

## DETERMINATION

### Ausgrid Tariff Structure Statement 2019-24 Amendment Proposal

#### Summary

Our decision is to not approve Ausgrid's proposed amendment to its Tariff Structure Statement (TSS) to introduce new network tariffs for embedded networks. The regulatory framework is designed to provide stakeholders with a degree of certainty on network tariff structures. We are not satisfied that the threshold to amend Ausgrid's TSS had been met. As a result, Ausgrid's current TSS continues to apply.

However, we consider the issue of how to efficiently price the provision of network services to embedded networks warrants further consideration in future processes. The information provided by Ausgrid and insights provided by other stakeholders during this process will assist us to consider this issue further in future 5 yearly Tariff Structure Statement processes.

#### Background

The requirement on distributors to prepare a Tariff Structure Statement (TSS) arises from a significant process of reform to the National Electricity Rules (the Rules) governing distribution network pricing.<sup>1</sup> The purpose of the reforms is to empower customers to make informed choices by:

- providing better price signals—tariffs charged to retailers that reflect what it costs for their customers to use electricity at different times so that retailers have an incentive to develop products and services that can help their customers make informed decisions to better manage their bills
- transitioning to greater cost reflectivity—requiring distributors to explicitly consider the impacts of tariff changes on customers, and engaging with customers, customer representatives and retailers in developing network tariff proposals over time
- managing future expectations—providing guidance for retailers, customers and suppliers of services such as local generation, batteries and demand management by setting out the distributor's tariff approaches for the entire duration of the regulatory control period.

Among other matters, a TSS must set out a distributor's proposed tariffs, structures and charging parameters for each proposed tariff, and the policies and procedures the distributor proposes to apply assigning customers to tariffs or reassigning customers from one tariff to another. An indicative pricing schedule must accompany the TSS. The final prices for each tariff are determined on an annual basis.<sup>2</sup>

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<sup>1</sup> AEMC, *Distribution network pricing arrangements – Rule determination*, 27 November 2014.

<sup>2</sup> NER, cl.6.18.1.

Ausgrid's current TSS applies for the 2019-24 period, and was approved by the AER in April 2019.<sup>3</sup> In September 2019, Ausgrid submitted a proposal to amend its current TSS.<sup>4</sup> Ausgrid's proposal seeks to introduce new network tariffs for certain embedded network customers on 1 July 2020. We are required under the Rules to make a decision by the end of February 2020 on whether to approve this proposal.<sup>5</sup> This determination outlines our decision on Ausgrid's proposal.

## Reasons

Under the Rules, we must approve Ausgrid's proposal, if Ausgrid demonstrates to our reasonable satisfaction that:

- Step 1 – An event has occurred that was beyond Ausgrid's reasonable control and could not reasonably have been foreseen by Ausgrid at the time of our final decision on its current TSS in April 2019; and
- Step 2 – As a result of the event, the proposed amended TSS would, or would be likely to, materially better comply with the distribution pricing principles than the current TSS.<sup>6</sup>

If we do not approve Ausgrid's proposed amendment, its current TSS continues to apply.

We are not satisfied that the test in Step 1 is met. As a result, our assessment ends at Step 1.

Ausgrid based its proposal on three events:

- Our final decision to not approve its placeholder network tariff for embedded networks.
- An unanticipated forecast increase in the number of embedded network customers in its network area.
- The release of the AEMC's final report on updating the regulatory arrangements for embedded networks.<sup>7</sup>

We are not reasonably satisfied that that an event has occurred that was beyond Ausgrid's reasonable control and could not reasonably have been foreseen by Ausgrid at the time of our final decision on its current TSS in April 2019. We have turned our minds to Ausgrid's suggestion that the three events, taken together, may collectively satisfy the requirements in the Rules. While we are open to considering requests on this basis, our assessment is that none of these events satisfy the requirements in the Rules either individually or collectively.

We have based our assessment on the information in Ausgrid's proposal, further information we obtained from Ausgrid in response to several information requests, as well as stakeholder views we received at a workshop we hosted in January and stakeholder views received through written submissions. Most of the stakeholder feedback we received supported our assessment.

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<sup>3</sup> AER, *Final decision – Ausgrid – Distribution Determination – 2019 to 2024 – Attachment 18 – Tariff structure statement*, April 2019.

<sup>4</sup> Ausgrid, *Ausgrid's Amended 2019-24 Tariff Structure Statement*, 30 September 2019.

<sup>5</sup> NER, cl.6.18.1B(e).

<sup>6</sup> NER, cl.6.18.1B(d).

<sup>7</sup> AEMC, *Updating the regulatory frameworks for embedded networks – Final report*, 20 June 2019.

**Table 1: Summary of our assessment**

| <b>Proposed event</b>  | <b>Was the event unforeseen?</b>   | <b>Was the event beyond the reasonable control of the distributor?</b>  |
|--|--|---|
| <p>Our final decision to not approve its placeholder network tariff proposal for embedded network customers.</p> | <p>No.</p> <p>The TSS framework is designed to provide stakeholders with a degree of certainty on tariff structures. Ausgrid’s placeholder tariff proposal did not provide this.</p> <p>Ausgrid has not demonstrated to our reasonable satisfaction that it could not have foreseen that we would not approve Ausgrid’s placeholder tariff proposal given that Ausgrid did not:</p> <ul style="list-style-type: none"> <li>• propose a structure and basis of charging parameters for these tariffs.</li> <li>• provide indicative prices for these tariffs and associated customer impacts.</li> </ul> <p>Further, the our decision was consistent with previous TSS decisions where we have required distributors to propose complete tariff structures in order to comply with the Rules.</p> | <p>No.</p> <p>Ausgrid has not demonstrated to our reasonable satisfaction that event was beyond its reasonable control given that it was within Ausgrid’s reasonable control to have included a more detailed tariff proposal in its revised TSS.</p> |
| <p>An unanticipated increase in the number of embedded networks in its network area.</p>                         | <p>No.</p> <p>Ausgrid has not demonstrated to our reasonable satisfaction that there has been a material increase in the rate of embedded networks in its network area, nor that any increase, where this has occurred, was unanticipated. The data provided by Ausgrid demonstrates a relatively stable growth in aggregate numbers since mid-2016, rather than an unanticipated increase since the final TSS</p>   | <p>No.</p> <p>Ausgrid has not demonstrated to our reasonable satisfaction that the event was beyond its reasonable control given that Ausgrid could have developed a more robust forecast of embedded network customers for the revised TSS.</p>      |

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|  | <p>decision. It also demonstrates the growth has mostly been at the residential low voltage level, whereas Ausgrid is also proposing changes to the arrangements for higher voltage and non-residential embedded networks.</p>   |  |
| <p>The AEMC's review of the regulatory arrangements for embedded networks.</p> | <p>Based on the information provided by Ausgrid, we do not consider the AEMC's review of the regulatory arrangements for embedded networks, constitutes a relevant event for the following reasons:</p> <ul style="list-style-type: none"> <li>• The AEMC has made no recommendations in respect to the network tariffs charged by distributors for embedded networks.</li> <li>• The AEMC's recommendations with respect to applying 'shadow network tariffs'<sup>8</sup> to customers within an embedded network can be implemented under current network tariff arrangements.<sup>9</sup></li> </ul> <p>The key aim of the AEMC review is to improve the access of customers within embedded networks to the competitive retail market. The review does not aim to address any equity issues in relation to the level of network charges paid by embedded networks.</p> |  |

### Decision making process

The process we have followed to make a decision on this proposal was shaped by the statutory timeframe. That said, in the limited time available, we have engaged and consulted extensively with stakeholders on this proposal, as summarised below:

- In August 2019, AER staff met with Ausgrid before it submitted its proposal.
- In September 2019, AER staff attended the Customer Forum hosted by Ausgrid on its proposal.
- In October 2019, the AER published Ausgrid's proposal and invited stakeholders to register their interest in being involved in our stakeholder engagement process.
- In December 2019, AER staff informed Ausgrid that our staff level preliminary assessment, based on the information in its proposal, was that Ausgrid's proposal did not meet the requirements of the Rules. At the same time, AER staff issued several information requests to Ausgrid seeking clarification and additional evidence from Ausgrid, to provide Ausgrid with a further opportunity to justify its proposal. We received Ausgrid's responses to these requests by mid December 2019.

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<sup>8</sup> Network charges are set at a level no greater than the amount that the customer within an embedded network would have paid if it had been directly connected to the electricity distributed network.

<sup>9</sup> AER, *Electricity network service provider – Registration exemption guideline*, March 2018.

- In January 2020, we held a workshop on Ausgrid's proposal in our Sydney and Melbourne offices via video conference. A teleconference facility was also established for stakeholders that were unable to attend in person. This workshop provided an opportunity for AER staff to obtain feedback on our preliminary assessment of Ausgrid's proposal and to obtain the views of stakeholders on the broader issue of how to efficiently price network services to embedded networks.
- We also received several written submissions from stakeholders on Ausgrid's proposal.

The stakeholder feedback we received at the workshop and through written submissions is summarised in the attachment to this decision.

At the January workshop, there appeared to be general support for the TSS framework limiting the ability of distributors to reopen a TSS mid-regulatory period to enable stakeholders to have confidence in the TSS process. Most of the written submissions we received supported our preliminary assessment that Ausgrid's proposal did not meet the test to amend its TSS.

### **Future considerations**

We consider the issue of how to efficiently price the provision of network services to embedded networks to be an important pricing challenge confronting electricity distributors. The certainty over network tariffs provided by the TSS framework is important, and Ausgrid has not demonstrated to our reasonable satisfaction that it is appropriate for reopen its TSS within the regulatory control period for this issue. Nonetheless, this broader issue remains and we plan to consider this matter in future 5 yearly TSS processes. The next TSS process, which has just commenced, is for Victoria.

The information set out in Ausgrid's proposal and the related responses to our information requests, as well as the insights provided by other stakeholders during our engagement and consultation process have contributed significantly to our knowledge of the underlying issues and challenges in this area. These insights will assist us to assess future TSS proposals of this nature.

## **Attachment – Summary of stakeholder views**

### **January workshop**

The workshop was established through an open call on our website for stakeholders to express interest to be involved in the process. We mostly received responses from organisations engaged with embedded networks and retailers. On the day there were representatives present from the following organisations:

- Ausgrid
- Australian Energy Regulator
- Active Utilities
- Caravan & Camping Industry Association NSW
- The Energy Project
- Energy Intelligence
- Energy Users Association of Australia
- Farrier Swier
- Flow Systems
- Living Utilities (Lend Lease)
- Origin
- Real Utilities
- Red Energy
- Scentre Group
- Shopping Centre Council of Australia
- Vicinity Centres
- WINconnect

The discussion was separated into two components: (1) feedback on our preliminary assessment on whether the requirements in the Rules had been met, and (2) strategies for setting tariffs for embedded networks including the merits of Ausgrid's proposal.

#### *AER's preliminary assessment and stakeholder feedback*

We outlined the TSS framework, Ausgrid's proposal and our preliminary assessment that Ausgrid's proposal had not demonstrated that a relevant event or events had occurred to reopen its TSS.

There appeared to be general support for reopening a TSS remaining the exception to enable stakeholders to have confidence in the TSS process. One stakeholder queried whether it would be possible for us to provide more information on the use of "materially" in Clause 6.18.1B(d)(2). We noted our view that this could be difficult and required a case by case assessment of each proposal but were open to discussing further.

Stakeholders queried whether we would accept submissions on Ausgrid's proposal and were informed we would within a short window given the need to publish a decision by the end of February 2020.

#### *Ausgrid's proposal and more generally tariffs for embedded networks*

We noted a formal assessment of the substance of Ausgrid’s proposed amendment had not been undertaken. But we would appreciate hearing stakeholder views on the merits of Ausgrid’s proposed tariffs for embedded networks. We also noted that for a proposal to be successful, Clause 6.18.1B(b)(6) requires consideration of the engagement with retail customers and retailers, as well as efforts to address their concerns identified through this engagement.

A number of stakeholders questioned why the focus had been on embedded networks and whether equivalent analysis had been undertaken on other commercial and industrial consumer groupings. Ausgrid responded that they had sampled other consumers but had not grouped them by the nature of their energy use.

Ausgrid raised that its proposal was intended to address concerns around cost allocation and fairness of residual cost recovery. Stakeholders responded there was no one model for embedded networks and as such these arrangements could cover a diverse range of consumers from caravan parks to industrial parks to shopping centres to microgrids. Given this diversity in loads and usage, it was important not to group all embedded networks together but rather consider the criteria in the Rules around the nature of their usage, connection to the network, and metering technology.

A few stakeholders stated the focus should be on reflecting the cost to serve each customer, rather than whether or not they engage in on-selling. They raised concerns that the discussion was on what type dwelling occurred behind the meter, rather than the impact on the network. They were concerned that the potential for embedded networks (which could include microgrids) to compete with networks in the long run might influence the discussion.

There was a suggestion from a number of stakeholders that the tariff regime for embedded networks should not be considered solely in relation to the requirements of Chapter 6 of the Rules as there were interdependencies with the connections arrangements in Chapter 5A. One stakeholder added that the contributions scheme helped balance the requirement for postage stamp pricing for distribution network tariffs.

Stakeholders agreed that more engagement on defining embedded networks and appropriate charging arrangements with a greater range of participants and other networks within the NEM would be desirable.

**Written submissions**

**Table 2: Summary of stakeholder views in written submissions**

| Stakeholder             | Summary of submission  |
|-------------------------|--|
| <b>Ausgrid</b>          | <p>Ausgrid noted the TSS framework provides certainty about network tariff structures, and thereby allows retailers to design their retail tariffs and for customers to respond to price signals. Nevertheless, Ausgrid considered the hurdle for amending a TSS should not be so high as to make changing a TSS practically impossible.</p> <p>Ausgrid was concerned that we had not considered the combined effect of the three events, which it believed in combination represented a substantial trigger that was beyond its control and could not have been foreseen.</p> |
| <b>Living Utilities</b> | <p>Living Utilities believed that none of the three events proposed by Ausgrid constitutes a trigger for a TSS amendment.</p> <p>Living Utilities was concerned that the proposal is anti-competitive in nature. It also considered it distorts the efficient connection decisions, distributed energy resources (DER) investment decisions and energy usage decisions of embedded networks. Further, Living Utilities</p>   |

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|  | considered Ausgrid's proposal assumes that the current allocation of residual costs to residential customers is efficient.  |
| <b>Origin Energy</b>                               | Origin considered that the certainty over tariff structures provided by the TSS over the 5 year regulatory control period is of paramount importance and therefore any proposal to amend the TSS requires thorough assessment.<br>Origin believed that Ausgrid's proposal does not satisfy the requirements of the Rules and that Ausgrid has not identified a relevant event that warrants an amendment to its current TSS had occurred. |
| <b>Private citizen (John Herbst)</b>               | A private citizen was concerned that allowing Ausgrid to introduce tariffs through a 'backdoor' mechanism will reduce the confidence of consumers and other market participants about the tariffs and prices they will face in coming years.  |
| <b>Shopping Centre Council of Australia (SCCA)</b> | SCCA recommended the AER not accept Ausgrid's proposal. SCCA remained unconvinced, and did not believe that Ausgrid had provided an evidence base or compelling case, that shopping centre embedded networks are being subsidised by other customers.   |
| <b>WINconnect<sup>10</sup></b>                     | WINconnect was concerned that these new tariffs will increase network costs for embedded networks, which will be in turn passed onto consumers. WINconnect considered no evidence that embedded networks impose an undue cost on other regulated network customers had been presented. Further, WINconnect did not support grandfathering existing sites or exempting certain customer types.   |

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<sup>10</sup> WINconnect made this submission into Ausgrid's pre-lodgement consultation process and forwarded it to us for consideration.