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Western Australian  
Council of Social Service Inc

*Ways to make  
a difference*

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Dear Mr. Banks

Please find enclosed the Western Australian Council of Social Service (WACOSS) submission on the Gas Tariff Regulations Review– Issues Paper.

If you have any questions about the submission please contact Ms Stephanie Nazer, Senior Policy Officer, Consumer Utilities Project on 9420 7222 or email [stephanie@wacoss.org.au](mailto:stephanie@wacoss.org.au) .

Yours Sincerely

Lisa Baker  
Executive Director  
3 October 2007

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|Social Policy & Advocacy|Organisation Development Services|Member Services|

***WACOSS Submission to the  
Office of Energy  
Gas Tariff Regulations Review***



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**October 2007**

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## **WACOSS**

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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 280 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.

WACOSS is respected within both government and non-government arenas as being an authoritative voice for consumers with regard to energy market reform in Western Australia. WACOSS has developed a strong network with utility policy workers across Australia, which provides us with information and expert opinion on these issues.

In January 2005, WACOSS commenced the Consumer Utilities Project. Building upon the utility policy work WACOSS had undertaken over the previous four years, the Consumer Utilities Project works with consumers and representative organisations to achieve better outcomes in the provision of essential services.

WACOSS has direct access to the issues of disadvantaged consumers who are living on low incomes 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.

Providing a response to the Office of Energy's Gas Tariff Regulations Review Issues Paper (hereafter, the Issues Paper) is an important process for WACOSS to engage in. The regulation of competition and retail gas tariffs in the Western Australian gas market has a significant bearing on consumers.

## Executive Summary

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The Issues Paper states that the Tariff Regulations Review will cover the following areas<sup>1</sup>:

1. An assessment of the level of competition in the retailing of gas in the distribution licence areas covered by the Tariff Regulations;
2. An assessment of the appropriate level of the retail gas tariff caps (as specified in the Tariff Regulations) in meeting consumer protection outcomes and the business interests of licence holders; and
3. Consideration of other matters of relevance to the operation of the Tariff Regulations.

The WACOSS response to the Issues Paper released by the Office of Energy (OOE) should be read in the broader context of our concerns for essential service provision and regulation in Western Australia.

This submission briefly discusses competition in the Western Australian retail gas market and argues that it is imperative that the Tariff Regulations be continued and that gas prices are capped at an affordable level for consumers. In response to the three considerations outlined above WACOSS submits:

1. There is negligible competition in the Western Australian retail gas market and as such, in the interest of consumer protection, the Tariff Regulations must be retained.
2. Gas is an essential service and the retail gas tariff caps must remain at an affordable level to protect consumers from price increases.
3. The broader framework for consumer protection in the Western Australian retail gas market needs to be strengthened. A Gas Code of Conduct is essential to fill the current gap in regulatory protection.

For further information regarding this submission please contact Stephanie Nazer at [stephanie@wacossorg.au](mailto:stephanie@wacossorg.au) or 9420 7222.

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<sup>1</sup> Office of Energy Government of Western Australia (2007) Review of the Energy Co-ordination (Gas Tariffs) Regulations 2000 – Issues Paper, p.2

## Competition in the Western Australian Retail Gas Market

The provision of gas to households is an essential service, especially for tenants and low income households reliant on gas as one of their major energy sources. 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 their rights and service standards must be protected. For low income consumers in particular, it is imperative that gas be supplied at an affordable price.

When gas full retail contestability (FRC) legislation was introduced in Western Australia in 2004, the then Minister for Energy stated that consumers would benefit from a wider range of services and pricing options.<sup>2</sup> However, for a myriad of reasons the introduction of FRC has not resulted in an increase in the number of retailers entering the market. In fact, there is only one distribution licence area (South Western Coastal) which has more than one retailer, and even in this area, the second tier retailer (Synergy) is restricted to competing for consumers who use at least 0.18 terajoules per annum. In effect then, Western Australian residential consumers have no choice but to obtain their gas supply from the 'host' retailer responsible for their particular geographical location.

WACOSS does not endorse the view that competition in essential service markets (such as gas) automatically delivers lower prices and better service. However, in the case of the Western Australian gas market which contains negligible competition, the need for price regulation is crucial.

For competition to be effective a combination of factors must be present:

- knowledge of the market by both operators and consumers;
- negligible transaction costs for consumers;
- equal bargaining power for market participants;
- access to the market;
- freedom of choice; and
- freedom to enter and exit the market.<sup>3</sup>

The above characteristics are not evident in the Western Australian gas market which continues to operate essentially as a monopoly market. Price regulation therefore, remains the most important factor in ensuring access and affordability for residential gas consumers.

Furthermore, evidence from interstate and overseas shows that even if the WA retail gas market matures and becomes more competitive, the weak bargaining position of small use consumers (among other things), means price regulation will remain necessary to safeguard the well-being of vulnerable consumers.<sup>4</sup>

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<sup>2</sup> Parliament of Western Australia Hansard. Thursday 26 June 2003. Energy Legislation Amendment Bill Ripper, Mr Eric.

<sup>3</sup> Centre for Privatisation and Public Accountability – Monash University (2004) Protecting Utility Consumers from Market Failure and Public Interest Advocacy Centre (2006) Submission to Energy Reform Implementation Group

<sup>4</sup> Consumer Law Centre Victoria (2005) Do the poor pay more? p, 64.

In conclusion, the *Energy Coordination (Gas Tariff) Regulations 2000* are a critical component of the consumer protection framework for residential gas consumers in Western Australia. The Tariff Regulations require suppliers to offer standard form contracts and have at least one capped tariff at or below the regulated price, thus protecting consumers from excessive price rises and adverse monopoly behaviour.

## Retail Gas Tariff Caps

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As stated, price regulation is an important element in ensuring gas is accessible and affordable for small use consumers in Western Australia.

The Issues Paper asks for comment on the perception that gas is a fuel of choice rather than a necessity. WACOSS have consistently maintained that the provision of gas to households is an essential service. For many Western Australian households (especially tenants and low income households) gas is a non-discretionary fuel source necessary for good hygiene and health practices, heating, cooking and social participation.<sup>5</sup>

We are all dependent on an affordable and uninterrupted supply of energy and water for living and working. The affordability and accessibility of essential services must always be a prime consideration of policy makers because going without, even for a short period of time, can have severe social and economic ramifications.<sup>6</sup>

Low income households are particularly vulnerable to price increases in essential services. These households have limited disposable income to absorb price shocks, limited discretionary energy consumption and limited capacity to purchase new energy saving appliances to offset cost increases.<sup>7</sup>

The Issues Paper seeks input on the potential impacts of increases to, or the removal of, the retail gas tariff caps. WACOSS submits that the impact on low income and/or disadvantaged households would be considerable. Recent work undertaken by WACOSS examined the rising cost of living (food, housing and petrol) in Western Australia which shows that many low income families would experience further hardship if faced with additional increases in the price of basic essentials, such as gas.<sup>8</sup>

The impact of any increase in or removal of, the tariff caps would also be borne disproportionately by low income and/or disadvantaged households. For example, pensioner households consume energy at a rate below the average household, but as a portion of their weekly expenditure, spend almost double the average amount.<sup>9</sup>

The retail gas tariff caps protect residential consumers from price increases and general price volatility. Unlike electricity prices in Western Australia, gas prices for residential

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<sup>5</sup> See, Western Australian Council of Social Service (2006) Response to the GMCC

<sup>6</sup> See Consumer Actions Law Centre (2004) Access to Energy and Water in Victoria (examines impact on households of disconnection from electricity, gas and water services)

<sup>7</sup> New South Wales Council of Social Service (2007) Response to IPART 2007 Gas Retail Review, p.2

<sup>8</sup> Western Australian Council of Social Service (2007) The Rising Cost of Living in Western Australia

<sup>9</sup> Australian Bureau of Statistics (2004) Household Expenditure Survey

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consumers have risen according to the Consumer Price Index (CPI) since 2003/2004.<sup>10</sup> The Australian Energy Regulator (AER) estimates that real gas prices have risen for household consumers by about 16% since 1990, while the real price for business users has fallen by 12%.<sup>11</sup>

WACOSS submits that the current retail gas tariff caps should be left unchanged and most definitely not be removed.

## Gas Code of Conduct

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As well as assessing the levels of competition and tariff caps in the WA retail gas market, the Tariff Regulations Review will consider 'any other matters of relevance to the operation of the Tariff Regulations.' In this context, WACOSS would like to draw attention to the current gap in regulatory protection for Western Australian residential gas consumers.

The Issues Paper asserts that there is a '...comprehensive customer protection framework'<sup>12</sup> in place for Western Australian residential gas consumers. WACOSS strongly disagrees with this assessment.

There is a disparity between gas and electricity consumer protection in Western Australia. The electricity industry has a comprehensive *Code of Conduct for the Supply of Electricity to Small Use Customers*, whereas the gas industry has only a Gas Marketing Standard.

For many residential consumers gas is an essential service for ensuring adequate standards of living and social participation. WACOSS believes that codes are an appropriate way of delivering consumer protection in essential service markets because the conduct of licensees has a direct bearing on people's well being, and therefore must be responsibly regulated.

The introduction of gas FRC places a responsibility on government to ensure the market is operating effectively and ethically. Codes offer appropriate consumer protection in that a mandatory code of conduct sets out the minimum rights and protections afforded to consumers. Regulators are able to enforce compliance with code conditions and impose penalties on licensees who breach the code. This is vital for consumer protection, consumer confidence and consumer participation in the market. Also important in a developing essential services market is the fact that codes are 'living' documents that can be amended and updated as a market grows and develops.<sup>13</sup>

If industries with natural monopoly elements (such as the Western Australian retail gas market) are not regulated it can lead to sub-optimal outcomes such as suppliers providing poor levels of service, charging high prices, using obsolete technology and not maintaining

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<sup>10</sup> State Law Publisher Western Australia *Schedule – Energy Coordination Gas Tariff regulations*

<sup>11</sup> Australian Energy Regulator (2007) *State of the Energy Market*, Chapter 11 Gas Retail Markets, p. 300

<sup>12</sup> Office of Energy Government of Western Australia (2007) *Review of the Energy Co-ordination (Gas Tariffs) Regulations 2000 – Issues Paper*, p 6.

<sup>13</sup> The Consumer Action Law Centre (2006) *Consumer protections in the National Energy Market – The Need for Comprehensive Energy-Specific Consumer Protections*.

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existing infrastructure or operating systems.<sup>14</sup> Price regulation is just one of the components necessary to protect the interests of small use gas consumers in Western Australia.

WACOSS supports the development of a Gas Customer Code and will be participating in the Gas Customer Code Reference Group (GCCRG) being convened by the Economic Regulation Authority. The GCCRG will consider the development of a Gas Customer Code similar to the *Electricity Code of Conduct for the Supply of Electricity to Small Use Customers*. WACOSS believes that this work is essential to fill the current gap in regulatory protection for gas consumers in WA.

## Conclusion

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WACOSS appreciates the opportunity to respond to the *Office of Energy's Review of the Energy Co-ordination (Gas Tariffs) Regulations 2000* Issues Paper.

The *Coordination (Gas Tariff) Regulations 2000* are a critical component of the consumer protection framework for residential gas consumers in Western Australia.

The Tariff Regulations cap the retail price of gas to small use customers protecting them from excessive price increases and general price volatility. In the Western Australian market where there is basically only one supplier, Alinta, price regulation becomes even more important as it protects small use consumers from adverse monopoly behaviour.

The price of gas for residential consumers has risen with CPI since 2003/04 and WACOSS submits that this existing tariff cap adjustment is already adequate. The current level of tariff caps is appropriate for meeting both consumer protection outcomes and the business interests of licence holders. Changes to, or the removal of, the tariff caps would have a significantly detrimental effect on the standard of living of low income consumers.

Price regulation is just one of the components necessary to protect the interests of small use gas consumers in Western Australia. The introduction of a Gas Code of Conduct is imperative to fill the current gap in regulatory protection for gas consumers. The Gas Marketing Standard only protects consumers from undue marketing conduct and does not effectively or comprehensively safeguard consumer interests in what is inarguably an essential service market.

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<sup>14</sup> Economic Regulation Authority (2006) Best Practice Utility Draft for Consultation