

9 February 2017

Ed Chan
Director
Australian Energy Market Commission



Online submission

Dear Mr Chan

Contestability of energy services

The Public Interest Advocacy Centre welcomes the opportunity to comment on the Australian Energy Market Commission's (AEMC) consultation paper on rule change requests from the Council of Australian Governments (COAG) Energy Council and the Australian Energy Council (AEC) in relation to the contestability of energy services.

PIAC considers it critical that the overriding objective and outcome of any reform should be to expand the reach of competitive markets for contestable services and to restrict the reach of monopoly regulated businesses. PIAC previously outlined its policy position in this regard in a joint report by consumer organisations, *Networks and batteries: small consumer groups' position paper*.¹ PIAC continues to support the work of the Total Environment Centre (TEC) in the development of this position.

Both the COAG Energy Council and the Australian Energy Council rule change requests aim to facilitate the uptake of distributed energy resources (DER) by limiting the extent of network control of new products and services. However, both rule change proposals struggle to find an appropriate mechanism to do so, especially seeing as the AER currently regulates services rather than assets. New technologies like batteries arguably do not provide substantially different services. Instead, they provide new ways to deliver existing services.

PIAC understands that service classification may not be the most appropriate mechanism through which to meet the objectives of the rule change proposals. We believe that one of the key questions that needs to be addressed is whether resources should be procured by networks as capital expenditure or as operational expenditure. For example, networks could receive guaranteed revenue for a smaller number of core services or activities for which there is no realistic prospect of effective competition, while they are able to earn additional revenue from non-core services or activities such as investing in grid-side batteries where they are able to compete in the open market, either directly or through ring-fenced entities.

The treatment of behind the meter resources such as consumer batteries could be dealt with by more clearly defining the extent or limits of distribution networks. In our view this should be the customer's meter or connection point. This would make it impossible for networks to own or operate consumer-side regulated services. It would not prevent them from bidding, either

¹ Total Environment Centre, *Networks and Batteries: small consumer groups' position paper*, available online
https://d3n8a8pro7vhmx.cloudfront.net/boomerangalliance/pages/434/attachments/original/1476423462/N_B_position_paper_30_Sept_2016_.pdf?147623462

directly or via ring-fenced entities, to provide consumer-side services such as batteries and direct load control appliances. However, they would need to compete to provide these services.

PIAC recognises that the main reason for the rule change proposals is to ensure a high level of competition in the DER market. The proponents state and we agree that the way to do this is to prevent networks from adding DER such as batteries to their regulated asset bases.

A possible re-formulation of the proposed rule change could be to identify the inputs or services that should be procured as operational expenditure. This would mean movement away from the complexity of the service classification approach. Overall, we suggest there are potentially two ways to reduce the current complexity and to increase competition in line with the objectives of the proposed rule change. First, to change the way the AER classifies services, or, second, by requiring or allowing the AER to classify some assets as well as or instead of services.²

On the first we would propose that there be only two classifications: regulated and contestable services. On the second, the rule could be changed to distinguish between assets and services essential to the operation of the network to provide a safe and reliable power supply, which are not amenable to competition, and which should be the subject of a revenue or a price cap as periodically determined by the AER; and all other assets and services, which should be procured as operational expenditure only and open to competition.

Finally, PIAC agrees with TEC that this would be a good opportunity for the AEMC to consider whether the regulatory framework should move away from the capex and opex trade off and towards Ofgem's system of 'total expenditure'. Under the totex system, networks are allocated a certain revenue every regulatory period and can decide whether to spend it on capex or opex. The decision is between a short term, low risk solution (opex) or a longer-term solution (capex) with potentially higher rewards but also higher risks in terms of the rate of return and the potential for stranded assets.

We would welcome further discussions with the AEMC about the above options in more detail in due course.

If you would like to discuss PIAC's submission further, please contact Tina Jelenic, Senior Policy Officer, Energy + Water Consumers' Advocacy Program, on (02) 8898 6522 or by email at tjelenic@piac.asn.au.

Yours sincerely



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² This position is based on the Networks + Batteries paper and the further work by the Total Environment Centre, which is outlined in TEC's submission to this process.