

Comments on Trial Assessment Framework

Please note that only the relevant content of the emails has been included below.

Energy Users Association of Australia

Email received 6 September 2018

Thanks for the opportunity to comment. I would like to add to Alex's comments below – which I agree with. In summary my comments are:

- any assessment needs to have a counterfactual which the New Reg process is being assessed against – there is none proposed here
- the Trial Assessment Factors are too narrow, concentrating too much on AusNet, the Customer Forum and the AER and too little on consumer advocates view of the process and outcomes; it is as if they are incidental to the whole exercise.

Also, it is unclear who is doing what. While CEPA has been employed to carry out the evaluation, I understand that Farrier Swier is conducting 'monitoring' of the trial. Are there details on how this monitoring will take place – its form, framework, who will be monitored and when, what reports are being produced and when and when will they be made available to stakeholders etc etc?

What are we trying to assess?

The whole process

It is the whole process from the start of consumer engagement to the final AER decision. So not just the Consumer Forum (CF) bit which ends at AusNet's submission of its proposal.

The focus of New Reg process development so far has been on just the CF bit. I have not seen much work on how the consumer engagement (CE) will work post the AusNet submission of its proposal. Even if the CF reaches an agreement on all its in scope matters whereby the AusNet proposal in the CF's view is "capable of acceptance" there is still:

- The resolution of matters around the out of scope issues, and
- The AER's review of the AusNet proposal and CE post the submission given that other consumer advocates may not always agree with the CF on its negotiation outcome on the in scope matters

I would expect that the post submission CE under the New Reg model might be different from the current situation. There would be a much larger role for the traditional CE that was the case pre-submission - Ausnet Customer Panel, CCP, consumer advocates. I do not think it is appropriate to assume that the CF negotiation process will obviate the need for CE post submission.

The outcome

The objectives as set out in the paper seem to be more about process than outcome. It is not just about whether the process works. Given a choice between:

- A brilliant process that achieve a higher price , and
- A poor process that delivers a lower price

I think consumers, or at least the ones I represent, would prefer the latter.

So how is “better” defined? More on this below.

New Reg is a combination of two parts – CF up to submission and conventional CE after submission. But then it is not about a simple evaluation of New Reg in isolation, it is about assessing whether it is better than the alternative. As Tony Robinson said at the ENA conference in Brisbane in July when asked to define success for the CF - success meant achieving something substantial and significant for consumers that would not otherwise have been achieved without the CF. So...

There needs to be a counterfactual

To me the major missing part in what CEPA is proposing is – where is the counterfactual you are assessing the New Reg against? Perhaps this is a consequence of the objective:

To develop an alternative regulatory path whereby energy consumers’ priorities and stated preferences would drive and, through a negotiation process, be seen to drive energy network businesses’ proposals and regulatory outcomes.

because I have not seen a clear definition of what is the current approach? The implicit assumption is that the current path is where “consumers’ priorities and stated preferences” do not drive “energy network businesses’ proposals and regulatory outcomes” To break down this you seem to be saying/implying that the “current process” (and there are more than one which I will expand on below):

- Does not have consumer preference influencing business proposals
- Does not have the AER considering consumer preferences in their regulatory decisions

I expect that you will have a lot of networks disputing the former and the AER disputing the latter.

I would have thought a better objective would have been something like (forgive the poor grammar):

*To develop an alternative regulatory path whereby energy consumers’ priorities and stated preferences would **better** drive and, through a negotiation process, be seen to **better** drive energy network businesses’ proposals and regulatory outcomes **than the current process**.*

So fundamental to assessing whether New Reg is “better” is twofold:

(i) how is “better” defined?

Is it based on cost? Level of trust? Price path outcome? Process repeatable? As noted above consumers, at least the ones I represent, will always accept a lower price over a wonderful process that leads to a higher price.

(ii) What is it better than?

Now the counterfactual is a broad church eg:

- In a small Government owned network like PWC where >95% of customers are protected by a Pricing Order, the impact of consumer engagement may be limited even with using a New Reg approach
- In Government owned networks in Queensland and Tasmania, shareholder interests might play a role

The engagement framework has evolved significantly in the last couple of years eg

- Early engagement prior to the formal submission of network proposals – including the publication of, and stakeholder engagement on, a Draft Plan eg Tasnetworks, SAPN, Energex and Ergon
- Direct consumer negotiations involving the networks, consumer advocates, CCP and the AER – for the NSW remittal and now with Endeavour’s revised capex proposal for 19-24 submitted prior to the AER’s Draft Decision

Based on my experience of being heavily involved with various hats on with most of the network revenue proposals over the last couple of years, this evolution has resulted in a significant improvement in business proposals and regulatory outcomes that better reflect consumer preferences and the NEO. I think that these networks would acknowledge that there is still room for further improvement.

So, any evaluation of the effectiveness on New Reg should put it side by side with the current approach as implemented in the concurrent network resets for the other Victorian networks, EQ, SAPN, Tasnetworks and NSW DNSPs – recognising that there is variation among these networks in their approach using the “current model”.

Where does this leave the Project objectives?

Rather than “Can consumers, network and the AER work together better”, consider “Does the New Reg model provide a better model than the current approach to consumers, networks and the AER working together?”

Agree with “Can the engagement process better reveal consumer preferences compared to the AER’s current approach” with more explicit description and analysis of the “current approach”.

Trial Assessment Factors seem too narrow and too process focussed

This focus on just the New Reg rather than a comparison with the current approach, comes out in the TAFs. There needs to be a parallel process for assessing the effectiveness of the “current approach”. Without that all we can conclude is whether it was poor/ok/good/great, not whether it is “better”.

The factors are too focussed on the CF, Ausnet and the AER with little or no mention of consumer advocates, the existing AusNet Customer Group, CF’s engagement with consumer advocates or CCP17. Did these groups understand their roles and responsibilities? What did these advocates think of the process and content outcome? Were these advocates have adequate funding to participate as they wanted to?

The TAFs only refer to the CF part of CE in terms of its impact on the proposal and on the determination.

- Where is an assessment of the impact of CE on the out of CF scope issues eg ICT capex which is becoming a very large \$ cost in current proposals?
- where is the assessment of the post proposal CE on the AER’s final decision?

Finally, a comment on costs. These should include network, consumer advocacy and AER costs.

Email dated 3 October 2018

So I would appreciate the opportunity to talking with CEPA prior to the meeting. My initial reaction is that it will be hard to set up a counterfactual on “what AusNet would have done

anyway” given that is a hypothetical. I would have thought about using what other Victorian distributors eg Jemena are actually doing, would be appropriate. The purpose of a counterfactual is to get a real world example of how it could have been done to compare with. This rules out both AusNet’s last determination and the full negotiated settlement model. In this way consumer advocates have direct experience of two alternatives.

The it is not just about comparing what happened with New Reg in AusNet with what happened with say “conventional approach” with Jemena, it is also about “what is the potential development of both models in the future?” when they are applied in the next round of resets.

Email dated 5 October 2018

Your comment:

We do have a clearer view about what we are seeking to achieve with the New Reg process enabling consumers shape the regulatory proposal in advance of lodgement with the AER, and the evaluation framework and CEPA will be looking to see whether the trial achieved its objectives.

suggest to me that the evaluation is going to be simply in terms of “did New Reg achieve its initial objectives?”. To me – and to all the consumer advocates I have spoken to as well as a number of network reps, that approach has a couple of significant limitations:

- How are “objectives” defined?

The draft CEPA paper seemed to do this in terms of process rather than outcomes. If that is the case then consumers are unlikely to be interested. They are far more interested in a great outcome than a great process.

- A good evaluation score:
 - Does not help consumers in deciding whether they should support it because they want to have confidence that it is better than the alternatives that they are also involved in – but then the draft CEPA paper seemed to have little role for consumers in giving feedback on even the narrow “did New Reg achieve its initial objectives” question
 - Does not help networks in deciding whether they should use it in their next revenue determination – noting that it would indeed be a brave network that went ahead with New Reg in the absence of strong support from its consumer stakeholders

The consumer engagement framework is evolving rapidly – what was considered good CE even a couple of years ago is now not cutting edge. I think you would get pretty good alignment from consumer advocates on what good engagement is now and how it can be further improved. You would get excellent consumer advocate alignment of what is not.

A robust evaluation framework requires a counterfactual. To me the obvious choice is something around what are other networks, that did have the option of going “New Reg”, doing instead?”. We are seeing significant changes/improvements in each cycle eg EQ/SAPN/TasNetworks are a lot better than what they did previous cycle. Other Victorian DNSPs are taking a variety of approaches that have differences from EQ/SAPN/TN. The continuous improvement continues at pace. New Reg is facing strong competition.

Email dated 8 October 2018

Yes I agree the objectives of New Reg are still very relevant. To us consumer advocates (and I know this view is widely held) the key question is:

“Given we see benefits in negotiating elements of the regulatory proposal in advance, what is the best framework to do that?”

New Reg provides such a framework. So does the evolution of the current approach of much increased early stakeholder engagement. We now have EQ’s Draft plan:

- highlighting the changes it has made as a result of its early engagement
- inviting submissions on the Draft plan to see what further changes it should make to its January 2019 proposal

Which is better? The jury is all ears looking for the evidence – and seeks an evaluation criteria to provide a structure for the provision and assessment of that evidence.

Jemena

Email dated 31 August 2018

- The choice of CEPA - while they are well placed on regulatory economics, are CEPA well-placed, for example, to determine what “sufficient research on consumer priorities” looks like? Do they have any experience with consumer engagement or research? If we aren’t sure about this, it might be worth having these sort of question reflected upon by the consumer reps and CCP at the same time as CEPA, and their view included in the CEPA report. We think customer reps could add a lot of value on this point. Also, on this section:
 - we also note that the word “research” is used – is this just a way of saying “the outcomes from customer engagement”? When I hear research, I think mainly of surveys, which may not be what is intended?
 - there is a need to consider customer priorities in the research and “where applicable future customers”. Query where would the interests of future customers not be applicable to a particular issue? We thought that expenditure, revenue and pricing decisions would always have long term customer impacts.
- On the first question “did the Consumer Forum’s views on their roles/responsibilities change throughout the process” - we’d be interested in understanding as a learning opportunity whether the CCP, consumer reps, AER, and the Consumer Forum thought their roles were clear and appropriate in hindsight– one thing that still is a little unclear in my mind (it might just be me!) is the division of accountability between the consumer reps, CCP and Forum and whether that division will make sense when we stand back and look at end-to-end process and objectives.
- It would be interesting to know whether the process changed the costs borne by consumer reps, including timing of those costs. Were they involved more or less than normal before lodgement? And by normal, perhaps instead of comparing to 5 years ago for Ausnet, perhaps compare to CP/PC/UE/Jemena for their 2020-25 process?
- The following question: Was the process effective in determining a price/quality trade-off that was supported by evidence of consumer preferences? perhaps needs to go further, in terms of actually having the negotiating positions established by the Consumer Forum clearly reflecting and being able to be tied back to the consumer preferences elicited through the consumer research and engagement.
- Depending on what this question means “Should there be fixed principles, for example to guide decisions on long-term temporal issues (short vs long term interest of consumers)?”, it might be worth considering whether it goes beyond the scope of the New Reg Model and into the broader regulatory framework that could apply to all

businesses with or without New Reg (and therefore should be opened to comment beyond the reference group)?

- On the costs of the trial, recommend these are costed on a standalone basis. An incremental cost approach isn't overly helpful because all businesses are starting from a different position to Ausnet in terms of resourcing (whether that be more or less). It would clearly split the cost of:
 - The Customer Forum itself split by labour, consultancies, and incidentals (\$)
 - The consumer engagement and research component (\$)
 - Ausnet labour (headcount and \$)
 - Ausnet consultancy costs (\$)
- Would stakeholders benefit from an actual measure of how far apart Ausnet and the Consumer Forum were to begin with in the negotiations, and where they ended up? It would be useful to know that (for example) Ausnet and the Forum started \$200M apart on augmentation, and ended up agreeing \$125M towards the Consumer Forum position.
- Is there benefit in having a question about whether stakeholders, and the Consumer Forum, felt that matters that were deemed outside of scope should have been within scope?

Major Energy Users

Email dated 31 August 2018

- Has the new approach delivered a net better outcome than what exists
- Has it resulted in a further reduction of consumer input from other advocates
- Have the interests of all consumers been addressed, recognising that business consumers use a significant amount of electricity transported on the network noting that the only representative of end users on the forum advocates for disadvantaged residential consumers

Public Interest Advisory Centre

Email dated 4 September 2018

Thanks for the opportunity to review the proposed assessment factors for the AusNet trial.

I believe Alex McPherson from Jemena has already provided feedback – I've discussed the assessment factors with Alex and I we're on same page for a lot of this stuff. For reason, some of the feedback below mirrors his.

Initial feedback

Overall, looks good. A few suggestions below.

CEPA

- Do they have the expertise in consumer issues to make calls on the sufficiency and appropriateness of consumer engagement etc?

Engagement and representation

- The first two factors deal with whether or not the Consumer Forum, AusNet and the AER understood the roles and whether the roles changed – we'd like to see some assessment of whether those roles were effective and appropriate, independently of understanding/change over time
- The third factor includes the underlying question: "Was it clear that the Customer Forum (and its members) consulted appropriately with the breadth of consumers and *representatives* throughout the process?" (emphasis added) – I'm still not clear as to the extent to which the Forum is required to engage with consumer reps like me. Perhaps that needs more definition here
- This section talks about 'research' a lot. We see a pretty important distinction between 'consumer research' and 'consumer engagement'. Where consumer research can be useful, surveys and the like are no replacement for repeated, in-depth conversations with small groups of consumers to really flesh out responses to what are quite complex issues. See Jemena Gas Network's ongoing engagement program for a good example of this.

Scope and negotiations

- I would like to see consideration of two more underlying questions to the 'Was the 'Scope of Negotiations Appropriate?' factor, to ensure that it actually answers that question:
 - Was the starting/final scope appropriate?
 - Was the AER's role in defining scope appropriate/effective?

Overall

- Costs are key to all participants here. Obviously, the cost of AusNet running this process will be a defining factor in whether more NSPs give it a go. But I'd like to see the 'What were the costs' underlying question applied as broadly as possible. In particular, has this process been more or less costly for existing, under-funded consumer advocates?

St Vincent De Paul

Email dated 28 August 2018

My only comment is I believe it would be of value to see views of how consumer participants in the new reg framework felt about the process and did they value it and what they saw as the challenges

Consumer confidence, that is the confidence of those who's views were sort and their ongoing support is critical in the long term viability in my view

Email dated 7 November 2018

I think moving forward the key question is how does the consultation process fit into future regulatory framework ie do we stay with building blocks and if so clarity around what the consultation can shape and how this is reported back to or accountabilities are delivered back to the community over a long period of time and it adjusted as situations change

Further more if the regulatory framework changes or move to Totex / TFP etc how the consultation fits into these models and what it can shape and what it can't

Uniting Communities

Email dated 27 August 2018

My main area of interest, not reflected in the Assessment factors, as I see them is the impact, if any of the Customer Forum approach on advocacy and input from consumer based advocates, ie the groups who would most likely be actively involved in the Ausnet Services reset, if there was no Customer Forum. So the sort of questions that come to mind include; has the Customer Forum helped increase / improve the input to the process from consumer based groups / organisations? Has the Customer Forum "crowded out" consumer voices? Has the Customer Forum been able to be / been seen to be accountable to a broader consumer base? What impacts, if any, has the consumer Forum had on resourcing for consumer engagement, in particular a breadth of consumer input

And by way of explanation of the term "consumer based advocates", I mean this to refer to advocates who represent a consumer bases, by they members, clients, and constituents? This compares with groups that I term "consumer perspective groups" who have no direct relationship with end consumers, but seek to represent a broader 'best interest of consumers, in aggregate' perspective.