

1 June 2007



Manager, MCE Secretariat
Department of Industry, Tourism and Resources
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Dear Secretariat

Transitional arrangements for ACT and NSW 2009 Distribution Determinations

The Public Interest Advocacy Centre (PIAC) is pleased to provide the following comments on the regulatory arrangements for NSW distribution businesses. These comments focus on the transitional arrangements as it is understood that these will more immediately impact on PIAC's stakeholder base of residential consumers across New South Wales.

Network charges comprise some 50% of household bills. In determining the charge over the 2009-2014 regulatory period, PIAC is keen to ensure that the delayed timing of approved rules does not disadvantage consumers. While PIAC understands that the full rule-setting processes will ultimately decide the policy direction for the industry, PIAC does not believe that a timing issue should create unreasonable costs for consumers.

For this reason, PIAC supports a regulatory model that deviates only from the current regulatory arrangement where it can be clearly demonstrated that benefits will flow to customers. In the absence of a detailed consultation process, PIAC does not believe that transitional rules should be changed merely for the sake of being changed.

Regulated Asset Base

PIAC is concerned at the lack of transparency about the ongoing level of the regulatory asset base. PIAC is aware that some network assets have been divested from the regulated business to private landholders. It is unclear what process was used to remove these assets from the regulated asset base.

Weighted Average Cost of Capital (WACC)

The proposed transitional arrangements propose to adopt the Transmission WACC parameters for the 2009-2014 review. Given that small differences in the applicable parameter can generate substantial profits for business and costs for consumers, PIAC remains unconvinced that consumers will be better off under this arrangement.

While PIAC accepts that the formal WACC review (to be undertaken in 2009) may set the same parameters for distribution and transmission entities, it should not be assumed at this stage. PIAC therefore requests that the secretariat undertake a comparative analysis between retaining the current parameters and moving to the Transmission rule parameters.

Service Incentive Scheme

It is to the very great detriment of NSW households that NSW remains the last jurisdiction in Australia to adopt a service incentive for distribution businesses. While it was the intent of the Independent Pricing and Review Tribunal (IPART) that a paper trial be undertaken during the current regulatory period, no results have been seen from this work. It is PIAC's understanding that the rules will allow the Australian Energy Regulator (AER) to establish a nationally consistent service incentive arrangement within six months of the legislation. PIAC seeks a commitment to include this framework in the 2009-2014 determination.

D-Factor

PIAC understands that the MCE proposes to honour recovery from the D-factor investments over the first two years of the determination and leave the ongoing operation of the D-factor to the AER.

PIAC is of the view that the D-factor has positively served the interests of NSW consumers. PIAC believes it would be a very great detriment to remove the D-factor without a full and detailed assessment of its effectiveness. PIAC therefore advocates for the retention of the D-factor in its current form during the 2009-2014 review. PIAC further recommends that the AER be tasked with undertaking an assessment at 2011, at which point a full regulatory period will have elapsed.

PIAC believes that independent analysis is required to establish the future of this unique model. However, PIAC does not believe that NSW should lose the momentum for Demand Management in the interim period.

Side Constraints

PIAC would not endorse any watering down of the side constraints from the current level, structure and application. As it stands, the regulated businesses have considerable discretion over the nature of residential bills. The monopoly businesses already hold considerable capacity to influence tariff structure and level and PIAC does not believe that such power should be increased in the rules or the transitional arrangements.

The reason put forward for this reform is to accommodate smarter metering technology. PIAC notes that the roll out of smart meters will not necessarily mean that households will adopt a time-of-use tariff. Where the network seeks to impose such a tariff it is reasonable that some limitation be placed on restructuring. The current side constraints applicable in NSW deliver that boundary of reasonableness and should be retained in full.

Cost-allocation guidelines

PIAC notes that the secretariat is seeking input on the appropriate form of cost allocation in the transitional arrangement. At this stage PIAC is not in a position to comment on the best approach. Rather PIAC asks that the secretariat establish a working group comprised of experts from the business and end-user perspectives to discuss these and other issues arising in the transitional arrangements at a more appropriate level. PIAC would be very happy to share its significant expertise in such a forum.

Information-gathering powers

As the formal rules will not be in place, PIAC understands the need for temporary arrangements to be made in order for the regulator to gather necessary information. PIAC understands that this may take the form of a letter of exchange to facilitate this process.

PIAC requests that the regulator consult with end users around this mechanism. PIAC would like the opportunity to ensure that full informational needs of users are incorporated into this process.

We look forward to working closely with the secretariat in the development of the transitional regulatory arrangements.

Yours sincerely

QuickTime™ and a
TIFF (LZW) decompressor
are needed to see this picture.

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