Caravan & Camping INDUSTRY ASSOCIATION NSW

Manufactured Housing INDUSTRY ASSOCIATION NSW

Land Lease Living INDUSTRY ASSOCIATION NSW

11 May 2023

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

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

Dear Mr Gulbenkoglu

SUBMISSION ON ISSUES PAPER ENDEAVOUR ENERGY 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.

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

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

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One of the elements of Endeavour Energy's 2024 – 2029 Regulatory Proposal is proposed pricing reforms and introducing a low voltage (LV) EN tariff that includes an additional demand charge to their standard demand-based tariff (N19). New and existing sites using greater than 160MWh per annum will be assigned to this tariff, with a two year-transition period. 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 Endeavour Energy's Tariff Structure Statement, including its consideration and management of any adverse customer impacts, we request the AER also closely examine Endeavour Energy's EN tariff proposal, as we are concerned that Endeavour Energy (like Ausgrid's proposal for EN tariffs) has not adequately addressed issues raised.

ENDEAVOUR ENERGY EN TARIFF PROPOSAL

Endeavour Energy's *Tariff Structure Explanatory Statement 2024-29 Regulatory Control Period 31/01/23* outlines that Endeavour Energy's network is 'growing at a rapid rate driven in part by significant Greenfield developments across the network' and Endeavour Energy anticipates that 'a proportion of these developments will become embedded networks.'[2]

As reasoning behind the introduction of a LV EN tariff, Endeavour Energy is concerned that its current network tariffs and assignment policy 'result in these customers making an inappropriately low contribution to recovering the cost of our existing network, which is unfair for all other customers.'[3]

While Endeavour Energy acknowledges there are network benefits from ENs, one being 'the coincident maximum demand of the aggregate embedded network is lower than the sum of maximum demand for each connection,' it says the customers within an embedded network 'contribute less to residual cost recovery than similar customers that are not within an embedded network.'[4]

It is unclear to us, however, what the demand and cost impacts are for ENs within Endeavour Energy's network because the information presented by Endeavour Energy is lacking. As a result, we are concerned that the issues Endeavour Energy 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 and the pricing proposal may not be appropriate for these customers.

In late 2022 we corresponded with Endeavour Energy and provided a written submission on its *Draft Proposal Endeavour Energy 2024-2029 Regulatory Control Period October 2022*, raising issues relevant to holiday parks and residential land lease communities. In that submission we reiterated stakeholder suggestions from Ausgrid's 30 September 2022 Pricing Working Group meeting (which was attended by an Endeavour Energy representative) and posed further questions to Endeavour Energy.

Unfortunately, Endeavour Energy did not respond further and has lodged its EN tariff proposal as originally developed. The points in our submission have not been adequately addressed and it appears our recommendations have been misinterpreted.

We are not recommending that Endeavour Energy's proposal should exclude residential land lease communities 'where legislation prevents operators from profiting from the sale of

[2] *Endeavour Energy, Tariff Structure Explanatory Statement 2024-29 Regulatory Control Period 31/01/23, p47.*
[3] *Ibid, p 16.*
[4] *Ibid, p 48.*

electricity.'[5] This issue was raised to highlight that residential land lease communities provide an important housing option for some vulnerable groups (who can least afford an average 12% increase in network charges for ENs in Endeavour Energy's network). Any increases from Endeavour Energy's EN tariff proposal will pass through to home owners in accordance with electricity charging requirements under the *Residential (Land Lease) Communities Act 2013* (RLLC Act) - see below for more details.

The issue is ENs vary widely. Such variations should reflect in their individual load profiles and thus the contribution they should make to recovering the cost of Endeavour Energy's network. This needs to be more thoroughly considered and reflected in Endeavour Energy's analysis and pricing proposals.

Endeavour Energy provides the following information to justify the proposal to implement its LV EN tariff:

> 'The core of the issue with our current approach is that an embedded network is assigned to a large customer tariff based on the aggregate annual energy consumption of its "child" connection points. We do not believe this is equitable, since the embedded network is not an individual business or industrial customer, it is a collection of SME businesses and residential customers.
>
> We have identified 389 embedded networks that are currently connected to our network, which makes up over two per cent of all energy consumed on our network. Of the 389 embedded networks identified, 256 are large connections consuming greater than 160 MWh per annum, with the vast majority (248) being low voltage sites and a minority (8) sites that are HV connected customers.
>
> Unfortunately, we have no visibility over the connections within an embedded network, although it appears that the majority of child NMIs at the low voltage sites are small businesses in the context of shopping centres and residential customers in the context of apartment buildings and developments. The HV sites do not appear to be aggregating residential and small business sites and as such, we do not believe an embedded network tariff is required at this time.'[6]

We do not believe data constraints and limited visibility are in themselves justifiable reasons for ignoring the distinctions between ENs and proposing a network tariff that does not distinguish between residential and other use. Endeavour Energy acknowledges here that embedded networks are a 'collection of SME businesses and residential customers' but still proposes to bundle them all under one EN tariff. We do not see how swapping one singular tariff for another would be equitable for these ENs.

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.

Further, Endeavour Energy's assessment that 'limiting the application of the embedded network tariffs to sites greater than 160 MWh per annum will address concerns that incidental and temporary electricity is unfairly captured'[7] does not adequately address the issues.

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[5] *Ibid, p 67*
[6] *Ibid.*
[7] *Ibid.*

Holiday parks and residential land lease communities are ENs that warrant separate consideration and we are not convinced that Endeavour Energy's analysis has taken proper account of them (or others like retirement villages, shopping centres, etc). Those differences must be considered by Endeavour Energy 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 are, or will be, contributing to the significant growth in numbers of ENs in Endeavour Energy's network.

- 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.

- 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.'

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

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 Endeavour Energy's EN tariff proposal will pass through to home owners in accordance with electricity charging requirements under the RLLC Act.

  In its 10 October 2022 submission on Ausgrid's Pricing Directions Paper (which proposed introducing 3 tariffs for embedded networks (ENs) with medium or large annual energy usage), Compliance Quarter[9] 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 Endeavour Energy'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 (which, as noted above, was attended by an Endeavour Energy representative) 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 for both Ausgrid and Endeavour Energy 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 Endeavour Energy supplies power to 1.08 million customers, obtaining important data on 389 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 notification of an EN customer to whom an exemption applies and apply for a tariff reassignment?

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[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*

- Reiterating our support of Compliance Quarter's submission to Ausgrid, we believe independent modelling is needed to also examine load profiles across all Endeavour Energy's embedded networks and that such independent modelling should examine and quantify:

    - Endeavour Energy'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 and ask the same of Endeavour Energy. There are several reviews currently underway that will have implications for ENs in NSW and around the country.

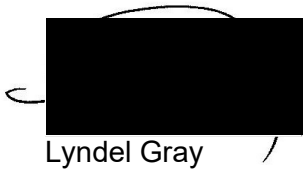
CONCLUSION

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 Endeavour Energy's proposed EN tariff. We do not believe Endeavour Energy's analysis is sufficient enough to justify the proposed EN tariff at this time and therefore we request it 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] or email [redacted]

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

Yours sincerely



Lyndel Gray
Chief Executive Officer