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16 May 2017

Mr Owen Pascoe
Director
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Submitted electronically

Dear Mr Pascoe,

Re: Review of the regulatory arrangements for embedded networks

Red Energy (Red) and Lumo Energy (Lumo) welcome the opportunity to comment on the Australian Energy Market Commission's (Commission) review of the regulatory arrangements that apply to embedded networks.

An embedded network is a private electricity network where energy is on-sold to multiple consumers by an embedded network operator, where the embedded network is connected to the national grid through the parent connection point. Our submission focuses on the three key questions which form part of the Commission's embedded network review, whether the regulatory framework is fit for purpose, can access to retail market offers be improved and what consumer protections should apply to embedded network customers?

Regulatory framework: fit for purpose consumer protections

Currently, the National Energy Retail Law (NERL) establishes the regulatory framework on the basis that all consumers will have an authorised retailer and a local network service provider. Embedded networks will either fall into this framework, or alternatively can be granted an exemption which results in substantially different obligations and consumer protections to consumers being supplied by 'traditional' authorised retailers and those being provided by an embedded network operator.

While Red and Lumo support a regulatory framework that results in the consistent treatment of consumers, we consider that the terms of reference provided to the Commission is focused on fitting the embedded network business model into the regulatory framework designed for retailers and local network service providers is inefficient, particularly in the long term. As such, we strongly recommend the Commission consider broadening their review to provide a more holistic approach when determining an appropriate regulatory framework. It is inefficient to redesign the NERL and subordinate instruments whenever a new operating model challenges the status quo.

The Commission should look to improve the regulatory framework that applies to all consumers, including those in embedded networks to ensure it delivers efficient outcomes in their long term interests consistent with the energy objectives; electricity, gas and retail. We believe this requires a shift from regulating the provider of a service, to regulating the type of service being provided.

Red and Lumo believe that in order to determine appropriate protections for any energy service a number of principles need to be considered, including:

- the nature and risk of any potential harm to an applicable consumer,
- compared to the ability of that consumer to mitigate risk of harm through competitive markets and the availability of choice,
- a minimum expectation must remain that consumers should be able to maintain access to energy as an essential service, and
- energy specific protections must not provide duplicate protections to those provided for in other complementary frameworks, such as the Australian Consumer Law (ACL).

These principles should be considered when determining appropriate protections for any type of energy service, embedded network or grid connected services alike. While we understand it is not possible for existing consumer protections to be forgotten, we consider it important that as much as possible energy services are considered without historical bias.

The consumer protections framework that applies to embedded network customers should deliver efficient outcomes. Therefore, where an embedded network customer has no ability to mitigate their own risk through the competitive market or otherwise, they should be afforded the most consumer protection. These same protections are unlikely to be necessary for a customer with the ability to choose their own retailer or to install a solar and battery system on-site to minimise their reliance on the network.

Excess regulation comes at a cost for consumers. For this reason, it is important to remember that consumers are not always better served by increased consumer protections. It is critical that we understand what and why we are regulating, rather than regulating so as to mitigate a contestability problem. The regulatory arrangements that apply to embedded networks should be developed over the long term consistent with this principle to deliver these efficient outcomes. This approach is consistent with the national energy market objectives. The application of consumer protections does not come without cost, so efficiency will come from avoiding unnecessary protections.

Improving competition for embedded networks customers

We consider that by improving the regulatory framework to focus on the type of service that is being offered, rather than the type of provider that is offering that service, retail competition will be improved. This will improve competition for both embedded network customers and grid-connected customers.

Under the current regulatory framework, the current level of competition available to off-market embedded network consumers is low, as it is not easy to transition a consumer's arrangement from off-market to on-market, leading to inefficient outcomes. As such, the regulatory arrangements that apply to consumers in embedded networks need to change to make them more competitive. Greater competition will lead to a more efficient allocation for resources delivering greater choice and more competitive offers to consumers in embedded networks.

About Red and Lumo

Red and Lumo are 100% Australian owned subsidiaries of Snowy Hydro Limited. Collectively, we retail gas and electricity in Victoria and New South Wales and electricity in South Australia and Queensland to approximately 1 million customers.

We look forward to working with the Commission in this market review to develop regulatory arrangements for embedded network consumers. Should you have any further enquiries regarding this submission, please call Ben Barnes, Regulatory Manager on 03 9425 0530.

Yours sincerely

A handwritten signature in black ink, appearing to read "Ramy Soussou". The signature is fluid and cursive, with a horizontal line extending to the right.

Ramy Soussou
General Manager Regulatory Affairs & Stakeholder Relations
Red Energy Pty Ltd
Lumo Energy Australia Pty Ltd