



18 December 2013

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Australian Energy Market Commission
PO Box A2449
SYDNEY SOUTH NSW 1235

Dear Sir/Madam

Submission to the National Electricity Amendment (Distribution Network Pricing Arrangements) Rule 2014

The Consumer Action Law Centre (**Consumer Action**) welcomes the opportunity to comment on the Australian Energy Market Commission (**AEMC's**) National Electricity Amendment (Distribution Network Pricing Arrangements) Rule 2014 Consultation Paper (the **Rule Change**).

Consumer Action presented our views on this Rule Change at the AEMC's public forum on Wednesday 27 December, in Melbourne. This submission reflects the views put forward at that public forum.

While Consumer Action generally supports the Rule Change in that it may improve certainty of network tariffs, we think that the consultation paper does not sufficiently consider how network tariffs translate into the overall retail price paid by consumers for their energy consumption. Without such information, it is difficult to assess whether the Rule Change will achieve its other objectives, particularly whether it will deliver efficient pricing that will enable consumer response. The submission also raises concerns about the fair allocation of network tariffs, particularly for low-consumption households.

About Consumer Action

Consumer Action is an independent, not-for-profit, campaign-focused casework and policy organisation. Consumer Action provides free legal assistance, litigation services and financial counselling to vulnerable and disadvantaged consumers across Victoria, and is the largest specialist consumer legal practice in Australia. Consumer Action is also a nationally-recognised and influential policy and research body, pursuing a law reform agenda across a range of important consumer issues at a governmental level, in the media, and in the community directly.

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Consumers are retail customers first and foremost

Quite simply, while network tariffs make up part of their bill, consumers pay retail tariffs and have a relationship with retailers first and foremost.

In many instances the rule change consultation paper refers to ways in which consumers may benefit from participating in consultation on distribution tariffs or how distribution businesses will benefit from consumers responding to efficient signals, enabling those businesses to capture the value of their demand side participation. The consultation paper suggests that this will ultimately result in reducing network and system costs over time.

Bearing in mind that residential consumers deal with their retailer and pay retail tariffs, it is important to assess, therefore, how this rule change will affect the retail costs consumers are charged. It is disappointing the consultation paper does not really cover this issue, or even consider how network tariffs translate into the final bill consumers pay. In fact, we find only one reference (on page 53) that says "the extent to which price signals result in lower future network costs will depend upon a number of factors, for example, the extent to which these signals are passed through retail tariffs".

This rule change may provide more certainty to retailers in terms of advance notice of network tariff structures. If so, this will assist retailers to manage their final retail price. More certainty should also provide more reliable price paths for retail consumer contracts. However, the reality is that in different jurisdictions, depending on whether retail markets are regulated or not, this certainty will have different outcomes for residential consumers.

In Victoria, for example, there is no regulation of retail prices. With the introduction of flexible tariffs, transitional regulation has been imposed about the shape of network tariffs, however there is no guarantee that this tariff shape will translate into the retail tariff structure. For stakeholders to be able to fully assess this rule change, we think more analysis needs to be provided by the AEMC on how this rule change will impact retail tariffs, particularly those on market contracts.

The consultation paper notes that "without the ability of consumers to understand and respond to price signals there is no increase in efficiency because outcomes will not change". This point summarises our own concerns: (1) that consumers will not necessarily understand the complex arrangements between distribution businesses and retailers; and (2) in retail markets consumers are faced with complex product offerings and their ability to respond to price signals is difficult, even though this may be enhanced by information provided through smart meters. We are concerned that complexity in retail pricing and product offerings will serve to undermine the intent of this aspect of the rule change. While we support tools to help consumers navigate complex prices (like My Power Planner in Victoria), we'd encourage the AEMC to investigate how many people are actually using these tools or undertaking necessary analysis before choosing new contracts.

Pricing Structures Statement

We welcome the proposal that networks must be more transparent about future prices and consult early with customers. In particular we agree that early consultation on a pricing structures statement (PSS) with consumer advocates during the price reset can give rise to greater certainty and predictability of prices and tariffs.

Consumer advocates have raised concerns about retailers unilaterally changing prices. The greater certainty this rule change provides would better enable retailers to foresee network prices, and provide tariff certainty for consumers who sign on to fixed period contracts.

However, consumers themselves will unlikely be able to engage in the detail—consumers are more likely to respond to high level information statements such as "distribution prices are increasing". Beyond that, consumers rely on retailers in how they pass through tariff changes.

The consultation paper states a PSS "could provide consumers with more time to plan ahead to adapt to the cost impacts of shifting network tariffs" (pg 30). We think this is an odd statement—as noted above, consumers that we deal with have no idea about network tariffs and how they influence bills (many don't even know about networks), and it's highly unlikely that they will plan ahead to adapt to cost impacts of shifting network tariffs.

We agree that networks should be required to consult on a PSS and for it to be approved by the AER. We encourage and support the distribution businesses consulting with end use consumers and their customer consultative committees throughout the price reset period. The AER should be required to undertake additional consultation on the PSS. As consumer organisations are unlikely to be resourced to respond to multiple different businesses' PSSs and are generally heavily engaged during the price reset process, this is the opportunity at which consumer organisations will be able to provide the greatest input. We also think the AER should be required to approve PSSs, as without that requirement it's not clear that networks will take these new obligations seriously.

The AER's guideline on consumer consultation could be adopted and networks should also inform themselves of the latest research and recommendations about best practice consumer consultation. Recent research from the Consumer Utilities Advocacy Centre provides an important insight into the way in which businesses and regulators may engage with consumers, including recommendations about how to do this in a more meaningful manner¹.

As to whether a PSS should be binding in respect to both tariff structures and price levels over the full regulatory period we hope the pros and cons of such an approach will be examined closely in the AEMC's consultation. We think there are benefits to a PSS being binding on both fronts, because of the certainty it can provide—it may also shift risk from consumers to networks. However, we'd like to understand the costs of such an approach and look forward to further information from the industry.

In terms of the annual review, we are very supportive of bringing forward the timing of the annual pricing process to assist retailers (and subsequently consumers) to understand and

¹ Consumer Utilities Advocacy Centre, *Meaningful & Genuine Engagement; Perspectives from consumer advocates* (http://www.cuac.org.au/index.php?Itemid=30&option=com_docman)

react to annual price changes. We would, however, lean towards greater detail in the PSS and a more streamlined annual review. This approach is more likely to suit consumer representatives who have limited ability to review annual network pricing proposals of multiple network businesses.

Allocation of network costs

There is a growing perception that PV households use the network as much as non-PV households, but they pay disproportionately less than non-PV households and therefore get a “free ride” on the network. Energy companies submit that solar generating households are only paying for their “net” network usage, i.e. they are only paying for the energy they take from the grid, not for pushing energy out into it. It is suggested that network tariffs should include a greater proportion that is a fixed amount per household as a way to allow networks to recover at a time of overall lessening of demand.

Consumer Action submits that there are significant problems with this analysis:

- the argument fails to take into account the fact that PV owners do not receive compensation for their contribution to delaying the need for new investment in networks;
- the argument ignores that networks have operated and profited on the basis that they have risk—the regulatory framework allows companies to build in a risk premium into prices while they also recover the cost of capital. If the businesses are able to recover costs from households that use less electricity, then the businesses did not have any risk. Rather, they get paid even though they didn’t foresee the large scale uptake of PV solar and the impact this would have on their business; and
- a greater proportion of network charges being fixed unfairly impacts low-use or energy efficient households, and may also be economically inefficient. Our understanding is that long-run marginal cost, which is proposed as part of the rule change, is to deliver variable tariffs to provide signals about efficient usage. The consultation paper then suggests recovering “residual network costs” through fixed charges, which is likely to lessen any price signal.

While there may be benefit in reviewing network tariff structures to reflect a changing market, we have significant concerns about networks charging low use households more as a way to maintain an outdated business model. Given that over a million households have chosen to install PV across Australia, we expect there to be significant consumer outrage should what was promised (lower energy bills) not be provided.

We are aware that some organisations and groups propose use of a ‘demand tariff’ as a way to allow for fair recovery, but to not penalise low-use households.² We think that either in this rule change, or in future work on network tariffs, the AEMC should investigate the costs and benefits of this type of approach and take steps to require networks to propose tariffs to not unfairly penalise low-use households.

² Parkinson Giles, ‘Time to get facts right on solar, and reap the benefits’, in Renew Economy, available at: <http://reneweconomy.com.au/2013/time-to-get-facts-right-on-solar-and-reap-the-benefits-68517>, accessed 13 December 2013

Please contact Janine on 03 9670 5088 or at janine@consumeraction.org.au if you would like to discuss these matters further/have any questions.

Yours sincerely

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