

Submission on Transgrid 2023-2028 Revised 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. Engagement

PIAC supports the AER Consumer Challenge Panel's submission regarding Transgrid's revised revenue proposal, with a different perspective on the prospect of the use of cost pass-through events.

Transgrid's initial revenue proposal was roundly and deservedly criticised for the lack of genuine, meaningful engagement in its making. In our submission, PIAC noted we are '... disappointed that Transgrid's engagement on the revenue proposal was inadequate', given '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.'

The AER's subsequent draft determination made very clear the AER's expectation of meaningful engagement by Transgrid in developing the revised proposal.

In PIAC's view, Transgrid staff clearly took this feedback from the AER, PIAC and others on board and worked hard, in the limited time between the AER's decision and the lodgement of Transgrid's revised proposal, to bring Transgrid's remaining engagement with the Transgrid Advisory Council (TAC) to a higher standard. There were some noteworthy improvements, particularly to the depth and quality of discussion, and openness and responsiveness by Transgrid.

Unfortunately, however, as a direct result of the belated and cursory nature of the previous engagement and quantum of new information and projects that were not part of Transgrid's previous engagement or proposal, Transgrid and its TAC members were unable to make up the ground already lost by Transgrid. Transgrid's improved engagement was too little because it was still too late.

As a result, substantial elements of the revised proposal - even where they might be efficient, prudent and in the interest of consumers - can still not be relied on to reflect informed consumer preferences garnered from good quality engagement. This is not only disappointing and frustrating for stakeholders who have invested considerable time and effort in engaging with Transgrid, but defeats the purpose of engagement-centred regulatory proposals in a modern regulatory context, adding more work to that of the AER.

These issues are exacerbated by Transgrid's use of new consumer survey information that lacks rigour and is contrary to the commitment Transgrid made to TAC members.

In PIAC's view, if Transgrid continues to improve its engagement on a similar trajectory, it could produce a high quality 2028-2033 proposal. This will require a cultural change at Transgrid, including a shift in priority to put meaningful consumer engagement ahead of - or at least, on par with - lobbying Governments and market bodies to expand transmission networks, which still appears to Transgrid's focus. As a representative of NSW energy users, PIAC remains committed to working with Transgrid to support this improvement.

This submission is intended to be considered alongside the CCP's submission and PIAC's prior submission to Transgrid's initial revenue proposal.

2. Consumer survey

PIAC supports CCP's observations on the 'end-customer research' survey conducted by Transgrid and referred to repeatedly in its revised proposal:

- Undertaking the survey was not fully supported by the TAC in the first instance, for several reasons.
- Transgrid appears not to have taken on board repeated TAC feedback that consumer perspectives on complex matters for regulatory purposes are only useful if they are
 - captured through deliberative processes, not surveys, to be an accurate reflection on consumer perspectives, and
 - framed in terms of trade-offs, rather than a poll or ranking of themes.
- The TAC has had limited visibility of the survey's conduct, hence cannot be confident in the sampling, vetting and other elements to confirm the quality of the survey
- In surveying people about reliability expectations - which are better understood through the AER's Value of Customer Reliability, largely determined by externally imposed standards, and mostly a product of distribution network outcomes - Transgrid has reneged on a prior commitment made to the TAC not to do so

PIAC does not support Transgrid's references to the survey information as evidence for its proposal, and recommends the AER rejects these references outright.

3. Transgrid Advisory Council

PIAC supports CCP's observations on the TAC.

PIAC supports Transgrid in seeking to improve the constitution of the TAC, particularly in better identifying consumer participation and perspectives and the way TAC meetings are run, and remains committed to working with Transgrid to continue this improvement.

With respect to TAC engagement for the revised proposal, there remain some significant concerns:

- Despite markedly improving the membership of the TAC to improve balance, it is still unclear what process Transgrid has taken to constitute the group, particularly in the absence of a dedicated consumer stakeholder group.
- Transgrid appears to have made no disclosure of, or effort to manage, conflicts of interest in the TAC despite making a commitment to do so when the issue was raised in a TAC meeting. Most notably, there is at least one TAC member from an organisation of which Transgrid is a paid member.
- TAC meetings were often held with insufficient notice and resultantly low participation. Often there were only one or two consumer representatives in attendance, and while Transgrid made efforts to engage with members who could not attend, it was clear the perspectives

presented by Transgrid on behalf of these absent members did not have the benefit of group discussion and clarification of facts and issues.

4. System Security Roadmap and other new expenditure

PIAC agrees with CCP's observations on expenditure introduced belatedly by Transgrid in its revised proposal and supports CCP's recommendation to limit what revenue may be proposed by NSPs after an initial revenue proposal.

In addition to a lack of timely, in-depth and broad engagement on new expenses, PIAC questions the robustness of evidence behind Transgrid's new proposals, such as that of PowerRunner, Transgrid's advisor on the System Security Roadmap (Roadmap).

The first Roadmap business case presented to the TAC relied heavily on the idea contestable investment in transmission in NSW would bring about a massive increase to the likelihood of system black events in NSW, which in turn would somehow be ameliorated by the Roadmap.

When PowerRunner's system black assumptions were interrogated by the TAC¹, Transgrid acknowledged it was unable to substantiate these, and agreed to have PowerRunner remove these assumptions. PIAC understands that, all else being equal, this would have diminished the case for the Roadmap. PIAC questions if PowerRunner simply altered the counterfactual to seek to justify the Roadmap for Transgrid.

In any case, based on Transgrid's engagement and evidence proffered, PIAC - and arguably the TAC - cannot say with confidence that Transgrid's Security Roadmap is justified.

5. Cost pass through

PIAC supports Transgrid's efforts to pursue non-network solutions, and fully supports Transgrid seeking to ensure there are measures that can be used to address the risk of these not being delivered for reasons beyond Transgrid's control. This is a challenge that needs to be addressed to support the transformation of the energy system.

Contingent projects are not the appropriate tool for managing these risks. PIAC supports Transgrid seeking some assurance it will be able to pass through the costs of any unavoidable and unforeseeable events. Following extensive discussions between Transgrid, the TAC and the AER, PIAC recommends Transgrid proposes a rule change to the Australian Energy Market Commission to clarify that cost pass through provisions can be used for this purpose.

¹ PIAC's TAC member sits on the Reliability Panel (which has extensive awareness of system security issues and is responsible for the System Restart Standard) and is closely involved in the NSW Electricity Infrastructure Roadmap (under which contestable transmission investment is being introduced in NSW)