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14th March 2019

To: Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

To whom it may concern,

Re: Active Utilities Pty Ltd (AU) Submission to AEMC on the draft report - Updating the regulatory frameworks for embedded networks – Reference EMO0036, released on 31 January 2019

Thank you for the presenting the opportunity for AU to comment on AEMC's draft report in relation to updating the regulatory frameworks for embedded networks – Reference EMO0036.

AU is an embedded network operator, operating nationally but with a majority of our clients located on the east coast of Australia. Our Embedded Network business comprises of consulting to Developers, Strata Managers and owners/managers of buildings; regarding the setup and ongoing management of embedded networks. As part of this service we also offer a billing management agency service and ENM function to these entities, thus ensuring their end customers receive a similar service offering to normal network conditions and meet relevant legislative requirements of operating these networks.

The draft report released by AEMC on the 31st January 2019, included detailed proposals on updating regulatory frameworks for embedded networks to:

1. Improve protections for embedded network customers;
2. Increase access to retail competition; and
3. Enhance the ability for the AER to monitor and enforce the compliance of sellers in Embedded Networks.

Active Utilities both agree and welcome the intent of updating the regulatory frameworks for embedded networks to both:

- Improve protections for embedded network customers; and
- Enhance the ability for the AER to monitor and enforce compliance of embedded networks.

Active Utilities believe the Commission's findings on customers not being able to access competitive prices; resulting in AEMC's proposals on the draft report to increase access to retail competition by enforcing market and system integration / market interface functions to embedded networks will create unnecessary, additional costs on the industry.

These proposed requirements will have a detrimental impact on embedded networks, and consumers will not receive the desired benefits of driving costs down through increased retail competition.

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As opposed to enforcing market and system integration/ market interface functions and creating unnecessary, additional administrative costs on embedded networks, Active Utilities believe AEMC should reassess and provide further regulations under the 'Power of Choice' reforms in terms of increasing access to retail competition and expand on this to ensure the required objectives for embedded network consumers are met. To ensure this Active Utilities proposes implementing the following:

1. A percentage-based model

   This model will ensure embedded supply charges are lower than the relevant standing offer/future DMO.

2. A standardised price matching clause

   Off-market retailers must either:

   - Match a NEM Retailer offer to an embedded network customer; or
   - Actively assist that embedded network customer to go on-market.

3. Create a more efficient NUoS agreement between ENSP's and NEM retailers for billing of network charges.

The proposals above are further detailed in this submission.

This document also provides further submissions on how to transition legacy embedded networks to the new proposals.

Kind Regards,

Kyle Johnson
Compliance & Risk Manager
Active Utilities Pty Ltd

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Contents

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1. New Embedded Networks

1.1. Registration and exemption

Active Utilities supports the registration and exemption proposed framework which will create two new roles, being the:

- Embedded Network Service Providers (ENSPs); and
- Off-market retailers.

This framework will improve protections for embedded network customers and enhance the ability for the AER to monitor and enforce compliance of embedded networks.

However, Active Utilities believe the following duties of the aforementioned roles should be reconsidered by AEMC:

- Metering Co-ordinator (Off-market retailer):
  Appointing a Metering Coordinator for off-market child connection points.

- ENSPs:
  Ensuring that all connection points have an assigned NMI, registering all child connection points with AEMO and maintaining information in AEMO's systems.

Active Utilities believe the above tasks are unnecessary and hold an opposing view to AEMC. Active Utilities believe that the additional costs incurred in appointing a metering coordinator, metering provider and metering data provider will place a significant cost on embedded networks in terms of both the application and market & system integration; these costs will not be outweighed by the benefits to customers. Alternative methods can be implemented for less cost to embedded network operators whilst enhancing benefits to customers.

Alternatively, Active Utilities believe the AEMC's proposal should focus on improving the current Power of Choice framework and remodelling the NUoS agreements (see page 13 for proposal) to be better suited between NEM Retailers and embedded network operators.

Active Utilities has verified that the current Power of Choice framework does allow customer's in embedded networks to move on-market with no barriers as demonstrated by Table 1 located on pg. 8.

Active Utilities have personally observed the below barriers for NEM retailers when attempting to transfer embedded network customers on market:

- Lack of knowledge/expertise on the process and role of retailers making offers to embedded network customers; and

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- Resistance to using installed NEM compliant metering retailers in favour of their own systems and infrastructure (due to process standardisation).

Active Utilities believe that if the Power of Choice framework was improved, extensive training was completed by NEM retailers and the NUoS agreements remodelled, this would result in a more beneficial method of providing consumer protections and increasing access to retail competition, without placing undue costs on owners and operators of embedded networks.

1.2. Market and system integration

Active Utilities believe the application of extending market and system integration to embedded networks will create cost overheads; due to the resourcing requirement for the newly created role of ENSPs registering all child connection points with AEMO and maintaining that information in AEMO's systems, so they are visible in market systems and 'discoverable' to all retailers.

Meters

Active Utilities agree that current metering services for embedded network service providers do not have the same requirements applicable to NEM retailers. Active Utilities understand that in some cases, a NEM Retailer will need to replace a meter in order to take an embedded network customer on-market. The lesser requirements applicable to exempt network service providers regarding metering services in embedded networks means that NEM retailers in many cases will need to replace a meter in order to take an embedded network customer on-market. This cost can make it uneconomic for a NEM retailer to make an offer to an embedded network customer unless the customer is willing to pay for the meter up-front. This cost can be a disincentive for embedded network customers wishing to switch to a competitive market offer.

Active Utilities proposes applying clause 7.16.3 of the NER to new embedded networks in relation to metrology procedures for metering installations; ensuring that all newly installed meters are NEM compliant and can be accessed by a NEM retailer* if a customer wishes to go on-market.

*Active Utilities process is to install NEM compliant and tier specific metering to all greenfield embedded networks. Active Utilities believe AEMC may not be aware of an underlying issue where NEM compliant meters are still being replaced by NEM retailers in favour of their own systems and infrastructure (due to process standardisation). Therefore, the disincentive remains for embedded network customers wishing to switch to a competitive market offer will still incur costs or be disincentivised.

Active Utilities also align to the published opinions of other stakeholders, in that ENSPs should continue to be responsible for the provision and maintenance of metering in embedded networks; whilst still extending metrology procedures and limited Chapter 7 provisions to promote compliance with NEM metering requirements.

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1.3. Market Interface functions

The Embedded Networks Rule 2015 aimed to link embedded network customers to NEM systems, and reduce barriers preventing these customers from accessing competitive services from authorised retailers.

AEMC noted that NEM retailers are unable to quote and transfer customers using the usual market mechanisms due to an inability to discover information on an off-market embedded network customer and their metering installation in AEMO's MSATS system.

Active Utilities accepts that NEM retailers may not make a retail market offer due to the requirement of NMI standing data prior to providing a quote. Active Utilities proposes promoting AER's ENM rules for making offers to embedded network customers including:

- the NEM retailer to access NMI standing data through the relevant ENM, with SLA's enforced onto ENM's to reply in an acceptable timeframe.
  This will ensure no costly transitions to implement market interface functions are imposed on embedded network operators.

- An extensive training regime to retailers.
  To upskill NEM retailers on transferring embedded network customers.

Active Utilities identify one of the biggest barriers for retailers is the lack of knowledge around the process of transferring embedded network customers on-market. Active Utilities provide extensive training to all employees and assigned Embedded Network Managers to understand the process and be able to follow it. Please see diagram 1 (on pg. 7) for the training flow map used.

Once the NEM retailer was knowledgeable in the transfer process (above) Active Utilities recorded no issues with transferring customers on-market as highlighted by the examples provided below in Table 1 (on pg. 8).

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Diagram 1: ENM High-level Task MAP – CR Flow through of AU ENM Service Order Process (AU ENM SOP)[1]

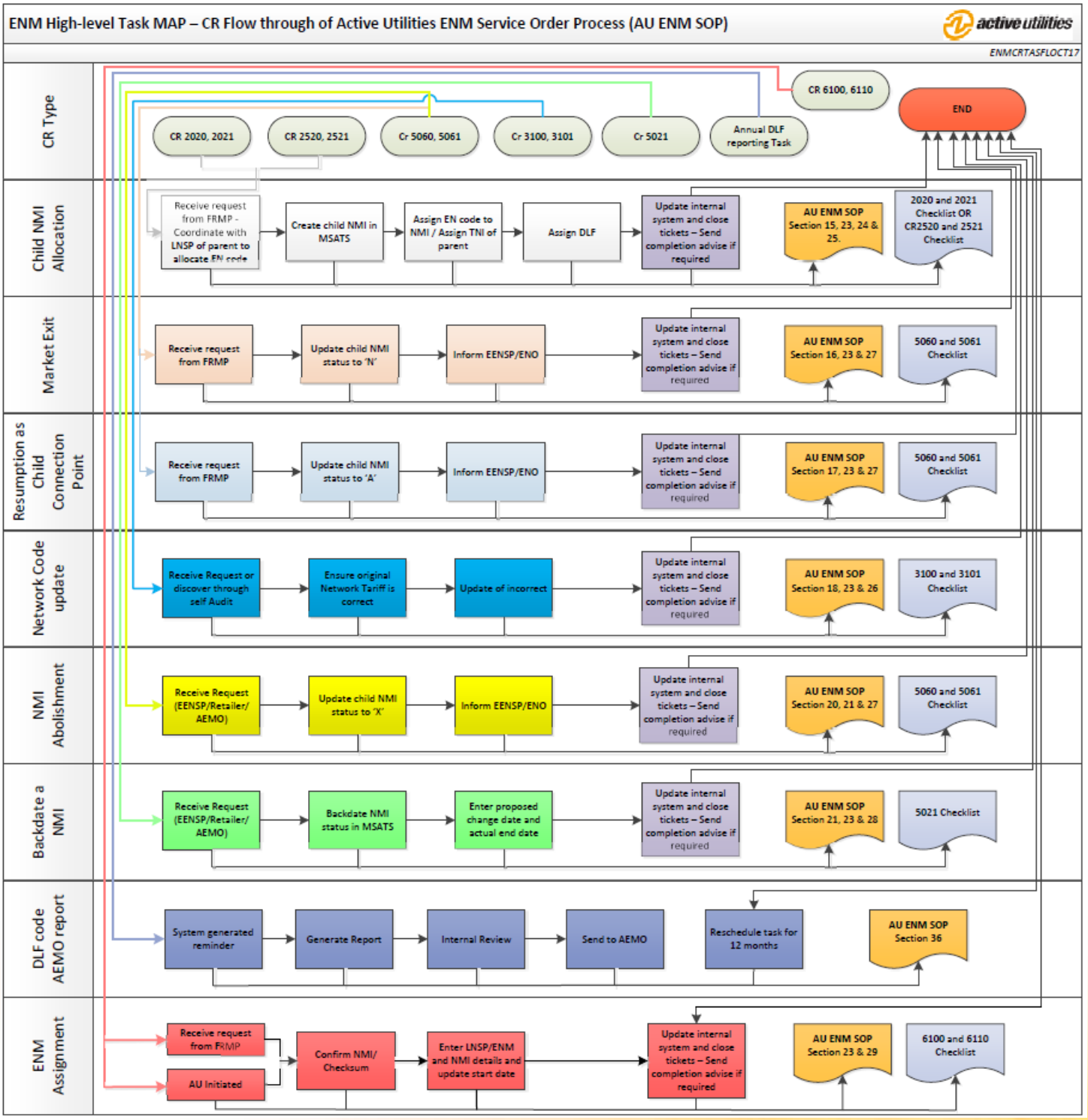

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Table 1: Tier 1 – Tier 2 conversion report

Request	Meter Changed	Meter Install Date
On-Market	Yes	02-08-18
On-Market	Yes	08-05-18
On-Market	No	
On-Market	Yes	19-07-18
On-Market	Yes	19-07-18
On-Market	Yes	14-08-18
On-Market	Yes	20-09-18
On-Market	Yes	19-09-18
On-Market	No	
On-Market	No	
On-Market	No	
On-Market	No	
On-Market	Yes	12-12-18
On-Market	Yes	18-10-18
On-Market	Yes	10-01-19
On-Market	No	
On-Market	No	
On-Market	Yes	15-01-19
On-Market	No	
On-Market	No	
On-Market	No	
On-Market	Yes	17-12-18
On-Market	No	
On-Market	No	
On-Market	No	

1.4. Network Billing

Billing arrangements

AEMC proposes the introduction of standardised billing arrangements for the recovery of external network charges from embedded network customers who choose to go 'on-market' with an alternative retailer. Further to this, AEMC propose to introduce an obligation for retailers to pay ENSPs for network charges as opposed to the individual customer in the embedded network.

Active Utilities have concerns that the introduction of a standardised billing arrangement would cause a large expense, to establish a framework model to bill LNSPs. Furthermore, there will be further costs to establish the systems and for the ongoing generation of invoices. For further information an Active Utilities alternative proposal please see NUoS Agreements on page 12.

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Network charge protections for ENSPs

Active Utilities also have concerns in relation to protections for non-payment of network charges.

Active Utilities agrees with applying Chapter 6B to ENSPs for applying credit support arrangements in respect of retailers which have a record of failing to pay in last 12 months.

However, Active Utilities would like further provisions to be added where ENSPs can disconnect when commercial payment terms are not met by the relevant retailer in line with the regulated disconnection process currently in place.

Network tariffs

AEMC proposes establishing a requirement that ENSPs charge a shadow network tariff which would be the equivalent network tariff that a customer would have been charged by the DNSP if the customer had been directly connected to the DNSP's network.

Active Utilities already applies shadow network tariffs based on customer loads to all embedded network customers who choose to go on-market. Active Utilities believe that the regulators efforts should be more focused on increasing the monitoring and enforcement of boutique network tariffs in embedded networks which will ensure a competitive market which is AEMCs goal. This should be further enforced by the assigned ENM to the embedded Network, who has a responsibility to ensure that current Network tariffs are assigned within the Embedded Network they manage.

Active Utilities feel that instead of enforcing a standardised billing arrangement through B2B processes, that would impose significant costs on embedded network operators, NEM retailers can request NMI standing data from the relevant ENM to allow alternative retailers outside the embedded network to make a market offer to child connection points.

The above process can be standardised with the establishment of a template that highlights all applicable NMI standing data to be provided. This can be enforced by a clause that ENM/ENSPs must provide all applicable data on the approved template within a set number of business days from the initial request from a NEM retailer who has an embedded network customer looking to transfer on-market.

Additionally, Active Utilities would like to note that by enforcing this clause to ENM/ENSPs that NEM retailers would receive protection to ensure that requested NMI standing data is received in a timely manner with the AER being able to monitor and enforce compliance with this clause allowing NEW retailers to make offers in a timely manner.

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2. Legacy Embedded Networks

2.1. Grandfathering and transitioning

Expansion of ENM Role

AEMC is proposing that the ENM role in legacy embedded networks will be expanded to perform the market interface functions for embedded network customers. This includes:

- Applying to AEMO for NMIs for all child connection points;
- Registering the NMI for connection points with AEMO (i.e. through MSATS); and
- Maintaining information in the metering register (i.e. NMI standing data kept in MSATS).

As stated above, Active Utilities believe that the application of extending market and system integration to embedded networks will create cost overheads; due to the additional resourcing requirements for ENMs to register all child connection points with AEMO and maintain that information in AEMO's systems.

Active Utilities believe the current model works with the additional protections for embedded network customers and giving AER power to monitor and enforce compliance.

Suggested trigger/transition points

The AEMC has requested feedback on what should be the 'trigger point' for transitioning legacy embedded networks to the new framework.

Active Utilities believe that the following thresholds should be satisfied in their entirety prior to a legacy embedded network transitioning to the new framework:

1. When an ENM has been appointed.
2. Migration based criteria is met.

   A strict criterion is put in place, where if the age of a building is too old to satisfy criteria, required space for upgrade to meters is not available, or any other electrical installation would put buildings or people at a safety risk.
3. Contractual criteria.

   A transitional period will not occur until after the finalisation of the contract date preceding the regulatory changes have occurred. This will ensure a commercial protection model for all parties involved in complex embedded network arrangements that were completed prior to the implementation of the new regulatory framework.

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Once the above thresholds were satisfied in their entirety, legacy exempt sellers would then be required to transition.

If these thresholds were not required to administer a legacy embedded network to transition, Active Utilities feel there would be significant ramifications to embedded network operators and the regulators trying to administer this transition as it would require numerous existing networks to be transitioned to the new framework immediately.

3. Additional issues

3.1. Price Protections

AEMC has raised concerns on price protections in legacy embedded networks in which it is not possible to introduce effective retail competition. As stated above, Active Utilities proposes:

- a percentage-based model; and
- a price matching clause

Active Utilities believe this will ensure competitive pricing for both the updated regulatory framework embedded networks and the legacy embedded networks.

For further information on these proposals please see section 4 below.

3.2. National framework for gas

AEMC have requested feedback on developing a framework for gas embedded networks. Active Utilities welcome this discussion and suggest a discussion paper be developed that would include more information on the proposals, including:

- Clear definitions provided;
- Exemptions or registrations required;
- Application of current Gas Laws and rules; and
- Jurisdictional issues.

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4. AU Proposals

4.1. Percentage-based model

Active Utilities proposes the implementation of a percentage-based model; calculated as follows:

A – B = C

Where:

A = The Published Standing Offer[2]
B = Percentage discount (capped at 5%)
C = Ceiling price that embedded networks can offer embedded network customers as a standing offer.

For example:

30.50[3] c/kWh - 5% = 28.975 c/kWh ceiling price for embedded network standing offer

This percentage-based model will ensure competitive pricing in embedded networks as well as alleviating AEMC's concerns on price protections in legacy embedded networks.

4.2. Price matching clause

Active Utilities proposes a Price matching clause where ENM/ENSPs are obliged to:

- Match an identical NEM Retailer market offer to an embedded network customer; or
- Actively assist that embedded network customer to go on-market with the NEM Retailer who made the offer.

Active Utilities believes that the AER can monitor and enforce this clause.

[2] The Published Standing Offer will change to the proposed DMO once implemented to ensure further competitive pricing and price protections in embedded networks.

[3] AGL General Usage Tariff in AUSNET Distribution zone as gazetted on 30 November 2018 located at http://www.gazette.vic.gov.au/gazette/Gazettes2018/GG2018S553.pdf

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4.3. NUoS agreement

Active Utilities proposes standardising the Network Use-of-System (NUoS) Agreement between ENM/ENSPs and NEM Retailers to promote competition and efficiency.

As part of standardising a NUoS agreement there will be enforceable clauses, requiring:

- ENM/ENSPs to consult with NEM Retailers - if an ENM/ENSP makes a change to its network charges structure that will materially affect consumers;
- ENM/ENSPs and NEM Retailers to comply with a standard format for exchanging information about changes to network charges; and
- ENM/ENSPs and NEM Retailers to negotiate the terms of their NUoS agreements in good faith, and to enter into mediation when the parties are unlikely to agree to terms

Active Utilities believe the NUoS agreement should be the mandatory or default agreement between an ENM/ENSP and NEM Retailer.