



14 March 2019

Ms Anne Pearson  
Chief Executive  
Australian Energy Market Commission  
PO Box A2449  
Sydney South NSW 1235

Dear Anne

**AEMC reference EMO0036 – Updating the regulatory frameworks for embedded networks**

Thank you for the opportunity to comment on the Commission’s draft report ‘Updating the regulatory frameworks for embedded networks’.

The Energy & Water Ombudsman NSW (EWON) investigates and resolves complaints from customers of electricity and gas providers in NSW, and some water providers. Our comments are informed by these complaints and from our community outreach and stakeholder engagement activities.

EWON broadly supports the proposed reforms outlined in the draft report. Our comments are focused on three key themes from the report: consumer protections, legacy embedded networks and a possible national framework for gas embedded networks.

## Consumer protections for embedded network customers

The majority of consumer protections within the NERL and NERR should apply to customers within embedded networks. This objective will be primarily achieved by requiring embedded network operators to register as Embedded Network Service Provider (ENSPs) and by requiring on-sellers to obtain a retail authorisation from the Australian Energy Regulator (AER) as an ‘off-market retailer’. Additional changes will accommodate the definition of designated retailer for a site, and the obligations flowing from shared customers and the tripartite relationship.

The AEMC proposes to:

- extend the metering framework in the National Electricity Rules (NER) to new embedded networks
- clarify the rules for network billing
- require MSATS registration of child connection points.

These changes should address the central barriers currently faced by embedded network customers wishing to access retail competition. However, even with these changes it is possible that an embedded network customer's access to retail competition may remain impractical. This consumer issue should be closely monitored after the new framework is in place.

EWON also supports the proposed changes to the National Energy Retail Rules (NERR) that prohibit:

- the de-energisation of parent connection points, except for health and safety reasons, an emergency warranting de-energisation, or the distributor has been directed to de-energise by a relevant authority.
- the use of pre-paid meters at parent connection points.

We also agree that AER should be able to exempt off-market retailers from the obligation to:

- not vary standing offers more often than once every 6 months.
- publishing variations of standing offers via newspaper.

We consider that these are the only two obligations within the National Energy Customer Framework (NECF) that are available for exemption.

## Legacy embedded networks

The majority of legacy embedded networks that supply residential customers should transition to the new framework. A two-tiered approach to regulating embedded networks would leave large numbers of residential customers with unequal consumer protections and increase confusion for consumers about their rights and entitlements.

### Residential park operators and retirement villages

The costs of transitioning some embedded networks, such as residential park operators or retirement villages, may in turn have adverse impacts on customers. For example, the cost of implementing the metering rules outlined in Chapter 7 of the *National Energy Rules* may be unmanageable for many existing residential park operators.

The current exemption framework does provide energy customers in residential parks with access to external dispute resolution through energy ombudsman schemes.

Accordingly, there may be merit in allowing any exempt entity currently registered as operating as a residential park or retirement village to remain under the current exemption framework, depending on the number of residents.

### Price regulation in embedded networks where access to retail competition remains impractical

Price conditions will remain critical in embedded networks where access to retail competition remains impractical for customers. EWON has managed complaints from customers living in embedded networks for many years. Based on this experience, it is our view that the current practice of using the local area retailer's standing offer is an ineffective price protection for

embedded network customers. We believe that the default market offer, currently being developed by the AER, will be a more appropriate safety net for embedded network customers going forward.

## A national framework for gas embedded networks

There is merit in consideration of a national framework for gas embedded networks.

### Complaints about common hot water services in residential buildings

EWON receives and investigates many complaints from customers living in residential buildings about the billing of gas associated with common hot water systems. Complaints from customers in apartments make up approximately half of the total retail gas complaints that EWON receives each year.

Customers in New South Wales with a hot water meter have historically been billed directly by their gas retailer. This is because the gas network operator has provided metering services for new buildings that install a central hot water system. In this situation, each individual customer is provided with a gas delivery point identification number administered by AEMO and must be billed for the gas used to heat the water, rather than the litres of hot water delivered to their home by the common hot water system. This means customers with a hot water meter have traditionally been covered by the consumer protections contained within NECF.

There are approximately 1.3 million households with a retail gas account in New South Wales and significantly fewer households whose gas connection includes a hot water meter. Yet EWON receives a disproportionately high number of complaints about the billing of common hot water systems:

Residential retail gas complaints	2015/16 FY	2016/17 FY	2017/18 FY
Complaints received by EWON	5,209	4,742	4,140
Complaints from customers in apartments	2,558	2,232	2,010
Common hot water complaints	576	489	492

Complaints about the billing of common hot water systems are frequently complex and difficult to resolve. Customers with common hot water bills will often complain about high bills, estimated readings, faulty meters, access issues, affordability problems and large back bills.

From 1 July 2020, Jemena Gas Networks is proposing to exit hot water metering for greenfield developments. This means that Jemena will only offer boundary metering for sites with centralised hot water. From this time, a central hot water service within a new greenfield development will be managed and billed by an embedded network provider.

In NSW, the selling of hot water within a strata development is unregulated. Hot water is an 'essential service', where problems of affordability, disconnection, or quality of supply significantly impact on households, particularly for families with young children and other consumers at risk of, or experiencing, vulnerability.

Serious consideration should be given to providing adequate consumer protections to customers in embedded networks receiving gas accounts associated with common hot water services.

## Complaints from embedded network customers about gas services

EWON also receives a small number of complaints from customers receiving gas and hot water services in residential buildings that are managed by embedded network operators. Customers complaining about embedded network hot water services experience similar issues to those customers that receive hot water services through their authorised gas retailer. We expect the number of complaints to increase as more exempt entities become members of EWON and their customers become aware of that.

The AEMC's draft report notes that where embedded network operators offer gas-related services to residential customers, these are often sold as a 'gas cooktop' service rather than a supply of gas per se. In such situations, the gas provided is unmetered.

Based on the complaints we have received, we also understand that where a customer is receiving an unmetered 'gas cooktop' service, they will be billed a daily service charge. In addition to this charge, the 'gas cooktop' service is frequently bundled with hot water consumption and service charges. Accordingly, any dispute that a customer has about their embedded network hot water service has the potential to also impact on the provision of any related gas service they receive.

Accordingly, it is critical that a national framework for gas embedded networks is established.

If you would like to discuss this matter further, please contact me or Rory Campbell, Manager Policy and Research, on (02) 8218 5266.

Yours sincerely



**Janine Young**  
**Ombudsman**  
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