1. INTRODUCTION

The Public Interest Advocacy Centre (PIAC) is an independent, non profit legal centre based in Sydney. Established in 1982 it strives to foster a fair and just society by empowering disadvantaged citizens, consumers and communities through strategic legal and policy intervention in public interest issues.

PIAC has established the Utility Consumers' Advocacy Program (UCAP). UCAP is funded by the NSW Government.

The main aims of the project are to:

- develop policy;
- advocate on behalf of residential consumers of gas, electricity and water services;
- identify systemic problems with utility service providers;
- ensure that consumer protection mechanisms work effectively; and
- facilitate the development of partnerships between stakeholders in utility service provision.

Broad policy direction is provided to UCAP by its Reference Group that is made up of representatives from the following organisations:

- Council of Social Service of NSW (NCOSS),
- Australian Consumers Association
- Parks and Village Service
- Combined Pensioners and Superannuants Association of NSW
- NSW Council on the Ageing
- Country Energy's Rural Advisory Committee
- Institute of Sustainable Futures, University of Technology.

2. IPART's INTERIM REPORT

PIAC welcomes the Interim Report, *Inquiry into the Role of Demand Management and Other Options in the Provision of Energy Services*. In particular, we are pleased that the Interim Report considers and is supportive of programs targeted at households that have low incomes. In other words, equity concerns have been adequately addressed. PIAC would like to reiterate the point we have made on a number of occasions, that these households are often unable to take up energy efficiency services that are provided at cost or partially subsidised because of their inability to afford the up-front costs of such services.

3. ESTABLISH A DEMAND MANAGEMENT FUND

PIAC fully supports the establishment of a Demand Management Fund because of the ad hoc nature of the delivery of energy efficiency schemes up to now. This is not to say that these schemes/projects have not been worthwhile but a more co-ordinated statewide approach is required to achieve increased energy efficiency and reduce demand. PIAC also supports the proposal in the Interim Report to review the Sustainable Energy Development Agency's (SEDA) role, particularly as the Interim Report suggests, the Fund would have a larger funding base and expanded operations.

The Interim Report also suggests that joint funding could be made available through the Fund for water and energy demand management. This is an extremely sensible approach because of the two existing projects currently being undertaken by Sydney Water and the CHEEP Committee through the REFIT Pilot Project in the Lower Hunter, there are only three differences: the amount of subsidy provided, the projects are targeted at different types of households and the provision of different products[1].

3.1 Objectives of the Fund

One of the common objectives in all of the three options canvassed in the Interim Report is to have a focus on "energy efficiency programs with a wider range of partners, including equipment suppliers, the building industry and local government". This objective fails to acknowledge the importance of the non-government sector in providing their expertise to such programs, particularly if there are programs that are targeted for equity reasons at low-income households. REFIT was and remains an initiative of the non-government sector and since its implementation in November 2001, PIAC and a range of other organisations have developed expertise in designing and implementing these types of programs.

Of the three options, PIAC favours the third option that would create two separate funds out of the existing Sustainable Energy Fund with additional resources. One fund would fund a range of demand management projects, including energy efficiency while the other fund would to promote a sustainable future by focusing on longer-term market transformation and R&D projects and facilitating the development, commercialisation and use of sustainable energy technology.

If for whatever reason this option is not adopted by IPART and the NSW Government, the first option would be acceptable to PIAC. This option is somewhat narrower in scope but also (as with the third option) includes a focus on both energy efficiency and end-user fuel switching programs and funding energy efficiency programs with a wide range of partners.

3.2 Source and level of funding

The Interim report outlines three options for funding the Demand Management Fund including:

- penalties collected from retail licence holders for non-compliance
- a Public Benefits type charge levied on end-users which is non-by-passable
- consolidated revenue (possibly as an ear-marked component of dividends from the Government's electricity utilities).

While the Interim Report states that penalties collected from the retail licence holders for non-compliance would not provide the required level of assurance for a Fund, there is also an argument that such funding could provide funding for specific projects.

There are equity considerations (as the Interim Report) notes with funding provided through a Public Benefits type charge. Equity distortions would eventuate from a flat rate charge on all electricity customers.

---

[1] The difference in the products, is that, REFIT provides two compact fluorescent light bulbs. There is no benefit to Sydney Water to provide this additional product.

PIAC's Occasional Policy Paper No 3, *Extending the public benefits from a competitive electricity industry: enhancing environmental and social outcomes*, concluded that in NSW "many of the environmental and social interventions currently addressing 'public benefit' needs are met through budget sector funding (with varying degrees of adequacy, and with SEDA being at risk), a special levy on distributors is a potential option to consider in the future"[2]. Despite the conclusions of the Occasional Paper, PIAC is not convinced of the need for a separate public benefits charge, particularly, when NSW, and Australia for that matter has a more collectivist approach towards funding, that is funding programs from consolidated revenue rather individualised charges for specific purposes.

PIAC would only support a public benefits charge if it had little or no impact on low-income households.

Our preferred option is through consolidated revenue and this could include an ear-marked component of dividends as the Interim Report suggests, not only from the dividends paid by the electricity utilities but also the dividends paid by the water utilities. This, of course, as suggested above, could be supplemented from time to time by penalties collected from retailers for non-compliance that could fund specific projects.

3.3 Governance of the fund

PIAC agrees with the suggestion in the Interim Report that if the Fund is established that the funder and service provider function should be separated. One of the reasons for the separation is that it would enable the development of an independent energy services industry. We would comment that for providing and installing energy efficient devices there is already a competitive market. This is evidenced by the fact that there was considerable interest in tendering for the REFIT contract in the Lower Hunter and we would also suggest that the development of this part of the industry was facilitated in the main by the implementation of Sydney Water's residential program.

The objective of the funder part of the Fund, the Interim report notes should be to obtain best 'value for money" in use of the funds to achieve its statutory objective. This may not be the case if projects like REFIT are implemented because comparatively the fixed for the project should either stay the same or decrease, the greater numbers of retrofits provided. Therefore for small numbers of retrofits undertaken, the costs will be higher. PIAC is about to provide EnergyAustralia with a breakdown of real costs for REFIT, which will include establishment and recurrent costs. After receiving approval from EnergyAustralia, PIAC would be more than happy to provide this information to IPART.

PIAC would also like representatives of residential consumers on the governing structure of the Fund.

3.4 Fund energy efficiency programs targeted at specific groups

PIAC is in total agreement with funding energy efficiency programs targeted at low-income households by the Fund to ensure that the Fund is equitable.

We want to add a comment about low-income households living in the private rental market. PIAC suspects that landlords who own or invest at the lower end of the private rental market may be less likely to invest in energy efficient appliances.

[2] Public Interest Advocacy Centre, *Extending the public benefits from a competitive electricity industry: enhancing environmental and social outcomes*, Occasional Policy Paper No 3, October 2000, p. 10.

Another identified group is permanent residents of caravan parks. Energy efficiency projects that address the needs of this group of households would also greatly assist in improving service standards in both energy and water provision.

3.5 Co-ordinate efforts across Government

PIAC very much welcomes the Interim Report's suggestion that the Department of Housing could undertake a co-ordinated program to realise the benefits of DM for the residential sector. Further that if the NSW Government considers implementing a house energy rating scheme as has been implemented in the ACT, that the Department of Housing only purchase or build new dwellings with the highest energy rating.

4. ENCOURAGING NETWORK DRIVEN DM

PIAC wrote to the Tribunal on 10 April of this year arguing that the development of policy around the fostering of demand management in the distribution sector ought to focus on the deferral or avoidance of the construction of new network assets or the augmentation of existing assets. The main point behind this argument was the direct benefit accruing to the community through cost savings and reduced forward expenditure by the networks. We note with interest, then, the view of network managers, cited in the Tribunal's *Interim Report*, that one of the key benefits of DM is the lowering of costs to end-users.

We would be concerned at an argument that the regulation of these monopoly businesses is a barrier to the development of a greater level of demand management in the NSW electricity industry. Rather, we believe that a greater reliance on demand management in network planning will result from more appropriate regulation.

In particular, as noted in our 10 April letter, the success of the current REFIT pilot in the Lower Hunter demonstrates the importance of non-market based approaches to demand management and the delivery of savings to end-use customers.

We commend Integral Energy for their success with a commercially based approach to demand management, particularly in relation to household use of air conditioning. However, while this does present a strong option for the avoidance of peak demand, Integral has not made clear the cost-benefit balance for a project applied on a large scale.

Further, the decision by Integral Energy to explore commercially based options for demand management serves to highlight the limited use of demand management options by the industry more generally. The failure by the networks to foster a market for demand management suggests that more prescriptive regulation might be required. This would mirror the recent changes in the regulatory environment for retailers with the now mandated greenhouse gas emissions targets.

Such changes to the industry rules could be used to support the greater use of standard offers. These seem to us to carry considerable promise as an effective measure for increased demand management activities – not least because they emphasise cost savings for end-users, albeit with the likelihood these will be enjoyed by larger customers.

PIAC supports the proposal to extend planning horizons within the networks. This would be expected to provide for greater flexibility in the planning and development of specific demand management services. If regulatory changes were used to impose on the DNSPs greater levels of activity in promoting demand management a gradual phase-in of targets, such as with the newly mandated retailer benchmarks, might assist in the extension of planning horizons.

Finally, the use of pilot programs to further explore individual options might also be connected to the phase-in of targets. However, we note the evidence submitted by the networks to the Ministry's review of the *Demand Management Code* to the effect that there are few realistic options for pilots using a market approach.

5. ENCOURAGING RETAIL MARKET DRIVEN DM

As with the proposals for increased demand management activity by the networks, PIAC notes that the most successful approach is likely to be based on regulated targets. For example, the Tribunal has cited the success of the Californian 20/20 program. This was introduced to the Californian market through regulatory decision making and, further, supported by the introduction of mandatory targets for retailers to reduce consumption.

PIAC is in favour of a pilot program for the wider roll-out of sample interval meters. However, in our view it is the retailers who should have the responsibility for any such rollout, including the funding of new interval meters were these to be mandated for low-volume customers.

Ultimately, the key question for any widespread introduction of interval meters, particularly in the case of the second-tier retailers, is the extent to which any savings will be passed through to low-volume end-users.

The work undertaken for the Tribunal by CRA makes it clear that the key driver in the wider use of interval meters is the reduction in average energy costs that result for retailers. The benefits extend to the reduction in market risk for retailers. Given the decision by most retailers to accept this risk as a function of entering the retail energy market it would be unreasonable for households and other small customers to be called on to fund this reduction of market risk.

This is particularly of concern to PIAC given that the other issue for low-volume households is the marginal impact on each bill from real time price signals such as would be obtained by interval metering. We understand a similar marginal impact was described in the case of air conditioning cross subsidies in a Victorian study undertaken by Trowbridge Consulting.

The Tribunal has noted the weakness of price signals in encouraging low-volume customers to take-up interval meters or even engage in demand management activities. The Tribunal specifically mentions the Electricity Tariff Equalisation Fund (ETEF) in connection with this. However, the impact of the ETEF on the price responsiveness of NSW households clearly is relative to the broader incidence of price inelasticity among low-income energy consumers. Indeed, the Tribunal has in its *Interim Report* made out a case as to why price inelasticity is encountered among such groups. In our view, the appropriate response is to enhance the regulatory regime for retailers such as has recently been done by the NSW Government with respect to greenhouse gas emissions. Such a mechanism operates parallel to and independently of the ETEF.

Accordingly, we are mystified by the comment in the *Interim Report* that demand management in the retail segment of the industry is being negatively impacted upon by continuing Government ownership in NSW.

PIAC is interested to explore the options for aggregating customer demand as a means of facilitating greater uptake, especially among residential users, of demand management activities. For example, more policy work is needed on how best to foster community demand-side responses such as energy co-operatives. We note that the Department of Fair Trading previously has funded a study with the Hunter Regional Organisation of Councils (HROC). Another was undertaken by the Institute of Sustainable Futures at the University of Technology, Sydney and the Australian Centre for Co-operative Research and Development (ACCORD). In addition, a Melbourne based group of local councils has been working to aggregate their residents into a single buying group. This might allow for easier marketing of demand management options such as interruptible supply contracts