



Designing Involvement

Greg Houston

Director, Sydney

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Insight in Economics™

Status of Customer Involvement



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“The bad news is, our customers hate us. The good news is, we have a lot fewer customers than we used to!”

Reality of Customers' Perspective



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Thursday 11 July 2013
The Australian Financial Review | www.afr.com

AFR

www.afr.com.au

Jennifer Hewett



Welcome to the bizarrely complicated world of electricity pricing.

Readers may recall that I was forced to resort to strong drink after opening a bill declaring I owed \$4757.37, payable within the week.

The bill was backdated to September, 2011, the date that I had switched retailers (supposedly to save money!) and inadvertently been forced on to "time of use" pricing by the network distributor and meter owner, Ausgrid.

That meant I was billed at different rates according to the time of day the household uses power.

My own consumer remonstrations with the retailer, Origin Energy, and Ausgrid, initially produced a lot of phone finger-pointing about who was at fault.

Not surprisingly, my column last week on the great electricity bill heist produced a much more concrete response, including apologies and investigations from both companies.

But the column also attracted a digital mountain of emails about smart meters and billing horror stories confirming I am not alone in my frustration.

“Welcome to the bizarrely complicated world of electricity pricing.”

“... my column last week ... attracted a digital mountain of emails about smart meters and billing horror stories confirming I am not alone in my frustration.”



Synopsis of Issues

- What is the customer involvement problem we are seeking to address?
- How and why has an ‘advocacy gap’ evolved in Australia?
- Nature and extent of the ‘advocacy gap’
- What might success in customer advocacy look like?
- What should be the priorities for advocacy effort?
- Can other process reforms also assist customer involvement?

Customer Involvement Objectives



- SCER, Nov 2012: Energy Market Reform— Putting Customers First, announced



‘...a comprehensive, coherent and well considered suite of actions to **restore the focus** of the electricity market on serving **the long term interests of consumers**’

- Commonwealth decision to establish a Consumer Challenge Panel within the AER:



‘...to ensure that consumers are **better represented** within regulatory decision and appeal processes’

- Further agreed to develop a proposal for:



‘...a **strong national advocate for consumer interests** that is well equipped to contribute constructively to energy policy and market development issues.’

Customer Involvement Objectives



- The NEO and the activities of the AEMC and AER are each focused on:
 - ‘the long term interests of consumers of electricity’
- SCER’s ‘Putting Customers First’ proposal was ‘to restore the focus’ on ‘the long term interests of consumers’



What is it about the functioning of the AEMC and AER that necessitates two more bodies, with an apparently similar objective?



Insights from the history of regulatory development in Australia

- Formative decisions in design of Australian price regulation (mid-1990s) drew heavily from UK institutions and processes developed a decade earlier
- UK regulatory design had a strong, anti-American focus, i.e.:
 - Emphasis on fixed term price caps, rather than whether a threshold rate-of-return is achieved
 - Avoid litigation-rich, quasi-judicial processes
 - Decision-making power vested in a single individual, with primary duty 'to protect interests of customers'





Insights from the history of regulatory development in Australia

- Although available to be learned from, useful features of US regulatory arrangements were overlooked:
 - US quasi-judicial system has long provided for 'intervenor' to both initiate and participate directly in regulatory commission hearings
 - Customer advocates playing that intervenor role have been around since the 1960s, with those institutions having been steadily strengthened over time





Insights from the history of regulatory development in Australia

- Focus of competition principles agreement and part IIIA reforms was on:
 - Enhancing competition and efficiency, rather than the interests of consumers; and
 - Establishing a negotiate-arbitrate framework for access to all infrastructure
- Many infrastructure access arrangements remain subject to the negotiate-arbitrate framework, e.g.,
 - airports, majority of gas pipelines, most rail networks, and most ports/port terminals





Insights from the history of regulatory development in Australia

Continued...

- Structures of the ADJR act mean that Australian regulators
 - Perform the role of administrative decision-makers, who must balance the interests of service providers and customers
 - Are held to higher standards than their UK counterparts in terms of reasoning and transparency of decisions; and
 - Must anticipate that a significant proportion of decisions will be litigated



Nature and Extent of 'Advocacy Gap'



End result is that the nature and extent of customer involvement in Australia is 'patchy'

- Infrastructure services provided under the negotiate-arbitrate framework already have a strong role for customers/access seekers in price setting, e.g.,
 - Airlines in relation to airports
 - Gas shippers in relation to pipelines; and
 - Freight operators and miners in relation to below rail services
 - Miners in relation to port terminals

- In telecommunications:
 - Although the negotiate-arbitrate framework has been superseded, competing telcos provide strong, effective representation in the access price setting process, including appeals

Nature and Extent of 'Advocacy Gap'



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In energy, the consumer 'advocacy gap'

- Is sector specific
 - Not obviously present in other regulated sectors, except perhaps water
- Is process-based
 - Reflects a sense of insufficient weight being given to consumers' perspective
- Perhaps, reflects the continuing transition from state-based to national regulation
 - State governments and ad hoc NGOs still perform some advocacy functions
- Does *not* reflect any obvious shortcoming in the existing set of institutional objectives

Nature and Extent of 'Advocacy Gap'



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Proposed AECO Objective:

“ “ To promote the interests of all Australian energy consumers over the long term, with respect to their access to the supply of efficiently priced, reliable and safe energy service, by presenting a strong, coordinated consumer advocacy voice on national energy market matters of strategic importance and material consequence for all energy consumers and particularly household and small business energy consumers. ” ”



AECO is proposed to be an organisation of 14 people with an annual budget of \$6.2 million

Given any reasonable budget constraint:

- What does success look like?
- What are the right priorities for advocacy effort?
- Can other process reforms also assist customer involvement?



What does successful consumer advocacy look like? Is it:

- Securing material changes in regulatory outcomes?
- More transparent, accountable regulatory processes, even if outcomes remain largely unchanged?
- Better informed consumers, even if outcomes remain largely unchanged?



Choices in customer advocacy priority setting

AER Price Resets

- Drivers of price level outcomes
 - Service/reliability standards
 - Expenditure allowances, given standards
 - Allowed rate-of-return

AEMC Rule Changes

- Network pricing rules
- Wholesale-retail market design rules

AER Price Resets

- Tariff structure/metering outcomes
 - Smart meter roll out policy
 - Time-of-use tariffs
 - Fixed versus variable elements of network tariffs

Merits review of AER Price Resets

- Intervene in matters before Tribunal?

Can Other Reforms Also Assist?



If customer involvement is about enhancing regulatory processes, can other procedural reforms also assist?

- AER use of public hearings to examine service providers and customer advocates would enhance accountability
- NZ Commerce Commission processes appear to strike a better balance between the US quasi-judicial system, and UK/Australian ‘on the papers’ decision-making
 - Service providers are ‘examined’ by Commissioners on critical elements of their submissions
 - Customer advocates are also ‘examined’ by Commissioners on their submissions
 - Hearings are transcribed and ‘on the record’
 - Experts are required to confirm their independent status prior to participating in any hearing

Concluding Remarks



- Establishing formal, consumer advocacy roles should bring improvements in:
 - Price, service level and tariff/metering outcomes
 - Customer education and understanding
 - The legitimacy of regulatory outcomes
- Customer advocates will face challenging decisions on how best to deploy their resources
- Consumer engagement could also be enhanced by the AER conducting hearings where it ‘examines’ proponents on material put before it



Contact Us

Greg Houston

Director
NERA—Sydney
+61 2 8864 6501
greg.houston@nera.com