



**Complementary modernisation: Options
to address the issue of affordability in the
Energy White Paper**

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Introduction

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; and
- 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 (then) 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 Industry and Investment NSW for its work on energy and water, 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 Consumers' Advocacy Program

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;
- Park and Village Service;
- Ethnic Communities Council NSW;
- Rural and remote consumers;
- Retirement Villages Residents Association;
- the Physical Disability Council NSW; and
- Affiliated Residential Park Residents Association.

Objectives of the draft Energy White Paper and national energy policy

There has been considerable change in Australia's energy sector since the last Energy White Paper in 2004, so a new examination of all issues related to energy policy in this country is a timely exercise. According to the current draft Energy White Paper, the goal is 'to build a secure, resilient and efficient energy system' that takes 'social, economic and environmental considerations into account'.¹ This aim sits alongside the National Energy Objective, as set out in the *National Electricity Act 1996* (South Australia), which is to achieve 'investment in, and efficient operation and use of, energy services for the long term interests of consumers of energy'.² PIAC supports these aims, but believes that to achieve them energy policy development must give much greater consideration to protecting vulnerable consumers.

The draft Energy White Paper acknowledges that 'as an essential service, energy intersects with ... social policy outcomes'.³ PIAC believes that to realise the National Energy Objective, policy makers must address the fact that current trends in affordability mean an increasing number of consumers face rising barriers to ongoing energy consumption and are therefore vulnerable to losing access to this essential service. Under these circumstances, it is impossible to argue that energy services are operating in the long-term interests of those consumers.

The current challenge for energy policy makers is to deliver the National Energy Objective and the draft Energy White Paper goals against a backdrop of dramatic change in Australia's energy generation and supply arrangements. The introduction of the National Energy Consumer Framework (NECF) throughout the National Energy Market (NEM) will bring far-reaching changes to energy regulation, with the Australian Energy Regulator (AER) taking over many of the functions of state-based bodies such as the NSW Independent Pricing and Regulatory Tribunal (IPART). At the same time, there have been steep and regular price rises throughout the NEM that are projected to continue until at least 2013-14.⁴ While these price increases are linked to substantial investment in transmission and distribution infrastructure, as well as the cost of government-mandated green schemes, they have not been accompanied by the necessary adjustment to measures to protect vulnerable consumers. PIAC believes strongly that in order to secure a more equitable outcome for vulnerable consumers and to take social considerations into account, a new forum for consideration of these issues is required.

Trends in affordability and their impacts

The draft Energy White Paper acknowledges that 'in recent times energy ... has become less affordable for many in society and continued rises will place additional pressure on household cost of living'.⁵ PIAC welcomes this acknowledgement, but does not believe affordability receives sufficient attention in the draft Energy White Paper, given the extent of the problem and its impact on vulnerable consumers. For example, CSIRO has projected home energy price rises of up to 56% in real terms between 2011 and 2025.⁶ Recent price growth has already dramatically outpaced rises in energy rebates for vulnerable consumers. The NSW Low Income Household Rebate for Health Care Card and other Concession Card holders (which was known as the

¹ Australian Government, *Energy White Paper*, 2012, 6.

² *National Electricity Act 1996* (South Australia), schedule 1, part 1, s7.

³ Australian Government, *Energy White Paper*, 2012, 3.

⁴ AEMC, *Retail electricity price estimates: Final report for 2010-11 to 2013-14 – Information paper*, 2011, 2.

⁵ Australian Government, *Energy White Paper*, 2012, 55.

⁶ CSIRO, *Cape Paterson Ecovillage: Zero carbon study peer review*, 2011, 10.

Energy Rebate until 1 July 2011⁷) rose from \$145 per year to \$200 per year for 2011-12 (and will rise to \$235 per year by 2014), yet average bills for customers in the Essential Energy distribution area of NSW rose by \$316 between 2010-11 and 2011-12.⁸ The \$55 rise in the Energy Rebate covered only half of the increase in average bills that stemmed from green scheme costs alone (which was \$111, or 6% of the 17% price increase from 2010-11 to 2011-12). The increase in the Low Income Household Rebate was further surpassed by price rises due to generation costs (1% of the overall increase), network costs (9% of the overall increase) and retail costs (1% of the overall increase).⁹

Price increases pose a particular challenge for low-income consumers because, for this group, energy bills represent 4% of household expenditure compared to only 2.6% on average across Australia, according to figures from the Australian Bureau of Statistics for 2009-10 cited in the draft Energy White Paper.¹⁰ A more geographically specific analysis of indicative electricity bills by IPART found that affordability is an even greater issue in some areas of NSW. IPART found that 27% of households in the Essential Energy distribution area are likely to spend more than 6% of their disposable income on their electricity bill, with 8% of households likely to devote more than 10% of their disposable income to this purpose.¹¹

The recent steep increase in the cost of energy has been accompanied by increases in residential disconnections for non-payment of bills. According to the AER, the rate of disconnections due to failure to meet bill repayments is 'a key performance indicator of affordability and access' to energy supplies.¹² In light of this, PIAC is extremely concerned that small residential retail customers in NSW have experienced sharp increases in disconnection in recent years. A total of 18,561 small residential energy customers were disconnected for non-payment of bills in 2010-11, an extra 2726 disconnections, or an increase of 17.2%, compared to 2009-10.¹³

Small non-residential retail customers also experienced an increase in disconnections from 2009-10 to 2010-11, with the number cut off for non-payment of bills jumping by 22.3% to 2050 disconnections.¹⁴ Significantly, 2010-11 was the only year in the last five when the percentage of small non-residential retail customers disconnected for non-payment of bills was higher than for small residential customers.¹⁵ Figures from IPART also show that there has been a drop in the number of non-residential customers who are reconnected at the same address, from 44.3% of those disconnected in 2009-10 to 37.3% in 2010-11.¹⁶ While PIAC acknowledges that 2050 disconnections of small non-residential customers is not itself overwhelming, the trend is alarming: an increase of 22.3% suggests there may be a growing nexus between small business viability and energy affordability. Regardless of whether customers are residential or non-residential, the decreasing affordability of energy is having broad-ranging deleterious consequences.

⁷ <http://www.trade.nsw.gov.au/energy/customers/rebates>

⁸ IPART, *Changes in regulated retail electricity prices from 1 July 2011—Final report and determination*, 2011, 4.

⁹ Ibid 3.

¹⁰ Australian Government, *Energy White Paper*, 2012, 55.

¹¹ IPART, *Changes in regulated retail electricity prices from 1 July 2011—Final report and determination*, 2011, 84.

¹² AER, *State of the Energy Market 2010*, 2010, 103.

¹³ IPART, *Electricity retail businesses' performance against customer service indicators in NSW*, 2011, 8.

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Ibid 17.

PIAC itself also periodically examines the social and economic consequences of residential disconnection through its publication *Cut Off: The experience of utility disconnection* (published in 2005 and 2009 and scheduled to be released again in 2013). Figures from the more recent study show that residents who had their energy supply disconnected experienced a range of negative impacts as a result. In particular, 18% experienced negative health impacts, including being prevented from using a medical device (9%) or falling ill/sustaining an injury (9%).¹⁷ There were also notable psychological impacts, with affected people becoming anxious or distressed in 34% of cases (36% for children) and having difficulty caring for infants in 13% of cases.¹⁸ In addition, an occupant was unable to attend work or school in 8% of cases and someone in the house became ill in 7% of cases.¹⁹ These figures illustrate how the negative impacts of disconnection potentially lead to long term problems with anxiety and increase the burden on the health system through increased incidence of illness. Residential disconnections also pose a challenge to national productivity, through both absenteeism and the negative impacts of stress and illness on work performance. Finally, as a hindrance to education, disconnection can have a long-term effect on productivity through reducing the productive capacity of workers and those seeking employment.

The trend in affordability is also placing an increasing burden on ombudsman services and community welfare organisations. For example, the Energy and Water Ombudsman of NSW (EWON) has reported an increase in complaints related to affordability. From 2009-10 to 2010-11, EWON notes an increase of 1502 complaints from customers facing disconnection (8%) and an increase of 813 complaints from customers who had been disconnected due to non-payment of bills.²⁰ PIAC has received anecdotal evidence that community welfare organisations that administer emergency relief programs such as the NSW Government's Energy Account Payment Assistance scheme are struggling to meet the growing demand for such assistance measures. PIAC contends that it is unrealistic to call on existing social safety nets that support low-income consumers to deal with the impact of future energy costs increases, when these safety nets are already operating close to or beyond capacity.

Towards more effective consumer assistance

Due to the increasingly severe challenges that steep rises in the cost of energy present, as well as the fact that these rises are projected to continue, PIAC believes the issue of energy affordability needs to be more systematically addressed by governments. In addition, the draft Energy White Paper notes that 'Australia's energy markets are entering a period of major transition'.²¹

As energy regulation in Australia undergoes a radical overhaul through the introduction of the NECF, at the same time as the introduction of a carbon price and increased requirements for the use of renewable energy and energy efficiency, particular attention must be paid to the effectiveness of assistance for energy customers. PIAC believes that there is a need for a modernised system of energy consumer assistance for vulnerable customers to complement the increasingly sophisticated and costly energy market in this country.

¹⁷ PIAC, *Cut off II: The experience of utility disconnection*, 2009, 30.

¹⁸ Ibid 31.

¹⁹ Ibid.

²⁰ Energy and Water Ombudsman NSW, *Annual Report 2010-11*, 2011, 2.

²¹ Australian Government, *Energy White Paper*, 2012, 46.

PIAC submits that there has not been sufficient consideration by policy makers of the price impacts on vulnerable consumers from new energy initiatives. Such impacts need to be considered as part of the policy development process, with mechanisms to offset them designed at the outset, rather than the issue of compensation or adjusting the safety net for vulnerable consumers being left to other jurisdictions or areas of government as a secondary consideration. PIAC notes that this preferred policy approach was taken in the case of the introduction of a carbon price, where the government recognised that carbon pricing will increase household costs such as energy and developed an assistance package including measures ‘specifically targeted towards the needs of low-income groups’.²² Conversely, no assistance targeting vulnerable consumers is offered to offset the price impact of the Large-scale Renewable Energy Target (LRET) and Small-scale Renewable Energy Scheme (SRES). PIAC recommends that the model of policy development used for the carbon price be consistently adopted by all jurisdictions as part of any new energy policy that will have price impacts, such as green schemes.

PIAC notes that the draft Energy White Paper proposes a ‘regular four-yearly review of national energy policy strategy beginning in 2016’.²³ PIAC recommends that the issue of energy affordability for vulnerable consumers be included in the terms of reference for this review.

While the draft Energy White Paper states that it is ‘important to recognise the need for energy costs to be taken into account in social policy frameworks’,²⁴ PIAC argues that policy makers must go further and include mechanisms to protect vulnerable consumers as part of energy policy frameworks. In PIAC’s opinion, a new forum is required to undertake these deliberations. This would go some way to meeting what the draft Energy White Paper describes as the need to ‘ensure that public consultation and engagement in decision-making, program design and other aspects of energy policy is improved’.²⁵

One option for this forum would be a group convened by the Australian Energy Market Commission, which has as a strategic objective ‘contributing to energy market policy development as the leading source of advice on energy markets’.²⁶ However, given that energy rebates for vulnerable consumers are available through both the Australian and state and territory governments, PIAC believes that the Standing Committee on Energy and Resources (SCER) under the Council of Australian Governments would be an appropriate forum for the discussion of these issues as part of the development of broader energy policy. This could occur through an Affordability and Consumer Protection Sub-committee of SCER, with membership including all jurisdictions in the NEM, energy producers and suppliers, consumer advocates and concerned community sector organisations. The sub-committee would report to SCER, which would then review and make decisions regarding its recommendations.

Recommendation 1

PIAC recommends that the issue of affordability of energy and the impact of new energy policies on vulnerable consumers be included by all jurisdictions as part of the policy development

²²

Ibid.

²³

Ibid, xxvii.

²⁴

Ibid 57.

²⁵

Australian Government, *Energy White Paper*, 2012, 57.

²⁶

<http://www.aemc.gov.au/About-Us/Mission-and-Values.html>

process, and that it be included in the terms of reference for the four-yearly review of national energy policy.

Recommendation 2

PIAC recommends that the Standing Committee on Energy and Resources introduce an Affordability and Consumer Protection Sub-committee to help develop a system of consumer protections that complements Australia's increasingly sophisticated and integrated system of energy supply. The sub-committee should include representatives from all jurisdictions in the NEM, energy producers and suppliers, consumer advocates and community sector organisations.

The impact of green schemes

A clear example of failure to adjust consumer protections for the impact of a new energy policy is the effect that green schemes have had on the retail price of electricity. Figures from the AER's *State of the energy market 2011* report show that in 2010-11, green scheme costs accounted for 4% of the cost of an average energy bill in Queensland and Tasmania, 5% in South Australia, 6% in NSW and 8% in the ACT.²⁷ AER figures show that, for example, green schemes cost average energy account holders in South Australia \$125 per year and up to \$153 per year in NSW (for customers in the Essential Energy distribution area).²⁸

The Energy White Paper acknowledges that 'increases in household energy costs are generally regressive in their impact'.²⁹ As a result, low-income consumers who pay a higher proportion of their income on energy bills, experience a proportionally greater financial impact from price increases. Green schemes such as the LRET and SRES are funded by consumers, who pay the costs power companies face to comply with mandated minimum levels for the use of renewable energy through higher network charges.³⁰ This means the funding of green schemes is regressive in its impact. In addition, consumers on low incomes are less likely to be able to take advantage of schemes such as the SRES or the NSW Government's Solar Bonus Scheme (which closed to new participants on 1 July 2011³¹) because they cannot afford the initial capital outlay to purchase hardware such as solar panels. Low-income consumers are also more likely to live in rental accommodation, which is a further barrier to receiving the benefits of such schemes as occupants are unlikely to pay to install solar panels in a home where they have little certainty of ongoing occupancy in the medium to long term.

The funding of green schemes via current arrangements therefore places a heavy and unfair burden on low-income consumers and is in urgent need of change. A more equitable method of funding such schemes would be through general government revenue, as Australia's income tax arrangements are progressive in their impact and include a safety net for those on low incomes in the form of the tax-free threshold. However, PIAC recognises that governments in all jurisdictions within the NEM face budgetary constraints that present challenges to adopting such a funding model in the short term. In such an environment, governments must recognise the impact of

²⁷ AER, *State of the Energy Market 2011*, 2011, 110.

²⁸ Ibid 110, 114.

²⁹ Australian Government, *Energy White Paper*, 2012, 57.

³⁰ IPART, *Changes in regulated electricity retail price from 1 July 2011—Final report and determination*, 2011, 37.

³¹ IPART, *Solar feed in tariffs: Setting a fair and reasonable value for electricity generated by small-scale solar PV units in NSW*, 2011, 11.

policies at the time of their development and design appropriate compensation for vulnerable consumers, as happened with the introduction of a carbon price.

Recommendation 3

PIAC recommends that the Australian government consider funding green schemes from a progressive revenue source such as general revenue, rather than the existing regressive method of including the cost as part of network charges in energy bills.

Recommendation 4

PIAC recommends that where green schemes cannot be funded out of general revenue due to budgetary constraints, appropriate compensation be designed to overcome the price impacts of such schemes on vulnerable consumers.

Conclusion

In conclusion, PIAC believes that there is an urgent need for the issue of energy affordability to be given greater consideration by policy makers from all jurisdictions, including as part of new policy initiatives. PIAC recommends greater engagement with interested parties on this issue through a new sub-committee of SCER. The sub-committee would be tasked with coordinating across government the development and implementation of a comprehensive system of consumer assistance and concessions that compliment's Australia's increasingly sophisticated arrangements for the supply of energy. PIAC also believes that regressive method of funding green schemes through the network charge component of energy bills is unfair on vulnerable consumers. Governments should examine more equitable ways of funding these programs, such as from general revenue, that levy contributions from consumers in line with their ability to pay and in closer proportion to the benefits they receive.