

5 November 2012



John Pierce
Chairman
Australian Energy Market Commission
PO Box A2449
SYDNEY SOUTH NSW 1235

Your Ref: EPR0022

Dear Mr Pierce

Submission in response to the Power of Choice: Draft Report

This document formalises the verbal submission provided by Carolyn Hodge, Senior Policy Officer, on 19 October 2012. It addresses three key issues, namely tariffs, customer protection and access to dispute resolution.

Tariffs and vulnerable consumers

The Public Interest Advocacy Centre (PIAC) welcomes the consideration the Australian Energy Market Commission (AEMC) has given to vulnerable consumers in examining options for a transition to cost reflective pricing. PIAC is particularly pleased that measures, such as the ability to remain in a flat tariff, are being considered for those who may have a limited ability to shift or reduce their consumption.

Access to information

Having access to a flat tariff is a useful safety net and removes a level of anxiety about how peak and shoulder rates will impact on electricity bills and whether such bills will be affordable. PIAC takes the view that all consumers, including the vulnerable should not be blocked from realising any benefits that demand-side participation may afford them. However, appropriate safety nets should be in place to mitigate any risk vulnerable consumers may subject themselves to by exploring these opportunities.

PIAC's research into electricity use and people with physical disability found that people were highly motivated to change behaviour in order to make savings on electricity bills, even though circumstances beyond their control, such as the need for heating and cooling or in-home services, may reduce their opportunities to do so.¹

PIAC believes people should have access to information about their power consumption so they can make informed decisions about whether time-varying tariffs will allow them to make savings while maintaining the level of consumption they need for a dignified life. This information should go beyond access to load profiles and be provided directly to people in an easy to understand format via a consumer's bill.

¹ Public Interest Advocacy Centre, *More power to you: electricity and people with physical disability*, 2012.

The goal of providing information on bills is to facilitate a risk-free and direct way for consumers, who have remained on a flat retail tariff, to understand the impact time-varying pricing would have had on their bill and where there are opportunities to save with behaviour change.

For example, a household on a flat tariff receives a bill outlining use at a flat rate.² The bill also includes:

- a) a message charting consumption across peak, shoulder and off-peak times and the amount the consumer would have paid if they had been on this tariff;³ and
- b) a message telling people what they could have saved if they were able to shift some consumption away from peak and shoulder rates.

Providing this kind of information directly to consumers not only assists them make informed choices about tariffs that suit their circumstances, it allows them to engage in trialling behaviour change without financial penalty. It also allows people to participate in reducing peak demand through behaviour change—even if they choose to remain on flat tariffs.

Importantly, it also engages consumers, who may be resistant to taking up time-varying prices, in the process of introducing better price signals in the National Energy Market (NEM) — reducing the risk of consumer backlash.

Flat tariffs

While PIAC is pleased that the AEMC proposes that vulnerable consumers retain access to flat tariffs, it encourages the AEMC to consider processes to ensure flat tariffs are set at efficient levels—especially in jurisdictions where retail prices are deregulated. If flat tariffs are to be seen as a safe-haven for vulnerable consumers it is vital that market dynamics do not serve to artificially inflate these tariffs above efficient levels.

Vulnerability and assistance

PIAC supports the AEMC's draft recommendation that governments review their concession schemes. Innovations in the market and increasingly complex tariff structures necessitate concessions and other assistance that are responsive to the challenges faced by consumers today and into the future.

PIAC submits that the Productivity Commission is well placed to undertake an independent review of concessions across all jurisdictions. An important aspect of any such review will be an investigation of whether flat-rate energy rebates that are uniform within a jurisdiction are effective in the face of geographically specific and time-variant pricing.

Customer protection framework

The facilitation of demand-side participation in the NEM will create new opportunities for energy service companies (ESCOs) to market products to consumers. Due to the essential nature of energy, PIAC submits that the Australian Energy Regulator should have oversight of ESCOs under a framework similar to the Exempt Selling Guideline. The Exempt Selling Guideline outlines obligations of non-retail sellers of energy, such as residential park operators and body corporates, that will come into force upon implementation of the National Energy Customer Framework (NECF).

PIAC submits that a new guideline should be developed to outline the obligations of ESCOs rather than adding to the Exempt Selling Guideline. Any new guideline is likely to have features in common with the Exempt Selling Guideline such as the inclusion of deemed and registrable

² This example assumes the household has an interval meter.

³ Including any service availability charges.

classes of ESCOs under which appropriate conditions can be applied depending on the activities an ESCO engages in. However, PIAC contends that an instrument guiding exempt sales and DSP activities may be overly complex or could result in consumer protections being eroded in an effort to maintain a streamlined approach.

PIAC contends that consumers of any ESCO that has the capacity to disconnect or interrupt their electricity supply be appropriately protected through measures including, but not limited to, prohibition of disconnection, arrangements for dealing with payment difficulties and access to dispute resolution. PIAC also acknowledges there may be scope to have lower level obligations for ESCOs that have no impact on continuance of supply.

As energy services are relatively new energy market participants and the services they provide are likely to be innovative, it is appropriate to develop an initial guideline that can be reviewed at various stages of market maturity and as data on consumer issues becomes available. A new guideline, separate from the Exempt Selling Guideline, would allow this review to be more focused on the activities of new market participants—facilitating a guideline that provides consumer protections that are most appropriate to the interactions between these businesses and their customers.

Access to dispute resolution

The Exempt Selling Guideline includes obligations on exempt suppliers to have processes for resolving disputes. In PIAC's view, it is important that residential and small business consumers⁴ have access to independent dispute resolution services.

In this regard, PIAC notes the difficulty consumers faced accessing efficient dispute resolution services in relation to the NSW Solar Bonus Scheme. The Energy and Water Ombudsman NSW (EWON) continues to receive complaints regarding the NSW Solar Bonus Scheme. These matters are complicated by the fact that such disputes involve companies within and outside of EWON's jurisdiction. For consumers, this means they may need to deal with multiple stakeholders, such as Fair Trading NSW, the Clean Energy Council and EWON, to resolve a single dispute. This is frustrating and inefficient for consumers and it is not best practice.

DSP activities may realistically involve providers within and outside the jurisdiction of Energy and Water Ombudsman services, and may be facilitated by interaction between ESCOs and retailers or networks. The current opportunity to resolve disputes independently and from a single access point should be capitalised on proactively and not as a knee-jerk reaction to growing complaints.

PIAC acknowledges that an expansion of the jurisdiction of Energy and Water Ombudsman to provide this service to consumers will require engagement with Ombudsman services and the development of methods to facilitate appropriate cost recovery.

In PIAC's view, consumers will benefit not only from a single access point but also because Energy and Water Ombudsman Schemes have the capacity to collect data on complaints that can be used to provide an evidence base for the development of consumer protections that may be necessary in the near future. Without this evidence base, the framework is at risk of being too onerous or not appropriately designed to protect consumers against issues that are unknown at this time.

⁴ Residential and small business consumers.

Conclusion

The *Power of Choice: Draft Report* puts forward many recommendations, some of which are related to vulnerable consumers. PIAC supports the practice of taking proactive steps to consider the impact that any new policy or program has on vulnerable and low-income energy consumers. PIAC urges those who are considering the recommendations in the Draft Report not to take decisions that see innovations introduced before related safety-net measures are in place.

If you would like to discuss any matters related to this submission, please don't hesitate to contact me on (02) 8898 6520 or chodge@piac.asn.au.

Yours sincerely



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