

2 October 2020

Kumi Kaur
Acting General Manager
Australian Energy Regulator



Submitted by email: AERInquiry@aer.gov.au

Dear Ms Kaur,

Submission to Demand Management Innovation Allowance Mechanism for transmission issues paper

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 upon people who are marginalised and facing disadvantage. We ensure basic rights are enjoyed across the community through litigation, public policy development, communication and training. The Energy + Water Consumers' Advocacy Program represents the interests of low-income and other residential consumers, developing policy and advocating in energy and water markets.

PIAC welcomes the opportunity to respond to the Australian Energy Regulator's (AER) Issues Paper. As noted in our submissions to the Australian Energy Market Commission's (AEMC) rule change consultation, PIAC supports formally extending the Demand Management Innovation Allowance Mechanism (DMIAM) to Transmission Network Service Providers (TNSP).

Allowance amount

PIAC supports the lower level allowance proposed by the AER (such as 0.1% of the TNSP's Maximum Allowed Revenue). We agree with the AER that TNSPs should be able to bring forward allocations within their regulatory control period and/or pool allowances with other TNSPs to fund larger projects if prudent.

It is not clear whether an ex-ante or ex-post assessment is more appropriate for the DMIAM. While an ex-ante assessment by the AER may be more resource intensive (as contended in the issues paper), it may be able to better coordinate with and complement an independent expert review of the proposed projects. We look forward to examining this further with the AER and stakeholders.

PIAC agrees the DMIAM allowance must not be included in the Regulated Asset Base (RAB) of a TNSP. It would be inappropriate for consumers to have to continue to pay for innovation projects (regardless of their success or otherwise) through the RAB.

PIAC supports any underspend being returned to consumers, while the TNSP must bear any overspend, as managing project budgets and the risk of overspend is within the TNSP's control.

Uplift payment

PIAC does not consider the AER has made a case for why an incentive payment uplift in the DMIAM is necessary “to offset internal biases and norms that often favour network options.”¹

The AEMC’s final determination stated it would not be in consumers’ interests to introduce a Demand Management Incentive Scheme (DMIS) for transmission that would have provided a similar uplift, as TNSPs would “receive incentive payments for undertaking non-network options that they already would have been required by the RITT to adopt.”²

Eligible projects

The Rules require DMIAM projects to “have the potential to manage ongoing changes in demand.”³ However, the AER has interpreted this to refer to “drivers of network peak demand usage patterns.”⁴ PIAC considers this interpretation is too narrow and may hamper innovative projects as peak demand is just one of a number of challenges and potential cost drivers that TNSPs will face in the future. By focussing on peak demand, the AER may exclude projects that could address emerging issues that could also be addressed through demand management such as minimum demand or system strength and stability.

Support the sub-criteria proposed.

PIAC is generally supportive of the sub-criteria proposed for determining the eligibility of projects but provides some comments on their interpretation.

As the DMIAM is intended to foster innovation, it is imperative projects are based on new or original concepts and/or technologies. We appreciate determining what constitutes “new and original” may be qualitative and subjective at times. It may involve a technology that is entirely novel and a world-first, but more likely, projects will involve technologies that have been used before but may still be novel due to the context it is being used in, the problem it is addressing, the size and complexity of its application or the speed at which it needs to work. As project proponents, the onus must be on the TNSP to show how their proposal meets the “new and original” criteria.

PIAC agrees TNSPs must not be able to double-dip for funding such as through a normal revenue determination or as a result of incentive schemes or policies. However, this must not necessarily prevent TNSPs from co-funding with other research and innovation funding sources (or partner with organisations with other funding sources) such as from ARENA or universities.

Independent expert panel

PIAC agrees an independent expert review would help build trust in the innovation projects being proposed under a DMIAM. This should complement but not replace the AER’s own assessment of the projects as an expert regulator.

As noted earlier, an independent expert review of proposed projects may be able to complement an ex-ante assessment of the expenditure by the AER. We look forward to examining this issue in further detail.

The review must incorporate consumer or community perspectives and preferences to ensure the proposed innovation is in consumers’ interests. There are a number of different mechanisms

¹ AER, *Demand Management Innovation Allowance Mechanism for transmission issues paper*, August 2020, 19.

² AEMC, *DMIS and DMIA for TNSPs final determination*, December 2019, 11.

³ National Electricity Rules, clause 6A.7.6 (c)

⁴ AER, 22.

to achieve this, such as having formal consumer representation in a review panel or through consultation with consumers and consumer groups, including the TNSP's customer council. It is not clear yet which of these models would be most appropriate and whether a single model should be prescribed for all TNSPs. We look forward to examining this issue in further detail.

PIAC is not convinced the cost for an independent expert review should necessarily be included as part of the DMIAM expenditure. It could be considered as part of a TNSP's cost of business, much like preparing a revenue proposal or an expert review as part of the governance for major capital expenditure. We look forward to examining this issue in further detail, especially with regard to the expected materiality of the cost to set up and run an expert independent review.

Continued engagement

PIAC would welcome the opportunity to meet with the AER and other stakeholders to discuss these issues in more depth.

Yours sincerely,

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