

23 January 2020

Mr Scott Sandles
Director, Network Tariff Reform
Australian Energy Regulator
Level 17, 2 Lonsdale Street
Melbourne VIC 3000
Australia

Dear Mr Sandles and Mr Telford,

Ausgrid Tariff Structure Statement Amendment / AER Reference 61048

Living Utilities is Lendlease's dedicated, private utilities business specialising in precinct scale utility solutions such as the Embedded Network (**EN**) within the Barangaroo South Precinct. Living Utilities provides customers with better outcomes through smart, innovative and cost-effective solutions helping create the best places for people to live and work in - today and in the future.

Our purpose is to develop and deliver smart, utility infrastructure solutions for property developments, urban regeneration projects, master-planned communities, apartments and retirement living villages in Australia.

A key difference in our approach is the focus on resource productivity through design, in contrast to the traditional consumption model.

Where Lendlease seeks to deploy ENs, it bases the decision-making process on several considerations, including:

- an evaluation of the value proposition to its customers,
- efficient use of existing and new lead-in infrastructure,
- regulatory requirements,
- long term average of the price of energy and carbon, and
- the future deployment of value-add services such as renewables, energy storage and demand management.

We support the long-term interests of energy consumers, both individually for EN customers and collectively through enhanced competition in energy markets by aiming to provide our customers:

- scale discounts that would not be available to them individually,
- additional energy efficiency, reliability and resilience services, and
- the same customer protections as available under traditional supply (AEMC reforms).

All of our customers benefit from this approach because:

- We provide another competitive option to incumbent distribution networks and retailers
- As customers of distribution and transmission networks, we contribute towards the fixed costs of those networks to the benefit of *all* customers.

It is with these considerations in mind that we provide the following submission to the AER in relation to Ausgrid's request for an amendment to its 2019-2024 Tariff Structure Statement (**TSS**) requesting the introduction of a special class of tariffs for ENs.

Principles for efficient distribution network tariff design to embedded networks

Network pricing to ENs must not harm energy market competition.

It should:

- not have the purpose or effect of substantially lessening EN's ability to compete in the energy market (including competing with distributors). This includes not treating EN customers any differently than other large users;
- recognise that each EN will have a lower standalone cost than the traditional residential sector, and not be priced in a way that encourages grid defection of EN loads, over investment in distributed energy resources by ENs, or inefficient network bypass;
- recognise that ENs place less cost and risk on their host distribution network;
- price marginal demand/capacity signals to the EN operator who is best placed to respond to network pricing signals; and
- recognise that EN operators are effectively demand management intermediaries, and network tariff design must neither impede their ability, nor diminish, their incentive to perform this role.

Has Ausgrid met the criteria to vary its TSS?

None of the 3 cited factors that Ausgrid claim constitutes a trigger:

1. AEM
 - x Neither the timing nor outcome of the AEMC's decision create a trigger
 - x Ran in parallel with the Regulatory Review Period and final decision deliberations, plus a lack of variance from draft to final AEMC decision means it should have been reasonably known
 - x Decision does not actually require Ausgrid to create this tariff
2. EN growth
 - x Does not show the materiality across its total customer base
 - x Only shows inquiries from 2018 (presumably to try to make the trend look something other than predictable since 2013)

- x While customer numbers are no longer growing one-for-one with dwellings, this is merely evidence of their loss of market share
3. AER
- x AER's final decision should have been 'reasonably foreseeable' to Ausgrid
 - x Ausgrid did not give the information needed to demonstrate a compliant TSS, not to mention the information the AER had already asked of TasNetworks in its draft decision

Does Ausgrid's application have anti-competitive intent?

Ausgrid states:

'On-supply of network services is of a different nature of use to end use'

and that this is the reason to price EN's differently from other C&I customers.

ENs involve a customer's choice to place their grid connection point further up the energy system, which erodes the incumbent distributor's market share. In this context we must ask:

- Will Ausgrid's tariff substantially lessen competition in a market that relies on access to and competes with distribution networks?
- Of all C&I customer types, why has Ausgrid singled out the only one that competes with it?
- Has it analysed other C&I sectors and tested materiality?

We view it as misuse of their market power to raise rivals' costs. This will discourage EN market entry, hasten EN departures and financially benefit Ausgrid in the future.

- Misusing market power against EN's will harm both EN customers and all customers.
- Ausgrid is incorrect to say it won't make more revenue. Any pricing that discourages ENs means that, by default, the network assets of the EN will, in future, be owned and operated by the distribution network who will earn a regulated return for doing so.

Is Ausgrid's application rule compliant or materially preferable?

- Ausgrid must prove that it's proposed TSS amendment '*materially better complies*' with the pricing principles. However, Ausgrid presents no analysis of materiality relative to the current TSS or relative to other cohorts within the C&I customer segment.
- Ausgrid presumes that the current allocation of residual costs to residential customers is efficient. While they may have been approved as such (by implication) in the current TSS, it is a different prospect to assert that they must be maintained going forward, particularly when these allocations arise from predominantly legacy tariffs that predate cost reflective tariff reforms.

- Ausgrid provides no impact assessment for what its tariffs will do to the efficient connection, distributed energy resources (**DER**) investment and energy usage decisions of ENs.

Ausgrid states:

'We are proposing an EN tariff to improve the efficiency of our tariffs and ensure a fair contribution to funding network costs by all customers. Under current arrangements, the cost of running the distribution network is not shared equitably between customers within ENs and those outside ENs. We are pioneering an EN tariff through this amendment to protect the long-term interests of current and future customers who share our network assets. Importantly, because our revenues are subject to a revenue cap, this new tariff will not result in us earning more revenue. We are seeking this amendment in the interest of our customers who are effectively cross-subsidising ENs under the current tariff arrangements.'

Our response to this statement is:

- Equity is not a rule consideration
- 'Cross-subsidy' is inevitable in a shared network service under a regime that recovers fixed and sunk cost
- NER do not require equal contribution, they require marginal signals, recovery above avoidable cost and recovery of residual costs in a way that least distorts efficient decisions
- Ausgrid:
 - Ignores that ENs will have a lower standalone cost than traditional customers
 - Must prove that its pricing won't distort otherwise efficient EN connection and usage decisions (e.g. by encouraging oversizing of DER, total grid defection or bypassing the LV network)

NER pricing principles codify the requirements of Ramsay pricing in rule 6.18.5(g)(3). This requires recovering total revenues in a way that minimises distortions to the price signals for efficient usage.

The concepts of 'fairness and equity' in Ausgrid's proposal have no direct relevance to this pricing rule, and Ausgrid has not established that its proposal won't distort efficient usage decisions by ENs.

Further:

- The efficient component pricing rule is not suitable logic under the NER for a network service recovering fixed and sunk costs. Ramsay pricing must also be applied
- Is Ausgrid's use of IPART determination as a precedent helpful to the AER? IPART is not bound by a single market efficiency objective of the kind prescribed in the NEO
- Arguments of 'cherry picking' under postage stamping are flawed. Network locations do not drive EN decisions, and if this was true, the connection charging regime (IR-IC) neutralises this.

In conclusion, we believe that Ausgrid's request for an amendment of the TSS should not be approved on the basis that:

- the factors cited for an amendment do not constitute triggers,
- the amendments are anti-competitive,
- it is not Rule compliant, and
- it is not materially preferable.

We thank the AER for the opportunity to present the above arguments and make ourselves available for further consultation.

Yours sincerely,



Scott Taylor
Managing Director
Living Utilities