

2 July 2015

Ms Meredith Mayes  
AEMC Director  
Australian Energy Market Commission  
PO Box A2449  
Sydney South  
NSW 1235

## **Embedded Networks Rule Change Request ERC0179**

Dear Ms Mayes

Energy Action is Australia's largest independent provider of energy management services. With a diverse commercial and industrial client base ranging across all customer sizes and economic sectors we are commonly requested to assist our customers with a variety of regulatory and market related matters. Of particular interest to us is the evolving arrangements surrounding embedded networks. This has been an area where parties seeking to establish an embedded network, as well as customers of existing embedded networks, are commonly frustrated by the current regulatory arrangements. The proposal to reform the market rules surrounding embedded networks is therefore a welcome initiative.

Regarding the recently published consultation paper I would like to provide the following comments:

- Energy Action understands the potential for the establishment of Embedded Network Managers to improve operational arrangements surrounding embedded networks and is supportive of this approach in general.
- In order for the role of ENM to carry out its wider responsibility of facilitating opt-outs for embedded network customers we believe that a number of fundamental principles must be established prior to drafting the required rule changes. Whilst these principles are covered by the discussion paper we do not believe that they are all being properly reflected in AEMO's proposed drafting. Specific instances are provided in the following bullet points.
- In order for the role of ENM to be meaningfully contestable it is necessary for accreditation prior to commencement of the new rules to be available for all parties wishing to act in this capacity. We do not believe that it is sufficient for existing retailers and LNSPs to be deemed ENMs prior to the rule's commencement whilst this status is made unavailable to all other parties. If so implemented the existing retailers and the LNSPs would be placed in a position of distinct advantage with regard to parties yet to be accredited and that competitive advantage cannot be to the benefit of either embedded network operators or their customers. A more appropriate course would be for a realistic timetable for implementation of the accreditation process to be established whereby all parties would have equal opportunity to acquire accreditation prior to the rule's commencement.
- We note from the discussion paper that LNSPs shall be required to apply ring fencing to their ENM activities yet no such requirement is proposed for the retailers. This is somewhat odd particularly as the retailer will have its own commercial interests which may be in conflict with facilitating customer opt-outs where the incoming retailer is other than that holding the role of ENM. Where existing retailers act in the position of ENMs ring fencing should apply.

- The timeline for implementation appears to be excessive. Whilst we see some sense in making this rule's commencement coincident with that for the Expanding Competition in Metering and Related Services rule change it should not be taken as a given that earlier commencement is impractical. Once the rule change process for the Competition in Metering submission is completed we would then expect full consideration to be given to the earliest practical commencement of the ENM rule. With a potential commencement date of July 2017, we are of the opinion that two years is too long to wait and we would hope for a much earlier implementation to minimise the continuing issues arising from arrangements as they currently stand.
- In addition to the excessive lead time to implementation, the proposal to grant existing embedded networks a further two years to appoint an ENM would mean that current customers of embedded networks may have to wait up to four years before being guaranteed effective choice of retailer. With the new rule likely to be published early in the fourth quarter of this year we believe that a July 2016 commencement date should be targeted with possibly a six months grace period for existing embedded networks to comply.
- Finally, we believe that continuation of the current arrangements surrounding embedded networks for as long as is proposed may result in increasing applications for retail licences. These may come from companies that have no interest in retailing other than to gain access to the required systems to allow them to conduct their businesses effectively as embedded network service providers. They should not have to resort to obtaining a retail licence in order to do this. Were a more appropriate commencement date for the ENM rule change to be established much wasted effort would be avoided on behalf of both embedded network service providers and the AEMC. This is a serious consideration of how the timing window will force an increased level of take up and administration related to retail licenses.

We look forward to publication of the AEMC's response to this call for submissions on the proposed rule change and please feel free to contact me to discuss any of the points that I have raised here if necessary.

Kind Regards

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