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Dear Ms Reid

**Submission on the Draft Report:
Review of Regulatory Arrangements for Embedded Networks**

The Energy and Water Ombudsman (SA) Limited ("EWOSA") welcomes the opportunity to comment on the Australian Energy Market Commission's (AEMC) Draft Report on the *Review of Regulatory Arrangements for Embedded Networks*.

In this submission, the EWOSA primarily addresses matters that are specifically of interest to the EWOSA Scheme.

EWOSA is an independent Energy and Water Ombudsman Scheme in South Australia. It receives, investigates and facilitates the resolution of complaints by customers with regard to (*inter alia*) the connection, supply or sale of electricity, gas or water.

We generally agree with the AEMC that the current regulatory arrangements for embedded networks are no longer fit for purpose. We support elevating most new embedded networks into the national distribution and retail regulatory framework, as well as changes to regulatory arrangements for legacy embedded networks that would provide embedded network customers with better access to retail competition and customer protections, including the free, fair and independent dispute resolution services of an energy Ombudsman.

We also support improving the regulatory arrangements for gas embedded networks and making them consistent with the arrangements for electricity embedded networks, where possible.

The remainder of this submission provides details of our responses to the draft recommendations in the Draft Report.

Recommendation 1: Improving access to competition for customers in legacy embedded networks

We support the two main changes recommended in the Draft Report to improve the ability of customers within legacy embedded networks to access retail market offers. Importantly, these changes should improve the ability of retailers to identify customers within embedded networks and – in conjunction with some of the sub-recommendations under recommendation 3 – provide prices and offers which can be compared by those customers.

Recommendation 2: Elevating new embedded networks into the national framework

(a) (b) (e)

We support requirements that operators of new embedded networks become registered embedded network service providers with the Australian Energy Market Operator (AEMO) and/or authorised on-selling retailers with the Australian Energy Regulator (AER), unless they satisfy narrow sets of circumstances for exemptions.

We agree that registered embedded network service providers should have less onerous obligations than traditional registered distribution network service providers.

The recommended list of obligations in the National Electricity Rules (NER) that registered embedded network service providers would not be required to comply with – such as revenue and price regulation, some technical standards, connection services and ring-fencing guidelines – appear to be appropriate. Complying with these aspects of the NER would significantly increase the costs for new embedded network operators of becoming registered embedded network service providers. The costs to the AER of undertaking regulatory determinations for so many embedded networks would also be substantial.

While we believe authorised on-selling retailers should have fewer obligations than traditional authorised retailers under the National Energy Retail Rules (NERR) – given that the cost of meeting an obligation may outweigh the benefit – any list of a minimum set of obligations must be comprehensive and the relaxation of obligations should be the exception rather than the rule.

We agree with the four conditions initially suggested in the Draft Report. Importantly for EWOSA, this includes providing access to the dispute resolution services of an energy Ombudsman. However, we believe the minimum set of obligations should also include conditions on: billing and payment arrangements; tariff changes; information provision; customer hardship; undercharging and overcharging; concessions and rebates; and performance reporting.

Elevating new embedded networks into the national distribution and retail regulatory framework would enable customers of new embedded network operators to access the benefits of retail competition and many of the protections provided by the National Energy Customer Framework, including access to the dispute resolution services of an energy Ombudsman. This would also provide clarity and transparency for both customers and operators of new embedded networks, as well as the AEMO and the AER. Monitoring and compliance would also improve.

While we generally do not support changes to regulatory frameworks that are applied retrospectively, we believe the AEMC could give some consideration to elevating a limited range of legacy embedded networks into the national framework. This limited range would need to satisfy a number of conditions, such as size by number of customers.

The AER could be responsible for assessing applications of legacy embedded networks to become authorised on-selling retailers with reference to the above conditions, as well as the three entry criteria set out in the National Energy Retail Law (NERL): organisational and technical capacity, financial resources and suitability. If an embedded network operator did not satisfy these conditions, they could remain within the exemption framework for legacy embedded networks.

Such an approach could include existing embedded network operators that are of a similar size to small authorised energy retailers and enable their customers to benefit from better access to retail competition and the customer protections provided through the NERL and NERR. It could also be designed to capture specialist third-party energy on-sellers that act as agents for embedded network operators.

(c)

We agree that a registered embedded network service provider should be required to appoint an Embedded Network Manager (ENM) for all its embedded network connection points and with the requirements outlined for ENMs. This will extend the positive outcomes regarding access to competition likely to be achieved through the Embedded Networks rule to more customers located within embedded networks.

(d) (f) (g)

Regarding exemptions for new embedded networks, we agree that the NER and the NERR should be amended to provide improved guidance to the AER on the sets of circumstances that would satisfy a network exemption and/or a retail exemption, respectively.

We also support the NERL being amended to clarify that the purpose of retail exemptions are to address circumstances where the costs of retail authorisation, facilitating retail competition and retail churn would outweigh the benefits to customers, as well as where the need for regulatory oversight is low.

We agree this criteria would capture situations where energy is on-sold to: customers in short term accommodation; temporary construction services on the same or adjacent property; related companies or organisations on the same property; and large customers who would be in a position to negotiate their terms and conditions and also access retail market competition.

We believe that owners of caravan parks that on-sell energy to a small number of permanent residents should generally continue to receive a retail exemption, particularly if the better consumer protections for embedded networks contained in recommendation 3 are implemented.

We support the suggested exemptions for embedded network operators where the distribution network supplies electricity to: infrastructure; related parties such as subsidiary companies; and customers in temporary accommodation.

Recommendation 3: Better consumer protections for new and legacy embedded networks

Sub-recommendation (a) of this recommendation is:

“The AER, Ombudsmen and jurisdictional governments continue to develop required changes to the retail exemption guidelines and state regulations to increase access to independent dispute resolution services for exempt customers.”

We support the intent of this recommendation. However, it is also important that the AER's retail exemption guideline and network exemption guideline are consistent in their approach to embedded network customers having access to the free, fair and independent dispute resolution services of energy Ombudsmen and in particular give precedence to Ombudsman schemes as the primary external dispute resolution providers for all energy customers.

Further details on our views on embedded network operators becoming members of Ombudsman schemes and on access to the dispute resolution services of Ombudsman schemes for embedded network customers can be found in our submission on the Consultation Paper for this review and in our submission on the AER's Issues Paper: *Access to Dispute Resolution Services for Exempt Customers*.

We support the remaining sub-recommendations of recommendation 3, including:
(b) Jurisdictions considering options for improving awareness of entitlements and concessions and access to these for embedded network customers.

(c) Strengthening monitoring of embedded network service providers and exempt sellers by the AER, including greater reporting requirements for legacy embedded networks so that effective monitoring can take place.

(d) Reviewing the penalty amounts for infringement notices.

(e) Aligning enforcement options for network exemption breaches and retail exemption breaches, including breaches of conditions.

(f) Considering extending the requirement on designated retailers to provide a standing offer to include embedded network customers and assessing the costs and benefits of doing so.

(g) Amending the NERL and NERR so that retail customers in embedded networks have the same protections as standard supply customers, including both de-energisation and re-energisation rules and life support rules.

(h) Improving information provision, including regarding price information and the costs and benefits associated with when an energy consumer becomes a customer of an embedded network operator.

We also support the AEMC's analysis and conclusions regarding the current price regulations applying to exempt sellers and retailer of last resort obligations.

Recommendation 4: Improve regulatory framework for gas embedded networks

We agree with this recommendation, but have a preference that a regulatory framework for gas embedded networks – which should be consistent with the framework for operators of electricity embedded networks – be established under the National Gas Law and National Gas Rules, as well as the NERL and NERR, rather than through jurisdictional legislation.

Should you require further information or have any enquiries in relation to this submission, please email me at antony.clarke@ewosa.com.au or telephone me on (08) 8216 1851.

Yours faithfully



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