

Improving consideration of demand-side factors in the ISP

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About the Justice and Equity Centre

The Justice and Equity Centre is a leading, independent law and policy centre. Established in 1982 as the Public Interest Advocacy Centre (PIAC), we work with people and communities who are marginalised and facing disadvantage.

The Centre tackles injustice and inequality through:

- legal advice and representation, specialising in test cases and strategic casework;
- research, analysis and policy development; and
- advocacy for systems change to deliver social justice.

Energy and Water Justice

Our Energy and Water Justice work improves regulation and policy so all people can access the sustainable, dependable and affordable energy and water they need. We ensure consumer protections improve equity and limit disadvantage and support communities to play a meaningful role in decision-making. We help to accelerate a transition away from fossil fuels that also improves outcomes for people. We work collaboratively with community and consumer groups across the country, and our work 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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The Justice and Equity Centre office is located on the land of the Gadigal of the Eora Nation.

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1. Introduction

The Justice and Equity Centre (JEC) welcomes the opportunity to respond to the Australian Energy Market Commission's (AEMC) draft determination on improving the consideration of demand side factors in the Integrated System Plan (the draft determination).

We support the rule change both in its intent and proposed formation. We agree the new demand side factors statement and mandated inclusion of sensitivities on demand side factors in the Integrated System Plan (ISP) can be expected to improve the conditions in which investment decisions are made. This includes investment decisions by jurisdictions, distribution network service providers (DNSP) and private investors. We also agree the changes will help improve transparency of the ISP.

2. Coordination in the absence of explicit recommendations

We appreciate that the rule falls short of mandating Australian Energy Market Operator (AEMO) co-optimisation of investment in the demand and supply sides of the energy market in the ISP. It also does not add distribution development planning to the ISP or provide jurisdictions with explicit recommendations relating to demand side factors. However, we maintain that efforts to realise the benefits of demand side factors, in particular emissions benefits, requires these reforms to occur as soon as possible to ensure the consumer interest is served.

We would caution against the assumption that provision of information or even analysis acts effectively as a coordinating mechanism for a given set of actors. All information and analysis is open to significant interpretation, with potentially material impacts. While more information can be expected to improve the quality of an individual actor's forecasting and decision-making, it does not follow that the same can be said of the impact on a group of investors.

To improve the coordination effects, the demand side factor statement should include periodic updates on key elements of the statement in the periods between ISPs, most importantly the commitments of DNSPs and jurisdictions that impact demand side factor capacity and take-up.

3. Information mandates should not be limited to DNSPs

As other stakeholders have noted, information from DNSPs is not adequate to provide a sufficiently granular account of demand side factor dynamics. The AEMC agrees with this assessment and recommends that 'AEMO should use a range of information sources when developing the demand-side factors statement'.¹

We note however, the discrepancy between the requirements the AEMC proposes concerning the information AEMO will be obliged to collect from DNSPs and the lack of direction concerning

¹ AEMC, 26 September 2024, Draft rule determination, National Electricity Amendment (Improving consideration of demand-side factors in the ISP), p.17.

the information AEMO will be expected to obtain from other sources. This potentially allows AEMO the discretion to rely on DNSP provided information.

While there is value in allowing AEMO flexibility to increase the range of sources of information and improve its use of information in the demand side factor statement over time, clearer prescriptions on the information AEMO should obtain from 'other sources' does not preclude this and helps ensure discretion is exercised beyond a minimum. Baseline expectations should be stipulated in all demand factor areas: electrification, energy efficiency, demand response, and demand flexibility.

Total or even substantial reliance by AEMO on DNSPs for provision of information for the demand-side factor statement should be clearly precluded in the rule as inadequate.

4. A clearer obligation for AEMO to consult consumers on information collected

Page 21 of the draft determination discusses the stipulation that AEMO must consult with the AER and DNSPs and must consider the costs and benefits of information requirements. The section includes the line

The draft rule imposes a specific obligation on AEMO to consult with the AER and DNSPs to identify and consider the costs and benefits to DNSPs in complying with the proposed information requirements under the information guidelines.

The AEMC then recommends that the already occurring discussion between AEMO and the DNSPs is expanded to include the AER and other interested stakeholders including consumer groups. This should be mandated rather than recommended. Ultimately the cost of providing this information will be borne by consumers, and they should be included in the conversation on this basis.

Second, the costs and benefits to DNSPs is not the appropriate basis on which to make decisions relating to information requirements. This should be replaced by the costs and benefits to consumers. The fact that different DNSPs may face different costs of compliance does not change this.

5. Consideration of emissions reductions

We appreciate the direct response the AEMC made to our proposal that emissions reductions are added as an assessment criterion. In refusing our proposal the AEMC noted "it would be difficult to accurately assess the impact of the rule change request on emissions reductions" and further noted that "[e]missions reduction is a market benefit that must be considered by AEMO when

developing the ODP [optimal development path] in the ISP under the current NER [national electricity rules].”²

We agree that it may be difficult to accurately assess the likely impacts of this rule change on emissions reductions. However, the updated National Electricity Objective (NEO) and consequential rule changes, have not introduced a requirement for exhaustive or expensive quantitative emissions impact assessment during rule change processes. It is also not a requirement in relation to the other elements of the NEO, which often elude accurate quantitative assessment. The AEMC, like the other market bodies, is obliged to consider emissions reductions alongside the other objectives.

This is a case where the existence and materiality of impact is relatively clear, even if the quantum may be ambiguous. It is appropriate and in keeping with the intent of legislators that the AEMC consider emissions reductions in their decision.

In our view, the rule change can be expected to result in more robust assessment of the demand-side factors in the ISP. It is reasonable to expect that a more robust and thorough assessment of the likely demand-side pathways, and their impacts on other policy targets related to reliability, security, or price, would lead to increased investment by jurisdictions and DNSPs in capacity and take-up of demand-side factors. It is also reasonable to expect that an investment context for providers of these services – demand response, electrification, and so on – which involved a higher degree of knowledge about the future would result in higher and faster investment. Together, these result in faster take-up of demand-side factor services as a result of the rule change and so lower peak energy demand than would otherwise be the case. It would mean a higher proportion of energy generated by both distributed and wholesale renewables than would otherwise be the case. This positive effect on emissions reduction weighs in favour of the rule change.

With regard to the point that emissions are considered by AEMO elsewhere – when developing the ODP – this does not preclude the AEMC from considering the objective here.

Further engagement

The JEC would welcome the opportunity to discuss these matters further. If you have any queries about this submission or would like more information about our advocacy and research work, please contact Michael Lynch, Senior Policy Officer, Energy and Water at mlynch@jec.org.au.

² AEMC, 26 September 2024, Draft rule determination, National Electricity Amendment (Improving consideration of demand-side factors in the ISP), p.6.