

29 August 2017

Warwick Anderson
General Manager
Australian Energy Regulator
GPO Box 520
Melbourne Vic 3001



Dear Mr Anderson,

Submission on process for reviewing the rate of return guidelines

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit legal centre based in New South Wales. Established in 1982, PIAC tackles systemic issues that have a significant impact upon disadvantaged and marginalised people. We ensure basic rights are enjoyed across the community through litigation, public policy development, communication and training. The Energy + Water Consumers' Advocacy Program represents the interests of low-income and other residential consumers, developing policy and advocating in energy and water markets.

PIAC welcomes the opportunity to respond to the consultation paper for the process the Australian Energy Regulator (AER) will follow in reviewing the rate of return guidelines.

PIAC supports the AER's proposed approach and commends the AER's focus on fostering the development of informed consumer perspectives to contribute to this review.

The importance of consumer perspective in the rate of return debate

As reinforced by the National Electricity Objective, the long term interest of consumers is central to any regulatory decisions. Consumer impacts must, therefore, remain front of mind in any discussion regarding the process and method for regulatory determinations.

Regulated rates of return, and hence the methods of calculating them, play a significant role in the utility bills that consumers pay. Nonetheless it can be an arcane and inaccessible subject for consumer advocates to provide informed comment on and posit consumer preferences for potential outcomes. There is also a risk that stakeholders may lose sight of the ultimate role of the rate of return in regulatory price and revenue determinations and instead be caught up in an academic or technical debate over which method or model is inherently 'better', when the more important consideration is the defensibility of assumptions used in developing inputs into the model.

In light of this, PIAC strongly supports the measures the AER has proposed to foster a stronger and better informed consumer voice in the upcoming review.

Consumer reference group

PIAC supports the creation of a consumer reference group. PIAC notes that remuneration of costs may be needed for some members of this reference group to fully participate.

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Consumer Challenge Panel

PIAC strongly supports the creation of a sub-panel of the Consumer Challenge Panel for this review to continue to act as a critical friend to the AER.

Demonstrating the indicative impact of any proposed methodology change

PIAC expects that regulated businesses would conduct modelling of the impact of any proposed change in methodology or assumption on their own business. However, this may not be practical for many consumer advocates or other stakeholders to do for the multiple businesses that the AER's rate of return guideline would apply to. This may lead to an asymmetry of information between the regulated businesses and other stakeholders in providing comment.

In order to address this, PIAC suggests that the AER could develop representative revenue and tariff determinations to demonstrate the impact on prices of any proposed change in the rate of return methodology that may be applied. This may also require several economic scenarios to capture the impact of, for instance, different movements in financial markets. Doing so would allow stakeholders to better compare the effect of any proposed changes against a counterfactual – the current method – and understand the need for any changes.

While PIAC appreciates the potential complexity of this, we are of the view that this would be very useful and worthwhile.

Targeted workshops and training sessions to upskill consumer advocates

PIAC supports the AER's proposal to hold targeted workshops and information sessions. Further, PIAC also supports these being held ahead of the issues paper being released to encourage more informed comment on the issues paper and the AER's review more broadly.

To maximise the value of these sessions, PIAC recommends the AER schedule them relatively close to the issues paper being published and provide resources for attendees to refer to during the rest of the review process.

PIAC recommends the AER also consider holding a stakeholder workshop on the issues paper. PIAC considers that this, in conjunction with the earlier workshops and information sessions, will help encourage more detailed and informed consumer engagement with the issues paper.

Hot-tubbing of expert advisers

PIAC supports the AER's proposal of 'hot-tubbing' of expert advisers. However, PIAC notes that there is no explicit role in the AER's proposal for consumer advocates in these sessions. In the same way that experts may be called in to provide their insight on individual aspects of the rate of return, PIAC recommends that consumers' perspective also be incorporated into all of these.

Independent panel review of draft guideline

Similarly to the hot-tubbing of experts, PIAC notes there is no explicit role in the AER's proposal for consumer advocates in the independent panel. PIAC recommends that this be addressed by appointing panel members with demonstrated experience of providing insight into consumer issues.

Continued engagement

PIAC would welcome the opportunity to meet with the AER and other stakeholders to discuss these issues in more depth.

Yours sincerely,

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