

# Well Connected

THE NEWSLETTER OF THE UTILITY CONSUMERS' ADVOCACY PROGRAM (UCAP); A PROJECT OF THE PUBLIC INTEREST ADVOCACY CENTRE (PIAC)

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## THE INTRODUCTION OF RETAIL COMPETITION IN GAS

PIAC is a member of the Steering Committee to Support the Introduction of Retail Competition in Gas which is chaired by John Hughes, who is the Manager, Gas Policy and Regulation, Ministry of Energy and Utilities.

The Ministry has employed DJG Projects to oversee the process. PIAC is there to represent the interests of residential consumers.

Besides PIAC, members of the Steering Committee include:

- The Cabinet Office
- Independent Pricing and Regulatory Tribunal
- AGL Networks
- Energy Australia
- ACT Department of Urban Services
- Stratus Networks
- AGL Retail
- Great Southern Energy
- Boral
- Australian Industry Group

The Steering Committee has established five working groups

on the following issues:

- metering, technical and safety
- customer management systems
- customer protection
- load profiling
- balancing and allocation.

Membership of the Working Groups is made up of members of the Steering Committee and other relevant parties. PIAC is on the customer management systems, customer protection and load profiling Working Groups. The Steering Committee has established a broader Reference Group which includes all the stakeholders.

The Working Groups will essentially set the rules for the contestable market which will be approved by the Steering Committee.

The Steering Committee and all the Working Groups are currently meeting weekly (the first Steering Committee meeting was held on 20 May) as the next group of customers to become contestable from 1 October 1999

is the group that uses from 1 to 10 TJ per annum (this is on average customers that spend at least \$10,000 per year on gas).

There are approximately 2,650 customers in this group across NSW. The remainder of the residential market becomes contestable from 1 July, 2000 (approximately 800,000 customers).

The initial work of all of the Working Groups is aimed at those customers that become contestable on 1 October. One of the first discussions that the Working Groups had to have was to determine whether the rules that will need to apply from 1 October are the same as for July 2000. There are a number of areas, for example, in customer protection and customer management systems where this is not the case. The rules will be vastly different which does give the Working Groups some breathing space to develop systems that will provide a simple and fair solution for contestability to the vast majority of customers, that is, residential consumers.

## Utility Consumers' Advocacy Program

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There are a number of issues for representatives of residential consumers in these types of processes that are worth exploring and these include:

- the process itself
- the technicality of many of the issues
- the outcomes.

### 1. Process

The Ministry for Energy and Utilities has made a significant investment in employing an external project manager. Given the amount of work to be done and the short time frame, for at least the next group of customers that will become contestable, contracting out the project management was a sensible decision.

### 2. Technicality of many of the Issues

From a residential consumer's point of view, many of the issues are very technical and sometimes hard to understand whether the issues do affect, whether positively or negatively, residential consumers. At times this is a constraint on the process and the outcomes but needs to be recognised as a legitimate concern and one that needs to be taken into account within the process.

### 3. Outcomes

There are a number of principles that can be applied to the outcomes of this project that need to be met if residential consumers are going to benefit from competition in gas.

These include:

- processes have to be simple. If they are not there will be barriers to consumers changing supplier;

- process have to be fair. Ideally, there should not be a power imbalance between the retailer and the consumer;
- processes have to be cost-effective. If there are financial barriers, again there will be disincentives to changing supplier and costs will inevitably be passed on to consumers;
- consumers on low or fixed incomes are not to be further disadvantaged because of the introduction of competition;
- appropriate information needs to be provided about contestability and what it means;
- information needs to be provided by retailers where services are able to be compared.

## GOVERNMENT EXTENDS DEADLINE FOR ELECTRICITY PRICING REVIEW

The NSW Government has extended the time frame for IPART's Electricity Pricing Review until the end of June 1999.

The Review was to be have been completed by the end of April and so far two extensions have been granted. The Review is only a report to the Premier and not a determination by IPART which means the implementation of the Review will be a Government responsibility.

The number of the recommendations which will be implemented is not yet known.

There were some very contentious issues that were examined by Working Groups where a high level of consensus within the industry was achieved.

We can only hope that these issues will be included in the report and implemented by the NSW Government.

## GREAT SOUTHERN NETWORKS WITHDRAW APPEAL AGAINST IPART

Great Southern Networks who operate a distribution pipeline for natural gas in Wagga have withdrawn their appeal to the Australian Competition Tribunal (ACT). The appeal was against IPART's decision to write an access arrangement for Great Southern Networks after IPART did not approve an access arrangement proposed by Great Southern Networks because it failed in IPART's view, to comply with the National Third Party Access Code for Natural Gas Pipelines.

The appeal was lodged with the ACT before IPART had drafted an access arrangement for GSN.

PIAC was to seek leave to intervene in these proceedings because GSN's particular concerns were with IPART's rate of return and weighted average cost of capital. GSN was seeking a high rate of return and weighted average cost of capital so that it could increase its revenues. PIAC was to argue that this was of concern to consumer and community organisations as high rates of return and weighted average cost of capital mean that residential consumers will end up paying more. If the appeal had

succeeded it would have set a precedent for rates of return and weighted average cost of capital for all utilities.

GSN finally decided to drop their appeal and wait for IPART to draft their access arrangement.

Such a move can only be applauded because the irony of this situation was that gas users in Wagga would have ended up paying for the appeal and all of NSW tax payers would have ended up paying for IPART's defence. Commonsense prevailed instead of what would have a very expensive court case.

## **INTEGRAL ENERGY SET TO IMPOSE A LATE PAYMENT FEE**

Integral Energy, the electricity distributor and retailer, who service western and south western Sydney and the Illawarra, are going to impose a \$5 late payment fee on their reminder notices as from 1 August, 1999.

PIAC has written to Integral's CEO, Mr Jeff Allen pointing out that this fee will decrease low income consumers' ability to pay their electricity bills and also increase individual debt levels.

The letter argued that miscellaneous charges are part of the Pricing Review being undertaken by IPART and it would be better to defer or abandon the introduction of the fee until the Pricing Review is made public and see whether the NSW Government is going to implement the recommendations of the Review, either in part or in full.

## **PIAC APPEARS BEFORE IPART**

PIAC appeared before the Independent Pricing and Regulatory Tribunal as part of the process for IPART to reach a determination on AGL's proposed access arrangement. The hearings on the access arrangement were held on March 31 and April 1.

PIAC had also put in a submission on the proposed access arrangement. The Council of Social Service of NSW (NCOSS) appeared with PIAC to represent the particular interest of people on low and fixed incomes.

There were a number of issues that were stressed during PIAC's evidence including:

- the lack of evidence of a cross-subsidy between large and small gas users which would justify any increases in revenue from small users;
- the lack of information in the proposed access arrangement;
- the need for a community education campaign for residential consumers on the introduction of competition in the residential market;
- trigger mechanisms or a shorter determination for any further benefits to accrue to gas users and not only AGL shareholders;
- cost reflective network pricing.

There were a number of issues that PIAC said they would like reconsidered by the Tribunal as these issues required further thought.

These included:

- the details of an effective public education campaign;
- cost reflective network pricing and how this principle interacts with postage stamp pricing;
- trigger mechanisms and whether these should be used or a shorter determination is needed;
- how much price increases residential consumers can bear.

PIAC are in the process of addressing these issues as well as looking at the latest round of information that AGL has supplied to IPART.

## **HIGH COURT DECISION COULD AFFECT UTILITIES REGULATION**

A 17 June 1999 High Court decision could affect the Commonwealth/State regulatory regime for utilities.

In the decision (known as *Wakim*) the Court held that important components of what is known as cross-vesting between the States and the Commonwealth are unconstitutional.

The cross-vesting of judicial powers which was considered in this case related to Corporations Law. The arrangement dates from a 1989 decision by the States and the Commonwealth to simplify the legal situation by creating a cooperative and uniform system of company legislation.

Six of the seven judges found that the States cannot give judicial power to the Commonwealth over matters other than those the

Constitution explicitly allocates to the Commonwealth. The High Court's decision is based on a narrow interpretation of section 77 of the Constitution.

There is speculation that the decision could have implications for other cooperative schemes such as that which underpins gas pipelines access arrangements.

PIAC is watching carefully as State and Commonwealth Governments attempt to deal with the implications of the decision, especially in respect of utilities regulation. We will report more in this newsletter as matters develop.

## WATER TRICKLES

### Prices at Gosford and Wyong

The Independent Pricing and Regulatory Tribunal (IPART) has just handed down one-year ('interim') determinations on water and sewerage prices for Gosford City Council and Wyong Shire Council. These will be followed by 'medium term' (probably five years) determinations later this year.

In our submission to the Tribunal, PIAC focussed on costs to consumers. We argued that miscellaneous charges (for services such as meter testing, re-readings and so on) should be abolished outright. This was on the basis that neither Council had provided any justification for the need for such charges or for the level of costs they are supposed to cover.

In its formal determination the Tribunal has accepted our concerns and stated that miscellaneous charges need to

be given greater scrutiny. In fact, they identified that the current level of these charges is higher than it ought to be according to the last determination

So, the level of many of these charges been reduced (slightly) as of 1 July this year.

Furthermore, the Tribunal has indicated to the Councils that they must present detailed costings to the next determination process in order to justify retaining these charges.

Our submission also noted a concern about rising costs of servicing residential properties in the case of Gosford City Council. This concern, too, was echoed by the Tribunal.

### Distribution areas

At the UCAP seminar for customer council members back in February the idea was raised of UCAP compiling a map showing the distribution boundaries throughout NSW for electricity, gas and water. It seemed like a good idea at the time.

However, we since have been unable to find a single agency which has the information on network boundaries for water across the State. There are more than 100 local government bodies throughout NSW and some of those are involved in joint or 'county council' arrangements for water and sewerage services. So this makes any mapping a big job indeed, particularly with regards to rural boundaries.

Back to the drawing board.

## Operating Licence for Sydney Water

The Licence is a requirement of the *Sydney Water Act*. The new Sydney Catchment Authority also is required by its statute to have an Operating Licence. Both bodies will have new licences in effect from 1 January, 2000.

One of the many recommendations of the McClellan Inquiry into the contamination 'event' of 1998 was for these licences to be developed through a public process.

The Independent Pricing and Regulatory Tribunal has been requested by the Minister for Sydney Water to undertake a public review and provide recommendations as a result. The Tribunal also has been requested to take account of the McClellan recommendations in formulating its recommendations to the Minister on the new licences. This provides an opportunity for the community to press for the implementation of the findings of the Inquiry, particularly those relating to a greater emphasis on water quality over corporate objectives and enhanced accountability to the community.

PIAC intends to take an active role in the IPART process. We will include an update in the next issue of *Well Connected*.

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