

18 March 2021

Mark Feather  
General Manager, Policy and Performance  
Australian Energy Regulator

Sent via email: [DMO@aer.gov.au](mailto:DMO@aer.gov.au)



Dear Mr Feather,

**RE: Default Market Offer Prices 2021-2022 Draft Determination**

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 AER's Draft Determination on Default Market Offer (DMO) ("The Draft") prices for 2021-22 (the draft), and continues to support default pricing as an important mechanism for consumer protection and retail market discipline.

The Draft reiterates the AER's established position on the objectives and approach of the DMO. While PIAC has concerns with the approach taken and the lack of cost transparency and focus on efficiency, we accept the decision to postpone considering these issues until they can be addressed as part of comprehensive reviews of the default pricing regulations and mechanism to be undertaken later this year.

PIAC strongly supports the AER's decision not to make specific adjustments to the DMO in response to COVID-19. We do not consider that there is sufficient evidence of the step-change in retail costs that would justify such an adjustment. As outlined in the draft determination, the current method of calculating the DMO and the way that it operates, mean that any such adjustment is inappropriate, because:

- The DMO is set intentionally well above the efficient cost to serve including profit margin and significant additional headroom.
- The retail cost component of the DMO has increased, indexed with inflation, regardless of whether actual retail costs have increased since the initial DMO calculation.
- The DMO only relates to standing offers, and does not formally limit market offers, with the draft determination noting there are instances of market offers set at or above the DMO.
- Retailers offer deals that are set at or below cost-recovery level, and still have significant scope to alter the balance of their internal cost recovery.

Some retailers contend the DMO should be adjusted to account for a range of potential impacts on retail costs. PIAC and other consumer stakeholders consider a productivity adjustment should be applied to the DMO. These arguments result from the AER taking a 'top down' approach to calculating the DMO, where opacity leads to contention regarding which costs and cost savings should and should not be reflected. As PIAC has observed in the course of each DMO determination process, a 'bottom up' or

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cost-based approach to calculating the DMO would make all calculations and decisions transparent. This would ensure that the AER's rationale for the inclusion and calculation of costs is self-evident, with any disagreement being more narrowly confined to determining the appropriate quantum. Shifting to a bottom-up approach to the DMO should be the foremost consideration of the pending review of the DMO.

PIAC supports the AER's intent to undertake a fundamental review of its approach to the setting the DMO in the future DMO review. In addition to considering the methodology, this review should be taken as an opportunity to re-evaluate the objectives of default pricing and how they can best be realised.

### **Continued engagement**

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

Yours sincerely,

#### **Douglas McCloskey**

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Public Interest Advocacy Centre

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