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**By email:** [khayen.prentice@esc.vic.gov.au](mailto:khayen.prentice@esc.vic.gov.au)

Khayen Prentice  
Regulatory Review - Smart Meters  
Essential Services Commission  
Level 2, 35 Spring Street  
MELBOURNE VIC 3000

Dear Ms Prentice

**Submission to Smart Meters Regulatory Review—Capacity Control and Verifying Bills Draft Decision**

The Consumer Action Law Centre (**Consumer Action**) welcomes the opportunity to make a submission to the Essential Services Commission's (the **Commission**) Smart Meters Regulatory Review—Capacity Control and Verifying Bills Draft Decision.

We recognise that the Commission commenced this review process following the final decision on related matters in September 2010, with this review seeking to address the matters requiring further consideration, namely:

- the regulation of load control products;
- the regulation of supply capacity control products for purposes other than credit management;
- inclusion of the total accumulated consumption read corresponding to the start of the billing period on customers' bills for smart meters; and
- whether the distributors should be required to leave customers the final accumulation meter read when they change over the basic meter to a smart meter.

We are pleased to see that the Commission has indeed addressed a number of these concerns and reached a draft decision. We continue to be concerned however about the continued lack of a clear decision about the supply capacity control and direct load control by retailers and have provided comment on these matters.

**About Consumer Action**

Consumer Action is an independent, not-for-profit, campaign-focused casework and policy organisation. Consumer Action provides free legal advice and representation to vulnerable and disadvantaged consumers across Victoria, and is the largest specialist consumer legal practice in Australia.

Consumer Action is also a nationally-recognised and influential policy and research body, pursuing a law reform agenda across a range of important consumer issues at a governmental level, in the media, and in the community directly. Consumer Action has been actively involved in energy advocacy work in Victoria and nationally since the 1990s. Over this time we have provided key consumer input into important energy regulatory processes for consumers, including the current Victorian smart meter rollout and initiatives relating to improved energy price and product information disclosure following the deregulation of Victorian retail energy prices.

Since September 2009 we have also operated a new service, *MoneyHelp*, a not-for-profit financial counselling service funded by the Victorian Government to provide free, confidential and independent financial advice to Victorians with changed financial circumstances due to job loss or reduction in working hours, or experiencing mortgage or rental stress as a result of the current economic climate.

### **Consumer Advocacy Panel grant recipient**

This project was funded by the Consumer Advocacy Panel ([www.advocacypanel.com.au](http://www.advocacypanel.com.au)) as part of its grants process for consumer advocacy projects and research projects for the benefit of consumers of electricity and natural gas.

The views expressed in this document do not necessarily reflect the views of the Consumer Advocacy Panel or the Australian Energy Market Commission.

### **Capacity Control Products**

#### *Supply Capacity Control*

We support the use of a supply capacity control function by distribution businesses as an emergency response mechanism. However, we continue to find it hard to see for which purposes retailers would use this function beyond those related to credit management, and specifically believe that it would be too difficult for consumers to negotiate supply capacity control contract options in an informed manner. On this basis, we continue to strongly recommend its use by retailers be prohibited.

We note that the Commission's draft decision is that "it is too early at this stage of the smart meter roll-out for the Commission to make a decision on allowing or regulating retailers offering supply capacity control for non-credit management purposes". We seek assurance that this means that retailers are prohibited from offering supply capacity control products or services until the Commission has "allows" them to do so.

We are concerned without a clear decision on this issue from the Commission, retailers will move to offer supply capacity control products or services. The energy market is complex, and the introduction of smart meters will make the market more complex. We acknowledge the Commission's comments which state that it is unclear whether consumers will embrace all the features and tariffs of smart meter technology, however given the market's complexity, we are not convinced that all consumers will not access these new types of product

offerings. As energy prices continue to rise, consumers will be looking to new product offerings that help them manage their bills and there is a significant risk that products which provide supply capacity control services could be provided inappropriately.

We are also concerned with the Commission's rephrasing of its final decision of September 2010 which prohibits retailers from offering supply capacity control products as credit management tools until 31 December 2013. In this draft decision the Commission appears to be weakening that decision by stating: "The ban on retailers offering supply capacity control for credit management purposes stands until 31 December 2013 *unless earlier revoked*."<sup>1</sup> In its final decision, we ask the Commission to confirm its initial decision that supply capacity control for credit management purposes is banned until 31 December 2013 and that there will be no move to revoke that ban.

### *Load Control*

We do see value in the use of load control products and services for consumers, however we believe that various safeguards must be implemented to ensure it operates in a fair, safe and effective manner.

Load control offerings may operate to reduce overall demand on the network without material impacts on consumers. However, such offerings will introduce added complexity to retail contracts, with consumers needing to understand peak demand and which appliances will be affected. Without understanding of such concepts, it will be difficult to ensure consumers are able to give explicit, informed consent to a supply offer that includes load control.

We therefore recommend that any offers incorporating load control must be accompanied by simple, easy-to-understand information about the way in which load control will operate, and consumers should be able to cancel a contract that includes load control at any time, with early termination fees strictly limited.

We also recommend that certain minimum standards be set for the use of load control. For example, we believe that it should only be permitted for use with certain appliances and not with essential household appliances such as fridges. As another example, we believe that matters such as load control limits and on/off cycling timeframes should be developed by the Commission in consultation with stakeholders and then set as regulatory minimum standards. This would ensure both that baseline consumer protections are guaranteed and that the complexity of load control products is reduced to enable better consumer comparison and decision-making in the market.

We note the Commission's decision that it is "too early to make a decision about allowing or regulating retailers' use of load control". We disagree with that decision and urge the Commission to implement a process that seeks to address consumer protection needs immediately.

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<sup>1</sup> Essential Services Commission, Smart Meters Regulatory Review - Capacity Control and Verifying Bills - Draft Decision, June 2011, Pg 9

We support the remaining aspects of the draft decision.

Thank you again for the opportunity to provide comment. Should you wish to discuss this submission further, please contact Janine Rayner on 9670 5088 or at [janine@consumeraction.org.au](mailto:janine@consumeraction.org.au).

Yours sincerely

**CONSUMER ACTION LAW CENTRE**

A handwritten signature in black ink that reads "Janine Rayner". The signature is written in a cursive style with a large initial 'J'.

Janine Rayner  
Senior Policy Officer