

# Unlocking CER benefits through flexible trading

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## About the Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is leading social justice law and policy centre. Established in 1982, we are an independent, non-profit organisation that works with people and communities who are marginalised and facing disadvantage.

PIAC builds a fairer, stronger society by helping to change laws, policies and practices that cause injustice and inequality. Our work combines:

- legal advice and representation, specialising in test cases and strategic casework;
- research, analysis and policy development; and
- advocacy for systems change and public interest outcomes.

## Energy and Water Consumers' Advocacy Program

The Energy and Water Consumers' Advocacy Program works for better regulatory and policy outcomes so people's needs are met by clean, resilient and efficient energy and water systems. We ensure consumer protections and assistance limit disadvantage, and people can make meaningful choices in effective markets without experiencing detriment if they cannot participate. PIAC receives input from a community-based reference group whose members include:

- Affiliated Residential Park Residents Association NSW;
- Anglicare;
- Combined Pensioners and Superannuants Association of NSW;
- Energy and Water Ombudsman NSW;
- Ethnic Communities Council NSW;
- Financial Counsellors Association of NSW;
- NSW Council of Social Service;
- Physical Disability Council of NSW;
- St Vincent de Paul Society of NSW;
- Salvation Army;
- Tenants Union NSW; and
- The Sydney Alliance.

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# 1. Introduction

The Public Interest Advocacy Centre (PIAC) welcomes the opportunity to respond to the Australian Energy Market Commission (AEMC) Unlocking consumer energy resource (CER) benefits through flexible trading directions paper (the Paper).

PIAC supports the intent of the flexible trading rule change to enable consumers and the market to separate flexible CER and have them managed and recognised in wholesale market settlements if they choose.

Provisions for flexible trading should reflect that these arrangements are:

- Optional and 'additional', ensuring that consumers who do not participate are not disadvantaged and retain equitable access to efficient, reliable essential energy services.
- Do not exclude or 'lock out' any consumer from participating because of complexity, limitations at their premises, or the imposition of high upfront costs.
- Have minimal impact on complexity for consumers and minimise negative cost impacts (or facilitate beneficial impacts) on essential energy services.

Introducing flexible trading can benefit all consumers by increasing competition faced by market retailers and expanding choice around how consumers manage and engage with their CER. We do not support the AEMCs proposal not to progress flexible trading for small consumers and are concerned this approach unreasonably delays progress which would benefit all consumers.

We acknowledge flexible trading for small consumers would have implementation costs for market actors and create challenges associated with ensuring that appropriate consumer protections are maintained. However, we do not regard costs as a valid reason to postpone important reform, particularly when these costs have yet to be comprehensively and transparently assessed against benefits.

Likewise, the proposal not to progress AEMOs flexible trader model 2 (FTM2) does not justify the decision not to progress any models of flexible trading for small consumers. Alternative models for flexible trading should be assessed as part of Energeia's cost-benefit analysis.

Irrespective of whether small consumers are permitted access to flexible trading through multiple providers, the AEMC should facilitate the development of appropriate network tariffs for secondary settlement points and enable CER aggregators to compete with retailers on an equal footing by making the relationship between FRMPs separate.

## 2. Identifying and managing responsive CER

### 2.1 Energeia's cost-benefit analysis should not be limited to AEMOs FTM2

PIAC sees merit in separately identifying and managing CER and supports Energeia conducting a cost-benefit analysis to this end. This analysis should identify the allocation of costs and benefits across consumer classes and between participants and non-participants in flexible

trading arrangements. Efforts should be directed at identifying models that maximise benefits for consumers without enabling devices, so as not to further exacerbate inequities between CER haves and have-nots.

The cost-benefit analysis should consider alternative models such as multi-element and parallel metering, not merely AEMOs FTM2.

Energeia's cost-benefit analysis should consider not just the costs associated with selecting one technical configuration over another, but the synergies that may arise from a mixed-model approach where the technical and regulatory changes required to facilitate the approaches are similar.

For example, both a parallel and multi-element metering approach require the development of discrete network tariffs, and together are likely to accommodate a greater range of consumer segments, circumstances, and preferences than a subtractive metering approach on its own.

We also note that a cost-benefit analysis by itself is insufficient to determine the value of separately identifying and managing CER. Research into how consumers might use or want to use these products and services is also necessary. This should build on existing studies on flexible demand, such as those conducted by Energy Consumers Australia (ECA)<sup>1</sup> and the Australian Renewable Energy Agency (ARENA)<sup>2</sup>.

## **2.2 Efforts to separately identify and measure responsive CER should be progressed irrespective of the ability for multiple service providers to operate at a site**

Any approach to identify and measure CER should allow for the application of discrete network tariffs at each settlement point. This would address concerns around 'gaming' between two different retail offers since consumers would continue to pay the marginal cost of their usage, allowing them to potentially 'arbitrage' but not impose any inefficient costs on the network in doing so.

PIAC strongly supports the proposal to enable additional settlement points for small users irrespective of whether they are managed by a single financially responsible market participant (FRMP) or multiple FRMPs.

Retailers currently have little financial incentive to optimise and coordinate CER and this situation is unlikely to change until flexible resources can potentially be separated and managed independently of the primary load/retailer relationship. Enabling extra settlement points addresses this issue by lowering barriers for specialised CER aggregators to operate in the energy market and incentivising retailers to either develop competing offerings or partner with these providers on a more equal basis.

We strongly support further evaluating changes to the rules and/or issuing AER guidelines on network charges for consumers with multiple settlement and/or connection points. This work

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<sup>1</sup> See Energy Consumers Australia (2023) [Supporting demand flexibility in the energy transition](#).

<sup>2</sup> See ARENA (2023) [Smart energy hubs: Accelerating growth in C&I flexible demand participation](#).

should facilitate the aggregation of data and reflect the long run marginal cost of usage across these points.

Limiting the types of resources that can be connected to a secondary settlement point would help manage the prospect of increased complexity, reduce the potential for consumer confusion and harm, and provide clarity on roles and obligations to market participants, end users, ombudsman, and regulators. However, we recommend that such restrictions be made on the basis of load type (i.e. flexible vs. non-flexible) rather than on specific use cases such as EV charging.

More prescriptive restrictions may be warranted when flexible trading is first introduced for small consumers. These restrictions could be relaxed over time to expand the scope of flexible trading as arrangements mature and the interaction between flexible and essential energy services becomes clearer. We support further examining these interactions through progressing a trial rule and using sandboxing arrangements.

The AEMC should further review the role of alternative CER measurement devices (such as inverters) in providing visibility to the market. Such devices may provide more accurate and granular data than that provided by a meter and should be exempt from relevant minimum service specifications. These minimum specifications should be determined as part of a broader review of metering standards and interoperability for behind-the-meter devices.

### **3. Flexible trading with multiple service providers**

#### **3.1 Flexible trading for small consumers should be progressed in areas where the risk of consumer harm is low**

PIAC does not support the proposal to defer flexible trading with multiple service providers for small consumers. The proposal not to progress these reforms is not in the long-term interests of consumers.

We understand the reasons for not progressing AEMO's specific flexible trader model 2 (FTM2), having put forth many of these ourselves<sup>3</sup>. However, it is unclear why the AEMC is not proposing a more preferable rule using a different metering model or a staged rollout of eligible loads, which could enable consumer benefits while avoiding potential consumer risks.

Retailer reluctance to embrace proposals that would increase competition in a highly concentrated market is not surprising. Retailers have little incentive to optimise behind-the-meter generation or demand management, since doing so comes at direct cost to the revenue from their primary service operation. It is also not surprising that distribution network service providers (DNSPs) are not embracing changes that require more complex relationships with retailers.

However, neither of these factors should preclude further consideration of reforms which can enable material benefit to consumers. The submissions of stakeholders with a direct interest in the nature and progress of reforms can be expected to understate benefits and overstate costs of flexible trading for small consumers. This should be part of the AEMCs assessment of, and response to stakeholder input to the process.

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<sup>3</sup> See PIAC submission to [Unlocking CER benefits through flexible trading consultation paper](#) pp. 5-6.

Some stakeholders have suggested flexible trading is unwarranted because a 'CER market already exists' and 'will evolve without the need for a rule change'. PIAC considers these claims do not stand up to a cursory assessment of actual consumer outcomes. While there are some examples of CER optimisation occurring in the market today, it is often the case that more innovative CER services come with significantly less competitive rates for energy purchased from the grid (or vice versa). The crucial consideration is not simply that these options 'exist', but that they are operating to deliver actual consumer benefit.

Retailers are generally unwilling to partner with CER aggregators, and where partnerships do exist, retailers exercise considerable influence over how value generated from trading CER is shared. This further limits the value consumers see from these resources. Again, the crucial consideration is not the existence of partnerships, but the consumer outcomes they are delivering. The current market state undermines the value proposition of CER and limits opportunities for CER to be utilised efficiently for the benefit of consumers and the energy system.

PIAC does not agree with the assertion that many of the benefits of flexible trading 'are available today if small customers add a second connection, use multiple element metering, or participate in virtual power plants (VPPs)'. Where these benefits may exist in theory, they are not being realised in practice due to the significant costs and complexities associated with accessing flexible trading under existing arrangements.

The introduction of flexible trading with multiple service providers for small consumers would require changes to the National Energy Customer Framework (NECF) and supporting market compliance arrangements. Like all reforms, these are not without cost. While the Paper suggests the challenges and costs of implementation are 'significant', it does not provide evidence for these claims, nor does it indicate how the AEMC has assessed them.

We recommend that until these potential costs can be fully and transparently assessed against benefits, the AEMC should reserve judgement on whether to progress flexible trading for small consumers.

Consumer protection obligations can vary depending on the type of service being offered and the potential consumer harms that could occur. In our submission to the consultation paper we outline how existing NECF arrangements could be modified to facilitate flexible trading while maintaining strong consumer safeguards<sup>4</sup>.

Any risk of consumer harm could be further minimised through introducing a limited schedule of flexible resources that may be connected at a secondary settlement point (in advance of the development of any new protections frameworks) and gradually expanding eligibility over time. This would enable introducing flexible trading in areas where the risk of consumer harm can be demonstrated to be low.

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<sup>4</sup> Ibid. pp. 9-10.



While flexible trading presents consumer protection concerns, these can be identified and managed. Where material benefit could be realised by proceeding with reforms, even in part, potential for harm should not be used as a reason to delay the introduction of said reforms.

### **3.2 Flexible trading for large consumers should allow for the application of discrete network tariffs at each settlement point**

We support the AEMCs proposal to progress flexible trading for large consumers. As outlined above, this arrangement should allow for the application of discrete network tariffs at each settlement point. This approach avoids the complexity involved in allocating network tariffs across multiple FRMPs under a subtractive model and provides CER aggregators with more flexibility and independence to develop products and services that meet the needs and preferences of consumers.

An added benefit of this approach is that it enables networks to create specific tariffs that reflect the cost of specific services and usage. This would allow FRMPs to adopt the network tariff structure that best suits the needs and preferences of their customers and the specific services they are engaging.

The existing embedded network framework is not appropriate for flexible trading since it is not transparent to all market participants and may negatively impact settlement integrity and consumer protections<sup>5</sup>. The existing framework undermines the transition towards more cost reflective network tariffs and should be unwound to eliminate cross-subsidies.

As part of this reform, we encourage the AEMC to further investigate network charging arrangements to ensure they are fit for purpose for consumers with multiple settlement or connection points.

## **4. Measuring energy flows from street lighting and other street furniture**

PIAC supports the proposal to allow distributors to act in the role of metering coordinator, metering provider, and metering data provider for all street furniture (including that which is not currently under their management).

If the Commission decides to proceed with the proposal to introduce minor energy flow metering, then another level of accreditation for metering providers should be added to the NER. This additional category of accreditation should ensure metering providers have the capability and competency specific to the installation and maintenance of minor energy flow metering installations.

Introducing competitive arrangements for minor energy flow metering is likely to create further complexity around the location, authorisation, and safety requirements that might apply to street furniture.

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<sup>5</sup> See AEMO [Flexible trading arrangements and metering of minor energy flows in the NEM rule change proposal](#), Appendix A, pp. 13-15.

Accuracy and data requirements for minor energy flow meters should remain unchanged and comply with five-minute settlement. We support amending (rather than exempting) minor energy flow meters from other minimum service specifications to better reflect their technical requirements.

Remote inspection and testing for minor energy flow meters should be permitted and encouraged wherever possible given the impracticality and costs associated with physical inspection and testing.

## **5. Further engagement**

PIAC would welcome the opportunity to discuss these matters further with the AEMC and other stakeholders. If you have any queries about this submission or would like more information about our advocacy and research work, please contact Jan Kucic-Riker, Policy Officer, Energy and Water at [jkucicriker@piac.asn.au](mailto:jkucicriker@piac.asn.au)