

10 February 2011

Mr John Pierce
Chairman
Electricity Supply Industry Expert Panel
PO Box 123
HOBART Tas 7001
Email: contact@electricity.tas.gov.au



Dear John

Feedback on Panel's *Statement of Approach*

Please find attached our response to the Panel's *Statement of Approach*. We welcome the formation of the Panel, its Terms of Reference, that fact that it will be conducting this review in an open and transparent manner, its stated commitment to adopting a fact-based and rigorous approach and the opportunity to contribute.

We look forward to providing further input to the Panel and to the opportunity to engage directly with it.

Yours sincerely

A handwritten signature in black ink, appearing to read "Roman Domanski", with a small mark below the signature.

Roman Domanski
Executive Director



TASMANIAN ELECTRICITY INDUSTRY EXPERT
PANEL REVIEW

RESPONSE TO THE PANEL'S *STATEMENT OF
APPROACH*

February 2011

Introduction

We welcome the formation of the Panel and the fact that it will utilize a public and transparent process in reporting to the Tasmanian Parliament on the important issues before it. We also welcome the release of the Panel's *Statement of Approach* as a first phase in its public consultations and the opportunity to comment in it. Our thoughts on that document are set out below.

By way of background, the Energy Users Association of Australia (EUAA) is the national association of energy users and has over 100 members, including many of Australia's and Tasmania's largest energy users. We have been active in many key issues affecting Tasmania's energy users at both national and State levels for a number of years. We believe that the EUAA is well placed to provide the inquiry with views on issues under consideration and how they impact on energy users. Our reading of the inquiry's Terms of Reference and *Statement of Approach* suggests that this will be important to the review. We look forward to participating further in the review.

Panel's Interpretation of the Scope of the Review

Our comments on this part of the *Statement of Approach* are as follows:

- We strongly support the examination of “how and why the Tasmanian electricity sector is delivering pricing and other outcomes that are currently being experienced, and how these outcomes compare with elsewhere in Australia”. We see this as fundamental to the review and why it was established. We will endeavour to provide the Panel with information that will assist it in considering this question and also the related (important) matter of what impact these outcomes have had on energy users. As the Panel notes in its *Statement of Approach*, it will be important to assess “the benefits that electricity users have received in return for higher prices” and to establish not only the benefits but also whether they have been efficiently provided at the lowest possible cost, and whether they reflect the needs of customers.
 - We strongly support the Panel's stated intention to establish the nature and magnitude of service reliability and other customer benefits provided by Tasmania's two electricity network businesses, noting the significant increases in network charges that have occurred in recent years. At the heart of this is how efficiently these networks have operated, and are expected to. This is an area of serious concern to our Tasmanian members. We note that, whilst much network regulation is now a national responsibility under the National Electricity Law and Rules (NEL and NER) administered by the Australian Energy Regulator (AER), we would nevertheless expect and encourage the Panel to consider these matters and draw conclusion on them. We also note that the ownership of the two networks remains in Tasmanian Government hands as do licensing, technical standards and planning issues. These ownership and other remaining State responsibilities can have an important bearing on the costs, efficiencies and performance of the two networks and should be thoroughly considered by the Panel.
 - We note also wording in the Terms of Reference to the effect that the Tasmanian Government is committed to ensuring that the cost of living impacts of electricity prices are kept to a minimum. It is worth pointing out

that significant increases in electricity prices also impact on all businesses – large and small – and inevitably find their way into the cost of production and eventually into the prices of all goods and services. Recent CPI increases in all States attest to this and we believe the Panel should consider these matters.

- The Panel’s interpretation of its Terms of Reference is to steer it towards examining issues pertaining to non-contestable customers. We have a number of points to raise on this:
 - Firstly, we have no issue with and encourage the Panel to examine the issues as they affect non-contestable customers. It is important to understand why and how electricity price increases have impacted on Tasmanian households and small businesses and what should sensibly be done in response to this.
 - However, we also believe that the Terms of Reference establish a firm basis for the Panel to examine the impacts on contestable customers – from the largest to the smallest. For example, the Background to them refers to the importance of electricity to the competitiveness of Tasmanian businesses and industry and the Terms of Reference themselves clearly allow the Panel to consider “any other matter” that it considers relevant to its Terms of Reference. Bearing the above in mind, we support the Panel’s interpretation that it is important to review the experience of larger customers operating in the contestable market. In fact, we urge the Panel to consider not just the experience of larger customers but also that of more recently contestable customers, many of whom have faced heightened difficulties and challenges.
 - We strongly support the Panel’s desire to understand the level of retail competition in Tasmania, what drives this and opportunities to increase it. Some points we would like to draw attention to in relation to this issue are: the importance of competition not purely at the retail level but also at the generation level; the importance of viewing opportunities to increase competition as fundamentally a matter of low barriers to entry (and exit), including in a small market such as Tasmania but operating in a larger NEM; the impact of government ownership on competition; and the operations of the transmission system within a broader electricity market setting.
- The Panel will be examining the financial position of the three government owned entities, Hydro Tasmania, Transend and Aurora. We feel that it is important for the Panel to do this and establish that the entities are performing efficiently and in a way that is consistent with its Terms of Reference, including its investigations into rising electricity prices in Tasmania. The EUAA has a concern that government-owned electricity businesses should operate as efficiently as if they were in private ownership but that this is very seldom the case. To the extent that this occurs, resulting inefficiencies will be paid for by consumers or taxpayers.
 - We also welcome the Panel’s intension to scrutinise the governance and dividend aspects of Government ownership of electricity businesses. Both of these are critical to how efficiently these businesses are being run and to the electricity prices paid by Tasmanians. We also believe that the Panel should examine what inter-relationships there might be between government ownership and workforce issues.

- We note that State governments that own electricity assets are entitled to extract dividends from these businesses and also to receive tax equivalent payments. There is more than a hint of concern that State governments are in a position where they can therefore extract significant revenue from such businesses and may be prone to use this power as a quasi-taxation device which then forces up electricity prices. We believe that the Panel needs to consider this matter as part of its review of the three Tasmanian entities.
- The Panel is required “to examine major infrastructure development decisions in the context of price increases” and interprets this as encompassing certain specific matters mentioned in the *Statement of Approach*. We do not take issue with the specific matters raised, but believe that the levels of capex being undertaken by Transend, in particular, should also be examined as this would have a demonstrable impact on prices.
- We have noted the Panel’s comments that it intends to examine wider energy issues, especially gas, as they relate to electricity (eg inter-fuel competition and power generation). We would have preferred a broader consideration as the performance of the gas market in Tasmania is also important to EUAA members, but recognize that the Panel’s remit is defined by its Terms of Reference. That being the case, we urge the Panel to ensure that the scope of its gas remit receives thorough consideration especially barriers to gas competing on a level playing field with electricity.

Panel’s Consideration of Reform Options

The Panel’s intended emphasis on competitive markets, regulatory and governance arrangements in such a way as to improve competition, cost efficiencies and energy security/reliability is broadly supported by the EUAA, noting that some of these variables can involve trade-offs. We would be interested to learn how the Panel will assess such trade-offs? We would assume from other comments in the *Statement of Approach* that the impacts on the price/service outcomes for Tasmanians will be key, but note that this can mean different things, imply different values and have different outcomes for different consumers.

The Panel has said that it anticipates examining a merger of the existing Tasmanian transmission and distribution networks, which has received some attention already. The EUAA is not opposed to consideration of this matter and believes it should have regard to factors such as efficiencies/cost savings that could be gained, any inefficiencies/cost penalties that would arise, the existing performance of both entities and whether a merger would improve this, merger costs, any disruptions to operations, impacts on customers of both entities, Transend’s ownership of some assets that would be regarded as distribution assets in other parts of the NEM, any impacts on network tariffs (noting that these are already increasing significantly), any reliability issues and impacts on Aurora’s current business structure involving both distribution and retail operations.

The EUAA supports the Panel’s desire to examine demand side options and the role of energy efficiency in meeting the energy supply/demand balance and dealing with energy cost pressures. In saying this we would draw the Panel’s attention to the following:

- At a time of rising network prices and other energy costs pressures, demand side options remain untapped even though they could usefully offset energy cost pressures.

- Many EUAA members are already involved in significant energy efficiency initiatives. Their incentive to do so is driven by significant expenditure on energy and this is already being sharpened by rising energy prices.
- Many EUAA members also have obligations under various energy efficiency schemes including the EEO program and other similar state schemes. The introduction of duplicate obligations in Tasmania is neither necessary nor desirable.
- The Panel should also consider the role that cogeneration and other forms of distributed generation could play in advancing the review's objectives and more broadly given likely directions in energy and climate change policy.

We understand the Panel's desire to investigate current regulatory frameworks rather than revisit specific regulatory decisions. Nevertheless, the Panel will need to inform itself as to those decisions in order to establish sound conclusions on regulatory frameworks. This should involve a broader consideration of issues, information and positions than just those put forward by the businesses and the regulator.

We note the Panel's desire to not pass judgement on energy policy, issues or specific matters but rather to highlight implications, tradeoffs and consequences. The EUAA is seeking that the Panel use the opportunity this review affords to outline in detail a sound electricity policy and reform framework for Tasmania. The Panel should be prepared to include critical and robust assessments of past decisions in doing this. We note that the Panel is independent and reports to Parliament.

How the Panel Will Approach the Review

The EUAA notes the Panel's comment that it is "broadly aware that the Tasmanian energy sector is quite different" from other parts of Australia. There are certainly some important ways in which this is true and part of this review should be to determine the significant and ongoing need for this. By the same token the Panel could equally have commented that there are important similarities too; and these should also be considered.

The EUAA has familiarised itself with the approach that the Panel intends to take and especially supports:

- Its commitment to engage with and listen to all stakeholders;
- Its commitment to "open dialogue";
- Its consultation process and major milestones; and
- Putting substantially more weight on facts and evidence, noting that energy users and the Panel itself generally do not have the same access to detailed information about the Tasmanian electricity industry as do the businesses. We would be interested to know how the Panel views this and intends to deal with this asymmetry.

The Panel has also stated that its current thinking is that it will be better served considering a limited number of issues deeply rather than a broader range at a higher level. We can see the logic behind the Panel's thinking here noting that it must ensure that the most important issues are dealt with first. The criteria it has outlined to do this appear to be appropriate. We do, however, have a concern that the timeframe for the review and the process the Panel is undertaking should not be a factor in limiting the consideration of important issues. This is

an important matter for the Panel to consider. The EUAA would prefer that all important issues are dealt with thoroughly even if it means some extension in the Panel's reporting date. We note with some concern the comment in the *Statement of Approach* that the Panel already intends to deal with some issues on an "accelerated timetable".

Review Process and Phases

The phases outlined in the *Statement of Approach* and the process generally appear to us to be logical and consistent with the Terms of Reference. It would be helpful if the Panel could publish a more detailed timetable of its major milestones, outputs and consultations. This will allow us to better plan our input.

Other Matters

Although the Panel is not specifically asked to inquire into government ownership of Tasmania's electricity assets, we believe that examining this is fundamental to the Panel's task. We note that inclusion of this is relevant to the 'catch all' "other matters" point in the Panel's Terms of Reference. This should include a thorough and rigorous answer to the important question of whether ownership matters to competition in the various parts of the Tasmanian electricity market open to it and whether government ownership of Tasmanian electricity assets is leading to inefficiencies and higher electricity prices.

We would also suggest that the Panel consider the following matters in the context of its review as they would seem to be important to have regard to:

- Carbon pricing and climate change policy
- Renewable energy policy
- Federal energy policy directions