

Consultation on the regulation of embedded networks

Submission form

Catherine Rousch

Manager WA Retail Regulation, Alinta Energy

PO Box 8348, Perth BC WA 6849

Send your feedback to EPWA-AES@dmirs.wa.gov.au or to Energy Policy WA, Locked Bag 11, Cloisters Square, WA 6850 by 5pm (AWST), Friday 19 April.

We will publish your submission on Energy Policy WA website, unless you ask that we keep it confidential. Please give reasons why your submission should not be published.

Question number	Section reference in Consultation Paper	Questions for consultation	Your comments
1.	Section 5.1. Option 1: Status quo – class-based exemption	What costs and benefits have you experienced under the status quo arrangements for ENS being exempt from needing to hold a licence?	<p>Under the status quo arrangements, licensed retailers are subject to significant regulatory oversight at substantial cost when supplying small use customers, whilst exempt ENS are not.</p> <p>Significantly, the status quo provides inadequate customer protections to customers in embedded networks.</p>
2.	Section 5.2. Option 2: Individual exemptions	What minimum conditions would need to be imposed as part of individual exemptions for ENS?	Minimum conditions for individual exemptions should aim to balance the needs of customers with the cost of the regulatory requirements imposed on the exemption holder. Some of the conditions applied under the AER's retail exemption framework (Appendix A) may be appropriate, such as information provision requirements and limitations on the charging of tariffs and fees.
3.		Do you agree that a lack of access to the Energy Ombudsman and means of enforcing exemption conditions are significant problems? Are there any other concerns with licence exemptions additional to those identified in Section 3 – Problem Statement? <i>(relevant to Options 1 and 2)</i>	The inability for small use embedded network customers to access the Energy Ombudsman is probably the most significant issue with the current exemption regime.
4.		If an exempt ENS fails to meet exemption conditions they are no longer legally able to supply electricity until the issue is remedied. What consequences could arise from this? <i>(relevant to Options 1 and 2)</i>	The regulatory uncertainty around the failure of an exempt ENS provides insecurity to embedded network customers regarding their on-going energy supply.
5.	Section 5.3. Option 3: Licensing	Is licensing a suitable option to address some of the issues raised in Section 3 – Problem statement?	Licensing could be an option for a sophisticated ENS operating many embedded networks or for an ENS operating an embedded network with a significant number of customers.

Question number	Section reference in Consultation Paper	Questions for consultation	Your comments
6.		Are the costs of licensing ENS proportional to the benefits?	<p>Licensing is expensive and any additional costs imposed on an ENS would ultimately be passed on to customers, if not via energy charges then via increased strata fees, etc.</p> <p>In considering the minimum consumer protection requirements for ENS, if some parts of the framework are deemed unnecessary, then their application to licensed retailers should also be reviewed.</p>
7.	Section 5.4.1. Proposed obligations under the AES Code	Is the AES registration framework a suitable option to address some of the issues raised in Section 3 – Problem statement?	The proposed AES registration framework is a good middle ground between the heavily regulated licensing framework and the unconstrained exemption framework.
8.		Are the costs of requiring ENS to register under the AES registration framework proportional to the benefits?	<p>The indicative costs of the AES registration framework for ENS presented in the CRIS are considerably less than the costs incurred by electricity retailers under the licensing framework.</p> <p>The AES registration framework should provide a low-cost solution proportional to the benefit of providing significantly increased customer protections to embedded network customers. However, we note that the definition of 'Embedded Network' in the VEN Code includes a distribution system that 'supplies electricity to at least one Customer who is not a person in control of the Distribution System' and, as such, the AES registration framework would apply to very small embedded networks including, for example, where electricity is supplied from a domestic residence to a backyard granny flat. In these situations, the costs of providing the proposed additional customer protections would</p>

Question number	Section reference in Consultation Paper	Questions for consultation	Your comments
			exceed the benefits of doing so. We would encourage EPWA to consider an exemption threshold similar to the AER's (where a deemed exemption exists for ENS that sell electricity to fewer than 10 small use customers) and/or a class exemption for specific on-supply arrangements (granny flats, etc).
9.	Section 5.4.2. Policy questions under the AES registration framework – Protections for large use customers	Do you agree that ENS should be required to facilitate large use customers obtaining a separate master meter at the customer's cost?	<p>We agree that cl. 3.2 of the VEN Code, which states that an ENS 'must not prevent, or prohibit, an Eligible Customer from making a request to obtain or obtaining an Alternate Supply' provided that reasonable costs are paid for by that customer, should be extended to large use customers.</p> <p>This will ensure that large use customers supplied via embedded networks are afforded the same opportunity as grid-connected large use customers of negotiating supply directly with their retailer of choice.</p>
10.		If you are a large use customer, what is your experience in being sold or supplied electricity in an embedded network?	N/A
11.		What, if any, other obligations should ENS have in respect of large use customers? Why?	Large use customers are generally capable of negotiating their own contracts. Additional obligations may warrant consideration to address circumstances where large use customers cannot obtain a direct grid connection for whatever reason, particularly as these customers cannot access the Energy Ombudsman.

Question number	Section reference in Consultation Paper	Questions for consultation	Your comments
12.	Section 5.4.2. Policy questions under the AES registration framework – Fast track application	Do you support use of the ‘fast track’ route to assess ENS registration applications? Why/why not?	We support the ‘fast track’ application process for prescribed AES. This will ensure more routine applications are processed efficiently and with least cost and, in doing so, help keep the overall costs of the new framework as low as possible.
13.	Section 5.4.2. Policy questions under the AES registration framework – Information requirements for registration	What minimum information should ENS be required to supply under an AES registration application process?	<p>In addition to the minimum information proposed in the CRIS, it could be useful for the ERA to understand how many of each type of customer e.g. residential, small use business and large use, are supplied via the embedded network.</p> <p>Publication of this type of information could also provide for increased competition in the contestable customer space, with retailers seeking opportunities to supply Eligible Customers directly from the grid.</p>
14.	Section 5.4.2. Policy questions under the AES registration framework – Requirement for retail licensees to register	Should licensed electricity retailers be permitted to operate embedded networks under authorisation of their licences (with additional licence conditions), or should they be required to also hold an AES registration as an ENS? Please provide justification for your position.	<p>The policy objective stated in the CRIS is ‘to find the best and most practical way to extend substantively equivalent protections to customers of ENS as to those received by customers of licensed electricity retailers’, noting the ‘comprehensive customer protection obligations and stringent compliance requirements’ applied to licensed retailers.</p> <p>Because obligations for licensed retailers are significantly more comprehensive than those proposed under the AES registration framework, we consider that licensed retailers should be permitted to act as an ENS under the authorisation of their current licence.</p>

Question number	Section reference in Consultation Paper	Questions for consultation	Your comments
			<p>We do not consider it appropriate for a licensed electricity retailer acting as an ENS to be required to obtain a distribution licence. The costs of doing so (including, but not limited to, the licence application, licence fees, compliance, reporting and auditing) would be significant and would ultimately be passed through to customers.</p> <p>We note that currently, cl. 4(2) of the Exemption Order exempts a person from requiring a licence under the Act where the distribution system:</p> <p>(a) is located or to be located on a property; and</p> <p>(b) is used or to be used solely for the transportation of electricity for consumption on the property.</p> <p>We question why a retailer acting as an ENS could be required to obtain a distribution licence whilst a non-retailer acting in the same capacity would not.</p>
15.	Section 5.4.2. Policy questions under the AES registration framework – Transitional arrangements	What circumstances should be considered for transitional arrangements? What types of obligations on ENS should be subject to transitional arrangements?	<p>Despite the best efforts of EPWA to seek out and engage with ENS, it may take time for some ENS to even become aware of the new AES registration framework.</p> <p>Consideration is therefore required for applications that may trickle in over a period of time. These ENS are likely to be poorly resourced and could require assistance in understanding the new framework.</p>
16.		Are there any types of ENS that require special consideration or additional time where a phased	A well-supported phased approach for smaller and/or less well-resourced ENS would be

Question number	Section reference in Consultation Paper	Questions for consultation	Your comments
		<p>approach might be appropriate? Why is this the case and how long should such a phased approach take?</p>	<p>appropriate. These ENS may require considerable time to not only transition to the new arrangements, but to understand the new obligations that apply to them.</p> <p>Some ENS may elect to engage a third-party to take on responsibility for the regulatory obligations (e.g. where they are under-resourced or consider they don't have the required capability to take on this role) and may need sufficient time to arrange this.</p>
17.	Section 7. Implementation	<p>What is the best means of accessing all relevant audiences for ENS educational materials?</p>	<p>It may be challenging to identify and engage with some ENS. Engagement with industry and consumer groups representing the different categories of ENS (e.g. shopping centres, residential strata, caravan parks, etc) may be the most constructive.</p>
18.		<p>What materials and resources would be most suitable to help both ENS and their customers to transition to the AES registration framework?</p>	<p>Given the diverse types of ENS, educational materials and resources in plain language, specifically developed for each category of ENS, could be beneficial.</p>
Additional comments			
<p>Voluntary Embedded Networks Code of Practice Appendix A – Disclosure Statement</p>		<p>Section 3 of the Disclosure Statement states 'You always have access to a default flat rate tariff. In most cases, the default flat rate tariff cannot be more than a regulated tariff rate', where the regulated tariff rate is the A1 (Synergy) or A2 (Horizon Power) tariff for residential customers and the L1 (Synergy) or L2 (Horizon Power) tariff for business customers.</p> <p>Currently, exempt on-sellers that buy electricity from Synergy or Horizon Power cannot charge a residential or small business customer more than the regulated tariffs, however this restriction does not apply if the on-seller does not buy from Synergy or Horizon Power.</p> <p>The proposed requirement for an ENS to have a default tariff that is no more than the regulated tariff introduces further complexities for an ENS who buys from a retailer other than Synergy/Horizon Power. As regulated electricity tariffs are so heavily subsidised by Government and do not reflect the actual</p>	

Question number	Section reference in Consultation Paper	Questions for consultation	Your comments
		<p>costs of supplying small use customers, there is a risk that an ENS who buys from an independent retailer may not recover its own costs if its embedded network customers elect to access the default flat tariff rate. To avoid any revenue shortfall, the ENS may elect to transfer its supply to the Government-owned entity. In turn, these transfers will serve to decrease competition in the electricity retail market.</p> <p>We would therefore urge EPWA to consider whether it is appropriate to require an ENS that is not supplied by Synergy/Horizon Power to offer a default tariff that is the same as the regulated tariff, especially given this is not a requirement under the current exemption framework.</p> <p>Any diminishing of electricity retail market competition would not be in the long-term interests of consumers.</p>	