

5th April 2023

Stephanie Jolley
General Manager, Market Performance
Australian Energy Regulator

Submitted electronically.

Dear Ms Jolley,

PIAC submission on Default market offer prices 2023-24 Draft Determination

PIAC welcomes the opportunity to respond to the AER's Default Market Offer (DMO) Prices 2023-24 Draft Determination (the Draft).

We strongly support robust default price protections for consumers. PIAC is on record in earlier iterations of this process encouraging the AER to take every possible step to ensure DMO 5 provides better protection for consumers during a time of energy bill shocks and extreme cost-of-living pressure for households. The Draft leaves a number of opportunities to do more for consumers.

More broadly, there is an urgent need for reform of default pricing. In a time of increasing volatility and cost, necessary consumer protections are constrained by a DMO framework that is not fit-for-purpose. PIAC understands the required reform is not necessarily within the scope of AER action, but strongly encourages the AER to request a review which includes the objectives, role and application of default pricing protections. In the interim, the AER should take every available opportunity for DMO 5 to better protect consumers at a time of extreme need.

The need for DMO Reform

Current and expected circumstances demonstrate the need to reconsider the role and application of price protections. Unprecedented energy prices and volatility, expectations of high costs through the energy transition, and a changing understanding of consumer vulnerability have created ongoing circumstances that are materially different to those when the objectives and implementation of DMO were determined. There is general agreement among stakeholders that the current DMO process has limited scope to address the circumstances and adequately protect consumers. An urgent review of the objectives and framework of the DMO is needed.

PIAC considers a more widely applied and genuine default protection reflecting efficient cost to serve is required. We recommend the AER consider the implications of the current circumstances and expectations of the transition to the future energy system and how

improved price defaults could offer better price protection for consumers, and more effective incentives for the retail energy market to deliver better outcomes for all consumers.

We highlight the particular need to consider:

- **Application of the DMO:** the application of defaults should support genuine explicit informed consent and help build trust for all consumers. A reformed DMO should apply in all circumstances where a consumer has not explicitly consented to an offer or where the offer they have explicitly consented to materially changes (e.g. benefits expire).
- **Practical accessibility of market offers:** there is not consistency between market offers that are available through sites such as EnergyMadeEasy and offers people are actually able to access through retailers. The DMO is currently predicated on the fundamental assumption that availability of better offers is an indicator that the market is delivering good outcomes for consumers. 'Shopping around' for a better deal is a key part of the current DMO. Current (and expected) circumstances where better offers are not available or not practically accessible to all consumers indicate reconsideration of the role DMO is required.
- **'Reasonable' profit:** The explicit requirement to weigh reasonable profits for retailers against the interests of consumers is not in line with the overarching purpose of the National Energy Objective. In the context of current (and likely future) energy bill shocks and cost-of-living pressures, efficient outcomes in the consumer interest must be prioritised. In particular, the DMO should not seek to accommodate 'reasonable profit' for retailers with higher-than-average costs (as the current Draft does). Supporting the profitability of energy market participants with high-than-average costs is not in the consumer interest.

Further justification and details on PIAC's position on the necessity of DMO reform can be found in previous submissions to the AER¹.

DMO 5: Retail costs and allowances

Current circumstances require rigorous consideration and justification of every additional dollar consumers are required to spend on energy as an essential service. Every opportunity should be taken to reduce unnecessary costs to consumers.

PIAC's detailed position on retail costs and allowances are on record in previous submissions to the AER². However, we reiterate key areas of concern that were not sufficiently addressed in the Draft.

- PIAC disagrees with the decision to continue calculating retail allowance as a fixed percentage of the cost stack. The concerns of consumer stakeholders were not sufficiently addressed in the Draft. We recommend further considering the allowance and setting it as a percentage of the retail cost to serve only. At the very least, the AER

¹ PIAC Submission to Default Market Offer Prices 2023-24 Issues Paper, November 2022, <<https://www.aer.gov.au/system/files/PIAC%20-%20AER%20DMO%205%20Issues%20Paper%20-%2030%20November%202022.pdf>>

² Ibid.

should consider a margin closer to that used in the Victorian Default Offer and justify the selection of 10%/15% for households and small business respectively.

- The question of why metering costs should be regarded as additional to cost to serve has not been sufficiently addressed. Retailers have provided information on the costs associated with smart metering, but it's not currently clear that these costs are totally additional to the other costs to serve revealed by the ACCC. PIAC would appreciate the AER confirming it is content that these costs are demonstrably additional costs which are not defrayed or recovered elsewhere (for instance, directly from the consumer with the exchanged meter).
- We question the continued citing of a submission made by the ACCC to the DMO Determination in 2019 that argued the DMO should not be a low-priced offer. For the purposes of that process the ACCC was a single stakeholder. Continuing to preference their perspective over ongoing input from consumers that the DMO should be a more efficient/lower cost offer has not been sufficiently justified. This is particularly relevant where the Victorian Default Offer has demonstrated that reasonable profit can be accommodated (and competition sustained) where the default is set to achieve 'efficiency'.

PIAC would welcome the opportunity to discuss these matters further with the AER and other stakeholders.

Yours sincerely

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