



Reflecting the long-term interest of consumers in tariff designs.

Response to the AERs issues paper, NSW TSS.

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Energy + Water Consumers' Advocacy Program

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.

Energy + Water Consumer's Advocacy Program

This Program was established at PIAC as the Utilities Consumer's 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;
- Tenants Union of NSW;
- Ethnic Communities Council of NSW;
- Physical Disability Council of NSW;
- St Vincent de Paul Society of NSW; and
- Good Shepherd Microfinance.

Introduction

PIAC welcomes the opportunity to comment on the Australian Energy Regulator's (AER) issues paper *Tariff structure statement proposals, NSW electricity distribution network service providers*.¹ This issue paper details the proposed tariff designs from the three NSW electricity distribution networks; Ausgrid, Endeavour and Essential Energy, herein known as the Networks, for the period 1 July 2017 to 31 June 2019.

PIAC has previously submitted responses to the Tariff Structure Statement (TSS) process via written submission and a recent presentation at the AER's TSS forum held on 6 April 2016. This submission will be brief and will reiterate PIAC's position.

Cost reflectivity of tariffs

Tariff design

Cost reflectivity means developing network prices that reflect the actual costs of providing electricity to consumers who have different patterns of consumption. This involves removing cross-subsidies and providing price signals to consumers who use electricity more intensively, thereby reducing costs for those that use it less intensively.

PIAC considers that declining block tariffs are not cost-reflective and do not send the right signals to residential consumers. PIAC is particularly concerned that declining block tariffs will have an adverse impact on low income households as the cost for the first block of electricity used is likely to increase. Additionally, PIAC is concerned that declining block tariffs encourage energy use at a time when public policy objectives dictate greater energy efficiency and reducing household energy use, for the long-term benefit of consumers and the environment.

Long run marginal cost

PIAC has previously raised concerns about the length of time over which the NSW networks have proposed calculating the long run marginal cost (LRMC) of providing electricity. The Networks have proposed using a three-year period to calculate the LRMC. Given the long lifespan of the Networks assets, a three-year period is not sufficient to send a clear signal of the marginal costs of supplying electricity to consumers. PIAC understands that the Networks were required to smooth the impact of adopting an LRMC, however, PIAC recommends that the calculations be based on the actual LRMC and be smoothed after that, rather than using a shorter time period.

Impact of tariffs on customers

The Networks have proposed increasing the fixed charge component of the bill to achieve greater cost recovery from the fixed charge. PIAC is concerned about the impact of this on low-income and vulnerable consumers, in particular. An increase in fixed charges will undermine the ability and incentive for customers to reduce their bills by reducing household energy use. It is well established that customers value having some control over their bills, and appreciate it when a change in their behavior is able to influence to some extent how much they are charged.

¹ AER, Issues paper. *Tariff structure statement proposals. NSW electricity distribution network service providers*.

The increased fixed charge masks the costs of supplying energy during peak periods and other marginal times that place greater pressure on the system, which ultimately has the effect of pushing costs up. As previously noted, the removal of the price signal from increased fixed charges, together with the declining block tariff, runs counter to moves towards greater energy efficiency and Australia's commitment to lower carbon emissions.

Beyond the details of tariff design in the current TSS, PIAC is concerned that the limited choice for consumers and the uncertainty about the impact of the various tariffs make it difficult for consumers to make informed choices. If there is a lack of information and education about tariff designs and options, more often than not consumers will not move to a new tariff, causing ineffective price signals, distortions and consumer detriment. This may be one reason behind the low level of uptake of time-of-use tariffs to date.²

A key requirement of the TSS process is that the Networks demonstrate the impact of tariff designs on consumers.³ PIAC contends that this has been inadequately done, and recommends that the AER asks the Networks to provide better modeling and information for consumers to assist them understand the impact the tariffs will have on their bills.

Finally, PIAC is concerned that the peak and peak shoulder tariff periods for the three networks is different. It is unclear why the peak period of electricity use would differ across the state⁴. PIAC recommends that the AER seeks additional information about the peak window from the Networks, and if it is not satisfied with the explanation provided, that it require the Networks to come to an agreement on a common peak window for consistency and clarity.

Recommendation 1

PIAC recommends that the AER reject the declining block tariff as it fails to meet the pricing principle of cost-reflectivity.

Recommendation 2

PIAC recommends that the AER review the peak window for the three networks and assess why they have not used a uniform period.

Consultation

Consumers need to engage with these complex tariffs statements as they bear the consequences of tariff structure and design. To date, little information has been provided publically in relation to tariff proposals and it would appear, from the manner and method of consultation, for example, that distribution businesses have not been prioritising the consumer impact principle (the obligation to consider adverse impacts on consumers) in the development of their proposals.

PIAC welcomes the opportunity to participate in the TSS process and is grateful for the time and commitment of the staff from the Networks. However, PIAC has some concerns about how the consultation was conducted. Firstly, we are concerned that the overall timeline for consultation was too narrow and limiting. PIAC, as all consumer advocates submitting to the process, require

² Ibid 41.

³ Ibid 43.

⁴ Ibid 38-39.

time to develop policy positions and consult our consumer reference panel and representative members. It is difficult for us to do this if we are only given four weeks to prepare submissions after the release of the TSS. PIAC brings a representative consumer voice to network processes. To do this we need time to engage with the relevant stakeholders that we represent, and effectively participate in the consultation process.

PIAC recommends that the AER give adequate weighting to consumer advocates' concerns about the consultation process in its decision on whether to accept the Networks' proposed tariffs. A key requirement of the process is for the Networks to meet their responsibilities with regard to informing consumers of the impact of the TSS on household bills.

Finally, PIAC would like to express some concern about the Networks' consultation process. Effective consultation does not occur when the Networks bring pre-determined ideas and tariff designs to a meeting to announce them, and defend them, rather than listening and actively engaging with the ideas that PIAC and other consumer groups bring to the table.

Consumer engagement is more than information delivery on the part of the Networks. PIAC notes that this has been a persistent criticism of the manner in which the Networks seek to fulfill their consultation obligations. PIAC is concerned that the Networks have interpreted the consultation requirement too narrowly, without regard to concepts inherent in effective negotiation and meaningful consideration. Much like the concept of good faith bargaining, consultation needs to incorporate discussion and genuine consideration of each other's interests in order to reach, to the greatest extent possible, mutually beneficial outcomes. In the energy context, consultation is a tool to ensure that outcomes are in the 'long term interests of consumers', thus, it is vital to meaningfully consider the views of those who are representing those consumer interests, and who have expertise in what those interests are and how they are best serviced.

It appears that the NSW networks believe that providing an opportunity for consumer advocates to be heard is sufficient to meet the consultation requirement, without taking it further than an opportunity to voice their views. There are examples where the networks in Queensland have incorporated comments from consumer groups into the next iteration of the TSS document after a workshop or meeting. NSW consumers would benefit from a more constructive effort at meaningful consultation, and consideration of consumer proposals.

PIAC recommends the Networks develop a series of issues papers on aspects of tariff design, cost reflective pricing and the impact of these on consumers prior to the final tariff design document. This, along with workshops or meetings that meaningfully engage consumer advocates, would better incorporate consumer engagement in the TSS process in line with the principles.

Recommendation 3

PIAC recommends that the AER give weight to consumer advocate concerns about the consumer engagement process when making its decision on the proposed TSS.

Recommendation 4

PIAC recommends that the Networks provide additional time and materials for the next round of TSS consultations, to improve on the method and manner of consultation in this round.

Conclusion

PIAC welcomes the opportunity to provide input into the tariff design process and acknowledges the time and commitment of the Networks in providing additional meetings to discuss the proposals. PIAC makes its comments in this submission in the hope that it will lead to improvements to the consultation process in future TSS processes. PIAC's aim is to ensure that the next round of TSS proposals better reflect the costs of providing electricity and better serve the long-term interests of consumers.

Consumers benefit from accurate and tailored information to help them make informed decisions that meet their needs in relation to using an essential service. The National Electricity Rules Chapter 6.8.2 require the Networks to demonstrate how the tariffs meet the pricing principles, including the cost reflectivity and the customer impact of the tariffs.⁵ PIAC and other consumer organisations are not satisfied that the Networks' current TSS proposals adequately meet these pricing objectives. PIAC would welcome the opportunity to work closely with the Networks during the next round of TSS proposals to ensure that the long-term interest of consumers is reflected in the tariff design.

⁵ National Electricity Rules Version 79, Rule 6.8.2