

11 May 2023

Mr Arek Gulbenkogl
General Manager
Australian Energy Regulator
GPO Box 3131
Canberra ACT 2601

By email: AERresets2024-29@aer.gov.au

Dear Mr Gulbenkogl

**SUBMISSION ON ISSUES PAPER AUSGRID ELECTRICITY DISTRIBUTION
DETERMINATION 1 JULY 2024 TO 30 JUNE 2029**

The Caravan, Camping & Touring Industry & Manufactured Housing Industry Association of NSW Ltd (CCIA NSW) is the State's peak industry body representing the interests of over 500 holiday parks and residential land lease communities (residential parks, including caravan parks and manufactured home estates) and over 200 manufacturers, retailers and repairers of recreational vehicles (RVs, including caravans, campervans, motorhomes, camper trailers, tent trailers, fifth wheelers and slide-ons), camping equipment suppliers, manufacturers of relocatable homes and service providers to these businesses.

Many holiday parks and residential land lease communities in NSW have embedded electricity networks serving holiday makers and/or residential customers. Under the Australian Energy Regulator's (AER) *Retail Exempt Selling Guideline, Version 6, July 2022* (Retail Guideline) and *Electricity Network Service Provider – Registration Exemption Guideline, Version 6, March 2018* (Network Guideline) our holiday park and residential land lease community members fall within Exemption Classes D3, ND3 and R4, NR4 respectively and must comply with the Conditions relevant to their exemption class.

For the purpose of this submission, where we refer to 'holiday parks' we are referring to caravan parks that supply energy via an EN to occupants of holiday accommodation on a short-term basis (i.e., in these caravan parks there are no permanent residents occupying the accommodation as their home).

Where we refer to 'residential land lease communities' we are referring to residential parks, including caravan parks and manufactured home estates, that supply energy via an EN to residents who live there.¹ This includes caravan parks that supply energy to as few as 1-2 residents (mixed parks) right through to those residential land lease communities that are exclusively residential.

¹ Residents own their own manufactured home or moveable dwelling and rent the land (the site) from the operator.

In representing these businesses, we welcome the opportunity to provide feedback on the *Issues Paper Ausgrid Electricity Distribution Determination 1 July 2024 to 30 June 2029, March 2023* (Issues Paper).

One of the elements of Ausgrid's 2024 – 2029 Regulatory Proposal is proposed pricing reforms and introducing three tariffs for embedded networks (ENs) with medium or large annual energy usage, with a five year-transition period. These will be the default tariffs for new and existing ENs connected to Ausgrid's network from 1 July 2024. Based on our initial findings, it is apparent that several of our members with ENs would be impacted as they are using more than 160 MWh per annum.

As part of examining Ausgrid's Tariff Structure Statement, including its consideration and management of any adverse customer impacts, we request the AER also closely examine Ausgrid's EN tariff proposal, as we are concerned that Ausgrid has not adequately addressed issues raised.

AUSGRID EN TARIFF PROPOSAL

Ausgrid's *TSS Explanatory Statement for 2024-29* outlines the number of ENs connected to Ausgrid's network has grown significantly over the past 10 years and the purpose of introducing tariffs for EN operators is to 'better reflect the costs that these business customers impose' on its network and 'ensure they make a fair contribution to residual costs.'²

Ausgrid notes it has reviewed what EN customers pay in network charges and compared their load profiles to those of other customers on the same tariff and this analysis suggests Ausgrid's current tariff arrangements for EN customers are 'not as efficient or fair as they could be.'³

In our view, however, the information and load profile modelling that Ausgrid has presented is lacking and we are concerned that the issues Ausgrid is seeking to address (i.e., EN cost impacts on the network and tariff arbitrage) are not presenting in ENs within holiday parks and residential land lease communities as claimed. As a result, the pricing proposal may not be appropriate for these customers.

We presented at Ausgrid's 30 September 2022 Pricing Working Group meeting, raising issues relevant to holiday parks and residential land lease communities, and provided a written submission to Ausgrid on its Draft Plan 2024-2029, including the associated Pricing Directions Paper. In that submission we reiterated stakeholder suggestions from the meeting and posed further questions to Ausgrid.

Unfortunately, Ausgrid did not respond further and has lodged its EN tariff proposals as originally developed, except for a proposed five year-transition period in response to our point about bill shock. The other points in our submission have not been adequately addressed and it appears our recommendations have been misinterpreted.

We are not recommending that Ausgrid's proposal should exclude residential land lease communities on the basis 'these organisations are prevented by legislation from making a profit from the sale of energy.'⁴ This issue was raised in response to Ausgrid's statements about developments benefiting from tariff arbitrage and to highlight that residential land lease communities provide an important housing option for some vulnerable groups (who can least afford an average 30% increase in network charges for ENs) in Ausgrid's network. There are

² *Ausgrid, Our TSS Explanatory Statement for 2024-29, January 2023, p 14.*

³ *Ibid, p 22.*

⁴ *Ibid, p24.*

no gains from tariff arbitrage in residential land lease communities due to strict price controls under the *Residential (Land Lease) Communities Act 2013* (RLLC Act) and any increases from Ausgrid's EN tariff proposal will pass through to home owners in accordance with electricity charging requirements under the RLLC Act.

The issue is ENs vary widely. Such variations should reflect in their individual load profiles and thus 'the contribution they make to total efficient cost and residual network revenue.'⁵ This needs to be more thoroughly considered and reflected in Ausgrid's analysis and pricing proposals. From what we have seen, the EN modelling that Ausgrid has used is limited to an apartment complex (residential EN with 315 sub-metered customers) and an industrial precinct (business EN with 35 sub-metered customers.) We are not convinced this provides any meaningful data regarding ENs in holiday parks or residential land lease communities.

In response to Uniting's similar concerns regarding retirement villages, Ausgrid states 'as we do not have a clear indication of the different residential and business customer types within embedded networks, we are unable to introduce separate tariffs.'⁶

We do not believe data constraints and limited visibility are in themselves justifiable reasons for ignoring the distinctions between ENs and proposing network tariffs that do not distinguish between residential and other use.

A holiday park is very different to a retirement village and a shopping centre is very different to a residential land lease community. Distinctions between ENs are recognised in the different activity classes of the AER's Retail Guideline and Network Guideline. The same approach should apply in any network tariff reforms that impact them and their customers.

Ausgrid's assumption that applying the new tariffs to connections identified as ENs in Market Settlements and Transfers System (MSATS) and using above 160MWh per annum 'would allow small ENs such as caravan parks and small retirement villages to be exempt from the proposed changes'⁷ does not adequately address the issues.

Holiday parks and residential land lease communities are ENs that warrant separate consideration and we are not convinced that Ausgrid's analysis has taken proper account of them (or others like retirement villages, shopping centres, etc). Those differences must be considered by Ausgrid and any other DNSP considering network tariffs for ENs.

Factors for further consideration include:

- Most holiday parks and residential land lease communities are older developments that have evolved over time. They are one segment of the original intended recipients of the embedded network exemption framework. The supply and on-selling of electricity to sites within these properties remain ancillary services. Our understanding is they are not the types of ENs that have contributed to the growth in numbers of ENs in Ausgrid's network over the last five years nor are they major drivers of new EN connections.
- Many child meters in holiday parks and residential land lease communities are not 'smart meters,' but accumulation meters and they do not communicate with the parent smart meter (or meters) for the EN. They measure how much electricity has been used at the site, but they cannot discern when the electricity has been used.

⁵ *Ibid.*

⁶ *Ibid.*

⁷ *Ibid*, p 23.

- Levels of amperage supplied to sites can be below 30 amps, determined by planning and supply authority laws at the time. In holiday parks and residential land lease communities established many years ago, the provision of lower amperage to sites was normal development. This is different to amperage levels in average homes and apartments.
- Holiday parks are tourism businesses, so the primary relationship between an embedded network customer and an embedded network operator in a holiday park is an arrangement for holiday accommodation. The supply of energy is incidental and temporary. As customers in holiday parks make use of the embedded network only on occasion and for holiday purposes, such usage will be reflected in the load profile of the relevant business. This can also be impacted by seasonality.
- Many residential land lease communities are 'mixed parks' i.e., a combination of holiday guests, long-term casual occupants and permanent residents. Some only have a small number of residents, while others have hundreds. So, the proportion of holiday verses residential customers (and their use of energy) in these ENs varies widely. This will also be reflected in their load profiles.
- Some residential land lease communities are only part ENs – that is, energy is on-sold by the operator to some residents, while other residents are 'on-market' and purchase their energy from an authorised retailer. However, all the residents in these communities (and any holiday guests and long-term casual occupants if it's a mixed park) would have access to and use the communal facilities, which would contribute to the overall load profile of the business/EN.⁸
- As mentioned above, there are no gains from tariff arbitrage in residential land lease communities due to strict price controls under the RLLC Act. Section 77(3) of the RLLC Act provides an 'operator must not charge the home owner an amount for the use of a utility that is more than the amount charged by the utility service provider or regulated offer retailer who is providing the service for the quantity of the service supplied to, or used at, the residential site.'

The meaning of this section was clarified on 4 September 2018 by the NSW Supreme Court's determination in the case of *Silva Portfolios Pty Ltd trading as Ballina Waterfront Village & Tourist Park v Reckless [2018] NSWSC 1343* (Reckless). The Court's decision was that the concept of a 'regulated offer retailer' no longer existed (following deregulation of the energy market in 2014) and under s 77(3) of the RLLC Act the plaintiff was not entitled to charge the defendant any more than the plaintiff had been charged for the supply or use of the electricity consumed by the defendant.

While there are some practical difficulties in calculating the tariff to apply (known as the 'Reckless method') the outcome is that these types of ENs are prohibited from profiting on the sale of energy and have no opportunity to recover any administrative, operational, maintenance or replacement costs of the EN through energy charges.

- Any increase in network charges for residential land lease communities because of Ausgrid's EN tariff proposal will pass through to home owners in accordance with electricity charging requirements under the RLLC Act.

⁸ Communal facilities vary, but can include swimming pools, gyms, club houses, tennis courts, bowling greens, libraries, recreational rooms (e.g., cinemas), barbecues, etc.

In its 10 October 2022 submission on Ausgrid's Pricing Directions Paper, Compliance Quarter⁹ noted there may be an assumption that embedded network consumers are being charged prices capped at the Default Market Offer (DMO) and, therefore, any increase in the gate meter supply charges will simply reduce the margin of the embedded network operator. We agree that assumption is not correct where embedded network operators are charging less than the DMO, such as in residential land lease communities.

Considering residential land lease communities provide an important housing option for some vulnerable groups, any increase in network charges for ENs (which we do not support based on Ausgrid's current proposal) needs to be managed through appropriate transitional arrangements (as well as consideration of grandfathering existing sites) to avoid bill shock. This is particularly important given other price pressures across the energy sector.

- During Ausgrid's 30 September 2022 Pricing Working Group meeting, one stakeholder suggested seeking assistance from the AER to help identify the EN types within Ausgrid's network area. We agree this option should be explored and we would be happy to assist where we can to identify existing holiday parks and residential land lease communities.

In addition, NSW Fair Trading has a register of residential land lease communities. Considering Ausgrid supplies power to 1.8 million customers, obtaining important data on 800 EN customers should not be an overly burdensome task.

- We have also queried whether changes to MSATS could allow for distinct EN codes to be applied to improve visibility going forward. Or could retailers be responsible for notifying Ausgrid of an EN customer to whom an exemption applies and apply for a tariff reassessment?
- In further support of Compliance Quarter's submission, we also believe independent modelling is needed to examine load profiles across all Ausgrid embedded networks and that such independent modelling should examine and quantify:
 - Ausgrid's avoided costs resulting from the EN operators having responsibility for the internal infrastructure, wiring, private poles, tree trimming, etc,
 - the costs to consumers of 'reverse retrofitting,' and
 - the likelihood of EN operator failure from these increased costs and consequences.
- Compliance Quarter also raised whether the issues Ausgrid is seeking to address should be more appropriately dealt with as part of wider law reform, which we support. There are several reviews currently underway that will have implications for ENs in NSW and around the country.

⁹ Compliance Quarter, *Submission on Ausgrid's Draft Plan 2024-2029*, accessed 27 May 2023 at <https://www.aer.gov.au/system/files/Ausgrid%20-%20Att.%208.14%20-%20Submissions%20on%20the%20Pricing%20Directions%20Paper%20-%2031%20Jan%202023%20-%20Public.pdf>

CONCLUSION

Thank you for considering our feedback. As the peak industry body representing holiday parks and residential land lease communities in NSW with ENs, CCIA NSW is an important stakeholder in relation to Ausgrid's proposed EN tariffs. We do not believe Ausgrid's analysis is sufficient enough to justify the proposed EN tariffs at this time and therefore we request they be included in the issues to be more closely examined by the AER.

Should you wish to discuss the issues raised in this submission please contact Shannon Lakic, Policy, Training and Executive Services Manager, on [REDACTED] [REDACTED] [REDACTED] or email [REDACTED].

We look forward to our continued involvement in the consultation process.

Yours sincerely



Lyndel Gray
Chief Executive Officer