



Anna Collyer
Chair
Australian Energy Market Commission
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Sydney NSW 2001

11 April 2024

To Anna Collyer,

Unlocking CER benefits through flexible trading – Draft determination

ENGIE Australia & New Zealand (ENGIE) appreciates the opportunity to respond to the Australian Energy Market Commission's (the Commission) draft determination for unlocking customer energy resources (CER) benefits through flexible trading.

The ENGIE Group is a global energy operator in the businesses of electricity, natural gas and energy services. In Australia, ENGIE operates an asset fleet which includes renewables, gas-powered generation, diesel peakers, and battery energy storage systems. ENGIE also owns Simply Energy which provides electricity and gas to retail customers across Victoria, South Australia, New South Wales, Queensland, and Western Australia.

ENGIE provides its retail customers with access to innovative products that have a focus on CER, such as residential virtual power plants (VPPs) and electric vehicle (EV) charging. ENGIE is also currently collaborating with several distribution network service providers (DNSPs) regarding opportunities for network-owned, retailer-leased, community batteries.

ENGIE supports the Commission's position to not enable multiple service providers at small customer premises and instead establish a voluntary approach for secondary settlement points with a single financially responsible market participant (FRMP) at a small customer premises. However, we do not support the Commission's proposals in relation to large customer premises.

Flexible trading with multiple service providers at small customer premises

ENGIE supports the Commission not progressing with the Australian Energy Market Operator's (AEMO) proposal to enable small customers to engage with multiple service providers at a single premise. As we have stated in our previous submissions, we consider that this proposal would have had material implementation costs and unintended consequences.

Secondary settlement points with a single FRMP at small customer premises

ENGIE would support the introduction of a framework to enable the establishment of secondary settlement points if the solution has minimal system impacts and does not result in significant costs incurred by customers that do not participate.

We note that the proposed drafting of the National Energy Retail Rules (NERR) amendments appear to impose the same regulatory obligations on contracts related to the primary NMI and contracts related to the secondary settlement point. As this reform is intended to promote competition and provide flexibility and efficiency, we urge the Commission to further distinguish between arrangements at the primary NMI and secondary settlement point, particularly in relation to contract formation, to ensure that retailers and consumers can more easily manage contracts related to flexible resources at a secondary settlement point. The consumer protection obligations in the NERR were developed to protect consumers in relation to their traditional energy supply and are generally not well-suited for services related to flexible resources. We are concerned that the proposed drafting of the NERR amendments may create regulatory barriers to the uptake of services at secondary settlement points.

There are additional implementation questions that the Commission should consider before finalising this reform, as there may be significantly different implementation costs and compliance risks for participants depending on the approach taken. As the draft rules will likely have flow-on impacts on related energy legislation and instruments, we urge the Commission to work with other rule makers to ensure a coordinated approach to implementation. If there are significant implementation costs and non-compliance risks, this would reduce the likelihood of retailers developing services for flexible resources at secondary settlement points. Examples of implementation questions are:

- Would the Default Market Offer (DMO) standing offer price cap apply to standing offer contracts for a premise with a secondary settlement point? Similarly, would there be a reference price in force that would be relevant to contracts for a premise with a secondary settlement point?
- Would a contract for a secondary settlement point be required to comply with all aspects of rule 25 of the NERR (contents of bills) and the requirements of the Better Bills Guideline. In particular, incorporating the prices at a secondary settlement point into the Better Offer calculation (as per Part 4 of the Better Bills Guideline) may require a significant system change to support.
- As the data from the secondary settlement point would be provided to market settlement systems separately to data from the primary NMI, we expect that retailers would need to update and test their Consumer Data Right (CDR) solution to enable data from secondary settlement points to flow through the ecosystem.
- The 2021 reforms to customer switching may create new complications in relation to secondary settlement points. We would support secondary settlement points being excluded from retrospective transfer processes.

In relation to the proposed implementation date of 2 February 2026, we expect that this will not be sufficient, considering the substantial amount of implementation detail that is still unclear and that industry will need to work through following the final determination. We also note that AEMO highlighted at its 5 April 2024 industry briefing that there will be a significant number of procedures and systems that will require amendment if the reform package were to proceed. To avoid the need for a subsequent rule change to amend the implementation date, ENGIE requests that the Commission set an implementation date of 1 January 2027.

Flexible trading with multiple service providers at large customer premises

ENGIE does not support the draft rule to introduce flexible trading with multiple FRMPs at large customer premises. As noted in the draft determination, large customers can currently engage multiple FRMPs by either using the embedded network framework or establishing a second connection point to the distribution network. While we agree that the embedded network framework is not appropriate for this use-case, we do not consider that the process or cost of establishing a second connection point is sufficiently prohibitive for large customers to justify the significant reforms set out in the draft rule. There is evidence of large customers that have established second connection points, which appears to suggest that businesses will make these investments if it is economically justifiable to their business.

We recognise that the draft rule may provide value to large customers through a more accessible option for engaging multiple energy service providers. However, ENGIE is concerned that this reform will require significant implementation costs and provide relatively minor benefits, particularly in the context of available substitutes that can provide large customers with effectively the same outcomes. The current framework ensures that the customer that directly benefits from the second connection point will fully incur the costs of that arrangement, whereas the draft rule will result in an element of cross-subsidisation from all other customers to the benefit of very few large customers.

ENGIE does not agree with the Energeia cost benefit analysis that the costs of implementing the draft rules are relatively low. For example, some of the direct costs arising from the draft rules would include:

- Updates to metering data functionality – differentiating metering data between the multiple FRMPs at a site will require development of this functionality and costs to be recovered from all participants and their customers.
- Updates to MSATS and procedures – As described at its 5 April 2024 industry briefing, AEMO will need to update the MSATS system and a significant number of procedures, which will require resources and development costs from all participants to implement.
- Updates to billing systems – Relevant retailers will need to update their billing systems to interact with the flexible trading reforms, to ensure that energy that flows through the primary meter can be accurately allocated to any sub-meters at large customer sites.

- Updates to CDR solutions – It is not clear whether the CDR would currently support subtractive settlement arrangements and a customer having two active energy retailers at a premises. The scope of upfront and ongoing system changes required for retailers to accommodate this functionality is unclear at this time.

The cost benefit analysis also did not appear to consider the additional hedging costs that retailers would incur from this reform that would be passed through to customers. As noted in our previous submission, the retailer at the primary connection point would likely experience unpredictable variability of their large customer's load due to decisions made by the FRMP at a sub-meter (which may include the arrangement between the large customer and the secondary FRMP ending). A prudent retailer would hedge their risks of this variability on an ongoing basis, which would likely result in higher energy prices for all large customers.

As large customers have the capability to invest in additional connection points if it is beneficial to their business, ENGIE would support these existing arrangements continuing to be relied on until a clear market failure is identified that justifies a regulatory response. However, if the Commission were to proceed with a reform for large customers, we suggest that this reform be consistent with the framework being proposed for small customers (that is, establishing secondary settlement points with a single FRMP at large customer premises).

Concluding remarks

Should you have any queries in relation to this submission please do not hesitate to contact me on, telephone, 0436 929 403.

Yours sincerely,



Matthew Giampiccolo

Manager, Regulation and Policy