

3 July 2013



Mr John Pierce
Chair
Australian Energy Market Commission
Level 5
201 Elizabeth Street
SYDNEY NSW 2000

By email: aemc@aemc.gov.au

Your Ref: ERC0149

Dear Mr Pierce

National Electricity Amendment (Annual Network Pricing Arrangements) Rule 2013

The Public Interest Advocacy Centre (PIAC) thanks the Australian Energy Market Commission (AEMC) for the opportunity to provide comment on its consultation paper, *National Electricity Amendment (Annual Network Pricing Arrangements) Rule 2013* (the Consultation Paper). The Consultation Paper discusses a change to the National Electricity Rules (NER) proposed by the NSW Independent Pricing and Regulatory Tribunal (IPART). Elements of IPART's proposal include setting network prices earlier each year, assessing network pricing proposals for consistency with Distribution Network Service Providers' (DNSPs) statement of expected price trends, and requiring DNSPs to consult with retailers and consumers on annual pricing reviews.

PIAC wishes to comment on three key aspects of the proposed rule change. These are:

- concerns about the impact the amended timeframes may place on regulators, such as the Australian Energy Regulator (AER), in carrying out their roles to the necessary high standard;
- the proposal that DNSPs be required to consult with retailers and consumers on their annual pricing proposals; and
- the proposal's aim of simplifying the work of retailers and the manner in which prices for consumers should go down as a result.

PIAC agrees with the intent of the proposed rule change. However, PIAC's principal concern is that the AER should have sufficient time to properly scrutinise all network pricing proposals.

Impact of the proposal on regulators

IPART argues that under current arrangements, retailers and customers 'do not get adequate notification of annual network price changes'.¹ Retailers are forced to rely on estimates of network costs when submitting their retail pricing proposals to regulators, which are also left with insufficient time to perform their function in setting retail prices. IPART's proposed solution is that Transmission Network Services Providers (TNSPs) be

¹ AEMC, Consultation paper: *National Electricity Amendment (Annual Network Pricing Arrangements) Rule 2013*, 2013, 2.

required to publish their prices by 15 March each year; DNSPs prices be finalised and published two months before taking effect; and, the AER be required to publish approved network prices within 20 business days of receiving pricing proposals from DNSPs.²

In principle, PIAC does not object to arrangements that would see DNSP prices finalised at an earlier stage each year. This situation would provide greater certainty to retailers and, in turn, consumers. As discussed below, this should have a positive impact on retail prices.

However, PIAC is concerned that the proposal to set a limit on the time the AER has to approve DNSP pricing proposals may mean it is not able to scrutinise these proposals as closely as it can under current arrangements. The Consultation Paper notes that the proposed requirement would take away the flexibility currently afforded to the AER in assessing DNSPs' pricing proposals and would 'limit the AER's ability to request further information from the DNSP on their modelling or data, unless the process had commenced much earlier'.³ In addition, there are 'risks from the AER having to approve network prices within a limited timeframe'.⁴ In PIAC's view, these risks are increased by the fact that the AER must approve annual pricing proposals of eight DNSPs at the same time.⁵

Network prices have a significant impact on final bills for residential consumers, representing around 50% of a typical small customer's bill in NSW, according to IPART.⁶ It is therefore extremely important that DNSPs' pricing proposals are carefully assessed.

PIAC, therefore, submits that if the AEMC chooses to amend the process or timeline for approving annual network prices, this should only occur in a manner that leaves the AER with sufficient time to properly scrutinise DNSP pricing proposals and seek clarification from DNSPs as necessary. PIAC recommends that the AEMC explore the possibility of requiring TNSPs to publish their prices prior to the 15 March date proposed by IPART, in order to afford the AER sufficient time.

Recommendation 1

PIAC recommends that the AEMC ensure that if the NER is amended, the AER still has sufficient time to properly scrutinise all DNSP pricing proposals to the necessary high standard. The AEMC should examine the option of requiring TNSPs to publish their prices before 15 March each year, in order to allow the necessary time for the AER to properly scrutinise DNSP pricing proposals.

Network consultation in developing pricing proposals

IPART's rule change proposal highlights that while the NER includes a requirement for consultation during the revenue determination process, 'this requirement does not extend to the annual setting of network prices'.⁷ In particular, despite having significant discretion 'in the development and setting of network prices, the DNSPs are not required to engage or consult with retailers and customers in this process'.⁸ DNSPs are required to produce, and maintain, a statement of expected prices trends on their website.⁹ The proposed solution to this issue is that

² Ibid 3.

³ Ibid 16.

⁴ Ibid 8.

⁵ Ibid 15.

⁶ IPART, *Review of regulated retail prices and charges for electricity from 1 July 2013 to 30 June 2016: Final report*, 2013, 18.

⁷ AEMC, above n 1, 3.

⁸ Ibid.

⁹ National Electricity Rules, chapter 6, cl 6.18.9 (a)(3).

DNSPs should undertake a degree of consultation in developing and amending this statement, including on the timing of its release.¹⁰

PIAC is a strong advocate of effective and meaningful consultation in regulatory processes. However, PIAC notes that consultation often fails to meet this standard. For example, issues such as DNSP pricing are extremely technical and it is therefore difficult for residential consumers to effectively engage with them (a fact acknowledged in the discussion paper¹¹). In addition, where a requirement exists for consultation to take place, PIAC has found that businesses sometimes seek to meet this requirement through meeting consumer representatives, without actually considering the input they receive or amending their proposals accordingly.

PIAC, therefore, recommends that the AEMC require DNSPs to produce a statement of expected price trends that is written in plain language, to form the basis of consultation with residential consumers. PIAC further recommends that DNSPs be required to show the AER how they have considered feedback from residential consumers in their annual network pricing proposals.

Recommendation 2

PIAC recommends that DNSPs be required to produce a statement of expected price trends that uses clear and simple language to form the basis of consultation with residential consumers. DNSPs should also be required to show the AER how they have considered the feedback they have received in their annual pricing proposals.

Increased certainty and the impact on consumers

As previously stated, IPART has argued that the 'limited time available between notification and commencement of the [network] price change causes difficulty in incorporating the network tariff structure in the retail tariff'.¹² IPART also proposes that 'there should be some certainty about how network prices will change over the regulatory control period'.¹³ This would be achieved by amending the 'approval criteria of network prices to include consistency with the DNSP's statement of expected price trends.

These changes would simplify the task facing retailers in two main ways. Firstly, retailers would have more time to set their prices, and to adjust their billing systems accordingly.¹⁴ This would mean they are able to do so more easily and are likely to incur lower costs in the process (for example, the task could be completed during normal working hours over a longer period, rather than needing to be rushed). Secondly, as the Consultation paper notes, where retailers do not have sufficient information about network tariffs, 'they may potentially include an uncertainty premium in their retail prices'.¹⁵ This premium transfers the risk associated with that uncertainty to consumers, who are faced with higher prices as a result.

PIAC submits that if network prices are made public earlier in the year, retailers will incur lower costs, both operationally and in terms of any risk associated with uncertainty about network prices. These factors should flow through to lower prices for consumers. PIAC would welcome such an outcome, given the strain many consumers face in maintaining access to the essential services of electricity and gas.

¹⁰ AEMC, above n 1, 4.

¹¹ Ibid 19.

¹² Ibid 2.

¹³ Ibid.

¹⁴ Ibid.

PIAC understands and supports IPART's intent in proposing this rule change. PIAC takes the view that if the proposed changes could be effectively implemented, some price benefits could reasonably be expected to flow to consumers. However, PIAC is concerned that the proposal to place a 20 business day limit on the time the AER has to approve DNSPs' annual pricing proposals may mean that there is insufficient time available for those proposals to be properly scrutinised. PIAC, therefore, can only support a change to the timeframe for approving DNSPs' annual prices if this amendment does not compromise the AER's ability to carry out its important role in scrutinising those proposals.

Once again, PIAC thanks the AEMC for the opportunity to provide comment on the Consultation Paper. PIAC looks forward to being involved in future changes of this rule change process.

If you would like any further information, please do not hesitate to contact myself or Oliver Derum, Policy Officer in the Energy + Water Consumers' Advocacy Program, on 02 8898 6518, or oderum@piac.asn.au.

Yours sincerely



Edward Santow
Chief Executive Officer
Public Interest Advocacy Centre

Direct phone: +61 2 8898 6508
E-mail: esantow@piac.asn.au