



Sherine Al Shallah
Project Leader

Australian Energy Market Commission

Updating the regulatory frameworks for embedded networks

14 March 2019

Dear Ms Al Shallah,

Aurizon Network Pty Ltd (Aurizon) welcomes the opportunity to make a submission in relation to the Australian Energy Market Commission (AEMC) draft report updating the regulatory frameworks for embedded networks (Draft Report).

1. Background

Aurizon has previously responded to the AEMC's draft report regarding the review of regulatory arrangements for embedded networks. Aurizon owns and operates the regulated open-access Central Queensland Coal Network (CQCN). Approximately 2,000 kilometres of the CQCN is electrified allowing trains to use electricity or diesel fuel as their source of traction power. The electric traction network represents a significant proportion of Queensland's regional and total energy demand and provides a critical supply chain link for Queensland coal exports. Aurizon owns and operates the electric traction network and supplies electricity to related rail infrastructure and rollingstock owned by a range of rail operators. Electricity and network costs are overseen by the Queensland Competition Authority under an access tariff regime.

2. Network exemption framework

Aurizon supports the AEMC's recommendation that existing Network Service Provider exemptions be extended under the new framework initially.

Aurizon acknowledges the AEMC's proposed drafting regarding the exemption criteria which the AER should consider in defining network activities that could be eligible for a registrable network exemption. In particular, the specific recognition of the provision of electric traction systems for passenger or freight vehicles and associated infrastructure (such as rail networks).

Given there is already a complex regulatory framework which applies to regulate access to Aurizon's rail network (which is a State-based framework recognised under the *Competition and Consumer Act, 2010 (Cth)* as being an effective access regime), the costs of forcing a transition of Aurizon's rail network to the new framework outweighs any benefits. In addition, any transition is likely to give rise to additional complexities and regulatory issues which will need to be addressed (potentially on a State-by-State basis) given the interaction between the two regulatory regimes. In light of the above, the transition of legacy Network Service Provider exemptions in the rail industry should be on an 'opt in' basis so that exempt Network Service

Providers have the option to transition to the updated framework by surrendering any pre-existing exemptions if it wishes but is not forced to do so.

3. Retailer exemption framework

Aurizon considers that the sale of electricity to rollingstock falls outside the scope of section 88 of the *National Energy Retail Law*, and via the *National Energy Retail Law (Queensland) Act 2014* (Qld). It is understood that the proposed changes ought not affect Aurizon's ability to rely on these provisions, which is supported by Aurizon. However, Aurizon cautions that in developing the regulatory frameworks, care should be taken to avoid scope creep. There is a risk that changes to the regulatory framework could inadvertently capture operations like Aurizon's electric traction network.

Electric traction networks are fundamentally different to most embedded networks. The CQCN is uniquely Australia's only heavy haul electrified rail network. Because it is open access, any rail operator can utilise the traction network. Aurizon considers that the underlying rationale for the regulatory amendments to provide customer protections for small consumers is not applicable to the supply and sale of electricity to rollingstock, and related infrastructure including spurs, signalling, rail workshops/resupply, mine load outs etc. Any changes to the framework should carefully consider the substantial additional regulatory burden imposed and the limited benefit obtained in the context of sale of electricity related to electric traction. Aurizon understands the AEMC's desire for transparency regarding the number and type of exempt sellers. However, if this results in significant additional regulatory burden, Aurizon considers the costs of this burden far exceed any potential benefits.

While, Aurizon considers it is not directly impacted by the proposed changes to retail selling, to avoid the risk of scope creep, Aurizon suggests retail selling obligations imposed under the new regime should exclude sale of electricity to infrastructure that relates to the electric traction network and to train services that utilise that network.

4. Transitional arrangements

Aurizon understands that the AEMC is developing a paper outlining proposed transitional arrangements. In the absence of the detail of that paper, two guiding principles for transition are proposed below.

4.1. Flexibility in stakeholder engagement

The process should include flexibility to ensure impacted stakeholders can engage with the AEMC or AER regarding discrete issues unique to the type of embedded network. These discrete issues could include specific contextual matters, or the exercise of AER discretion in the application and development of exemption classes and the scope of regulatory oversight. The proposed changes represent a major change to the existing framework. Flexibility in the transition will minimise potential negative impacts of scope creep and ensure the extremely diverse types of embedded networks are recognised and accounted for.

4.2. The transition should be orderly

Any change to the regulatory framework will require consideration by impacted stakeholders. A process with clear expectations and reasonable compliance timeframes should be developed.

5. Conclusion

Developing and adapting frameworks to address the evolving energy market is complex. There is a risk that the proposed changes to regulatory frameworks could materially impact the competitiveness of electric traction through additional regulatory burden, without tangible benefits to electric traction consumers. Aurizon welcomes the opportunity to further engage on this issue and welcomes the AEMC's willingness to consult with stakeholders. Aurizon believes that the scope and consequences of any reform should be carefully considered.

If you wish to discuss further, please do not hesitate to contact myself, or Liam Byrnes (liam.byrnes@aurizon.com.au / 07 3019 1231).

Yours sincerely



Steve Straughan
Head of Network Customers