

13 December 2017



Mr Sebastian Roberts  
General Manager, Network Expenditure  
Australian Energy Regulator  
GPO Box 520  
Melbourne VIC 3001  
via email: [sebastian.roberts@acc.gov.au](mailto:sebastian.roberts@acc.gov.au)

Dear Mr Roberts,

**Ausgrid and Endeavour Energy applications for extensions for submission of regulatory proposals for the 2019-24 regulatory control period**

Thank you for the opportunity to comment on Ausgrid and Endeavour Energy's applications for extensions to the submission dates of their 2019-24 regulatory proposals until 30 April 2018.

PIAC's Energy and Water Consumer Advocacy Program represents the interests of NSW households with respect to energy and water services, and has a 20 year history of engaging with NSW energy businesses. Individually, members of the current EWCAP team have also engaged directly with all of Australia's electricity distribution and transmission networks, and most gas networks, providing breadth of perspective and depth of experience.

PIAC is focussed on moving to more collaborative, adaptable and consumer-focussed regulatory environment, and to this end has been working closely with Endeavour, Ausgrid and Essential, to provide stakeholder views and the help them to improve their engagement. This strategy will remain a priority for us, irrespective to the outcome of these applications by Ausgrid and Endeavour.

PIAC supports granting Endeavour Energy an extension, but does not support granting Ausgrid an extension. The bases for the different positions are that, in PIAC's view:

- The extenuating circumstance of Endeavour's recent change of ownership has limited its ability to engage adequately in the lead up to and following the transaction. Ausgrid has not experienced such a limitation in this time frame;
- In recent months the actions of Endeavour's board and executive has given PIAC a degree of confidence in their commitment to good engagement. In the same period the actions (or lack thereof) of Ausgrid's board and executive have given PIAC no reassurance Ausgrid currently has a leadership or business culture that is conducive to good engagement, hence extending the time allowed for them to submit a revenue proposal is unlikely to result in a proposal that better reflects consumer interests;
- PIAC has some confidence in Endeavour's capacity to deliver a comprehensive consumer engagement program in the additional time allowed for an extension. PIAC is unsure of Ausgrid's capacity to do the same, particularly given the turnover of staff that have been delivering Ausgrid's engagement to date;
- PIAC understands that the AER advised the businesses to engage with ECA, PIAC and CCP10 in developing proposals for extensions and further engagement. Endeavour has engaged closely with PIAC, holding bilateral discussions, sharing draft proposals, and taking on board feedback. While Ausgrid's proposal reflects that they have also taken on board some feedback from PIAC, Ausgrid has had one discussion on the matter with PIAC in early December, and not engaged with PIAC or advised us of its intentions since;

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- On balance, PIAC feels that providing an extension is in the long term interests of Endeavour's customers, and not in the interest of Ausgrid's customers.

PIAC understands there may be concerns about what appears to be preferential treatment in granting an extension to Endeavour but not Ausgrid. In the current environment, however, PIAC is more concerned with the message that granting Ausgrid an extension would send to the regulated energy sector, to the public, and to Ausgrid itself. Granting Ausgrid an extension

- Rewards poor practice – failing to adequately engage with consumers and other stakeholders – that should be penalised, not rewarded;
- Reinforces that businesses can do engagement as an afterthought to making a decision; and
- Sets a very low bar for negotiated outcomes as we move into a more flexible regulatory environment. PIAC considers that 'bar' was set by Essential, whose own application was made on the back of self reflection, a demonstrated commitment to good engagement, and compromises that are genuinely focussed on responding to consumer preferences for more affordable energy.

PIAC is also of the view that having some contrast between the NSW businesses (with one or two being granted extensions and one or two not) will allow for more effective comparison and consideration of outcomes of the respective processes.

In PIAC's view, the risk to future reforms needs to be considered. As we move to a more flexible and responsive regulatory environment, PIAC supports changes to energy rules and laws to afford the AER more discretion. Cases of discretion being used effectively are key for promoting necessary reforms.

In PIAC's view, the Essential extension is likely to provide a compelling addition to this evidence base. While a positive outcome from an extension for Ausgrid and Endeavour would also, a negative case would be counterproductive to promoting reforms that give the regulator more flexibility. Granting both Endeavour *and* Ausgrid extensions may increase this risk markedly compared to just one business.

A late submission gives the AER less time to fully assess a revenue proposal, raising the risk of either higher than efficient networks revenue passed on to NSW households, judicial review of the AER's final determination, or both. Requiring Ausgrid to make a timely submission, as per the current rules, will allow the AER more time in which to make a full and proper assessment of the Ausgrid proposal, limiting the risks of higher than efficient revenue translating to higher bills, and lessening likelihood of judicial review the AER's final decision.

### **PIAC criteria for supporting extensions**

PIAC previously described to the AER, Endeavour and Ausgrid its criteria for supporting extension applications either of NSW distribution network service providers (DNSPs) for 2019-24 regulatory proposals, as follows.

Firstly, to de-risk the impact of limiting the time that the AER has to assess the proposal, and ensure an outcome of value for consumers, the DNSP could agree to either:

- Accept the AER's final decision on the proposal. The applications to Ausgrid and Endeavour Energy make some commitments along these lines, though not fully; or
- Commit to limit the price paths of their proposals, on a cost per customer basis, to a level supported by consumer advocates. Both Endeavour and Ausgrid have made some commitment about price paths in their proposals. Though neither are fully acceptable for PIAC, Endeavour's represents a larger concession.

Secondly, PIAC expects DNSPs, as a condition of exemption, to present consumer advocates with a comprehensive engagement plan, and provide confidence that the business is committed to embedding the results of this engagement in their proposals.

## **PIAC's expectation for engagement plans**

PIAC's support for proposed engagement programs is distinct from our support or otherwise of the extensions. PIAC remains committed to continuing to work closely with all NSW electricity network businesses, including on the development of their engagement plans.

PIAC fully supports the intention to undertake better engagement, as proposed by both Ausgrid and Endeavour Energy, and agrees with advice from CCP10 and ECA to the AER with respect to what good engagement plans might include.

Additionally to the points made by ECA and CCP10, we see engagement on trade-offs, particularly around price/reliability and tariff reform, as priorities that are critical to understanding acceptable long term consumer outcomes. Accurate discovery and transparent reporting of trade-offs should also be a measure of the genuineness and effectiveness of engagement.

## **PIAC's engagement evaluation project**

PIAC's level of confidence in the engagement plans of Ausgrid and Endeavour Energy's engagement is informed by our observations of, and involvement, in their consumer engagement in 2017.

During this time, PIAC has developed and implemented a framework for evaluating the engagement practices of network service providers and applied it to all three NSW DNSPs. An early draft version of the report for Ausgrid and Endeavour Energy are available for the AER this week on request.

At its highest level, PIAC's engagement evaluation grades DNSPs against six principles of good engagement:

- Culture of engagement;
- Structure of engagement;
- Clear, accurate and timely engagement;
- Accessible and inclusive engagement;
- Transparent engagement; and
- Measurable engagement.

Four of these principles are taken directly from the AER's *Guideline for consumer engagement by network service providers*<sup>1</sup>. The first two are independent of the AER guideline. PIAC considers the culture of an organisation to be critical to its ability to engage effectively with consumers and their advocates. Culture is evaluated as the commitment from the board and executive of an organisation to incorporating good engagement practices into business as usual activities.

PIAC's structure of engagement principle reflects the desirability of fit-for-purpose engagement processes, such as deliberative processes, that seek to achieve outcomes that better reflect the views of stakeholders.

PIAC assessed NSW DNSPs against these principles using more granular criteria that is available on request. As the 'Measurable engagement' principle is linked to measuring the final impact engagement has on business decisions, PIAC is unable to comment on how measurable the engagement is, and therefore the final score, at this time.

PIAC stresses that these are very preliminary results, and the final results may change. An 'A' (Excellent) to 'E' (Unsatisfactory) grading has been provisionally used.

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<sup>1</sup> AER, Consumer engagement guideline for network service providers, 2013, <<https://www.aer.gov.au/system/files/AER%20-%20Consumer%20engagement%20guideline%20for%20network%20service%20providers%20-%20November%202013.pdf>>.

## Preliminary Evaluation of consumer engagement by Ausgrid and Endeavour Energy

Engagement principle	Ausgrid grade	Endeavour grade
Culture of engagement	E	C+
Structure of engagement	C	C
Clear, accurate and timely	D	D
Accessible and inclusive	D	C
Transparent	E	C
<b>Total</b>	<b>TBA</b>	<b>TBA</b>

While Endeavour did not score well against any single principle, they have been committed to the engagement process. This is reflected in their 'C+' score for culture of engagement. Ausgrid's board and executive, on the other hand, failed to address or improve their culture. Endeavour has recently acknowledged that they need to improve their consumer engagement and have performed a board-initiated internal audit of their engagement program to this end. This indicates Endeavour Energy is attempting to build a culture of good engagement from the top of the organisation.

Unlike Endeavour Energy, Ausgrid does not appear committed to adopting good engagement into its culture or business operation. While Ausgrid convened a stakeholder working group early, participants in that process have been frustrated by the lack of transparency, planning and opportunities to explore important issues. Ausgrid staff who have been personally committed to understanding consumer needs and preferences have not been retained.

In 2017, both DNSPs ran what they called customer deliberative fora. While PIAC supports the businesses in holding these fora, they were not genuinely deliberative, but more closely resembled a targeted market research events: rather than taking a small group through the process of developing positions, the businesses presented forum participants with pre-determined options and asked for feedback. Both DNSPs supplemented this approach with online surveys, a form of engagement PIAC does not consider an appropriate for complex regulatory issues.

In June this year, PIAC and other key NSW consumer organisations wrote to the CEOs of Essential, Endeavour and Ausgrid, noting that the businesses had not yet engaged on tariffs and seeking to do so in the development of TSS proposals. Endeavour subsequently held a workshop with NSW consumer organisations to collectively develop tariff principles. Essential responded by seeking input into further engagement on the topic. Even after reminders however, Ausgrid did not formally respond to the request.

Endeavour started much of their engagement late due to their change of ownership in June 2017, and their engagement has been characterised by a lack of planning and ad-hoc meetings at short notice. Nonetheless they have engaged with customers and advocates in good faith.

Thank you for taking the time to consider our views, and of course please don't hesitate to let me know if you have any queries.

Yours sincerely,



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