

28 July 2020



Mitchell Shannon
Senior Advisor
Australian Energy Market Commission

Submitted via email.

Dear Mr Shannon,

Submission to network charge deferral directions paper.

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit legal centre based in New South Wales. Established in 1982, PIAC tackles systemic issues that have a significant impact upon people who are marginalised and facing disadvantage. We ensure basic rights are enjoyed across the community through litigation, public policy development, communication and training. The Energy + Water Consumers' Advocacy Program represents the interests of low-income and other residential consumers, developing policy and advocating in energy and water markets.

PIAC welcomes the opportunity to make a submission to the directions paper on the Australian Energy Regulator's (AER) rule change proposal to allow energy retailers to defer paying network charges for customers affected by the COVID-19 crisis.

PIAC supports measures that prevent hardship and help households stay connected to, and afford, their essential energy supplies during the COVID-19 crisis. We do not support the proposed rule change in its current form as it shifts risks and costs to consumers - including households that are already disadvantaged - without certainty that retailers will pass on benefits to consumers in need. If the retailers are required to pass the benefit through to consumers struggling due to the COVID-19 crisis in full, PIAC will support the rule change.

As it is currently drafted, the proposed rule change will allow for risks and costs to be transferred from energy retail businesses to networks, where they will be socialised among the customers of those networks. This transfer would be appropriate if it would limit hardship and directly benefit consumers struggling due to the COVID-19 crisis, but is not acceptable as a means to protect businesses in an ostensibly competitive retail market from downside risks, such as insolvency.

PIAC considers the focus of any COVID related energy assistance measures should be to directly support customers experiencing energy bill payment difficulty, helping to avoid household debt accumulation and harmful energy rationing. They should not be focused on socialising risks faced by businesses in competitive markets.

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In PIAC's view, the number of retailers currently in the market has not brought a diversity of offerings to energy consumers, and has not been effective in delivering efficient and fair prices for energy consumers. Some retailers were failing to meet their minimum requirements for hardship customers and disconnections prior to the pandemic, and AER monitoring indicates there has been no significant, wide-spread increase in customers on hardship or payment plans. This may indicate that retailers are deferring rather than proactively managing and minimising customer debt.

PIAC does not consider preserving the existing number of retail competitors nor the outright avoidance of triggering Retailer of Last Resort (RoLR) events sufficient to justify measures such as those proposed. PIAC agrees that current RoLR arrangements present a material risk to consumers and therefore should be examined and reformed to ensure that retailer insolvency can be dealt with practically, without consumer impact.

The current proposal does not guarantee that retailers will pass through deferred network charges and other benefits from the scheme to customers on payment plans, hardship support or COVID related support measures. In the absence of this guarantee, it is unlikely the proposal will materially benefit consumers experiencing hardship beyond the scope of what is already available within existing consumer protection arrangements.

PIAC considers participating retailers should be required to demonstrate that at least as much benefit as they are receiving from the network charge deferral scheme is being passed through to households and small businesses having payment difficulties, and that their participation in the scheme allows them to provide more support than they were able to previously. Without this we consider the rule change places additional risks and costs on consumers, while deferring rather than resolving the issue of multiple retailer insolvency. If the benefit is guaranteed to pass through to consumers in need, PIAC will support the rule change.

Concern about the additional administrative costs for retailers to comply with this requirement does not justify the potential cross subsidy from disadvantaged consumers to energy retailers that might result.

We welcome the opportunity to discuss this matter further with the AEMC.

Yours sincerely

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Public Interest Advocacy Centre

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