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AER

Submitted by email: AERexemptions@aer.gov.au

27 July 2021

Dear AER

RE: Updating the network and retail exemption guidelines – Consultation paper

Thank you for the opportunity to provide feedback on the consultation paper for the network and retail exemption guidelines review.

Enel X operates Australia's largest virtual power plant.[1] We work with commercial and industrial energy users to develop demand-side flexibility and offer it into the NEM's energy and ancillary services markets, the RERT mechanism, and to network businesses.

This submission sets out our responses to the questions raised in the consultation paper. Our comments are on the network exemption guideline only. The key points are:

- We support changes that improve the clarity and readability of the exemption guideline.
- We support changes to clarify the concepts of operation and control of embedded networks.
- We agree that many of the obligations of the network exemption guideline are not relevant to SGA customers.
- We support the ESB's work on the development of a flexible trader model that would regulate flexibility providers outside the embedded network framework.
- It is important to provide regulatory certainty to SGAs in the interim before such a model is introduced.

If you have any questions or would like to discuss this submission further, please do not hesitate to contact me.

Regards

Claire Richards
Manager, Industry Engagement and Regulatory Affairs
[redacted]

[1] Bloomberg NEF, December 2019.

Network exemption guideline

Section 3: What does it mean to own, control or operate an embedded network?

We agree that there is a lack of clarity over what it means to control or operate an embedded network, and that this makes it difficult for parties to determine their compliance obligations. We support the AER's proposal to clarify the meaning of these terms and provide examples of the types of parties that might operate or control a network.

We also support the AER's proposal to require that there be one registrant per embedded network, and that other parties be subject to deemed exemptions. This approach will make the network exemption framework easier to navigate and will make it clear who is responsible for complying with the relevant obligations.

Section 4: Should exempt networks be created to allow for the creation of SGA schemes?

We concur with the AER's description of the existing SGA arrangements.

Enel X is a registered SGA. We establish embedded networks at C&I customer sites to meet the requirements of the SGA framework and enable demand response participation in the NEM. Enel X applies for network exemption at these sites under the guideline's existing exemption categories, and therefore holds a number of network exemptions on behalf of customers. We also have a number of customer sites committed and in the pipeline to be set up in this way in the near future.

Nevertheless, we agree with the AER that many of the obligations of the network exemption guideline are not relevant to SGA customers, for example the requirement to appoint an embedded network manager. Specifically, we agree that SGAs that create an embedded network to access the NEM do so solely for this purpose and that, where this is the case, there is no potential customer detriment requiring regulation.

ESB proposal

As the AER points out, the ESB is considering ways to better integrate DER and flexible demand in the NEM, including through the development of a "flexible trader model". The ESB's latest options paper put forward two ways to give effect to this model and cater for bi-directional energy flows via the SGA framework.

Under the first option, the customer's use/production of energy services would be separated into two connections, via two metering installations and two NMIs. This model is already permitted (for generation only) under the SGA framework. However, as the ESB paper notes and an Energeia report confirms:[2]

- the costs of establishing a separate connection point poses a material barrier to the use of this model, particularly for existing customer sites
- some DNSPs do not allow the installation of a second connection point to a small customer's premises for sub-loads or embedded generation, even though the rules do not prohibit this
- customers would likely incur additional access and tariff charges associated with a second connection point.

[2] See here.

Noting that these are material barriers not easily addressed, the ESB proposed a second model whereby an appropriately accredited party could establish a sub-metering point behind the customer's existing connection point without it being considered an embedded network. The ESB concluded that this "private metering arrangement" addresses the shortcomings of model 1 and is likely to bring greater benefits to consumers.

Interim arrangements

Enel X expressed support for the development of model 2 in its submission to the ESB options paper.[3] Should the ESB recommend the model 2 in its final report, a rule change request would be needed to implement it.

It is important that the AER provides regulatory certainty for SGAs on whether/how they will be regulated under the network exemption guideline in the intervening period before such a model is introduced. We see two possible approaches for this interim period:

1. Maintain the current arrangements, i.e. whereby SGAs seek exemption under the existing categories and are subject to the applicable conditions.

2. Create a new category of exemption specifically for SGAs, with conditions that better reflect their obligations, if any are needed.

Given the AER's conclusion that there is "no potential customer detriment requiring regulation", option 2 may be a more suitable approach if it can be implemented easily. This approach would provide a clear path for SGAs seeking network exemptions before the flexible trader model is introduced.

Providing regulatory certainty

We are concerned that some of the language in the AER's paper may suggest that SGAs cannot operate in embedded network configurations at all – specifically, the AER's conclusion that an embedded network created for the purposes of establishing a second connection point to enable a small generator to export electricity to the NEM is not a network (as defined in the NER) and does not have customers.

The term "customer" is not defined in the NER but is defined in the AER's network exemption guideline as "a consumer of electricity for primary industry, domestic, commercial or industrial use …" In Figure 2 of the AER's paper there is a consumer of electricity in the embedded network – depicted as "main site load". This is how Enel X configures its SGA sites – the customer (usually a commercial / industrial energy user) consumes electricity to support its operations, and the small generating units are enabled for use under the SGA framework at child connection points.

We also note that the NER definition of *child connection point* is "the agreed point of supply between an embedded network and an electrical installation, *generating unit* or other network connected to that embedded network, for which a Market Participant is, or proposes to be, financially responsible". The inclusion of *generating unit* makes it clear that an embedded network need not be comprised of load only.

This all said, we note that the definition of *network* is currently being considered by the AEMC in the *Access, pricing and incentive arrangements for DER* rule change. The definition was amended in the draft rule determination published on 25 March 2021 to remove the words "to customers (whether wholesale

[3] See here.

or retail)". Given the potential flow on impacts of such a change, it may be prudent to wait until that rule change is finalised before amending the network exemption guideline.

While we agree that much of the embedded network framework is not relevant to SGA configurations, and improvements can indeed be made, the embedded network framework is the only viable means by which Enel X, its customers and other SGAs can access the NEM with small generating units. As noted above, we have configured many sites in this way and have recently entered into contracts with new customers that assume we can continue to do so. We would not want to see this opportunity closed out. We do not believe that this is the AER's intention, but confirmation of this is crucial to provide regulatory certainty to SGAs currently operating (and intending to continue operating) under these arrangements, and other stakeholders with whom SGAs interact as part of this process, e.g. DNSPs.