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## **Manager, Embedded Networks Review**

Energy Sector Reform

Department of Environment, Land, Water and Planning

Victorian Government

Submitted online via: <https://engage.vic.gov.au/>

**26 February 2021**

## **Victorian Embedded Networks Review, Issues Paper, 2020**

AGL Energy (**AGL**) welcomes the opportunity to respond to the Department of Environment, Land, Water and Planning's (**DEWLP**) Embedded Networks Review Issues Paper (**Issues Paper**).

### **Strategic direction**

AGL supports the Victorian Government's commitment to improving outcomes for customers living in embedded networks.

With a focus on improving consumer protections and access to the benefits of retail energy market competition, AGL engaged closely with the Australian Energy Market Commission's (**AEMC**) 2017 Review of regulatory arrangements for embedded networks<sup>1</sup> and its subsequent 2019 review on Updating the regulatory frameworks for embedded networks<sup>2</sup> that culminated in its Final Report (**AEMC Reform Package**) which remains to be implemented by NEM states.

AGL acknowledges the Victorian Government's election commitment to ban embedded networks in new residential apartment buildings<sup>3</sup>. We believe the most appropriate approach to fulfilling the policy intent (i.e. reduce energy costs for consumers in embedded networks) is to proceed with implementing the AEMC Reform Package. We consider the AEMC Reform Package provides a range of improvements to address the core issues of the Victorian review, including customer protections, access to competition and information disclosure.

Implementing a ban through an alternative framework would entail substantial legislative and regulatory complexity, given the need to establish equivalent outcomes whilst accommodating existing physical embedded networks arrangements. A Victorian framework that is not aligned with the AEMC Reform Package also risks imposing increasing regulatory and compliance cost on industry and in turn embedded network consumers.

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<sup>1</sup> See AEMC, Review of regulatory arrangements for embedded networks, Final Report (28 November 2017), Available at <https://www.aemc.gov.au/sites/default/files/content/1ea5e816-c74b-4840-b615-740ba61bc195/Embedded-networks-review-RPR0006-final-report-published.pdf>.

<sup>2</sup> See AEMC, Market Review, Updating the regulatory framework for embedded networks, Available at <https://www.aemc.gov.au/market-reviews-advice/updates-regulatory-frameworks-embedded-networks>.

<sup>3</sup> <https://www.danandrews.com.au/policies/fixing-matthew-guys-mess-and-building-better-homes>.

## Key recommendations

AGL recommends DEWLP consider the following:

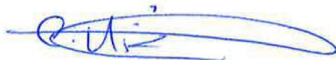
1. In implementing the AEMC Reform Package, we consider that embedded network customers would be afforded the pricing protection of the Victorian Default Offer (**VDO**). We would encourage the Essential Services Commission (**ESC**) to consider whether this provides adequate protection for embedded network customers, given the additional efficiency gains associated with embedded networks and whether these are being equitable shared with customers.
2. In terms of compliance, monitoring and enforcement, empowering the ESC with equivalent functions to those recommended in the AEMC Reform Package to ensure a consistent level of protection for Victorian embedded network customers.
3. In addition to implementing the modified retailer of last resort arrangement (**RoLR**) recommended in the AEMC Reform Package, consider whether further financial safeguards may be justified to assist NEM retailers in managing the commercial risks associated with non-payment by off-market retailers to NEM retailers.
4. Develop a well-considered transition strategy to implement the AEMC Reform Package that includes consideration of metering and wiring arrangements in older embedded networks.
5. Undertake a detailed cost benefit analysis of differential treatment for microgrids to understand the overall efficiency equation and ensure that customers are no worse off in such an approach.

We elaborate our feedback in the **Attachment**.

Given the complexity associated with the treatment of microgrids, we recommend DLWP conduct a stakeholder forum to work through the various issues.

Should you have any questions in relation to this submission, please contact Kurt Winter, Regulatory Strategy Manager, on 03 8633 7204 or [KWinter@agl.com.au](mailto:KWinter@agl.com.au).

Yours sincerely



Con Hristodoulidis

**Senior Regulatory Strategy Manager**

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## ATTACHMENT

### 1. Core focus issues of the review

#### *Consumer protections*

AGL considers the most appropriate approach to expand the obligations on an exempt person to improve consumer protections for embedded network customers is for Victoria to implement the AEMC Reform Package. Under the AEMC Reform Package, participants wanting to retail to embedded network customers will need to obtain a retail license. This will provide embedded network customers the same protections with those of standard supply customers under the Victorian Electricity and Gas Industry Supply Acts and associated regulatory tools including the Victorian Energy Retail Code, and embedded network customers will benefit from:

- Improved customer protections in the areas of disconnections, billing information, payment options and notification of planned outages, and new protections in relation to new connection services, customer hardship programs and retailer of last resort arrangements.
- Enhanced abilities for the ESC to monitor and enforce embedded network sellers' compliance with these customer protections.
- Implementing a modified set of RoLR arrangements.

#### *Access to dispute resolution services*

We understand that embedded networks operating in Victoria have been required to join the Energy and Water Ombudsman Scheme (Vic) (**EWOV**) since 1 July 2018. We are not aware of other barriers faced by embedded network customer in bringing a complaint to EWOV.

Determining whether microgrid operators in embedded networks are required to be members of EWOV will depend upon the way in which microgrids are treated under the Victorian regulatory framework and the functions they provide, including whether they interface directly with customers or only in relation to body corporates vis-à-vis embedded generation. We elaborate further on the treatment of microgrids in section 2 below.

#### *Access to competition*

AGL appreciates the commentary in the Issues Paper that embedded network customers cannot readily access the same competitive retail offers despite anecdotal evidence suggesting they generally pay higher electricity prices than on-market customers.

AGL considers that Victoria's implementation of the AEMC Reform Package will deliver increased access to retail competition, including by standardising network billing arrangements and extending NEM metering arrangements and AEMO's market systems to embedded networks. We understand that the AEMC Reform Package will facilitate retailer competition for embedded network customers by:

- Setting a shadow price for network charges (charges at a level no greater than the amount that the customer would have paid had it been directly connected to the distribution network); and
- Requiring standardised processes and data formats for billing charges for on-market customers to retailers.



In addition to the direct savings associated with access to retail market competition, embedded network customers would also benefit from a range of competitive services that they would otherwise not have access to. For example, AGL offers a range of non-price benefits to customers including value-add services that assist customers in managing their energy usage and access to a range of new energy products and services.<sup>4</sup>

We consider that embedded network customers would be afforded the pricing protection of VDO. We would encourage the ESC to consider whether this provides adequate protection, given the additional efficiency gains associated with embedded networks and whether these are being equitable shared with embedded network customers.

#### *Information disclosure*

We consider that Victoria's implementation of the AEMC Reform Package will address the concerns associated with the adequacy of information disclosure to lot owners and tenants in residential apartment buildings regarding their rights as embedded network customers. We note the AEMC Reform Package, places obligations on embedded network service providers (**ENSPs**) to provide customer connection services under the NERL and Chapter 5A of the NER in a similar manner to distribution network service providers (**DNSPs**) although unlike for DNSPs, it is proposed that a single connection policy covering all ENSPs will be established by the Australian Energy Regulator. We would recommend the Victorian Government implement equivalent protections through Victoria's Energy Retail Code and Electricity Distribution Code.

## **2. Implications of a ban on embedded networks**

#### *Implications for microgrid proponents and users*

We note that implementing the AEMC Reform Package could impact the development of microgrids unless they are treated differently through an exemption framework. This could lead to situations where an embedded network is required to support a microgrid development. Further, many larger buildings may be suitable for installation of a microgrid, but it may be difficult to retrofit an environment for embedded microgrids.

In circumstances where some embedded network customers choose to stay with the microgrid embedded network provider while some embedded network customers choose an alternative on-market retail provider, a microgrid developer may face greater commercial complexity in terms of:

- Recovering the full value of its investments in microgrid generation, unless it can also trade services into the broader wholesale market; and
- Delivering the full benefit of any micro-generation to its' connected customers in terms of avoided wholesale costs, as this efficiency accrues when all customers are subscribed to a microgrid.

While we appreciate the Victorian Government's policy intent to support the continued development of microgrids, as demonstrated through its \$10 million Microgrid Demonstration Initiative, we would recommend careful consideration of the costs and benefits of differential treatment for microgrids vis-à-vis embedded networks to understand the overall efficiency equation and ensure that customers are no worse off in such an approach. This cost benefit analysis would need to balance the efficiency gains customers might receive

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<sup>4</sup> See for example, AGL Insights, Available at <https://www.agl.com.au/help-support/energy/manage-your-account/home-energy-insights/energy-insights>.



from a microgrid against any benefits and costs associated with providing these customers access to retail market competition.

We also consider that scale may be a determinative factor in whether customers benefit from an efficiency gain in microgrids. Accordingly, we would encourage DEWLP to consider whether an exemptions framework should establish scaling thresholds based on number of connected customers with larger microgrids potentially required to provide access to retail market competition in accordance with the AEMC Reform Package. We note that a tiered framework with scaling regulatory requirements was recommended by the AEMC to support the transition of grid-connected customer to stand-alone power system and a similar approach may be appropriate in relation to microgrids.

#### *Customer benefits associated with embedded networks*

We note in the Issues Paper that whilst in theory embedded networks can offer benefits to customers, anecdotal evidence suggests that these are not always passed on to customers in practice.

A similar concern was raised in the context of the AEMC's 2017 Review of regulatory arrangements for embedded networks that ultimately led to the AEMC Reform Package. The AEMC was of the view that establishing a competitive framework could effectively address this concern, observing that:

[A] competitive framework will promote efficient investment in embedded generation by appropriately placing the investment risk of embedded generation on the embedded network owner, rather than embedded network customers. Effective competition between embedded network operators and on-market retailers is also expected to place competitive pressure on embedded network operators to pass on the benefits of embedded generation directly to energy consumers in embedded networks, rather than using the revenue for common purposes, and thereby place downward pressure on prices.<sup>5</sup>

In addition to implementing the AEMC Reform Package, we would support establishing greater transparency on the full range of charges for first-time connection customers within embedded networks.

#### *Compliance, monitoring and enforcement*

AGL would support establishing equivalent compliance, monitoring and enforcement functions with the ESC as currently apply to licensed retailers. We note the AEMC Reform Package establishes enhanced abilities for the AER to monitor and enforce embedded network sellers' compliance with customer protections. We consider the ESC could be empowered with equivalent functions to ensure a consistent level of protection for Victorian embedded network customers.

#### *Transitional arrangements*

We would encourage the Victorian Government to develop a well-considered transition strategy to implement the AEMC Reform Package. We would recommend consideration of the requirement for all distribution networks meters to be upgraded to market meters as part of the Victorian distribution businesses' meter replacement program, as well as the need for developers to establish appropriate wiring arrangements to the support implementation of the AEMC Reform Package.

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<sup>5</sup> See AEMC, Review of regulatory arrangements for embedded networks, Final Report (28 November 2017), Available at <https://www.aemc.gov.au/sites/default/files/content/1ea5e816-c74b-4840-b615-740ba61bc195/Embedded-networks-review-RPR0006-final-report-published.pdf>, at page 100.



### 3. Supplementary issues

#### *Retailer of Last Resort arrangements and financial risk*

We believe the most effective solution to ensure customers in embedded networks continue to receive electricity, even if their embedded network operator is no longer able to supply electricity is for Victoria to implement the AEMC Reform Package, under which a modified set of RoLR arrangements would be established for embedded networks, where the retailer at the parent connection point would become the RoLR in the event of the failure of an off-market retailer.

We would also encourage DEWLP to consider whether further financial safeguards may be justified to assist NEM retailers in managing the commercial risks associated with non-payment by off-market retailers to NEM retailers. As a provider of off-market retailers, the on-market retailer has very limited tools to recoup outstanding debt from off-market retailers.

While extending the RoLR scheme will assist in managing future payments in circumstances involving failed off-market retailers, NEM retailers may still be required to pursue court action for the recovery of payments owed by off-market retailers. Civil proceedings for the recovery of payments from off-market retailers could be further complicated by circumstances where an off-market retailer goes into liquidation. As an unsecured creditor, there is a substantial risk that the NEM retailer may be unable to recoup the payments owed by the liquidated off-market retailer.

Accordingly, we would recommend the following additional safeguards:

- Owner corporations of embedded networks be required to guarantee payments due and payable by off-market retailers to NEM retailers (by counter-signing agreements).
- Off-market retailers be required to underwrite some form of prudential fund or insurance against the failure of off-market retailers.
- Off-market retailers be required to provide up front credit support or pre-payment to the NEM retailer.

In our experience, lack of information on end customers, as well as privacy rights also restrict a NEM retailer's ability to contact the end customer directly in circumstances where there is a risk of non-supply. In our view, the end customer and owner corporation would benefit from advance notification from the NEM retailer where there has been a sustained period of non-payment. We recommend that after a period exceeding 3 months of non-payment by the off-market retailer, NEM retailers be authorised to contact the owner corporation in relation to the non-payment and supply risk.