

Project Reference EMO0036

Ms Sherine Al Shallah
Australian Energy Market Commission
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Sydney NSW 2000
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Dear Ms Al Shallah,

Our Energy Company Pty Ltd ('Our Energy') is pleased to make this submission to the Australian Energy Market Commission's ('Commission') *Draft Report, Updating the Regulatory Frameworks for Embedded Networks* ('Draft Report').

Our Energy was founded on the basis of three key principles: Customer First, Community Energy and Environmental Care. Our purpose is to empower customers with secure and affordable energy for the use, benefit, and development of communities through the development and operation of embedded network communities that utilise renewable energy solutions and smart data technology.

We understand the Commission's previous findings that the current regulatory arrangements for embedded electricity networks are no longer fit for purpose, resulting in some customers not being able to access competitive prices or important consumer protections. We also know that embedded networks which are operated with the right intentions present the opportunity to deliver significant benefits to energy consumers that they cannot receive in a standard supply arrangement.

Our concern is that the imposition of additional regulatory compliance costs will limit the benefits which are able to be passed on to customers in embedded networks. We support the transition towards a registration / authorisation requirement for retailers in embedded networks, and the protections which that will provide for embedded network customers. Wherever possible, however the additional compliance burdens proposed should not be triggered for embedded network owners/operators until necessary.

For example, the rules should contemplate, and support, the ability for a community of customers to come together under a 'community energy supply scheme' in which all customers freely elect to participate as off-market customers to receive the full benefits which are on offer to such a community. The customers would have access to retail consumer protections such as Ombudsman schemes through the registered retailer, however, the proposed compliance obligations, particularly around other market interface roles, should not immediately apply. If a member of the community chooses to enter into a direct retail arrangement and become a market customer, the obligations would only then be triggered (with a reasonable transition period). This way, the benefits can be retained by customers in the embedded network community rather than absorbed into the costs and margins of additional, otherwise unnecessary, commercial participants.

We note the Commission's view that consumer protections should be driven by the needs of customers and not the business model of suppliers, but caution that the imposition of regulatory frameworks don't stifle the ability of alternative business models to provide benefits to customers.

Our detailed comments on the Commission's Draft Report are provided in the following table (Attachment 1).

If you would like any further information with regard to the submission, please contact me at Jim@ourenergycompany.com.au or Mark Easton at mark@ourenergycompany.com.au.

Yours faithfully



Jim Chisholm
Managing Director
Our Energy Company Pty Ltd

ATTACHMENT 1 – Table of Detailed Comments

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<p>Under the proposed framework, customers in new embedded networks which are registered with AEMO will be retail customers, supplied by either an authorised on-market NEM retailer or an authorised off-market retailer.</p>	<p>As a matter of clarification, an authorised NEM retailer should be able to sell electricity to off-market customers in an embedded network without the need to apply for any other retailer authorisation or exemption. For example, a NEM retailer may offer an embedded network retail product which is available to off-market customers.</p> <p>In this case the retailer would, as a minimum, comply with consumer protections and other requirements applicable to embedded network customers. Alternatively, the market retailer would apply a consistent consumer protection framework to all of its customers.</p>
<p>Consequently, the Commission is keen to receive feedback from stakeholders on:</p> <p>...</p> <ul style="list-style-type: none"> • appropriate criteria for determining which legacy embedded networks should transition to the new framework <p>...</p>	<p>Consistent with the existing triggers for the Appointment of an Embedded Network Manager, embedded networks with less than 30 customers should not be required to transition to the new framework, unless a small customer in the embedded network enters into a market retail contract. Further, Our Energy considers that the cap of 30 customers should be removed such that if all customers in any embedded network elect to remain off-market, then there is no demonstrated need for transition. In new embedded networks, this should not trigger the requirement for the appointment of any market interface roles. Should a trigger event occur, a period of 12 months should be provided for transition.</p>
<p>NEM retailer: An authorised retailer that purchases electricity in the NEM and sells it to a customer, including to an embedded network customer.</p>	<p>Clarify the definition of NEM retailer as follows:</p> <p>NEM retailer: An authorised retailer that purchases electricity in the NEM and sells it to a customer, including to an embedded network customer, who may be either an off-market embedded network customer or an on-market embedded network customer.</p>

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<p>BOX 3: MARKET ARRANGEMENTS IN EMBEDDED NETWORKS – SUMMARY</p>	<p>There box outlines two possible arrangements for customers in embedded networks: off-market and on-market arrangements.</p> <p>Our Energy believes that at a minimum, a third arrangement must be catered for, which is a variation of the Off-market arrangements.</p> <p>Off-market arrangements (2)</p> <p>Under this arrangement, the exempt network service provider is responsible for metering.</p> <p>The exempt network service provider engages a NEM retailer to provide retailing services, including the sale of energy to consumers within the embedded network under an off-market arrangement (e.g. the sale of electricity is provided under a energy retail product which delivers benefits to customers which are available in an embedded network).</p> <p>This type of arrangement is known as off-market activity because there is no financially responsible market participant (FRMP) registered at the customer’s connection point and the customer’s metered electricity consumption is not settled in the NEM.</p> <p>Instead, total consumption for the entire embedded network is metered and settled in the NEM based on the metered consumption at the parent connection point.</p>
<p>Note to figure 3.1 Note: This diagram simplifies the relationships for illustration. The NEM retailer can also serve off-market customers in the recommended framework.</p>	<p>This note supports Our Energy’s comments above. However, this doesn’t appear to be clearly reflected in the descriptions of the roles in Box 7.</p>
<p>Box 9: ENSP Functions and Obligations The ENSP will be required to register with AEMO. The entity that registers as an ENSP may also register as an off-market retailer.</p>	<p>An off-market retailer can be registered as an ENSP. Can a NEM Retailer also be registered as an ENSP?</p>

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<p>The Commission recommends that individual exemptions be subsumed through the process of registering ENSPs. That is, a network service provider for an embedded network that would, under the current framework, require an individual exemption would be required to register with AEMO as an ENSP under the proposed framework.</p>	<p>Individual exemptions are generally for new and novel situations or where a variation of conditions is considered necessary and desirable. This would seem to be the type of situation where the costs of registration outweigh the benefits.</p> <p>Further, this should not be extended to individual exemptions which are required because it involves the conversion of a small brownfield embedded network if, but for the fact it is a brownfield conversion, would otherwise currently qualify as a registrable exemption.</p> <p>More broadly, consistent with earlier comments, the role of Exempt Embedded Network Service Provider should remain, and be available to a party providing services to an embedded network in which all customers have elected to remain off-market.</p>
<p>The Commission is interested in stakeholder views on whether:</p> <ul style="list-style-type: none"> • a class of off-market retailer should be included in the NERL and NERR; or • given the limited proposed differences between the rights and obligations of NEM retailers and off-market retailers, whether off-market retailers in embedded networks should simply be required to obtain a NEM retailer authorisation. 	<p>While there remains a difference in the obligations and requirements that apply to off-market retailers, the option should remain for a party to register as an off-market retailer. This presents the opportunity for a party to limit their compliance costs, and thereby be able to pass on those savings to customers.</p> <p>However, consistent with our comments above, a NEM retailer should be able to sell electricity to off-market customers without the need to apply for an off-market retailer authorisation.</p>
<p>The recommended framework includes a separate class of off-market retailer authorisation. This feature stems from the Commission's recommendation in the 2017 Review. However, the Commission has determined through this latest work that it would be appropriate to subject off-market retailers to virtually all the existing obligations imposed on NEM retailers. As such, the Commission would welcome feedback as to whether a separate authorisation class is justified, or whether any differences could be more efficiently handled through a single authorisation process and by exempting off-market retailers from any unnecessary obligations on an individual basis.</p>	<p>This is probably a question for the AER in terms of administrative ease. However, a single authorisation process which varies between market and non-market retailers only in terms of the applicable obligations would seem practical.</p> <p>For clarity this should also allow a party to nominate as both a market retailer and an off-market retailer, or specifically allow for a market retailer to retail to off-market customers on the basis of the subset of obligations which apply to non-market retailers.</p>

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	<p>This could be a standard part of every retailer authorisation. That is, the options for application are:</p> <ol style="list-style-type: none"> 1. Off-market retailer only 2. Market retailer supplying electricity only to market customers 3. Market retailer supplying electricity to market customers and to off-market customers.
<p>The proposed amendments to the NEL and NER include requiring most service providers servicing embedded network customers to register as ENSPs. The ENSP will be treated as a type of registered participant under the NEL and NERL, and required to comply with provisions applicable to network service providers where rules expressly provide so. This includes being subject to the AER’s monitoring, investigation and conduct powers, general information gathering powers, AER made or jurisdictionally applicable distribution service standards for ENSPs, AER reporting, the Ombudsman scheme requirements in the NERL, and obligations not to prevent or hinder access to electricity network services.</p>	<p>The requirement for an ENSP to register with AEMO is considered onerous for small networks. This will likely force many small embedded network owners to appoint an ENSP intermediary, adding to compliance costs (and ultimately the financial benefits which can be passed on to customers).</p> <p>The role of Exempt Embedded Network Service Provider should remain, and be available to a party providing services to an embedded network (of any size) in which all customers have exercised their choice to remain off-market.</p> <p>As a minimum, an exemption from the requirement to register should apply for embedded networks with fewer than 30 customers in which all customers have exercised their choice to remain off-market.</p>
<p>Electricity networks eligible for network exemptions under the current framework may incur minor additional costs in preparing applications for network registration with AEMO or exemption registration with the AER</p>	<p>The cost is not just in the application process. The additional cost to a small embedded network that is required to appoint an intermediary with market interface liability would be material, even if that market interface capability is not required because all customers choose to remain off-market.</p>
<p>The 2017 Review recommended that ENSPs be required to appoint an ENM for all new embedded networks to perform the market interface functions for embedded network customers.</p>	<p>New embedded networks (or, as a minimum, those with fewer than 30 customers) should not be required to appoint an ENM until an ENM conditions trigger is met. Specifically, an ENM should not be required</p>

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	<p>unless a customer wishes to be supplied under a direct arrangement with a market retailer that requires settlement in MSATS.</p>
<p>“As more embedded customers are likely to choose to go on-market with NEM retailers of their choice and be settled in the wholesale market ...”</p>	<p>While this statement is made in the context of access to data (which Our Energy supports in principle), the statement is consistent with the Commission’s apparent assumption that (all) customers will be better off if they choose to go on-market with NEM retailers. We understand that this assumption has been made based on certain evidence received by the Commission regarding inappropriate practices of some embedded network owners/operators.</p> <p>Our Energy stresses that care must be taken during this process not to make that assumption a ‘self-fulfilling prophesy’ by imposing regulation in such a way that eliminates many or all of the existing benefits which be delivered through an embedded network arrangement. This approach would penalise embedded network owners and embedded network communities who wish to do the right thing and work together to deliver lower cost, simple, environmentally friendly supply solutions.</p> <p>An embedded network operated by a party (e.g. by a body corporate) with the objectives of delivering shared benefits, and ethical service provision, to all embedded network community members should always be able to offer a better arrangement than the offer which can be made available to individual customers who are settled in the wholesale market.</p>
<p>The AER is of the view that network losses in a small exempt network will generally not be of sufficient magnitude to warrant calculating a DLF for child connection points within that network.</p>	<p>Our Energy agrees with the Commission’s view.</p>
<p>The Commission recommends that the role of the ENM be expanded by requiring an Exempt Network Service Provider to engage its ENM to provide network billing services.</p>	<p>An Exempt Network Service Provider should not be required to engage an ENM to provide network billing services in relation to on-market retail customers if the ENSP has the capability to deliver the services itself.</p>

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<p>Under the framework for embedded networks proposed in the current review, all child connection points in a new embedded network would be required to have a NMI and be discoverable in MSATS.</p>	<p>Consistent with comments above regarding the retention of ENM appointment trigger conditions, if an ENM appointment has not been triggered (for example if all customers in an embedded network of fewer than 30 customers elect to remain off-market) then there should be no requirement for the child NMIs to be discoverable in MSATS. This would create unnecessary administrative, compliance and cost burdens for no customer benefit.</p> <p>As noted above, it would also be preferable if the 30-customer cap was removed, such that neither an ENM nor any other market interfacing / market settlement roles are required to be appointed where all customers in an embedded network elect to remain off-market, regardless of the number of customers in the network.</p>
<p>Under Condition 7.2 of the AER’s Retail Exemption Guideline, the exempt seller must provide notice to the customer of any changes in the exempt customer tariff as soon as practicable, and no later than the exempt customer’s next bill. There are no specific publication requirements, such as requiring tariff changes to be published in a newspaper.</p> <p>...</p> <p>Consequently, the Commission recommends amending the NERL and the model terms and conditions for standard retail contracts in Schedule 1 of the NERR to exclude off-market retailers from the obligation to publish variations to standing offer prices in a newspaper.</p>	<p>Our Energy is supportive of this approach.</p>
<p>Off-market retailers will be required to purchase electricity from a NEM retailer at the parent connection point, likely through a market agreement. The NEM retailer at the parent connection point may vary the prices the off-market retailer is paying more frequently than once every six months under a market agreement. Consequently, the Commission considers it would be appropriate to allow the off-market retailer to vary its tariffs more frequently than once every six months.</p>	<p>Our Energy is supportive of this approach.</p>

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<p>An alternative to expanding the ENM role would be to transition exempt network service providers that have met a 'transition trigger' to the updated framework. This trigger could be prescribed in the NER and could, for example, be something similar to the existing trigger which requires an exempt network service provider to act as or appoint an ENM if a small customer in its embedded network enters into a market retail contract.</p>	<p>Our Energy agrees that the existing ENM appointment trigger could be applied as an appropriate transition trigger to the updated framework. An embedded network owner who has not been required to appoint an ENM should be entitled to remain operating under an exemption. The fact that no customers have elected to enter a direct market retail contract demonstrates a well-functioning embedded network.</p>