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9 December 2022

Mr Mark Feather
General Manager
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

Submitted via email to: NetworkPolicy@aer.gov.au

Dear Mark,

Re: Flexible export limits issues paper

Red Energy and Lumo Energy (Red and Lumo) welcome the opportunity to comment on the Australian Energy Regulator's (AER) issues paper on flexible export limits.

Red and Lumo note that flexible export limits and dynamic operating envelopes are required to assist Distribution Network Service Providers (networks) in managing reliability on their network. However, this is a complex change for customers, and the AER must design the inclusion of flexible export limits with customers at the core.

In theory, compared to static export limits, flexible export limits increase the amount of electricity that customers export from their solar and batteries (termed Consumer Energy Resources or CERs), and maximise the return on their investment.

In practice, implementing flexible export limits will require a shared responsibility from the AER, networks and retailers to assist customers to understand how, if at all, flexible export limits benefit them. It is clear from the AER's issues paper that a customer will need to engage with the connection process in an informed way. Absent this, the reform may lead to unintended consequences for the customers and jeopardise the win-win benefits to networks and customers alike.

This submission first assesses the principles that should apply to networks and customers, which should be designed to set out what is required for engagement both for the principles and the connection agreements themselves. Taking a customer-centred approach is imperative in the establishment of, and any required re-negotiation or amendment to the connection agreements. Understanding *who* the connection agreements are made between is important for the AER to consider. As the concept of a customer to a network in this instance might need to be the retailer's customer (or a shared customer as defined in the energy rules) who resides at a NMI, rather than a site. As if the customer who engages with the network moves property, they may take their exporting contracts or capabilities with them.

Finally, we strongly encourage the AER to adopt jurisdictional and NEM-wide consistency. It is very important for parties that are supporting customer's taking up flexible export limits, as without consistency it increases the complexity and reduces incentives for traders and retailers to participate in driving the customer uptake of flexible export limits.

Customer focused principles for capacity allocation

<u>Capacity allocation principles</u>

The AER's issues paper suggests that networks require flexibility and the ability to innovate in the approach to capacity allocation. However, consistent with how the networks approach pricing and other agreements, Red and Lumo strongly encourage the adoption of different approaches to negotiating flexible export limits for different customer classes.

It is clear from other regulatory processes that small customers have limited ability or desire to engage with networks on the design of tariffs for example. However, large customers have both the capacity, ability and incentives to do so. As such, a principle based approach to negotiate a flexible export limit is more appropriate for large customers and would serve them well. Comparatively, small customers continue to require consumer protections and greater guidance and without this it would only exacerbate the asymmetric bargaining power of the networks.

If the AER decides that customers are required to negotiate their flexible export limits in accordance with the capacity allocation principles, then it is incumbent on the AER to ensure consistency. Other regulatory requirements both within the energy rules and AER guidelines, require parties to communicate with customers in an accessible and simple manner, which is a prerequisite for small customers in the capacity allocation principles. A good example of these requirements as they apply to networks communicating hydrogen and renewable gases to customers in the soon to be adopted National Energy Retail Rules[1].

The AER queried in their issues paper whether the capacity allocation principles should be auditable to ensure network compliance for the benefit of customers. We strongly encourage this approach. In addition, we would support the AER applying the compliance and enforcement regime where it is evident that the relevant network has not complied with the capacity allocation principles in the negotiation process.

To this end, we recommend that the AER considers the inclusion of the following principles before finalising the capacity allocation principles and how they apply to the following key issues. This includes the how the:

- flexible export limits will be set;
- timeframes that apply for the flexible export limit will be determined;
- delivery of the flexible export limits will work;

[1] See the proposed rule 147F, which requires information published to be expressed in clear, simple and concise language; be in a format that makes it easy for a small customer to understand; and enables a small customer to obtain the information relevant to their premises and be kept up to date. Available here: https://www.aemc.gov.au/sites/default/files/2022-11/Recommended%20final%20rules%20-%20Group%20E%20%20-%20NERR.pdf

- compensation will be determined if flexible export limits are breached by a customer; and
- compensation to customers would be determined if the network fails to deliver its export capacity on the grid.

In considering the principles and associated requirements, the AER must strike a balance in assessing whether and how compensation is assigned. The incentives and disincentives to manage any flexible export limits must be assigned equitably to both the network and customers ensuring that each has the capability to manage their associated requirements.

DNSPs must have specific engagement expectations

The principles must contain tangible expectations on networks about the manner in which they engage each customer class when implementing flexible export limits.

In practice, this means the networks would be required to provide customers with CERs with fit-for-purpose information on flexible export limits to educate them about the change. In order to successfully achieve flexible exports, meaningful engagement with customers is required unlike what we see in some tariff engagement. As noted above, in order to ensure success in the delivery of this change, all stakeholders including the AER, networks, consumer groups, retailers and the solar industry must work together to ensure that customer understanding is achieved and any associated education collateral is rolled out.

By setting tangible expectations on networks for engagement, it will incentivise them to ensure that customers have the information they require to make an informed decision on whether to take up a flexible export limit. In the long run, this action would help to ensure that the reform is rolled out successfully.

Customer protections associated with connection agreements

Connection agreements

Red and Lumo consider that the connection agreements that apply to residential customers with CERs should be changed to ensure they provide customers with the necessary consumer protections they require. We consider that the AER should approve two model standing connection agreements, one for static limits and the other for flexible limits.

Both connection agreements must provide basic information on matters like the operating parameters including the length of the interval and expectations of performance, and in the case of flexible limits, the conditions for revising the flexible export and the process for communicating changes to the flexible operating limits.

To strengthen the consumer protections in connection agreements, the AER should consider including the following consumer protections that include the requirement to:

- explicitly state the specific flexible or the static export limits in a connection agreement;
- outline how a customer can quantify the potential additional export capacity that is available through a flexible export limit;
- outline where the network provides specific information on the forecast constraints on the grid that will impact the CER; and

- outline where the network information is available to quantify the impact of the constraints on the network will have on a customer's ability to export.

Customer choice

As noted above, large customers should be able to negotiate their own agreements without support from the AER. This will allow the networks and the large customers to build on any innovation and provide flexibility in the negotiations of these connection agreements.

However, we consider that the AER should approve two model connection agreements for small customers, one for static export limits and one for flexible export limits. Taking a customer-centred approach, customers should be able to opt into a flexible export limit, and do so understanding what it means for them.

In practical terms, small customers that opt in for flexible export connection agreements should also have the ability to opt out if the agreement no longer suits their needs. Consideration around the cadence of opting in or out of agreements should be considered and placed into the connection agreement, balancing the operational implications for the customer, their service provider and the network ensuring that it is not too onerous nor can be gamed by any party.

The AER must consider *who* the connection agreement is agreed between in this process, as networks do not usually have a direct relationship with the customer. A customer who moves into a property should default onto a static limit and at that point, the network could re-engage the customer via their service provider about the potential benefits to accepting a flexible export limit. This is especially the case if the customer's ability to export is linked to a vehicle that moves when they move, or a retailer or service provider's contract that ceases to exist when the customer who originally agreed to the flexible export limit moves out.

Notification period for a dynamic limit

Networks should provide adequate notice of their forecasts for export limits on their network to enable market participants to effectively plan their offers and for AEMO to manage power system reliability. It is important that the notification period applied by the networks is consistent across all states. In the initial stages, this should be at a minimum aligned to the network's regulatory determinations to ensure that customers invest with certainty.

We expect that the connection agreements will set out how frequently networks would be required to provide notice of their forecasts for export limits on their network. At the very least, we would require that the notification period would need to be adequate to allow for retailers or the service provider to make necessary changes to the physical assets, as well as communicate to their customer the changes and what it might mean for their product offer. Further, retailers would also be required to be advised of this information so that they can make the relevant adjustments to their wholesale market arrangements. Depending on the amount of energy injected by CER into the grid, retailers will be required to adjust their wholesale market positions to reflect the different levels of CER injected into the grid.

Of course, our expectation will be that the language that is used in the connection agreements and any communications would be in plain english language accompanied by clear communication for the benefit of small customers. We would expect that the AER would ensure that these documents were easy for customers to understand.

Customers would also be required to ensure that where there is a third party involved in the connection agreement that it has a right to control the inverter. By doing this, the aggregator would be able to respond to any instructions provided by the networks on flexible export limits and ensure compliance with the flexible connection agreement.

Jurisdictional consistency

<u>Capacity allocation methodology</u>

Red and Lumo do not support small customers negotiating flexible export limits without a capacity allocation methodology. In contrast, the AER considers that at this time a detailed capacity allocation methodology should not be prescribed to enable networks to be innovative in their approaches in the future. It suggests that a 'one size fits all' approach at this time would likely stifle implementation of flexible export limits.

The absence of a capacity allocation methodology, in our view, provides too much flexibility to the networks and leverage in the bilateral negotiation process. In contrast, a capacity allocation methodology provides large customers with a firm basis on which to negotiate flexible export limits. It balances the power in the negotiation process. Absent a capacity allocation methodology the risk is customers will end up with suboptimal outcomes in the negotiation process.

Importantly, before applying a capacity allocation methodology for flexible export limits across a network, we consider that it would be worthwhile for the AER to approve them. In our view, the AER is well placed to determine whether a capacity allocation methodology is appropriate and whether customers could rely upon it to negotiate their flexible export limits.

<u>Interval length</u>

Red and Lumo support the introduction of a uniform flexible export limit that would be applied to all of the jurisdictions across the NEM. While we understand that networks will have different approaches to determining the interval length that would be influenced by the congestion levels of the different parts of the network, for simplicity the interval lengths should be uniform across the NEM. The consistent application of interval lengths across the jurisdictions will make flexible export limits easier for customers to understand and therefore used. In contrast, having different interval lengths across the various jurisdictions will add unnecessary complexity making the reform less attractive to customers. In the long run, if this reform is going to be successful it will need to be designed in a customer-centred manner.

<u>Integration with export pricing</u>

For small customers, the combination of two part network prices and flexible export limits is too complicated to navigate in the short term. However, we consider that this may be appropriate for large customers as they work with networks to agree their connection agreements.

We consider that at the early stages of this reform, flexible export limits must be introduced with support from customers, who understand and can respond to the reform in an informed manner.

It is also important for the AER to recognise that the market systems and processes are embryonic, as the implementation of the Integrating Energy Storage Systems is scheduled to occur from June 2024 and at a small customer level, the Australian Energy Market Commission (AEMC) is only just commencing its consideration of multiple service providers to small customers.

This is a matter that the networks can consider in their Tariff Structure Statements post-2025, once these processes are bedded down and clearly understood.

Governance arrangements for flexible export limits

Red and Lumo agree there is a need to consider whether a new governance arrangement for connection agreements that include flexible export limits is required. However, this must be considered holistically. As the AER is aware, the current AER consultation on the c*onsumer protections for future energy services* also considers the governance arrangements alongside the AEMC's workstream mentioned above on flexible trading arrangements. It is clear that the AER and AEMC must consider how all of these reforms will fit together and their impact before acting.

We strongly encourage the AER to reassess the governance arrangements when all of these reforms have been completed, and only then, revisit the need for revised governance arrangements for flexible export limits.

About Red and Lumo

We are 100% Australian owned subsidiaries of Snowy Hydro Limited. Collectively, we retail gas and electricity in Victoria, New South Wales, Queensland, South Australia and in the ACT to over 1.2 million customers.

We thank the AER for the opportunity to comment on its issues paper. Should you wish to discuss aspects of this submission or have any further enquiries, please contact Con Noutso Regulatory Manager on [redacted].

Yours sincerely

[redacted]

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