

Well Connected

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

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ACCC MAY AMBUSH NSW CONSUMERS ON METERING COSTS

Uncertainty about higher metering costs for small consumers remain with the approach of full retail competition in electricity following a decision by the Australian Competition and Consumer Commission (ACCC) to delay a draft determination for the national market.

The somewhat technical debate centres on which method to use for measuring household consumption of electricity. The choice between load profiling and interval meters is important because of the different costs each option will impose on consumers. PIAC's position, set out last year in our first *UCAP Occasional Policy Paper*, is that a requirement on households to buy a new meter cannot be justified in terms of benefits to the market or, more importantly, to consumers. A number of electricity businesses and the Energy Action Group, all based in Victoria,

have argued that particular problems in that State can only be solved if every household, including those in New South Wales, is forced to install a new and expensive meter.

Following a public consultation and formal submissions from PIAC and other parties, the Commission last October released an interim determination that set out a strong case against the mandatory use of interval meters. The Commission proposed that consumers retain the capacity to choose for themselves between metering and profiling pending a December 2003 review of developments in the market and the various costs involved.

However, informal discussions between the Commission and the Victorian parties have continued with the draft determination now officially delayed and the Commission claiming that a number of its own arguments remain 'unresolved'.

None of this has been officially

communicated to PIAC. We were left to discover the news through a representative of the NSW Treasury. In response PIAC has written to the ACCC to criticise these informal discussions and the decision to delay the draft determination. In particular, we are concerned that the Commission's process will have the result of NSW consumers being ambushed by poorly thought-out decisions and higher costs.

NEW DIRECTOR GENERAL FOR MEU

Jane McAloon brings to the MEU significant and varied experience in her new leadership role as Director-General. Most recently Jane has been working with Ron Christie, Coordinator General of Rail as Executive Director Strategy in restructuring the rail industry in passenger services, maintenance and access issues.

Jane has also been Executive Director, Strategy and Policy at the Department

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of Land and Water Conservation developing new ways of managing natural resources in partnership with the community and industry players. In this position Jane also managed the restructuring of the native forest industry through industry and worker structural adjustment schemes.

Jane first joined the public sector as a Ministerial Advisor to the Federal Minister for Employment, Education and Training and the Prime Minister where she developed a new approach to managing long-term unemployed and associated labour market issues.

Jane has also worked as a solicitor in Melbourne specialising in commercial, leasing and finance litigation, and as a tutor in economics at Monash University with an interest in labour market economics.

PIAC welcomes Jane's appointment. Jane has committed herself to meeting with PIAC every couple of months to discuss issues of common concern that will further strengthen the relationship between the Ministry and PIAC.

PRICE PROTECTION FOR ELECTRICITY CONSUMERS

Effective consumer protection in a fully competitive electricity market came a step closer with the release late last December of a 'regulated price' determination by the Independent Pricing and Regulatory Tribunal (IPART). This determination will apply to default electricity customers, those who choose to stay with their incumbent public retailer. Price rises imposed by these retailers will be capped in any given year at the greater of either the change in the CPI or \$25.

The Tribunal's approach was to divide prices into 'retail' and 'network' components. Distributors in NSW will set the network (or 'N') component of prices under their existing revenue regulation established by the Tribunal which has also introduced a price

information disclosure regime. Accordingly, total prices paid by default customers might still rise further than the cap.

Price rises within the retail cap will be possible where a retailer is moving individual customers towards a 'target tariff' set by the Tribunal. There are several hundred residential tariffs still in existence in NSW and the target tariffs will cause a gradual rationalisation. The operation of target tariffs means that for some consumers their retail price will fall in real terms over the duration of the determination period.

PRICE PROTECTION FOR GAS CONSUMERS

IPART has finally released its Determination on a default tariff for small consumers of gas, *Review of the Delivered Price of Natural Gas to Tariff Customers Served from the AGL Gas Network in NSW*.

The Tribunal wants default tariffs to be broadly cost-reflective - after a profitability analysis conducted by IPART, it estimates that over 70% of residential customers, (including pensioners) are not meeting the cost of supply. However to avoid price shocks for residential consumers, the Tribunal has agreed to limit the amount by which the bill of any residential consumer (including pensioners) can increase. The bill of an individual residential customer in a financial year is not to exceed the bill for the corresponding period of the financial year (for the same pattern and volume of gas consumption) by more \$15 or 3 per cent in real terms, whichever is greater. These default tariffs are set up until 2004 with a mid-term review in 2002. These tariffs do not include the pass-through of costs of the introduction of full retail competition - these costs were unknown at the time of releasing the Determination and will be determined later. These default tariffs are broadly consistent with those

allowed for in the electricity industry.

AGL has agreed to increase its pensioner rebate from by \$5 to \$19 per annum from 1 March 2001 which will, to some degree, offset the price increases allowed for by the default tariff.

As well, the Determination has required AGL that they will obtain the Tribunal's approval for any changes to their miscellaneous charges over the four years to 2004. This is welcome regulation of these charges as there is no credible reason why these charges should not be regulated especially when miscellaneous charges are regulated in the electricity industry.

FULL RETAIL COMPETITION PROGRESS

Amendments to the *Electricity Supply Act* introduced late last year have created the legislative basis for full retail competition for electricity in NSW. However, the last tranche of customers (households and small business) have been kept out of the market for a transitional period. Currently the Government is finalising the content of a number of instruments that will provide important protections for small consumers in the marketplace.

Under the Act, a series of regulations will be made covering such areas as minimum safeguards for retail contracts; retail marketing behaviour; transfers between default supply and market options; and the rules governing choice of new 'interval meters' and the use of load profiling. PIAC and other consumer advocates have been involved in extensive consultations over these and other measures. The final regulations may not be ideal but will ensure that individual households are not exploited in the market or find themselves in a worse position following the advent of full competition.

Parallel to the process in electricity, the

Ministry of Energy and Utilities is pursuing the formulation of similar protections for consumers in the retail gas market. The Ministry has indicated its preference to replicate the provisions for electricity customers for use in gas. PIAC has pointed out that in some instances this would involve a diminution of rights currently enjoyed by residential gas customers under AGL's Customer Service Code.

Full competition in electricity remains targeted for next 1 January. Full competition market in gas is expected to be operating by the second half of this year.

ELECTRICITY TARIFF EQUALISATION FUND

Among the changes introduced to the *Electricity Supply Act (NSW)* was the creation of an Electricity Tariff Equalisation Fund (ETEF). The Fund already has attracted criticism with claims of an \$80 million deficit in the Fund and concerns that the turmoil in the Californian electricity market could be repeated in NSW.

In large part, the situation in California is a result of increased demand and static supply. In San Diego, where price caps ended two years earlier than other parts of the State, last northern summer saw price hikes of an average of 200%. Elsewhere, retail price caps remain in place (although recently boosted by 20%) and the utilities have effectively been bankrupted by growing wholesale prices.

In NSW residential consumers have the option of capped prices or taking their chances in the market. Importantly, they will have the ability to move back and forth between these two options over time.

The price caps for default customers are guaranteed not only by the Act but by the operation of the ETEF which protects the default suppliers (described in the Act as standard small retailers) from rising wholesale prices. In essence,

as demand in the market (and hence prices) rise and retailers remain locked into a capped price, the NSW Government owned generators will be taxed on their extra revenue to compensate the publicly owned retailers. In return, when demand falls and generators are selling to the retailers at less than the capped rate, the Fund will operate to compensate the generators from any windfall profits accrued by retailers.

It is easy to see that at any given point in time net funds will be moving towards the retailers and at other times towards the generators. In other words, claims about the Fund being in deficit reflect nothing other than a 'snapshot' rather than tracking the performance of the mechanism over time.

The rules of the Fund (and the protection offered to small consumers by default tariffs) are made possible by the continued Government ownership of generators and retailers. If the NSW Government had privatised the electricity industry, as has been done in Victoria, an ETEF would be impossible to implement because of the Fund's cross-subsidy arrangements.

Further, an open market would leave the costs to be borne by individual consumers - most especially the smaller and weaker households. The Fund effectively takes the costs and spreads them across the entire community.

PIAC WANTS ADDITIONAL CONDITION IN ELECTRICITY RETAILERS' LICENCES

PIAC has written to Dr Tom Parry, the Chair of the Independent Pricing and Regulatory Tribunal (IPART) suggesting that IPART recommend to the Minister for Energy and Utilities, the Hon Kim Yeadon that a new licence condition be included in the electricity retailers' licences. This licence condition would monitor the imposition of security deposits. IPART now has the responsibility for the

electricity businesses complying with their licences as a result of the *Independent Pricing and Regulatory Tribunal and Other Legislation Amendment Act 2000*.

Security deposits were regulated by IPART for the first time in *Pricing for the retail supply of electricity to franchise customer* in December 2000 and the regulation was further clarified in IPART's, *Regulated retail prices for electricity to 2004*. The intention of the regulation is that the number of security deposits should fall markedly because the retailers have to offer alternative methods of payment, such as pay as you go schemes and where this is accepted by a customer, a security deposit cannot be imposed. The problem is that there is no way of knowing whether the intent of the regulation is being realised. An additional condition in electricity retailers' licences is the only way that this can be monitored. This issue is of extreme importance to PIAC as it will tell us how low-income consumers are faring in the industry. PIAC has been advocating for this condition to be included in the retailers' licences for over a year, hopefully IPART and the Minister will agree with us.

NORTHPOWER MEETS WITH PIAC ABOUT THEIR IMPOSITION OF SECURITY DEPOSITS

Tom Parkinson, the Chief Executive Officer of NorthPower and Ron Craggs, NorthPower's Company Secretary met with PIAC in early February to discuss NorthPower's imposition of security deposits on customers who default on 'pay as you go' schemes. As reported in our last newsletter, it is PIAC's understanding that by doing this, NorthPower had contravened the IPART Determination on residential tariff pricing released in December 1999.

At the meeting, NorthPower agreed with PIAC that they will:

- investigate the numbers of people that were required to pay security deposits after they were connected between January 2000 and January 2001;
- inform PIAC of how many people were affected;
- return the amount of the security deposits to those people affected.

One issue that was not resolved at the meeting was the need to compensate people who were affected. NorthPower informed PIAC in a letter dated 16 March 2001 that the views of their Customer Consultative Group were "that it would be inappropriate to reward customers who have failed more than once on their direct debit arrangements" and that NorthPower agrees with this view. It is PIAC's view that compensation is required because NorthPower have been acting illegally rather than because people are bad payers. After careful consideration, PIAC has forwarded the issue of compensation to the Energy and Water Ombudsman.

PREMIER CARR ANNOUNCES NEW ELECTRICITY DISTRIBUTOR FOR COUNTRY NSW

The Premier of NSW, Mr Bob Carr, has announced plans to set up one of Australia's largest country-based businesses - Country Energy.

"It will be a business extending from the Murray in the south to the Tweed in the north," Mr Carr said.

Country businesses and families will now have an electricity supplier as strong and efficient as any city-based competitor.

"This is a great day for country electricity users," Mr Carr said.

Country Energy will have an annual turnover of around \$1 billion, employing almost 2,500 staff and serving the power needs of around

700,000 consumers.

Country Energy will spring from a merger of three smaller electricity distributors: Advance Energy, Great Southern Energy and North Power.

There will be no staff job losses as a result of the merger. There will be no redundancy program as there will be no need for one.

Services currently staffed by local people will continue to be staffed by locals. Service levels will be maintained and in many cases improved.

"Country Energy will be better placed to provide competitive energy prices. This will help stimulate industry, business and job growth in country NSW," he said.

Industry experts had agreed that it had become increasingly difficult for the three small electricity distributors to compete in a fully contestable market.

"They lacked the commercial muscle necessary to negotiate the best deals for their customers," Mr Carr said.

The mergers will need to be cleared by the Australian Competition and Consumer Commission and discussions would begin immediately with the ACCC to obtain the necessary clearance.

The Managing Director-designated of Country Energy is Mr Craig Murray - currently chief executive of Advance Energy. Mr Murray will remain based in Bathurst, with his top managers working in country centres across the State including the new offices in Port Macquarie, which will open in April.

The Chair of Country Energy will be Ms Barbara Ward, Current Chair of North Power.

Customers currently with one of the three companies to be merged will automatically transfer to the new retailer.

PROPOSED MERGER REFERRED TO STANDING COMMITTEE OF STATE DEVELOPMENT

The Deputy Leader of the Opposition, the Hon Duncan Gay has successfully moved in the NSW Legislative Council to refer the proposed merger to the Standing Committee on State Development that is to report by 31 May 2001 on:

- the impact of the merger on existing and future employment levels;
- the impact of the merger on existing and future access levels;
- the impact of the merger on existing and future maintenance and repair programs;
- the impact of the merger on the rural and regional communities affected by the merger;
- the impact of the merger on tariffs for rural and regional customers;
- the impact of the merger on financial returns to the Government from State owned corporations;
- methods to improve service and maintenance levels to rural and regional communities;
- methods to determine a common tariff structure for customers of Country Energy;
- examination of proposed salary levels and packages for the executive structure of Country Energy.

Submissions to the Committee have to be made by 2 April 2001 and sent to Parliament House, Macquarie Street, Sydney 2000.

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