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Dear Mr Feather

Review of Regulatory Framework for Flexible Export Limit Implementation

EnergyAustralia is one of Australia's largest energy companies with around 2.4 million electricity and gas accounts in NSW, Victoria, Queensland, South Australia, and the Australian Capital Territory. EnergyAustralia owns, contracts, and operates a diversified energy generation portfolio that includes coal, gas, battery storage, demand response, solar, and wind assets. Combined, these assets comprise 4,500MW of generation capacity.

EnergyAustralia appreciates the opportunity to participate in the consultation for the AER's review of the regulatory framework for flexible export limit implementation (the review). The AER's review into the impacts of introducing flexible export limits (FEL) is extensive, and EnergyAustralia appreciates the emphasis on the impacts and benefits to customers. We believe that customer preference is fundamental to the adoption and effectiveness of FEL, and that this will be facilitated by information provision and incentives that correlate to the benefit that customers and the network are receiving from the dynamic operation of customer energy resources (CER).

Increased adoption of CER is vital to achieve AEMO's ISP step change scenario[1], it is therefore crucial that the decisions formed in this review do not have a significant adverse impact the uptake of CER by consumers. We are concerned that the framing of the review seems to have formed a position that customers will receive a significant benefit from FEL, and that they will receive the primary benefit.

EnergyAustralia accepts that increasing the export capacity dynamically can provide a benefit to customers; however, this can also result in the customer receiving a reduction in export, or to have their CER operated in a manner that erodes any benefit from an increased export (inefficiently operated; opposed to market price, or aggregator incentives). It is also clear that FELs will primarily provide a benefit to DNSPs, as this will improve the operation of their networks, and would see them achieve or exceed the benchmarks set by the AER (resulting in financial incentives).

We believe it is important that the review reconsider the primary driver and beneficiary of FEL, as reframing the perception should lead to more equitable considerations for how FEL should be delivered, and for how best to provide the benefits.

[1] AEMO | ISP Methodology

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]

EnergyAustralia agrees with the primary use case. As discussed above, we believe that the review must consider both the consumer and network benefits, as this should lead to the appropriate incentives being established.

Immediate actions
Capacity allocation
Do stakeholders agree with the DEIP Working Group principles for capacity allocation? Why / why not?

We support the capacity allocation principles, they provide a clear and fair outline for customers/aggregators to base their investment/operation decisions on.

Should these principles for capacity allocation be binding for DNSPs?

Yes, they should be binding to provide confidence to customers and fairness that customers will receive the same treatment regardless of their distribution network.

Should the application of capacity allocation principles by DNSPs be auditable to assure consumers of fairness?

Yes, this is required to provide a clear and fair outline for customers/aggregators to base their investment/operation decisions on.

Should principles for static export limits also be developed for use by DNSPs going forward?

They should follow a similar approval process as flexible export limits, e.g. substantiation that the amount set is based on network constraints/capacity. Customer or their agents should be able to clearly identify why the static export limit has been set, as this will be required to establish the generation capacity of their investment.

Do stakeholders have a view as to whether existing AER guidance material is sufficient to communicate expectations regarding capacity allocation principles for flexible and/or static export limits?

EnergyAustralia support the AER establishing expectations via its guidance material. We suggest the AER review the application of the guidance by networks and following a reasonable review period (e.g., 2-4 years) assess whether a more prescriptive framework is required.

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?

While EnergyAustralia is supportive of establishing expectations via the AER's guidance materials, we believe that this guidance should detail the requirements and expectations of networks when developing a capacity allocation methodology. Additionally, it is unclear why the 'one size fits all' approach would stifle innovation, as the networks are inherently the same, with any locational differences not being something

that couldn't occur in another distribution network; within a single distribution network the conditions vary as much as between multiple distribution networks.

To promote a more efficient allocation of capacity, we believe the AER should consider how introducing nodal/transformer/locational pricing could facilitate the effective allocation of capacity for FEL, reduce any conflicting price signals between FEL and network tariffs, and provide more accurate cost reflective network tariffs generally.

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

Yes, the capacity allocation methodology should be linked with the CER integration strategy. The capacity of the network is substantiation for both the FEL, and the investment decisions derived from their DER integration strategy.

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

Publishing the DNSPs capacity allocation methodologies is required to provide confidence to customers in making CER investments. The methodology will provide an outline for how the FEL will operate, but as this will be dynamic, the DNSPs should also publish up-to-date projections for the FEL schedules that are likely to impact customers and aggregators.

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

The AER should approve capacity allocation methodologies, this should align with the substantiation provided in a DNSP's DER integration strategy. The frequency for approval of the capacity allocation methodology should be annually at a minimum, as the scale of CER uptake is likely to result in DNSPs needing to amend their methodology regularly.

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?

Our primary view is that both a flexible and static export limit should only be offered if there are substantiated network constraints that are impacting a customer's supply address. Where this is the case, and where there is an opt-in offered for FEL, a static export limit should be provided as an alternative.

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

Opt-in is EnergyAustralia's preference, as forcing FEL through opt-out would increase the inequity between customers looking to invest in CER and those with existing installations. To promote the uptake of FEL by customers and to reduce the contradiction between FEL operation and static network tariffs, DNSPs should develop FEL network tariffs that do not incur any detrimental export pricing; this would provide an incentive for customers to allow DNSPs to control their devices under a FEL, and would not lead to inefficient use of the network as DNSPs would operate the devices in a way that best suits the available capacity.

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

To provide clarity the expectation should be captured in the Model Standing Offer.

Governance of traders and consumer energy resources
Do stakeholders require further guidance with regards to the interactions of retailers and aggregators and flexible export limits outside of what is being explored through the existing workstreams?

Yes, there needs to be further consideration by the AER on the impacts of FEL (under the current proposal of network control) and the impacts on aggregators and retailers; for example, the impact on Virtual Power Plants (VPPs) that have requirements to confirm and adhere to how much they will bid into energy and FCAS markets, and what will happen if the network enacts a FEL.

EnergyAustralia's preference is for the operation of FEL to be a service open to the competitive market, with DNSPs procuring the service from aggregators where it is more efficient to do so; as aggregators have the capacity to operate customers assets at present, it will provide access to many more devices and the benefits of FEL instead of having to wait for new installations, with the appropriate technical standards, and the uptake of enough customers to achieve the desired network benefits.

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?

A FEL operated by the network should be accompanied by an outline of expectations and the expected operation. EnergyAustralia believes it is most suitable for this to be included within the DNSPs connection agreement. Providing an outline of what they will do, and how they will do it (including what the expectations of the customer/CER installer are) will instil confidence into customer's investment decisions.

Do stakeholders agree with the rights and obligations outlined above?

EnergyAustralia agrees with the rights and obligations outlined in the issues paper.

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 governance arrangements are suitable; however, further work is required to enable the network to follow up any non-compliance. EnergyAustralia's view[2] is that there needs to be a framework in which CER installers are required to be licensed via an appropriate regulator (CEC, CER, AER, etc) and that the DNSP could then issue any complaints of non-compliance to the regulator for review.

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)?

Responsibility will differ depending on who is operating the FEL, and the reason for the non-compliance:

- If the appropriate technical standard was not implemented within the product during development, it will be the responsibility of the provider.
- If it is a failing of the technology installer to set the appropriate technical requirements, it will be the responsibility of the installer.
- If the customer has made alterations without the consent of the DNSP, or technology provider/installer, then they will be responsible for rectifying the non-compliance.

[2] AEMC Review into Consumer Energy Resources Technical Standards - EnergyAustralia's submission

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

As stated above, we believe that DNSPs should have a limited requirement to enforce compliance, other than a responsibility to notify the appropriate regulatory body of a technology provider/installers non-compliance. The appropriate regulator, which could be separate for the technology provider (CEC) and technology installer (CER, AER, etc), should be empowered with the necessary punitive powers; financial deterrents, and loss of license for sustained or egregious breaches.

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)?

Tech providers/installers can be governed under the compliance framework discussed above. Traders with active control of FEL, should be complying with AEMO and the AER's regulatory frameworks, and the connection agreement set by the DNSP. Where a trader is non-compliant, and is unable to justify this non-compliance (e.g., this may have been at the direction of AEMO), the DNSP should be able to refer the breach to the AER.

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?

EnergyAustralia strongly believes that consumers should not be held liable for any non-conformance of their flexible export limits, unless the non-conformance is due to action taken by the customer.

Do stakeholders believe there needs to be a standardised approach to enforcement for consumer energy resources under the control of a trader? For example:

- *If notified by the DNSP of an issue with device conformance (where no trader is involved), it is appropriate for the responsibility of rectification to rest with the consumer?*
- *Where a trader is involved, should responsibility for rectification rest with the trader?*

It should be clearly documented the scenarios in which a customer, trader, tech provider/installer, and DNSP are responsible for compliance with the FEL requirements. Customers and traders should only be held liable to rectify non-compliance where they are at fault. EnergyAustralia believes that to enforce compliance the DNSP should revert the customer onto a static export limit, this is likely to elicit the appropriate response from both the customer and trader. As outlined above, any serious or sustained breaches by a trader should be referred to the AER.

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

Traders shouldn't be able to exceed any limits that are reasonably and justifiably set by the DNSPs. However, further consideration should be provided into how the requirements of a DNSP may contradict that of AEMO, which may have generation expectations of the trader that do not align with the operation of the FEL.

Notification period for a dynamic limit
Does the issue of a framework for providing forecast information on expected dynamic limits need to be considered in the short term?

Providing forecast information is vital for retailers, traders, and aggregators, as it will significantly impact the value propositions and operating decisions of each entity. As such, we believe strongly that providing

this information is required in the short term, as the development of FEL should be cognisant of its impacts on the developing CER market, and because the first FEL customers should be provided reasonable and justifiable protections from FEL inception.

Do stakeholders consider this will be sufficiently addressed through the Scheduled Lite workstream?

Providing the FEL operation and expectations via Scheduled Lite will be beneficial to AEMO, as is the intention of the workstream; however, it raises concerns about how this will work, as DNSPs will be advising a FEL operation that will impact the advice of generators/aggregators that have also informed AEMO via Scheduled Lite. We believe the AER should consider and clearly specify the order of preference for the operation of CER, with our view being that energy and FCAS bids take precedence over the operation of FEL to improve network quality.

Broad questions regarding immediate actions
Do stakeholders agree with the areas identified above as requiring immediate attention?
Do stakeholders consider there are additional matters requiring immediate attention not covered here? If so, what are they, and what specific factors should we be considering?

EnergyAustralia believes further consideration is needed into which party is the primary beneficiary of FEL adoption, as we do not agree with the premise that customer's assets should be required to facilitate a network benefit. We do not oppose the use of customer assets to support networks, but we are of the belief that any use of a customer asset should provide a benefit to a customer.

While it is likely customers will benefit from increased export in the infancy of FEL implementation, it is foreseeable that there will be a tipping point where the sum of FEL connected customers will result in a negligible increase, or a reduction, in export. Additionally, we do not believe a 'potential reduction in network augmentation' is a suitable benefit considering the significant investment customers have made in their CER.

We believe it is not appropriate to define FEL as a benefit to customers, as the primary beneficiary is the DNSP which achieves improved network operation and the AER's incentives frameworks that follow. Therefore, our view is that customers should be compensated for participation in FEL. This amount does not need to be significant but should correlate to the savings from reduced network augmentation and the benefit the DNSP is receiving from achieving an improved network (Service Target Performance Incentive Scheme, Capital Expenditure Sharing Scheme, Efficiency Benefit Sharing Scheme).

Leverage existing work
Monitoring export limit performance and information provision
Are there any additional metrics that should be considered that have not been incorporated into the broader export services review?

EnergyAustralia has not identified any additional metrics that should be incorporated into the broader export services review.

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

Customers and those that are impacted by FEL operation should be provided data on the performance of individual DNSP's FEL service, this information should be presented along with suite of other DNSP reporting relating to export services.

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?

EnergyAustralia supports mandating the requirement for CSIP-Aus compliance for new connections in the NEM. As stated previously, we do not believe that FEL operation should be limited to DNSP control, and while CSIP-Aus is primarily targeted at this form of control, we believe that it is the most suitable technical standard to provide the functionality to DNSPs, and traders/retailers/aggregators can still provide FEL operation services to DNSPs via other methods; or in further developments of CSIP-Aus functionality.

Do stakeholders have views on how this mandate could be most effectively implemented?

EnergyAustralia believes that the following process is the most effective way to mandate for devices to be CSIP-Aus compliant for new connections in the NEM:

1. Require all CER manufacturers/providers, and installers to have an accreditation through the relevant regulator, without this they should be unable to sell or install CER.

2. Require CER manufacturers/providers to seek approval from the Clean Energy Council that the CER device is developed with the appropriate standards.

3. Require CER installers to provide proof to a distribution network that they have set the appropriate technical standards at the time of installation. This substantiation should be provided at the same time as other mandatory artefacts (Certificate of Electrical Safety).

4. NER amended to require distribution networks to report any non-compliance with the setting of technical standards to the relevant regulator.

5. Relevant regulator/s empowered to enforce compliance, with the capacity to revoke a CER manufacturer/provider, or installers accreditation; where the regulator has undertaken reasonable endeavours to provide the CER manufacturer/provider, or installer the capacity to rectify any significant or systemic instances of non-compliance.

Interval length
Do stakeholders agree that DNSPs are best placed to determine the interval length of flexible export limit operation? If not, what guidance would stakeholders like to see on this issue?

We prefer national consistency, and as we believe that FEL shouldn't be limited to DNSPs operation, a 5-min interval should be applicable to anyone operating these devices.

Demonstrating investment need
Do you agree the AER has sufficient guidance on what information DNSPs are expected to provide to justify specific flexible export-related proposals?

EnergyAustralia believes there is sufficient guidance for DNSPs to justify their specific flexible export-related proposals.

Do DNSPs need more information than is currently available to demonstrate the investment need for flexible export limits?

They will potentially need more granular information than they are able to obtain at a transformer level; however, if they require more precise information this will be facilitated by the roll out of smart meters and improved access to the data elements they provided; which based on the AEMC's draft determination will provide for this information to be available and should see the rollout completed by ~2030[3].

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 believe that in the reviews mentioned and in our commentary throughout this submission that consumer protections are sufficiently identified; however, it is unlikely that we are aware of all the possible concerns that could arise in the developing CER market or in the operation of FEL, so we believe it is warranted to ensure any regulatory framework has periodical review periods (e.g., 2 years after implementation).

Data protection and privacy
Are more data protection and privacy requirements needed for the implementation of flexible export limits beyond those already available in the current framework and what is being considered in the ESB data strategy?

The AER should consider whether guidance is a suitable safeguard to reduce the risk of any inappropriate handling of CER customer data. If there is a risk that DNSPs, traders, retailers, or aggregators, may have access to sensitive information and a concern on how this information will be handled (e.g., shared with ring-fenced affiliates or used inappropriately) then the AER should consider whether changes are required to regulation to ensure customer protections are enshrined. We believe this will be considered within the ESB's Data Strategy but the timeframes for this may not be appropriate, so it would be beneficial for the AER to consider if this action is needed outside of the ESB's process.

What impact is there likely to be on metering service providers from the implementation of flexible export limits?

Based on the information outlined in the review, CER assets (inverters and CER devices) will be directly controlled for FEL operation. Therefore, metering service providers should not be impacted by the implementation, as the operation of FEL will not be facilitated through a customer's metering.

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

The CIC is designed to ensure that customer impacts and desires are front of mind in the development of CER policies, it is appropriate for it be leveraged to improve consumer understanding of FEL.

What do consumers need to know about flexible export limits at each step in the journey to properly understand and engage with them?
What communication materials do consumers need to understand the opportunities offered by flexible export limits?

[3] AEMC Review of the Regulatory Framework for Metering Services

It is imperative that customers (and those parties that communicate with customers about CER) are provided the required information on FEL to educate investment decisions and operation expectations, this would include confirmation from the network about the FEL performance, allowing customers to see the benefit they could receive if they were to opt-in compared against the static export alternative.

There should be a communication method for notifying customers, retailers, aggregators, and other invested parties regarding up-to-date FEL schedules, and a notification option if the FEL operation is changed at short notice.

Integration with export pricing
How do stakeholders see flexible export limits and network tariffs interacting, for example, on the basic export level?
What types of tariff structures could apply to flexible export limits?
Do stakeholders have views on how export tariffs and flexible export limits could be implemented to complement each other?

Customers who have opted-in to a FEL should not be eligible to be placed on a basic export limit, as they shouldn't be forced into any cost reflective network tariff that would contradicts the operation of the FEL. The operation of FEL should be conducted to achieve use of the network up to the available limits, this control by design suggests that the customers export will be decreased or increased within the network capacity available, therefore they should not incur a cost reflective price signal to dictate their CER usage.

Networks should develop dynamic tariffs specific to FEL customers, as they will need to substantiate the need for FEL, they will be able to demonstrate how a dynamic tariff will meet the needs of the network and support the interaction with the customer's asset operating flexibly. They can complement each other, but it will require the development of more specific tariffs that acutely represent the customer's specific impact on the network.

Alternatively, instead of a dynamic tariff, the customers who have opted-in to a FEL could be provided an export tariff that does not provide any negative price for their export, as the network will be controlling this (benefitting the customer and the network). This would incentivise more customers to opt-in, and as the export tariff price signal is reflecting the SRMC and LRMC of export, it appears reasonable that their export should be free if the network is controlling customer's CER based on the available capacity of the network. This type of tariff could incur a higher supply charge to socialise the LRMC of the network.

Compliance and enforcement of technical standards that facilitate flexible export limits
Are there any issues stakeholders consider will fall outside the AEMC's review of technical standards and consideration of associated roles and responsibilities the AER should be aware of?
Are there any issues that stakeholders consider will fall outside of CSIP-Aus that the AER should consider?
Do stakeholders foresee issues with DNSPs monitoring device performance?

As discussed throughout our submission, we believe improved compliance adherence will not be achieved until a regulatory body is provided the licensing powers to enforce compliance on CER providers and installers. This will provide the oversight and enforcement required to provide DNSPs and other market participants the capacity to refer non-compliance, with the threat that sustained or egregious breaches may result in a loss of license.

Future actions
Efficient communication of flexible export limits at scale
Do stakeholders have any views on which data exchange model may be the most efficient for the NEM?

EnergyAustralia has no views on the most efficient data exchange model for FEL.

If you would like to discuss this submission, please contact me on [redacted] or [redacted].

Regards

Travis Worsteling

Regulatory Affairs Lead