



AGL Energy Limited

ABN: 74 115 061 375
Level 24, 200 George St
Sydney NSW 2000
Locked Bag 1837
St Leonards NSW 2065
t: 02 9921 2999
f: 02 9921 2552
agl.com.au

Mr John Pierce

Australian Energy Market Commission

PO Box A2449

Sydney South, NSW 1235

Lodged online: www.aemc.gov.au

Reference: RPR0006

16 May 2017

Dear Mr Pierce,

RE: Review of Regulatory Arrangements for Embedded Networks

AGL Energy (AGL) welcomes the opportunity to make a submission to the Australian Energy Market Commission's (AEMC) Review of Regulatory Arrangements for Embedded Networks (the Review).

AGL is one of Australia's largest integrated energy companies and the largest ASX listed owner, operator and developer of renewable generation. Our diverse power generation portfolio includes base, peaking and intermediate generation plants, spread across traditional thermal generation, battery storage and renewable sources. AGL is also a significant retailer of energy, providing energy solutions to over 3.7 million retail customers throughout the National Electricity Market (NEM). In addition, AGL is continually innovating our suite of distributed energy services and solutions for customers of all sizes (residential, business and networks). These 'beyond the meter' energy solutions involve new and emerging technologies such as energy storage, electric vehicles, solar PV systems, digital meters, and home energy management services delivered by digital applications.

AGL fundamentally supports the development of new products and services in the electricity market to the benefit of all customers, including those within embedded networks. However, critically, embedded networks face minimal competitive pressure to provide access to these innovations in technology, product and service, in part due to the nature of natural monopolies but also as a result of current regulatory framework design. AGL therefore supports increased competition in embedded networks, and the AEMC's recent efforts to address regulatory barriers associated with customer access to the retail market and the protections afforded to embedded network customers. We welcome this Review as a vehicle to identify and address the remaining barriers.



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A Fit for Purpose Framework to Protect Customers

In our view, government intervention and the implementation of regulatory frameworks should only be considered appropriate where it seeks to address a market failure or address monopolistic industry structures which may limit the market's ability to function competitively. In considering whether a two-tiered approach to electricity regulation therefore remains appropriate, the AEMC must first review the policy objectives which resulted in the creation of the exemptions framework and then assess whether the framework remains applicable.

Importantly, energy supply remains an essential service for all customers, irrespective of their location or their product choice, and therefore the application of any regulatory framework must reflect the costs and benefits of its operation and enforcement equally. The reality of a two-tiered system means that sellers of energy under each framework, face differing objectives, drivers, cost and penalties attached to the service provision of the same commodity.

Further, left alone, the increasing divergence of business models, the complexity of the exemptions categories, and the limited visibility and enforcement powers of the Australia Energy Regulator (AER), may all contribute to an increased risk to embedded network customers. These risks include limited price, product and service competition and potential for poor compliance with core consumer protections, such as for customers experiencing payment difficulties.

AGL therefore encourages the AEMC to apply a set of principles to guide its assessment, with a focus on promoting greater alignment between each regulatory framework, while also promoting innovation and customer choice of service. We suggest the application of the following core principles:

- *Flexibility and customer choice:* regulatory frameworks should recognise that consumers are not homogenous but rather have their own distinct and unique preferences. Any framework should be flexible enough to accommodate innovation in product and service provision (including the business or delivery model), and not constrain informed customer choice. Similarly, customer protections should be proportionate to the risk of harm occurring.
- *Contestability and competitive neutrality:* where possible, competitive markets should be relied upon to facilitate the advancement of customer interests. Any framework should not, by virtue of asymmetrical regulatory obligations, inadvertently promote or predestine the success of some energy service providers over others. Similarly, regulatory obligations should remain consistent across markets to prevent regulatory arbitrage and inefficient grid defection.
- *Right to Supply:* as an essential service, all customers have a right to supply of electricity on reasonable terms.
- *Participation:* regulatory frameworks should offer every customer the opportunity to engage and obtain the benefits of competitive energy markets. Governments, the community sector and service providers have a shared responsibility for addressing customers in financial hardship.
- *Avoiding duplication:* regulatory frameworks should make effective use of existing consumer protection regimes (such as the Australian Consumer Law, jurisdictional fair trading laws, ombudsmen schemes, and product and safety standards) and only supplement these with additional regulation where a genuine gap is identified.
- *National consistency:* regulatory frameworks should apply uniformly across jurisdictions so as to promote certainty and minimise regulatory overhead.



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Barriers to Accessing Retail Offers

As we outlined in our submission to the Embedded Networks Rule 2015 (EN Rule), AGL believes that many barriers exist which continue to prevent off-market customers taking up a retail offer. While, the EN Rule addressed the issues associated with market interfacing by creating the Embedded Network Manager function, the Review rightly identifies that other changes are required to the National Energy Retail Rules (NERR) and/or the AER's exemption guidelines to recognise and obligate market parties to undertake specific functions for on-market customers.

Without certainty over operational sections of the regulatory framework, such as published network tariffs, Use of System charges, data requirements and billing information, the process of providing embedded network customers with retail services could be very difficult and costly. Similarly, unless embedded network operators are required to unbundle network charges from energy supply charges, it will continue to be difficult for a retailer to provide competitive retail offers to embedded network customers seeking to move on-market.

AGL has included a copy of our initial assessment at Appendix A¹.

Arrangements for Gas Embedded Networks

AGL supports greater consistency and clarity with respect to the regulatory frameworks for gas embedded networks. Any national arrangements designed should mirror those for electricity as a way of minimising the complexity for dual fuel operators and, authorised retailers of electricity to on-market customers within embedded networks.

Should you have any questions or comments, please contact Dan Mascarenhas on (03) 8633 7874 or dmascarenhas@agl.com.au.

Your sincerely,

A handwritten signature in blue ink, appearing to read 'Elizabeth Molyneux'.

Elizabeth Molyneux
Head of Energy Market Regulations

¹ This list was initially provided in our submission to the Embedded Network Rule – Draft Determination on 23 October 2015. Some updates have been added.



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Appendix A

AGL's View on NERR Issues for Embedded Networks

AGL has undertaken an initial assessment of the outstanding issues which require review against the NERR and/or the AER's exemption guidelines, to enable retail competition (and the necessary obligations and protections) within embedded networks.

- Customer classification: embedded network operators will need to classify an embedded network customer as either a large or small customer in lieu of the Distribution Network business. The provisions which allow business customers to aggregate their sites and seek recognition as a large customer should also be managed by the embedded network operator.
- Standing retail offers and contracts: designated retailer obligations should not apply to an embedded network customer.

We note that the exemption guidelines:

- already provide embedded network customers with a number of protections which largely reflect those contained in the NERR and the National Energy Retail Law;
- mandate that an exempt seller must not:
 - refuse to supply an embedded network customer; or
 - charge tariffs that exceed the local area retailer's standing offer prices.

As such, we consider it unnecessary to impose additional obligations on a designated retailer to make a standing offer to an EN customer. We also believe that it may also be significantly more costly for a retailer to supply an embedded network customer under a designated retailer arrangement.

- Market retail offers (MRC) and contracts: certain MRC minimum requirements will not be relevant to embedded network customers, for example some bill content requirements and disclosure of all tariffs and charges.

A detailed assessment should be undertaken to determine which requirements are necessary.

- Move in/carry-over customers: these requirements should apply to embedded network customers who have been supplied by a retailer, to ensure continuity of supply.
- De-energisation and re-energisation of shared customer's premises: there appears to be a gap in the exemption guidelines as embedded network operators are currently not obliged to carry out a retailer's request to de-energise an embedded customer site.

To manage de-energisation and re-energisation services, the same rules provided under the NERR for Distribution Network businesses should apply to embedded network operators. In



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addition, once Metering Competition is effective on 1 December 2017, the embedded network operator should receive notification of any retailer remote de-energisation or re-energisation (and vice versa where an embedded network has performed the same service).

- Life support equipment: under the NERR, responsibility for this function currently sits with retailers and Distribution Network businesses. We note that embedded network operators are not recognised under the NERR.

To give effect to this provision, all relevant parties to an embedded network customer, including the embedded network operator, the retailer and Distribution Network business, must:

- be informed of the existence of a life support customer within the embedded network;
- keep an up to date register, and
- notify each other of a change in circumstance.

Reciprocal obligations on customers to keep its electricity supplier and network informed of a change in circumstance should also apply.

- Retailer of Last Resort (ROLR): AGL believes that the ROLR scheme should not apply to embedded network customers, because of the complexity of applying this scheme. In the event that an authorised retailer (who is supplying an embedded network customer) fails, we consider that responsibility for electricity supply should revert back to the embedded network operator and the customer's status should return back to "off-market".

Under this approach, the customer should retain its ability to seek out and accept another retail offer, if it desires.

- Presentation of market offer prices: consideration should be given to whether the Guidelines (including the AER Retail Pricing Information Guidelines) can and should apply to embedded network customers.
- Explicit Informed Consent (EIC): this will vary between embedded network customers as it will depend on whether the customer's connection point has a NMI number already established, when the customer accepts retail offer.

However, in most cases existing EIC requirements should be flexible enough to accommodate embedded network customers, and to ensure that there is adequate and appropriate disclosure provided.

Billing particulars: the NERR outlines particular details which are required to be included on customer bills including the network operator's 24 hour telephone number for fault and emergencies. We note that embedded network operators are not recognised under the NERR and therefore no obligation currently exists on embedded network operator's to provide these details to retailers.