

27 May 2021



Anna Collyer
Chair
Australian Energy Market Commission
GPO Box 2603
Sydney NSW 2001

Jemena Electricity
Networks (Vic) Ltd
ABN 82 064 651 083

Level 16, 567 Collins Street
Melbourne, VIC 3000
PO Box 16182
Melbourne, VIC 3000
T +61 3 9173 7000
F +61 3 9173 7516
www.jemena.com.au

Dear Ms Collyer,

Re: Submission to the access and pricing draft decision

Jemena Electricity Networks (Vic) Ltd. (JEN) welcomes the opportunity to provide comment on the Australian Energy Market Commission's (AEMC's) draft decision on:

- National electricity amendment (access, pricing and incentive arrangements for distributed energy resources) rule 2021, and
- National energy retail amendment (access, pricing and incentive arrangements for distributed energy resources) rule 2021

(collectively, the *draft decision*).

This draft decision takes a significant step towards addressing the challenges of integrating distributed energy resources (DER) into the Australian electricity system and ensuring system security and equitable economic outcomes for all energy customers.

We recognise there has been extensive engagement across a broad range of stakeholders in the lead up to releasing the draft decision and that this approach has contributed to shaping a robust and well-considered set of National Electricity Rule (NER) and National Electricity Retail Rule (NERR) changes.

Throughout the AEMC's consultation on the draft decision, we have heard some stakeholders concerns around the extent of customer protections, requiring Distribution Network Service Providers (DNSPs) to provide firm access for export services (also known as no zero export limit constraint) and allowing customers the ability to opt-in—or at least give them the opportunity to opt-out—of being charged

for distribution export services.¹ We have some concerns with these positions and elaborate on these below.

In general, we are highly supportive of protecting customers from unintended consequence and equity, especially for those in our community that are more susceptible to affordability challenges. However, some of the solutions being raised can continue to harm a broad base of customers. Also, we consider some of the solutions being proposed go against the incentive regulation that underpins the design and operation of the electricity market. Specifically, we note:

- Guaranteeing firm export access distorts market signals and enshrines the equity concerns that the draft decision is attempting to address.

Also, firm access for export services would be a higher level of service than the open-access regime on which the NEM operates and higher than the probabilistic planning criteria that is used in Victoria. In effect, customers with export services would have a higher level of service than those customers that DNSPs deliver electricity to. We do not believe this is the intent of the proposed rule change.

- Optionality around charging for *export services* comes with an expectation that those customer opting out of (or not opting into) distribution export tariffs results in a less firm ability to export to the distribution network. This expectation is not the case. By the very nature of being a shared network, it is not possible to distinguish customised service agreements, and if such an approach was taken, then significant investment in equipment, systems and processes would be required—some chargeable to individual customers, but the majority being borne by the broader customer base. Such an approach would again enshrine the inequity that the rule change is attempting to address.

We believe that the draft decision approach to creating a market with efficient price signals and incentives is in keeping with the National Electricity Law and that carve-outs noted above would operate against this requirement.

We have also heard some stakeholders seeking for DNSPs to develop and consult on an export tariff transition strategy prior to the TSS process. We consider this step to be onerous, and unnecessary, particularly—as noted below—the timing for tariff change will align to the price reset timeline, and any requirement to plan and consultation on a transition is superfluous. Requiring an export tariff transition strategy prior to the Tariff Strategy Statement (TSS) process creates a disjoint with the electricity distribution price reset process, increasing costs to consumers, and reduces the value of the strategy to consumers if the forecasts over the ensuing regulatory control period cannot be taken into account.

¹ For example, the AEMC's public forum held on 20 May, 2020. [Virtual forum: Integrating distributed energy resources into the grid - Zoom](#)

Another question that has arisen during the draft decision consultation process is whether the Victorian DNSPs are considering applying to the Australian Energy Regulator (AER) to re-open the 2021-26 TSS to commence charging for export services. We consider the necessary regulatory guideline changes, process and system changes, customer consultation and trials to approximately align to the 2026-31 regulatory control period preparation activities. Therefore, we do not—at this stage—seek to apply to the AER re-open our TSS to address export tariffs earlier than the draft decision timeline anticipates.

Whilst supportive of the change, several items in the draft decision cause concerns, and we wish to raise them in this consultation process. These items do not seek to change the substance of the rule change but rather attend to some possible unintended consequence. We elaborate on these issues in the attachment to this letter.

We also note that Energy Networks Australia have provided feedback in this consultation process, and we are supportive of the positions raised in that submission.

Finally, the deemed distribution contract in Victoria is managed through state-based regulatory instruments and authorities. This differs from the other NEM DNSPs whose deemed distribution contract operates under the NERR. In this situation, the necessary changes to the deemed distribution contract outlined in the NERR will not apply in Victorian, and therefore, we will seek to engage with jurisdictional bodies for changes in the state-based jurisdictional contract to accommodate changes through this draft decision.

If the AEMC would like to discuss these matters further, then please get in touch with Matthew Serpell at matthew.serpell@jemen.com.au.

Kind Regards,



Ana Dijanosic
General Manager, Regulation

Attachment– Feedback on the draft decision

Changes to the definition of a “distribution service”

The changes to the *distribution service* definition outlined in the draft decision are significant. Formally recognising the export service as part of a distribution service is a substantial step to recognising the changing role DNSPs play in the energy supply chain and better meets customers’ needs.

There is, however, an unintended consequence of this change when considered in the context of the ring-fencing guideline and the service classification undertaken in a DNSP price determination. By virtue of the change in the definition of *distribution service*, and the absence of classification in the price reset determination, an *export service* automatically becomes an “other distribution services” per the ring-fencing guideline. This means that export service will be negotiated or unregulated and result in pricing arrangements outside of those intended for distribution services.

To overcome this issue, we recommend transition provisions be written into the final rule change. Further, a full review of the NER for any other unintended consequences for change in the distribution service definition should be undertaken.

Charging for export services for large customers

As a part of the connection guideline process, DNSPs recover the customer contribution from customers. DNSPs forecast the increment revenue that they will receive over the time horizon in determining the customer contribution. For connections to date, no revenue has been forecast for export services in accordance with the current rule requirement 6.14, which prohibits the charging of export services.

Forecasting the revenue from export services as a part of the customer contributions calculation is difficult and this should be taken into account when the AEMC considers the final decision:

- (i) Exports to the distribution network are not assured, and some customers may store the energy on-site for later use. Forecasts are unreliable, unpredictable and susceptible to material over-forecasting to reduce customer contributions.
- (ii) The longevity of the connecting customer (going concern)—and therefore the period for which the customer will contribute to the shared network—is a risk that should be borne by the connecting customer and not the broader customer base. This is the current case, irrespective of whether the connecting customer exports to the distribution network or not.

- (iii) Forecasting the extent of exports to the distribution network is exceptionally volatile and increases the risk borne by the broader customer base.

In these examples, an unintended impact of this change is that the shared customer base would be exposed to increase risk and costs, which is not the intent of the rule change. For this reason, JEN recommends that DNSPs should not include revenue from export services when connection costs are recovered through the connection charges guideline.

A way forward with this issue is to include a review of the Australian Energy Regulator's connection charges guideline, along with the review of the other guidelines as outlined in section 11.[xxx].2 *Amendments to AER documents*, as outlined in the draft decision.

Customer engagement

The draft decision prescribes in some detail the customer engagement activities DNSPs must undertake as a part of their price review process (draft decision rule 6.8.2(c1)). The information sought in this amendment relates specifically to the integration of DER and requires DNSPs to consult with customers about this vital topic.

Whilst we believe in the importance of meaningful customer engagement—and we have every intention of engaging with our customers on DER related matters—we consider the requirements would be better placed in a guideline rather than in the rules themselves; preferably the newly created *export tariff guideline* that is part of the draft decision.

In general, the NER is a set of principles that should endure over the long term and with details being managed through subordinate guidelines. With this framing, we consider the details of this requirement are best placed in a guideline because:

- (i) The level of prescription naturally aligns within guideline requirements; *and*
- (ii) The guideline is more flexible for timely change without the need for a rule change.
- (iii) The information sought is not enduring over the long term because DER integration will be mainstream in future regulatory control periods. This would mean the rule amendments are not fit for purpose in the long term.

Distribution billing

Typically, all network bills have an energy component with larger customers and a growing proportion of smaller customers, having a demand component. When consulting with customers, we engage on both of these charge types.

The amendments to the billing section in the draft decision, namely section 6.20.1, have recognised the energy component could be both a consumption and an export service, (s 6.20.1(a)(2)(ii)). However, the section that relates to peak demand (namely s 6.20.1(a)(2)(i)) does not have the same recognition. This difference in approach in billing between consumption and demand could result in price signal distortion because, if the higher peak is on the export service, then cross-subsidisation will arise in the pricing. To overcome this anomaly—and to allow for more effective customer consultation—we propose changes to the draft decision to recognise export service ‘peak’ in s 6.20.1(a)(2)(i).

Incremental Distribution Annual Planning Report requirements

The rule change seeks DNSPs to report additional information in their Distribution Annual Planning Report (DAPR) to give stakeholders a better view of constraints on the network to plan and engage more effectively. As a matter of principle, we believe that reporting historical information about the network should be provided in the regulatory information notice (RIN) and that forward-looking network information should be contained in the DAPR. We find that the draft decision mixes this approach by seeking historical data in the DAPR. To keep the regulatory process consistent, we propose the new reporting requirements be allocated to each of the above noted regulatory instruments based on the forward looking or backward looking timeline.

Implementation timing

The draft decision is a substantial rule change and has many limbs that require changes to be implemented across DNSP systems and processes and other market participants. The draft decision outlines various components of the rule change to be implemented at different times, recognising the risk and complexity involved to manage the implementation risk.

We believe several timing elements require further consideration to address implementation risk adequately and ensure consistency across the National Electricity Market.

- (i) ***Commencement date of the rule change*** – the changes proposed in the NERR outline a commencement date of *30 September 2021*.² For NEM participants that operate under the NERR, the commencement date is clear. However, for the Victorian DNSPs, which do not work under the NERR, the commencement date will be the NER change start date, which will be approximately three months earlier than the NERR start date. This approach is inconsistent across the NEM, and in all likelihood, unintended. We recommend a commencement date is inserted into the NER amendments and that this date

² AEMC, *Changes proposed in Draft National Energy Retail Amendment (Access, pricing and incentive arrangements for distributed energy resources) Rule 2021*, Sch 3, Part 17, 1(1)

(i) is consistent with the date in the amended NERR and (ii) reflects the delays in the consultation and final decision-making process as advised by the AEMC.³

- (ii) **DAPR changes** – We have identified several reporting requirements that cannot be achieved by DNSPs, Specifically:
- a. Schedule 5.8 - S5.8(l)(3) – We do not capture import electricity sought by retail customers for embedded generating units. We propose this ‘import electricity sought’ obligation be removed as it will not be possible to track and implement due to the practicality of separating supply capacity required and import electricity sought for embedded generating units. Further, DNSPs are not privy to the data of embedded generating units; at best, we see the net-metered flow of energy, which is not the same as the requirement.
 - b. Section 11.[xxx].9 of the savings and transition rules state that the DAPR reporting requirements are not due to commence until one year after the commencement date. However, amended rule S5.8(l)(3) requires information to be reported from the preceding years, this backwards-looking requirement effectively eliminates the necessary transition rule and does not allow DNSPs to modify systems and processes to capture data to meet this new requirement. We recommend that additional time to address the timing inconsistency.
- (iii) **Australian Energy Market Operator to review the market rules** – under the savings and transition requirements, the Australian Energy Market Operator (AEMO) is to review the market procedures within nine months of the commencement date (assuming the current commencement date outlined in the NERR). We believe the timeframe for the review and consequential system and process changes is insufficient and adds unnecessary risk. Further, the industry is undergoing significant reform over this same time frame (for example, implementing the five-minute settlement rule change) and overlaying further changes adds substantial risks. We believe an additional twelve months is required to undertake the review.

Other drafting

Below, we outline some relatively minor drafting concerns:

- (i) Sch 5A.1, Part B(a) has removed the reference to a person that *proposes to operate* an embedded generating unit. We consider that in the context of

³ AEMC, *Public consultation update: distributed energy resources*, 6 May 2021.

Part B, which involves preparing a *connection offer involving embedded generation*, it is conceivable, even probable, that most offers will still need to be made to customers that *propose to operate*. We believe this term should be reinstated.

- (ii) The term export service is used in several rule amendments (S 6.6.3(b), s 6.6.3A(c)(2)(i), s 11.[xxx].3). However, this term is not defined. To clarify the rules, we believe a definition should be added in the final rule change.