

13 August 2021

Economic Regulation Authority
PO Box 8469
PERTH BC WA 6849

Submitted via email by graham.pearson@energycouncil.com.au to publicsubmissions@erawa.com.au

Demand Management Innovation Allowance guideline

The Australian Energy Council (the “**AEC**”) welcomes the opportunity to make a submission to the Economic Regulation Authority (the “**ERA**”) on the Demand Management Innovation Allowance (the “**DMIA**”) guideline consultation paper (the “**Consultation Paper**”).

The AEC is the industry body representing 22 electricity and downstream natural gas businesses operating in the competitive wholesale and retail energy markets. These businesses collectively generate the overwhelming majority of electricity in Australia and sell gas and electricity to over 10 million homes and businesses.

The AEC is largely supportive of the Consultation Paper and makes the following comments:

Form of the mechanism

The Consultation Paper notes:

“The ERA will determine the level of the demand management innovation allowance in the framework and approach that applies to the access arrangement period.”¹

This is consistent with Section 6.32E of the Access Code and the AEC supports this approach. The proposed guideline should specify that the ERA determines the maximum allowance amount.

The Consultation Paper also states:

“At the next access arrangement review, the ERA will review the expenditure claimed by the service provider against the demand management innovation allowance to determine whether the claimed expenditure meets the eligibility criteria.

The ERA will make an adjustment to target revenue for the next access arrangement period to recover the amount of any allowance that was not spent, or any expenditure claimed that did not meet the eligibility criteria.”²

¹ See p5, [Demand Management Innovation Allowance consultation paper](#)

² See p5, [Demand Management Innovation Allowance consultation paper](#)

In the circumstance where the ERA does not permit claimed expenditure because it did not meet the eligibility criteria, the guideline should clarify if the ERA is required to determine whether the initiative should have been provided as an efficient and prudent alternative options that the network operator should have provided for in its proposed access arrangement. This is consistent with Section 6.32G(a)(ii) of the Access Code.

Eligibility requirements

The Consultation Paper states:

“Eligible projects must have the potential to reduce long-term network costs and, if successful, offset the costs incurred by users through lower network charges. Whether Western Power subsequently chooses to develop a project further as a non-regulated business is a matter for it to decide. Additional costs would not be funded by network users.”³

While it is a reasonable objective that eligible projects must have the potential to reduce long-term network costs, the network operator can still leverage demand management projects to develop services to compete with third-parties.

Oakley Greenwood also made this observation in a report that considered the impact of network operator ownership of grid-connected batteries on competition in the Wholesale Electricity Market:

“The potential problem [with the DMIA] is that it could possibly provide a means for Western Power to develop products and services that could be leveraged off grid-side batteries, which in turn would put the provision of those services by Western Power in competition with products and services that could otherwise be developed by parties operating in the competitive market. Yet:

- For Western Power, this R&D expenditure is a “riskless” exercise, in that it is fully recoverable from regulated customers under the DMIA, hence its shareholder is not actually putting any of its funds ‘at risk’; compared with
- Third party providers operating in the competitive market, whose investment in the same type of R&D would involve them putting their shareholders’ funds ‘at risk’.

This situation could lead to competitive market providers who may have otherwise undertaken R&D in order to expand their capabilities to provide demand management services that leverage off grid-side batteries, to be crowded out of the market (i.e., to elect NOT to put their shareholder funds at risk, due to the perceived unequal playing field).⁴

The above scenario would have an adverse impact on competition, leading to less innovation and diminished economic efficiency in the long-term.

To this end, the proposed guideline should make clear that any project that is directly or indirectly related to the development of products that are likely to otherwise be utilised to provide unregulated services, via the development or utilisation of multi-function assets, will not be considered for funding. “The rationale for this is, amongst other things, to better meet the overarching objective of the Access Code (via reducing the risk that inappropriate funding of R&D will have a chilling effect on investments made by the broader competitive market), and because funding is available from another source (i.e., shareholders), which means it does not comply with the requirement in Clause 6.32G (c) (ii) that the allowance “should only provide funding that is not available from any other source.”⁵

³ See p8, [Demand Management Innovation Allowance consultation paper](#)

⁴ See p21, [Implications of network ownership of grid-side battery assets on competition in the Wholesale Electricity Market](#)

⁵ See p28, [Implications of network ownership of grid-side battery assets on competition in the Wholesale Electricity Market](#)

Process for up-front consideration of a project

The AEC supports the ERA's proposal to not include a process for up-front consideration of a project.

Information that must be included in a compliance report

The AEC considers that the proposed information to be included in a compliance report guideline is sufficiently detailed and supports the ERA's approach.

Preparation, lodgement and form of compliance report

It is important that the proposed guideline specify the time by which the compliance report must be provided to the ERA so that it can be published in a timely manner. The Consultation Paper says that "a service provider must submit a compliance report each year to the ERA, no later than four months after the end of the pricing year."⁶ The AEC notes that under the licensing regime the ERA requires retailers to provide their compliance report annually, no later than two months after the end of the pricing year. Therefore, in the interest of maintaining parity, it would be reasonable for the network operator to submit its DMIA compliance report no later than two months after the end of the pricing year.

Conclusion

The AEC appreciates this opportunity to provide feedback on the Consultation Paper and encourages the ERA to consider the issues raised above.

Please do not hesitate to contact Graham Pearson, Western Australia Policy Manager by email on graham.pearson@energycouncil.com.au or by telephone on 0466 631 776 should you wish to discuss this further.

Yours sincerely,

Graham Pearson

Policy Manager, Western Australia
Australian Energy Council

⁶ See p13, [Demand Management Innovation Allowance consultation paper](#)