

17 October 2017

Mr John Pierce
Chair
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Review of Regulatory Arrangements for Embedded Networks – Response to Draft Report

Dear Mr Pierce,

Energy Networks Australia welcomes this opportunity to make a submission to the Australian Energy Market Commission's (AEMC's) *Draft Report on the Review of Regulatory Arrangements for Embedded Networks*.

Our Association represents Australia's energy grid supporting all Australian customers with over 900,000 km of electricity transmission and distribution lines and almost 90,000 km of gas distribution mains.

Energy Networks Australia agrees with the AEMC's finding that the current regulatory framework for embedded networks is no longer fit for purpose as it is resulting in some customers not being able to access competitive prices or important customer protections. We also agree with the AEMC's finding that there is a lack of clarity that embedded network operators are meeting their obligations as suppliers of an essential service.

Energy Networks Australia supports the AEMC's proposed draft recommendations for changes under the three following objectives:

- (a) *Improving access to retail market competition* in legacy embedded networks to the extent possible.
- (b) *Elevating embedded networks into the national regulatory and competitive market framework* under the National Electricity Rules (NER) and National Energy Retail Rules (NERR), which will involve significant reform of the two-tiered regulatory framework for new embedded networks arrangements and reserve network service provider and selling exemptions for a narrow set of circumstances.
- (c) *Better consumer protections for new and legacy embedded networks* including information disclosure; access to dispute resolution; improved monitoring and enforcement; and making the National Electricity Retail Law (NERL)/NERR effective for embedded networks for customers supplied by an authorised retailer.

Response to AEMC questions:

Energy Networks Australia responds to the AEMC's request for input on the following four questions below.

1. **The exemption process has flexibility, which has been utilised in new, innovative business models. The Commission has proposed moving some of this flexibility to the retailer authorisation process. Will the proposed approach allow an appropriate level of flexibility? What elements should be flexible in the authorisation process?**

Energy Networks Australia considers that embedded network businesses would be best placed to respond to this question.

2. **Of the current obligations on authorised retailers under the NERL and NERR, which should be included in the list of minimum obligations that would apply to authorised retailers supplying embedded network customers under the proposed framework?**

Current enforcement of conditions under the AER's *Electricity Network Service Provider – Registration Exemption Guideline* and the AER's *(Retail) Exempt Selling Guideline* is inadequate, given the AER's limited visibility of any non-compliances of exempt conditions. It is therefore important to strengthen compliance with and enforcement of the exemption conditions by:

- » embedded network customers having full access to jurisdictional energy ombudsman dispute resolution schemes; and
- » the AER considering its compliance regime for such conditions.

Dispute resolution

Energy Networks Australia supports the expansion of all jurisdictional energy ombudsmen schemes to include embedded network operators and energy on-sellers, including exempt parties paying an appropriate share of fees.

Hardship

Energy Networks Australia supports making full and complete information on any available concessional payments available to embedded networks customers at the commencement of their tenancy/residency. This is a current provision of Condition 2 of the AER's *(Retail) Exempt Selling Guideline*. The AER may need to reconsider the enforcement regime that is intended to ensure compliance with those conditions.

Energy Networks Australia also supports a comprehensive review of the current energy related consumer protection arrangements for reasons discussed in Chapter 4 of the Network Transformation Roadmap released by CSIRO and Energy Networks Australia in April 2017.

Reliability

Energy Networks Australia is concerned about aspects of consumer protection related to infrastructure service, performance and reliability. Poor reliability may be a sign of poor operation or maintenance of the embedded network.

Energy Networks Australia contends that energy infrastructure access within an embedded network should be considered an essential service and that customers within embedded networks be able to expect equivalent standards of infrastructure service including performance and reliability as customers on the shared network.

We also believe that embedded network operators be required to provide customers with information about the embedded networks reliability when commencing their tenancy/residency.

The AEMC should consider whether embedded networks of a significant size (more than a few customers) should be required to publicly report on network reliability.

Outages

Energy Networks Australia would strongly support the introduction of a requirement for embedded network operators to notify their embedded network customer when their Local Network Service Provider informs them of a planned outage notification.

Embedded network regulatory arrangements should provide greater accountability on embedded network operators and embedded network managers to provide a 24-hour contact number for enquiries, and to provide necessary information to facilitate safe energisations and exchange of metering.

Embedded network manager of last resort

Energy Networks Australia suggests that the AEMC consider whether there is a need for an embedded network manager of last resort role similar to the current retailer of last resort.

3. **The Commission has not recommended, at this stage, that consumer benefits be demonstrated to gain approval to establish an embedded network. This is on the basis that the regulatory framework is designed to promote efficient decisions. Do stakeholders agree?**

In Energy Networks Australia's opinion, the AEMC's review has not adequately considered whether the regulatory framework is currently driving efficient decisions with respect to the take up of embedded networks. When customers choose to move into an embedded network there might not always be appropriate information available on the relative costs of embedded network service provision compared to having a direct connection to a shared network.

Under the current regulatory framework, some distributors are required to charge postage stamp network charges on the regulated network. Embedded network service providers are not subject to this requirement and can therefore offer distribution services to customers at a lower price in some parts of the network, despite their underlying costs being higher than those of the regulated DNSP. These embedded networks are taking commercial advantage of the fact that they are not required to implement urban-rural cross-subsidies, as jurisdictional DNSPs are. The playing field is not level.

Energy Networks Australia does not consider that the current regulatory framework encourages efficient decision making regarding embedded networks. We suggest that the regulatory framework either needs to be modified (e.g. to enable regulated DNSPs to compete on an equal basis) or embedded networks should be subject to demonstrating that their establishment is consistent with the National Electricity Objective (NEO).

In some circumstances, privately build infrastructure in embedded networks might not represent the most efficient solution for a customer. The AEMC should consider whether the regulatory arrangements should allow all parties to compete to mitigate inefficient outcomes. This might include allowing all parties, including network businesses, to offer some or all components of embedded network infrastructure services to the owners of embedded networks.

4. Under the proposed framework, most new embedded networks involving permanent residential or commercial tenants would require the embedded network service provider to be registered and the on-seller to be an authorised retailer, while exemptions would be available in limited situations such as temporary supply and temporary accommodation. There may also be merit in allowing exemptions for small embedded networks such as caravan parks with a small number of permanent residents. Would a flexible authorisation process be able to have similar benefits and regulatory burdens as the exemption process? What types of embedded networks should continue to be able to obtain exemptions?

It seems likely that embedded networks, such as caravan parks, which provide low-cost accommodation to long-term residents, may not be in a position to pass on significant increases in cost resulting from increased levels of regulation.

Should you have any additional queries, please feel free to contact Kate Healey on (02) 6272 1516 or khealey@energynetworks.com.au.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "AD Dillon".

Andrew Dillon
Interim Chief Executive Officer