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Mr John Pierce
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17 October 2017

AGL Energy (AGL) welcomes the opportunity to comment on the Australian Energy Market Commission's (AEMC) Review of Regulatory Arrangements for Embedded Networks draft report (draft report).

AGL is one of Australia's largest integrated energy companies and the largest ASX listed owner, operator and developer of renewable generation. Our diverse power generation portfolio includes base, peaking and intermediate generation plants, spread across traditional thermal generation, battery storage and renewable sources. AGL is also a significant retailer of energy, providing energy solutions to approximately 3.7 million retail customers throughout the National Electricity Market (NEM). In addition, AGL is continually innovating our suite of distributed energy services and solutions for customers of all sizes (residential, business and networks). These 'beyond the meter' energy solutions involve new and emerging technologies such as energy storage, electric vehicles, solar PV systems, digital meters, and home energy management services delivered by digital applications.

The AEMC believes the current regulatory framework for embedded networks is no longer fit for purpose, and that this has resulted in three distinct problems for embedded networks customers, namely:

1. A lack of retail competition, including significant barriers which make it difficult for embedded network customers to take up a retail offer from an authorised retailer.
2. A lack of essential consumer protections for embedded network customers, including restricted or no access to concessions and entitlements, hardship schemes and independent dispute resolution services (such as Jurisdictional ombudsmen schemes).
3. A limited ability for the Australian Energy Regulator (AER) to monitor embedded network operator behaviours and implement a robust compliance and enforcement regime across both retail and network exemption frameworks.

Therefore, the AEMC has proposed to close off the exemptions regulatory framework to new build or retrofitted embedded networks and require them instead to hold a network registration and retail authorisation, under the National Electricity Rules (NER). In addition, the AEMC has suggested that all embedded networks (legacy and new) would be required to provide a minimum level of consumer protections to its customers, and the AER would have increased compliance and enforcement powers over embedded networks.

AGL broadly supports the AEMC's recommendations and policy intent. We agree that the current regulatory barriers with respect to the exemptions frameworks and its application specifically to embedded networks, mean that a large number of embedded network customers generally do not have access to core



consumer protections and cannot readily access competitive retail offers, when compared to customers on grid supply. We acknowledge that the AEMC's 2015 Embedded Networks Rule goes some way to addressing the competition, market access/interface and metering issues but that further reform is necessary to ensure that embedded network customers are not adversely impacted or restricted from accessing basic customer rights associated with the provision of an essential service.

However, while we agree that there is merit in grandfathering existing embedded networks and elevating newer embedded networks into the NER and the National Energy Retail Rules (NERR), we do not believe that the cost impacts, obligations or compliance requirements to stakeholders, market bodies and customers is well understood. Further effort is required to fully explore the proposed arrangements, ensuring that an appropriate balance of obligations and requirements are placed on prospective embedded network operators and energy resellers. For example, as noted by the AEMC at its recent workshop on the draft review, the 'one size fits all' regulatory framework currently applicable to authorised retailers may not provide sufficient flexibility to new entrants and innovative business models. As such an appropriate balance must be struck, in line with the National Electricity Objective and the National Energy Retail Objective (NERO).

AGL therefore encourages the AEMC to address the following in its final report:

- greater detail on how the new embedded networks framework could operate, including costs, obligations or requirements that may be placed on market players, both associated with the embedded network or the provision of competitive retail services;
- the role of market authorities, including the systems they may require and the funding mechanisms to support this infrastructure;
- legal mechanisms and consequential changes required at Jurisdictional levels; and
- detail on how the legacy and new embedded network frameworks would work with other regulatory arrangements for the provision of other services, such as water or telecommunications.

AGL has provided our views on each of the three main recommendations in Annex A.

Should you wish to discuss our submission in further detail, please contact Dan Mascarenhas on 03 8633 7874 or at DMascare@agl.com.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Con Hristodoulidis', written over a horizontal line.

Con Hristodoulidis

Senior Manager, Regulatory Strategy



Annex A

AGL View on the Recommendations

AGL has provided views on each of the main draft recommendations below.

1. Improving access to retail market competition in legacy embedded networks.

AGL understands that reference to 'legacy embedded networks' refer to existing embedded networks which are currently in operation under the AER's exemptions framework at a defined point in time. It is the AEMC's intention to grandfather these arrangements. On this basis, AGL supports the policy intent and sub-recommendations set out in the draft report, including the obligation on Embedded Network Managers (ENM), where appointed, to coordinate market interface functions for all embedded network customers, irrespective of their market status.

While this sub-recommendation is likely to increase the costs-to-serve for Embedded Network Operators, we note that implementation of the AEMC's 2015 Embedded Network rule and subsequent changes by the AER to the exemption framework, means that ENMs would likely be appointed to most larger embedded networks and those where one or more customers had decided to seek a retail offer. Therefore, under these circumstances, AGL considers that appointment of an ENM should largely be considered a sunk cost, and as such, any additional costs for the NMI registration of off-market customer metering systems would be incidental.

However, noting the ENM market has yet to be commenced, and that the cumulative effect of this additional function may be cost-prohibitive to some businesses, we encourage the AEMC to provide an indicative quantitative assessment of the costs to business associated with this expanded ENM function.

AGL also points out that the Market Settlement and Transfer Solution (MSATS) is managed and administered by the Australian Energy Market Operator (AEMO), and its costs are recovered by charges to Market Customers (i.e. authorised retailers). We note that an increase in the number of NMIs may result in increased effort on MSATS infrastructure, and this could increase AEMO cost recovery charging. AGL therefore encourages the AEMC to discuss with AEMO whether recent upgrades to the MSATS systems are sufficient to account for a significant increase in NMI registrations, and how it would recover costs associated with greater administrative and operational responsibilities.

2. Elevating new embedded networks into the national framework

While AGL is broadly supportive of the AEMC's draft recommendation to apply the NER to new embedded networks, we believe that further work is required to detail what this will mean for embedded network operators in practice, and the limited pathways for exemptions that will be allowed.



AGL understands that the majority of new embedded network service providers and resellers will be expected to comply with the national framework. Exemptions to this process will be narrowly applied and determined by AEMO and the AER, as appropriate.

As an authorised retailer, we are acutely aware of the significant operations and business costs required to adhere to the existing energy regulatory frameworks, including those applied by Jurisdictions. While the intention will be to apply selected elements of the national framework, these must be designed in such a way that it balances the benefits of embedded network service or reselling provisions with the increased cost, administrative and compliance burden. Importantly, the regulatory regime must also be flexible enough to accommodate innovation in product and service provision (including innovation in business or delivery model). An overly prescriptive and burdensome regulatory framework, including compliance activities such as overly rigorous performance reporting, or the development of energy price fact sheets etc. may act as a barrier to entry for new energy service providers and make the provision of novel energy products and services uneconomic despite being of real value to consumers.

Getting this balance right will promote greater transparency in embedded network operations, adequately protect and inform consumers, align market system operations, and ultimately improve retail competition for embedded network customers.

AGL, therefore encourages the AEMC to articulate in its final report, which areas of the NER it would specifically seek to apply, and provide an indication of the expected costs to participants and market bodies. AGL reiterates that any new framework should continue to support market innovation, competition and consumer needs by balancing regulatory compliance with business opportunity. Design of the new framework must also take into consideration current market developments and advancements in technology, must be forward-looking to minimise additional intervention, and ensure that it is agnostic of technology, business and delivery models.

3. Better consumer protections

AGL supports the application of a minimum set of core consumer obligations on resellers of energy under NERR, in line with the NERO, and applicable to all legacy and new embedded networks. Such protections could include access to independent dispute resolution, connection/disconnection services, concessions, payment difficulty plans and life support provisions etc.

AGL also broadly supports an expanded role for the AER to facilitate greater transparency and accountability.

We note that the application of a harmonised set of consumer protections and increased powers to the AER is likely to provide benefits to all stakeholders, including:

- certainty to new proponents on their regulatory obligations and associated costs,
- improved protections and information to embedded network customers, compared to current arrangements, and
- clarity to market authorities on their regulatory role, including on areas of compliance and enforcement.



However, as stated by the AEMC, “*since the NECF was developed, the energy market has undergone significant transformation due to new technology, innovation in products and services, and changes in consumer preferences*”. Therefore, in considering what specific protections should apply at a minimum, the AEMC should first assess whether the NECF, in its current form, is appropriate. This assessment should also include whether or not all existing energy specific consumer protections are necessary and fit for purpose, noting the continuing modernisation and digitalisation of the energy sector.

The applicable consumer protection framework for embedded networks must appropriately balance addressing consumer harm, with the imposition of administrative and compliance burden, and its impact on competition and market innovation (including access to distributed energy resource solutions). If this balance is struck correctly, AGL believes that the resulting retail competition will deliver lower energy prices, a higher standard of service and innovation in product and service offering, and better consumer experiences.

Lastly, as noted by the draft report, the COAG Energy Council has recently commenced a process to design a voluntary code of contact for behind the meter services. AGL encourages the AEMC to closely monitor the progress of this project, with a view to implement similar arrangements where applicable.