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Improving consultation procedures in the Rules (Gas) and Improving consultation procedures in the Rules (Electricity)

The Public Interest Advocacy Centre (PIAC) welcomes the opportunity to respond to the Australian Energy Market Commission's (AEMC) Improving consultation procedures in the Rules (Gas) and Improving consultation procedures in the Rules (Electricity).

PIAC supports the intent of the proposed rules changes to enable greater flexibility, and principles-based consultation that can respond to rapidly changing energy markets.

Effective engagement is critical to meeting stakeholder needs when considering regulatory changes. Streamlined consultation should be capable of satisfying the proposed consultation criteria and consider:

1. The nature of the proposal and its impact on persons likely to be affected by it.
2. Regulatory requirements and interdependencies applicable to the proposal.
3. The urgency of resolving the issues to be addressed by the proposal.
4. The extent of any prior consultation undertaken with affected persons by the consulting party or in another regulatory process (such as a Rule change).
5. The complexity of the associated issues and the potential for alternative options to address them.

For stakeholder consultation to be effective and transparent, PIAC recommends it satisfy the following consultation objectives:

- The nature of any trade-offs stakeholders are prepared to make are understood. For example, the trade-off between electricity price and reliability.
- The nature of trade-offs between different parties is understood. For example, a proposed regulatory change may affect large and small retailers very differently. A large retailer may be able to absorb a rule or policy change as they are able to spread costs over a much larger customer base, where a small retailer may not have the ability to do so. Both perspectives must be given equal weight.
- The stakeholders who should be consulted, have had the opportunity to be consulted. For example, particular community groups should have the opportunity to respond to a proposed technical change that may affect energy reliability to their regional area during bushfire season, even where the prospect they will be affected is minimal.

To satisfy both the proposed consultation criteria and the consultation objectives, PIAC recommends the default remain at two rounds of consultation. Where appropriate, a consultation process should commence with an initial 'request for alternative consultation' subject to a relatively short timeframe (10 days). This could be used where an alternative consultation process that is longer, shorter or different in structure to the default is proposed. This recommendation is in line with the AEMC's expedited rule making process.

This approach would retain a strong and consistent default in circumstances where the case for an alternative process is not made, or not supported. The onus would be on the decision maker to demonstrate the proposed consultation method is justified and meets the principles and objectives of effective consultation.

PIAC agrees the proposed rules changes should include the ability for stakeholders to request a review. There should be a defined process with criteria for when and how a review request must be actioned by decision maker.

PIAC welcomes the opportunity to discuss these matters further with the AEMC.

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