	ACOSS & CHOICE - Energy at Home Forum
Australian Competition & Consumer Commission	***Retail Energy : a fair go for consumers***
	13 September 2011, Canberra **Rod Sims, Chairman**

I would like to thank ACOSS and CHOICE for inviting me today, and for organising this well-timed and well-themed conference.

I have a great respect for ACOSS and Choice, and the work they do, and I hope to have continuing contact with them in my role as Chairman of the Australian Competition and Consumer Commission (ACCC).

The flier for this conference highlights two crucial points in relation to the energy market today, and I want to focus on both of them. First, the flier highlights fast rising energy prices; and second, it highlights the complexity of energy market products.

Retail electricity prices have since 2007 risen between 40 – 60 per cent in real terms in most jurisdictions. That is, on top of general inflation, people have generally seen their electricity prices increase by around 50 per cent in the past 4 years.

I have recently read a number of newspaper articles puzzling over why cost of living issues are dominating our national discussion when, by most measures, Australian living standards continue to steadily improve. Part of the answer, perhaps the largest part, is that around 50 per cent increase (or around 70 per cent with inflation included) in the price of an essential product, and one whose invoice we receive on a quarterly basis.

As we all know, electricity market reform is still relatively new. I believe that this liberalisation, and the privatisation of electricity assets, has brought benefits as productivity in the electricity industry has improved considerably and benefitted consumers.

All that said, however, the retail electricity market remains immature. Consumers are not well informed and are often confused. Indeed, the electricity market can not be seen as truly competitive while consumers are not able to participate effectively.

With this background, today I want to make just three points.

First, rising network costs are by far the main reason for recent electricity price increases. Network costs are regulated and it is crucial that the rules regulating the network businesses ensure that consumers pay no more than they need for safe and reliable services. The standards of service for the networks are another important component that affects on the prices that consumers pay. For organisations such as those represented here today, the key focus in protecting consumer interests should be on changing the rules under which electricity networks are regulated, and assessing the standards that electricity networks must meet. Indeed, the lack of effective consumer engagement in these issues is a failure of process within regulatory arrangements generally.

Second, I am announcing today that the ACCC will now be focusing on some practices of energy retailers and related businesses, in particular in the areas of door-to-door selling and energy comparator websites.

Third, the Australian Energy Regulator (AER) will be implementing other measures to reduce consumer confusion under the National Energy Retail Law.

I will now expand on each of these points in turn.

1. Ensuring consumers pay no more than they need to for network services is the most important way to relieve the pressure of electricity prices on consumers. This requires strong consumer engagement.

Network costs—that is, the cost of the poles and wires and supporting infrastructure used to deliver energy to consumers—make up 40–50 per cent of the retail price and are currently the main source of rising prices. For example, in recent years they have accounted for around 70 per cent of the increase in retail prices in New South Wales and on current estimates will likely do so in the next few years.

While network costs rose because of the need to replace ageing infrastructure and to meet rising peak demand, they have risen more than they should have.

It is, of course, essential to provide commercial returns to network businesses to fund the investment needed to meet energy demand, replace equipment that has reached the end of its life, and maintain reliable networks. But we also need to be sure that consumers pay the minimum necessary to meet the costs of safe and reliable supply.

During 2011, the AER has examined the rules under which the networks are regulated and has commented that the rules do not strike an appropriate balance between efficient investment and fair charges for consumers. The AER will be shortly proposing a rule change to the Australian Energy Market Commission (AEMC) to redress this imbalance.

The AER considers that changes will be needed in at least three areas to achieve this balance. First, the rules do not currently allow the regulator to make appropriate forecasts of efficient capital and operating expenditure as they give undue weight to the views of the monopoly network companies. Second, the regime lacks sufficient incentives for firms to spend no more than is necessary and efficient. Third, a better process is needed to calculate the required investment returns to reflect more accurately the true costs of funding investment and to provide certainty for service providers.

Further, there is a need to engage consumers better on what service standards they are willing to pay for. While consumers expect safe and reliable energy delivery, the link between reliability standards and network costs is not well understood. The capital intensive nature of local distribution networks makes it very expensive to build in the necessary spare capacity to reduce outages. The trade-offs between reliability and cost means that recent well intentioned decisions by State Governments to increase reliability standards have required substantial new investment, with disproportionate impacts on consumer bills.

I think it is important that reliability standards are determined taking into account what consumers are willing to pay It is interesting to note that a 2007 study for the South Australian regulator found that only 13 per cent of consumers were willing to pay for more service improvement. In this light, recent moves to review how reliability standards are set are clearly necessary.

Can I urge ACOSS and CHOICE, and all those interested in good consumer outcomes, to participate fully in the coming rule change process and in the upcoming review by the AEMC of distribution network standards and the processes by which they are set. Without your active participation both processes will be one-sided as the main voices heard will be those of the monopoly network companies.

Your participation is, I believe, the single best way for you to assist electricity consumers. It will also address a key shortcoming of current regulatory decision making which I do not believe facilitates appropriate consumer input.

2. Today I am announcing that the ACCC will make some practices of energy retailers and related businesses a key focus area, in particular in the areas of door-to-door selling and energy comparator websites

I have been observing the outcomes from the door-to-door selling of electricity for some time, both in my role as Chairman at the Independent Pricing and Regulatory Tribunal of New South Wales (IPART) and now at the ACCC. I have read too many accounts of bad, even appalling conduct for there not to be real substance behind many of these complaints.

Many practices reflect badly on the companies involved, but they also reflect badly on the state of the energy market in Australia.

Door-to-door marketing is seen by energy retailers as an effective way of gaining market share and building customer volume. In undertaking this activity, however, some engage in aggressive tactics, leading to some consumers falling prey to misleading or unconscionable conduct.

Given that energy is an essential service, the ACCC is particularly concerned about the impact of misleading or deceptive conduct by door-to-door marketers on vulnerable consumers, such as the elderly and those with limited understanding of English.

Inappropriate practices in the sale of retail energy products will not be tolerated, and industry participants are on notice.

The ACCC and the AER wrote to energy retailers in July reminding them of their obligations under the Australian Consumer Law (ACL).

Under the ACL door-to-door marketers must identify up front the retailer they represent, must not contact consumers outside specified hours, and must not make false or misleading representations to consumers.

Retailers need to ensure that the agents they employ for door-to-door marketing are complying with the law. Let me be perfectly clear, if a retailer's agent breaks the law, not only is the agent liable, but the retailer is as well.

The consequences can be severe - with criminal sanctions and civil penalties of up to $220,000 for individuals and $1.1 million for companies per contravention available under the ACL.

The ACCC has now begun investigating a number of complaints in this sector as part of a new focus on particular electricity retail practices. Should those investigations reveal serious misconduct we will not hesitate to take swift enforcement action to enforce compliance with the law.

Another growing practice in the market is to provide commercial price comparator services. As a rule these should be a useful tool for consumers – as long as the information is clear and the deals transparent.

You might be aware that recently the ACCC instituted proceedings against the price comparator service Energy Watch alleging that it misled or deceived consumers in relation to its service.

We recently reviewed a number of energy comparison websites and issued substantiation notices to Energy Watch and others, requiring them to back up the claims made in their advertising, and we will continue this activity.

3. The AER will be implementing other measures to remove consumer confusion.

In the current environment of increasing energy costs consumers are now more willing than ever to look for a better deal from energy retailers. Many energy companies offer large discounts to consumers in an effort to win their business but it is often not clear from what base price the discount is occurring.

Consumers should be able to navigate confidently the many electricity offers available and choose one that suits their budget and their usage needs. They should also know, or be able to easily find out, where they can get information and assistance to answer questions about their energy service.

With the introduction of new national legislation mid next year, namely the National Energy Retail Law and Retail Rules, the AER will take on a range of new responsibilities in relation to retail energy regulation. Many of these complement or build on the work already undertaken by state and territory energy regulators.

The AER will be responsible for the development of a price comparator website, management of energy bill benchmarking and the development of a retail pricing guideline that will encourage consistency and clarity in the presentation of pricing information by energy retailers. Common to each of these is the aim of facilitating consumer engagement in the energy market by increasing consumer energy literacy generally. These initiatives intend to facilitate comparison of retail energy offers and promote retail competition.

One common complaint about energy products is how hard it can be to compare different offers – oranges with oranges, if you like. Under the Retail

Law, the AER is empowered to develop a pricing information guideline that will standardise the way retailers present information to consumers. Specifically, the AER guideline will require retailers to publish energy price fact sheets for each energy contract they offer, using a common format, units of measurement and content.

The AER is also developing a price comparator website that will assist consumers in their search for the best contract available to them. With the large number of retailers and energy contracts available, searching for a new contract can often seem daunting, not to mention time consuming. The price comparator will enable consumers to compare more easily the price and other non-price features of different energy contracts that are available to them and to enter details of their household usage and location to assist in generating more personalised estimates.

The bill benchmarking initiative involves the development of electricity consumption benchmarks that will allow households to compare their electricity consumption with similar households in their community. These benchmarks will appear on consumer bills, and are intended to assist consumers to understand and monitor their energy usage, and encourage them to consider options that may improve their energy efficiency and reduce their bills.

Concluding comments

There are many pressures building that will increase future electricity prices. Gas and coal prices are rising as are construction capital costs, and both sides of politics are committed to reducing carbon emissions by around 25 per cent against business – as – usual (or 5 per cent against 2000 levels), which is an ambitious target with important implications for electricity prices.

Given these pressures it is crucial that electricity prices do not increase more than they have to, and that consumers have as much clarity about their retail electricity choices as possible.

To that end can I urge you all to engage in the coming debates on the network regulation rules and service standards. Engaging in these debates is the single most important thing you can do to assist energy consumers. For our part the ACCC and the AER will be doing all we can to improve industry practices, particularly in relation to door to door marketing and ensure electricity consumers are well informed.

Thank you very much for your time today.