

MEDIA RELEASE

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Unfair process leading to higher electricity prices

Two prominent consumer advocacy groups are calling for the federal government to abolish the current process of appeal for electricity distribution pricing determinations. A new report released by the Consumer Action Law Centre and the Consumer Utilities Advocacy Centre, shows electricity distribution companies are routinely challenging pricing determinations made by the Australian Energy Regulator, the independent organisation that sets distribution costs. The one sided nature of the appeals process means so far attempts to use it to increase distributors' profit margins have been very successful.

“As an independent body, the AER's role is to set prices which are fair for both distributors and consumers. To do this - the AER must heavily rely on information provided by the distribution businesses. The AER process, however, at least allows input from a wide range of stakeholders, including consumers. In contrast, the appeals process is heavily weighted in favour of the distribution businesses. This being the case, it's no real surprise distributors have challenged five out of the six decisions the AER has made since 2008,” said Catriona Lowe, CEO of Consumer Action.

“Under the current set-up, distributors can challenge the AER's pricing guidelines with minimal risk that the outcome will see them worse-off – basically, they have little to lose as the process as it stands allows distributors to only challenge the parts of an AER decision they think they can win, and the costs of doing so are ultimately paid by consumers.”

“Distributors have a monopoly over their particular regions and the AER's independent decisions guarantee them a good rate of return. In these circumstances consumers have every right to expect a process that is fair, balanced and transparent. Unfortunately, that is not what the current laws require,” said Ms Lowe.

When all five Victorian distributors challenged the AER's proposed network pricing for 2011 – 2015, Consumer Action and CUAC attempted to represent the interests of consumers at the resulting tribunal hearing, but received legal advice to the effect that they were not able to do so.

Jo Benvenuti, Executive Officer of CUAC said that the barriers against consumer intervention are impossibly high.

“As a result, the distributors get to plead their case without any scrutiny or voices of dissent – consumer groups have a theoretical right to be there, but lack of access to information, resources and technical expertise means that in practice that right cannot be exercised. However, it is consumers who foot the bill for the process.”

“These companies have significant resources to assist their case to the Tribunal, but the current rules give them a free kick by silencing voices which would provide balance and help to keep energy prices down,” said Ms Benvenuti.

Consumer Action and CUAC believe there is an urgent need to reform the legislation which sets out the basis for appeal. A review was promised upon enactment of the current provisions and would provide a genuine and rare opportunity to limit appeals and cherry picking by the businesses and to strengthen the AER’s powers, to create a system in which all sides of the debate are represented. “Electricity is an essential item so cost increases have a profound effect on every member of our community. Consumer protection against price gouging from distributors needs to be guaranteed,” said Ms Lowe.

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