



public interest
ADVOCACY CENTRE

**PIAC submission the Draft AER Stakeholder
Engagement Framework**

01 August 2017

Introduction

The Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit legal centre based in New South Wales. Established in 1982, PIAC tackles systemic issues that have a significant impact on disadvantaged and marginalised people. We ensure basic rights are enjoyed across the community through litigation, public policy development, communication and training.

Our work addresses issues such as:

- homelessness;
- access for people with disability to basic services like public transport, education and online services;
- Indigenous disadvantage;
- discrimination against people with mental health conditions;
- access to energy and water for low-income and vulnerable consumers;
- the exercise of police power;
- the rights of people in detention, including the right to proper medical care; and
- government accountability, including freedom of information.

PIAC is funded from a variety of sources. Core funding is provided by the NSW Public Purpose Fund and the Commonwealth and State Community Legal Services Program. PIAC also receives funding from the NSW Government for its Energy and Water Consumers Advocacy Program and from private law firm Allens for its Indigenous Justice Program. PIAC also generates income from project and case grants, seminars, donations and recovery of costs in legal actions.

Energy and Water Consumers' Advocacy Program

The Energy + Water Consumers' Advocacy Program (EWCAP) represents the interests of low-income and other residential consumers of electricity, gas and water in New South Wales. The program develops policy and advocates 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;
- Physical Disability Council NSW;
- Anglicare;
- Good Shepherd Microfinance;
- Financial Rights Legal Centre;
- Affiliated Residential Park Residents Association; and
- Tenants Union.

Review of the Australian Energy Regulator’s Stakeholder Engagement Framework

PIAC thanks the Australian Energy Regulator (AER) for the opportunity to provide feedback on its review of the AER Stakeholder Engagement Framework and commends the AER on its comprehensive and inclusive approach to engaging with consumer advocates.

The Framework guides the AER’s engagement with stakeholders including consumers, consumer advocates, energy businesses and government. It sets out the principles the AER will adhere to when it plans and carries out engagement activities, so that the views and interests of stakeholders are consistently and meaningfully considered, and that stakeholders know this to be the case.¹ These principles are:

- Clear, accurate and timely communication
- Accessible and inclusive
- Transparent
- Measureable.²

PIAC considers the Framework is essential in providing a pathway through which consumers and other stakeholders can be heard in regulatory decision making and supports the AER in their commitment to regularly reviewing the document.

As a consumer advocate, PIAC has been involved in numerous AER activities over many years. These include regulatory reviews of network pricing proposals, development of industry guidelines and frameworks such as the Sustainable Payments Plan Framework, as well as representing consumers on the AER’s Consumer Consultative Group. PIAC considers that this review of the Framework is a valuable opportunity to extend both the principles contained within the framework and its practical application.

Proactive consumer engagement

Recently, the AER’s Chair, Paula Conboy, referred to the position of consumers in energy regulation as the “most important component of the jigsaw”.³ PIAC welcomes this focus on consumers in the work of the AER. In PIAC’s view the AER’s stakeholder engagement would be enhanced by the addition one principle in the Framework: an explicit commitment to proactively engaging with consumers.

In submissions in 2013 and 2016, PIAC recommended that the AER include a proactive consumer engagement principle in the Framework.⁴ Not all stakeholders have the resources to monitor and reactively participate in processes, particularly at the anticipated rate of change of rapidly evolving rules and regulations. Consumer advocates and community welfare

¹ AER, Review of the AER’s Stakeholder Engagement Framework, 2016. 5.

² Ibid, 8.

³ Paula Conboy, ‘Working together to restore confidence in energy regulation’ speech delivered at the ENA Regulation Seminar, Brisbane, 26 July 2017, <<https://www.aer.gov.au/news/2017-ena-regulation-seminar-speech-working-together-to-restore-confidence-in-energy-regulation>>.

⁴ PIAC, *Submission to the Draft Australian Energy Regulator Stakeholder Engagement Framework*, 2013; PIAC, *Submission to the Review of the Australian Energy Regulator Stakeholder Engagement Framework*, 2016.

organisations generally have limited capacity to engage in complex consultation processes and benefit from proactive information in order to provide meaningful and constructive feedback.

The AER has acknowledged the importance of proactive consumer engagement, and as PIAC has observed, has undertaken greater amounts of it in recent years

PIAC suggests that elevating proactive consumer engagement to a principle in the Framework would ensure that the AER's progress in this area is aligned with the AER's own guidelines and that the AER is recognised for it.

PIAC acknowledges that the AER does engage proactively with consumer groups, and accepts the AER's argument that the current Framework can allow for proactive engagement with the 'accessible and inclusive' principle.⁵ under which the AER commits to identifying and seeking out relevant stakeholders affected by its activities, and to assist stakeholders to engage meaningfully.

However, PIAC contends that as consumer engagement is key to contemporary regulatory arrangements, and is important to many stakeholders, it should be a key principle in the Framework. Further, PIAC does not see any particular barriers to adding such a principle.

Recommendation 1

PIAC recommends that the AER include a proactive consumer engagement principle in the revised AER Stakeholder Engagement Framework.

Measuring accessible and inclusive engagement

PIAC's only recommendation regarding the structure of the Framework's principles is that outlined above. This reflects our support for both the Framework and the AER's engagement program more generally.

PIAC and other consumer advocates made some suggestions relating to the implementation of the Framework during the first round of submissions to this review process. Given the limited resources of consumer advocates and community welfare organisations, these concerns largely relate to 'accessible and inclusive' engagement. To ensure that it is effective, the AER's engagement with community organisations may need to differ from the way it engages with, for example, large energy businesses. This is reflected in the Framework, which states that the AER will "tailor our engagement and communication to meet different stakeholder needs".⁶

PIAC suggests that the AER consider the application of its 'measurable' principle in the ongoing evaluation of specific parts of its engagement program. This would help the AER to determine how, in practice, the principle of 'accessible and inclusive' engagement is being applied to its interaction with all stakeholders and, in the specific case of consumers, proactively so.

The following section presents an example of how PIAC sees increased measurement and evaluation of 'accessible and inclusive' engagement as a way to assist the AER achieve its goal of meeting stakeholder needs.

⁵ AER, Review of the AER's Stakeholder Engagement Framework, 2016. 12.

⁶ Ibid, 7.

Targeted communication

For consumer advocates and community welfare organisations, the work of the AER in providing accessible information is critical in allowing them to engage fully with AER processes. In the consultation paper, the AER refers to this process as providing ‘targeted communication’.⁷ PIAC supports the AER’s commitment to further considering how they target their communication.

While PIAC understands that much of the AER’s work is inherently complicated, the production of infographics, fact sheets and other easily understood material alongside complex regulatory documents goes a long way to helping stakeholders to engage effectively. This is particularly relevant for consumer advocates and community welfare organisations with limited resources to dedicate to engaging with complex communications like AER determination documents. PIAC considers the process-related literature of the NSW Independent Pricing and Regulatory Tribunal (IPART) to be highly effective in this regard, as they commonly provide accessible fact sheets and short explanatory documents with their decisions.

In order to ensure that all stakeholders continue to have access to AER processes, the AER could continue to apply its ‘measurable’ engagement principle to its program of targeted communication. Through ongoing evaluation of its targeted communication, consumer advocates and community welfare organisations will be able to provide feedback to the AER on which materials are of most use. This process will provide allow stakeholders and the AER to continue to work together to facilitate good engagement and help the AER tailor it’s engagement to meet stakeholder needs.

Recommendation 2

PIAC recommends that the AER measure the effectiveness of its targeted communication to facilitate ‘accessible and inclusive’ consultation, with particular reference to consumer advocates and community welfare organisations.

Institutional coordination for accessible engagement

A final issue PIAC wishes to raise is the lack of coordinated processes and engagement between the AER, the AEMC and AEMO. Regardless of how accessible and inclusive AER stakeholder engagement is, it can become burdensome for consumer advocates and community welfare organisations to individually engage with the vast number of processes across all three institutions. In the Uniting Communities’ submission to the first stage of this review process, they stated that:

‘From a consumer perspective, it would be useful if we could coordinate engagement across all energy institutions. With more lead time consumer groups could utilise their resources more effectively...’⁸

PIAC concurs with this feedback and suggests that, where possible, the AER should collaborate with the other energy market institutions to reduce the burden on stakeholders engaging with similar processes across multiple institutions.

⁷ AER, Review of the AER’s Stakeholder Engagement Framework, 2016, 19.

⁸ Uniting Communities, *Preliminary feedback on the AER’s Stakeholder Engagement Framework*, 2016.

For example, this year the AER and AEMC have conducted reviews into exempt customer dispute resolution and embedded network regulation respectively.⁹ While these reviews do differ in scope, they cover many of the same issues relating to consumer protections for customers receiving their electricity from exempt providers. Stakeholders have been asked to engage with two completely separate processes. If AER and AEMC had coordinated and run a joint workshop, stakeholders could have provided feedback to both institutions about the issues common to both reviews. This sort of engagement by that AER and the other energy market institutions would be a positive step in further implementing the AER's 'accessible and inclusive' engagement principle for the benefit of its stakeholders.

PIAC notes the recently instated Market Bodies Forum and the Energy Security Board are both possible vehicles for this type of engagement.

Recommendation 3

PIAC recommends that, where possible, the AER coordinate its processes and related engagement with the other energy market institutions in order to make engagement more accessible for stakeholders.

Further engagement

PIAC would welcome the opportunity to discuss the issues considered here in more depth. For any queries please contact Energy Team Leader, Craig Memery at cmemery@piac.asn.au or on (02) 8898 6522.

⁹ AER, Access to dispute resolution services for exempt customers – June 2017, 2017 <<https://www.aer.gov.au/retail-markets/retail-guidelines-reviews/access-to-dispute-resolution-services-for-exempt-customers-june-2017>>; AEMC, Review of embedded networks regulatory arrangements, 2017 <<http://www.aemc.gov.au/News-Center/What-s-New/Announcements/Review-of-embedded-networks-regulatory-arrangement>>.