14 March 2019

Mr Richard Owens
Executive General Manager
Australian Energy Market Commission
Level 6, 201 Elizabeth Street
Sydney NSW 2000

By electronic lodgement
EMO0036

Dear Mr Owens

Draft Report – Updating the regulatory framework for embedded networks (EMO0036)

Alinta Energy (Alinta) welcomes the opportunity to respond to the Australian Energy Market Commission's (AEMC) consultation on its draft report on updating the regulatory frameworks applying to embedded networks.

Alinta is an active investor in energy markets across Australia with an owned and contracted generation portfolio of nearly 3,000MW, including 1,700MW of gas-fired generation facilities and 1,070MW of thermal generation facilities, and more than 1.2 million electricity and gas customers including more than 600,000 in east coast markets.

The diversity of Alinta's portfolio, its investment strategy, product offerings, and first-hand experiences in settling and reconciling energy transactions products across Australian energy markets, mean Alinta is well placed to provide informed comment in response to the draft report.

Alinta is a strong supporter of reform efforts that increase access to competitive markets for all customers. Historically, electricity and gas bulk hot water (BHW) customers within embedded networks have not had the same level of choice of products and suppliers, service levels and consumer protections enjoyed by customers connected directly to conventional distribution networks.

We acknowledge that there are practical, legacy reasons that have led to the need for the AEMC's 2017 review of embedded network arrangements and the draft report recommending a framework to incorporate embedded networks into national regulation. Given the growth in embedded networks and the increasingly non-incidental nature of the supply of electricity (and gas) as an essential service, Alinta supports the work of the COAG Energy Council and the AEMC in developing reform options that support the national energy objectives.

In our view, the framework being proposed by the AEMC will remedy many of the shortcomings experienced by embedded network customers. Alinta believes that the material growth in applications for exempt embedded networks in recent years supports the need for the framework proposed by the AEMC following its 2017 review of the exemption framework for embedded networks.

Alinta considers the AEMC's proposed framework will contribute to customer choice and enhance consumer protections and create greater consistency and lower transaction costs for Embedded Network Service Providers (ENSPs) and retailers over time. Alinta believes such an approach will reduce the risk of entrenching a growing class of customers with less access to the competitive market and fewer consumer protections than customers connected directly to the distribution network. This is particularly important given the recent and future growth in high-density housing in capital cities within the National Electricity Market (NEM).

While we acknowledge the full application of the new framework to legacy embedded networks is not yet determined, existing embedded networks should transition to the new framework to avoid perpetuating some of the issues identified by the AEMC. The benefits from the proposed framework in relation to access to competitive market offers and enhanced consumer protections for new embedded network customers should be extended to legacy embedded network customers wherever possible.[1] This will also reduce transaction costs for consumers, ENSPs, distribution network service providers (DNSPs) and retailers while streamlining processes and increasing the efficiency of this segment of the market.

Our detailed comments are set out below addressing the issues raised by the AEMC under each chapter of the draft report in order.

Alinta would welcome further discussion with the AEMC on the development of its proposed framework. Please contact Mr David Calder via email: david.calder@alintaenergy.com.au or by phone 03 9675 5359 if you have any queries in relation to this submission.

Yours sincerely,

Shaun Ruddy
Manager, National Retail Regulation

[1] Alinta would suggest since an Embedded Network Manager (ENM) must be appointed where there 30 or more customers served by an ENM, this threshold should serve as a starting point of application of the proposed framework to legacy embedded networks.

1. Registration and authorisation regime for embedded networks (Chapter 3)

Embedded Network Service Providers (ENSPs)

Alinta supports the proposal that ENSPs register with the Australian Energy Market Operator (AEMO). This will align processes and standards with other participants registered in the market. We further support the approach to regulation that the Australian Energy Regulator (AER) will apply to ENSPs described on page 40 of the draft report. The administrative burden that the exemption applications process has placed on the AER in recent years will be eased by the changes proposed by the AEMC, thus freeing AER resources to focus on more important regulatory functions (including monitoring and enforcement in this area).

Alinta also supports the recommendation that current deemed network exemptions transition to become registrable exemptions where more than 30 or more customers are served by an embedded network. Site details for the embedded network should be

Retail authorisation and exemptions

Alinta supports the creation of off-market retailing under the National Energy Retail Law (NERL) and National Energy Retail Rules (NERR). The requirement that off-market retailers need to be authorised by the AER will significantly improve consistency in consumer protections for small customers, who in our view, should be prioritised as the focus of the proposed framework. We also support the view that off-market retailers largely comply with obligations applying to authorised retailers.

In responding to the AEMC's request for feedback on whether a separate class of authorisation is necessary for off-market retailers, Alinta would suggest that over time on and off-market authorisations could be merged with the authorised retailer category (noting the possibility of the AER not applying certain obligations). However, we believe it is important that a separate category be maintained in the medium term to provide policy markers and regulators with a better understanding of the scope and evolution of off-market retailing. Whether a separate sub-category of authorisation be maintained or merged with conventional retailer authorisations, the justification for exempting individual registered entities from obligations under the NERR needs to be transparent and consistently applied.

Compliance and enforcement

Alinta supports the AEMC's proposed approach to compliance for ENSPs, off-market retailers and exempt sellers and embedded network operators. To maintain consumer protections consistent with those provided by authorised retailers, the application of AER compliance, monitoring and enforcement powers and access to ombudsmen schemes is an appropriate proposal consistent with the NEO and NERO.

2. Market and system integration (Chapter 4)

Extending the metering framework

Alinta strongly endorses reform to embedded network arrangements that would require the installation of NEM-compliant metering for child National Metering Identifiers (NMIs) downstream of the parent or master meter. Appointment of a Metering Coordinator (MC) by an off-market retailer (or an authorised retail where that right is exercised) is an important element of providing customers supplied in an embedded network with their choice of retailer and is consistent with their long-term interests. The MC should assign the network tariff appropriate to the embedded network customer and this should be visible in MSATS standing data.

Alinta agrees with the AEMC that the installation of metering that meets NEM requirements will improve accuracy and consistency of data and access for customers and supports related policy changes including the Consumer Data Right (currently the subject of consultation by the ACCC).

While noting that the proposed framework may not currently apply to legacy embedded networks, ENSP's should be required to develop and submit plans setting out future programs of works to upgrade existing installations to NEM compliant metering.

Alinta believes that at the time of refurbishment, failure or maintenance replacement, where possible, metering installations not compliant with NEM requirements should be replaced by a registered MC, who existing exempt on sellers would appoint progressively.

Market interface functions

Alinta agrees with the AEMC's view that the functions of the Embedded Network Manager (ENM) role be retained for legacy embedded networks. The obligations of the ENM being incorporated into those of the ENSP (including network billing processes) for new embedded networks would reduce regulatory complexity, if these functions are undertaken in a manner that does not favour an ENSPs related off-market retailing business (whether a contracted entity or wholly owned subsidiary).

Access to data

The extension of National Electricity Rules (NER) and NERR requirements to support customer access to data is appropriate in the context of the proposed changes to embedded network regulation. Again, this proposal supports a consistent customer experience regardless of whether electricity consumers are served by the traditional grid or via an embedded network. How access to data will operate when the Consumer Data Right is applied to the energy sector and how ENSPs, ENMs or off-market retailers will comply with it is an issue that requires further consideration.

Distribution loss factors

Alinta supports the determination of appropriate DLFs where embedded networks are of large enough scale to justify the application of a methodology determined by the AER.

3. Network billing for on market embedded network customers (Chapter 5)

Alinta is strongly supportive of a central clearing house (for example, administered by AEMO) for network charge payments between retailers to child sites within an embedded network and the ENSP. Alinta acknowledges some of the concerns identified by participants in the workshop facilitated by the AEMC in October 2018, however, we note:

- ENSPs will only have to register once with a central clearing house rather than each time with dozens of retailers.
- Retailers will similarly only have to register with the central clearing house.
- If the process of registration was undertaken ahead of the rules applying, the market will be prepared to process network costs from ENSPs as soon as the rule changes become effective.
- Customer choice is more likely to be enhanced through centralised embedded network billing - retailers will not face the challenge of initiating a commercial arrangement with an ENSP that they previously had no relationship in attempting to offer products as an on-market child retailer. Managing this risk through a central clearing house mechanism will support customer choice of retailer.
- ENSPs should register with any central clearing house by a specific date and failure to do so should attract penalties. Such registration should be a condition of being an ENSP and should apply retrospectively to legacy embedded networks.
- A centralised approach is likely to result in lower costs to customers within an embedded network. Authorised retailers and ENSPs can manage their own costs of registration with a central clearing house and the clearing house costs should be borne by ENSP contributions to AEMO (if it is the chosen centralised biller).
- IF AEMO was assigned the role of the clearing house, this function could also assist in the event of a retailer failure.

We recognise that the AEMC has recommended a model standardising ENSP billing arrangements through the application of chapter 6B of the NER. While this approach would improve certainty for both authorised retailers and ENSPs (through credit support arrangements, standardised billing formats, obligation to pay and a dispute resolution mechanism), a central body could facilitate each of these outcomes and bypass the remaining deficiencies of applying chapter 6B provisions

Alinta supports the AEMC's view that additional credit support measures are not required in relation to ENSPs. Authorised retailers need to meet prudential requirements to participate in the NEM and manage costs from distribution network services providers – these are far more material than those associated with (even a large, multi-site) ENSP. Managing such risks is routine for authorised retailers and to the extent they are seeking to win customers within an ENSP's network, they will have assessed these as part of any normal business case for market entry.

Finally, it is important to note that some embedded networks levy non-energy charges and fees that are based on those provided by DNSPs – for example as de and re-energisation, move-in/move-out and initial connection). The level of these costs in many cases is not reflective of the actual cost incurred by an Embedded Network Operator (ENO) or ENSP and is typically avoided by the application of an embedded network to a development. While noting these are unregulated costs in the context of embedded networks, Alinta

would suggest the AER be aware of and monitor the application of such fees and that they be disclosed on the ENO/ENSP's website describing the circumstances in which they may apply. To the extent they are considered unreasonable (in level or terms of application), the AER should have the power to prohibit or limit their application.

Legacy embedded networks and network billing

Should a central clearing house model not be pursued, Alinta would support the expansion of the ENM's role to include network billing. The cost is likely to be modest, but to the extent that ENO's have not appointed an ENM to date (and this is likely to be common among off-market embedded networks), the obligation to register an exempt network should include efforts to appoint an ENM if they have not done so.

4. Connection and Network Charging Framework (Chapter 6)

Obligation to provide connection services

Alinta supports the AEMC's intent under the proposed framework to elevate ENSPs into the NERL, thereby giving customers within embedded networks consistent connection rights to conventional customers connected to a DNSP's network. We acknowledge exceptions and practical constraints in relation to connections and understand there are countless configuration that may be associated with an embedded network. The principle of consistency is key however to the extent possible, as with many of the issues identified through the 2017 review and the draft report.

Types of connection offers

It is appropriate that the connection framework set out in chapter 5A of the NER apply to embedded networks under the AEMC's proposed framework. This is particularly so for small customers. Alinta believes the flexibility afforded by the negotiated connections process will support complex commercial and industrial connection in embedded networks and a basic connection service will provide certainty for smaller customers.

Alinta supports the provisioning of a model standing offer for connection to reduce costs for ENSPs and to allow the option for ENSPs to develop their own model standing offers for AER approval.

Connection policies and connection charging

The proposal to standardise connection policies will minimise the cost of incorporating embedded networks into the connection framework of the NER. Cost pass through events associated with connection should be transparent and where related to asset works be clearly delineated as a responsibility of the building owner, the ENSP or another proponent party.

In relation to connection charges, Alinta agrees that a principles-based approach is preferable as economic regulation of connection charges (or ENSPs more generally) will be prohibitively expensive and outweigh any benefit to consumers.

NUoS charging for embedded networks

Alinta supports the AEMC's recommendation that customers who choose to go on market with an authorised retailer would pay a shadow network tariff based on the NUoS charges that apply to similar customers connected directly to the distribution system.

We further agree that internal network charges should not be levied on an ongoing basis to customers within an embedded network. It is frequently the case that customers pay an upfront charge to an ENO or ENSP at the time of construction of an embedded network. To recover such costs on an ongoing basis would result in over recovery of embedded network costs.

Connection framework for embedded network generators

Alinta notes the issues identified by the AEMC in section 6.6 of the draft report. We believe there is merit in considering arrangements for small generators located within an embedded network. We understand that ENOs and ENSPs are not required to pay such generators (who may be child site customers within an embedded network) a feed in tariff for which they may be eligible (for example for a solar PV installation located on a townhouse). In the interests of consumer protection, the ENSP should pass through a feed-in tariff where it is regulated or recommended where the customer is on-market and the settlement of such costs can occur through the centralised clearing house model discussed above.

5. Updating consumer protections in the NERL and the NERR (Chapter 7)

In general, Alinta is supportive of the elevation of embedded networks into the NERL and NERR with respect to consumer protections. This is an area where customers within embedded networks are at risk of becoming an entrenched, "second class" of consumer.

We acknowledge that many customers within embedded networks have enjoyed some benefits over time while others have not. In addition to the benefits furnished by access to competitive market offers, customers served by embedded networks will have largely the same consumer protections available to customers supplied by a DNSP under the approach proposed by the AEMC.

Given the growth and estimated number of customers within embedded networks, it is appropriate that they are protected in the same way as other customers. The protections set out in the National Energy Consumer Framework either contribute to the energy objectives or they do not. If they do, then their application should be universal. Maintaining business models that depend on a lower level of regulatory oversight cannot be justified if authorised retailers and registered network service providers are expected to comply with the rules and face penalties and sanctions for non-compliance.

Notification of planned interruptions in new embedded networks

Alinta agrees with the principles of reciprocity set out in the AEMC recommendation in section 7.3.3 of the draft report. Embedded networks also require notification of DNSP or retailer to their parent meter interruptions, including reasonable timing, duration and contact information provided for all affected parties.

Life support arrangements in new embedded networks

Alinta supports the AEMC's recommendations in relation to life support customers within new embedded networks. The effectiveness of the current regime for legacy embedded networks should be subject to review (Condition 20 under the AER's Retail Exemption Guideline).

Retailer of Last Resort functions in new embedded networks

Alinta strongly supports the assignment of a NMI to all child connection points within an embedded network for new and legacy embedded networks. This, along with metering arrangements more generally, will improve customer access to the competitive market, but also provide support and greater efficiencies when there are events like retailer failure.

Other NERL and NERR protections in new embedded networks

Alinta acknowledges the challenges associated with a parent authorised retailer disconnecting downstream sites where authorised or off-market retailers to child sites fail to pay. We agree that disconnecting all downstream child customers is not an acceptable outcome. There are commercial solutions to manage payment of energy costs to a parent authorised retailer that may require prudential requirements or the application of a risk premium as part of any energy supply agreement between the parent and downstream retailers.

The use of pre-paid meters

Alinta supports the rationale for prohibiting pre-paid meters at parent connection points for embedded networks and agrees the prevalence of pre-paid meters being in place at the point of connection to the DNSPs system currently or in the future is likely to be very low.

Variations to standing offer prices

We support the requirement for all retailers supplying customers within an embedded network to publish standing offer prices and variations on their websites and Energy Made Easy. Such information is important for customers to make informed choices about their energy supply. The implications from the introduction of the Default Market Offer (DMO, currently being determined by the AER) should be considered in the AEMC's final rule package. Compliance with the requirement to charge no more than the local retailer's standing offer (or DMO in the future) should be scrutinised by the AER as part of its monitoring role of authorised and off-market retailers. This should include the requirement that each off-market retailer continue to offer a DMO compliant offer.

6. Other issues (Chapter 8)

Legacy embedded networks

As discussed above, Alinta believes that legacy embedded networks (i.e. ENOs) and exempt sellers should be elevated into national regulation in National Energy Consumer Framework (NECF) jurisdictions or transitioned over time to the extent it is pragmatic to do so. Maintaining a separate class of customers with diminished access to the competitive market and fewer prescribed protections than those enjoyed by other customers is suboptimal and will distort the retail energy market. Given the sizable minority of customers estimated to be supplied through embedded networks at present (likely to be as many as 500,000 customers), material benefits could be realised if the proposed framework was applied as widely as possible.

Related to the elevation of embedded networks into the proposed framework, Alinta understands that larger embedded network developments have, since 2011, installed NEM compliant metering. To the extent exempt networks have metering equipment that meets the requirements of AEMO and the NER, a condition of maintaining exemption should be the disclosure of the suitability of metering equipment to meet NEM requirements.

We support the recommendation that ENMs assign NMIs to off-market connection points to provide visibility in Market Settlement and Transfer Solution (MSATS) under their expanded responsibilities. That said, we see considerable merit in a trigger mechanism for embedded networks and exempt sellers, particularly if they are currently off-market servicing 30 or more customers. This could form as discussed in section 8.1.2 of the draft report.

A continued expectation that an authorised retailer should fund the installation of NEM compliant metering to support a customer's choice of retailer within an exempt network is not a viable approach to support customer access to the competitive market.
Summarising our position on the approach to managing legacy embedded networks:

- All embedded networks should be registered with the AER (except for very small embedded networks where energy supply is incidental and/or temporary in nature – e.g. caravan parks and temporary accommodation);
- To the maximum extent, all embedded networks should have NMIs allocated to all child connection points by the ENM, or the ENSP subsuming ENM responsibilities;
- Embedded networks should be operated with an authorised retailer or registered off-market retailer;
- NEM compliant metering is likely installed in embedded networks constructed after 2011 – this should be disclosed, and the meters made visible in MSATS where currently off-market; and
- Current Transformer (CT) meter calibration should be undertaken by the ENM once NEM compliant metering is installed.

Price regulation

As discussed above, the implications arising from the implementation of a DMO need to be considered. The obligations associated with the DMO should apply to exempt sellers and off-

market retailers, if the DMO is the basis of the tariff for customers served by an embedded network.

Given the DMO does not apply to time-of use, or other non "flat" tariff structures, the AER should be cognisant that TOU or other pricing models supported by advanced metering should not be used to subvert the intent of the DMO.

Tariffs applying to customers within embedded networks should be published on the exempt seller or off-market retailer's websites (as they must be for an authorised retailer) and they should be included in the AER's Energy Made Easy comparison website.

Gas embedded networks

Alinta would ask the AEMC in its further work on these additional matters to examine the case where the same embedded network operator/exempt seller delivers both electricity and gas (via bulk hot water [BHW], or conventional gas supply) to customers within its network. There is a risk that customers may be exposed to cross-subsidising one fuel (electricity) by paying too much for the other (BHW or mains gas). This scenario severely limits customer choice and creates difficulties for them to access the competitive market.

BHW is not contestable, therefore, to remedy this situation:

- BHW energy costs (gas) should be regulated for residential customers in each jurisdiction for which the AER has regulatory oversight, noting that efficiency and conversion rates (GJ to litres) will vary depending on system efficiency;
- BHW rates should be published on ENO/ENSP/retailer/off-market retailer websites in a consistent manner to assist customers understand costs on move-in;
- To prohibit any BHW pricing approach that has a punitive impact on a customer exercising their choice of electricity retailer.[2]

Different business models for embedded networks

A large minority embedded networks operate on a low-cost model, operated by an owner's corporation using third party fee-for-service agents for metering and billing. Customers supplied under this model enjoy very low energy costs and Alinta suggests that careful consideration of the extent to which the proposed framework would apply to these parties is required, as the costs of doing so may materially outweigh any benefits to customers if they transition to a registered ENSP and off-market retailer under the proposed framework.

[2] For example, offering a high BHW tariff with a significant discount conditional on the customer also purchasing electricity from the same off-market retailer for embedded network should be prohibited. The BHW rate should be the same for each customer within an embedded network regardless of who the electricity retailer is.