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Mr John Pierce  
Chairman  
Australian Energy Market Commission  
PO Box A2449  
SYDNEY SOUTH NSW 1235

Dear Mr Pierce

Thank you for the opportunity to comment on the Australian Energy Market Commission's (AEMC's) National Electricity Amendment (Embedded Networks) Rule 2015 Consultation Paper. The Department of State Development, Energy Markets and Programs Division (the Division) welcomes the consultative approach and submits the following comments.

In South Australia, embedded network arrangements are regulated by the Australian Energy Regulator (AER), and energy network operators (ENO's) are required to gain exemptions from registering with the Australian Energy Market Operator (AEMO) as a network service provider and as a retailer from the AER. Under the National Energy Customer Framework (NECF), inset networks are regulated by the AER as per section 110 of the *National Energy Retail Law* (NERL). Section 112 of the NERL allows the AER to impose conditions on an exempt seller or classes of exempt sellers in accordance with the National Energy Retail Rules (NERR) and the AER Exempt Selling Guidelines. The Guidelines state that an exempt seller can only charge its residential customers up to the amount charged by the local area retailer.

The *Electricity (General) Regulations 2012* (made under the *Electricity Act 1996* (SA)) exempts an inset network operator or inset network retailer (an inset network is effectively defined as being an embedded network) from holding a licence under the Act on the condition that inset customers are given 'an effective right of access to a licenced retailer of the customer's choice'.

The regulations outline that the above effective right of access must allow a customer to choose its retailer, install and use meters or equipment for that purpose, without having to pay a charge to the operator of the private network for doing so.

AEMO's rule change proposes to create a new category of service provider – an embedded network manager (ENM) – to manage embedded network customers in the National Electricity Market. Under the proposed rule, the AER would only be permitted to grant an ENO an exemption from the requirement to be registered as

a network service provider if an ENM has been appointed for the embedded network.

The rule change aims to address the lack of regulatory arrangements to support customers within embedded networks who are off-market and seeking to become on-market, or are on-market and seeking to change retailer. These embedded network customers are not easily able to choose and transfer from the ENO to a retailer or from one retailer to another retailer.

As indicated above, in South Australia embedded network customers have the ability to access their electricity provider of choice. It is understood that at least four retailers currently have energy offers available for embedded network customers in South Australia. However, these do not tend to be actively marketed, presumably because of the complexities of the current arrangements.

In submissions to the Small Business Commissioner's 2013 inquiry into embedded networks, some submissions outlined a clear process for embedded network customers to access a retailer, including disclosure statements and information on this for the embedded network customers. Other submissions, however, reported little or no choice but to purchase power through the ENO arrangements. This disparity in submissions may indicate that whilst energy offers are available, the lack of transparency around these offers and the rights of the embedded network customer may be the barrier to embedded network customers exercising their right to choose a retailer. Therefore customers face unnecessary barriers in securing any of the offers, which places a lack of confidence in their take-up by the embedded network customers.

Whilst supporting the intent of AEMO's proposed rule change to enable customers to make informed choices and provide transparency, the Division considers that the proposed rule change does not necessarily ameliorate this situation.

Non-embedded network customers receive transparency in retail energy offers through mechanisms including the standing offer and standard retail contract obligations, the AER's comparator website and energy fact sheets.

Standing offers and standard retail contracts for small customers are premised on having a deemed standard connection contract as provided in Schedule 2 in the NERR with SA Power Networks (the local distribution network service provider). The model terms and conditions for the deemed standard connection contract has obligations on SA Power Networks.

Under the above legislative requirements, if a small embedded network customer sought a retailer of their choice, the retailer is unable to offer a standard contract offer, which includes the network and energy supply component, because the ENO charges the network services component to the small embedded network customer.

The embedded network customer does have an equivalent of the standing offer and standard retail contract, which relates to the obligation to supply. In the case of the embedded network customer the current AER (Retail) Exempt Selling

Guideline places an obligation to supply upon the ENO with respect to its 'children' (in the same way this obligation exists between a distributor and a non-embedded network customer under the NECF).

In the case of market offers and market retail contracts, retailers have no obligations related to the number or scope of these offers. The AER's comparator website also only includes generally available offers, which means if few retailers choose to make energy offers to embedded network customers, there is unlikely to be any visibility of the offers as they are not generally available.

To facilitate competition, it is important that customers of embedded networks have visibility of offers and an ability to compare these offers, as is currently available to non-embedded network customers under the NECF.

Options that could be assessed by the AEMC to achieve visibility could include:

- A more preferable rule under which the embedded network customer has the right to access currently available standard and market offers which include the network component of the regulated network service provider at the parent connection point. The network component could be handled as a rebate owed from the regulated network service provider to the ENO at the parent connection point or alternatively the retailer could transfer the collected network component to the ENO rather than the regulated network service provider.
- A more preferable rule which requires retailers to offer at least one generally available offer for embedded network customers.

Whilst the Division accepts that changes to the existing NERR may be needed to facilitate a greater level of consumer choice, it is essential that any proposed changes to the existing arrangements ensure that there continues to be an obligation to supply energy to an embedded network customer.

In addition to the issues raised in the Consultation Paper, the Division considers that any new arrangements should include specific consideration of the following issues:

- clarity regarding the relationship between all parties involved in the sale and/or supply of energy to an embedded network customer and their respective obligations. For example currently under rule 25(1)(v), the distributor's phone number must appear on a retailer bill in the event of a supply fault or emergency, however, an embedded network customer may benefit more from having the contact details of the ENO rather than the distributor;
- clarity around whether a retailer can elect to sell energy under the AER's retailer authorisation or the exempt seller regime; and
- ensuring that life support customers in embedded networks are adequately protected regardless of their supply arrangements.

Finally, the Division is concerned that the AEMO rule change proposes that following the commencement date of the rule, existing market customers and network service providers who notify AEMO that they wish to be ENMs are deemed to be ENMs. As the role of ENM is to be contestable, it is important that

opportunities are available for new emerging participants to be able to participate in that contestable and competitive market. One option may be to include a transition process where a call for registrations is undertaken and deeming only occurs if there is no response to the registration call. Alternatively, market customer and network service providers could be deemed for a limited specified period whilst competition evolves.

Should you require any further information or have any questions, please contact Ms Rebecca Knights on (08) 8204 1715 or [Rebecca.Knights@sa.gov.au](mailto:Rebecca.Knights@sa.gov.au).

Yours Sincerely



**VINCE DUFFY**  
**EXECUTIVE DIRECTOR,**  
**ENERGY MARKETS AND PROGRAMS DIVISION**

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