AUSTRALIAN ENERGY REGULATOR

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Our Ref: D17/93482

Mr John Pierce
Chairperson
Australian Energy Market Commission

By email aemc@aemc.gov.au

Dear Mr Pierce

Re: Consultation paper—Alternatives to grid supplied network services

The AER welcomes the opportunity to respond to the AEMC's consultation paper *National Electricity Amendment (Alternatives to grid-supplied network services) Rule 2017*.

The Western Power rule change request relates to the use of distributor provided stand-alone power systems, or micro grids, to service remote communities. Stand-alone systems are already in use in parts of Australia and their applicability is expected to grow as unit costs decline, both in absolute terms and relative to the cost of providing network services through the interconnected network.

Western Power's rule change proposal is, however, cast relatively narrowly in that it deals only with one model for delivery of network services by stand-alone systems—the distributor led model. More particularly, the intended effect of this rule change would be to allow a distributor to provide services to their existing customers by means of alternative delivery technology not connected to the grid, but to be regulated as if it was.

As canvassed by the COAG Energy Council's Energy Market Transformation Project Team in its August 2016 Discussion paper, the distributor led model is only one of several possible models for delivery of stand-alone power systems.[1] Alternatives include delivery by municipal bodies, such as a regional council, or a co-op model where individuals or companies cooperatively own and manage a stand-alone system.

Our Energy Council submission details our views on a range of network, retail and customer protection issues raised by the wider scale use of stand-alone systems—see attached.[2] While I will not re-state our Energy Council submission here, I note that many of those issues relate both to the distributor led model as well as other delivery models. The broader issues raised by the COAG Energy Council's review of stand–alone networks includes whether such systems should be regulated in a similar way to grid-connected networks, what sort of consumer protections are appropriate, whether there should be access to retail competition and other safeguards around customer consent and choice.

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1 COAG Energy Council, Energy Market Transformation Project Team, *Stand-alone energy systems in the Electricity Market, Consultation on regulatory implications*, 19 August 2016.

2 AER, *Submission on stand–alone energy systems in the electricity market – consultation on regulatory implications*, October 2016.

The Energy Council's Energy Market Transformation work program, which is ongoing, is intended to determine whether existing NEM regulatory frameworks should apply to stand-alone energy systems and what other competition and consumer safeguards are appropriate.

Subject to the Energy Council's findings, a range of regulatory changes may result. Such changes may impact the AEMC's consideration of the Western Power rule change proposal. Accordingly, it would be premature to make any changes to the NER, as sought by Western Power, until this further work by EMTPT is progressed sufficiently so that Western Power's rule change proposal or any other similar rule changes can be considered in this broader context rather than in isolation. We would be pleased to discuss our submission with you. Please contact Chris Pattas, General Manager, Networks on 03 9290 1470 or at chris.pattas@aer.gov.au.

Yours sincerely

Paula Conboy
Chair

Sent by email on: 17 July 2017

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4 October 2016

Energy Market Transformation Project Team
COAG Energy Council Secretariat
GPO Box 9839
CANBERRA ACT 2601

By email: energycouncil@industry.gov.au

Dear Secretariat

Submission on stand-alone energy systems in the electricity market - consultation on regulatory implications

We refer to the above consultation and thank you for providing the opportunity to comment. The AER recognises the need for stand-alone systems in some instances, such as where communities are remotely located. We also note the growing interest in establishing stand-alone systems given the benefits they can bring to consumers, particularly where they are the most economically efficient outcome for supply. To this end, we consider the Energy Council's consultation on the regulatory implications of these arrangements timely and an important first step in teasing out this complex issue.

This submission firstly outlines our experience administering retail and network exemptions under the National Energy Retail Law (Retail Law) and National Electricity Law (NEL) respectively. Specifically, we draw upon the principles underpinning our approach to regulating alternative energy sellers under the Retail Law and the network exemption framework.[1] To that end we have included examples of stand-alone systems in Queensland, one of which we have granted an individual exemption and another, which is eligible for a deemed retail exemption and requires no regulation. We consider the Energy Council may find the principles and practical case studies relevant to the questions posed in the consultation paper about any potential new regulatory arrangements.

Secondly, we draw upon our experience regulating network service providers (NSPs) under the NEL and National Electricity Rules (NER) to comment on some of the points raised in the consultation paper, specifically on ownership models, reliability and service standards, and regulatory challenges.

[1] Information about our review of the regulation of alternative energy sellers, including our final statement of approach, can be found at http://aer.gov.au/retail-markets/retail-guidelines/regulation-of-alternative-energy-sellers-review-october-2013.

Our approach to the regulation of alternative energy sellers under the Retail Law

When considering if new regulatory arrangements are necessary for stand-alone systems, and how such systems should be regulated, it may be useful for the Energy Council to consider the current exempt selling framework and the policy principles underpinning it. The Retail Law prescribes that the AER must, in performing or exercising its exempt selling regulatory function or power, take into account the following policy principles:

- regulatory arrangements for exempt sellers should not unnecessarily diverge from those applying to retailers
- exempt customers should, as far as practicable, be afforded the right to a choice of retailer in the same way as comparable retail customers in the same jurisdiction have that right, and
- exempt customers should, as far as practicable, not be denied customer protections afforded to retail customers under the Retail Law and Retail Rules.[2]

Recognising that the energy market is continuing to evolve and advances in technology are creating new ways for businesses to sell energy, we undertook a review of the regulation of alternative energy sellers in October 2013. The resultant statement of approach, published in June 2014 and reflected in our current AER Retail Exempt Selling Guideline[3], provides broad principles for regulating alternative energy sellers which we consider should be a starting point for any potential new regulation on stand-alone systems (if a need for regulation is demonstrated). The following principles acknowledge that there are many and substantial differences in the scale, scope and nature of the services energy sellers provide and this should be reflected in the way businesses are regulated.

Regulation should be fit for purpose

The AER has a range of tools available to regulate energy sellers - from retailer authorisations (which have a full application process and full range of obligations attached) through to deemed exemptions (which carry very little regulatory risk and reflect a lesser need for regulatory oversight) - depending on the sellers' circumstances. Of these, an authorisation provides the greatest level of protection for customers but is clearly the most onerous for sellers. If the full range of consumer protections is not necessary for customers receiving a particular type of service, a lesser level of regulation may be appropriate. The level of regulation should be proportionate to the level of protection energy customers need and the specific circumstances of the energy sale. We envisage that any regulation of stand-alone systems should similarly be fit for purpose.

Regulation should be sufficiently flexible

Given the rapid evolution of the energy market, a regulatory approach should support - not hinder - market innovation. In protecting consumers' long term interests, regulation should be flexible and pragmatic. The level of regulation applied to a business needs to be appropriate for the type of energy selling undertaken.

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[2] Section 114 of the Retail Law

[3] The AER Retail Exempt Selling Guideline - version 4 - March 2016 can be accessed at: http://aer.gov.au/retail-markets/retail-guidelines/retail-exempt-selling-guideline-march-2016

Existing legislation should not be duplicated

Conditions under an individual exemption can be tailored to complement protections under other relevant legislative frameworks but should not duplicate them. We note that customers have access to broad protections under other regulatory frameworks such as the *Consumer and Competition Act 2015*, Australian Consumer Law and state and territory fair trading legislation. Consideration should be given to whether current frameworks are adequate and whether consumer needs can be addressed through other means.

Our experience administering the retail exemptions framework

While we recognise that the intention of this consultation is to clarify regulatory arrangements for new systems, we provide the following examples of the regulation of stand-alone grids to the Energy Council as evidence of how the current exemptions framework under the Retail Law applies.

In June 2016, the AER approved an individual exemption for a stand-alone grid in Weipa, Queensland.[4] Given the exemption holder is the sole supplier and retailer of electricity in Weipa it was important to develop set of conditions that mirrored the consumer protections provided under the Retail Law, but were also workable, that is to say, took into account the energy sellers' particular circumstances. Deviations from Retail Law obligations, such as the obligation to supply and limits on electricity charges, were considered on a case-by-case basis.

In contrast, a joint venture established in northern Queensland to buy, distribute and sell energy to its constituent members needs little, if any, regulation as it is effectively selling electricity to itself. In this example the joint venture is eligible for an exemption that has no conditions attached to it.

These examples demonstrate the importance of ensuring that energy sellers are regulated according to their specific circumstances, such that consumer protections are consistent with those in the Retail Law where practically possible but are flexible enough to deal with the wide variability in energy selling models, including those currently unanticipated. Further detail of these case studies is provided at **Attachment A**.

Our experience regulating distribution service providers

Our comments below are drawn from our experience regulating NSPs under the NEL and NER, and are discussed in greater detail at **Attachment B**.

We support detailed consideration of all possible ownership models and note the significant scope for competitive provision of both grid-connected and completely isolated energy systems. Where possible, communities should be able to determine who should provide these services and to receive an energy supply that is tailored to their aspirations for cost, service standards and reliability.

A threshold question for the Energy Council to consider is whether the NER economic regulation framework should apply to stand-alone supply. Our view is that it is not apparent that it should and that a light-handed regulatory framework is both less burdensome and more likely to foster innovation than if more heavy-handed regulation were to apply.

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[4] RTA Weipa Pty Ltd's retail exemption, including the full list of the conditions attached to the exemption, can be accessed at: http://aer.gov.au/retail-markets/retail-exemptions/public-register-of-retail-exemptions/rta-weipa-pty-ltd-retail-exemption.

We address the question of whether grid-connected stand-alone systems should be treated as embedded networks more fully in **Attachment B**. As a general comment, while we agree that the design of a new regulatory regime might draw on aspects of the embedded networks model, we do not think it should be the model used. Our main concern is that the current embedded networks framework is based on a number of compromises which mean that it does not properly recognise downstream network costs such as will arise in stand–alone networks. Care will be required to find a model that allows a balance to be struck between flexibility and complexity. In particular, a pricing control mechanism should be selected appropriate to the scale of the networks and be supported by enforcement powers that are proportionate to the scale of the network involved.

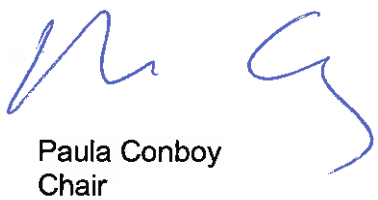
We acknowledge the significant questions raised regarding the basis on which assets are to be removed from the regulated asset base of regulated suppliers and allocated to a stand-alone system and the treatment of stranded regulated network assets. A further consideration is, after having disconnected from the interconnected grid, whether and on what basis a community will retain a right to reconnect. In these circumstances, mechanisms will need to be designed to avoid burdening the remaining grid-connected customers with the costs of reconnection. These issues, and others, will need to be carefully considered before a final form of regulatory framework can be settled.

Conclusion

We consider that regulatory arrangements for stand-alone systems should protect consumers' (both those within and without a stand-alone system) long term interests, and be proportionate and responsive, having regard to developing innovation in the sector. Market innovation can provide energy consumers with greater variety and choice in how they purchase energy services. However this must be balanced against ensuring customers are adequately protected. Any approach to regulating stand-alone systems needs to balance these objectives.

If you require any further information or assistance, we would welcome the opportunity to discuss these matters further. If you have any queries regarding this submission, please call Sarah Proudfoot on 03 9290 6965.

Yours sincerely



Paula Conboy
Chair
Sent by email on: 04.10.2016

Attachment A – exemptions framework case studies

Approval of individual exemption for a stand-alone grid in Weipa, Queensland

On 2 June 2016, the AER approved an individual exemption for a stand-alone grid in Weipa, Queensland.[5]

Background

The Retail Law was adopted in Queensland under the National Energy Retail Law (Queensland) Act 2014, which came into effect on 1 July 2015. Unlike other Retail Law jurisdictions, Queensland chose to explicitly include off-grid energy supply in its adoption legislation.

The exemption holder, RTA Weipa Pty Ltd (RTAW), is required to supply electricity to the far north Queensland off-grid settlement of Weipa as a condition of its mining licence. The only source of electricity in Weipa is that generated by the RTAW power stations. As a result, RTAW supplies electricity through its distribution network to residents and businesses in Weipa.

As a consequence of Queensland's implementation of the Retail Law, RTAW was required to seek an authorisation or exemption in order to continue selling electricity to the area after the 12 month transitional period expired on 30 June 2016. In June 2016, RTAW was granted an individual exemption to sell electricity to the township of Weipa, subject to conditions.

Consideration of the conditions of the exemption

We consulted extensively with RTAW over the content of the conditions. Given RTAW is the sole supplier and retailer of electricity in Weipa it was important that a workable set of conditions be developed in order to facilitate the grant of the exemption.

In determining the appropriate conditions, we sought to maintain the status quo for electricity supply in the Weipa township. In addition, we had regard to the Retail Law principle that regulatory arrangements for exempt sellers should not unnecessarily diverge from those applying to retailers,[6] while not placing an unreasonable burden on RTAW. The conditions proposed are largely similar to those imposed on other exempt persons selling to small and large customers; however some conditions were amended in order to reflect the particular circumstances of RTAW's energy sales.

Importantly, deviations from Retail Law obligations were considered on a case-by-case basis, reflecting the unique circumstances of this particular off-grid settlement. In particular:

- due to RTAW's concerns over their generation capacity's ability to meet increased demand, the obligation to supply does not apply to new large customers or current large customers who have significantly increased their electricity load. In these circumstances, supply is at RTAW's discretion.
- the conditions do not contain the usual prohibition on charging small customers electricity tariffs that are higher than the standing offer price. This is due to the unique circumstances of RTAW's current selling arrangements and the fact that there is no comparable local area retailer standing offer on which to base a price cap.

[5] RTA Weipa Pty Ltd's retail exemption, including the full list of the conditions attached to the exemption, can be accessed at: http://aer.gov.au/retail-markets/retail-exemptions/public-register-of-retail-exemptions/rta-weipa-pty-ltd-retail-exemption

[6] Section 114(1)(a) of the Retail Law

- the conditions allow RTAW to base a bill on an estimate of the exempt customer's electricity consumption, even where the bill is a first or final one, where they are not able to reasonably or reliably base the bill on an actual meter reading. This is because RTAW currently has no legal right to enter customers' properties in order to read their meters.

The full conditions are at **Attachment A1**.

Deemed exemption for a stand-alone grid near Mt Isa, Queensland

The Monumental Electricity Joint Venture comprises a small number of cattle farmers who buy electricity from the Phosphate Hill Mine. The joint venture distributes (through a private electricity network) and sells electricity to its constituent members who use it to run their farms and businesses. Given the seller is effectively selling electricity to itself, it needs little, if any, regulation. Indeed, it is eligible for a deemed exemption (D8), which does not have any conditions attached.[7]

[7] The AER Retail Exempt Selling Guideline, March 2016 contains details of the classes of deemed exemptions and can be accessed at: https://www.aer.gov.au/retail-markets/retail-guidelines/retail-exempt-selling-guideline-march-2016

Attachment A1 – RTA Weipa Pty Ltd exemption conditions

Condition 1 – Obligation to supply

1 The exempt person cannot refuse to sell electricity to a small customer who is within the geographical area as described by Appendix A to this exemption, except in accordance with relevant disconnection provisions.

2 The exempt person cannot refuse to sell electricity to a large customer who:

a. is within the geographical area as described by Appendix A to this exemption, and

b. was purchasing electricity from the exempt person as of 1 July 2016, and

c. has not significantly altered their annual electricity load since 1 July 2016,

except in accordance with relevant disconnection provisions.

3 Subject to condition 10, the exempt person can refuse to sell electricity to an exempt customer where:

a. the exempt customer owes outstanding amounts under a previous electricity account (with the exception of where a customer has been identified as being in financial difficulty)

b. the exempt customer's premises have been disconnected by the exempt person due to an act or omission of the exempt customer, other than the failure to pay a bill, and the exempt customer has not within 10 business days of disconnection rectified the matter that gave rise to the disconnection. The exempt person must reconnect the premises and offer to sell electricity once the matter is rectified.

4 The exempt person is not obligated to sell electricity, or provide or facilitate new connections, to customers outside of the geographical area as described by Appendix A.

Condition 2 - Information provision

1 The exempt person must advise exempt customers, in writing, at the start of their tenancy/residency/agreement of the following:

a. that the exempt person is not subject to all the obligations of an authorised retailer, and the exempt customer will not receive the same protections as it would if it were purchasing from an authorised retailer

b. the exempt customer's rights in relation to dispute resolution including:

i. the exempt person's procedures for handling disputes and complaints, and

ii. any right that the exempt customer has to access the electricity Ombudsman scheme or any other relevant external dispute resolution body in the state or territory in which the exempt customer is located

c. the conditions applicable to the exemption that the exempt person is operating under

d. the availability of relevant government or non-government electricity rebates, concessions and relief schemes

e. the forms of assistance available if the exempt customer is unable to pay electricity bills due to financial difficulty, as well as the process the exempt customer should follow to seek these forms of assistance

f. the electricity tariffs and all associated fees and charges that will apply to the exempt customer in relation to the sale of electricity

g. the flexible payment options that are available to the exempt customer in relation to the sale of electricity, such as arrangements for payment by periodic instalments (bill smoothing)

h. contact numbers in the event of an electricity fault or emergency.

3 Within one month of the grant of this exemption, the exempt person must provide all exempt customers with the information set out in paragraph 1 by publishing a notice in a newspaper circulating generally in the township of Weipa.

4 The information set out in paragraph 1 of this condition must also be provided by the exempt person at any time on request by the exempt customer.

Condition 3 - Billing and payment arrangements

1 The exempt person must ensure that bills are issued to each exempt customer at least once every three months. Bills may be estimated in accordance with condition 4.

2 The exempt person must offer at least two payment methods to an exempt customer. However, if the exempt person offers direct debit as one payment method, they must also offer at least two other payment methods to an exempt customer (that is, at least three methods in total). In each case, at least one of the payment methods offered must be able to be effected without internet access. For example:

a. in person;

b. by telephone;

c. by mail;

d. by direct deposit into a bank account.

3 The exempt person must offer flexible electricity payment options to an exempt customer who is identified as being in financial difficulty. Flexible payment options may include arrangements for payment by periodic instalments having regard to:

a. the customer's capacity to pay,

b. any arrears owing by the customer, and

c. the customer's expected electricity consumption needs over the following 12 month period, or the duration of their tenancy/residency/agreement if the tenancy/residency/agreement is less than 12 months.

4 The requirements in paragraph 3 do not apply where the exempt customer has:

a. had two flexible payment arrangements cancelled by the exempt person in the previous 12 months due to non-payment, or

b. been convicted of an offence involving illegal use of electricity in the previous two years.

5 The exempt person must include the following particulars in a bill for an exempt customer:

a. the name of the exempt customer

b. the address of the exempt customer's premises

c. date that the account was issued

d. the identifier of the meter for the exempt customer's premises

e. the pay-by date for the bill

f. date of the current meter reading or estimate, as applicable

g. the dates to which the meter reading or estimate applies (billing period)

h. current meter reading or estimate in kilowatt hours. Where the amount is an estimate, this must be clearly stated on the bill

i. previous meter reading or estimate in kilowatt hours. Where the amount is an estimate, this must be clearly stated on the bill

j. the amount of electricity consumed, or estimated to be consumed, in the meter reading period, shown in kilowatt hours

k. tariffs, fees and charges applicable to the exempt customer

l. the basis on which tariffs, fees and charges are calculated

m. any amount deducted, credited or received under a government or non-government funded electricity charge rebate, concession or relief scheme or under a payment arrangement

n. details of the available payment methods

o. a telephone number for account inquiries and complaints.

Condition 4 - Estimation as basis for bills

1 The exempt person must use best endeavours to ensure that the meter for each exempt customer is read and used as the basis, or apportioned, for any bill issued.

2 The exempt person may base an exempt customer's bill on an estimation of the exempt customer's consumption of electricity where the exempt person is not able to reasonably or reliably base the bill on an actual meter reading.

3 Where an estimation is used as the basis for an exempt customer's bill, the estimation must be based on:

a. historical metering data for the exempt customer reasonably available to the exempt person, or

b. where this is not available, the average usage of electricity by a comparable customer over the corresponding period.

4 If a customer's bill is based on an estimation, this must be clearly stated on the exempt customer's bill.

5 Where an exempt customer has prevented access to a meter for the purpose of reading that meter, and subsequently requests the exempt seller to replace an estimated bill with a bill based on an actual meter reading, the exempt seller must comply with that request but may pass through to the exempt customer any costs it incurs in doing so.

Condition 5 - Pay-by date

The pay-by date for a bill must not be less than 13 business days from the date on which the exempt person issues the bill.

Condition 6 - Receipts

1 The exempt person must provide each exempt customer with a receipt for any amount paid for electricity, except where payment has been made by:

   a. direct debit, or

   b. credit card over the phone and the exempt customer is provided with a receipt number.

2 The exempt person must provide the exempt customer with a separate receipt if a payment for electricity was made together with a rent payment but has not been separately identified on the rent receipt.

Condition 7 – Charges for late and dishonoured payments

1 The exempt person must limit any fee charged to an exempt customer for late payment to a recovery of reasonably incurred costs by the exempt person as a result of the exempt customer's late payment. (Customers who are identified as experiencing financial difficulties must not be charged a late payment fee).[8]

2 The exempt person must not charge fees for the sending of payment reminder or disconnection notices.

Condition 8 – Undercharging and overcharging

1 Where an exempt customer has been undercharged, the exempt person can recover the amount undercharged subject to the following:

   a. where the undercharging was not the result of the exempt customer's fault or unlawful act or omission, the exempt person is limited to recovering the amount undercharged in the 9 months before the date on which the exempt customer is notified of the undercharging

   b. the exempt person cannot charge interest on the undercharged amount

   c. the exempt person must offer the exempt customer time to pay the undercharged amount by instalments, over a period nominated by the customer (up to12 months, but no longer than the period of the undercharging).

2 Where an exempt customer has been overcharged, the exempt person must inform the customer within 10 business days after becoming aware of the overcharging and repay the amount overcharged subject to the following:

[8] For clarification, a late payment fee can only be charged where it has not been excluded by jurisdictional legislation

a. where the amount overcharged is $25 or more, the exempt person must refund the amount to the exempt customer if requested, or if no such request is made, credit the amount to the exempt customer's next bill. Where the exempt customer no longer purchases electricity from the exempt person, the exempt person must use best endeavours to refund the amount within 10 business day

b. where the amount overcharged is less than $25, the exempt person must credit that amount to the exempt customer's next bill

c. no interest is payable on the overcharged amount

d. where the overcharging was the result of the exempt customer's fault or unlawful act or omission, the exempt person is limited to repaying the amount overcharged in the 12 months before the date on which the error was discovered.

Condition 9 - Payment difficulties and de-energisation

1 Where an exempt customer is identified as being unable to pay electricity bills due to financial difficulty, the exempt person must:

a. direct the exempt customer to the Australian government electricity efficiency website or another information resource with electricity efficiency advice, and

b. ensure that the exempt customer is aware of relevant government or non-government electricity rebates, concessions and relief schemes, and

c. not charge the exempt customer a late payment fee, and

d. not charge the exempt customer a security deposit.

2 Subject to Condition 10, the exempt person must not proceed with disconnection or cessation of electricity supply to an exempt customer unless the following requirements have been met:

a. the exempt customer has requested disconnection, or

b. continuity of supply to the premises would be unsafe, or

c. the exempt customer's tenancy/residency/agreement has ended and the exempt customer is vacating the premises, or

d. the exempt customer has not paid a bill by the pay-by date or has not adhered to the terms of a payment plan, and:

i. following non-payment by the pay-by date, the exempt person has given the exempt customer a reminder notice requesting payment by a date at least 6 business days from the date of issue of the reminder notice, and, in the case of residential exempt customers, has offered the exempt customer more flexible payment terms to pay any amount outstanding and has restated the forms of assistance available if the non-payment is due to financial difficulty, and

ii. following non-payment by the date specified in the reminder notice, or, in the case of residential customers, the establishment of more flexible payment terms, the exempt person has given the exempt customer a disconnection warning notice informing the exempt customer that disconnection may occur if payment

of the outstanding bill is not made by a date at least 6 business days from the date of issue of the warning notice, and

iii. the exempt person has, after issuing the disconnection warning notice, used its best endeavours to contact the customer in person or by telephone in connection with the failure to pay, and

iv. the exempt customer has, by the date specified in the disconnection warning notice, refused or failed to take any reasonable action towards settling the debt.

3 Where an exempt customer is disconnected in accordance with paragraph 2(b) of this condition, the exempt person must use its best endeavours to notify the exempt customer in person or by telephone prior to the disconnection, and must arrange for reconnection of the premises as soon as practicable.

4 This condition does not apply where state or territory tenancy legislation sets out the process and requirements for the disconnection or cessation of electricity supply by the exempt person on the basis that they are a landlord.

Condition 10 - When disconnection or de-energisation is prohibited

1 The exempt person must not disconnect or cease electricity supply to an exempt customer's premises where:

a. a person residing at the exempt customer's premises requires life support equipment that depends on electricity for its operation, or

b. an application has been made by or on behalf of the exempt customer for assistance to an organisation responsible for a rebate, concession or relief available under any government or non-government funded electricity charge rebate, concession or relief scheme and a decision on the application has not been made, or

c. the exempt customer has made a complaint directly related to the proposed reason for disconnection or de-energisation, to the exempt person, the energy Ombudsman or another relevant external dispute resolution body and the complaint remains unresolved, or

d. the disconnection or de-energisation would occur on:

i. a business day before 8am or after 3pm, or

ii. a Friday or the day before a public holiday, or

iii. a weekend or a public holiday, or

iv. the days between 20 December and 31 December (inclusive) in any year.

2 This condition does not apply where the exempt customer has requested disconnection.

3 This condition does not apply where continuity of supply to the exempt customer's premises would be unsafe.

4 This condition does not apply where there is a planned or unplanned interruption to supply.

5 This condition does not apply where the electricity supply agreement between the exempt person and exempt customer has been terminated.

Condition 11 - Reconnection or re-energisation

1 Where the exempt person has arranged for the disconnection of an exempt customer's premises and the exempt customer has within 10 business days of the disconnection:

a. if relevant, rectified the matter that led to the disconnection, and

b. made a request for reconnection, and

c. paid any charge for reconnection,

the exempt person must reconnect the premises (or, where required, arrange with the network operator to reconnect the premises) as soon as practicable, and no later than two days from when the request was made.

Condition 12 – Planned interruption to supply

1. In the case of a planned interruption, an exempt seller must notify each affected exempt customer by any appropriate means of the interruption at least 4 business days before the date of the interruption.

2. The notification must:

a. specify the expected date, time and duration of the interruption

b. include a telephone number for enquiries (the charge for which is no more than the cost of a local call)

c. include a statement that any enquiries regarding planned interruptions are to be directed to the exempt seller.

3. The exempt seller must use its best endeavours to restore the exempt customer's supply as soon as possible.

Condition 13 – Unplanned interruptions to supply

1. In the case of an unplanned interruption, the exempt seller must:

a. as soon as practicable, make available, by way of a 24 hour telephone service (the charge for which is no more than the cost of a local call), information on the nature of the interruption and an estimate of the time when supply will be restored or when reliable information on restoration of supply will be available; and

b. use its best endeavours to restore supply to affected exempt customers as soon as possible.

Condition 14 - Contact details

1 The exempt person must provide a means of contact for account inquiries and complaints that can be readily accessed by exempt customers. Where a telephone number is provided, the charge for this call must be no more than the cost of a local call.

2 The exempt person must provide a 24 hour emergency telephone contact number.[9]

Condition 15 - Dispute resolution

[9] For clarity, reference to the provision of an emergency telephone contact number will be satisfied by the provision of a manned mobile telephone service.

1 In the event of a dispute concerning the sale of electricity to an exempt customer, and in the absence of a determination of the relevant tenancy tribunal if the customer is a tenant, the exempt person must:

   a. make reasonable endeavours to resolve the dispute, and

   b. advise the exempt customer of any right that the exempt customer has to access the electricity Ombudsman scheme or any other relevant external dispute resolution body in the state or territory in which the exempt customer is located, if applicable.

Condition 16 - Life support customers

1 The exempt person must maintain records of any exempt customers who have provided them with confirmation from a registered medical practitioner that a person residing at the exempt customer's premises requires life support equipment that depends on electricity for its operation on their premises.

2 The exempt person must, at the time of registering the premises as having life support, provide the exempt customer with:

   a. general advice that there may be a planned or unplanned interruption to the supply at the address

   b. information to assist the exempt customer to prepare a plan of action in case of an unplanned interruption

   c. an emergency telephone contact number (the charge of which is no more than the cost of a local call).

Condition 17 - Continuity of supply

1 The exempt person must notify the exempt customers immediately if there is any likelihood that they will be unable to continue selling electricity.

2 If the exempt person is unable to continue selling electricity, and it is necessary for another person to take over the exempt person's electricity selling operations, the exempt person must participate in the development and implementation of arrangements to facilitate this.

Condition 18 – Termination of electricity supply agreement

1 An electricity supply agreement between the exempt person and an exempt customer will terminate:

   a. on a date agreed by the exempt person and exempt customer, or

   b. five business days (or a different time agreed by the exempt person and exempt customer) from the date when the exempt customer gives the exempt person a termination notice, or

   c. at the conclusion of the exempt customer's lease for, or occupancy of, the premises to which the electricity is supplied, or

   d. when the exempt customer starts receiving electricity retail services from a different retailer or exempt person, or

e. when a different exempt customer starts receiving customer retail services for the premises, or

f. at the end of a period of 10 business days commencing on the day the exempt customer's premises are disconnected, where the conditions for reconnection have not been met.

2 Termination of an arrangement to supply electricity does not affect any rights or obligations that have already accrued under the agreement.

Condition 19 - Maintaining records

1 The exempt person must maintain records of the following for each of its exempt customers:

a. the name of the exempt customer

b. the address of the exempt customer's premises

c. the identifier of the meter for the exempt customer's premises (if applicable)

d. the date that the customer account was created

e. copies of any bills issued for the previous 12 months

f. the date of the most recent meter read for the customer (if applicable)

g. the basis for determining any estimates of consumption for the purpose of billing where a meter read could not be obtained.

Attachment B – Responses to discussion points

Defining stand-alone energy systems

Discussion points:

What objectives, beyond the Energy Council's general objective, should be held in mind in addressing regulatory arrangements for stand-alone systems?

What is an appropriate definition for our purposes?

What are the different regulatory issues arising from stand-alone systems that are connected to the grid versus those that are not?

A key issue will be to ensure customers are empowered to receive an energy supply that is tailored to their aspirations for cost, service standards and reliability. An important objective will be to minimise the scope for local monopolies to form and exploit customers. We think the future regulatory regime should support the principle of open access for customers and energy suppliers wherever practicable.

Also, the regulatory system which supports stand–alone supply should be fit for purpose. We consider maintaining consumer protections to be important for consumers regardless of their status as grid connected or stand–alone supply. Consequently, we favour maintaining an appropriate consumer protection regime but, as we discuss below, supporting this with a light–handed approach to network regulation.

Of the two options for definition, the US Department of Energy definition is a better description of the potential approaches to micro–grids that are likely to emerge in Australia. We prefer that definition, though it does mean the term stand–alone supply is not accurate where a grid connection continues to exist.

We think the major points of difference will concern the regulatory arrangements for the network component of stand–alone systems and the potential inability of consumers to access retail competition.

Ownership models

Discussion points:

Are there any other potential business models we should consider?

What are the unique regulatory challenges presented by each ownership model?

Are some ownership models more closely aligned with the National Electricity Objective than others?

We support detailed consideration of all possible ownership models. As the national regulator of distribution networks we have reviewed many distribution proposals. Based on those reviews we consider there are significant opportunities for stand-alone systems. These systems may either be grid connected or completely isolated.

Naturally, the focus of the AER is directed towards regulated networks. However, we think it would be premature to assume that even in these circumstances that stand-alone supplies should automatically be owned or operated by distributors under the NEM regime. We

therefore support the Energy Council fully testing the proposition that NSPs are the natural or default entity to be providing these (off-grid) services.

It is undeniable that distributors have natural advantages that support their ongoing involvement in stand-alone supply. These advantages include their technical and management skills, experience, local knowledge, existing infrastructure, scale and financial strength. But, these advantages will not necessarily translate into achieving the lowest-cost, or reliable electricity supply for customers. A significant factor in a distributor's costs can be the need to provide a speedy restoration service in the event of an outage. For an NSP operating over a large geographical area this cost may be significant. If a privately owned supply can reliably serve customers at lower cost than a regulated supply, customers would be better served if that option were available to them.

A key policy question will be how to ensure that customers are not locked into costly, long-term monopoly supply arrangements. We support exploring the opportunity to adopt light-handed forms of regulation for the network component of stand-alone supply, especially where the supply arrangements arise from credible competitive service provision tenders and other market based schemes. We consider the National Electricity Objective will be best served if consumers are empowered to exercise a choice or discretion to select at the community level an approach that best matches local requirements.

Despite this discretion, it is likely that some form of control on retail prices should apply in isolated systems if the risk of monopoly pricing behaviours cannot be otherwise managed. However, we consider this is an option already available in those states and territories where the NECF is applied and the option to apply the retail selling framework is adopted by the jurisdiction. Also, if controls exist at the bundled retail price level, there would be less urgency associated with a need for separate controls on the network cost element.

Without detailed consideration of specific options to implement stand-alone supply it is not possible to expand on the most suitable forms of network regulation to implement the light-handed approach we would favour. As this work proceeds though, the AER will work with policy makers to explore suitable models.

We believe significant scope exists for competitive provision, such that all forms of competition or tender processes should be available to a community to determine at a local level who should provide these services in particular cases. Regardless, if an NSP were to provide a stand-alone system, under ring-fencing principles, the AER would examine whether on the grounds of competitive neutrality these services should be provided through a non-regulated entity.

Reliability and service standards

Discussion points:

How should the service standards that apply to each stand-alone energy system be decided?

How will we ensure that customers are making fully informed decisions about the reliability standards and service quality of the energy services provided through a stand-alone energy system?

Under what governance framework will decisions about reliability versus cost trade-offs be made?

How and by whom should standards be enforced?

Should some obligation to supply apply in an area where a stand-alone system is in place?

Who should be the responsible party if an obligation to supply is put in place in a stand-alone system area?

A key issue in stand-alone supply is to ensure customers are empowered to receive an energy supply that is tailored to their aspirations for cost, service standards and reliability. We believe community size and composition will be important considerations.

Service standards take many forms, both technical and service delivery related. At the technical level, there is not an obvious case to compromise on existing technical standards for distribution services. Technical standards exist primarily to ensure safety but also because the operation of the equipment serving one energy user can cause detriment to other nearby energy users or the local distribution system as a whole. The technical standards are captured in distribution codes, licences, safety legislation and like instruments administered by the jurisdictions and in the technical standards contained in chapter 5 of the NER. Safety requirements are principally set at a jurisdictional level. We would not expect these arrangements to change.

Consequently, whilst it is appropriate to consider whether the full set of NER requirements should apply, we do not expect there to be significant change at the local level in the technical aspect of service delivery for stand-alone supply.

Caution should be applied by policy makers to ensure that any service standard or reliability setting mechanism applied does not result in additional costs that negate much of the benefit of stand-alone supply to smaller communities. Current approaches to service standards and reliability are based on a mix of factors that are unlikely to be easily replicated in smaller communities served by a stand-alone supply. Whereas the historic approach has relied almost exclusively on a utility to deliver these services, these communities are likely to be less dependent on a single service provider to deliver energy security.

With renewables and storage technologies rapidly becoming more viable there is greater prospect of individuals tailoring their energy supply reliability to meet their needs. However, depending on the social composition of a community, the capacity of individuals to afford individual solutions may be limited. But imposing standards which guarantee a high standard of service delivery to lower socio-economic groups is not a costless exercise. Therefore, a natural tension exists between these considerations which cannot easily be resolved without a deeper consideration of these issues, which we expect in this process.

Traditional approaches to service standards and reliability could result in a centrally controlled, unilaterally applied set of prescriptive standards that are inflexible and may result in excessive costs, especially for smaller communities. To avoid imposing excessive costs, our preference for stand-alone supply is to use a light-handed approach to regulation wherever possible. If, over time, it is found that higher standards should apply we think the light-handed approach engenders less risk of communities being saddled with excessive costs and allows greater scope for cost effective corrective action.

The process to resolve this tension should provide a range of options for communities to consider. The Energy Council should commission the development of a suite of reliability setting approaches which factor in the major parameters which include cost, connection requirements, outage duration, outage frequency, restoration time and service guarantees (if

any). The options should address the trade-offs that must be addressed and allow solutions to be selected that match local circumstances.

At the highest level the authority for generating and implementing such options will likely be based on State or Territory legislation. However, beyond this, the final form of any controlling instrument or regulation is a matter for the jurisdictions to resolve. Our preference though is for there to be a consistent national approach to this issue.

The Energy Council seeks a view on whether an obligation to supply should exist. We note in the next section that no obligation to supply arises under the NER but may arise under jurisdictional requirements. We consider in all but the smallest examples of community stand-alone supply, the basic principle which should apply is non-discriminatory open access for both customers and energy suppliers.

Regulatory challenges - networks

Discussion points:

What regulatory barriers exist to third parties supplying stand-alone energy solutions?

How should the regulatory framework ensure that a stand-alone power system is considered as an option where this is the most efficient way to provide energy services?

What elements of the national framework are potentially applicable to stand-alone energy systems?

Are the existing connection frameworks adequate for stand-alone energy systems?

We administer a framework for connection and apply NER specific regulation to monopoly systems where it is prescribed. To date most solar PV and battery systems have been treated as customer appliances and have minimal visibility to the economic regulatory framework.

We think a threshold question is whether the NER economic regulation framework should apply to stand-alone supply. As we have set out above, we think it is not apparent that it should.

The discussion paper questions whether rule 5.17.1(c)(9)(v) which concerns options to be evaluated in a RIT-D analysis is appropriate in its current form for an isolated, off-grid supply. To the extent the policy intention may be to extend the NER regulatory framework to isolated off-grid supply the rule could clearly not apply in its current form. This is because, as stated in the issues paper, a distribution system must be connected to the NEM for the NER to apply.

Turning to the broader question of whether the RIT–D framework overall is appropriate, we think that as rule 5.17 currently applies, a credible option to cease supply does not appear to be excluded from consideration. If it were considered necessary, we would amend the RIT–D guideline (and any other relevant guideline or instructions) to remove any residual ambiguity whether a disconnection option should be considered.

A more interesting policy question may be whether the NSP has an obligation to supply under jurisdictional requirements. If such an obligation exists, that may result in the NSP being unable to consider a disconnection option without violating the obligation to supply. We note the NER does not include an explicit mention of an obligation to supply in the relevant rule, i.e. rule 5.2.3. However, an obligation to supply may arise under the

requirement in rule 5.2.3(f) for an NSP to satisfy jurisdictional legislation: A Network Service Provider must comply with applicable regulatory instruments. A conflict in an applicable regulatory instrument could result in the NSP arguing it could not deliver this outcome were it otherwise the best option.

We are not best placed to comment on the implications of the connection framework for stand-alone supply. The existing connection framework is highly prescriptive and developed with the scale of major distribution businesses in mind. Consequently, it is necessary to consider whether this framework would remain appropriate given the much reduced scale of stand-alone supply networks. This is a matter for other stakeholders to address.

Regulatory challenges - retailing

Discussion points:

In what circumstances should or could a stand-alone system become subject to economic regulation?

How should a regime for economic regulation – if any – be structured to address stand-alone systems?

Should price regulation extend to the entire cost of energy services for customers of stand-alone systems?

Should stand-alone systems that have a grid connection be treated as embedded networks for metering and settlement purposes?

In what circumstances should a decision to establish a stand-alone system be regulated? Who by? And what justification should be provided to the regulator?

We will be guided by the Energy Council on whether, and in what circumstances, stand-alone systems should be regulated and whether regulation should extend to the whole cost of energy services. Our general belief is that the regulatory system that applies for small systems should be as light-handed as possible to foster innovation and minimise the regulatory burden, which burden is likely to be significant if more heavy-handed regulation were to apply.

For market settlement purposes, it is not apparent that networks which maintain a grid connection should be treated as embedded networks. Although it may be feasible to adapt the embedded network framework as a basis for metering and settlement, it would not be our preferred approach to apply the embedded framework more generally. The current embedded networks framework is complex and based on a number of compromises. The most significant compromise is the 'shadow pricing' approach to network costs. Shadow pricing only recognises upstream network assets and effectively ignores the cost of the local distribution assets in determining network costs.

This approach would not adequately address the attribution of network costs which would arise if assets that are currently included in a distributor's regulated asset base (RAB) are removed from the RAB and assigned to a discrete network. The distributor's remaining network would not represent the costs of the stand-alone network. It follows that prices derived from that source would not be appropriate to the stand-alone network. This creates a need to then assess network costs for the stand-alone network. This is not possible under the embedded networks framework separately. However, we also consider the building block approach currently used to regulate networks to be inappropriate for small networks. It is

heavy-handed, complex, data and resource intensive, difficult to understand and apply and generally less agile in regard to promoting innovation in energy supply options.

Other limitations in the embedded networks framework involve distribution losses, metering arrangements and access to retail market competition under some circumstances. It would not be a simple task to amend the embedded networks approach to apply to stand-alone networks.

Our preference is to create scope for a light-handed regulatory regime to apply only where regulation of stand-alone networks is determined to be necessary. The design of this regime might draw on aspects of the embedded networks model whereby the AER retains a power to impose or vary conditions in response to local circumstances. However, care will be required to find a model that allows a balance to be struck between flexibility and complexity. In particular, a pricing control mechanism should be selected appropriate to the scale of the networks and be supported by enforcement powers that are proportionate to the scale of the network involved.

We would be prepared to work closely with the Energy Council, the AEMC and AEMO to develop such a framework if this approach were to be adopted.

Discussion points:

Of the various issues raised in this paper, which areas and potential market failures have the highest risks and should be prioritized in terms of regulatory interventions and reforms?

We consider this to be an important question but on the available information it is not possible to accurately quantify risks. Any regulatory barriers should be identified before their impact can be quantified. If barriers are identified in areas of the NEL administered by the AER we will work with policy makers to address those restrictions that fall within our ambit. Market failures similarly need to be identified.

A key concern will be to establish the basis on which assets are to be removed from the regulated asset base of regulated suppliers and allocated to a stand–alone system. The form of this might involve any of a number of possible pricing options which include a regulated exit fee approach, a costing based on a detailed audit of the assets either on a replacement basis or a depreciated basis, a negotiated cost or by other means. Allied to this will be the regulatory treatment of stranded regulated network assets.

A further consideration is, whether having disconnected – will a community retain a right to reconnect and, if so, on what basis? Where existing stranded assets have not been removed this cost may be minimal but, in some cases the reason for disconnection may have been a previous assessment that the cost of augmentation was excessive. It may remain the case that despite dissatisfaction with stand–alone supply, reconnection costs are excessive. Mechanisms will need to be designed to cope with decision making in these circumstances to avoid any potential to burden other customers with the costs of reconnection.

These issues will need to be studied in detail and subject to careful consideration before a final form of regulatory framework can be settled.