

14th March 2019

The Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Dear Sir / Madam

**RE: Response and Comment on the Draft Report on UPDATING THE REGULATORY FRAMEWORKS
FOR EMBEDDED NETWORKS**

Energy Options Australia is a small consultancy business that provides advice and guidance on matters relating to the on-selling of energy to Residential and Commercial Bodies Corporate in the QLD market, many of who currently are registered as exempt sellers.

Our response to the draft report provides comments on a number of the SUMMARY points in the report, as well as some general comments in relation to the proposed changes.

We support many of the proposed changes, and while this will impact on the cost of electricity to many customers with the need to increase the reporting and consumer protection obligations, we do ask the AEMC to carefully consider the transition of legacy or existing embedded networks to the new arrangements and the retention of the ability to hold an exemption as an on-seller for the many residential and commercial Body Corporate arrangements.

Background

Our experience has shown there are a number of different embedded network arrangements currently operating throughout Australia including:

1. Authorised retailer arrangements – including residential (normally strata titled), commercial and or retail properties
2. Exempt freehold arrangements – generally retail and or commercial properties where the owner or landlord is the exempt on-seller
3. Exempt strata titled arrangements – predominantly residential but also includes retail and commercial strata titled (e.g. Body Corporate, Strata Plan, Owners Corporation) properties where the Body Corporate is the exempt on-seller
4. Other exempt arrangements – including retirement villages, caravan parks where the owner or operator of the site is the exempt on-seller

The main difference between all of these arrangements is that where the Body Corporate is the exempt on-seller (group 3), the electricity is on-supplied to the occupants or residents at very low rates for the energy and generally a modest daily supply charge.

All other arrangements are generally subject to higher charges, in some case uncompetitive, due to the profit drivers and or higher costs to serve from the retailer or owner / landlord.

It can be argued that a retailer will provide a higher level of consumer protections and remove risk from the exempt seller, however in many instances the additional costs from some retailer does not appear to justify the significantly lower savings (higher costs) delivered to customer within the embedded networks.

In the majority of cases with an exempt Body Corporate, the energy (electricity or gas) is on-supplied to the residents at the cost of the actual energy (or very close to cost), plus a daily service fee that is representative of the fee charged by the Billing Agent to provide the services, and much lower than the daily service fee charged by most retailers.

The exempt Body Corporate generally engages a Billing Agent to provide all 'retail' type services on behalf of the Body Corporate and it is very rare to see a Body Corporate carrying out the billing to customers themselves.

One of the key drivers for the AEMC in implementing these changes is providing access to competitively priced market offers by making it possible for them to choose their retailer and requiring better industry financial and data transfer processes to help more retailers compete in embedded networks.

The majority of the existing embedded networks where customers may have been locked into either long term contracts or arrangements with less than market competitive offers are often managed by authorised retailers or property owners / landlords of commercial or retail properties.

In some cases authorised retailers also manage residential embedded networks where customers are locked into unfavourable contracts with the inability to access competitive market offer due to the current arrangements.

This is generally not the case with an exempt Body Corporate using a Billing Agent to deliver the retail services.

The reason for this difference is the Strata Legislation, in particular in QLD, is very strong and prohibits a Body Corporate from profiting through the on-supply of a service such as electricity and therefore the majority of these arrangements deliver lower electricity charges to occupiers or consumers than any other arrangement from an authorised retailer.

Some of the larger authorised retailers who operate embedded networks are also only concerned with providing competitive offers to customers that compete with, or are only just better than the best offers in the market for individual market customers, and are not passing on the benefits delivered through an embedded network.

This is an important point when considering how to manage legacy or existing embedded networks owned or operated by an exempt seller. It is these type of embedded network that truly drive retailers to lowering costs to customers in embedded networks. If the AEMC removes the ability to be an exempt seller at some time in the future, then we see the potential reduction of the additional savings delivered through embedded networks being passed on to customers.

By imposing these additional costs on the Body Corporate (Billing Agent model) arrangements will force embedded networks into the hands of authorised retailers. In doing so the AEMC is indirectly supporting mostly large, publicly listed energy retailers. These are profit driven organisations and usually have a much larger cost base to cover compared to a Body Corporate/Owners Corporation which requires no profit margin and in most cases utilised the service of smaller lower cost service providers, i.e. Billing Agents.

Comments on Report Summary

The following provides comment on a number of the points raised in the draft report summary.

Point 4 – Consumer Protections

We support the Commissions objective to improve the consumer protections, but are concerned that the focus on increasing the regulatory obligations of embedded network owners and operators will result in reduced savings (i.e. increased electricity costs) for occupants / consumers in these embedded networks.

The AEMC needs to consider that price is an important consideration for any consumer in the same vein as choice and access to competitive offers and other relevant consumer protections.

Point 12 – New Business Models and Page 3, Paragraph 5 of the Draft Report

The AEMC needs to consider the positive aspects of the provision of metering and other electrical infrastructure by third parties to the developer. This can have a positive effect by reducing the capital cost of developing the apartments, thereby improving affordability as developers compete to sell their properties in a price driven market. This also has the effect of reducing ongoing costs to the Body Corporate / Owners Corporation (i.e. reduced maintenance costs) and ultimately the individual apartment owner or occupant.

The AEMC has also raised the issue of cooling or heating of water using electricity or gas and being sold as ‘bulk hot water’ or ‘chilled water’.

These providers are taking on the initial capital cost and ongoing maintenance of providing the centralised hot water plant or chilled water (air conditioning) plant. Any cost to the end user is therefore a combination of the energy used to produce the heating or cooling, as well as the recovery of the capital and maintenance costs. It is a service, not a source of energy.

The application of standardised conversion factors would be extremely complex and impractical due to the various energy sources and type of heating or heating or cooling equipment. For example an electric heat pump hot water system will have much lower energy costs, but higher capital costs compared to a gas or electric element centralised system. If the AEMC only allowed for the recovery of the energy used, then the use of more energy efficient system could be significantly impacted.

Points 16, 17 and 49 to 52

The AEMC needs to adopt a simpler billing arrangement (in particular the network tariff charges) to enable customers within an embedded network to access the market, rather than the prosed arrangements through the ENSP.

The current arrangements in place where a customer in an embedded network needs to seek an energy-only arrangement from a retailer of choice, and then be billed separately for the network charges by the embedded network owner/operator is obviously not working. The larger Tier 1 retailers appear not to have the capability nor the flexibility in their billing systems to implement this type of arrangement for small consumers.

The AEMC could consider a simpler arrangement to net out the data (real time) for any embedded customer so that a retailer can bill the customer for all components of the electricity consumed. Consideration may be given to allowing for a standardised internal loss that could be applied (uplifted) to the embedded customer’s data (e.g. 1-2%) to cover any losses within the embedded network. The embedded network owner would then be billed for the balance used within the embedded network.

While some embedded network owners will argue for higher loss factors, all electrical installations installed to the relevant Australian Standards should have electrical infrastructure in place to limit the losses to a relatively small amount.

This would simplify the process for both retailer and embedded network owners to allow for a more open access to customers within an embedded network, without the need for the involvement of the ENSP in the billing of the network charges.

While there may have been some concerns about a simplified approach like this, it would ensure embedded network owners or operators provide market competitive arrangements for customers within embedded networks, or face losing customers at a more rapid rate.

Point 18 and 19

We feel any shortcomings in consumer protections and the current compliance and monitoring regime could be addressed by changes to (strengthening) the current AER Exemption Guidelines and requiring all embedded network owner / operators (e.g. retailers, billing agents) to provide compulsory reporting to the AER.

The increased reporting obligations by all parties would result in a lower increase in cost to the industry participants than implementing the broader changes to the regulatory framework.

Point 22, Bullet Point 2 – Regarding Extension of NEM Metering Arrangements

We support the requirement for all new (greenfield and retrofitted) embedded networks to have NEM approved metering, and for all existing embedded networks to transition to NEM approved metering over time.

The AEMC needs to consider the size of the task in registering all embedded network customer meters in MSATS and perhaps consider a progressive approach such as:

- Registration of all new embedded network meters in MSATS
- Registration of all existing embedded networks with NEM compliant metering
- Transition all other existing non-compliant embedded network meters as they are upgraded to NEM compliant metering (the AEMC may choose to put a timeframe on this, e.g. over a 5 year period)

Point 22, Bullet Point 3 – Narrowing Exemptions

If the current exemption frameworks are to be narrowed, has the AEMC conducted and assessment of the costs of registration as an ENSP for the ‘average’ Body Corporate or Shopping Centre owner.

Point 30 – Proposed Transition for Legacy Embedded Networks

Refer to points 67 and 68 for comments.

Point 35 – Registration of ENSPs

The AEMC defines an embedded network as a distribution system, connected at a parent connection point to either a distribution system or transmission system that forms part of the national grid, and which is owned, controlled or operated by a person who is not a regulated network service provider.

Does the AEMC considered an embedded network only where there is a parent meter installed as opposed to the definition of a parent connection point?

Irrespective of this definition, many aspects of the proposed ENSP role would or could apply to any embedded network with or without a parent meter. This would include many residential, commercial or retail properties where all residents or tenants currently are on market customers, however the network is owned and operated by the building or property owner.

Is the AEMC proposing the adoption of the ENSP across all embedded networks, irrespective of whether there is a parent meter or not?

Our view is that with the increased knowledge of the extent of embedded networks may provide existing LNSPs with more knowledge and a greater understanding of the customers within embedded networks in their jurisdiction. This could lead to the introduction of alternative network tariffs for individual customers within an embedded networks instead of applying the same tariffs that apply to an individual standalone customers.

Embedded networks are primarily driven through the lower network charges applicable to the parent connection point (as compared to the sum of the individual embedded network meters) so perhaps the LNSPs need to consider providing cost reflective network pricing to customers within embedded networks.

Points 36 to 39 – Increased Costs Through Implementation of Changes

Having reviewed the proposed changes, it is an absolute certainty that these changes will increase the costs to a large number of existing embedded networks, in particular for any residential Body Corporate on-selling to occupants. The majority of these arrangements also includes the engagement of a Billing Agent.

This type of arrangement is not profit driven and therefore delivers significantly lower electricity costs for residents / consumers compared to embedded network operated by an authorised retailer.

While the AEMC acknowledges that the costs to the embedded network businesses may increase, their view that the price to embedded network customers may come down due to competition is in our opinion highly unlikely within Body Corporate managed arrangements.

The new regulatory framework is effectively forcing Bodies Corporate to use larger authorised retailers to operate the embedded works, penalising consumers in smaller developments that could otherwise benefit from an embedded network arrangement.

Our experience is that the larger authorised retailers have only passed on smaller discounts to the occupants / consumers in residential embedded networks. They are really only competing with electricity costs (i.e. discounts) applicable to individual, standalone customers and not offering pricing or discounts reflecting the lower costs available through an embedded network, i.e. from the savings in network charges.

Point 40

What size development has the AEMC estimated would be the cut off for the establishment of an embedded network under the expanded regulatory framework?

Point 43 to 48 – Registration and Exemption

The AEMC needs to consider the large number of current exempt residential embedded networks that would be severely impacted by the removal of the existing exemption framework, either as part of these proposed changes or at some stage in the future.

We acknowledge the requirement for increased obligations on the exempt entities and their engaged service providers, however removal of the ability to hold an exemption will only increase the costs to potentially over 100,000 customers currently enjoying lower electricity costs compared to the typical small electricity market customer.

Point 49 to 52

See earlier comments with Points 17 and 19.

Points 59 to 62 – Monitoring and Compliance

We support an increased reporting, monitoring and compliance regime that includes all embedded network owners / operators (including retailers and Billing Agents).

Points 66 and 67 – Legacy Embedded Networks

We can't comment directly on the costs that may be incurred as a result of implementing these changes (not being a service provider for these specific services), however as a guide to the additional costs associated with the implementation of the Embedded Network Manager role, the introduction of the requirement to be a registered ENSP could see additional costs in the order of \$20 to \$40 + GST per annum for a customer. Larger embedded network may see a lesser increase.

In moving any of the existing embedded networks to the new arrangements we see the implementation of the ENSP and or some other arrangement to provide an easier path for customer to access competitive offers as an important step.

However in the case of many exempt Body Corporate embedded networks, we would like to see the ability for a Body Corporate to retain the exemption, albeit at a higher level of compliance to include improved reporting, monitoring and consumer protections including access to an Ombudsman scheme.

Rather than impose the requirement for transitioning these existing sites to an authorised retail, the AEMC may consider the need for existing Billing Agent companies to be registered with the AEMC or AER as approved service providers for these exempt on-sellers as an alternative.

This will see many thousands of customer continue to benefit from low electricity charges and not be significantly impacted by these changes.

If any clarification of these comments is required, please contact Stuart Hoffman via email stuart@energyoptionsaustralia.com.au or mobile 0418 154 123, or myself.

Sincerely



Andrew McNair
Principal Consultant