

Submission on Transgrid 2023-2028 Revenue Proposal

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About the Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is leading social justice law and policy centre. Established in 1982, we are an independent, non-profit organisation that works with people and communities who are marginalised and facing disadvantage.

PIAC builds a fairer, stronger society by helping to change laws, policies and practices that cause injustice and inequality. Our work combines:

- legal advice and representation, specialising in test cases and strategic casework;
- research, analysis and policy development; and
- advocacy for systems change and public interest outcomes.

Energy and Water Consumers' Advocacy Program

The Energy and Water Consumers' Advocacy Program works for better regulatory and policy outcomes so people's needs are met by clean, resilient and efficient energy and water systems. We ensure consumer protections and assistance limit disadvantage, and people can make meaningful choices in effective markets without experiencing detriment if they cannot participate. PIAC receives input from a community-based reference group whose members include:

- Affiliated Residential Park Residents Association NSW;
- Anglicare;
- Combined Pensioners and Superannuants Association of NSW;
- Energy and Water Ombudsman NSW;
- Ethnic Communities Council NSW;
- Financial Counsellors Association of NSW;
- NSW Council of Social Service;
- Physical Disability Council of NSW;
- St Vincent de Paul Society of NSW;
- Salvation Army;
- Tenants Union NSW; and
- The Sydney Alliance.

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Public Interest Advocacy Centre



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The Public Interest Advocacy Centre office is located on the land of the Gadigal of the Eora Nation.

1. Proposal

PIAC supports the Energy Users' Association of Australia's (EUAA) submission regarding the building block elements of Transgrid's proposal.

It is PIAC's view that due to fundamental flaws in Transgrid's stakeholder engagement, the proposal as it stands cannot be relied on to reflect consumer preferences. The main issues are outlined below.

2. Consumer engagement

PIAC is disappointed that Transgrid's engagement on the revenue proposal was inadequate. Engagement has been formalised as a key feature of energy regulatory landscape for at least a decade and the resources and expertise to do it well are widely accessible.

Transgrid would presumably have been aware of this given their revenue proposal for the current pricing period had sought approval from the AER for around \$2 million to undertake engagement, presumably including this process for the following period. Further, Transgrid has demonstrated a capacity and willingness for meaningful engagement where regulatory approval has already been granted (such as their engagement on the implementation for Powering Sydney's Future) but not on matters where they are still seeking approval (such as Project Energy Connect, Humelink, Transgrid's rule change request seeking a higher Rate of Return for ISP projects and this process).

2.1 Delayed engagement

Transgrid's engagement, which centred around a series of meetings of its Advisory Council (TAC) in the second half of 2021, commenced unacceptably late.

In PIAC's experience, good practice engagement for NSP regulatory proposals commences at least 18 months before the initial revenue proposal to the AER. This reflects

- the depth, complexity and variety of matters involved,
- the volume of work involved - for participants and the business - in exploring and understanding these matters,
- the iterative nature of effective engagement,
- the need to involve consumer advocates in designing, observing and monitoring any direct consumer engagement, and
- that most stakeholders do not have the resources to undertake more intensive engagement in a shorter time.

PIAC is concerned by the reasons given by Transgrid for choosing to engage so late.

At the first meeting of the expanded TAC, the CEO told participants the late start was intentional, on the basis Transgrid is aware of "how busy [TAC members] are", and so intended to "not use much of [TAC members'] time".

At the AER's first public forum on the Transgrid proposal in 2022, a different reason for the late start was provided by a Transgrid representative: that commencement was delayed as a result of Transgrid focussing on Project Energy Connect.

Neither reason is acceptable. The former is out of step with good engagement on regulatory processes and disingenuous. The latter suggests proper engagement is not a priority for Transgrid, especially considering their engagement on Project Energy Connect was also lacking.

This has been raised with, and acknowledged by, Transgrid.

2.2 Selective engagement

Transgrid temporarily expanded its Advisory Council membership to engage in the development of its proposal. While diversity can add value and richness to engagement, Transgrid appeared only to appoint new members who supported expanding Transgrid's Regulated Asset Base and were exposed to little or none of the cost of doing so. Transgrid did not balance these appointments with new members who had interest in managing the cost or other impacts of transmission expenditure.

For example, Transgrid appointed an academic whose contributions to discussion centred around calling for immediate step-wise expansion of the transmission network for the purpose of decarbonisation, irrespective of the cost and who would incur this cost. This appointment was not balanced by appointing new academic or independent members with countervailing views or any interest in regulatory outcomes.

During the second half of 2021, PIAC asked Transgrid on three separate occasions (twice in conversations with a Transgrid representative and once in a TAC meeting) to explain what formal process there had been for choosing and appointing new members for the expanded TAC. On each occasion Transgrid's representative undertook to provide PIAC or the TAC with this information, but did not do so.

PIAC also requested Transgrid provide balance in the expanded membership by inviting members who are affected by Transgrid's activities in other ways, such as NSW Farmers, the National Parks Association, First Nations groups, community organisations based in areas affected by new transmission and/or an independent expert or academic with an interest in regulatory outcomes. Transgrid did not act on these requests.

2.3 Lack of identified consumer advocate views

Transgrid's Advisory Council includes household and business energy users. However, Transgrid does not appear to have captured the views of these stakeholders separately to the views of other stakeholders. This leaves Transgrid unable to specifically identify consumer preferences arising from the TAC, further undermining the effectiveness of their engagement.

On a number of occasions, particularly earlier in the engagement period, matters were raised by PIAC and other members that Transgrid treated as issues for individual TAC members rather than wider TAC concerns and sought to discuss these offline and bilaterally. Transgrid eventually responded to requests to keep these discussions at the level of the TAC, however this 'upward management' should not be required of engagement participants.

3. Feedback acknowledged

There were a number of matters raised in the course of Transgrid's engagement where feedback from consumer members of the TAC was taken on board and acted on. These include

- Responding to feedback from TAC consumer representatives regarding consumer engagement. There were some notable instances of Transgrid staff taking on board TAC feedback immediately and transparently, such as advice on Transgrid's engagement on reliability preferences. This represents some good engagement actions by Transgrid.
- Responding to concerns raised about some misleading framing. For example, in an early draft of their proposal, Transgrid presented the 'cost saving' to consumers of their revenue proposal as the revenue cost netted off against Transgrid's own unverified modelling of ISP benefits, despite ISP projects being entirely out of scope of this revenue proposal. In PIAC's view, removing misleading framing does not constitute good engagement; rather, the attempt to mislead stakeholders about cost impacts constitutes poor stakeholder engagement in the first instance.

4. Further engagement

PIAC understands Transgrid plans to undertake further post-lodgement engagement on the revenue proposal. PIAC welcomes this further engagement. Considering the representation and reporting issues outlined in 2.2 and 2.3 above,

- any further engagement Transgrid undertakes for this process should include wider membership to provide some balance to the TAC, and
- Transgrid should ensure it captures consumer and consumer advocate views separately to those of other stakeholders.