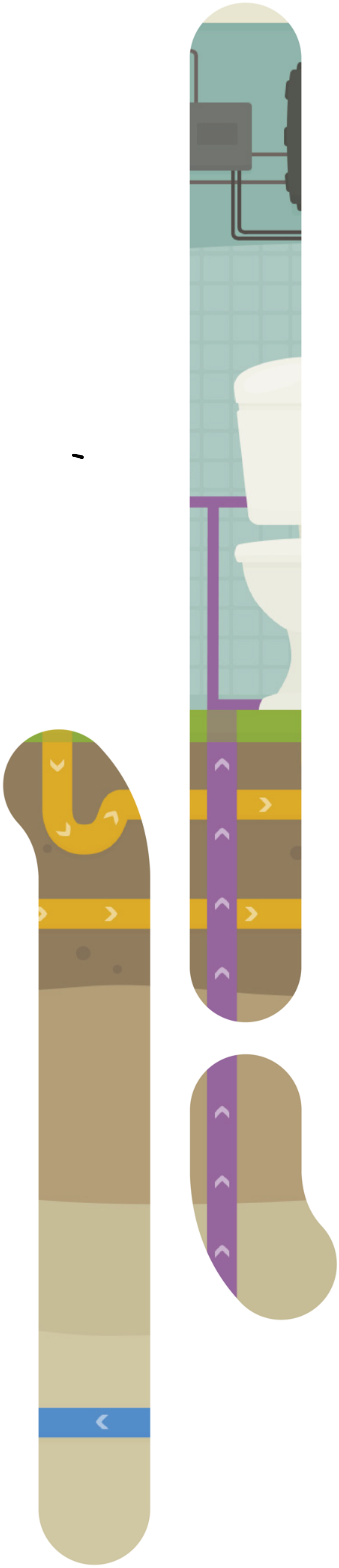
flow

Australian Energy Market Commission

Review of regulatory arrangements for embedded networks Draft Report

17 October 2017



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Flow is a multi-utility specialising in the design, construction, operation and retailing of local sustainable water and energy utility infrastructure and associated services. Flow is a Brookfield company and values the opportunity to comment on the Australian Energy Market Commission (AEMC) Draft Report into regulatory arrangements for embedded networks.

Executive summary

Flow welcomes the opportunity to respond to the AEMC's Draft Report of the ***Review of Regulatory Arrangements Embedded Networks.***

While Flow believes some of the current regulatory framework is not fit for purpose and needs amending to improve customer protections and competition, the AEMC's proposal to close exemption schemes entirely will create significant perverse outcomes for both customers and embedded network operators – including next generation local providers essential to more affordable and resilient energy services. The current Draft Report will likely result in reduced customer choice and will inevitably increase costs to the end user - the opposite outcome sought by the AEMC.

Flow is particularly concerned about the publication of off-market meters in MSATS. This will decimate the economic viability of embedded networks because it will exacerbate current unfair practices by large monopolistic tier 1 energy retailers. Any impact on the economic viability of embedded networks creates a negative domino effect on local precinct generation and multi-utility service offerings which are critical to delivering more sustainable, affordable utility services for customers while simultaneously creating downward pressure on bills. Bundling local water and telco services with energy allows for significantly more competitive prices for customers and additional benefits such as annual dividends or returns or community ownership models. These new approaches to energy management must not be thrown out as a result of these Draft Report recommendations.

Key issues

Flow's suggestions to improve and strengthen the proposed changes in the Draft Report are outlined in the Recommendations section below. However, there are several unintended consequences, Flow would like to illustrate.

1) Embedded generation

The AEMC draft report, section 7.5.1 (Embedded Generation) recognises that the LNSP becomes involved in financial transactions for energy that does not physically pass through the LNSP's network. The draft report fails to recognise that any on-market retailer will also become involved in financial transactions that are not legitimate. For example, an on-market NMI will record electricity consumption that will be transacted via the electricity spot market, however, in the case of embedded generation, electricity consumption recorded by the on-market meter will likely have been supplied, in whole or in part, by the local embedded generation asset. The AEMCs draft report states that:

"...avoiding this would be necessarily complex and we think that that the costs of doing so and the negative impact on competition would likely outweigh the benefits."
Source: Draft Report, review of regulatory arrangements for embedded networks section 7.5.1

Flow does not accept the AEMCs conclusion that the cost would have a negative impact on competition. Local embedded generation can lower prices to consumers, increase resilience, improve sustainability and significantly lower fixed capacity charges from LNSPs.

Failing to address this point will undermine investments in improved technology, designed to improve services and lower prices to consumers. The risk is further exacerbated by the AEMC's draft report recommendations that off-market NMIs be recorded in MSATS.

2) Publication of off-market meter information in MSATS

The AEMC draft report recommends that off-market meters be assigned a NMI and information be published on MSATS. Whilst we support open data and increased access to market offers, Flow strongly believes that the publication of off-market meters on MSATS will open embedded networks to unfair predatory marketing practices currently utilised by tier 1, and some tier 2, energy retailers.

The AEMC's draft report fails to recognise that tier 1, and some tier 2, energy retailers are legacy beneficiaries of incumbency complacency. Tier 1 retailers, in particular, benefit from significant scale awarded to them through former government ownership and privatisation principles. Local embedded network owners are unable to compete with these retailers from an exposure and marketing spend perspective, but are able to compete (often overwhelmingly) on price, terms and service.

Flow recognises that consumers should have absolute freedom to choose a retailer and product, without pressure or barrier to their choice. However, the well-funded marketing tactics and predatory behaviour of some retailers means consumers are likely to be coerced into choosing a retailer and product prior to the consumer coming into contact with the embedded network operator.

Most scenarios result in the customer signing up prior to moving in, support this conclusion:

- Customer moves out of non-embedded network, existing retailer sells new service on move-in offer.

- Real estate agent is channel for retailer, move-in customer connected to real estate agent's preferred retailer prior to move-in.

- Customer seeks new retailer based on market 'discounted' offer. Discount offer appears attractive, but rates and conditions are high, offsetting consumer savings. Occurs prior to customer's knowledge of embedded offer.

In all of these scenarios, the consumer's choice occurs prior to the section 2 of the exemption guidelines coming into force (provision of information). Flow supports informed consumer choice, with a strong emphasis on "informed". Flow believes the AEMC should include additional measures to ensure consumers are properly and fairly informed of the choices available.

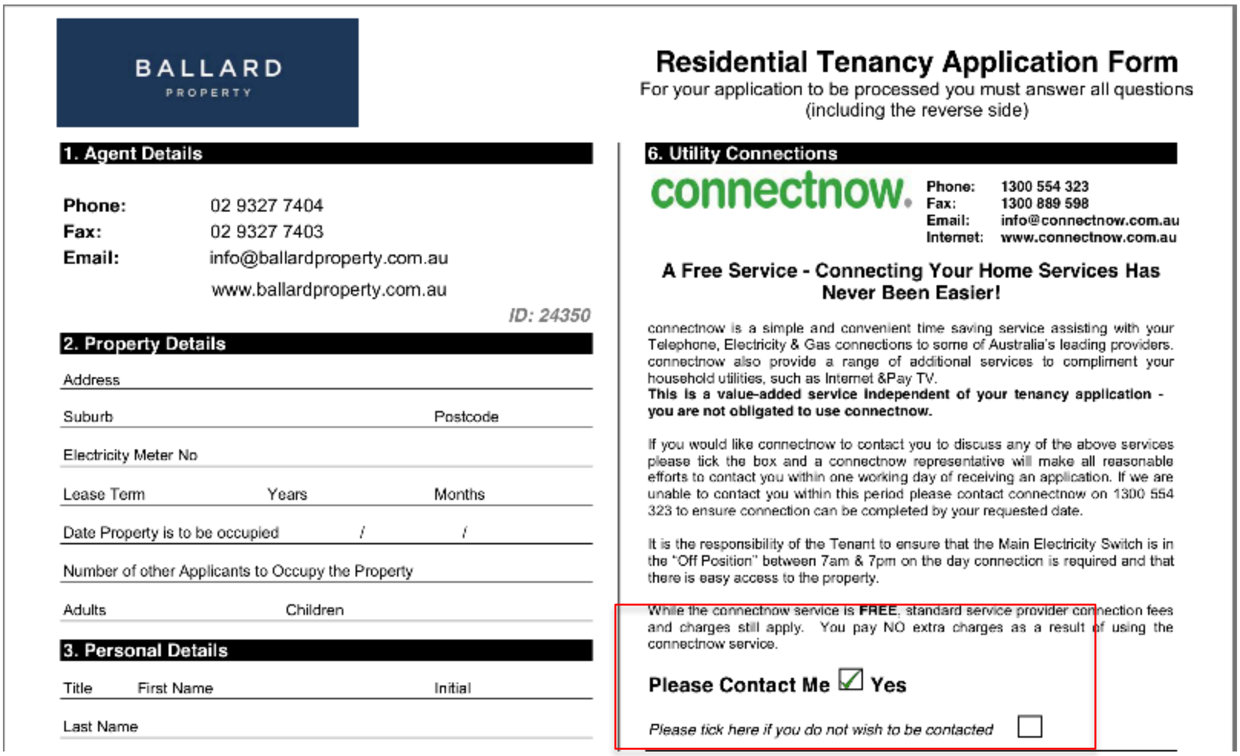
3) Utility connection services

The AEMC Draft Report accentuates the impact of unfair utility connection service practices already depriving customers of informed choice and transparency ***(see Case Study pp6-9)***. Under these practices, customers are unaware of the potential savings they could achieve from embedded network pricing and only have an option to sign up to a very limited number of providers as part of their rental agreement. The companies offering these new tenant deals in partnership with the real estate companies are reportedly subsidiaries of/or have a relationship with larger energy retailers. This reduces transparency and choice for customers who are only exposed to a handful of options and never the local embedded network services offer.

Furthermore, the utility connection services affiliation with retailers is often not disclosed; in fact, Flow was unable to identify any disclosure on the leading utility connection services websites or marketing materials.

By way of example, one of Sydney's leading real estate agents has partnered with ConnectNow, a utility connection service listed as owned by AGL. The real estate agent, Ballard Properties, includes a section on its application form from ConnectNow. The utility connection service will only contact the prospective tenant if the applicant opts out of marketing permissions. The applicant is opted in by default, and no affiliation with its owner (AGL) is disclosed - see ***Image 1***. This, Flow believes, represents misleading information. The customer is misled in believing they are being offered an impartial service but in fact are being offered an affiliated one.

Image 1



BALLARD
PROPERTY

Residential Tenancy Application Form

For your application to be processed you must answer all questions (including the reverse side)

1. Agent Details

Phone: 02 9327 7404
Fax: 02 9327 7403
Email: info@ballardproperty.com.au
www.ballardproperty.com.au

ID: 24350

2. Property Details

Address

Suburb Postcode

Electricity Meter No

Lease Term Years Months

Date Property is to be occupied / /

Number of other Applicants to Occupy the Property

Adults Children

3. Personal Details

Title First Name Initial

Last Name

6. Utility Connections

connectnow.

Phone: 1300 554 323
Fax: 1300 889 598
Email: info@connectnow.com.au
Internet: www.connectnow.com.au

A Free Service - Connecting Your Home Services Has Never Been Easier!

connectnow is a simple and convenient time saving service assisting with your Telephone, Electricity & Gas connections to some of Australia's leading providers. connectnow also provide a range of additional services to compliment your household utilities, such as Internet &Pay TV.
This is a value-added service independent of your tenancy application - you are not obligated to use connectnow.

If you would like connectnow to contact you to discuss any of the above services please tick the box and a connectnow representative will make all reasonable efforts to contact you within one working day of receiving an application. If we are unable to contact you within this period please contact connectnow on 1300 554 323 to ensure connection can be completed by your requested date.

It is the responsibility of the Tenant to ensure that the Main Electricity Switch is in the "Off Position" between 7am & 7pm on the day connection is required and that there is easy access to the property.

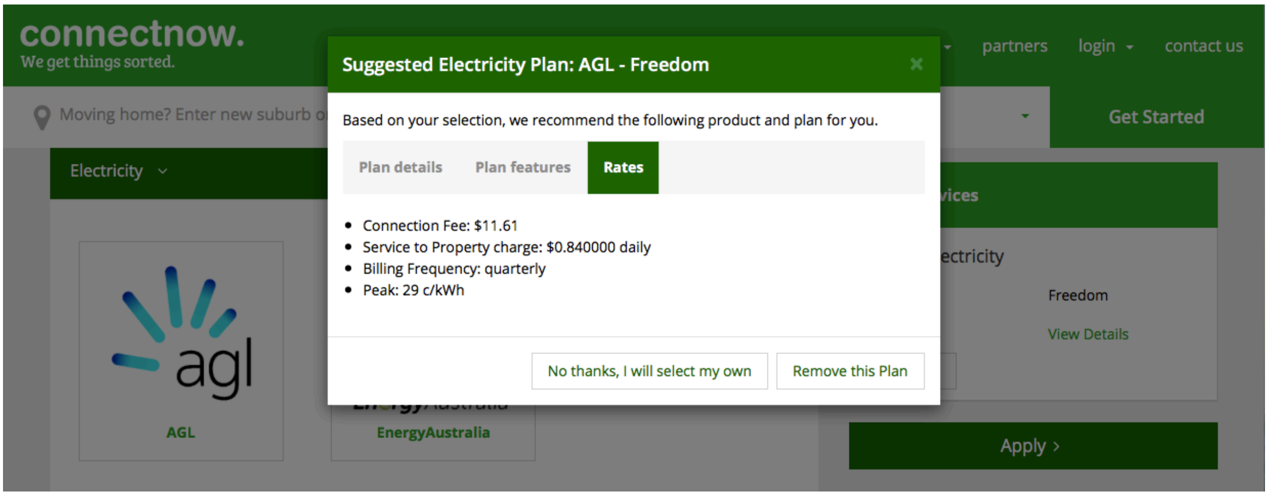
While the connectnow service is **FREE**, standard service provider connection fees and charges still apply. You pay NO extra charges as a result of using the connectnow service.

Please Contact Me ☑ Yes

Please tick here if you do not wish to be contacted ☐

On further investigation, Flow has found that ConnectNow offers only AGL and the EnergyAustralia standing offer product (source: connectnow.com.au) – *see Image 2*. This practice may significantly increase the cost to consumers, and result in significant loss of customers moving into embedded network supplied buildings.

Image 2



The registering of NMIs for both on-market and off-market customers will not deliver the AEMC's clear objective of customer choice. In fact, it will undermine the success. Customers will not be given the embedded network service offer under this scenario. There is no framework for local community services to be promoted to new tenants prior to moving in.

The AEMC's recommendation to elevate the exemption guide into the authorisation regime can only occur if there is a clear framework to promote shared community utility services to customers, which tend to be smaller unique service providers that are more vulnerable to customer churn. Consideration must be given to ensuring the embedded network provider has the first right of refusal when customers churn or, if not the first, then at least a prior notification giving sufficient time for the embedded network provider to contact the customer to ensure the customer is fully aware of its choice when making his/her decision.

The AEMC must both consider and enable the needs of both the customer and embedded network providers. Embedded network providers and their localised energy business models are paving the way for a transition to a more sustainable and affordable energy market. Any change that threatens the viability of embedded energy networks also jeopardises the transition to next century energy generation and supply solutions that will make Australian communities resilient, generate more environmentally sustainable energy supplies, and put downward pressure on retail energy pricing.

Case study: *Registration of NMIs*

Utility connection service deals kill competition & embedded networks

Whilst Flow wholly supports AEMC's initiative to promote greater customer choice through reform as envisaged by the Draft Report (with resulting benefits), Flow maintains there are substantive problems in registering NMIs for both on-market and off-market customers resulting in the following significant unintended perverse outcomes on new tenants, which constitute around 70 percent of all embedded network energy customers:

- Customers being deprived of market choice by not having transparency of costs via advantages of embedded network savings;

- Embedded network providers being shut out of the ability to compete due to anti-competitive utility connection service practices exacerbated by more access to on and off-market customer information.

The issuing of NMIs to all on-market and off-market child embedded network customer connections will deliver perverse outcomes for customers – restricting competition, choice and transparency – the opposite outcome intended by the AEMC.

The change will exacerbate current bad practices such as utility connection service by preventing new tenants - the largest customer segment representing a significant percentage of the market – from being notified of existing or competing offers.

Under utility connection service practices, authorised retailers pay real estate agents to stitch up churning tenants by getting new tenants to sign up to energy deals as part of their tenancy agreement. This is highly effective in locking in tenants before they can shop around or have proper disclosure of the embedded network billing information. Consumer advocacy group ***Choice*** and consumer groups have questioned the transparency and fairness of these deals. For example, DirectConnect acts as an agent for four authorised retailers only – significantly reducing customer choice ***(see Image 2 above).*** It has also been criticised for referencing an energy company with an undeclared ownership stake in its own business (DirectConnect).

Currently embedded network new tenant customers need to notify the existing provider of their intention to disconnect. This is the only customer touch point for the customer to receive a competitive offer before they commence their tenancy. For the embedded network provider, whose business case relies on connected customers in its precinct, this window of notification is critical for business survival. It provides the only point of contact with the new customer whose details they do not have.

Impact of Draft Report changes

This single avenue to competition is removed because the issuing of NMIs to all on-market and off-market child embedded network customer connections allows retailers to contact the embedded network provider themselves – removing the only customer contact point and therefore the opportunity to win back a new customer replacing the previous tenant.

These utility connection service practices are a conflict of interest and result in false and misleading information to the customer, exposing them to a fraction of the market only and not being informed about the local embedded services which could deliver significant savings to them.

Many of these utility connection services are majority or minority owned by Tier 1 authorised retailers. For example:

- Connectnow – AGL is the parent company. It offers two retailers, standing offers only. (*See Image 3*)
- Direct Connect – Snowy Hydro which also owns Red Energy and Lumo Energy. It offers four retailers. (*See Image 4*)
- On the Move – Click Energy is the parent company.

Image 3

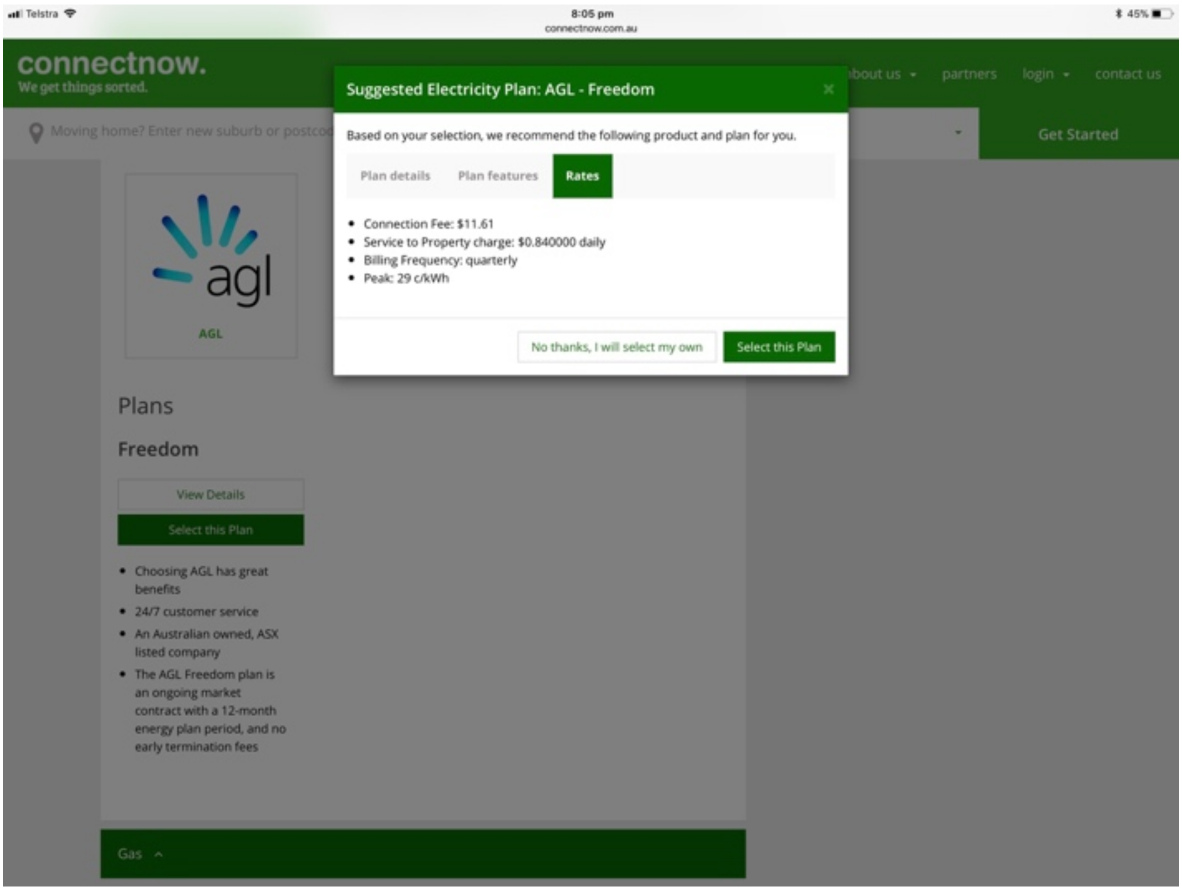
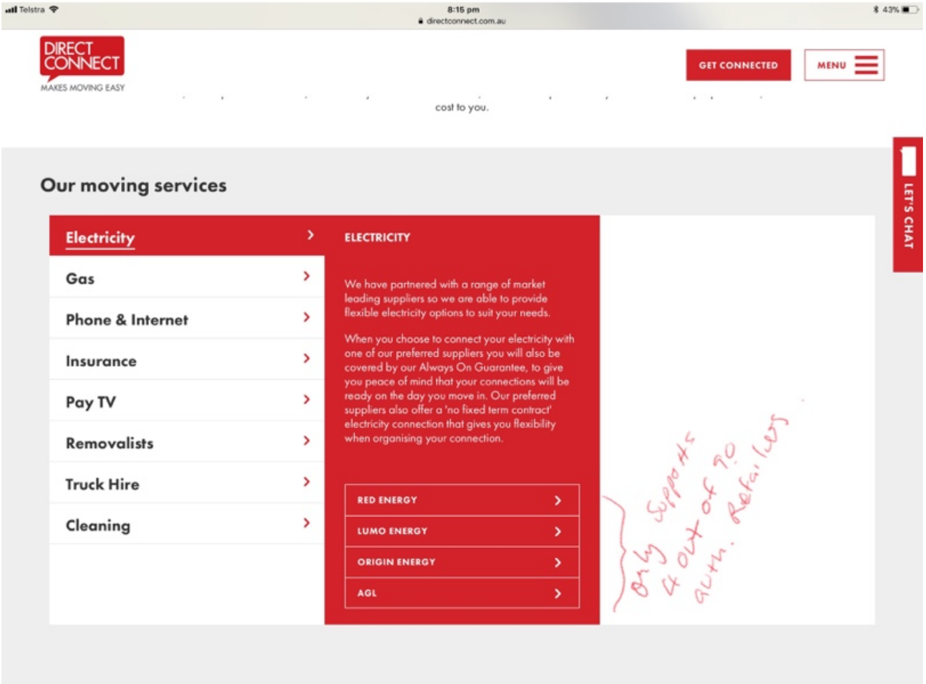


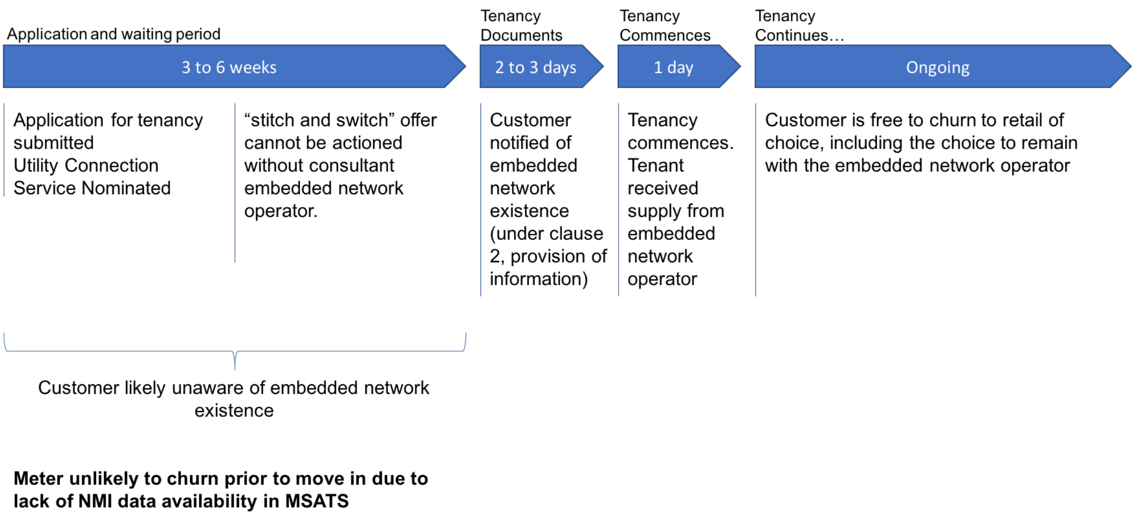
Image 4



Tenant move-in timeline

The following timeline demonstrates why the NMI requirements will significantly reduce customer choice by allowing utility connection services to access confidential meter data to churn a customer instead of the customer notifying the embedded network provider. This removes the only touch point embedded network providers have with customers.

Current requirements



Proposed NMI requirements

Application and waiting period		Tenancy Documents	Tenancy Commences	Tenancy Continues…
3 to 6 weeks		2 to 3 days	1 day	Ongoing
Application for tenancy submitted Utility Connection Service Nominated	Customer agrees to “stitch and switch” offer prior to notification of embedded network.	Customer notified of embedded network existence (under clause 2, provision of information)	Tenancy commences. Churn already occurred as triggered by Utility Connection Service	Customer is free to churn to retail of choice, however, customer is likely now in a new meter configuration or in a fixed term contract with exit fees

Customer likely unaware of embedded network existence

Meter likely to churn prior to move-in due to lack of information about available offers

No barrier to uninformed churn due to NMI availability in MSATS

Recommendations

Flow urgently requests the Draft Report address the following key issues:

1. **Prevent new tenant utility connection service practices that remove the only opportunity for embedded network providers to connect with the largest customer segment – new tenants.**

   This can be achieved by ensuring:

   - utility connection services partnering with real estate agents also disclose the local embedded network provider service along with any other services.

   - Both utility connection services partnering with real estate agents and the incoming retailer must inform the customer that they may achieve a better deal from the embedded network operator

   These utility connection companies are often owned by Tier 1 authorised energy retailers who promote their own energy products, including the standing offer, but fail to identify the local embedded provider and other services that may be cheaper.

   These utility connection service practices could be seen as a conflict of interest and false and misleading conduct, resulting in the customer being exposed to a fraction of the market only and not being informed about the local embedded services which could deliver significant savings to the customer.

2. **Ensure embedded network providers have the first right of refusal when customers move in to allow informed customer choice.**

   This can be achieved by extending the 10-day cooling off period for new customers must also apply to new tenants moving in.

   Under the changes, customers will be deprived of the information about the embedded network services to make an informed choice. A loss of new tenants through lack of incormation would then threaten the commercial viability of the embedded network – leading to increased costs to the consumer who misses out on a more competitive local choice.

Flow maintains the following recommendations, outlined in our May response to the AEMC *170519 Flow AEMC Embedded Networks FINAL* should also be addressed by the Draft Report:

3. **Unbundled tariffs to provide customers with more transparent bills.**

   Unbundling will also contribute to a more competitive market, making all services contestable and further driving downward pressure on customer utility bills.

   Flow would like to see a requirement for tier 1 and 2 retailers to unbundle tariffs for residential and small business consumers where the customer has requested a transparent tariff. Doing so would allow EEN operators to provide more detail to consumers so that they are better placed to understand where they may be able to reduce cost. Ultimately, Flow believes in improved contestability of energy cost components including commodity and environmental charges.

4. **Vulnerable customer arrangements such as hardship scheme and payment plans must be mandatory for all exempted retailers.**

   Flow believes EEN operators (or their approved billing agents engaged on their behalf) should be required to publish a compliant hardship policy in order to create a level playing field and comply and meet the standards as set by the relevant legislation.

5. **A more flexible standing offer and standing contract framework allowing customers to opt out of centralised grid power and choose a local alternative.**

Generator owners need to be reimbursed by the retailer if customers churn. This is because locally produced power will continue to be supplied to new EEN customers even if they churn to another retailer. If they do churn, the retailer will charge the customer for electricity consumed by the local generator but will not reimburse that generator owner.

Centralised energy utility businesses should no longer be propped up by these contractual frameworks. This creates an un-level playing field for emergent next generation prosumer utilities capable of providing customers with more affordable and sustainable power

6. **All retailers – including exempted retailers – should have the same level of access to distributor field services as authorised retailers on the same tariff.**

7. **Remove the 85 percent EIC requirement.**

Infrastructure decisions should sit under strata law with the owners of the building. Current provisions have shut out owners from decision making around infrastructure which is theirs. Flow believes it is the owner's right to convert the building to an EEN and the tenant's right to choose a retail supplier. The benefits of retail competition remain.

As it currently stands, the EIC threshold in practice restricts consumer choice. For example if 84 owner occupiers in a 100 resident building opt in, they can be refused the right to install an EEN by 16 renting tenants. Put another way, 16% of any building's residents are effectively given a blocking right over 84%. This restricts consumer choice and resulting benefits such as lower costs and sustainability outcomes. EEN can significantly reduce costs to owners and tenants, in turn reducing the strata fees and potentially putting downward pressure on rental cost.

8. **More detailed rules for the protection of customers, including gate meter retailers (FRMPs) to be obliged to comply with child meter consumer protections such as life support and concessions.**

Flow believes the current rules are too vague. More detailed rules will provide greater certainty to customers and providers.

9. **Retailer of Last Resort (RoLR) arrangements should be extended to include private sector EEN service providers.**

In the event of a EEN service provider's failure, the existing regulated RoLR regime should apply such that the local incumbent retailer or private sector EEN service provider steps in to ensure continuity of supply to customers.

Further, in order to not restrict competition, the exemption scheme should faciliate any secured financiers of EEN infrastucture (i.e. smart meters and/or generation assets) to continue to be repaid by the step-in RoLR.

10. **New contestable microgrid methodology to properly recompense local generators and network owners for the cost of their generation/infrastructure when customers churn.**

This would enable contestability in EEN and microgrid networks.

Conclusion

Flow urges the AEMC to take seriously the perverse impact of the NMI change. Without a regulatory framework for community utility services, customers will not be able to make an informed choice. They will not be aware of the embedded network offer which can deliver significant savings and benefits to the community.

Local embedded networks often underpin local multi-utility service offerings that can dramatically reduce costs to the customer. These local multi-utility solutions are playing a critical role transitioning the market to be more sustainable, affordable and resilient. New business models supporting community utility solutions are more vulnerable to monopolistic practices such as utility connection services.

Flow and its subsidiary, Meters 2 Cash, would like to meet with the AEMC and the ACCC to discuss these perverse impacts and provide more information on the barriers and opportunities to achieving this low carbon and local energy future.

Stephen McKewen
CEO