



EnergyAustralia

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Australian Energy Market Commission
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Draft Rule Determination – Contestability of energy services

EnergyAustralia welcomes the opportunity to comment on the Australian Energy Market Commission's (the Commission) Draft Determination on rule change proposals by the COAG Energy Council (COAG EC) and the Australian Energy Council on the contestability of energy services. We are one of Australia's largest energy companies, with over 2.6 million household and business customer accounts in NSW, Victoria, Queensland, South Australia and the Australian Capital Territory. We also own and operate a multi-billion dollar portfolio of energy generation facilities across Australia, including coal, gas and wind assets with control of over 4,500MW of generation in the National Electricity Market (NEM).

We are also a member of the Australian Energy Council (AEC) and contributed to the development of the rule change proposal. Therefore, we have a keen interest in this process and support a regulatory framework that encourages the development of effective competition in the market for emerging services and technologies.

Support for the Commission's draft determination

Technological change is fundamentally altering how services are delivered to end use customers. Moreover, technologies can be deployed in multiple ways, offering wholesale market benefits while also enhancing the delivery of safe and reliable network services. This means the division between competitive and network services is increasingly blurred. Regulators must ensure the regulatory framework is fit for purpose and encourages market participants to delivery efficient and customer focussed services, rather than limiting how assets and technologies are utilised.

We are seeing numerous initiatives that draw on behind-the-meter (BTM) technologies to deliver value to customers. These are emerging with the falling costs of new technologies and in response to price increases or sharper price signals. We have recently observed Greensync announce the creation on a decentralised energy exchange (or deX) in the United Energy distribution network in Victoria. The deX will open the door for individuals with solar panels and batteries to trade their electricity with other electricity consumers.

EnergyAustralia is also active participant in these markets. In October last year, we announced a partnership with solar and battery inverter system developer, Redback Technologies. This partnership shows how we're investing in the development of reliable, affordable and cleaner technology which puts the customer in control of their energy consumption. The Redback Smart Hybrid Solar Inverter system combines a smart solar inverter, battery enclosure and 'intelligent' energy management software into a seamless package. The technology allows customers to decide how they use, save and even sell energy captured from their roof-top solar panels, from a smartphone.

EnergyAustralia has also teamed with Tesla Energy to offer customers the Powerwall battery storage system. This allows customers to store energy from their solar panels when the sun is shining or from the grid when rates are low, so they can use the stored power at night, or at some other time.

It is difficult to see how these markets will reach their full potential if distribution networks (i.e. regulated monopolies) can own BTM assets that could generate benefits across the broader supply chain. It is highly likely that networks would prioritise network operations at the potential expense of other benefits; the value of such assets is reduced if they cannot capture all possible benefits. Direct network ownership is unlikely to deliver services at least cost and could severely limit the ability of consumers to use BTM assets for other, potentially more valuable purposes. For example, to lower other supply chain costs in retail or wholesale, or to provide additional functionality to consumers, such as being able to control their air conditioner settings and optimise the use of their own solar PV generation.

Therefore, EnergyAustralia welcomes the Commission's draft determination on the contestability of energy services.

The Commission is clearly aware that emerging technologies can deliver a broad range of benefits to various market participants and that this extends beyond network benefits. The conclusion the Commission reached in the Distribution Market Model review was that the wholesale market benefits of distributed energy resources could exceed network benefits in many instances.

This Draft Determination clearly outlines the reasons for the Commission's decision and we support its analysis and conclusions, particularly its view that the proposed rule will:

- Facilitate efficient competition. In particular, we agree with the Commission's statement that: 'Given the merging state of the energy services market and the possibility that it will grow to include as yet undefined services, the Draft Rule enshrines the principle that open contestability and competition as the most efficient way of discovering and valuing new services.'
- Balances the development of energy services market with the need for networks' service discretion.
- Provides clarity, transparency and regulatory predictability on service classification.
- Provides a balance between responsiveness and regulatory and administrative burden.

The Draft Determination also complements other recent initiatives, such as:

- the Commission’s final determination on replacement expenditure planning arrangements for electricity network service providers;
- the Commission’s requirement for distribution networks to annually complete a ‘system limitation report’ (as an alternative to the Local Generation Network Credit proposal); and
- the Australian Energy Regulator’s (AER) forthcoming ring-fencing guideline for distribution network.

Chapters 4 and 5 of the Draft Determination offer a comprehensive discussion of the rationale for the Commission’s decision not to amend the definition of distribution services. We support the Commission’s approach, noting its policy objective is effectively the same as that of the COAG EC and AEC’s rule change proposals. We also support the decision to amend the framework to prohibit network ownership of assets on the customer’s side of the connection point as the starting point, and that networks should seek exemptions for ‘incidental arrangements’.

Exemptions

The Commission states that networks must provide an assessment of the likely impacts on competition in markets for energy related services when applying for an exemption. We look forward to contributing to the AER’s Asset Exemption Guideline ahead of its finalisation by 20 September 2018.

The Draft Rule reflects a presumption that competition will deliver contestable energy services at lowest cost. Therefore, networks should be obligated to demonstrate how they have considered the short and longer-term effects of any exemption on competition and explain how they have reached their conclusions. We note comments from some networks that competition takes some time to develop, particularly in regional areas but we believe that networks must provide evidence that they have tested the market. This must be a meaningful assessment.

In the context of this rule change proposal, networks have a clear incentive to overstate the costs of restrictions on direct ownership of BTM assets, such as efficiency losses and transaction costs. However, we see few genuine obstacles to market participants who specialise in specific products and services negotiating with each other to reach mutually beneficial commercial arrangements. For example, networks can provide incentives to retailers or other providers to install or provide network services from BTM assets. This is already readily achievable through incentive payments or special network pricing arrangements. Additional types of incentives could evolve too.

The regulatory framework for distribution networks is set up in such a way as to encourage efficient service provision and some networks argue there are economies of scale or scope if they can provide a range of services. However, the regulation of monopolies remains an imperfect model that can only seek to replicate the incentive effects for firms to operate efficiently within a competitive market.

Other elements of the rule change proposal

We acknowledge the Commission’s reasons for not accepting the AEC’s recommendation to change the RIT-D and planning framework, or to introduce new principles cost allocation, on the following grounds:

- That the issues are less material in light of the proposed rule change.
- That these changes are designed to address perceived biases in the existing framework and are separate from the need to accommodate services behind the meter.

In our view, these elements of the regulatory framework for distribution are equally important and worthy of close consideration. In addition to the returns available to network investment, they are an important determinant of networks' investment decisions, particularly decisions about capital expenditure (to alleviate an emerging network constraint, for example).

Therefore, we welcome the Commission's commitment to review the incentive framework as part of its *2018 Electricity Network Economic Regulatory Framework Review*. This review will also provide an opportunity for the Commission to consider any issues emerging out of the AER's ring-fencing guideline, which comes into effect on 1 January 2018. It may necessary to consider additional powers for the AER to investigate or act on network activities that are inconsistent with the policy intent.

Other matters

Finally, we agree with the Commission's analysis of the need for greater clarity in the regulatory treatment of different energy services (i.e. whether services should be regulated or delivered through competitive markets) given the rapid evolution of the energy market. The Commission's decision to require the AER to develop, publish and maintain a distribution service classification guideline to inform service classification at the start of each regulatory period will provide certainty for all market participants, competitive and regulated monopolies alike.

We acknowledge the concerns of some stakeholders – distribution networks, in particular – about the consequences of reclassifying services within regulatory periods, even though the regulatory framework needs to be flexible to account for technological change. This would create considerable uncertainty for networks about their investment plans and how they might recover efficient costs. Therefore, we support the Commission's pragmatic approach to lower the threshold for reclassification between finalisation of the framework and approach and a regulatory determination to account for a 'material change in circumstances'. This might be a significant technological development or new product that offers both wholesale and network benefits.

Should you require further information regarding this submission please call me on (03) 8628 1242 or Samantha Nunan on (03) 8628 1516.

Yours sincerely

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