SUBMISSION

AER VALUES OF CUSTOMER RELIABILITY METHODOLOGY – DRAFT DETERMINATION

9 APRIL 2024

INTRODUCTION

The Energy Users' Association of Australia (EUAA) is the peak body representing Australian commercial and industrial energy users. Our membership covers a broad cross section of the Australian economy including significant retail, manufacturing, building materials and food processing industries. Combined our members employ over 1 million Australians, pay billions in energy bills every year and in many cases are exposed to the fluctuations and challenges of international trade.

Thank you for the opportunity to make a submission for the Draft Determination. The purpose of this short submission is to address the issue of the consultation procedure on the Draft Determination on Values of Customer Reliability Methodology ("Draft") published by the AER in late March 2024. We do not support an expedited rules consultation procedure.

We have strongly supported past AEMO and AER VCR valuation processes and look forward to being able to do so again in 2024. Our objective in objecting to the expedited process is not to get a lower VCR. Our objective is to get a robust VCR that is the result of a comprehensive engagement process to give all stakeholders confidence in the methodology and results. The risk of failing to do that is consumers (and networks) lack confidence in the results. This then rebounds on networks when they are seeking to meet their obligations under the Better Reset's Handbook in their engagement on expenditure proposals reliant on the new VCR values.

Our focus here is on the need to give stakeholders confidence in the methodology for residential and small business customers. We are generally happy with the direct cost methodology being used for customer with demand >10MVA, though we would appreciate the opportunity to review the large customer questionnaire to ensure it reflects the actions our members are taking behind the meter to improve their reliability. They do not want to pay twice.

We recognise the time and resource constraints the AER is facing, especially given the timetable it is required to meet, though we do ask below whether that can be extended as it was with the recent Rate of Return review to enable the required stakeholder engagement.

In addition to reconsidering the timeline and process we strongly recommend the immediate establishment of a Stakeholder Reference Group applying the 'critical friend' model to consider the next steps in the absence of an expedited consultation process. This would include representatives of the AER, networks and consumers. Its scope would cover both timetable and methodology. This may mean a change in the submissions date of 23rd April while discussions progress. The EUAA stands ready to participate in this Group and make timely contributions to its operation to meet an agreed deadline (if extending the deadline is possible).

Given the AER is also required to develop a measure of customer resilience by the end of 2024, this Group could also be used to assist in the development of that methodology – where there is no existing methodology to draw on.

The AER's framing of the consultation procedure is confusing

The Draft proposes (pp 9-14) minor changes:

- "removing the reference to the specific nominal dollar value for the maximum willingness to pay in the residential customer survey
- updating the cost prompts and bill discounts in the residential customer survey to account for inflation impacts and changes in consumer preferences since our last VCR review
- clarifying that when we update the VCR, we may revise the cost prompts and bill discounts in the residential and business customer surveys to account for inflation impacts and changes in consumer preferences since our last VCR review
- refining some text and footnotes to improve clarity, correct minor typographical errors, remove detail specific to the 2019 VCR methodology and make references easier to identify going forward."

and we agree they are indeed 'non-material'.

Yet the invitation to stakeholders in the Draft is (p.iv):

> "If you consider our proposed changes to the VCR methodology are not a Non-material Proposal, you can request that we use the standard rules consultation procedure instead of the expedited rules consultation procedure."

This framing puts the EUAA into a catch 22 process – if we agree the changes are 'non material' then it seems we are unable to object to the expedited consultation procedure. We are not convinced that one necessarily follows the other as this framing would suggest.

What we hope the framing of the consultation procedure really means

Our starting point is that the AER has not made the case for only minor changes to enable the 2019 methodology to remain 'fit for purpose'. We want the AER to have the opportunity to make that 'fit for purpose' case in a much more comprehensive way through more substantive engagement with consumers and networks. To not do so risks the results not being supported by a robust methodology and hence not being supported by consumers. We contend that making this 'fit for purpose' case cannot be made within the confines of an expedited process.

Further, the AEMC has recently made a draft rule determination on National Electricity Amendment (Unlocking customer energy resource (CER) benefits through flexible trading)[1] that will allow "flexible" and "inflexible" loads at residential, small and large businesses. We contend that this will change the formula for calculating VCR as consumers will be able to nominate "partial" load disconnection rather than the current "all-on" or "all-off". This furthers our case that the proposed VCR methodology is not 'fit for purpose'.

[1] https://www.aemc.gov.au/rule-changes/unlocking-CER-benefits-through-flexible-trading

Additionally, setting the wrong VCR in this new environment of consumer flexibility may well undermine what AEMC, AEMO and the ESB are trying to achieve through CER trading.

We are not lawyers, but we hope that r 8.9.3 and 8.9.2 provide for an objection to an expedited process when the changes are 'non-material'.

Why we do not think the AER has made the case for 'fit for purpose'

The Draft notes (p.17):

> "In developing the VCR methodology in 2019, we indicated we would consider alternative methodologies in our next VCR methodology review. Consistent with that commitment, we have revisited alternative methodologies for calculating VCR including revealed preference and model-based approaches."

and then goes on to make 5 short dot points on why they prefer the survey-based VCR methodology over alternative methodologies. That may be the case, but the level of justification is thin. Consumers are simply expected to accept a 'black box' of analysis on face value. We think that is insufficient evidence to support potentially hundreds of millions of capex expenditure over the next five years.

This lack of justification gives the impression that the AER has made up its mind around methodology and it is going through the motions on consultation to do the minimum required by the rules – an expedited process. While we are sure it is not intended, this impression also comes with the various references to complying with various parts of the rules – 8.9.2 and 8.9.3 in footnote 1; 8.9.1(a) in footnote 2; '…formal consultation under the NER.' on p.5; 8.12(a) in footnote 13; 3.9.3A(e)(4) in footnote 15; 3.20.2(b) in footnote 17; all of sections 5.2, 5.3 and 5.4.

The justification seems to argue that a consistent methodology (to allow comparability of results over time) is more important than relevance to what is happening in 2024 and what is expected to happen out to 2029 and beyond (e.g. CER trading). We would suggest that the AER should be seeking the best measure – that may or may not be consistent with the 2019 results.

The AER may be right – our issue is that the engagement process needs to allow for that conclusion to be tested.

The level of engagement the AER is proposing with an expedited process is quite different to that which it expects networks to follow in making revenue reset submissions to the AER

The AER rightly sets very high expectations on network engagement under its Better Resets Handbook (BRH). In its release of the Handbook in December 2021, the AER noted[2]:

> "The Handbook aims to incentivise networks to develop high quality proposals which are driven by genuine engagement with consumers. This will lead to regulatory outcomes that better reflect the long-term interests of consumers.
>
> The Handbook outlines what the AER expects would be in a high-quality, consumer-centric regulatory proposal. Regulatory proposals which are developed through genuine engagement with consumers and

[2] https://www.aer.gov.au/industry/registers/resources/guidelines/better-resets-handbook-towards-consumer-centric-network-proposals

meet our expectations for forecast expenditure, depreciation and tariff structure statements are more likely to be largely or wholly accepted at the draft decision stage, creating a more efficient regulatory process for all stakeholders."

We have been deeply involved in many network resets since then and seen the effort networks make to meet the BRH requirements – including engagement on how they use VCR values in their capex proposals.

In this case the AER sent out an Information Notice just before Christmas which mentioned a public forum in February/March (presumably with a consultation paper prior to then) and a promise to provide regular updates to stakeholders. The next communication to stakeholders was the Draft Determination on 25th March. We were given 5 working days either side of Easter in the middle of the school holidays to prepare for the Public Forum on 4th April. Then only three additional working days to make this submission on the proposal to follow an expedited consultation process.

Unfortunately, it would appear that the AER would have not followed its own guidance in the VCR consultation process if it continues with an expedited process. Further, it will be the networks that will bear the brunt of consumer complaints about the VCR when they perform consultation for their resets.

Issues that should be considered in stakeholder engagement on the preferred methodology

We highlighted the following in our presentation at the Public Forum – other stakeholders are likely to have more:

Electricity market factors

- How much and what information on the NEM/networks should be given to survey respondents to ensure informed responses?
- How might forecasts of CER expansion over next 5 years influence questionnaire design?
- How to have confidence responses to questions about interruptions of <12 hours from Victorian participants are not muddied by their recent experience of interruptions of >12 hours?
- Should the value of momentary outages be included e.g. to assess value of reclosers

Methodology

- What can be learnt from the work of AusNet and Citipower/Powercor/United Energy in their quantifying customer values work ahead of their 2026-31 reset submissions?
- Are 15-minute online questionnaires where payment is minimal still 'fit for purpose'?
- Should the AER consider deliberative forums/citizen juries to supplement the online survey data?
- How does the AER avoid respondents using AI?
- How can respondents indicate they prefer lower reliability and a lower bill?
- How to measure the 'X' in CPI-X'?

The CPI-X annual adjustment factor was a discussion point in engagement on the 2019 methodology. In the final report published in December 2019, the AER said[3]:

[3] See p. 8 https://www.aer.gov.au/system/files/AER%20-%20Values%20of%20Customer%20Reliability%20Review%20-%20Final%20Report%20-%20December%202019.pdf

“Our published VCR values will be updated annually using a CPI-X approach. CPI is used to ensure the real value of the VCRs is maintained. X represents the annual change in customer reliability preferences, which may be influenced by factors such as technological changes (for example home battery installation), but is set at zero due to the lack of available information. We consider these difficulties are likely to remain an impediment to calculating a non-zero X in the near future. We would welcome further discussions with stakeholders on how changes in customer reliability preferences could be monitored annually.”

No consultation has occurred since on this. In the Draft, the AER, in seeking to justify that a minimally amended 2019 methodology meets the requirements of Rule 8.12(d), says (p.16):

> “We consider the updated VCR methodology meets the requirements of rule 8.12(d) of the NER because it:
>
> …
>
> - has a mechanism for adjusting VCR values on an annual basis using a CPI-X approach (see table 4.2). CPI is used to ensure the real VCR values are maintained. X represents the annual change in customer reliability preferences, which may be influenced by factors such as technological changes.
>
> In respect of the annual adjustment mechanism, we continue setting X to zero due to the lack of strong evidence in support of feasible alternatives. We consider these difficulties are likely to remain an impediment to calculating a non-zero X in future years, but we will revisit this issue in future VCR reviews if required.”

So, in 2019 the AER says the issue should be examined yet it has provided no public opportunity for this issue to be debated in the years since. It has now appears to come to an internal decision that it is still all too hard and has ‘kicked the can down the road’ to a future VCR review. This conclusion only adds to our concerns about a non-transparent, black box approach that gives us no confidence about the proposed methodology being ‘fit for purpose’. How will an expedited process give consumers transparency around the AER’s thinking on this issue?

The AER’s administrative costs should not be a barrier on best practice engagement and methodology

During the public forum the AER expressed concern at the possible cost of undertaking deliberative forums to provide greater VCR measurement rigor. We consider that the AER’s focus should be on the potential costs to consumers of a poorly estimated (whether to high or too low) VCR which can swing capex expenditure by tens, if not hundreds, of millions over the next five years. We are sure that EUAA members would happily contribute to additional funding through their share of AER administrative costs to ensure a robust methodology.

Is the rules timetable of completion of the VCR review by December 2024 really a timetable constraint?

The Final Rate of Return Instrument was scheduled to be published on 16th December 2022[4], but was delayed until 24th February 2023[5]. It would be unfortunate if the possibility of extending the final decision date to enable best practice engagement on methodology to occur was not considered.

[4] https://www.aer.gov.au/news/articles/communications/aer-delays-2022-rate-return-instrument-until-february-2023
[5] https://www.aer.gov.au/industry/registers/resources/guidelines/rate-return-instrument-2022/final-decision

We recommend that the AER immediately establish a Stakeholder Reference Group to consider process and content issues discussed above

We recognise the time constraints that AER is under – if an extension in the timetable is not legally possible. Further, the AER is also required to develop a measure of customer resilience by the end of 2024 where there is no existing methodology to draw on. We recommend the establishment of a 'stakeholder reference group' to focus on the VCR issues raised above – consumers, networks and the AER:

- to provide the AER with the opportunity to expand on their view that the 2019 methodology is 'fit for purpose'
- to provide an opportunity to engage with the Victorian distribution networks on the learnings of their current quantifying customer values research
- allow consumers and networks to raise their concerns around the methodology and enable the AER to respond to those concerns

This would apply the 'critical friend' model outlined by PIAC in the Public Forum. This Group may then be re-purposed/expanded to engage with the AER as it develops the long duration outage methodology.

We can only reiterate our concerns that it seems the AER have been required to complete this review of a critical regulatory element in a timeframe that does not allow sufficient consultation and examination. We strongly recommend reconsideration of the timeline and process to ensure all stakeholders have confidence in the outcome.

Do not hesitate to be in contact should you have any questions.

Andrew Richards
Chief Executive Officer