

Our ref: 0743-1608241381-415

5 December 2022

Mr Mark Feather
General Manager, Strategic Energy Policy and Energy Systems Innovation
Australian Energy Regulator
GPO Box 3131
Canberra ACT 2601

By email: NetworkPolicy@aer.gov.au

Dear Mr Feather,

AER Flexible Export Limits – Issues Paper

Thank you for the opportunity to comment on the Australian Energy Regulator's (**AER's**) Flexible Export Limits – Issues Paper (**the issues paper**).

The comments set out in this letter reflect the views of the Energy and Water Ombudsman Queensland (EWOQ) and the Energy & Water Ombudsman South Australia (EWOSA). We are the industry-based external dispute resolution schemes for the energy and water industries in Queensland and South Australia.

EWOQ and EWOSA support the objective of this review which seeks to assist the Energy Security Board (**ESB**) to ensure the existing regulatory frameworks for DNSPs provide effective guardrails to support further rollout of flexible export limits in a manner that protects and promotes the long-term interests of consumers.

We note the review of the regulatory framework for flexible export limit implementation is one of many projects being progressed under this pathway. The ESB is coordinating the activities under this reform pathway through the Consumer Energy Resources Implementation Plan, which provides a three-year roadmap setting out the technical, regulatory and market reforms required to integrate CER.

We acknowledge and welcome the reforms and the broader approach to the Implementation Plan, which is strongly grounded on ensuring a fit-for-purpose protections framework that improves experience for all customers.

As industry ombudsman schemes, we recognise the need to ensure appropriate consumer protections are available for new energy products and services, and are supportive of proposals that will improve outcomes for energy consumers.

We have collectively reviewed the Issues paper and have provided comments targeted on key aspects of the issues paper.

Consultation questions

General questions

- Do stakeholders agree with the primary use case for the implementation of flexible export limits? [The primary use case is the efficient and increased utilisation of the shared hosting capacity on the distribution network to enable consumers to obtain the benefits of exporting their energy resources such as solar PV to the grid]

Agree

Capacity allocation methodology

- Is the approach outlined above [see section 3.3.2] in allowing flexibility for DNSPs to develop their capacity allocation methodologies appropriate?

We are of the view that a nationally consistent method would be simpler to administer and manage customer expectations. In the short to medium term however, we acknowledge that the availability, accuracy, and timeliness of data will impact the DNSPs approach to calculation methodology and some flexibility may be warranted in the early phases to support innovation. Clear guidance would support the DNSPs to appropriately consider equity issues, and maximise outcomes for consumers.

EWOQ notes that in regional Queensland vast areas of the network are supplied by SWER lines meaning capacity restrictions likely, and there may be some consumer disadvantaged as a result.

- Do stakeholders agree that DNSPs should include their capacity allocation methodology in their CER integration strategy?

Agree - we consider this vital for transparency, fairness and promoting efficient outcomes.

- Should DNSPs be required to publish their capacity allocation methodologies, clearly outlining the trade-offs considered in setting their approach?

Agree – This information supports investment signals/needs in the network and ensures transparency and trust in the process.

- Should the AER have a role in approving DNSP capacity allocation methodologies? If so, what form should this mechanism take?

Agree – but noting each DNSPs customer contribution policy likely has subtle variations, and by extension historical development of the network, which may create equity issues.

Consumer participation (opt-in or opt-out)

- Do stakeholders agree with the expectation that over the near to medium term, consumers should continue to have the option of static export limits?

Yes, customers should be entitled to fall back to this when opting out of flexible exports agreement. Existing be-spoke or non-standard connection contracts where they have paid an

amount to guarantee a level of export and import should be honoured – ie where they have paid to augment the network to guarantee capacity.

- Should consumers be expected to opt-in or opt-out of flexible export limits (where available)?

Opt out approach– We agree this approach is more likely to achieve the highest participation therefore extract the most consumer and network benefit. However, we agree this may not be appropriate in the early phases of this reform while in its infancy.

We acknowledge informed consent will be important but there is a huge education journey for customers to participate in this meaningfully.

- Is it necessary for this expectation to be captured in the Model Standing Offer?

Yes, this issue requires informed consent.

Connection agreement

- Should DNSPs be required to set out expectations of flexible export limit operation within the connection agreement where there is no trader, or third party involved in the operation?

Yes

Do stakeholders agree with the rights and obligations outlined above?

Yes

Governance arrangements for flexible export limits

- Do stakeholders have concerns about the approach to governance outlined above, particularly embedding elements of the rectification process in the connection agreement?

The paper correctly identifies a reasonable approach depending on relationship with the DNSP and embedding elements of the rectification process in the connection agreement is appropriate.

We support the view that consumers should not be exposed to formal penalties for their device(s) not responding to a change in the flexible export limit.

Is it appropriate for a technology provider/OEM be held responsible for devices that do not conform to the export limit set by the DNSP (i.e., where this is no active control)?

We consider this to be a purchase agreement/ warranty issue between retailer and customer and/or installer and customer. Appropriate resolution will depend on contracts in place between these parties.

What is the appropriate governance arrangement for managing flexible export limits?

We are of the view the connection frameworks under chapter 5A of the NER are appropriate to address the DNSP / customer agreements.

We also consider a new model/framework should be developed to manage the tripartite scenario where consumers delegate operation of the device to a third party (trader).

Is it necessary to develop a separate framework to manage governance where a trader or technology provider is involved in passing-through the flexible export limit (i.e., where there is active control)?

- What should be the responsibilities of traders in ensuring consumer energy resources do not exceed any export limit set by the DNSP?

Yes as outlined above and per agreements with DNSP and Customer.

- Do stakeholders agree with our view of that consumers should not face significant penalties for non-conformance of their energy resources for flexible export limits?

Yes we support the view that consumers should not face significant penalties for non-conformance given their inability to influence the operation of the device(s) and noting their reliance on the work and installation of other parties.

- What should be the responsibilities of traders in ensuring consumer energy resources do not exceed any export limit set by the DNSP?

This should be addressed in the agreements between the DNSP and Customer.

Leverage existing work

Monitoring export limit performance and information provision

- Should the AER publish data on the performance of individual DNSPs in terms of their flexible export service for consumers?

We agree publishing data as a way of monitoring performance of DNSPs is important. Transparency and evidence to help assess if the market is working effectively and as intended/designed is critical. Other information that will assist assessing the value and benefits realisation:

- Capturing any systemic issues and rectification
- Monitoring costs and benefits are they being realised
- Monitoring evidence of equity concerns – complaints received by DNSPs

Device capability to respond to flexible export limits

- Regarding the governance of a potential CSIP-Aus requirement, do stakeholders consider there should be a mandate for devices to be CSIP-Aus compliant for new connections in the NEM?

Agree – understand this will be addressed in the Energy Security Board's (ESB's) technical guidelines paper.

Consumer protections

- Beyond the issues being canvassed in the Review of Consumer Protections for Future Energy Services and the AEMC's review of CER technical standards, are there any other specific consumer protection issues we should explore in the context of the implementation of flexible export limits?

We support - ESB's proposed process for achieving a nationally consistent implementation of CSIP-Aus to enable DNSPs to implement Flexible Export Limits in a way that future-proofs

customer installations and reduces risk and complexity for consumers in their engagement with consumer energy resources.

Energy Ombudsman schemes we are committed to closing consumer protection gaps for customers without access to the National Energy Customer Framework (**NECF**) or the Victorian Energy Retail Code (**VERC**) and to ensure our schemes remain relevant and effective as new energy products and services continue to enter the energy market.

We are continuing to address these gaps in our ongoing contributions to the *AERs Review of Consumer protections for Future Energy Services*.

A list of other consumer protection issues for noting:

- We anticipate there are likely to be issues where a consumers location within a network might limit their export ability compared to their neighbours (and how this might be settled between utilities and customers. This raises challenging equity issues, but similarly what assurances, a customer retains if they have paid for a non-standard connection to allow a certain level of export and import from the network.
 - We note the latter issue would fall outside our jurisdiction - we can't manage disputes about customer contributions. While we are aware of pioneer schemes which provide a method for cost sharing between customers, for non-standard connection agreement- who is the Dispute resolution referral?
- We note potential issues pin-pointing which party might be at fault for quality of supply issues where there are multiple suppliers - Power purchase agreements (PPAs)/DNSP/ Customer.
 - How can you determine damage caused by quality of supply issues is attributable to which supplier?
 - Is a system smart enough to retrospectively record power flows?
- We consider the Distributor as the person of knowledge of their network should only provide approval for connection to the network where it is confident that a customer can utilise their device (PV), or the distributor should be responsible for any cost unnecessarily incurred by the customer.
- Who will be responsible for remediating issues on a customer site when something goes wrong and ensure that the consumer is appropriately protected?
- Behind the meter (BTM) interoperability / Open protocols behind the meter, local access to real-time data from smart meter
- Consumer autonomy over the generation, storage and use of their own energy – contracts restricting autonomy warrant careful scrutiny
- Cyber security risks.

Finally, we would also like to emphasise that any roll out needs to be supported by a customer education program and appropriate notification to likely impacted customers.

Consumer understanding and interest

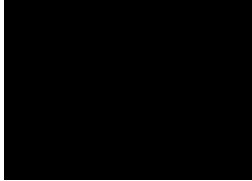
- Should the Customer Insights Collaboration workstream be leveraged to improve consumer understanding of flexible export limits and/or for consideration of impacts upon consumers and consumer sentiment?

We support the need to continue to leverage the work of Insights Collaboration workstream to enhance this work.

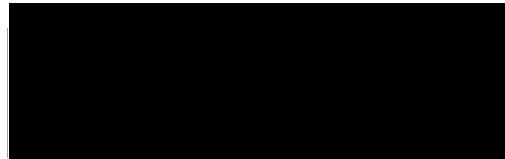
In conclusion, we broadly support the direction of the AER in the issues paper.

If you require any further information regarding our submission, please contact Mr Jeremy Inglis, Principal Policy Officer (EWOQ) [REDACTED] or Ms Jo De Silva, Policy and Communications Lead (EWOSA) [REDACTED]

Yours sincerely



Eleanor Bray
Acting Energy and Water Ombudsman
Queensland



Sandy Canale
Energy and Water Ombudsman South Australia