

26 February 2020

Manager, Embedded Networks Review  
Energy Sector Reform  
Department of Environment, Land, Water and Planning (Vic)  
PO Box 500  
East Melbourne VIC 8002

Submitted electronically at: [EmbeddedNetworks.Review@delwp.vic.gov.au](mailto:EmbeddedNetworks.Review@delwp.vic.gov.au)

Dear Sir or Madam,

### **Embedded Networks Review.**

The Australian Energy Council (AEC) welcomes the consultation opportunity in the Department of Environment, Land, Water and Planning (DELWP) review of embedded networks.

The AEC is the industry body representing 22 electricity and downstream natural gas businesses operating in the competitive wholesale and retail energy markets. These businesses collectively generate the overwhelming majority of electricity in Australia and sell gas and electricity to over 10 million homes and businesses.

AEC members operate embedded networks and provide energy to customers within embedded networks, or operate in competition with embedded networks. As such, the AEC is uniquely positioned to respond to many of the issues raised in this consultation paper, however, in some circumstances these conflicting positions may mean that a response is unable to be provided. As a matter of principle, the AEC considers that competition, with appropriate protections, will deliver the best outcome for energy consumers in Victoria.

The AEC has not responded to all the matters raised in the consultation paper.

#### *Q3. What do you consider to be an appropriate definition for a microgrid?*

By definition, a microgrid would simply be a small grid. The use of the term as a threshold for embedded networks is problematic as it has very little to do with consumer outcomes, these outcomes being the driver behind the proposed ban on embedded networks and the attempt to carve out a specific niche for what is for all practical purposes an embedded network that has some form of independent support; making it a microgrid.

The International Electrotechnical Commission (IEC) provides Guidelines for microgrid projects planning and specification.<sup>1</sup> The microgrids considered in the Guideline are alternating current (AC) electrical systems with loads and distributed energy resources (DER) at low or medium voltage; as is the case for this consultation. They are further classified into isolated microgrids and non-isolated microgrids. Whilst not charged with consumer outcomes, it is interesting to observe that the IEC document does not narrowly define a microgrid, perhaps highlighting how difficult that is to achieve in practice.

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<sup>1</sup> Microgrids - Part 1: Guidelines for microgrid projects planning and specification IEC TS 62898-1:2017

The AEC is of the view that defining a microgrid was never the problem to be solved and may in fact interfere with future investment and consumer benefit. As a means of example, the AEC understands that many embedded network projects are developed with the intention of eventually operating as an islanded microgrid once a positive business case is made. Given this scalability, defining microgrids to as to avoid an arbitrary 'ban' risks limiting their development in Victoria, and the positive consumer outcomes that the Government considers will result from their proliferation.

Further insight can be drawn from the AEMC's review of stand alone power systems (SAPS)<sup>2</sup>. At the request of the COAG Energy Council the AEMC examined the regulatory frameworks for SAPS and the required standards for consumer protections. The AEMC also considered the arrangements for SAPS run by parties other than regulated networks, and in this regard the AEMC SAPS review is comprehensive and relevant to the Victorian context.

If SAPS are considered as a proxy for microgrids this would assist the Victorian review to form its definition, especially in terms of the AEMC's categorisation by customer connection numbers and not by seller type. It would also assist the various participants in embedded networks who operate nationally if the rules are consistent.

The AEC is entirely supportive of the policy intention to improve consumer outcomes for embedded network customers, and believes that the demonstration of that consumer benefit is superior to a technology definition approach.

*Q4. What is the most effective way to offer an exemption for microgrids? How can the proposed exemption pathway for microgrids ensure the benefits of microgrids are passed onto customers?*

Many embedded networks pass on the financial benefits to their energy consumers through lower pricing or a reduction in common fees. They have also in many cases already invested in innovation such as solar, batteries, electric vehicle chargers or energy efficiency initiatives. Each of these serve the interests of their customers and should be encouraged.

The most effective way to ensure benefits are passed on to customers is to have transparency, and the most effective practical form of this transparency is competition. The AEC notes that the adoption of the AEMC recommendation to rollout to embedded network customers suitable market compliant meters that are registered with the Australian Energy Market Operator (AEMO) will make it easier for customers to switch retailer. This reform will simplify the process for customers within microgrids or embedded networks to opt out, increasing the competitive tensions on suppliers to offer services consumers are willing to pay for.

Exempting microgrids, whatever the definition, does not avoid the concerns currently seen by customers within embedded networks.

*Q5. What is the most appropriate approach to expand the obligations on an exempt person to improve consumer protections for embedded network customers?*

The arrangements with exempt sellers can be difficult for consumers to comprehend. Where regulations can be 'peeled off' by the exemptions framework we might assume they are superfluous to the minimum rights and protections afforded to all other electricity consumers.

The exemption framework in electricity supply has been compared to other two tiered regulatory regimes, such as those for therapeutic goods or financial services. But they are not analogous as the subject of the differing regulation in those multiple tiered regimes is the product itself, not the supplier. The product type approach means that compliance obligations are uniform across all suppliers of the product.

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<sup>2</sup> <https://www.aemc.gov.au/market-reviews-advice/review-regulatory-frameworks-stand-alone-power-systems>:

In this energy exemptions framework, it is the supplier that is subject to differing authorisation and regulation, and therefore the consumer receives differing levels of consumer protection, even though to the consumer the product of retailed energy is the same. The appropriate approach is to provide the consumer protection based upon the required level for the essential service; not the assumed capability of the supplier.

This outcome could be achieved by removing the reseller exemptions within the General Exemption Order, and simply requiring embedded network providers to be licensed in the same manner as retailers. This would enable the infrastructure benefits of embedded networks and microgrids to continue, without risking customer outcomes due to inadequate protections.

However, if the Government intends to proceed with 'banning' any new embedded networks, it seems unlikely that a change to the regulatory framework for legacy embedded network customers would achieve a net benefit. Absent an ability to grow their business, asking existing providers to rebuild their systems and processes at significant cost may result in unintended consequences – including potential market exit for many smaller players.

*Q6. What are the most important protections to be extended to embedded network customers?*

Multiple tiered regulatory frameworks that can be applied differently according to the provider's business model are often popularised as lowering barriers to entry and improving competitive, and therefore consumer, outcomes. In practice however these permitted exemptions that are aimed at lowering the cost of compliance for certain business models, when compared to those of say an authorised retailer, may create a regulatory arbitrage that leads to distorted consumer outcomes.

The compliance exceptions permitted to exempt sellers cover areas such as:

1. The obligation to supply;
2. The provision of key price and service information to customers (such as pricing to the VDO, access to ombudsman);
3. Their billing and payment arrangements;
4. The rules on disconnection and reconnection, and;
5. The application of concessions and rebates.

Where regulations governing 1 – 5 of the above can be 'peeled off' by the exemptions framework we might assume they are superfluous to the minimum rights and protections afforded to all other electricity consumers in either a registrable exemption or a retailer authorisation. The very fact that we are reviewing the embedded networks framework on the basis of its reportedly poorer consumer outcomes arising from deemed exemptions would indicate that this is not the case.

The AEC supports comparable consumer protections in the key areas of 1-5 above as per all electricity customers. We suggest that the number and type of delivery platforms and channels to providing this to customers could be limited to the single most basic practical.

*Q7. How can access to concessions and rebates for embedded network customers be improved?*

Consumer advocates have argued that the application of concessions at billing, rather than post bill, has the most positive impact on customer capacity to pay. The AEC supports this position, and agrees that limiting the barriers to customers accessing concessions and rebates should be a key objective of this review. This will require examining the hurdles in the application of concessional rebates to the bill that arise from the relevant Department as well as those in industry.

*Q11. What are the main practical barriers to customers in embedded networks accessing retail market competition? How can these barriers be removed? Are there any issues specific to customers in long-term caravan parks and other residential embedded network settings?*

The primary problem has been that the range of activities covered by exemptions is too broad. The AEMC recommended a very narrow range of activities should be considered for exemption; that only when the costs of retail authorisation and facilitating retail competition would outweigh the benefits to customers was combined with a low need for regulatory oversight should an exemption be considered. Implementing the AEMC's recommended approach would remove many of the practical barriers to future embedded network customers.

Existing operators, such as residential parks that provide for longer term residents, represent a more difficult short-term problem. In such arrangements, the costs of retail authorisation may create the consequence of the operators discontinuing their hosting of longer term tenants. This possibility has been raised by several community sector advocates and we do not doubt that this is a plausible outcome.

Where practical, information to those residents in these facilities should still clearly cover items 1 – 5 in the response to Question 6 above. The AEC believe that the Victorian Government has a key role in the development of simple pro forma arrangements that will be low cost and easy to implement in legacy exempt seller arrangements.

*Q12. What would be the best way to ensure embedded network customers can access competitive price outcomes?*

As required by its terms of reference, the must consider the role of Embedded Networks from the customer perspective. The AEC believes that a customer will rarely if ever make their decision on where to reside or trade based in part or at all on whether they are connected in an embedded network. Customers expect the same level of service, access to support, and products and services as those in non-embedded network sites. Our view is that approaching the problems with customer experience would have better commenced with the establishing a regulatory framework that is indifferent to the living or trading arrangements of consumers rather than a ban on a specific and already widespread network type.

*Q20. What compliance and enforcement functions should the ESC have to ensure more effective compliance and regulatory oversight of embedded networks? If not, why not?*

Our view is that any compliance and enforcement procedure which is in place in retail markets should apply to exempt sellers or any new fully authorised embedded network retailer. However, a proportionality must apply to the penalties, reflective of the differences in each.

*Q21. Should the enforcement and consequences of non-compliance differ for exempt persons and licensed retailers? If so, how and why? If not, why not?*

As per Q.20, a proportionality must apply to the penalties, reflective of the differences in each category.

*Q24. What aspects of the AEMC's proposal, if any, should apply in Victoria? Why? Why not?*

The AEC's view is that the AEMC's approach should applied in its entirety in Victoria and this would give practical effect to the improvements in consumer protections sought by the review. Industry prefers a national framework to make this work, and cherry picking and juxtaposing the AEMC model, which has examined the matters in greater detail and possibly consideration given the scope of this review, does not in our view further the Victorian customer interest.

Any questions about this submission should be addressed to David Markham by email to [david.markham@energycouncil.com.au](mailto:david.markham@energycouncil.com.au) or by telephone on (03) 9205 3107.

Yours sincerely,

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