

Kate Reid
Project Leader
Review of Regulatory Arrangements for Embedded Networks
Australian Energy Market Commission
Melbourne VIC 3000

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Dear Ms Reid

Thank you for the opportunity to provide a submission in response to the Consultation Paper on the Review of regulatory arrangements for embedded networks. Momentum Energy is a 100% Australian-owned and operated, energy retailer. We pride ourselves on competitive pricing, innovation and outstanding customer service. We retail electricity in Victoria, New South Wales, South Australia, Queensland, the ACT, and the Bass Strait Islands. We offer competitive rates to both residential and business customers along with a range of innovative energy products and services. We also retail natural gas to Victorian customers.

Momentum Energy is owned by Hydro Tasmania, Australia's largest generator of renewable energy - generating hydro and wind power.

Introduction

Momentum supports the view that all energy consumers should have access to competitive retail offers. Competitive forces have created positive customer outcomes in the broader retail energy market and we consider that customers within embedded networks will receive the same benefits. It should be noted however, that any existing barriers to competition (which will largely be addressed once the Embedded Network Rule Change comes in to effect on 1 December 2017) are not necessarily leading to off-market customers receiving poor outcomes. In fact, as discussed below, competition in secondary markets is ensuring that many customers within embedded networks are receiving lower prices than on-market customers.

Current Regulatory Structure

Momentum Energy understand the rationale for a two tiered framework however we are concerned that challenges in ensuring that exempt parties are subject to appropriate oversight may be delivering adverse outcomes to some consumers. Any divergence between the customer protections enjoyed by the broader body of consumers and those available to off-market customers in embedded networks highlights one of two issue, either;

- The regulations placed on authorised retailers are unnecessary to ensure that interests are of customers are protected; or

- Customers within embedded networks are being subject to an unnecessary risk and are potentially vulnerable to exploitation.

We consider that, with one exception, the former scenario is the more likely case. Customers within embedded networks receive the minimum standards set out in the Australian Consumer Law and the National Energy Retail Law as well as all appropriate safety and technical requirements. The imposition of additional regulatory requirements on authorised retailers is in many instances simply driving up retail costs with little additional benefit to customers.

The key exception is the issue of customer access to an appropriate dispute resolution body. Authorised retailers are required to be members of a recognised dispute resolution scheme within each jurisdiction in which they operate. Such impartial arbitration, coupled with regulatory scrutiny from the AER provides a layer of protection which is not enjoyed by customers within embedded networks.

The constitutions and charters of the various Ombudsman schemes do not allow for the admission parties other than authorised retailers or networks and consequently. In the event that the AEMC confirms that the access to Ombudsman schemes should be extended to off-market customers, consequential amendments to a number of constitutions, and in some cases legislation, may be required to facilitate this. We envisage that transitioning exempt sellers into the authorisations framework would be the most appropriate way to handle this.

Momentum Energy considers that a single tier regulatory framework which focusses on ensuring that all customers have access to an appropriate level of protection is a more appropriate model. We acknowledge that some retailers have not always displayed behaviours which would engender a disposition toward paring back the regulatory obligations for authorised entities however in our view, much of this behaviour has resulted from the imposition of restrictive regulation which has incentivised retailers to seek out 'loopholes'. An appropriate minimum standard of customer protections would incentivise innovation in product offering and customer service and lead to lower retailer costs for customers regardless of whether they take supply from within an embedded network or not.

Given that recent reforms have sought to improve access to competitive offers for customers in embedded networks, it appears likely that increasing numbers of customers within these networks will 'switch out' to authorised retailers. In this environment, it does not seem to us that a pair of neighbours within an apartment complex may be subject to a different set of customer protections.

Access to retail competition.

Momentum maintains that competition (within a regulatory framework which allows for innovation and differentiation) is effective in providing optimal customer outcomes. With this in mind, we believe that following the commencement of the embedded networks rule change, customers within embedded networks will have appropriate access to retail competition. We stress that this does not necessarily mean that all customers will be better off if they accept a market offer from an

authorised retailer, merely that should an attractive market offer be available, there are no significant barriers preventing the off-market customer from accepting.

We are concerned about a prevailing view that customers within embedded networks must be actively switching out to demonstrate that competition is effective. This view tends to be based on the fact that the embedded network operator has an incentive to withhold attractive rates from the child NMIs. When considered in terms of the pure arbitrage opportunity, ie the embedded network operator receives an attractive rate for purchasing the aggregate load for all end users within their network and then bills their end users at a higher rate, this reflects rational behaviour. It does not however, consider the other incentives which the embedded network operator faces in secondary markets.

In the majority of cases, embedded networks are set-up by developers whose primary objective is to make a return on their investment. After being set-up embedded networks are then passed over by the developer to be operated by Owners Corporations or facilities managers. Rather than seeking to make a return on the energy on-sold within their network, these operators use their purchasing power to make purchasing the individual occupancies within their development more attractive. This is done by passing low energy prices on to child NMIs to create an incentive to invest either as owner occupiers will facing lower bills for the own consumption, or as investors facing lower body corporate fees through reduced costs from supply common areas.

We acknowledge that AEMC has limited ability to collect data on the prices faced by end users within embedded networks, however we urge that further investigation be undertaken to determine the extent of the problem before proposing reforms which will cost industry (and ultimately consumers) considerable amounts to implement for little benefit.

Further to this, as access to competition opens up following the commencement of the Embedded Network Manager function, embedded network operators will face further incentives to pass through low prices to child NMIs. Although it may appear that embedded network operators are indifferent to the number of customers within their network if they are not looking to maximise revenue from the on-supply of energy, as each child NMI switches out, the load at the parent meter will become less attractive to a retailer and the operator will be unable to negotiate as low a rate.

Summary

Momentum keenly anticipates the commencement of the Embedded Network Manager role in December 2017 as it will ensure that end users within embedded networks have access to genuine competition. It is our expectation however, that this access will not trigger a vast a number of child NMIs becoming on market as embedded network operators will respond to incentives to ensure that they retain their customers.

We feel strongly that once competition becomes a reality for embedded network customers, the full range of protections enjoyed by the majority of customers in the NEM should apply to ensure that the customer is not making trade-offs which will see them face lower rates, but lack the ability to ensure that disputes are settled fairly. When the playing field is level for all, the market should

determine the optimal amount of switching activity and ensure that resources and risk are allocated efficiently.

If you wish to take up this invitation, or have any other queries regarding this submission, please contact Joe Kremzer, Regulatory Manager on 8651 3565 or email joe.kremzer@momentum.com.au

Yours sincerely

Joe Kremzer
Regulatory Manager