



27 November 2019

John Pierce AO
Chairman
Australian Energy Market Commission

Dear Mr Pierce,

Subject: Wholesale Demand Response final rule and process

We are writing to thank the Commissioners and the project team for their work in the Wholesale Demand Response (WDR) rule change process, but also to raise our concern with the process undertaken in the final weeks of the rule change.

There has been considerable agreement and progress on many of the important issues. However, we remain concerned that the Commission still intends to exclude households from the final rule despite overwhelming consumer group support for including them and a lack of formal consultation with rule proponents and the public on some related matters.

As the proponents of the rule change, we are concerned to ensure that we have a reasonable opportunity to respond to any information, including data, submissions or reasoning, before the Commission that is relevant to its decision. We regard this as essential to a fair hearing of our application.

Consumer protection

Consumer protection issues were fully explored in the Technical Working Group and public fora as part of the rule change process. In our view, there is insufficient evidence of harm to justify the blanket exclusion of small consumers.

As there is material potential benefit to all consumers from households participating and immaterial risk of detriment to health or wellbeing from WDR control on some appliances, households should be included in the rule from day one. The joint submission made by PIAC, TEC, TAI and other parties on 12 September 2019, an earlier joint submission by all NEM Councils of Social Service, PIAC's detailed submissions to the Rule Change process and other submissions provide further details on how appropriate protections for other appliances can be designed and implemented.

Cost and benefit in relation to the NEO

A prediction of the cost of including small customers cannot be sufficient grounds for excluding them without a comparison with the benefit. The

Commission decided not to commission cost-benefit analysis for the rule change. If cost projections are to be used to influence the decision-making process at this late stage, they should be presented to the proponents and other stakeholders in the TWG for proper assessment.

Consumer preferences reflect the long-term interests of consumers and should be considered as promoting the NEO. The Commission should consider the weight of submissions calling for household participation to reflect consumer preferences. Given the absence of cost-benefit analysis, the Commission should give weight to the preference for this rule change that has been clearly communicated by consumer advocates.

Households represent nearly 90 per cent of the total number of customers in the NEM, so excluding them would diminish the rule change's contribution to the NEO.

All market participants, stakeholders, and governments value certainty at this time. Wholesale demand response has been on the agenda for NEM reform for 17 years. A rule determination that excludes small consumers makes it harder for market participants and investors to plan, because they do not know who will finally be included in the mechanism and the costs involved in implementing it. Failing to expressly extend the mechanism to all small customers in WDR in the first instance, is therefore likely to place additional, unnecessary costs on many stakeholders and further undermine the NEO.

We support the Commission's advocacy for the development of a two-sided energy market and the role wholesale demand response will have in that. We also concur with the ACCC that a critical aspect of a two-sided energy market is consumers having the ability to access products and services from the providers of their choosing. Excluding households from the rule will prevent third-party service providers from entering the market and limit households' participation in demand response to that offered by retailers who have little or no appetite for it.

Plan for inclusion of small consumers

If the Commission decides to exclude households from the WDR market at full commencement, then it should outline a clear pathway and plan, including timeline, for the steps required for household participation. This process should be simple, not require a repeat of processes and considerations undertaken in this rule change, and should be completed no later than July 2022.

We look forward to a briefing on the final determination prior to Thursday 5 December and then cooperating with the AEMC to disseminate information to energy consumers, media and policy-makers about the benefits of this important reform and the virtues of the rule change process that delivered it.

Yours sincerely

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