

29 August 2013



Ms Jacqui Thorpe
General Manager – Retail markets
Australian Energy Regulator

By email: AERInquiry@aer.gov.au

Dear Ms Thorpe

Draft Australian Energy Regulator Stakeholder Engagement Framework

The Public Interest Advocacy Centre (PIAC) thanks the Australian Energy Regulator (AER) for the opportunity to provide comment on its Draft Stakeholder Engagement Framework (the framework). Given the increasing focus on consumer engagement by energy retailers and distributors, it is timely that the AER develop the framework to guide its own stakeholder engagement.

PIAC commends the AER on the draft framework. If the AER engages with its stakeholders in a way that gives full effect to the draft framework, PIAC is confident that energy consumers will have a greater understanding of, and ability to influence, energy regulation within the National Energy Market (NEM). PIAC takes the view that the draft framework represents a genuine attempt by the AER to involve consumers in its activities, by making sure their views are 'consistently and meaningfully considered, and that [they] know this to be the case'.¹

PIAC has extensive recent experience in engaging with the AER, through both its involvement with the Better Regulation program and the AER's role in setting distribution network prices in NSW. PIAC also has extensive experience in engaging with the NSW Independent Pricing and Regulatory Tribunal (IPART), which regulates retail energy prices in NSW and recently transferred other energy market-related responsibilities to the AER. Based on this experience, PIAC wishes to make two suggestions regarding the draft framework and the AER's stakeholder engagement practices. These relate to the benefits of the AER giving clear explanations for particular aspects of its regulatory decisions and the inclusion of an additional principle in the framework that states that the AER will be proactive in its stakeholder engagement.

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¹ AER, *Draft AER Stakeholder Engagement Framework*, 2013, 6.

Explanation of AER decisions and enhancing consumer engagement capacity

Network regulation is extremely complex. In recent times, PIAC has devoted significant resources to internal capacity building to be able to engage in AER price determination processes. While these efforts mean that PIAC is now in a position to engage with the AER on some of the more complex aspects of energy network regulation, other consumer organisations are not yet in this position. For this reason, PIAC welcomes the inclusion of transparency as a principle of engagement under the framework.² In particular, PIAC notes that it will be beneficial for all consumers and consumer advocates to ‘understand how their input affected the decision or project’.³

PIAC notes that by providing detailed explanation of its reasons for taking certain decisions, the AER will provide added transparency in its processes. Such explanations will help stakeholders understand how they have (or have not) been able to influence AER decisions. When provided at the draft report stage, this understanding will give stakeholder groups the ability to seek clarification and advocate further before a process reaches a conclusion. Following final reports and over time, this understanding will help stakeholders to build their capacity to engage in future AER processes and, in turn, produce better outcomes for the consumers represented by those participants.

The draft framework states that the AER ‘will provide feedback to stakeholders about their input, ranging from verbal feedback to written “reasons for decisions”’.⁴ PIAC submits that this provision should be strengthened to state that the AER will provide written feedback to stakeholders regarding their input and associated explanations of the reasons for all its decisions, with further verbal explanation available where desired by stakeholders.

Recommendation 1

PIAC recommends that Principle 3 of the guideline be amended to state: ‘the AER will provide a written explanation of its decisions, including how these were influenced by meaningful stakeholder input. Further verbal explanation will be available upon request.’

A principle of proactive consumer engagement

PIAC submits that the framework should be strengthened through the addition of a principle that the AER’s consumer engagement be proactive. All stakeholders recognise the complexity of issues overseen by the AER, such as energy network regulation. In an environment of increasing consumer engagement and innovative product design, circumstances will arise where the AER will need to engage with a whole new group of stakeholders. A recent example of this is the AER’s new responsibility for the exempt selling regime in NSW, affecting residents of residential parks in this state.

Where the AER is engaging with a new group of stakeholders, the process would be enhanced if the AER had existing plans and procedures for identifying and up-skilling new stakeholder groups. There is a base level of understanding of AER processes that is necessary to allow meaningful engagement. If this capacity building does not occur in a timely manner, certain consumers may, in effect, be excluded from these AER processes. However, PIAC submits that

² Ibid 10.

³ Ibid.

⁴ Ibid.

if the AER is proactive in this regard, this would operationalise its goal to enhance the quality of consumer engagement in its processes.

Recommendation 2

PIAC recommends that the AER include in the framework a principle that consumer engagement will be proactive. To give effect to this principle, the AER should develop a process for up-skilling consumer groups who are not experienced in participating in AER processes.

If you would like to discuss any matters related to these issues further, please contact myself or Oliver Derum, Policy Officer in the Energy + Water Consumers' Advocacy Program, on 8898 6518 or oderum@piac.asn.au.

Yours sincerely

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