

AUSTRALIAN ENERGY MARKET COMMISSION: DRAFT REPORT: UPDATING THE REGULATORY FRAMEWORKS FOR EMBEDDED NETWORKS

EXECUTIVE SUMMARY

The Shopping Centre Council of Australia (SCCA) thanks the Australian Energy Market Commission (AEMC) for the opportunity to comment on the above Draft Report.

We also thank the AEMC for their engagement with us on this issue.

Noting our previous submissions and input, this submission is deliberately brief.

It serves to highlight our key concerns as a basis for further discussion with the AEMC. We have received external advice in preparing this submission, including proposed costings which we will discuss in more detail with the AEMC on a confidential basis.

COMPLIANCE STATEMENT - COMPETITION AND CONSUMER ACT 2010

In requesting and obtaining information for the purpose of preparing this submission, the 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 commercial 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 operators.

PRINCIPAL CONCERNS

Our principal concerns with the Draft Report are as follows:

- Similar to previous consultation material, the AEMC has not articulated or provided any substantial evidence which demonstrates a failure in shopping centre embedded networks to warrant the proposed elevated regulation and obligations. In this regard, we believe that the 'blanket' approach does not comply with key guidelines such as the *Australian Government Guide to Regulation*.
- The AEMC makes 125 references to 'costs' in one way or another – including costs being 'minimal' or being 'outweighed by the benefits'. However, the AEMC does not articulate or detail its understanding of any such proposed additional costs.
That the AEMC has hence effectively 'outsourced' the burden of investigating and articulating such costs (almost as a reverse onus of proof) is concerning. We respectfully submit that this is an abrogation of the AEMC's responsibility, particularly the substantial changes that are proposed.
- Absent of any proposed 'costs', the AEMC makes several references to new obligations (e.g. the AER's *Retail Pricing Information Guidelines*) yet does not acknowledge the detail (and cost) of some of these obligations such as (under the *Guidelines*) having to publish tariffs on the AER's website *Energy Made Easy*. This also includes new reporting requirements to enable the AER to increase its monitoring and enforcement role.
- The AEMC does not acknowledge 'other' potential new obligations including via other current policy issues and frameworks. As an example, this includes the proposed *Competition and Consumer (Industry Code-Electricity Retail) Regulations 2019*, and the AER's current consultation (Draft Determination) on *Default Market Offer Price*.
- We have also reviewed the ACCC's current consultation paper in relation to the Consumer Data Right (CDR), which expressly notes potential new requirements for embedded networks. The CDR is not acknowledged by the AEMC.

AEMO

Noting our longstanding position that the AEMC hasn't adequately separated issues arising in residential networks from non-residential networks, we can't help but note the comment made by a senior AEMO official at the AEMC's 22 February 2019 workshop, that the AEMC has proposed the 'worst option' to address the so-called issues with embedded networks.

One suggestion was to make traditional authorised retailers to provide energy-only offers. We would welcome this option to be further discussed and investigated.

POTENTIAL ADDITIONAL COSTS

Noting the above, the following outlines potential cost impacts, which we can discuss in further detail:

AEMO / AER registration costs

- We understand the cost to register with AEMO as a DNSP can be around \$20,000. We understand the cost to prepare an application can be around \$60,000 to \$90,000.
- We are also aware of ongoing annual AEMO costs that may be relevant (e.g. under *AEMO's 2018-19 Consolidated Budget and Fees*), which have not been acknowledged (e.g. a levy for Energy Consumers Australia).
- We have been advised that the cost of developing an application for a retailer authorisation can be around \$200,000 (ex. Victoria).

Meter replacement

- For one of our members, the cost to replace pre-2012 meters is estimated to be more than \$2 million. This excludes the likely need to find additional space (e.g. floor area) to house the required infrastructure.

Metering coordinator

- Similar to the above, the potential increased cost for the metering coordinator function for one of our members is estimated to be around \$200,000.

ENSP Obligations

- The proposed ENSP obligations (data provision, market interface) noted at page 41 of the Draft Report are cause for significant concern. On the basis that additional staff may be required, we have been advised that this could create additional operating costs of around \$25/meter/annum.

We have also looked at other potential additional such as in relation to the expanded ENM role, off-market retailer obligations and the creation of child NMIs.

In addition to the above, we have concerns with operating issues which don't seem to be addressed in the Draft Report including there being no obligation for retailers to provide embedded networks with funds in relation to network charges, metering being changed within an embedded network without the owner/operator's knowledge, and credit support. As noted on the previous page, we also have concerns with proposed new reporting requirements.

CONCLUSION

In light of the above, we respectfully seek relief from the proposed regulatory framework and/or key aspects of the proposed framework.

We look forward to discussing the above in more detail with the AEMC.