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Australian Energy Regulator
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Dear Mr Feather

ACTCOSS SUBMISSION TO REVIEW OF EMBEDDED NETWORKS EXEMPTIONS FRAMEWORK

The ACT Council of Social Service (ACTCOSS) welcomes the opportunity to provide a submission to the Australian Energy Regulator's (AER's) review of the exemptions framework for embedded networks (ENs). ACTCOSS advocates for social justice in the ACT and is the peak body for not-for-profit community organisations in Canberra. While not every element of the issues paper has been considered by ACTCOSS, we have responded to the points raised that are pertinent to our members and the low-income households they support.

ACTCOSS seeks to ensure that the energy system in the ACT is inclusive as well as sustainable and balances outcomes for all people (especially people experiencing poverty and other forms of vulnerability), communities, and the environment. ACTCOSS seeks to support ACT low-income and vulnerable households and community sector organisations to participate in decision making on energy issues to achieve better consumer outcomes in terms of affordable, reliable, safe, and clean energy as an essential service.

Approach to the review

As a core principle of this submission, we wish to highlight that energy must be regarded as an essential service. For exemptions to be granted, developers and/or Owners Corporations (OC) should have to demonstrate that their proposed EN will provide material benefit to consumers. The focus of the AER's review should be on ensuring that consumer protections for EN customers match those of non-EN customers. The review should also consider other places where ENs exist, as consultation with our members suggests that places such as holiday/caravan parks are more likely to be where the harms associated with ENs are concentrated.

The current scope of the review may also be less likely to include low-income households as newer apartment buildings with ENs are usually not at the lowest price end of the property market. However, it is important to update the exemptions framework so that consumer protections apply equally to all energy customers and especially considering the recent exponential growth in high-density dwellings with ENs.

Furthermore, we note that there is a long history of consultations and reviews about ENs already. We strongly urge the AER to consider the recommendations presented in the AEMC's 2017 and 2019 reports,¹ as well as the recommendations and evidence presented in the ACT Government's [Review of Embedded Networks in the ACT](#) (the ACT review), including their [stakeholder consultation](#).

Risks and harms outweigh potential benefits

We wish to emphasise that most reviews already undertaken in this area present many potential benefits, but in few other policy areas are decisions made based on *potential* benefits in the face of real harms.

Whether any of the potential benefits are realised largely depends on the conduct of Authorised Retailers or exempt sellers. For example:

- Lower network and retail costs
Who benefits depends on the extent the Authorised Retailer or exempt seller captures a profit margin versus passing discounts and savings to the EN customer.
- Improved utilisation of distributed energy resources (DER)
Who benefits largely depends on how solar electricity is measured and charged to the end customer.
- Reduced property prices
Supporters of ENs claim they can reduce the cost of building and therefore lower property prices. However, many developments in the ACT that do not have an EN successfully compete in the market. There is also little difference between the infrastructure requirements for a site with an EN and a site without an EN, so the potential for lower development costs is less than often claimed. Furthermore, even if utilising an EN does lower building costs for a particular development, there is no evidence in the ACT that those savings in costs are then passed through to consumers.

Based on the ACT review and feedback from ACTCOSS' members, there is no evidence that any of the purported benefits regularly materialise for consumers.

In contrast, there is a long list of documented risks and harms arising from ENs under the current framework, and ACTCOSS considers that the risks outweigh the potential benefits. In fact, most consumers surveyed in the ACT review indicated they had experienced harms from residing in an EN, with low-income and otherwise marginalised households reporting a disproportionate burden of harm. Features of the existing framework resulting in harms include:

¹ Australian Energy Market Commission (AEMC), [Review of regulatory arrangements for embedded networks](#), 2017; AEMC, [Updating the regulatory frameworks for embedded networks](#), 2019.

- Significant gaps in consumer protections
EN customers have no (or limited) consumer protections under the National Energy Customer Framework (NECF), AER exemption framework and ACT jurisdictional regulatory framework, nor do they have any price protections. This is a significant gap in consumer protections and presents an ongoing risk.
- No incentive to pass on cost savings
Given ENs are effectively monopolies in practice, there is very little competitive pressure to pass any cost savings to customers that may be achieved through lower electricity prices at the parent connection point, particularly lower network prices. With minimal incentive to pass the savings through to their customers, cheaper network and retail electricity prices at the parent connection point will not necessarily translate into EN Service Providers dropping prices.
- Barriers to accessing market offers (lack of retail competition)
As previous reviews of ENs have highlighted, there are significant barriers for EN customers who wish to switch to other retailer market offers. Authorised Retailers are typically unwilling to take on EN customers due to the additional administrative costs associated with signing up these customers. Additionally, the physical configuration of ENs and legacy metering may make the switching cost unaffordable, especially for low-income consumers. The ENs monopoly position and consumers' lack of choice and control may lead to unfair prices and consumers' dissatisfaction. There is evidence that savings are not passed on to consumers, with EN customers paying hundreds of dollars more than if they were able to choose a market offer.²
- No requirement to display ACT reference price could lead to price gouging
ENs are exempt from the *ACT Utilities Act 2000*. This means there is no price protection for EN customers serviced by an Authorised Retailer. With ENs operating as monopolies, a price cap on electricity sold by Authorised Retailers to EN customers would reduce the risk of price gouging.

While exempt sellers cannot charge more than the ACT standing offer, the ACT Retail Electricity (Transparency and Comparability) Code does not require individual unit title owners and residents to be notified of their EN prices in relation to the standing offer. This means that many EN customers are unaware that their electricity rates are uncompetitive and contributing to higher prices.

- No disclosure requirement for buyers or renters
Similarly, renters are often not provided adequate (or any) information about the building's EN or the associated risks. It is common for renters to only find out they are in an EN once they move in, leading to frustration when customers realise their lack of choice or control. EN disclosures in property sales are also

² L Hobday, '[Embedded electricity networks see apartment dwellers paying too much for power](#)', *ABC News*, Wednesday 30 October 2019.

often inadequate, being unclear due to complexity and language used, and/or not disclosed with sufficient notice prior to purchase.

Risks to vulnerable consumers are magnified in ENs

The risks and harms generated by the significant consumer protection gaps are magnified for low-income EN customers. This is especially so for low-income consumers who are also marginalised in other ways, including the aged, culturally and linguistically diverse peoples, people who have a disability or chronic illness, those who need life support, and/or people experiencing domestic or family violence. Marginalised consumers are less likely to know their consumer rights or be provided with information about ENs in a way that is accessible. While the ACT has recently legislated against no-ground evictions, the perception remains that complaints made against an energy provider that is also a landlord may cause retaliation or eviction. For those with concession cards, and especially ageing consumers, information about concession schemes and hardship arrangements may be less accessible than for standard customers. While the ACT Utilities Concession does apply to EN customers, the ACT review highlighted that it is often practically difficult or unclear how eligible EN customers can access concessions. For some vulnerable consumers, the risks of ENs may even jeopardise their life or health, such as people requiring life support and/or heating, hot water, or refrigeration for health conditions. Many consumers, and particularly those with low incomes or in financial hardship, would be better off if the AER were to cease granting exemptions for ENs.

Update the EN exemptions framework to address consumer protection gaps

To address these serious consumer protection concerns, the AER should update the EN exemptions framework to ensure consumer protections are at the core of the exemptions framework.

The NR2 registrable network class exemption activity criteria should include prescribed customer benefits that must be met by NR2 registrable network class exemption holders. The exemption holder must be able to demonstrate that the proposed EN will produce materially better outcomes for consumers, not just that there is a potential for this to occur. Requiring embedded network service providers to demonstrate customer benefits before being permitted to register an NR2 network class exemption will make it more likely that potential benefits are realised.

A national register should be maintained, and the AER should have and use their power to monitor and enforce obligations that must be met to be granted an exemption.

ACTCOSS doesn't advocate that the expansion of ENs be stopped entirely, but we recommend that future exemptions are granted on a case-by-case basis. The number of ENs should be reduced, but there are narrow parameters where they should be allowed if there is evidence of genuine consumer benefit.

Overall, the same consumer protections that are available to on-market customers should apply and be granted to EN customers.

ACTCOSS is keen to keep engaged in the AER's review of the exemptions framework for embedded networks, with a focus on ensuring equitable outcomes for low-income households and not-for-profit community organisations



in the ACT. Please contact me or our Senior Policy Advisor, Lyndsay Bassett on (02) 6202 7227 or lyndsay.bassett@actcoss.org.au if you would like to discuss any of the issues raised in our submission.

Yours sincerely

A handwritten signature in blue ink that reads "Devin Bowles".

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