



Complexity, cost and uncertainty

**PIAC submission to the Multiple Trading Relationships (MTRs)
rule change consultation paper 2015**

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1. Introduction

1.1 The Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit law and policy organisation that works for a fair, just and democratic society, empowering citizens, consumers and communities by taking strategic action on public interest issues.

PIAC identifies public interest issues and, where possible and appropriate, works co-operatively with other organisations to advocate for individuals and groups affected. PIAC seeks to:

- expose and redress unjust or unsafe practices, deficient laws or policies;
- promote accountable, transparent and responsive government;
- encourage, influence and inform public debate on issues affecting legal and democratic rights;
- promote the development of law that reflects the public interest;
- develop and assist community organisations with a public interest focus to pursue the interests of the communities they represent;
- develop models to respond to unmet legal need; and
- maintain an effective and sustainable organisation.

Established in July 1982 as an initiative of the (then) Law Foundation of New South Wales, with support from the NSW Legal Aid Commission, PIAC was the first, and remains the only broadly based public interest legal centre in Australia. Financial support for PIAC comes primarily from the NSW Public Purpose Fund and the Commonwealth and State Community Legal Services Program. PIAC also receives funding from NSW Trade and Investment for its work on energy and water, and from Allens for its Indigenous Justice Program. PIAC also generates income from project and case grants, seminars, consultancy fees, donations and recovery of costs in legal actions.

1.2 PIAC's Energy and Water Consumers Program

This program was established at PIAC as the Utilities Consumers' Advocacy Program in 1998 with NSW Government funding. The aim of the program is to develop policy and advocate in the interests of low-income and other residential consumers in the NSW energy and water markets. PIAC receives policy input to the program from a community-based reference group whose members include:

- Council of Social Service of NSW (NCOSS);
- Combined Pensioners and Superannuants Association of NSW;
- Ethnic Communities Council NSW;
- Salvation Army;
- St Vincent de Paul Society;
- Physical Disability Council NSW; and
- Tenants Union.

2. The current process

PIAC would like to thank the Australian Energy Market Commission (AEMC) for the opportunity to respond to the *Multiple Trading Relationships Rule 2015 Consultation Paper*. The Consultation Paper discusses the rule change request from the Australian Energy Market Operator (AEMO) and the proposed rule's impact on the National Energy Market (NEM). The Consultation Paper identifies potential issues and operational matters, as well as proposing substitute solutions and discussion of how the Multiple Trading Relationships (MTR) rule would work.

PIAC acknowledges that the MTR rule change could foster competition in the retail market and the delivery of alternative and innovative products for consumers.¹ On the other hand, similarities between various AEMC rule change processes draw into question how this competition would be assembled and implemented. Such changes would create further complexity within the NEM for consumers. PIAC also notes that the comprehensive research provided by KPMG², ENERGIA³ and Jacobs SKR⁴ does not provide evidence of strong benefits of MTR arrangements for low-income and vulnerable consumers.

In making this submission, PIAC's key concern is that energy supply rules be transparent and fair for all consumers. More specifically, PIAC wishes to address two key issues, being:

1. Operational outcomes and complex relationships for consumers with MTRs; and
2. Consumer impact and costs – particularly aimed towards small electricity and vulnerable consumers

At this stage, PIAC is not convinced that the benefits of the proposed MTR arrangements outweigh the costs for consumers. Accordingly, PIAC does not offer support for the rule change in its current form. PIAC looks forward to considering the draft rule change, to see the AEMC's proposal in more detail. PIAC also makes the following comments, which it hopes the AEMC will consider as part of developing that solution.

3. Transparency in a multifaceted market

The Consultation Paper highlights that a number of other AEMC rule changes currently in this progress cover similar issues to the present review.⁵ However, it remains unclear to PIAC how these multiple variations will impact the market, causing uncertainty regarding the roles, responsibilities and relationships of energy market participants, including consumers.

Specifically, in PIAC's view, three current rule changes and determinations resulting from the Power of Choice Review require careful consideration along with MTRs (Metering Competition (MC), Embedded Networks (EN) and the Demand Response Mechanisms (DRM)⁶). The Consultation Paper notes that the functionality of the market with the introduction of MTRs could be further investigated by the newly created positions of a Metering Coordinator and a Financially Responsible Market Participant (FRMP).

¹ AEMC, 2015, *Consultation Paper Multiple Trading Relationships Rule 2015*, i.

² Ibid 18-21.

³ ENERGIA, 2015, *Advice on Establishing a Second Connection Point. Prepared by ENERGIA for the Australian Energy Market Commission*.

⁴ AEMC above n 1, 52-54.

⁵ Ibid, 33.

⁶ Ibid 34-36.

The Consultation Paper acknowledges that these roles would, therefore, need further changes to clearly construct the parameters of how they will function.⁷ PIAC considers that further clarity surrounding how this will be explained to consumers in creating a fair trading market is essential, but also difficult to achieve. The Australian Council of Social Services (ACOSS) has discussed some of the current barriers already faced with some vulnerable consumers,⁸ noting that:

For people experiencing disadvantage, there are a range of information barriers that can prevent them from accessing energy efficiency. These include:

- Literacy and language barriers: some energy companies enclose energy efficiency leaflets and booklets with electricity bills. While this type of information provision is appropriate for some sectors of the population, information failure can occur for non-English speaking people and for people with disabilities or literacy issues that prevent them from reading.
- Confusion about products and programs and where to find reliable information: for people with internet access there is a plethora of energy efficiency websites, developed by energy companies, technology providers, the retail industry, state and territory Governments and the Commonwealth Government. In many cases, information from different sources can be conflicting or complex.

Information barriers are likely to become more critical to understanding energy efficiency as new tariff products emerge through the introduction of time variant pricing.⁹

Given these barriers, PIAC is concerned that not all consumers are well equipped to understand that under an MTR regime they can purchase a range of services (metering, billing, energy) where once there was just one (retail energy). PIAC, therefore, recommends that the AEMC consider carefully whether any gaps in consumer protections pose risks to energy consumers, especially due to a failure to properly understand MTR product offerings. This should involve collaboration with the Australian Competition and Consumer Commission, to consider the Australian Consumer Law's applicability to the MTR scenario foreshadowed in the Consultation Paper.

Recommendation 1

PIAC recommends that the AEMC fully consider the need for additional consumer protections as part of the introduction of the MTR rule change.

4. Costs and benefits of MTRs

ACOSS acknowledges that one of the major barriers for energy efficiency for people, resulting in reducing energy costs, on low incomes is that they 'have less capacity to pay for upfront costs for new products.'¹⁰

The research provided by ENERGIA in the Consultation Paper suggests that for MTR to be able to function, a second connection point or new meter would need to be installed. The upfront cost of installation involve registration, set-up, metering, operated management, billing and reporting,

⁷ Ibid 34-36.

⁸ ACOSS, 2013, *Energy Efficiency & People on Low Incomes – Improving Affordability Report*, available at http://acoss.org.au/images/uploads/ACOSS_ENERGY_EFFICIENCY_PAPER_FINAL.pdf as at 3 September 2015.

⁹ Ibid, 8.

¹⁰ ACOSS, above n 8, 6.

implementation costs. ENERGIA's advice on establishing a second connection point estimated basic costs ranging from \$366 to \$1437, excluding any in-premises wiring and assuming the switchboard is in good condition.¹¹ PIAC is concerned about how this would affect small electricity consumers and especially vulnerable consumers already facing hardship. Such consumers are less able to access the benefits of MTRs (due to, for example, split incentives regarding fixed appliances in rental accommodation).

In addition, PIAC notes that some of the AEMC's consultants have raised concerns about the extent of the benefits of MTRs. For example, research from Jacobs SKR acknowledges that previous projects developed by AEMO in regards to Multiple Trading Relationships High Level Design¹² did not demonstrate that the assumptions of MTRs regarding demand growth were reliable, which adds to discussion of whether introducing MTRs would be presently beneficial.

Results were highly dependant on assumptions about demand growth, as network benefits associated with MTR are related to deferred network argumentation. If peak demand growth is flatter than AEMO's then medium growth peak demand scenario, the modelled benefits of MTR were reduced... Similarly, assumptions about uptake rates were identified as relatively uncertain.¹³

PIAC is concerned that the potential benefits of the MTR scheme does not outweigh the costs and risks, especially for low-income and vulnerable consumers. PIAC will wait to see the AEMC's Draft Rule determination before deciding whether or not it can give support to the implementation of MTRs.

Accordingly, PIAC looks forward to considering the AEMC's draft rule determination. PIAC further recommends that the draft determination be accompanied by a comprehensive assessment of the costs and benefits of the proposed MTR rule change, including for low-income and vulnerable consumers.

Recommendation 2

PIAC recommends that the AEMC conduct a comprehensive assessment of the costs and benefits of the proposed MTR rule change for residential consumers, including low-income and vulnerable consumers.

5. Conclusion

Once again, PIAC thanks the AEMC for the opportunity to provide comment on the Consultation Paper. PIAC is not convinced that the benefits of MTR arrangements outweigh the risks, especially for those consumers who are not well equipped to deal with increased complexity in their energy supply arrangements. Accordingly, PIAC looks forward to the AEMC's Draft Rule Determination, which PIAC recommends include a comprehensive assessment of those costs and benefits for all consumer cohorts.

¹¹ ENERGIA, above n 3, 2.

¹² AEMC, above n 1, 52-54.

¹³ Ibid 54.