

29 April 2021



Jacqui Thorpe
General Manager – Compliance and Enforcement
Australian Energy Regulator

Submitted via email to aer inquiry@aer.gov.au

Dear Ms Thorpe,

Wholesale Demand Response Participation Guidelines – Issues Paper

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 people who are marginalised and facing disadvantage. 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 Australian Energy Regulator's (AER) Wholesale Demand Response (WDR) Participation Guidelines (the Guidelines) Issues Paper.

Wholesale demand response benefits energy consumers at a system-wide and individual level. It provides community benefits by supporting energy efficiency and emissions reduction, and is likely to be the least-cost tool to provide resilience and reliability through the transition of the energy system in the coming decade. Both the volume and realised value of demand response (DR) to consumers and the market should grow as the WDR mechanism is established and matures.

The AER has a critical role in enabling these benefits, through the development and implementation of fit-for-purpose regulation that supports the integrity of the energy market without creating or exacerbating barriers to DR participation.

Regulatory approach

The Guidelines appear predicated on the assumption Demand Response Service Providers (DRSPs) and participating energy users will, if given the opportunity, manipulate baselines and the WDR market for inappropriate gain. PIAC contends this risk of gaming is overstated for a number of reasons and should not form the basis of the AER's regulatory approach.

Opportunities for consumers to inflate or otherwise manipulate baselines are limited. Concern about gaming baselines and other metrics indicates a lack of understanding of how consumers use energy.

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The main purpose of energy users is not to provide DR, but undertaking their core business or household activities. Under the Australian Energy Market Operator's (AEMO) proposed approach, baseline consumption is calculated based on energy consumed on site over weeks and adjusted prior to dispatch. Given dispatch is not guaranteed until the start of a dispatch period, a DRSP would need to artificially inflate consumption in the adjustment window prior or over a prolonged period on the chance they would be dispatched. This is an extremely risky and unlikely strategy.

Much DR is likely to be automated, which may be harder to manipulate and easier to monitor for the purpose of regulation compared to entirely manual DR. In the case of the more advanced demand response markets in the US, in 2018 only 0.7GW of over 18.3GW of enrolled demand response capacity in the US was behavioural.¹ This is compared with the mostly manual curtailment processes found in the Reliability and Emergency Reserve Trader (RERT) and many DR pilots.

Many loads, particularly temperature-sensitive ones, will have little capacity to artificially inflate their baselines on WDR-typical days (i.e. hot days when prices are high) because they are already running at high consumption to manage heat.

There is also reputational risk for participants gaming baselines that will serve as a further deterrent. DRSPs will generally have an ongoing relationship with consumers and provide consumer goods and services such as electric vehicles, smart appliances and batteries. Behaving with integrity and transparency will be key to maintaining these relationships, retaining customers and protecting brands.

PIAC recommends the AER take a regulatory approach which acknowledges DRSPs and participating energy users have little incentive and so are unlikely to manipulate or game arrangements.

Issues with the Guidelines

Noting PIAC disagrees with the assumption of gaming risk inherent in the Guidelines, we provide feedback on two issues with the Guidelines: self-testing for compliance and information retention.

The Guidelines state DRSPs must be proactive in establishing appropriate business processes, procedures, and training to anticipate and to identify when a Wholesale Demand Response Unit (WDRU), or an aggregated WDRU, may be baseline non-compliant in relation to a trading interval. It is not clear how regularly DRSPs are expected to be undertaking this testing for compliance. PIAC suggests the AER provide clarity on how often DRSPs are required to self-test, noting DRSPs will have to build this capability into their systems and more regular testing is a cost to DRSPs and participating energy users.

PIAC highlights information retention is an impost on DRSPs and participating consumers, and as such will increase the cost of participation. Overly burdensome information retention requirements can result in fewer end users providing DR, DRSPs being unable to procure as much DR (due to concerns they might not be able to obtain the required data), increasing the bid price for DR and thereby placing upward pressure on bills across the consumer base.

PIAC notes the Guidelines expect DRSPs to retain, and to make available to the AER upon request, all documents and records relating to fulfilling their obligations around bidding. DRSPs

¹ Smart Electric Power Alliance (2018) 2018 Utility Demand Response Market Snapshot

may not always have access to this information. It would be overly onerous, and in some cases impossible for DRSPs to be able to provide this information for all loads and bids/rebids.

PIAC considers it appropriate for DRSPs to retain and make this information available wherever they have access to it and in relation to DR events that have been dispatched. PIAC also suggests the focus of retaining information should be to substantiate the reasonableness of a DRSP's bidding/rebidding behaviour, which can be achieved through a range of sources appropriate to the circumstance, not just production schedules.

Some major energy users have noted under the WDR arrangements proposed by market bodies, they will not participate in the mechanism. Instead, they prefer to continue using DR tools that are not centrally dispatched and not visible to AEMO, as they are less complex and risky. Using measures not visible to AEMO makes demand forecasting more difficult, particularly during high-demand periods when DR is expected to be most active and have the most benefit to the system as a whole. This may lead AEMO to underestimate DR in both its reliability assessment processes and in deciding whether to dispatch RERT. This creates unnecessary costs for consumers who pay for any inaccurate forecasting leading to more expensive or unnecessary reliability measures.

We urge the AER to consider the impact of information retention requirements on the provision of DR and take an approach which is not unnecessarily burdensome. In particular, we recommend not requiring DRSPs to retain information they have considerable difficulty or cost accessing, and ensuring compliance testing requirements are not unnecessary frequent.

We welcome the opportunity to discuss these matters further with the AER.

Yours sincerely

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