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**Brotherhood  
of St Laurence**

Working for an Australia free of poverty

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Australian Energy Regulator

### **Submission regarding Better Resets Draft Handbook**

The Brotherhood of St. Laurence (BSL) thanks the Australian Energy Regulator (AER) for the chance to contribute feedback to its 'Better Resets: Draft Handbook'.

The BSL broadly agree with the recommended guidelines in the Draft Handbook for customer engagement. We value the importance of sincere engagement between energy network businesses and customers, and we appreciate the improved consultation conducted by many network businesses in recent years.

We also appreciate the efforts of the AER, network businesses, and other stakeholders, to ensure consumers are more central to the reset process, develop more rigorous expectations for consumer engagement and seek to improve the regulatory approach.

However, we are concerned about the risk of higher-than-necessary prices for consumers if engagement is incentivised by the prospect of networks receiving a less detailed, 'targeted' assessment from the AER. Unnecessarily high prices would disadvantage all consumers, but particularly the low-income households we work with.

BSL have the following concerns about the proposal to incentivise network businesses with the potential for targeted assessment:

- 1 The draft Handbook proposes a 'targeted assessment' for nominated network businesses that have been pre-approved, and where customer engagement is deemed satisfactory. BSL is concerned that a less-detailed regulatory assessment will risk higher-than-necessary revenue allowances for consumers.
- 2 BSL does not consider that the results of the network businesses' customer engagement processes are a robust enough indicator of consumer preferences, and of investment priorities that are in consumers' best interests, for these to determine the nature of regulatory assessment, or its outcomes, because:
  - a. Accurate polling of a wide constituency such as a network's customer base is inherently difficult.
  - b. Customers are unfamiliar with many of the issues relevant to a determination process, and there is a knowledge and information imbalance between customers and networks.
  - c. Network businesses are not disinterested in the outcomes of engagement, and the proposal of a targeted assessment may increase the networks' stakes in the outcome of engagement processes.
- 3 BSL are concerned that the scale of any potential benefits to consumers of the proposed process are unstated and unclear, while the risk of higher-than-necessary network prices are implied by the potential for targeted assessment.

This submission responds to the questions (in italics) in the order that they are raised in the Draft Handbook.

**1 *Do you consider the Handbook as set out will achieve the AER's aim of incentivising proposals that reflect consumer preferences and are capable of acceptance?***

***If yes to 1, what do you see as the main benefits of the Handbook? Are they the same as those set out in this document or do you consider there additional benefits which are not listed?***

***If no to 1, what are your reasons for this? Further, what changes do you consider could be made to the Handbook to achieve the aim of incentivising proposals that reflect consumer preferences and are capable of acceptance?***

**1.1 The results of consumer engagement should inform rather than decide**

BSL is concerned that the results of network-led customer engagement processes will not always be robust enough to be used as a core determinant for revenue decisions. We recommend that the results of customer engagement should inform, rather than determine, regulatory decisions, and that the results of engagement should be considered by the regulator critically, and in the context of other evidence.

**1.1.1 Even best-practice engagement is not necessarily accurate enough to determine decisions**

Accurate representation of customer priorities through an engagement process is difficult to achieve. Therefore, BSL recommends that the results of engagement should not directly determine regulatory decisions alone, even where networks have adopted 'best practice' in their research.

The Draft Handbook states that it 'aims to incentivise networks to develop high quality proposals through genuine engagement with consumers' to 'lead to regulatory outcomes that better reflect the long-term interests of consumers.'

However, achieving an accurate representation of the priorities of a broad constituency, such as a network business's customer base should be recognised as a difficult objective, which requires more than genuine and sincere engagement to provide representative results.

BSL values the importance of effective customer engagement for network businesses, however, we believe that network businesses have demonstrated better engagement without the incentive of targeted assessment, and we believe that engagement is likely to be of better quality if the results are not linked as directly to revenue decisions as the Draft Handbook proposes.

Political polling provides a useful gauge of the difficulty of achieving accurate population surveys. There are many contextual aspects of political polling that favour the achievement of accurate results, compared to those facing network businesses: polling is conducted by dedicated researchers who have no interest in the outcome of their research, it tests simple proposals (how the interviewee will vote) with a population who is relatively familiar with the subjects discussed, and methods are able to be refined and verified against true results. Despite these relatively favourable circumstances, political polling has returned inaccurate results in recent major elections in many countries,<sup>1</sup> demonstrating the difficulty of such engagement.

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<sup>1</sup> <https://theconversation.com/election-polls-in-2020-produced-error-of-unusual-magnitude-expert-panel-finds-without-pinpointing-cause-164759>

Given the enduring challenges of accurate research, consumer engagement should be encouraged as one of many important references informing regulatory decision-making, rather than established as a central factor.

### 1.1.2 Customers' opinions are likely to be affected by networks' framing

Customers are not familiar with many of the issues relevant to a reset. The results of engagement on these issues are susceptible to framing, and are therefore not a robust source to determine outcomes.

Infrastructure planning for gas and electricity network businesses involves the consideration of specialist issues that are unfamiliar to most customers. It also involves concepts that require a broad understanding of the context of the issues in question to be able to evaluate outcomes that are in customers' best interest (such as DER integration).

Customers are often supported by networks to understand and give input on complex or unfamiliar topics.

However, the requirement for many topics to be considered with respect to contextual knowledge means that there is a significant potential for the framing of issues to influence the result. For example, customers interviewed about a subject like whether-or-not they would prefer a choice of energy sources supplied to their home (gas and electricity), as the network decarbonises, are likely to give different answers depending on the information they receive about issues - like the cost of maintaining an underutilised gas network and the associated costs of repurposing the gas network for hydrogen.

### 1.1.3 Networks are not disinterested and are incentivised to seek certain outcomes

Networks are not disinterested in the outcomes of their engagement. Where regulatory decisions are directly dependent on the results of their engagement, this will increase the incentive for networks to design consultation processes to achieve research results that reinforce the investment preferences of the network businesses.

In some cases, the results of consumer engagement have the potential to support claims for significant amounts of additional revenue.

An example of regulatory decisions relating directly to engagement is the consultation undertaken by Jemena after the AER's draft decision in the 2021-2026 Victorian electricity distribution price review (EDPR), which reconvened Jemena's People's Panel to consider the particular issue of operational efficiency (after Jemena was required in the draft decision to improve its performance on this metric).

Where networks engage on a specific issue linked to a large amount of additional revenue, this can be expected to increase the incentive for networks to work towards a specific outcome in their engagement process.

It is important that the AER retains the discretion to disregard the results of engagement, especially where customers make a decision that can be evaluated as being against their best interests.

## **2 Do you agree with the proposed targeted review stream and that this a positive change to how we regulate networks? Please include reasons for your views in the answer provided.**

### **2.1 Targeted reviews risk inefficient prices**

BSL believe that the proposal for a targeted review poses a risk that consumers will pay higher-than-efficient prices for services, where top-down assessment approves spending that would otherwise be challenged in a bottom-up assessment. We do not think that network businesses should need this incentive to conduct adequate customer engagement with their end-users. In recent years businesses have demonstrated improved consultation processes without this incentive in place.

#### **2.1.1 Targeted reviews risk diminished insight into network spending**

The targeted review stream risks a loss of insight into aspects of the distributors' operations, which could reduce the capacity of the regulator to assess efficiency over time.

Where the AER conducts a less-detailed assessment of a network, there is a risk that useful insights into network infrastructure planning and operations will not be recorded by the AER, and will not be available to consumers.

A lack of insight into detail of regulatory proposals may reduce the AER's capacity over time, to undertake detailed bottom-up assessments where they are needed, and to make recommendations to networks according to best practice examples demonstrated by more efficient networks.

#### **2.1.2 Top-down trend analysis, without bottom-up confirmation, will become a less useful gauge of efficiency in a changing energy environment**

The AER's targeted assessment proposes a top-down assessment as a means to confirm that proposals with satisfactory consumer engagement are capable of acceptance.

However, the electricity and gas networks are facing significant change in the face of the transition to a low-carbon grid, which means that comparison against earlier spending may no longer be a useful indication of appropriate future spending. For example, capital expenditure proposed by gas networks in states, such as the ACT, that have adopted an electrification decarbonisation pathway, should be scrutinised critically from a bottom-up perspective, rather than compared to previous periods' business-as-usual investment.

Similarly, electricity network businesses face new categories of spending, that require detailed analysis in order to determine efficient spending, so that broad approval of capex categories may not result in efficient pricing. For example, Ausnet's capex spending was approved in the 2021-2026 Victorian EDPR, based on trend analysis. Some stakeholders queried this approval, however, given that Ausnet was approaching completion of a major fire mitigation strategy, that had contributed to elevated capex in recent periods.

#### **2.1.3 It is unclear whether benefits will outweigh costs**

Consumer representatives are not able to evaluate whether the efficiency savings enabled by the Better Resets process will outweigh the risk of higher-than-efficient prices that a targeted assessment might pose.

As discussed in this submission, a targeted review risks inefficient pricing for consumers. As the Draft Handbook states, the potential benefit is a more efficient process for all stakeholders. Consumers have not been empowered to evaluate the quantity of either the risks or the potential benefits of the proposal for

targeted assessment, so that it is not possible to assess whether the proposal is in the interests of consumers.

For further information about this submission, please contact submission lead Emma Chessell ([Emma.Chessell@bsl.org.au](mailto:Emma.Chessell@bsl.org.au); m: 0490 123 642) or Damian Sullivan (e: [dsullivan@bsl.org.au](mailto:dsullivan@bsl.org.au); m: 0405 141 735).

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Damian Sullivan', with a long horizontal flourish extending to the right.

Damian Sullivan

Principal, Climate Change, Energy and Equity