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Australian Energy Market Commission

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Dear Sherine Al Shallah

Updating the Regulatory Frameworks for Embedded Networks, Draft Report

AGL Energy (**AGL**) welcomes the opportunity to respond to the Australian Energy Market Commission's (**Commission**) Draft Report, *Updating the Regulatory Frameworks for Embedded Networks*, January 2019 (**Draft Report**).

AGL commends the Commission on its development of a draft package of law and rule changes that aim to improve consumer protections and access to retail market competition for embedded network customers.

AGL agrees with the Commission's previous findings that the regulatory arrangements for embedded electricity networks are no longer fit for purpose, resulting in poor customer outcomes. We consider that the Commission's proposed approach set out in the Draft Report of elevating embedded networks into the national regulatory regime under the National Electricity Law (**NEL**), National Energy Retail Law (**NERL**), National Electricity Rules (**NER**) and National Energy Retail Rules (**NERR**) will deliver substantial benefits to consumers in embedded networks.

As the Commission has elaborated, these benefits include:

- Improved customer protections in the areas of disconnections, billing information, payment options and notification of planned outages, and new protections in relation to new connection services, customer hardship programs and retailer of last resort arrangements;
- Enhanced abilities for the Australian Energy Regulator (**AER**) to monitor and enforce embedded network sellers' compliance with these customer protections;
- Increased access to retail competition, including by standardising network billing arrangements and extending NEM metering arrangements and AEMO's market systems to embedded networks; and
- Recommended changes to jurisdictional arrangements and regulations to improve access to concession schemes, independent dispute resolution and reliability protections.

We have given careful consideration to the Draft Report and elaborate our views on the Commission's draft recommendations in the **Attachment**.

We appreciate that elevating embedded networks into the national regulatory regime will entail a range of changes to the service delivery model for embedded networks, as is elaborated in the Commission's Draft



Report. Nevertheless, we consider that the industry costs associated with implementing these changes is outweighed by the anticipated benefits to embedded network customers.

To give an indication of the potential benefit, we estimate that embedded network customers could benefit from accessing retail market competition, as is evidenced in their ability to switch between market offers. As the Commission highlighted in its *Retail Energy Competition Review 2018*:

A residential customer moving from a median standing offer to the cheapest market offer can save:
- on electricity, \$832 in South Australia, \$574 in Victoria, \$504 in South East Queensland, \$365 in New South Wales, and \$273 in the Australian Capital Territory.

We have taken the lowest savings quantum of \$274, being the amount estimated in the Australian Capital Territory, and applied it to the Commission's estimated number of embedded network customers, being a minimum of 213,000 customers. While we acknowledge that these savings would depend on customers actively participating in the market, this calculation suggests that, at a minimum, embedded network customers would have the potential to access aggregated savings in the order of \$58M.

In addition to the direct savings associated with access to retail market competition, embedded network customers would also benefit from a range of competitive services that they would otherwise not have access to. For example, AGL offers a range of non-price benefits to customers including value-add services that assist customers in managing their energy usage and access to a range of new energy products and services.

We support the Commission's recommendation that there would be a continuing exemption for some small operators to ameliorate the compliance cost, if they only supply temporary customers or are not undertaking the sale of energy.

In terms of implementation, we consider that all embedded networks in the process of construction and operational after the Commission's final report should be required to comply with the new regulatory framework given that the market has had knowledge of these reforms for some time.

On the matter of legacy embedded networks, we consider that the Draft Report builds on the Embedded Network Manager (**ENM**) reforms that took effect in 1 December 2017, including ENMs performing market interface services for embedded network customers. Therefore, many of the costs associated with the Draft Report could be considered as sunk. AGL therefore consider that legacy embedded networks operating with an ENM arrangement should be required to transition to the Draft Report recommendations within 6 months of the final Rule being made. For embedded networks not operating under the ENM arrangements but captured by the Draft Report recommendations, AGL consider a 12-month transition appropriate.

Should you have any questions in relation to this submission, please contact Kurt Winter, Regulatory Strategy Manager, on 03 8633 7204 or KWinter@agl.com.au.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'K. Winter', with a long horizontal flourish extending to the right.

Con Hristodoulidis

Senior Regulatory Strategy Manager



ATTACHMENT

Registration and exemption

AGL supports the Commission's proposals to create two new roles under the new framework, namely:

- Embedded network service providers (**ENSP**), that will be required to register with AEMO and will be subject to many of the existing regulatory requirements place on Distribution Network Service Providers; and
- Off-market retailers, which will be required to obtain an authorisation from the AER and will be subject to most of the requirements applicable to existing authorised retailers.

We agree with the Commission that requiring registration of ENSPs and authorisation of off-market retailers will greatly improve customer outcomes for embedded network customers by enabling obligations relating to customer protections and retail market competition to be placed directly on these parties. This is based on the view that the proposed changes ensure that customers are not denied access to the competitive retail market by the mere fact of their location of their residence or small business being within or outside an embedded network.

Market and system integration

We also support the proposal to extend the NER metering framework to embedded network customers to align the embedded networks framework with the rest of the NEM. We agree with the Commission's proposed approach that:

- Off-market retailers will become responsible for appointing a metering coordinator at their off-market child connection points, in the same way that retailers in the rest of the NEM appoint metering coordinators following the introduction of new metering arrangement in December 2017; and
- ENSPs will become responsible for registering all child connection points with AEMO and maintain information in AEMO's systems.

As the Commission has elaborated in the Draft Report, these reforms will allow off-market child connections to be 'discoverable' thereby enabling access retail market competition. Embedded networks customer will also gain the benefit of improved access to information about their usage and billing. Further, the proposed changes ensure that market participants can use one system to register and manage interactions for customers regardless of whether they are in or outside an embedded network. Post the implementation period, this should reduce system and process costs compared to the multiple arrangements that currently exist.

Network billing

AGL agrees with the Commission's proposal to introduce standardised billing arrangements for the recovery of external network charges from embedded networks customers who choose to go 'on-market' with an alternative retailer. We consider that the proposed arrangements will be an important enabler of retailer competition for embedded network customers, including:

- Setting a shadow price for network charges (charges at a level no greater than the amount that the customer would have paid had it been directly connected to the distribution network); and



- Requiring standardised processes and data formats for billing charges for on-market customers to retailers.

While we support the development of shadow network charging, we consider that this should be undertaken by the AER rather than AEMO. While we acknowledge the Commission's view that the process would entail the assignment of relevant network tariffs used by local network services providers, we consider that the function of developing shadow network charging is more akin to the AER's functions of reviewing and approving network tariff planning proposals and annual network tariff changes as part of the AER's price determination function. Accordingly, we consider that the AER, as an economic regulator would be better placed to make these determinations with input from AEMO where appropriate.

AGL would also encourage further consideration of the way in which the new participants would be included in the NEM Business to Business (**B2B**) processes to allow for the efficient delivery of services by authorised retailers to on market children and to ensure that appropriate operational contact details are made available to both retailers and distributors through the Retail Operations Contact List (**ROCL**).

Connection and network charging framework

AGL supports the Commission's recommendation that ENSPs should have the same obligations as DNSPs under the NERL and NERR with respect to connection and alteration obligations. We agree with the Commission that in the absence of such obligations, embedded network customers may be unable to connect to an embedded network or upgrade their existing connection for example to export electricity or upgrade capacity including in the context of installing an electric vehicle charging station or other behind the meter products and services.

We also agree with the Commission that ENSPs should have an obligation to connect non-registered embedded generators seeking to connect to an embedded network to ensure that these kinds of application are not rejected based on anti-competitive reasons.

AGL endorses the recommended connections framework that would require ENSPs to:

- Provide an offer for basic connection services;
- Use the structured negotiating process for applications that exceed the basic connection services specifications; and
- Set connection charges in line with an embedded network connection policy, established by the AER.

We agree with the Commission that although some ENSPs will not have the scale of DNSPs or be subject to revenue determinations, requiring the AER establish a standardised connection policy for ENSPs will be more cost effective than approving each ENSP's policy and will provide greater consistency in connections charging between embedded networks.

Updating consumer protections in the NERL and NERR

AGL supports the Commission's recommended amendments to key concepts underpinning the NERL and NERR to facilitate the elevation of embedded networks into the national framework and ensure the application of relevant consumer protection. These amendments include:

- Providing a designated retailer for customers in new embedded networks;
- Extending the shared customer concept to embedded networks; and

- Facilitating the extension of the tripartite relationship to encompass more parties, where the relationship would need to include obligations on the ENSP, LNSP, retailer at the parent connection point and retailer at the child connection point (for example in circumstances of disconnection and re-energisation, premises with life support equipment, retailer of last resort functions and notifications of planned outages).

AGL is concerned with the Commission's proposed recommendation that retailers and distributors should not be allowed to disconnect parent connection points. Managing local embedded network retailers' payments through contractual arrangement alone may not be sufficient to ensure compliance. In the absence of a disconnection framework, retailers may be exposed to time consuming and costly litigation to recoup losses in some circumstances. We would like to discuss this matter further with the Commission.

Legacy embedded networks

AGL considers that there are substantial benefits in requiring legacy embedded networks to transition to the new framework as soon as possible. As the Commission acknowledges, there are many customers in legacy embedded networks. In our view, unless these legacy embedded networks are required to transition as a matter of priority, the customers of these embedded networks will continue to potentially miss out on the price and service benefits of a competitive retail market.

We note that the Commission has recommended that some amendments to the NER would apply to exempt network service providers, including the registration of off-market connection points in MSATS and network billing and payment arrangements. While this may go some way to improving the customer experience for those customers in legacy embedded networks, a bifurcated market will continue to exist whereby some embedded network customers' access to retail competition and consumer protections will be less than others. We do not consider this to be a sustainable outcome. As the Commission has elaborated, there are clear benefits for customers in some legacy embedded networks in expediting the transition towards the new framework, including:

- Providing clarity that the retail authorisation framework applies to exempt sellers in embedded networks;
- Addressing gaps in consumer protections;
- Improving access to retail competition when NEM compliant metering is installed as part of the transition; and
- Drawing sellers in these embedded networks into a stronger compliance and enforcement regime.

We also do not consider that by simplifying the process for the surrender of an exemption, legacy exempt network service providers and exempt sellers will necessarily choose to transition to the update framework in a timely manner.

Accordingly, we would urge the Commission to recommend expediting the transition where possible. In particular, we would recommend that network exemption holders that are required to appoint Embedded Network Managers in accordance with the Power of Choice reform be required to transition to the updated regulatory framework within 6 months. Further, for those embedded networks where the Embedded Network Managers reforms did not apply but the AEMC draft recommendations will apply be given 12 months to transition to the new framework.



Gas embedded networks

We consider that there would be similar customer benefits in developing a national framework for gas embedded networks. As far as possible, customer should have the same level of access to competition across different fuel sources. We would welcome the opportunity to continue to engage with the Commission on this issue in the next stage of the review.

We note that AEMO has recently submitted a rule change request to the Commission to recognise exempt sellers and enable them to be registered as either self-contacting users, if they are selling gas to a related business, or retailers, if they are selling gas to an unrelated business. We consider that this proposal should be considered in the context of the Commission's broader review of the regulatory framework for embedded networks.