2 September 2022

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

Submitted electronically: AERPricing@aer.gov.au

Dear Warwick,

Position paper: Annual Process Pricing Review

The AEC is the peak industry body for electricity and downstream natural gas businesses operating in the competitive wholesale and retail energy markets. Our members collectively generate the overwhelming majority of electricity in Australia, sell gas and electricity to millions of homes and businesses, and are major investors in renewable energy generation. The AEC supports reaching net-zero by 2050 as well as a 55 percent emissions reduction target by 2035 and is part of the Australian Climate Roundtable promoting climate ambition.

Publication timelines

The consultation assesses the AER's processes in approving distributor pricing, both in the first year and intra-period. As it stands, the AER must determine intra-period pricing within 30 days of the distributors submitting final proposals, and as soon as possible for first year prices. In practice, this results in a determination around 1 May for intra-period, and mid May for the first year. This approach to timing was developed in a different retail pricing environment to that which exists today, in which default offers were published by retailers and prices were by and large market driven. In such an environment, retailers could price in the regulatory risk of late final network tariff publications to a greater extent, whereby competition would drive out excesses in any price estimation over time.

However, this environment has changed. The Default Market Offer(DMO) is a maximum price that retailers can charge electricity customers on default contracts from the DMO determination date, and the Federal Government determines the date that the AER must publish these prices. Currently this is the day after 25 May, but historically it was 1 May. The AEC has encouraged a broader review of the AER's distribution pricing timing process to ensure that the AER is able to determine final prices, and to capture them in the DMO before it is published. This is because in the current market arrangements retailers need to know network prices to be able to set their market offers, but they also need the DMO price (for all practical purposes the market price cap) to be able to compare their self-determined market offer prices against the DMO for the purposes of complying with the reference price.

Regulation needs to replicate to the extent possible competitive market outcomes. In this regard retailers are relying upon the regulator to be an effective counterparty to monopoly distributors, as retailers cannot directly influence the regulated publishing dates, nor any tardiness on the part of either of distributors or the AER. Retailers therefore rely upon the regulator (AER) to approve prices with sufficient time to incorporate them as actuals, not estimates, into the DMO. It is worth reflecting that whilst they hold control of timing, neither the distribution businesses nor the AER

Level 14, 50 Market Street
Melbourne 3000
GPO Box 1823 Melbourne Victoria 3001

P +61 3 9205 3100
E info@energycouncil.com.au
W energycouncil.com.au

ABN 92 608 495 307

bear any of the financial risk associated with the DMO. In replicating any actual competitive market, there is no requirement to fix a price based on estimates; and yet with no true up mechanism, and yet that is exactly what is expected of retailers here. This year retailers were impacted when the DMO was published on 26 May, meaning retailers had 4 weeks less to implement prices than the year before. The AER and distributors were of course unaffected.

In these circumstances, then the time by which the distributors are required to submit final prices is too late, or the AER has either too little time or takes too long[1] to approve them. Adjusting either one of these timelines to ensure publication of final network prices in all years prior to a 1 May DMO publication date would be a reasonable compromise[2], though we do believe that it may be more effective to truncate the distributors timelines[3] than the AER's. If the AER meets its KPIs on timeliness, and the distributors propose prices some weeks earlier than they currently do, this could achieve this objective. However, the AER must consider if it is likely to be able to meet current timings, and if additional time is still required. Whilst retailers will be the obvious beneficiary of such a change, to do its role effectively and in a timely manner consistent with its KPI's the AER is the most logical proponent for a rule change to address these issues with the pricing approvals process.

Publication formats

Network tariff published formats are a constant and expanding source of frustration to retailers. The different criteria applicable to different tariff structures are often not readily apparent; referring recently to limitations on how often customers can change tariff and the rules around resetting demand. Whilst acknowledging that distributors do publish these criteria, and that some have related policies around publication, no common approach to where this information is provided and how it is formatted can be found.

For example, some distributors publish separate tariff information documents while other distributors list these in their annual tariff submission proposal or in their tariff structure strategy documents. In addition, different terminologies are being used for the same thing, such as the example, with one distributor is using the term "12 month rolling demand" for one tariff and "the highest demand over the past 12 month" for another tariff. Even as implementation of 5MS is proposed, information from distributors on how the maximum demand will be calculated remains unavailable.

The AEC view is that distributors be required to provide tariff information in standardised formats, using the same agreed defined terms across all networks, and to be published in the same manner. Once done, this will only need to be amended for changes or the introduction of new tariff structures.

Any questions about this submission should be addressed to David Markham by email to [redacted] or by telephone on [redacted]

---

[1] According to the Australian National Audit Office (Auditor-General Report No.5 2020–21 Regulation of the National Energy Market) the timeliness of revenue reset determinations made by the AER, whilst showing improvement over time, was not adequate. In our view it is best addressed by the earlier proposal of prices by distributors, meaning a realistic timeline for this key AER KPI. The AEC recommends a rule change to support this change.

[2] Working backwards based on some standardised timings the 1st week of May seems reasonable. This allows compliance with the notice period, whereby the last of the letter notifications are dispatched two weeks before the 1 of July. This also accommodates the Best offer on bills obligation, requiring all new prices to be loaded into this system *and* tested for accuracy. Finally, notification letters generate call centre traffic, the peaks of which need to be manageable.

[3] We acknowledge that the distributors prefer the inclusion of actual fourth quarter cpi data to validate their proposals. The AER will need to address this.

Level 14, 50 Market Street
Melbourne 3000
GPO Box 1823 Melbourne Victoria 3001

Phone +61 3 9205 3100
Email info@energycouncil.com.au
Website www.energycouncil.com.au

ABN 98 052 416 083

Yours sincerely,

David Markham
Networks and Distributed Energy Resources Policy Manager
Australian Energy Council