maintains that consumers must be fully informed and capable of using that information to make decisions in their best interest. The Independent Pricing and Regulatory Tribunal (IPART) in NSW has recently released research showing that nearly one in five customers who have switched retailers in the Central Coast and Hunter region believe that their bills have actually risen following the switch.³ Even allowing for some consumers switching to higher products for non-price benefits such as service standards, this is a clear example that not all consumers benefit from greater competition. Further, 40% of customers in the same study indicated that they were either unsatisfied or moderately unsatisfied that the new contract had met their expectations.

PIAC maintains that disadvantaged households, including people living with a disability, people with lower literacy and financial management skills, low-income earners, and people who speak English as a second or third language, are likely to be vulnerable to market competition. This situation is aggravated by questionable door-to-door marketing practices that plague Australian energy retail markets.⁴

Further, PIAC would like to refute the comment that:

"For these and other reasons, regulation is less desirable than competition."

PIAC would like to see the White Paper, and the Government more generally, acknowledge that competition cannot solve all market failures, and that, where appropriate, regulation can complement competition to achieve the best outcome for consumers.

² Department of Resources, Energy and Tourism *Discussion Paper Investment, Competitive Markets and Structural Reform* (2009) 9.

³ The Independent Pricing and Regulatory Tribunal *Residential energy and water use in the Hunter, Gosford and Wyong* (2008)

⁴ Energy and Water Ombudsman NSW *Annual Report 2007-08* (2008) 23.
http://www.ewon.com.au/online/ar_07_08/index.html at 29 May 2009.

PIAC is also concerned that this statement may be a reference to price deregulation in jurisdictions where such caps exist. At the Sydney Energy White Paper workshop attended by PIAC, industry representatives advocated for price deregulation in response to an array of miscellaneous issues. PIAC does not support such a position because of the likely adverse price impact on consumers.

In considering Australia's energy needs to 2030, PIAC also contends that it is essential for the Government to consider the likely retailer consolidations and associated reduction of competition in the market. Significantly, there are plans that Australia's largest retailer, the NSW Government owned EnergyAustralia, will be sold within the coming twelve months, along with Integral Energy and Country Energy. The likely outcome of this is a concentration of ownership in retail energy markets in Australia, of the kind already seen in supermarkets, petrol retailing, airlines and other markets.⁵ PIAC would like the White Paper to consider the impact of such market concentration on consumers.

PIAC also notes and is concerned by the White Paper's perverse definition of energy affordability as follows:

affordability is the provision of energy at a price that does not adversely affect the competitiveness of the economy and supports continued investment in the energy sector.⁶

Energy is an essential service that consumers employ to maintain health and hygiene; store and prepare food; and heat, cool and light their homes. To consider affordability in terms upward pressure on prices is to disregard obligations to ensure that all households have a right of access to an adequate and sustainable supply of energy. PIAC contends that the definition of affordability must be altered to promote consideration of the capacity of consumers to maintain economic access to this essential service.

3. NEL Objective

Many of PIAC's concerns about Australian energy policy stem from the objective of the National Energy Law (NEL). PIAC requests that the Energy White Paper recommends the adoption of additional objectives to the NEL that oblige consideration of social and environmental sustainability and security. By broadening the objectives to include more than simply economic imperatives, PIAC believes that the institutions that govern energy policy will better achieve a balance to the benefit of all Australians.

4. Conclusion

PIAC are thankful for this opportunity to comment on the Energy White Paper process, and look forward to further engaging in this significant policy document. However, PIAC sees risk that, if the above concerns are not addressed, the Energy White Paper could lead to negative outcomes for the very people that should benefit from clean, adequate, reliable and affordable access to energy resources.

⁵ The Sydney Morning Herald *AGL and Origin in box seat for power sell-off* (7 March 2009)

⁶ Department of Resources, Energy and Tourism *National Energy Policy Framework – Strategic Directions Paper* (2009) 4.