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Review of the AER exemptions framework for embedded networks – Draft decision

EnergyAustralia is one of Australia's largest energy companies with around 2.4 million electricity and gas accounts across eastern Australia. We also own, operate and contract a diversified energy generation portfolio across Australia, including coal, gas, battery storage, demand response, wind and solar assets, with control of over 5,000MW of generation capacity.

EnergyAustralia believes that embedded networks can provide customer benefits including through lower pricing and the sharing of renewable energy to high density residential areas. We also recognise that there are gaps in consumer protection for embedded networks, and fully support resolving those gaps so that customers residing in embedded networks receive an equivalent level of consumer protection.

We support many of the AER's Draft proposals, in the areas of family violence in particular. Our submission below focusses on specific issues.

New comparison pricing condition is problematic

With regard to pricing, the AER proposes to require exempt sellers to publish their residential and small business customer tariffs on their website, including the percentage off the local area retailer's standing offer (the New comparison pricing condition). We disagree with this requirement on the basis that the problem that it addresses is unclear and; because it gives the impression that embedded network pricing between sites, providers and the local area retailer's standing offer is comparable when in reality it is not.

With regard to the problem statement, the AER's draft decision found that while price data indicates embedded network customers experience a range of price outcomes, there is no evidence of systemic price harms. The AER observes that only a small proportion of customers are paying above the DMO, and that this is likely due to a gap in

DMO protections not applying to authorised retailers selling to embedded network customers. We agree with the AER that the DMO price cap should be extended to embedded networks as soon as practical.

Despite finding no systemic pricing issues, the AER discusses the merits of pricing visibility, noting that exempt customers cannot easily determine if they are receiving favourable energy prices as they have no visibility of alternative offers and that it would enable embedded network customers to compare their prices with others available in the market (on EME or retailers' websites), which may help them make an informed decision about the costs and benefits of going on-market. It proposes to introduce the new comparison pricing condition.

We consider that the AER's draft report has already confirmed that the vast majority of embedded network customers are paying favourable pricing relative to on-market offers and the AER's draft findings and any future reports along these same lines, are an important source of information for embedded network customers which should be publicised.

We also highlight that the regulatory framework itself actually provides stronger protections to embedded network customers to ensure favourable pricing outcomes. Importantly, the DMO price cap for exempt sellers (and we expect for authorised retailers in the future) *extends further* than the price protections for standard customers directly connected to the distribution network. This is because the DMO price cap applies to *all EN pricing offers* whereas the DMO only applies *to standing offers* for standard customers, in a context where the majority of standard customers (approximately 90%) are on market offers. We believe that informing customers of the DMO price protection for EN customers alone would also play an important role in providing transparency and assurance to embedded network customers about the relative level of their pricing.

We also question the AER's assumption that the pricing condition will provide visibility on *alternative offers.* Comparing customers' EN pricing with the local area retailer's standing offer or offers for standard customers on EME, could create a false sense of choice that that customer can access those offers. Offers presented on EME are not accessible alternatives to EN customers. We also note that even comparing the percentage off the *local area retailer's standing offer* to the percentage off the *reference price* (which is done for offers for standard customers), is in itself not like for like. The local area retailer's standing offer is not the DMO reference price (i.e. DMO is a price cap, local area retailer can price under that price cap etc.). This is another factor as to why the Comparison pricing condition is problematic.

Further, the comparison of an EN customer's pricing for one particular EN site, with a different site even with the same exempt seller, is also not a comparison of alternatives nor is it like for like. Different sites supplied by the same exempt seller/authorised retailer could have vastly different pricing driven by:

- The underlying electricity contract which the exempt seller has negotiated for total supply at the parent meter. Note that these are large customer contracts – which can have a myriad number of permutations going to different contract terms, different levels of spot price exposure, and different hedging approaches. Even differences based on when a contract ends and is renegotiated, can cause quite different pricing outcomes, due to changing market conditions. For

example, pricing negotiated in 2022 (when the market was affected by high pricing due to the Ukraine conflict) would have produced significantly higher pricing, compared to a contract negotiated one year earlier.

- This approach to purchasing electricity as a large customer is arguably more differentiated compared to purchasing electricity for mass market customers, which the local area retailer's standing offer will be based on. This is why the percentage comparison against the local area retailer's standing offer is problematic.

- Further, some websites will contain pricing set by the exempt seller and pricing set by their third parties, which can be another source of differences.

- Different pricing for different sites will reflect varying network tariffs, including different network tariff structures. E.g. some sites have demand tariffs and specialised embedded network pricing i.e. in the Ausgrid area which can impose higher costs that need to be passed through.

- The electricity price might include capital costs, such as the cost of solar PV assets, heat pumps etc, and where permitted, the pass through of meter costs. These costs can also be a large driver in different pricing levels.

Regardless of including any appropriate disclaimers or explanations, we are concerned that the comparison will create customer confusion, and at worst mislead customers into making a comparison which cannot be made or creating the impression they can access these offers. Operationally, we are concerned that this will drive unwarranted customer complaints and queries to providers which will be difficult to resolve and may then unnecessarily involve resources from the energy ombudsman and ultimately the AER.

If the use case for the pricing condition is to allow customers to compare pricing for on-market offers (however problematic), the customer is equipped to do so already because the energy usage rate and daily supply charge is already presented on EN bills. As the AER quotes in its draft paper on page 13, customers are already making comparisons with positive experiences:

- "I often compare the pricing with [a range of retailers]. I'm quite satisfied as the rates are very competitive." - Owner, 38, Sydney, customer of an exempt seller

We also note that authorised retailers selling to embedded networks are already submitting plan pricing to the AER under the AER's Retail Pricing Information Guidelines. The AER receives this Restricted Plan information but does not currently publish it, for the same reasons as above on lack of comparability – publishing EN offers would create the false impression that these offers are available to standard customers. We note however that the AER could use this data to monitor any above DMO pricing by authorised retailers in embedded networks, which goes to the AER's core concern.

More broadly, we agree with the challenges noted by the AER on embedded network customer lack of access to competition. We support enabling access to competition to on-market retail offers but note the challenges that retailers might face in providing on-market offers to embedded network customers due to differences in servicing those customers and increased cost to serve. We emphasise that competition at the OC (or property developer level) is also an important contributor to maintaining competitive tension. In our experience, competition for the contract with the OC (or property

developer) is competitive and is re-opened for tender periodically, sometimes every three years. While outside the AER's remit, encouraging competition at the OC level is paramount in designing policy to resolve any remaining concerns about embedded network pricing.

Retrofit – enable consent to be obtained from OC

With regard to the retrofit/conversion scenario and the requirement for exempt sellers to obtain the explicit informed consent of potential residents/tenants to the proposed retrofit, there are often issues in obtaining the relevant customer details from the OC to be able to contact them to obtain consent. We recommend that the guidelines have an alternative pathway, to allow that consent be obtained from the OC as a representative of the occupants in an embedded network site.

We support aggregate readings for billing

We support exempt sellers being able to provide bills based on aggregate readings, within a site or across sites.

Restrictions on recovering meter cost

With regard to the requirement for an exempt network service provider to install or replace child metering installations at their own cost, we question the scenario "the child meter existed on 1 January 2012 and has not been changed since", and requiring the customer to pay in that scenario. This is effectively a scenario where the provider has failed to upgrade the meter for over 13 years and the customer is made to pay for it, noting that we'd expect meter replacement to occur at end of life – around 15 years and that replacement can be funded through payments of electricity tariffs over time.

If you would like to discuss this submission, please contact me on [redacted] or [redacted]

Regards

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