public interest
ADVOCACY CENTRE LTD

Transformation needed:

Submission in response to Transgrid's revised network revenue proposal

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The Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit law and policy organisation that works for a fair, just and democratic society, empowering citizens, consumers and communities by taking strategic action on public interest issues.

PIAC identifies public interest issues and, where possible and appropriate, works co-operatively with other organisations to advocate for individuals and groups affected. PIAC seeks to:

- expose and redress unjust or unsafe practices, deficient laws or policies;
- promote accountable, transparent and responsive government;
- encourage, influence and inform public debate on issues affecting legal and democratic rights;
- promote the development of law that reflects the public interest;
- develop and assist community organisations with a public interest focus to pursue the interests of the communities they represent;
- develop models to respond to unmet legal need; and
- maintain an effective and sustainable organisation.

Established in July 1982 as an initiative of the (then) Law Foundation of New South Wales, with support from the NSW Legal Aid Commission, PIAC was the first, and remains the only broadly based public interest legal centre in Australia. Financial support for PIAC comes primarily from the NSW Public Purpose Fund and the Commonwealth and State Community Legal Services Program. PIAC also receives funding from Trade and Investment, Regional Infrastructure and Services NSW for its work on energy and water, and from Allens for its Indigenous Justice Program. PIAC also generates income from project and case grants, seminars, consultancy fees, donations and recovery of costs in legal actions.

Energy + Water Consumers’ Advocacy Program

This program was established at PIAC as the Utilities Consumers’ Advocacy Program in 1998 with NSW Government funding. The aim of the program is to develop policy and advocate in the interests of low-income and other residential consumers in the NSW energy and water markets. PIAC receives policy input to the program from a community-based reference group whose members include:

- Council of Social Service of NSW (NCOSS);
- Combined Pensioners and Superannuants Association of NSW;
- Ethnic Communities Council NSW;
- Salvation Army;
- St Vincent de Paul Society;
- Physical Disability Council NSW; and
- Tenants Union.

1. Introduction

The Public Interest Advocacy Centre Ltd (PIAC) is pleased to have the opportunity to respond both to the Australian Energy Regulator (AER)'s draft determination on Transgrid's revenue proposal for 2014/15 – 2018/19 (2015-19) and Transgrid's revised proposal in response to the draft determination. This submission focuses on Demand Management (DM) as an area of high priority for consumers and consumer advocates. The issue of the rate of return will be discussed in PIAC's submission to the distribution businesses.

1.1 The importance of Demand Management

Demand management needs to be part of ensuring efficient costs for consumers, which is why it was included in the National Energy Market (NEM) ambitions from the beginning. The National Grid Management Protocol in 1992 included the objective 'to provide a framework for long-term least cost solutions to meet future power supply demands including appropriate use of demand management'. The AER's overview document for Transgrid's draft determination does not mention demand management at all. However, the AER's findings and estimates on demand management for Ausgrid notes that 'Demand management is an integral part of good asset management for network businesses'.

2. Transgrid's proposal

PIAC notes that while Transgrid's proposal increases the proposed expenditure on DM in comparison with the last regulatory period, overall, Transgrid's business model appears to be dependent on additional funds, rather than re-orienting the business strategy. In comparison, Essential Energy has stated their vision is for decreased network expenditure and reduced customer costs to be achieved through the efficient implementation of DM and non-network alternatives. Essential's stated aim is for DM is to be used as the first option in planning to meet peak capacity requirements. Essential's DM strategy is honest in acknowledging that the business is a long way from achieving this vision and that change management, technical skills and experience, workforce engagement, business process reengineering, education and training, cultural change and stakeholder engagement are all needed.

While Transgrid's stated commitment to supporting demand management activities is admirable, in PIAC's view, Transgrid have proposed a series of add on 'nice to have' projects without a convincing case that DM is a priority for the business as a whole. Consumer advocates do support DM, but not any DM – the benefits for consumers need to be clear. The AER's assessment is that Transgrid's 'proposed expenditure is not presented as a capex/opex trade-off nor is it a result of a new regulatory obligation'.

2.1.1 Collaboration

Transgrid's revised proposal includes $2.2m for collaboration activities that would appear to be tasks that should be undertaken as business as usual. For example, engagement with large energy users is allocated $800,000. When PIAC attended a Transgrid workshop with large energy users they were angry at the lack of engagement to date and very keen to receive assistance to reduce their energy bills. It seemed unlikely they would need incentives to participate in DM (to which the proposal allocates $480,000).

PIAC is also concerned that Transgrid's initial and revised proposals appear to reflect an assumption that a fundamental barrier to DM implementation is that consumers are uninformed – and the solution is more and better information:

> many of these barriers are based in consumer access to information and understanding of the peak demand problem. Future work needs to continue to build upon existing programs to provide an evidence based platform for the development of more effective engagement strategy involving education, marketing and an enhanced consumer experience[1].

This may reflect a conventional economic view that there is an 'information gap' that can be solved by education, but modern behavioural science highlights how information alone is seldom sufficient to change a complex problem. This was evident in the work Transgrid commissioned from RMIT on family energy use during the evening peak.

2.1.2 Market understanding and development

PIAC is surprised that Transgrid proposes to spend an additional $6.6m to further understand peak demand without any subsequent payoffs in capex or opex within the regulatory period. 'End use modelling, development of regional-level peak demand breakdowns and forecasts, customer segmentation at times of peak demand' and 'collecting data on small and medium sized industrial, commercial, agricultural and residential load, to assist with better understanding of DM potential and peak demand drivers' sound useful for planning DM activities. However questions arise such as why such activities have not been undertaken to date and why they are not planned as precursors to the implementation of DM projects that yield subsequent reductions in opex or capex.

2.1.3 Technology trialing

Similarly, in the proposed 'technology trials', for example of Automated Demand Response technology and energy efficiency auditing, it is not clear why there are no planned opex/capex trade-offs. The AER states that 'TransGrid has not identified any capex projects that will be avoided or reduced as a result of the proposed demand management expenditure' and PIAC is concerned that Transgrid has not done this.

Overall, PIAC agrees with the Consumer Challenge Panel (CCP)'s assessment that TransGrid failed to provide a business case or demonstrate that there is a net positive value resulting from the expenditure, thereby failing to show that the expenditure is prudent and efficient and in the long term interests of consumers.[2] Unfortunately Transgrid have not responded to this criticism in its revised proposal.

3. The AER's role in supporting DM

The Productivity Commission's (PC's) 2013 Report on Electricity Network Regulatory Frameworks[3] noted that 'there are several reasons why, at present, the network business's decision might be skewed unduly towards undertaking network investments'. The PC

1 Transgrid, *Demand management innovation strategy*, 2 May 2014, 26
2 Hugh Grant, *Advice on TransGrid's Proposed Demand Management Innovation Allowance (*Advice*,* AER Consumer Challenge Panel (CCP6 Sub Panel), 18 September 2014)
3 Productivity Commission, 'Electricity Network Regulatory Frameworks', (Productivity Commission, Report No. 62, 2013), 479.

recommended the introduction of an efficiency benefits sharing scheme 'to ensure that network businesses earn an equal return from reductions in capital or in operating expenditure'. Pragmatically, the Commission also stated that 'in the short term, unless other changes are made to the DMEGCIS to encourage demand management, the innovation allowance should be increased'.[4]

Given this recommendation, it is unclear what the rationale is for the AER's draft determination to limit the innovation allowance to $1 million per year. It is unclear why more than $1million is imprudent. It may be appropriate for the criteria for the use of these funds to be reviewed in light of Transgrid's proposals, which are largely for innovation rather than implementation.

Recommendation 1

That the AER consider whether there is a case for increasing the DMIA above $1million and whether the criteria for the use of these funds need to be reviewed.

While PIAC understands the AER is not the rule maker, it is in the ideal position to initiate rule change proposals that would improve the governance, scope and implementation of the RIT-T as recommended by the Productivity Commission and as suggested by the CCP.

Recommendation 2

That the AER develop a rule change proposal to improve the governance, scope (including replacement capex) and implementation of the RIT-T along the lines recommended by the Productivity Commission.

PIAC also supports the CCP's recommendation that the AER consider the development of a DM Incentive Scheme for TNSPs and/or other mechanisms (beyond simply monitoring) to support DM by network businesses. Unfortunately, regardless of how long DM has been a stated priority for the NEM, there is still a capex-bias in the way the network businesses operate. Until such time as there is a wholesale reform of the NEM to counter-act this bias, an incentive scheme can provide a mechanism to encourage cultural change in business practices. It is disappointing that the AER has not progressed a replacement of the Demand Management Embedded Generation Incentive Scheme (DMEGIS). Indeed, the Productivity Commission recommended that:

> if the implementation of the Commission's recommendations were to significantly fall behind schedule, or if there was evidence that opportunities for efficient demand management were being forgone by network businesses, the AER should investigate expanding the scope of the DMEGCIS to provide network businesses with additional incentive payments or penalties.[5]

Recommendation 3

That the AER fast track the development of an effective DM Incentive Scheme for TNSPs and ensure it can be implemented in the current regulatory period.

Finally, PIAC considers that the AER could play a more significant role in supporting DM throughout the industry.

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4 Productivity Commission, 'Electricity Network Regulatory Frameworks', (Productivity Commission, Report No. 62, 2013), 481.

5 Productivity Commission, 'Electricity Network Regulatory Frameworks', (Productivity Commission, Report No. 62, 2013), 480.

Recommendation 4

That given the low level of demand management undertaken by network businesses, the AER consider how all network businesses might be further supported and encouraged to undertake demand management.