



4th March 2011

Mr. Richard Chadwick
General Manager, Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 520
Melbourne Victoria 3001

By email: richard.chadwick@accc.gov.au
Cc: neil.howes@aer.gov.au

**Energy Assured Limited Application for Authorisation A91258 and A91259
Interested Party Consultation in Relation to Amended Application**

Dear Mr. Chadwick,

Australian Power & Gas (APG) welcomes the opportunity to provide comment on the above mentioned consultation. At the outset we would reaffirm our view that "door knocking" activities are a legitimate channel to market that allows smaller second tier energy retailers to access and enter the retail energy market.

As a result consumers benefit through enhanced levels of competition and product innovation. It must be remembered that it has only been through the activity of door knocking that many thousands of customers have been made aware of alternative offers and have made informed decisions to change their energy provider and received a greater benefit in doing so.

APG fully supports Energy Assured Limited's (EAL) application for authorisation. This industry lead initiative to establish a clear and transparent code of practice to address consumer concerns with the activities of some "rogue" marketing agents and thereby increase consumer confidence and competition in the energy market should receive the full support of the ACCC.

Australian Power & Gas Pty Ltd
ABN 26 118 609 813

Level 9, 341 George Street
Sydney NSW 2000

Address all mail to:
Locked Bag 5004
Royal Exchange NSW 1225

Ph: 02 8908 2700
Fax: 02 8908 2701

www.australianpowerandgas.com.au



The ACCC is being asked to consider whether the proposed scheme will provide a public benefit. To date we have seen no evidence to support any suggestion that the introduction of the scheme will create a competitive restriction or that the scheme will be to the detriment of consumers and not provide a public benefit.

APG holds the firm view that the introduction of the EAL will provide significant public benefit. The industry initiative to establish a regime for the operation of the EAL register, together with recruitment, training, monitoring and disciplinary obligations placed on members, will clearly deliver greater public benefit through enhanced compliance and consumer confidence which will ultimately result in heightened levels of competition and benefits for consumers, as well as reduce complaints proportionate to homes visited.

The Energy & Water Ombudsman Victoria (EWOV) and the Energy & Water Ombudsman NSW (EWON) are two key independent external bodies that are well placed to comment on the proposed schemes effectiveness and subsequent public benefit. In their previous submissions to the application for authorisation both EWOV and EWON were consistent in their comments of support towards the proposed scheme.

EWOV stated in their submission that,

Given such public concern about some marketer's conduct, EWOV welcomes EAL's approach to self-regulation of energy retailers' door-to-door marketing activities. EWOV notes that a self-regulation proposal by an industry association may raise the ACCC's concern about competition restriction.

EWOV however sees this planned Code as an opportunity to raise energy customers' confidence about marketing transparency and honesty, which translates into a clear consumer benefit. EWOV therefore welcomes EAL's proposal¹.

EWON stated in their submission that,

EWON welcomes the initiative undertaken by energy retailers to self-regulate this area of activity. There is a clear public benefit in a code of practice and greater accountability being applied to energy marketing, especially in the area of door to door sales.

¹ EWOV submission 24th November 2010 to the Energy Assured Limited Application for Authorisation A91258 and A91259-Interested Party consultation

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The activities proposed in the Energy Assurance Limited application supplement the consumer protections provided by the National Energy Retail Law.

Energy ombudsman schemes will continue to deal with individual complaints from customers about marketing conduct, and we expect a positive relationship and referral process with Energy Assured Limited. We are therefore pleased to support this initiative².

A key component of the EAL scheme is the "Register" of agents. The EAL Register provides for a greater level of scrutiny over the recruitment, conduct and compliance of sales agents employed by retailers than is required under the current existing regulatory framework. The Register provides a platform for the monitoring and assessment of agents ensuring that agents employed by retailers conduct their activities in accordance with the obligations placed on them.

A feature of the Registry is that it ensures that non-complying agents are not able to move from one retailer to another. This has significant public benefit through ensuring that only competent complying agents are able to operate in the market.

In addition, the scheme carries with it audit, compliance, complaint management and reporting obligations. These scheme obligations will complement the existing regulatory frameworks. Further the scheme will operate transparently through the publishing of annual audit and compliance reports, matters of concern, enforcement and scheme review will be dealt with through an independent compliance panel.

One issue that has been raised through the consultation process is that of the consumer's right to seek recourse through the relevant Ombudsman scheme. The introduction of the EAL scheme does not change customers' ability to access the Ombudsman scheme. The EAL complaints process is an enhancement to the existing options available to a consumer when seeking redress for an issue they have experienced.

² EWON submission 24th November 2010 Energy Assured Limited Application for Authorisation

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The EAL does not interfere with or impede a consumer's ability to contact or raise issues of concern with the Ombudsman. When the EAL scheme is introduced APG will continue to provide customers with information on how to access the Ombudsman scheme.

Some interested parties have also raised concerns about the ease with which consumers will be able to interpret and understand the scheme. The EAL scheme documentation is no more complex in its drafting than the current regulatory and marketing codes that govern a retailer's activities. We would go further to say that the EAL code in its drafting is more simplistic and clearer to understand than many other current existing regulatory instruments.

Regardless of this, customers will have access to additional information on the scheme through consumer information brochures, website information and other direct marketing material, as specified in the Code.

In summation, APG is of the firm view that the EAL will provide material benefit to consumers and its introduction is in the best interests of consumers. There is no demonstrated evidence to suggest its introduction will result in a competitive restriction or that the scheme would be to the detriment of consumers.

As a result we believe there is no impediment that would stop the ACCC approving the application for authorisation.

Should you wish to discuss any aspects of our submission I may be contacted on (02) 8908 2714 or via email; sruddy@auspg.com.au

Yours sincerely,

A handwritten signature in black ink, appearing to read "Shaun Ruddy", written over a light grey rectangular background.

Shaun Ruddy
Manager Regulatory & Compliance
Australian Power & Gas

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ABN 26 118 609 813

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