

16 May 2017



EnergyAustralia
LIGHT THE WAY

Mr John Pierce
Mr Neville Henderson
Dr Brian Spalding
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

EnergyAustralia Pty Ltd
ABN 99 086 014 968

Level 33
385 Bourke Street
Melbourne Victoria 3000

Phone +61 3 8628 1000
Facsimile +61 3 8628 1050

enq@energyaustralia.com.au
energyaustralia.com.au

Lodged electronically: www.aemc.gov.au
Reference: RPR0006

AEMC – Embedded Networks Consultation paper

EnergyAustralia is one of Australia's largest energy companies with over 2.5 million electricity and gas accounts in NSW, Victoria, Queensland, South Australia, and the Australian Capital Territory. We also own and operate a multi-billion dollar energy generation portfolio across Australia, including coal, gas, and wind assets with control of over 4,500MW of generation in the National Electricity Market (NEM) and an annual gas portfolio of over 100PJ.

We welcome the opportunity to participate in the AEMC's review of the regulatory arrangements for embedded networks. The emergence of new products and services is a major factor in the future of energy markets and offers significant opportunities for consumers. Innovation in the embedded networks space will provide greater consumer outcomes and the regulatory framework should support this innovation by ensuring national and regulatory consistency for energy sellers.

Summary

Embedded networks are increasing in importance and prevalence and challenge the ongoing relevance of a two-tiered regulatory system and its ability to promote and encourage competition. Currently consumers do not have transparency in the operation of different energy sellers and energy sellers are forced to compete under differing conditions.

The current framework is becoming a reactive patchwork of exemption categories with varying levels of regulation (consumer protections and reporting requirements), as traditional retailers become a smaller part of how consumers get their energy services. This can distort investment decisions and favour specific business models or technologies where they are subject to less regulation. We recognise however, that this is an outcome of legacy regulation where embedded networks were a small element of the market and regulators were keen to adopt a proportionate regulatory response.

The key points we wish the AEMC to consider during this review are the need for:

1. Competitive neutrality
2. National consistency and proportionality in regulatory requirements
3. Certainty for industry, consumers and regulators.

A nationally consistent and competitive neutral approach will avoid imposing further unnecessary regulations that can stifle innovation and competition. Consumers will be the ultimate beneficiary of effective competition.

Competitive neutrality

Competition in the retail space between traditional retailers and emerging business models is the best way to get optimal outcomes for consumers. But where regulation is used to provide consumer protection it should not advantage one form of service provision, business model or technology over another.

Consumers benefit not only when they can access competitive offers but also when they can make meaningful comparisons and have equal expectations of their energy sellers who operate in a certain regulatory environment. This can be achieved by having a flexible approach that allows the same minimum standards to apply to a seller of energy, regardless of their classification as an authorised retailer or an exempt seller.

Competitive markets facilitate the advancement of consumer preferences and new technology and should be relied on in preference to extensive regulatory frameworks. An important attribute of a competitive market is that energy customers are able to make informed choices about supply options that meet their individual circumstances.

The current regulatory framework is not fit for purpose and will remain reactive to emerging technologies and services which will become increasingly difficult to administer and monitor. Business models are evolving and exemption categories are being added reactively as this happens. Increasingly emerging players are competing to sell energy and other varied services, and traditional retailers are diversifying their service offerings to retain and attract consumers. For example, Origin and AGL applied for individual exemptions to operate under the Solar Power Purchase Agreements model.¹ These alternative selling models create the potential for regulatory arbitrage, which in itself may not always create market issues, but will undermine the relevance of the regulatory arrangements.

National consistency

There needs to be national consistency for retailers to ensure effective competition and appropriate protections for consumers. In the first instance, exemption categories across the NEM need to be aligned. Misalignment across the NEM imposes additional compliance costs on new entrants as well as existing businesses while undermining the development of innovative approaches to the supply, sale and generation of energy. For example, the Victorian government is considering further changes to the General Exemption Orders and the adoption of new licence categories. Businesses are less likely to invest or

¹ AGL Energy Services Pty Ltd, Origin Energy Retail No 2 Pty Ltd

innovate in uncertain regulatory circumstances and it is ultimately the consumer that is disadvantaged by these delays, lack of investment, innovation or competition.

We note that the forthcoming embedded networks manager role under Power of Choice metering changes (POC) indicates that innovation can be encouraged by competition. However, the widening gap between Victoria and other NEM jurisdictions will continue to impact energy seller's ability to compete and operate across various jurisdictions.

Consistency for energy sellers

There are an increasing number of alternative selling models including embedded networks, to traditional retailers and we expect that this will continue to grow. This will continue to add to the confusion of consumers about their access to protections. However, we note that the role of embedded networks manager under POC is an important step in encouraging innovation and competition and ensures that customers in embedded networks have access to appropriate protections. Some areas we believe would benefit from consistency across energy sellers include:

Dispute resolution processes - including consumer access to Ombudsman schemes – which we consider needs further review by regulators. Embedded network customers have varying rights to accessing ombudsman assistance, and exempt sellers do not need to comply with the ruling of the ombudsman as they are not a member of the scheme.

Further, while exempt sellers must provide information to customers, in writing, about their dispute resolution procedures, there is no formal monitoring of this to ensure they provide adequate or effective information.

If customers in embedded networks have access to alternative dispute resolution, including ombudsman scheme, then it will be important to revisit the constitution of these schemes to ensure that all participants are providing for the ongoing costs of these services.

Pricing information – While there should be consistency in the type of information provided to consumers, we are concerned that prescriptive regulation or product and price features can restrict innovative solutions thereby disadvantaging consumers. Regulation around product offers is also becoming less manageable as more consumers receive energy services from exempt sellers. More innovative offers can include subscription type offers where customers do not face volume risk (i.e. they can consume as much energy as they like for a fixed fee) or one that enables customers to benefit from changes to their consumption profiles. Instead of any type of product or price regulation, we believe that better consumer outcomes will be achieved by competition and reducing barriers to switching by consumers and encouraging consumers to shop around and compare offers. This can be facilitated by mandating metering requirements which is discussed below.

Metering requirements – Legacy metering infrastructure effectively creates a cost barrier to providing services to customers in existing embedded networks without capex to upgrade existing metering. Policymakers could consider mandating that all electricity meters should be market-compliant, communications-enabled meters as this would reduce several barriers to entry to managing existing embedded network sites. This would enable customers in embedded networks to access a broad range of competitive

retail offers. However, this is easier to achieve for new sites. Over time, we expect competition – and improvements in metering technology and reductions in cost – will encourage service providers to incorporate market-compliant, communication-enabled meters as part of their service offering.

This leaves the issue of incumbent sites and we note that mandating a full rollout to all existing embedded networks would be prohibitively expensive and would outweigh the benefits, at least in the short term. The costs of a conversion at a brownfield site would be aligned with market rates in the local distributor area but may also include a switchboard modification which adds expenditure to the project. The AEMC should explore this issue further to determine whether the benefits to customers in embedded networks of access to competitive retail offers would exceed the immediate implementation cost.

Customer assistance programs - We also note that there should be consistency in ensuring embedded network customers are informed of government rebates and payment assistance programs available to them as customers of traditional retailers are.

Reporting requirements – the above categories could be addressed with more transparent regulatory reporting requirements for exempt sellers. Currently, regulators and policy makers do not have access to sufficient information about the operation of new entities due to the absence of formal reporting requirements. Different reporting obligations makes it difficult for regulators to understand the cause or extent of issues across the diverse energy services portfolio. It also complicates reviews of competition where comparable data sets are not available for providers of the same product.

Summary

Consistency across energy seller's requirements and obligations will improve innovation and competition to the benefit of consumers. As competition is extended to all forms of energy sellers, the case for energy specific legislation becomes less important. It may become apparent with greater visibility of embedded networks and as their scales increase in the near future.

If you would like to discuss this submission please contact me at Kathryn.Burela@energyaustralia.com.au or on 03 8628 1728 or Melinda Green on 03 8628 1242.

Regards

Kathryn Burela

Industry Regulation Lead