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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/>

**6 August 2021**

## **Victorian Embedded Networks Review, Draft Recommendations Report, June 2021**

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

### **Strategic direction**

We are generally supportive of the Draft Report and consider the recommendations will support the Victorian Government's commitment to improving outcomes for customers living in embedded networks.

To ensure Victorian consumers receive the full benefits of the proposed reforms as soon as possible whilst also supporting the continued development of renewable and clean energy technologies, we believe the Victorian Government should:

- Immediately establish the proposed Local Energy Service licensing framework (**LES Framework**) to commence by June 2022, rather than progressing amendments to the General Exemption Order (**GEO**) followed by subsequent legislative reform; and
- Progress a more ambitious transitional timeframe to facilitate the application of the proposed reforms to legacy embedded network customers, requiring that legacy embedded networks transition to the LES Framework by 2024 at the latest.

### **Other recommendations**

AGL also recommends DEWLP consider the following:

- Extend the application of the LES Framework to small business customers, and consider further the potential for application to commercial, industrial, and business sites.
- Support the implementation of the AEMC Reform Package<sup>1</sup> to ensuring access to retail market competition, including by facilitating improved visibility on MSATS and appropriate B2B arrangements to support on-market retailers providing services to embedded network customers.

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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-reviewRPR0006-final-report-published.pdf>.



- To further advance access to retail market competition, require that all legacy embedded network metering and internal infrastructure be upgraded to market grade by 2024 by mandating that embedded network operators submit upgrade programs to the Essential Services Commission (**ESC**) for approval.
- In establishing supportive planning and building requirements, require that relevant information also be provided to body corporate managers to support their ongoing engagement with owners.
- Clearly define bundled services as applying to electricity and gas services only, to avoid duplication and regulatory complexity in the provision of these services.
- Establish provider of last resort arrangements to reflect the established retailer of last resort arrangements and consider further financial and information disclosure safeguards to deal with circumstances of financial failure/ insolvency.
- Leverage existing consumer representative expertise to develop insights in the experience of private network consumers to inform policy and regulatory change into the future.

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

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

A handwritten signature in blue ink, appearing to read 'K. Winter', with a long horizontal flourish extending to the right.

Con Hristodoulidis

**Senior Regulatory Strategy Manager**



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## ATTACHMENT

### Proposed implementation approach (Draft recommendations 1 - 5)

AGL recommends the Victorian Government implement the proposed ban on embedded networks by introducing an immediate licensing framework for LES providers, rather than progressing amendments to the GEO followed by subsequent legislative reform. We believe the immediate introduction of the LES Framework will ensure consumers receive the benefits of the proposed reforms as soon as possible. It will also better support the development of the market for these services by establishing consistent licensing arrangements at the outset and avoiding the need for multiple regulatory changes.

We note that the proposed GEO amendments are intended to apply to all new residential private networks by June 2022. With appropriate resourcing, we consider this timeframe is sufficient to develop the proposed LES Framework and therefore recommend it commence by June 2022, rather than later 2023.

We support the proposed requirements that LES providers demonstrate renewable/clean technology solutions and how these will benefit consumers through bulk purchasing or installation. We consider these new requirements will support greater benefits for embedded network customers as well as serving the Government's policy intent to support the continued development of microgrids. In developing the consumer benefits test, we would recommend:

- The definition is not limited to price, given that many consumers will be motivated by a range of other factors including environmental stewardship and the ability to participate through a range of distributed energy services; and
- Benefits be assessed over a time horizon of three to five years to support a range of innovative business models.

We support the application of the LES Framework to legacy embedded networks as soon as possible and recommend that the proposed transitional period be revised so that legacy embedded network be required to comply by 2024 at the latest.

We do not consider it sufficient that legacy embedded networks transition in late 2026/2027, given the high level of frustration expressed in submissions to this Review and the volume of consumers currently residing in embedded networks (more than 131,000 at March 2021) and not being able to access more affordable energy plans.

While we appreciate the administrative burden associated with current embedded network operators transitioning towards the new regulatory arrangements, we consider that two years should be sufficient lead time. Accordingly, the LES Framework should apply to all legacy embedded network by 2024 at the latest.

We consider that the LES Framework should have equivalent application to small business customers, just as the broader customer protections framework is intended to apply consistently to consumers and small business. In circumstances where an embedded network operator is servicing commercial customers that meet the established small business threshold, we would recommend they also be subject to the new LES Framework as soon as it is established.

We also support the proposal to consider whether the LES Framework should apply more broadly to commercial, industrial, and business sites.



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### **Consumer protections and access to competition (Draft recommendations 6 – 10)**

AGL supports the proposal that once the LES Framework is established, embedded network providers will be required to provide equivalent retail and distribution protections though some variation may be need in terms of reliability and GSL standards. We also support the proposal to extend access to dispute resolution including EWOV for multi-function embedded networks and require disclosure of protections in writing on sign up and once a year as well as access to concessions at the time of paying bills rather than the end of a given year.

We also support establishing an equivalent monitoring, compliance, and enforcement framework through the ESC. We agree that the ESC should be empowered with effective investigative and enforcement powers as well as options to act against non-compliant embedded networks as is the case with distribution and retail businesses.

On the matter of ensuring access to retail market competition, we note the range of barriers identified in the Draft Report including metering, visibility on MSATS and lack of B2B arrangements. As we highlighted in our submission to the Issues Paper<sup>2</sup>, we consider that implementing 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. These changes will support improved visibility on MSATS and appropriate B2B arrangements to support on-market retailers providing services to embedded network customers. 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.

Beyond the AEMC Reform Package, we consider the Victorian Government should set expectations on embedded network metering upgrades to support the Expert Panel's vision that all consumers are able to participate in the retail market. We would recommend that all legacy embedded network metering and internal infrastructure be required to be upgraded to market grade by the application date of the LES Framework for legacy embedded network. We would consider it appropriate that this infrastructure be upgrade by 2024 at the latest and would recommend that the embedded network operators be required to submit upgrade programs to the ESC for approval to ensure this timeframe is met.

We also support the proposed recommendation to require equivalent disclosure obligations as part of the LES Framework, including relevant information to prospective purchasers and owners.

### **Planning and building requirements (Draft recommendations 11 – 12)**

AGL supports the proposed recommendations to amend planning, building and strata requirements to ensure investments made in embedded networks are in the best interests of prospective owners and occupants. We

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<sup>2</sup> See AGL submission to Victorian Embedded Networks Review Issues Paper (26 February 2021), Available at <https://thehub.agl.com.au/articles/2021/02/agl-support-reform-to-improve-outcomes-for-customers-living-in-embedded-networks-in-victoria>.



would also recommend that this information be required to be provided to relevant body corporate managers to support their ongoing engagement with owners.

### **Bundled services (Draft recommendation 13)**

We note that a range of services that may be bundled are subject to effective national regulation, including telecommunications. To avoid duplication and regulatory complexity in the provision of these services we would recommend that the Victorian Government clearly define that bundled services is intended to capture electricity and gas services in accordance with the ESC's established regulatory remit. Provided bundled services are clearly defined as applying to electricity and gas services only, we support the proposal to establish and equivalent monitoring, compliance, and enforcement framework.

### **Provider of last resort (Draft recommendation 14)**

AGL supports the proposal to establish formal provider of last resort arrangements through the ESC to protect customers in an event that an LES provider fails to the entity operating or responsible for the private network becomes insolvent. As far as possible, we consider these arrangements should replicate the established retailer of last resort arrangements, including that any appointment of a provider of last resort be determined by geographical breakdown rather than by reference to market share.

Beyond establishing provider of last resort arrangements, we would also recommend the Victorian Government 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. While provider of last resort arrangements 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 LES providers be required to guarantee payments due and payable by LES providers to NEM retailers (by counter-signing agreements).
- LES providers be required to underwrite some form of prudential fund or insurance against the failure of LES providers.
- LES providers 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 LES provider, NEM retailers be authorised to contact end customers and the owner corporation in relation to the non-payment and supply risk.

### **Consumer voice (Draft recommendation 15)**

AGL does not consider it necessary to establish an independent voice for private network consumers. Given that consumer interests are already well represented by a range of consumer representatives that regularly



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engage in policy and regulatory developments, we would recommend the Victoria Government leverage existing expertise to develop insights in the experience of private network consumers to inform policy and regulatory change into the future. In particular, the Consumer and Policy Research Centre, is ideally placed as a research group established by the Victorian Government to carry out this work on behalf of Victorian embedded network consumers.

**Sequencing (Draft recommendation 16)**

As noted above, we do not consider it appropriate to progress the proposed reform through a phased approach, given the high level of distress and frustration experienced by current embedded network customers and the volume of Victorian consumers currently residing in embedded networks.

We would urge legislative amendments be implemented immediately to establish the proposed LES Framework by June 2022, with application to all legacy embedded networks by 2024 at the latest.