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13 April 2023

Draft Terms of Reference

The future of embedded networks in NSW

To Whom It May Concern,

Thank you for providing stakeholders the opportunity to provide feedback to the Draft Terms of Reference, addressing regulatory gaps in pricing and consumer protection for embedded networks. Our views are that of an embedded network agent on behalf of exempt entities, mainly servicing shopping centres, industrial parks, commercial properties.

Hot and Chilled Water, and Gas

Majority of new developments adopt a bulk water service as the cost to provide individual access are both structurally and cost prohibitive, however this should not mean that residents are subjected to exorbitant pricing. We support pricing and consumer protection for residential customers. We believe that a formulated guide that factors in cost to supply would provide a fairer and consistent charge to customers.

Our concern is that if a price cap was introduced, with the volatile wholesale cost of gas, there is a risk that landlords may not be able to continue to provide these services to tenants. It is likely not viable for tenants to source these services directly.

In shopping centres, the cost of gas is usually charged at a cost-apportioned passthrough arrangement based on tenant metered usage and this should be kept in place. The cost for tenants to bring in a separate gas line through the centre is also not feasible. Tenants in shopping centres share a more complex relationship to that of a customer/retailer as this usually include the provision of other services which are often overseen by other legislation.

Electricity

We do not agree that a variant of a lower price to the DMO should be considered. All electricity embedded network operators operating under an authorised retailer or exemption should be subjected to the DMO maximum prices practice. Even though the DMO may be the cap, a well-managed EN will review tenant pricing fairly and offer competitive rates. Tenants can exercise their retailer of choice, albeit limited, for POC compliant sites. Further to this, some networks are seeking to introduce a discriminatory tariff for embedded networks which, if passed will be detrimental to customers as exempt sellers will be severely restricted in their pricing flexibility as they face significant increase in cost.

The issues surrounding access to competition is ongoing and requires further consideration. The POC regime was introduced to reduce the barrier for tenants to access choice, however choice is still limited. Major exempt sellers/agents are equipped to bill on-market customers. We believe standardised billing of network charges will significantly reduce this barrier if exempt entities are able to recover network charges (through shadow pricing) from the retailer. In return, this arrangement will remove the administrative burden from retailers having to unbundle the network cost from all other energy related cost. On-market tenants will also benefit from this arrangement by receiving the traditional one bill, not two.

Compliance and enforcement

Whilst we welcome improve fairness, choice and protection for embedded network customers and firmer compliance monitoring and enforcement all round, we are concerned that additional regulations may result in further compliance complexity as embedded network stakeholders (exempt entities, distributors, retailers, MC, MPS, REC) navigate

through ongoing policy and regulatory reviews, where various overarching and jurisdictional regulations differ and/or overlap.

Compliance should not create administrative and compliance burden and confusion to stakeholders. We hope to see harmonisation between this review and existing guidelines/ rules to give rise to a more appropriate and “fit-for-purpose” regulation.

We also believe that alongside compliance enforcement and monitoring, education is a key to assisting exempt entities to comply and ensure they are meeting their obligations. Our general findings in the embedded network audits we conduct, are that many exempt entities

- are misled to believing their agent appointed to manage their networks, are proactively staying on top of regulations or
- had setup their embedded networks where it had met regulatory requirements during that time but were not aware of regulatory changes as on-selling electricity is not their core business; the “set and forget” approach.

If you have any further queries or would like to discuss our submission in greater detail, please feel free to contact myself or Mussan. Energy Intelligence would be available to assist in providing any supporting data and insights in an embedded network aspect.

Yours sincerely,



Mardi Trezise
Managing Director



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Compliance Manager



About Energy Intelligence

Energy Intelligence is an energy consultancy providing advisory services to clients within the embedded sector. We offer complete embedded network solutions specifically designed for our clients whom own/operate embedded networks mainly within the commercial, industrial, retail sectors often supplied by traditional and renewable-based generation across the eastern sea board. We pride ourselves on the service we provide to both our clients and customers with our collaborative, transparent and honest approach. Our compliance principle is to pursue best practice regardless of the minimum requirements of the jurisdiction. We work cooperatively with the AEMC, AER, AEMO, EWON, DEWLP, ESC and EWOV.

Tenants in our embedded networks receive:

- clear easy to understand energy bills
- competitive electricity rates that are never bundled with other unregulated embedded network services
- annual rate reviews without having to make a request
- price matching if they can find a better offer in their distribution area
- access to hardship and dispute resolution policies
- flexible payment options such as payment plans and bill smoothing
- a personal, local customer service team available to address high bill queries, meter issues, etc.
- consumer protections as a traditional customer would
- proactive assistance in concession entitlements
- an Embedded Network Manager who does not hinder a tenant when they exercise their retailer of choice.