

26 June 2018

COAG Energy Council Secretariat
Department of the Environment and Energy
GPO Box 787
Canberra ACT 2601



Dear Secretariat,

Consultation Paper on AER Powers and Civil Penalty Regime

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit legal centre based in New South Wales. Established in 1982, PIAC tackles systemic issues that have a significant impact upon people who are marginalised and facing disadvantage. We ensure basic rights are enjoyed across the community through litigation, public policy development, communication and training. The Energy + Water Consumers' Advocacy Program represents the interests of low-income and other residential consumers, developing policy and advocating in energy and water markets.

PIAC welcomes the opportunity to respond to Energy Council's Senior Committee of Officials (SCO) consultation paper.

PIAC is supportive of the AER being provided greater power to compel individuals to appear before it to give evidence and the proposed changes to the civil penalty regime under the National Energy Law. PIAC supports the submissions put forward by Energy Consumers Australia and the Consumer Action Law Centre.

More broadly, PIAC supports the AER being an 'expert' regulator with the necessary powers and discretion to give primacy to achieving the National Electricity Objective. Therefore, the AER should be able to, if it feels it is warranted, use its proposed powers to compel individuals to appear before it and give evidence across all of its functions – which includes enforcement and economic regulation.

While PIAC does not consider the exercise of this power would or should become commonplace, it provides an important mechanism to assist the AER make robust and defensible decisions in the long-term interests of energy consumers. PIAC also considers it would be beneficial for the AER to publish a non-binding document setting out how it intends to interpret and use these powers.

Further, PIAC stresses the importance of considering how protection and compliance frameworks should best apply to new and emerging energy models such as solar PV and stand-alone power systems. These products and services may not be provided by traditional energy market participants such as licensed retailers yet still provide essential energy services to consumers. As such, PIAC considers the enforcement and compliance framework must provide protections proportionate to the risk consumers may face from non-compliance.

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Continued engagement

PIAC would welcome the opportunity to meet with the SCO and other stakeholders to discuss these issues in more depth.

Yours sincerely,

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