



**public interest**  
ADVOCACY CENTRE

## **Submission to ESB on draft ISP rules**

**17 January 2020**

## About the Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit legal centre based in Sydney.

Established in 1982, PIAC tackles barriers to justice and fairness experienced by people who are vulnerable or facing disadvantage. We ensure basic rights are enjoyed across the community through legal assistance and strategic litigation, public policy development, communication and training.

## Energy and Water Consumers' Advocacy Program

The Energy and Water Consumers' Advocacy Program (EWCAP) represents the interests of low-income and other residential consumers of electricity, gas and water in New South Wales. The program develops policy and advocates in the interests of low-income and other residential consumers in the NSW energy and water markets. PIAC receives input from a community-based reference group whose members include:

- NSW Council of Social Service;
- Combined Pensioners and Superannuants Association of NSW;
- Ethnic Communities Council NSW;
- Salvation Army;
- Physical Disability Council NSW;
- St Vincent de Paul NSW;
- Good Shepherd Microfinance;
- Affiliated Residential Park Residents Association NSW;
- Tenants Union;
- Solar Citizens; and
- The Sydney Alliance.

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

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## Context

The current regulatory framework is designed to deliver efficiency of incremental investment to a centralised generation and transmission system which has already been ‘built out’. The National Energy Market (NEM) is in a period of rapid and fundamental transformation from an energy system relying primarily on centralised, fossil-fuel generation with passive demand, to one with a low- or zero-emission generation fleet interacting with more sophisticated and active demand-side behaviour.

If not planned for and managed well this transition may result in an inefficient electricity system and a slow and non-optimised emissions reduction pathway, adding costs to a system that is already increasingly unaffordable for many residential, commercial and industrial consumers.

The NEM needs a planning and investment framework that delivers efficiency for strategic investments providing benefits across multiple regions in order to ensure this transformation is delivered in a timely and cost-effective manner. This is the central challenge PIAC sees in the work the AEMC and ESB are doing through a number of workstreams in parallel to the development and integration of the ISP, such as the AEMC’s Coordination of Generation and Transmission Investment (COGATI).

## The ISP and emissions

PIAC considers that, irrespective of whether government policy reflects the need to reduce emissions, the continued rapid deployment of renewable energy in the system is inevitable and necessary.

From a risk management perspective, an ISP that does not economically co-optimize growth in renewable generation with firming sources such as batteries and balancing sources like transmission interconnection and demand response leaves consumers vulnerable to cost increases that could have been avoided.

In keeping with this, the ISP was conceived as part of the Finkel Review in part to support the efficient development of renewable energy zones<sup>1</sup> as a reform to system planning envisaged as a pillar “to help make the transition to an innovative, low emissions electricity system.”<sup>2</sup> This is also consistent with objectives of a growing number of state and territory governments.

We recommend that AEMO assumes that the energy system of the future is characterised by the rapid deployment of renewables, in line with the ISP’s original policy intent (described above) and as a key input into managing risks for consumers. In practical terms, this means planning a system that assumes:

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<sup>1</sup> See Finkel Recommendation 5.1: “By mid-2018, the Australian Energy Market Operator, supported by transmission network service providers and relevant stakeholders, should develop an integrated grid plan to facilitate the efficient development and connection of renewable energy zones across the National Electricity Market” Commonwealth of Australia, *Independent Review into the Future Security of the National Electricity Market: Blueprint for the Future*, June 2017, 24.

<sup>2</sup> See key pillar “System Planning: To help make the transition to an innovative, low emissions electricity system...” *ibid*, 7.

- uptake of renewable generation
- sources of firmness and flexibility such as storage and demand response, and
- continuing improvement to greater energy efficiency.

## Goal of the ISP

PIAC considers the goal of the Integrated System Plan (ISP) is to optimise whole-of-system outcomes, in the long-term interests of energy users, with respect to the trilemma: price, reliability/security and emissions reduction. The ISP should also inform market development, policy and rulemaking, and signal to other participants such as industry to respond in a way that promotes system-wide efficiency.

PIAC does not agree with the proposed drafting of NER 5.22.2(b)(1) that a purpose of the ISP is to “trigger the regulatory investment test for transmission process for actionable ISP projects.” This wording is unnecessarily output-focussed and process-driven (i.e.: triggering a RIT-T) rather than being outcome-focussed (such as identifying and delivering an optimal, whole-of-system outcome). This is problematic for a strategic planning and investment document as the ISP is intended to be.

PIAC recommends this purpose be replaced by a more outcome-focussed purpose including identifying:

- transmission, generation, demand response, storage and distribution investment or procurement opportunities to optimise the NEM;
- opportunities to better coordinate and co-optimize different parts of the supply system; and
- opportunities to deliver these in a manner adhering to well-defined and broadly agreed principles of risk allocation and cost-recovery.

## ISP development

### Timing of ISP development

PIAC supports the ISP being developed every two years, with an update if necessary in between. This timing balances the need to provide adequate time for AEMO and stakeholders to engage in the ISP development process whilst allowing the ISP development path to remain flexible and responsive to changing system conditions.

### Assessment of economic efficiency and prudence of ISP development path

PIAC considers the AER and other stakeholders have an important role to play along in aiding the understanding of what is and is not economically efficient and in the long-term interests of consumers. In addition, we consider that there would be benefit in the AER specifically, as an expert regulator, having a formalised role in determining the economic efficiency of the ISP development path.

This would help to provide robust and independent validation that the development path is prudent and in the long-term interests of consumers. Given the strategic importance of ISP projects to meet affordability, emissions and reliability goals, this independent assessment would help to engender trust in both the process and outcome of the ISP, hence assisting the timely delivery of an efficient development path.

Given current affordability pressures facing consumers in the NEM and the significant capital investment represented by the ISP development path, it is essential that stakeholders can rely on the ISP to co-optimize price, emissions savings and reliability for maximum benefit.

PIAC considers that the AER, as an expert regulator, is well placed to support this through a robust, independent assessment of elements of the ISP. We consider this could be achieved through a number of mechanisms, which are not mutually exclusive. For instance:

- The AER could, prior to the publication of the final ISP, assess the proposed final development path as a whole to determine whether or not it is reasonably in the long-term interests of consumers. By assessing the development path as a whole, rather than assessing each individual ISP project, it avoids unnecessarily duplicating work that AEMO has already conducted as an expert system planner and operator. Further, by approaching it from a top-down perspective, the AER would provide additional validation by complementing the bottom-up perspective used in developing the ISP. This would not require the AER to formally authorise the ISP development path, and thereby prejudice any subsequent RIT-T or possible dispute process, but be limited to assessing whether there were any concerns about the ISP not being in the long-term interests of consumers.
- The AER could, at the start of the ISP development and engagement process, make a more formal assessment of AEMO's proposed forecasting, scenario modelling and options evaluations frameworks. As noted in our earlier submission,

PIAC supports a two-stage public consultation process as proposed in the draft guidelines. We recommend a complementary process be applied to collaboration between the AER and AEMO. The AER should play a review role in the early stages of the ISP, specifically to validate the reasonableness of key data inputs and assumptions, and suitability of any new or altered modelling and analysis approaches.<sup>3</sup>

## **Review of prior ISPs to improve accuracy of assumption and outputs**

Given the inherent complexity and uncertainty of forecasting and modelling, PIAC considers there should be a review of prior ISPs to ensure that the benefits that were used to justify the investments were actually realised and accrued to consumers. This review should include the modelling and options analysis conducted within an ISP itself and a more detailed options evaluation and investment processes following on from the ISP publication.

If the expected outcomes did not occur, the reasons should be analysed to inform how this can be prevented in future ISPs. In certain cases, it may be necessary to also determine whether some form of redress is required.

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<sup>3</sup> PIAC, *Submission in response to the Energy Security Board consultation paper: Converting the Integrated System Plan into Action*, June 2019, 8.

## Dispute resolution

PIAC agrees it is preferable for any problems or errors relating to the various elements of the ISP and its development to be raised and resolved as part of the ISP process itself rather than separately.

We support a mechanism which would “allow stakeholders to raise issues in relation to the ISP following each key decision point” as proposed by the ESB.<sup>4</sup> Further, we do not support limiting grounds for dispute only to matters previously identified in submissions to AEMO (or an NSP) by the disputing party.

There are many potential barriers which may prevent stakeholders from being aware of, or able to raise an issue in the ISP development or RIT-T consultation processes. The long-term interest of consumers is best supported by a merits-based assessment of issues, and the fact alone of a matter not being raised during the consultation process has no bearing on whether a disputed matter is one of merit.

This is especially true for consumer advocates, as noted in our submission to the COAG Energy Council on consumer advocate resourcing.<sup>5</sup> The technological transition that is underway in the energy market, and in the Australian economy more generally, means the framework of the NEM is being substantially redesigned. There are many policy and regulatory reforms underway that relate to networks, including some that will help define many large, capital-intensive investments and which products and services are to be delivered as regulated services or through contestable markets. Without effective and informed consumer engagement in these processes, consumers could be locked into less efficient regulation and markets resulting in unnecessarily high costs for energy services.

We support the proposed drafting of NER 5.23.1(b)(4) that no longer restricts access to the dispute resolution process to parties that have raised and maintained a dispute throughout the consultation process as was considered earlier in this consultation.<sup>6</sup>

However, given that draft NER 5.23.4(d) states that any dispute does not stay the operation of the ISP (and hence the obligations on TNSPs to commence RIT-Ts) it is unclear whether any restriction on raising a dispute is necessary beyond determining that a prescribed ISP process was not observed and that the AER should accept the dispute.<sup>7</sup>

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<sup>4</sup> ESB, *Converting the Integrated System Plan into Action*, May 2019, 13.

<sup>5</sup> PIAC, *Consumer resourcing for participation in revenue determinations*, November 2017.

<sup>6</sup> Proposed draft NER 5.23.1(b)(4) states that “it is for a disputing party to establish: ... if the person did not make a submission to the prescribed ISP process, the reasons for which they did not make a submission and should be entitled to raise a dispute.”

<sup>7</sup> Proposed draft NER 5.23.4(d) states that “The raising of a dispute under clause 5.23.1, or the making of a determination under subparagraph (a)(2)(i), does not affect the validity, or stay the operation, of the *Integrated System Plan*.”



## **Implementing ISP projects**

### **Identification and delivery on non-network and other options**

The ISP needs to be able to identify non-network solutions, assess them on an equal footing against network or supply-side options (such as transmission network investment or grid-scale generation projects) and incorporate them into the ISP development where prudent and efficient.

However, it is unclear whether non-network solutions could also be incorporated where it is not best delivered by a TNSP. In addition, it is not clear whether changes to regulatory and market settings such as a change to the wholesale market price settings or the Reliability Standard could also be considered as part of an ISP development path. PIAC considers that without being able to consider options such as these, the ISP may miss out on delivering the full potential benefit to consumers.

### **Conduct of RIT-Ts for actionable ISP projects**

PIAC supports clarifying the interaction between the ISP development and final publication and the subsequent RIT-Ts that TNSPs must run for actionable ISP projects – including the consistent use of the identified need and the removal of the Project Specification Consultation Report stage for actionable ISP projects.

However, an issue that remains is the potential misalignment between ISP and RIT-T in selecting net benefit outcomes. Under the draft Rules, AEMO is not obliged to choose a development path that has the highest net economic benefit, yet under the existing Rules, the TNSP must choose the option which maximises net economic benefit. PIAC considers this may lead to a potential conflict between the outcome of the ISP and RIT-T modelling that should be addressed, and introduces the risk of a cycle of repeated ISP reviews.

We look forward to engaging further on any necessary revisions to the RIT-T and RIT-D application guidelines with the AER's expected consultation process.