



Western Australian
Council of Social Service Inc

*Ways to make
a difference*

Mr Mick Geaney
Assistant Director, Licensing
Economic Regulation Authority
PO Box 8469
Perth Business Centre
WA 6849

23 November 2006

Dear Mr Geaney,

**WACOSS Submission to the Economic Regulation Authority
Recommendation Report – Review of Gas Trading and Distribution Licences**

The Western Australian Council of Social Service (WACOSS) provides the attached submission to the Recommendation Report – Review of Gas Trading and Distribution Licences.

WACOSS aims to represent and advocate for the interests of consumers in essential service energy markets, in particular through its Consumer Utilities Project. It is in this capacity that WACOSS is interested in commenting on the Review of Gas Trading and Distribution Licences.

WACOSS believes that Gas Trading and Distribution Licences provide an opportunity for the Authority to deliver effective consumer protection mechanisms that are vital to gas customers in an essential service market and thanks the Authority for the opportunity to make this submission.

For further information please contact our Senior Policy Officer, Ms Rebekah Garwood on (08) 9420 7217.

Yours sincerely,

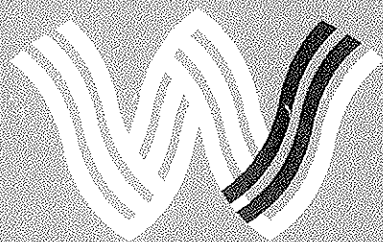
Lisa Baker
Executive Director

Western Australian
Council of Social Service Inc.
ABN 32 201 266 289

City West Lotteries House
2 Delhi Street
West Perth
Western Australia 6005

Phone (08) 9420 7222
Fax (08) 9486 7966
Email info@wacoss.org.au
www.wacoss.org.au

*Recommendation Report
Review of Gas Trading and Distribution
Licences*



WACOSS

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**Response by the
Western Australian Council of Social Service
to the Economic Regulation Authority on the
Recommendation Report
Review of Gas Trading and Distribution Licences**

November 2006

Contact for further information
Rebekah Garwood
Senior Policy Officer - Consumer Utilities
Project
WACOSS
2 Delhi Street, West Perth, WA 6005
(08) 9420 7222

Contents

	<u>Page</u>
Background to WACOSS	1
Introduction	1
Executive Summary	2
WACOSS Response to the Review Objectives	2
▪ Reflect the current regulatory objective and promote consistent licence regulation across the energy sector	2
▪ Enhance consumer protection, including providing scope for improved compliance	3
▪ Reduce the regulatory burden on business (particularly by removing spent, redundant or inappropriate licence provisions)	3
▪ Reduce compliance costs	3
▪ Utilise best practice principles of utility licensing	4
Conclusion	5

Background to WACOSS

The Western Australian Council of Social Service Incorporated (WACOSS) is the peak body of the community service sector across Western Australia. Since 1956, WACOSS has been developing and strengthening the non-government community services sector's capacity to assist all Western Australians. With over 350 members, WACOSS has strong relationships with the social services sector and seeks to represent their interests, and those of the disadvantaged individuals and families they assist at a service level. Given this relationship, WACOSS is in a unique position to comment on issues in our society that socially impact upon disadvantaged members of the community.

In March 2005, WACOSS commenced the Consumer Utilities Project, funded through the Department of Consumer and Employment Protection. This Project builds upon the utility policy work WACOSS has undertaken over the past 4 years.

The Consumer Utilities Project has been established to work with consumers and representative organisations to achieve better outcomes in the provision of essential services. WACOSS has earned a reputation as being an authoritative voice for consumers with regard to energy market reform in Western Australia.

WACOSS has developed strong networks with utility policy workers across Australia, which provides us with information and expert opinion on National Energy Market issues.

WACOSS also has direct access to the issues of low-income and disadvantaged consumers through our Consumer Reference Group, which includes representatives from the Emergency Relief sector, Unions, Financial Counsellors and Community Legal Centres. These agencies provide us with policy information and direction in relation to our work and look to us to represent the interests of their clients with regard to utility issues. We have taken on this role due to the level and severity of the utility issues being raised by community agencies and the absence of any other resourced body in Western Australia representing these issues.

Introduction

The WACOSS response to the Economic Regulation Authority (the Authority) Review of Gas Trading and Distribution Licences should be considered within the broader context of our concerns for essential service provision and regulation in Western Australia.

WACOSS is interested in responding to the draft licences to the extent that they affect gas consumers and to assist the Economic Regulation Authority to give appropriate consideration to the social impacts when reviewing Gas Licences.

For this reason the submission will respond to the identified Review Objectives.

Absence of comment on specific recommendations of the Recommendation Report - Gas Trading and Distribution Licences should not be taken as support for or opposition to the proposed recommendations.

Executive Summary

The provision of gas to households is an essential service, especially for tenants and low income households reliant on gas as their major energy source. Gas is essential for good hygiene and health practices, heating, cooking and social participation. Many people do not have the choice or the means to an alternative energy source and as such need to have their rights and service standards protected.

Effective consumer protection can be achieved through direct licence provisions as well as through external mechanisms such as codes of conduct, which can be made enforceable through licensing.

The licence structure is the primary recourse for enforcing compliance of the regulatory framework, in particular the current Gas Marketing Code of Conduct, the proposed new Standard and the proposed Energy Code of Conduct, and can provide significant consumer protection measures in an essential service market.

Gas Trading and Distribution Licensing has the potential to deliver specific consumer protections in a competitive market. WACOSS welcomes the opportunity presented by the Review of Gas Trading and Distribution Licences, for the Economic Regulation Authority (Authority) to strengthen the regulatory framework and trust that consistent gas and electricity licence regulation reinforced by a comprehensive Energy Code of Conduct will deliver better outcomes to gas consumers.

WACOSS Response to the Review Objectives

Reflect the current regulatory objective and promote consistent licence regulation across the energy sector.

WACOSS supports the Authority's intention to promote consistent licence regulation by "making licence terms and conditions consistent, to the extent practical, with those for electricity as well as recognising energy licensing developments occurring at a national level"¹

Current gas licensing is more prescriptive than current electricity licensing due to the complementary use of industry codes such as the Code of Conduct for the Supply of Electricity to Small Use Customers, Electricity Industry Customer Transfer Code 2004, the Electricity Industry Metering Code 2005 and the Electricity Industry Network Quality and Reliability Supply Code. Compliance with these codes is enforced by licence conditions Industry must comply with.

For gas licensing to be made consistent with electricity licensing it is important that it is also complemented by industry codes and that compliance with these codes, as with electricity, is enforced by licence conditions.

WACOSS' preference is that a comprehensive Energy Code of Conduct is developed which addresses the differences between current gas and electricity licences and current gas and electricity codes and other regulatory instruments and that

¹ Economic Regulation Authority. Review of Gas Trading and Distribution Licensing. October 2006.

**WACOSS Submission to the ERA
Recommendation Report –
Review of Gas Trading and Distribution Licences
November 2006**

mandatory compliance with the Energy Code be made a licence condition. WACOSS believes this is necessary to ensure that customer protection in essential energy markets is enforced, monitored and reported upon.

Enhance consumer protection, including providing scope for improved compliance.

WACOSS supports the goal of enhanced consumer protection for gas consumers and believes that providing scope for improved compliance conditions is an important step in achieving that objective.

Compliance with the current Gas Marketing Code of Conduct, the proposed new Standard and the proposed Energy Code of Conduct, as a mandatory licence condition for gas licensees is an important move towards improved consumer protection. WACOSS sees the planned development of an Energy Code of Conduct as essential to improving compliance and enhancing consumer protection in the gas market.

In order to assess whether all Western Australians have access to a safe, reliable, affordable supply of gas, regardless of their capacity to pay, it is vital that information pertaining to compliance reporting and performance indicators be readily available and that they sit together to paint an accurate picture of both performance and compliance in the gas market.

We understand that the Authority is moving towards regulation of monitoring and reporting in the gas industry and would expect that compliance with that regulation would be a licence condition.

Transparent and corresponding penalties for breaches are in the interest of consumers, retailers and the public good. A regulation is neither effective nor efficient if it is not successfully enforced. Applicable penalties are a deterrent to non-compliance.

Performance monitoring and compliance reporting is vital in an essential services industry. Access to performance and compliance information is fundamental to policy and advocacy work and provides a means of ensuring that consumers are able to make informed choices in a competitive essential services market.

Reduce the regulatory burden on business (particularly by removing spent, redundant or inappropriate licence provisions).

WACOSS supports the removal of spent, redundant and inappropriate licence provisions on the proviso that the removal will not result in any weakening of consumer protection for gas consumers.

There are a number of markets that warrant effective regulation and specific consumer protection mechanisms. In essential service markets such as energy and water consumers are particularly vulnerable and in need of specific license provisions that safeguard them and reinforces or complements codes of conduct and generalist consumer protection measures.

**WACOSS Submission to the ERA
Recommendation Report –
Review of Gas Trading and Distribution Licences
November 2006**

Energy-specific regulation complements generalist protection, building upon it and creating robust and comprehensive protection for consumers.

Reduce compliance costs.

WACOSS supports this objective believing that unnecessary financial obligations and onerous administrative requirements should be avoided whenever possible, however we believe that consumer protection should always be a priority over reducing compliance costs.

WACOSS have consistently asserted that the provision of gas to households is an essential service, especially for tenants and low income households reliant on gas as their major energy source. For those dependent on gas as their major energy source, being without it, even for a short period of time, can have severe social and economic consequences.

For many consumers gas is an essential service for ensuring adequate standards of living and social participation. Many people do not have the choice or the means to an alternative energy source and as such need to have their rights and service standards protected.

We are completely dependent on an affordable and uninterrupted supply of energy for living and working and as such access to an affordable supply of gas must always be a prime consideration of essential service industry policy makers.

Consumer representatives have frequently advocated the need for regulators in the electricity market to regularly assess the performance of retailers² and the need to make the results of any such assessment publicly available.

Without timely access to performance and compliance information consumers and consumer representatives are unable to make informed choices in a competitive essential services market or undertake vital policy and advocacy work.

Utilise best practice principles of utility licensing.

WACOSS believes that licensing utility providers is an effective mechanism to regulate essential service markets and protect consumers.

Licenses are the key mechanism for monitoring and enforcing compliance with a range of consumer protections and in the absence of comprehensive codes should be used in an accountable and transparent manner to regulate all aspects of the industry.

WACOSS commends the Economic Regulation Authority for compiling their Draft for Consultation on Best Practice Utility Licensing and have made a submission to Authority's Draft for Consultation on Best Practice Utility Licensing responding to the identified characteristics of best practice utility licensing.

² For example see the Consumer Utilities Advocacy Centre's response to the Ministerial Council on Energy's Issues Paper 2004, Section 5: Licensing *Recommendation 11*.

Conclusion

WACOSS aims to represent and advocate the interests of consumers in essential service energy markets, in particular through its Consumer Utilities Project. It is in this capacity that WACOSS is interested in commenting on the Review of Gas Trading and Distribution Licences. WACOSS thanks the Economic Regulation Authority for the opportunity to make this submission.

Gas Trading and Distribution Licences provide an opportunity for the Authority to deliver effective consumer protection mechanisms that are vital to gas customers in an essential service market.

Effective consumer protection can be achieved through direct licence provisions as well as through external mechanisms such as codes of conduct, which can be made enforceable through licensing and it is imperative that both gas and electricity consumers have comparable and effective consumer protections due to the essential nature of the two energy markets.

WACOSS has consistently asserted that gas is an essential service, an assertion that is backed up by the Authority's recognition of "the essential nature of gas" in the Recommendation Report,³ and as such are concerned with the Authority's rationale that "gas supply is not considered to be an essential service and therefore, the question of whether a licence obligation or regulation to supply gas is required".⁴ Due to the essential nature of gas, particularly for tenants and low income households reliant on gas as their major energy source, an obligation to supply should be a licence condition.

Whilst WACOSS in general support the move towards consistent licensing between gas and electricity, we do so on the provision that gas consumers are afforded the same consumer protection measures as electricity consumers and that these protection measures are delivered by licence conditions enforcing an obligation to supply and compliance with a comprehensive Energy Code of Conduct.

³ ERA Recommendation Report – Review of Gas Trading and Distribution Licences November 2006. p9.

⁴ ERA Recommendation Report – Review of Gas Trading and Distribution Licences November 2006. p18.