

Australian Energy Regulator
GPO Box 3131
Canberra ACT 2601

By email: AERresets2024-29@aer.gov.au

To Whom It May Concern

Submission on Ausgrid's 2024–29 Regulatory Proposal

Thank you for the opportunity to comment on Ausgrid's *2024–29 Regulatory Proposal*, which includes a proposal to include new network tariffs to apply to embedded network operators. We have been actively engaged as part of the consultation with Ausgrid regarding its proposal, as well as previous consultations affecting embedded networks.

We thank the AER for meeting with us as part of this consultation.

As we flagged with the AER in a preliminary discussion, Ausgrid did not directly engage with us ahead of submitting its proposal. Given the significance of the proposed changes on Shopping Centre embedded networks, this is both disappointing and in our view inconsistent with engagement noted by other stakeholders during the consultation.

As previously noted in submissions to the AER and relevant government bodies, we reiterate the significant differences between Residential and Commercial (Shopping Centre) embedded networks, including but not limited to, the materially different baseline, growth, customer-base and profile, and usage profile (i.e. completely separate peaks) of shopping centre embedded networks.

The current NSW IPART review on embedded networks, which is centred on residential networks, indicates the number of residential customers within embedded networks is currently around 150,000 in NSW and increasing by 5-6 sites per month according to Ausgrid's analysis. This compares to 20,000 tenants across the entire NSW Shopping Centre portfolio (inclusive of non-embedded network sites), and around 10,000 in Ausgrid's area, where incremental customer changes occur due mostly to development, however, these are minor in comparison. To the best of our knowledge, this has not formed part of the analysis undertaken by Ausgrid.

Further, it should be noted that are 'tenancies' within shopping centres are lease-hold premises versus being separately titled free-hold properties – as is the case in residential buildings and developments.

Respectfully, given our long engagement on embedded network issues we have become tired with shopping centre embedded networks being corralled with residential embedded networks and their associated 'issues'.

As outlined below, we make a number of recommendations including that Ausgrid's proposal to include EN tariffs does not proceed for the 2024-2029 regulatory period. In preparing this submission and our recommendations, we have compiled and analysed usage data from several shopping centres within Ausgrid's network. The analysis highlights that shopping centre load profiles differ to EN EA305 customers mainly due to not showing a 7am or evening peak.

COMPLIANCE STATEMENT - COMPETITION AND CONSUMER ACT 2010

In preparing this submission, the Shopping Centre Council of Australia (SCCA) has taken steps to ensure that it is not contravening the spirit, intent or application of the *Competition and Consumer Act 2010*, including by engaging in or facilitating any conduct or behaviour that is anti-competitive or would substantially lessen competition, including through collusion, cartel conduct or by engaging in a concerted practice. This includes that the SCCA did not act, and will not be acting, as an intermediary for the communication of commercially sensitive information between members and/or competitors. Nor will the SCCA be using or enabling the use, by its members, of the information collected in ways as might replace or reduce competitive, independent decision making by shopping centre owners including as embedded network owners and operators.

EXECUTIVE SUMMARY

As part of their draft Initial Regulatory Proposal, Ausgrid has included in their Tariff Structure Statement (TSS) a request to introduce new tariffs for Embedded Network (EN) customers¹. In their Tariff Structure Explanatory Statement² (TSES), Ausgrid has highlighted the growing and material potential for tariff arbitrage due to differences in usage patterns as the core justifications for new EN tariffs and assigning ENs to them.

The proposed tariffs have identical fixed and energy unit rates as the corresponding tariffs for low voltage (LV) medium businesses (EA305, EA310) and for high voltage (HV) large businesses (EA370), but with a higher capacity charge. Ausgrid claims that the changes would lead to an average 30% increase in network charges for ENs, which in their view achieves an appropriate balance between managing bill impacts across the EN customer segment and achieving greater fairness for other customers.

The Shopping Centre Council of Australia (SCCA) recommends that the AER does not approve Ausgrid's TSS for the following primary reasons:

- 1. Ausgrid failed to properly consult with our industry and consider the differentiation between residential and non-residential embedded networks.**
 - a. It is highly unreasonable that a widespread EN tariff would be applied using residential EN scenarios and issues.
- 2. The proposed assignment of ENs to new, higher cost tariffs does not comply with the National Electricity Rules (NER)**
 - a. A tariff class must be constituted with regard to: the need to group retail customers together on an economically efficient basis; and the need to avoid unnecessary transaction costs.³

¹ Ausgrid, Tariff Structure Statement Compliance Document, 2023

² Ausgrid, Our TSS Explanatory Statement for 2024-29, 2023

³ NER, cl.6.18.3(d)

- i. Ausgrid has not sufficiently demonstrated that current arrangements are uneconomic,⁴ or that differences between ENs are material enough to justify the costs of implementing a separate EN tariff.
- b. Retail customers should be assigned to tariff classes on the basis of one or more of the following factors: (i) the nature and extent of their usage⁵ or intended usage of distribution services; (ii) the nature of their connection to the network; ... retail customers with a similar connection and distribution service usage profile should be treated on an equal basis, subject to subparagraph (3A).⁶
 - i. Ausgrid has not sufficiently addressed the above NER requirement due in part to only considering a sub-section of ENs and not ENs as a distinguishable customer group.
 - ii. Our data demonstrates that the load profiles of the mostly commercial ENs that we represent are closer to the provided tariff load profile than the EN load profile used in Ausgrid's analysis,⁷ which we believe resembles a mostly residential load shape.
- c. Each tariff must be based on the long run marginal cost (LRMC) of providing the service to which it relates to the retail customers assigned to that tariff with the method of calculating such cost and the manner in which that method is applied to be determined having regard to: (1) the costs and benefits associated with calculating, implementing and applying that method as proposed.⁸
 - i. Ausgrid has not demonstrated that new EN tariffs reflect the LRMC of serving EN customers, nor that the benefits of creating new tariffs and assigning EN customers to them outweigh the costs.
 - ii. Again, our member's mostly commercial EN consumption patterns appear to be aligned with the tariff average. More data on Ausgrid's tariff class is needed to confirm this during the peak period.

3. Ausgrid Proposal Does Not Comply with the AER's Criteria for EN Tariffs

- a. The AER has provided a range of criteria that must be passed in order to approve the creation of new EN Tariffs in their previous rejection of TasNetworks⁹ Proposed EN Tariffs.¹⁰
 - i. Ausgrid's proposal does not refer to these tests, nor does it include sufficient information that could be used to apply these tests

⁴ Allocative efficiency requires marginal revenues equal to marginal costs. Ausgrid has not shown this for ENs as a class, or even for residential ENs. The analysis focuses on the revenues only, there is no analysis of the costs.

⁵ The nature of usage is not defined in the NER, but the SCCA takes this to mean with respect to its impact on costs and revenues for the purpose of achieving economic efficiency as required under the Network Pricing Objectives and the Pricing Principles.

⁶ NER, cl.6.18.4(a)(2)

⁷ Ausgrid, Our TSS Explanatory Statement for 2024-29, 2023, p.22

⁸ NER, cl.6.18.5(f)

⁹ TasNetworks, Tariff Structure Statement Regulatory Control Period 1 July 2019 to 30 June 2024, 2018

¹⁰ AER, TasNetworks Distribution Determination 2019 to 2024 Attachment 18 Tariff structure statement, 2018, p.28

- b. The AER has provided guidance¹¹ on how to demonstrate that a sub-class of customers is sufficiently different to break them into their own class as part of their review of SA Power Network's (SAPN's) proposed new solar class.
 - i. As for 3.a.i.

We would welcome the opportunity to discuss the above issues with the AER.

Please feel free to contact me for further discussions if required.

Yours sincerely,

Angus Nardi
Executive Director

¹¹ AER, Notification and statement of reasons for not accepting SAPN's 2015-16 pricing proposal, 2015

BACKGROUND

The following section summarises our understanding of Ausgrid's position with respect to the introduction of EN tariffs as part of its upcoming regulatory proposal.

Previous TSS

Ausgrid requested a modification of its TSS in 2019 to introduce new network tariffs for specific customers of ENs.¹²

The AER rejected Ausgrid's proposal because they determined¹³ that it did not meet the criteria for changing the TSS under the Rules, which state that an event beyond Ausgrid's reasonable control that was unforeseeable at the time of the final decision on the current TSS must have occurred.¹⁴

While the AER recognised the pricing of network services for ENs as a significant challenge for electricity distributors, they believe Ausgrid's request to review their TSS during the 2014-2019 regulatory period was unnecessary.¹⁵

EN Issues Raised in Current TSS

Two issues were identified by Ausgrid during their review of charges and load profiles for EN customers:¹⁶

1. **Potential for Uneconomic Tariff Arbitrage:** EN customers can access tariffs with lower energy charges than tariffs assigned to individual small business and residential customers, resulting in a relatively lower bill per customer. Thus, the decision to connect as an EN could be primarily influenced by the ability to arbitrage¹⁷ between the tariffs.
2. **Material Differences in Usage Profile:** Ausgrid's review found that the load profiles of EN customers differ from those of other customers on those tariffs in terms of the ratio of maximum demand to energy consumption. This results in a relatively lower allocation of residual costs for ENs compared to other customers on the tariff.

Ausgrid asserts that introducing EN tariffs would help ensure cost recovery is fair and protect customers' long-term interests – consistent with the NEO.

Proposed EN Tariff

Ausgrid's proposed tariffs¹⁸ have identical fixed and energy fees as the corresponding tariffs for low voltage (LV) medium businesses (EA305, EA310) and for high voltage (HV) large businesses (EA370) but with an increased capacity charge. Ausgrid claim this approach to be a practical solution to deal with the issues raised, as the increased capacity fee will raise the cost of the tariff for ENs, reducing the arbitrage potential.

¹² Ausgrid, Attachment 10.01 – Tariff Structure Statement Amended September 2019

¹³ AER, DETERMINATION Ausgrid Tariff Structure Statement 2019-24 Amendment Proposal, 2020

¹⁴ NER, cl. 6.18.1B(d)

¹⁵ AER, DETERMINATION Ausgrid Tariff Structure Statement 2019-24 Amendment Proposal, 2020

¹⁶ Ausgrid, Our TSS Explanatory Statement for 2024-29, 2023, pg.22

¹⁷ Arbitrage infers a costless activity. Establishment and operation are not costless, involve investment and taking risks. Batteries can arbitrage tariffs as well, but also require investment and risk taking. The Rules do not recognise tariff arbitrage.

¹⁸ Ausgrid, Attachment 8.15 Indicative pricing schedule – DUOS, 2023

Ausgrid is proposing three EN tariffs based on voltage and consumption¹⁹:

- LV EN 160-750MWh (for ENs currently assigned EA305)
- LV EN >750MWh (for ENs currently assigned EA310)
- HV EN (for ENs currently assigned EA370)

The new tariffs will be applied on all connections (NMIs) in Ausgrid's network area that are registered as ENs and consume more than 160 MWh per year. Small ENs such as caravan parks and small retirement villages would be excluded from the proposed changes.

Ausgrid claims²⁰ that the change that would lead to an average 30% increase in network charges for ENs, which in their view achieves an appropriate balance between managing bill impacts across the EN customer segment and achieving greater fairness for other customers.

SCCA'S POSITION

The Shopping Centre Council of Australia (SCCA) recommends that the AER reject Ausgrid's TSS for the primary reasons detailed in the Executive Summary section of our submission.

The following sections support our position by providing further information.

Proposed Tariffs Not Based on Rules Required Consultation

The NER states that any tariff design must have regard to the information available to the Distribution Network Service Provider (DNSP), which specifically includes consultation undertaken with the retail customers applicable to the tariff.²¹ Stakeholder consultation in the context of the proposed EN tariffs is important as it allows for customers to assist Ausgrid with devising a tariff structure and rate design that specifically considers their limitations in mitigating the impact on their bills of any tariff change and their ability to choose the tariff to which they are assigned. The NER notes that this is a key consideration when implementing any tariff change upon retail customers.²²

The SCCA reached out to Ausgrid to provide consultation and support in understanding the usage and reality of shopping centre ENs but Ausgrid have not to date followed up with any plans to meet or discuss. The extent of Ausgrid's engagement with the SCCA ended with their brief response²³ to the SCCA's letter regarding Ausgrid's directions paper on 11 October 2022.

As the leading advocate for shopping centres on public policy and regulatory issues, the SCCA are frequently involved in stakeholder engagements across Australia, are experienced in industry consultation benchmarks, and based on that experience, believe that Ausgrid has not engaged to an acceptable standard of consultation with a key impacted customer class.

¹⁹ Ausgrid, Our TSS Explanatory Statement for 2024-29, 2023, pg.23

²⁰ Ausgrid, Our Pricing Directions Paper for 2024-29 for consultation, 2023, pg.29

²¹ NER, cl.6.18.5(i)(4)

²² NER, cl.6.18.5(h)

²³ Ausgrid, Our TSS Explanatory Statement for 2024-29, 2023, p.24

Tariff Classification and Assignment Must be Based on Cost-to-Serve to Comply with the NER

The NER states that retail customers with similar distribution service usage profiles should be treated equally with respect to tariff assignment.²⁴

Ausgrid identified an example that they claim contravenes this rule, and provided winter²⁵ load profile analysis comparing an example EN on the EA305 tariff to the average medium business customer on the same tariff.²⁶ Ausgrid claimed the profiles are dissimilar, with the EN profile being more closely aligned with a residential profile, and assert this as justification for the creation of new EN tariffs and the assignment of all ENs to them.

We agree that the analysis Ausgrid provided shows two different average daily usage profiles in Winter, however, we believe this analysis does not justify the proposed EN tariffs under the NER, which requires that tariffs and tariff classes:

- **Group customers on an economically efficient basis**²⁷ - Customers with a relatively similar cost of service represent an economically efficient basis. The degree of similarity needed must reflect the relative costs and benefits of additional groups.

Ausgrid has not assessed the relative cost of service of EN customers, nor have they demonstrated that grouping residential and non-residential ENs under the same tariffs is economically efficient or equitable.

- **Group customers with similar usage profiles together**²⁸ – Similar usage profile may go beyond usage during the peak period to include cost recovery considerations. The AER has previously advised one standard deviation as the basis for similarity.²⁹

Ausgrid has not demonstrated that mainly residential ENs profiles are beyond one standard deviation from non-EN customers, nor that mainly commercial ENs meet this criterion.

- **Be based on the LRMC of serving customers in the group**³⁰ – Customers grouped based on their level of demand during the peak period will be on the basis of the LRMC of serving them.

Ausgrid has not assessed the LRMC of providing services to EN customers.

- **Minimise distortions for the efficient usage of the service**³¹ – Recovering residual costs outside of the of the peak period is necessary to avoid distorting efficient usage of the network service.

²⁴ NER, cl. 6.18.4(a)(2)

²⁵ Ausgrid is principally a summer peaking network, so the use of a winter load profile is not reflective of their peak period.

²⁶ Ausgrid, Our TSS Explanatory Statement for 2024-29, 2023, p.22

²⁷ NER, cl. 6.18.3(d)(1)

²⁸ NER, cl. 6.18.4(a)(1), l. 6.18.4(a)(2)

²⁹ AER, Notification and statement of reasons for not accepting SAPN's 2015-16 pricing proposal, 2015

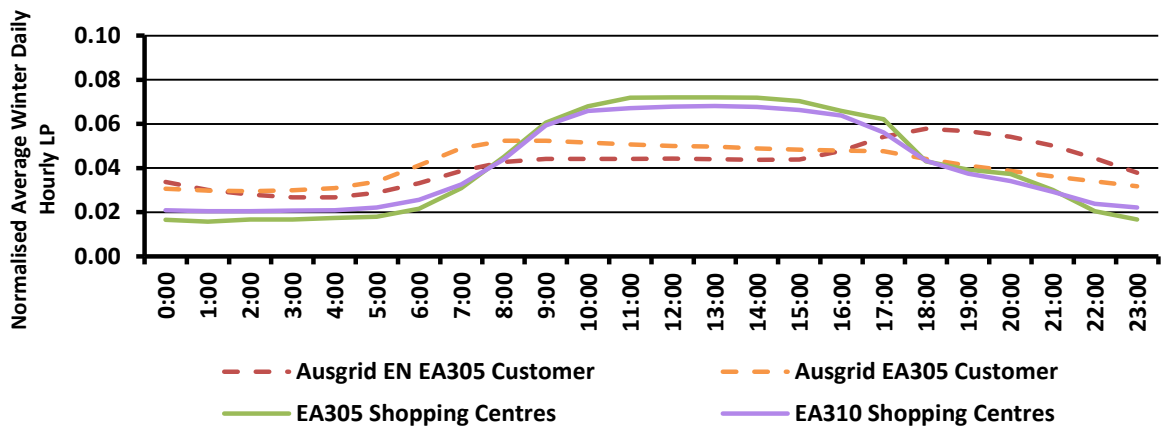
³⁰ NER, cl. 6.18.5(f)

³¹ NER, cl. 6.18.5(g)(3)

An anytime capacity charge could distort efficient usage of the service where an EN’s peak is coincident with Ausgrid’s peak. Ausgrid has not demonstrated that this is not the case for mainly residential or mainly commercial ENs.

We provide an alternative analysis, by compiling electricity meter data from 14 shopping centres within Ausgrid’s network for the 2022 calendar year. Figure 1 displays the average winter profiles of mainly commercial shopping centre connection points assigned to the EA305 and EA310 tariffs compared to the profiles Ausgrid presented. This analysis shows that shopping centre load profiles and usage are more like the typical (EA305) medium business customer profile than the example EN customer that Ausgrid provided in their proposal, which has a prominent evening peak. These peaks are not seen in shopping centre profiles and are attributed to residential usage patterns.

Figure 1 – Shopping Centre Site vs. Ausgrid EA305 Average Day Winter Load Shape



Source: SCCA, Ausgrid

Further to this, TasNetworks found in their EN tariff proposal³² that shopping centre load shapes were not significantly different to other large LV business customers:

"The synthesised embedded networks’ usage profiles and the nature and extent of their usage or intended usage of the distribution services are similar to those customers within the existing tariff classes that could embed...This includes the two distinct load profiles that were identified within the group of commercial connections, i.e., shopping centres."

This is demonstrated in Figure 2 below and is in contradiction to Ausgrid’s claim that EN customers have significantly different load shapes to other customers on that tariff.

³² TasNetworks, Combined Proposal 2024-2029 Attachment 22 Tariff structure explanatory statement, 2023, p.57-58

Figure 2 – Load Profiles of Low Voltage Commercial ENs Against Typical Customer Usage Profiles



Source: TasNetworks, Combined Proposal 2024-2029 Attachment 22 Tariff structure explanatory statement, 2023

Given the above analysis, which we recognise is limited due to the limited information provided by Ausgrid in support of their proposal, we conclude that the proposed tariffs do not comply with the Pricing Principles, and therefore do not comply with the NER.

To provide sufficient evidence to demonstrate compliance with the NER, we believe a DNSP would need to provide analysis across all ENs showing that:

- The costs of breaking ENs into additional groups, e.g., mostly residential and mostly commercial, do not outweigh the benefits;
- The LRMC of ENs is materially higher than the tariff; and
- EN average profiles are outside of one standard deviation from the average comparable customer to be considered different. This standard has been used previously by the AER for determining sufficient differences in load profiles to justify tariff changes.³³

³³ AER, Notification and statement of reasons for not accepting SAPN's 2015-16 pricing proposal, 2015

New Embedded Network Tariffs Must Meet the AER’s Key Tests

Ausgrid’s proposal does not meet AER’s criteria for creating new EN tariffs. The AER previously outlined the criteria they deem necessary to justify the introduction of EN tariffs in feedback to TasNetworks after rejecting their 2019-24 EN tariff proposal.^{34, 35}

Table 1 displays the criteria the AER provided to TasNetworks alongside our assessment of Ausgrid’s proposal under the same criteria.

Table 1 – Assessment of Ausgrid Proposal Using AER Criteria from Prior TasNetworks Rejection

| # | AER Criteria | TasNetworks (2019) – As assessed by AER | Ausgrid (2023) – As assessed by SCCA |
|---|--|---|--------------------------------------|
| 1 | Clarifying how any proposed embedded network tariff is more cost-reflective than existing network pricing arrangements and leads to a more equitable contribution towards the cost of the distribution network | x | ✓ |
| 2 | Explaining how the price levels for the embedded network tariffs are quantified | x | x |
| 3 | Providing information on existing embedded networks currently operating on the network | x | ✓ |
| 4 | Explaining the relative costs for embedded networks to provide network services with regard to density of consumption and diversified use when compared to the average customer for which embedded network customers are currently referenced to | x | ✓ |
| 5 | Showing that differences in network pricing across tariff classes are incentivising the creation of embedded networks | x | x |
| 6 | Substantiating how the existence of any such incentive is not in the long-term interests of consumers | x | x |

x = criteria not met, ✓ = criteria partially met, ✓ = criteria met
Source: AER, TasNetworks

Below is a summary of the reasoning underpinning our assessment of Ausgrid’s proposal against this (numbered) criteria:

³⁴ AER, TasNetworks Distribution Determination 2019 to 2024 Attachment 18 Tariff structure, 2018, p.28

³⁵ TasNetworks, Combined Proposal 2024-2029 Attachment 22 Tariff structure explanatory statement, 2023, pg.53

1. Ausgrid has not addressed the cost reflectiveness of the tariff, only the equity of the tariff, and only for a sub-set of ENs, i.e., mostly residential ENs on EA305³⁶.
2. Ausgrid do not provide any calculations or description of the methods used to determine the capacity charge or any other charge.
3. Ausgrid have provided some information on existing ENs in their network, through their graph of EN numbers, load analysis and network bill analysis³⁷. However, this information does not cover all types of ENs impacted by their proposed EN tariffs (including shopping centres).
4. Ausgrid has not provided any analysis of the cost to serve ENs compared to the cost of serving the average customer on the tariff.
5. Ausgrid does not provide any evidence of EN growth incentivised by differences in pricing across tariff classes, e.g., a correlation of growth and incentive levels.
6. Ausgrid does not provide any evidence that the creation of ENs, a competitor to Ausgrid in the provision of network services, is not in the long-term interests of consumers.

Based on the above, the SCCA recommends that the AER does not approve Ausgrid's proposal to introduce new EN tariffs and assign ENs to them.

³⁶ Ausgrid, Our TSS Explanatory Statement for 2024-29, 2023, p.23

³⁷ Ausgrid, Our TSS Explanatory Statement for 2024-29, 2023, p.22-24