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Thursday, 14 March 2019

Richard Owens
Executive General Manager
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

By electronic submission: EMO0036

Dear Mr Owens

RE: Updating the regulatory frameworks for embedded networks, Draft Report

ERM Power Retail Pty Ltd (ERM Power) welcomes the opportunity to respond to the Australian Energy Market Commission's (AEMC) Draft Report on Updating the Regulatory Frameworks for Embedded Networks.

About ERM Power Retail

ERM Power Retail Pty Ltd, which trades as ERM Power, is a subsidiary of ERM Power Limited, an Australian energy company operating electricity sales, generation and energy solutions businesses. Since launching in 2007, ERM Power has grown to become the second largest electricity provider to commercial businesses and industrials in Australia by load¹, with operations in every state and the Australian Capital Territory. ERM Power has increasing success in the small business market. www.ermpower.com.au

General Comments

ERM Power is broadly supportive of the proposed amendments to develop a new regulatory framework for embedded networks. We regard many of the changes as having potential to reduce regulatory risks, improve operational efficiencies and providing positive outcomes for customers and parties operating in embedded networks, particularly with the facilitation of greater retail competition and the extension of customer protections. In creating a framework for embedded networks, we have long seen the challenge as being the balance to ensure all embedded network customers can access the benefits of retail competition, with an appropriate level of customer protection, while continuing to support the innovation of this segment.

The report has identified the need to elevate new embedded networks into the national regulatory regime. Generally, it is our view that this will ensure a more level playing field for those that operate in embedded networks, provide clarity to the rules that govern all parties and rightly recognize that customers within an embedded network should not be disadvantaged compared to equivalent customers connected to the National Electricity Market (NEM). However, application of the Rules to areas such as metering interruption and life support requirements

¹ Based on ERM Power analysis of latest published financial information.



need to be carefully assessed so as not to create barriers, unnecessary complexity or compliance risk given the unique requirements of embedded network connections and often complex customer – party relationship structures. It may be that applying only certain obligations of the Rules rather than the full replication, sufficiently closes any customer protection gap and allows the efficiencies realised in embedded network to remain.

Whilst steps to improve customer protections are welcomed, ERM Power does have serious concerns on certain aspects of the recommendations relating to the Retailer of Last Resort (ROLR). We believe an alternative approach is warranted, to ensure that any obligations do not place a risk of a compliance breach on retailers supplying an unintended customer class.

ERM Power supports the intent to improve the transparency around network billing and the move to a more consistent approach. Above all a consistent approach will alleviate the possible delay and inconvenience to the customer and costs imposed on the retailer in establishing ad hoc network charging protocols with network operators.

We welcome the AEMC's consideration of consequential changes to the National Energy Retail Law (NERL), National Energy Retail Rules (NERR), National Electricity Law (NEL) and the National Electricity Rules (NER) to address the current regulatory gaps and we have made the following comments with focus on those areas of the framework we consider require amendment or further development.

Please contact me if you would like to discuss this submission further.

Yours sincerely,

[signed]

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Senior Manager Regulatory Affairs

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Improving competition

ERM Power is very supportive of the move to ensure that all embedded network customers are captured in AEMO's market systems, allowing off-market child connection points to be discoverable. It is our view that all customers in embedded networks should be afforded the basic right of retail choice and barriers to this should be removed. Uncertain metering quality, site complexity and the greater need for manual processes have long been a barrier for licensed retailers to offer services to embedded network customers, limiting both the availability of, and access to market retailer contracts to them and placing these customers' cost to serve above those of their NEM counterparts. Essentially, retailers need to access NMI standing data of potential customers to provide an accurate quote. We support actions that provide greater transparency to information on these customers connections for greater ease of management in transferring customers and accuracy in quoting.

Similarly, providing embedded customers access to meter data through extending the data arrangements in the NER and NERR is welcomed and will have positive outcomes for these customers. Embedded network customers should not face barriers in seeking their meter data. Access to data will empower customers to make informed choices about their energy use and will provide them with opportunities to seek energy management solutions and innovative products that may improve their energy productivity and alleviate costs pressures.

We also applaud the reallocation of responsibility for metering from the Embedded Network Service Provider to a metering coordinator, which will facilitate greater competition and provide confidence to prospective retailers that an off market's embedded customer's metering installation will be compliant. We see this as a positive step to facilitating competition but also improving the accuracy of recorded consumption in embedded networks.

Retailer of Last Report and designated retailer obligations

Whilst we understand the AEMC's desire to ensure embedded network customers have the protection of a new default retailer in the event their NEM retailer fails, it is our strong view the proposal for the parent connection FRMP to assume the ROLR role of a child connection is not a suitable solution. Our concern is that the proposal places an unacceptable compliance risk on a retailer that is forced to supply an unintended customer class. This scenario would apply where a retailer supplies the entire embedded network as a business customer at a parent connection point, and where the child connection points are residential premises such as an apartment building or retirement village. In the event of ROLR, that retailer would be the assigned retailer for those residential customers.

This is a significant risk for retailers such as ERM Power, which has chosen to not service a certain customer category (residential customers). As our business does not supply residential customers, we are not able to service these customers in accordance with the NERR (nor are we required to). The AEMC's proposal would lead to us breaching obligations relating to residential customers. At worse, it places a retailer in a position of servicing a customer it does not have a license to retail to. Given the risks involved, the outcome of the AEMC proposal may be that retailers are not willing to offer services as a parent connection retailer, and therefore competition may be reduced; or, for those retailers that continue to provide parent connection services, prices may increase to account for the additional of risk premium, and the reduction in competitive tension.

A further concern is where a retailer simply makes a commercial decision not to service embedded network customers as a market segment. Embedded network customers have a unique set of operational needs and risks that, like any market segment, must be assessed before determining whether it is a commercial market for a retail business. ERM Power strongly believes this commercial choice must be preserved. The AEMC's proposal places this choice at risk, not only for parent site retailers, but for all retailers.

ERM Power therefore strongly opposes the recommendation to place ROLR responsibilities on the parent retailer for child retailer failure. In our view, the ROLR at the parent connection point would be best place to be designated to the ROLR role of a child connection point, having both the capability and capacity to assume it.



Similarly, the proposal to have a designated retailer be assigned to the existing FRMP is problematic for the reasons highlighted above. In this case, we suggest that the appointed Local Embedded Network Retailer (LENR), nominated by the Embedded Network Service Provider (ENSP) with consent of the LENR to the designated retailer role would be workable. Failing the appointment of a LENR, the Local Retailer for the area in which the embedded network is located would be well equipped to take on this responsibility, when given notification within a reasonable timeframe.

Network Billing

ERM Power generally supports the proposed provisions around network billing. In our view all network charges incurred by a retailer should be those using the standardised approach. Further we regard the proposal to extend NER Chapter 6B, Part B to ENSPs and exempt ENSPs as sufficient to cover the credit risk of these parties and agree that any further risk can be self-managed by ENSPs.

To ensure operational efficiencies are fully realised, it will be important that embedded shadow network tariffs utilise the same file format, naming conventions/coding, structure and price of the equivalent distribution network tariff. Without this approach, retailers would be faced with copious amounts of network codes applicable across various embedded networks. This is unmanageable and would erode any operational efficiencies of a standardised approach. Given the criticality of ensuring full efficiencies are realised, we hold the view that these minimum requirements should be made clear in the Rules, rather than left to AEMO procedures. Further, the mandatory utilisation of market systems, such as business-to-business (B2B) and procedures to facilitate invoicing from Embedded Network Service providers will need to be consistent with current distribution network settlement processes to minimise the costs to authorised retailers serving embedded network customers.

It is our belief that child connection customers should have the opportunity to review and optimise the assigned network tariff. It may be favourable for a customer to change network tariffs and consequentially make considerable savings should their usage patterns alter or if they install small scale generation. In this case, customers within an embedded network should not be disadvantaged compared to their NEM counterparts, who can have the opportunity to apply for a tariff reassignment to the DNSP. Although the ENSP may not be incentivised to optimise the network tariff we believe that customers within an embedded network should have the right to request this by applying for a network tariff reassignment.

Our views regarding alternative arrangements for the charging of large customers for any internal embedded network costs including alterations and additions, are that any arrangements should be only permitted by mutually agreement directly between the customer and the ENSP and should be separate to the charging framework with the retailer.

Embedded network interruptions

The Draft refers to planned 'embedded network interruptions' which are interruptions within an embedded network, caused by:

- supply interruptions outside of the embedded network;
- a distributor planned interruption on the DNSP's network to which that embedded network is connected;
- an upstream embedded network to which the embedded network is connected (pancaking); or
- a retailer planned interruption at a parent connection point.

It is our view that if the ENSP receives notification of a distributor planned interruption or a retailer planned interruption at the parent connection point, that will interrupt the supply of electricity to the embedded network, the



ENSP should have an obligation to notify both the affected customers of that embedded network and their respective retailers. Placing the obligation on the Distribution Network Service Provider (DNSP) or parent retailer is not practicable and is not an efficient process. The ENSP has this information and is best placed to carry out such notification.

Life Support

We disagree with the AEMC's view that the Rules should be amended to align life support rules for customers in embedded networks with the rules for standard supply customers, beyond the content requirements of life support notice information. There is no evidence of failure in the current approach and bringing complexity to this process will only result in unnecessary risk to life support customers. We believe any 'customer protection gap' can be quickly closed through ensuring ENSP take on the role of notifications within an embedded network and provide notices with similar content and timeframes as those required on NEM retailers and DNSPs in the rules (that is life support emergency numbers, advice on life support etc.).

It is critical that the DNSP and parent connection retailer treat the parent connection point as life support where at least one the children connection points has life support requirements, to ensure the child is not in advertently disconnected. Any coordination of child connection points (including notifications to customers or retailers, on or off market) should be the responsibility of the ENSP. It is our view that the ENSP will be best placed to take this central role and will have full information to do so, including customer and retailer information of child connection points and the nature/source of any outage. Any initial notices of life support requirements should be coordinated by the child customer / child retailer to the ENSP, so that the ENSP can inform the parent connection retailer and DNSP of the requirement. Any notice of outage, to child connection points should be made by the ENSP to child connection customers and retailers. Other than flagging the site as life support, the parent connection retailer and the DNSP should not be required to hold customer or contact information of a child connection life support customer.

New behind the meter technologies

The rules around embedded networks need to keep pace with new technologies and innovative business models and should not hinder opportunities for customers to leverage new products and services. ERM Power supports a broader view of customer protections that ensures regulation is only applied where justified. There are many new technologies rapidly being adopted by customers in both the NEM and within embedded networks that may need a revised view of the current two-tiered regulatory framework of energy supply, which requires either a retailer authorization or an exemption/ registration.

Models that allow customers to purchase electricity through small scale generation power purchase agreements, discretionary or supplementary to supply, may not require the same level of protection as those that rely solely on supply from distributed energy. In such cases disconnecting from the generation source will not leave the customer exposed to lack of supply. It is unclear how the new framework would accommodate such models, ensuring that a lighter regulatory approach can facilitate options to be available to both customers wishing to take advantage of new technologies and any retailers (including NEM retailers) wishing to offer such services.

The AEMC must ensure that the new framework does not inadvertently close out opportunities for increased renewable based behind the meter products and services. Further we believe the framework should allow tenants within embedded networks to be able to receive the benefit of solar power, not just through the control of building owners. Importantly the framework must be flexible to accommodate any power purchase arrangements that tenants wish to establish with third parties and without the need for onerous regulatory hurdles.



Transition

ERM Power can see benefits of transitioning legacy embedded networks to the new framework as quickly as possible. We support an early transition to reduce the likelihood of confusion over the application of rules posed to on market retailers and to streamline the approach. Until the transition is complete, customers who are children in multiple embedded networks (e.g. a retail chain store with sites in multiple shopping centres) will have an inconsistent experience and may be unable to secure a retail offer for all their sites. In addition, this will allow the AER to take a consistent approach in the assessment of compliance, ensuring embedded networks operate on a level playing field.