

26 February 2024

Ms Mila Sudarsono
Director, Compliance and Enforcement
Australian Energy Regulator
GPO Box 3131
Canberra ACT 2601

submitted via email - AERExemptions@aer.gov.au

Dear Ms Sudarson

Exemption to register as a network service provider with AEMO – Sustainable Asset Co Pty Ltd

The Australian Energy Regulator (AER) has invited submissions on Sustainable Asset Co Pty Ltd's application for an individual exemption from the requirement to register as a network service provider with the Australian Energy Market Operator (AEMO) under the National Electricity Law. Sustainable Asset Co Pty Ltd is seeking an individual exemption for a large-scale embedded network within a broadacre residential development at Oakden Rise.

In this letter, we set out matters we believe the AER should consider in its determination to grant an exemption, and potential conditions related to the exemption should it be granted.

According to the NSW Independent Pricing and Review Tribunal (IPART), embedded networks are typically found in apartment buildings, shopping centres and caravan parks. This is also the case in South Australia. We also have an embedded network at Tonsley. The Tonsley site is a unique situation, involving a comprehensive 'in-fill' redevelopment of the former Mitsubishi car assembly site: building a new network to supply a mix of commercial and residential customers, employing embedded generation and other energy sources as well as high voltage grid-connected supplies from multiple SA Power Networks connection points and was built to SA Power Networks standards.

We note, Sustainable Asset Co Pty Ltd in its application to the Essential Services Commission of South Australia (ESCoSA) for a distribution licence included two residential developments, being Roseworthy (1,670 residential premises) and Oakden (1,500 premises). If ESCoSA grants this distribution licence, this would make these sites the largest embedded networks in South Australia.

As an embedded network connection, customers connecting to these developments do not have the full protections of the National Energy Customer Framework (NECF) as set out in the National Electricity Law and the National Energy Retail Law. We note the absence of full protections, amongst other matters, has led to stakeholders expressing concerns in relation to embedded networks, particularly in states where these types of developments have become more common.

We acknowledge the Australian Energy Market Commission (AEMC) has proposed a package of law and rule changes to update the regulatory frameworks for embedded networks. These reforms are yet to be adopted and implemented. The AEMC stated in its 2019 final report:

“The Commission has previously found that the current regulatory arrangements for embedded electricity networks are no longer fit for purpose, resulting in some customers not being able to access competitive prices or important consumer protections. There are also insufficient monitoring and enforcement powers, leading to a lack of clarity that embedded network operators are meeting their obligations as suppliers of an essential service. While some embedded networks are providing benefits to energy consumers that they may not receive in a standard supply arrangement, often they do not.”¹

Sustainable Asset Co Pty Ltd has addressed one of the AEMC’s concerns in their application, in that customers will be able to access a retailer of their choice upon request. It is assumed that this will be via the Embedded Network Manager but the application does not describe the process.

We note, in response to concerns raised in NSW, a NSW Parliamentary Committee has developed an [Embedded Network Action Plan](#) setting out a suite of new reforms designed to improve the outcomes for embedded network customer. These reforms, if adopted, would bring embedded networks in-line with traditional energy supply arrangements. Four of the actions in the Embedded Network Action Plan are:

- *Initiate a review to consider whether a maximum price that is below the default market offer (DMO) price for electricity embedded networks is required, and a preferred methodology for such a maximum price;*
- *Improve disclosure and consumer awareness by ensuring prospective owners and tenants of a strata property are aware of the existence of embedded network arrangements prior to purchase or leasing;*
- *Implement recommendation 120 of the Statutory Review of the Strata Schemes Development Act 2015 and Strata Schemes Management Act 2015, to protect electricity embedded network customers in strata schemes from long contract terms*
- *Continue national advocacy with a view to:*
 - *amend the AER Retail Exempt Selling Guideline to improve consumer protections for embedded network customers,*
 - *improve embedded network customer access to retail competition, including through changes to the process for securing a National Meter Identifier, and*
 - *enhance the national approval process for new retailer and network exemptions to ensure any new embedded networks are in the long-term interests of consumers.*

These items should be considered by the AER in their assessment of exemption applications. Where applications are approved, conditions should be included within the exemption to address these items.

Concerns with points within Sustainable Asset Co Pty Ltd’s application

Sustainable Asset Co Pty Ltd has placed a significant emphasis on its ability to manage the reliability of supply² for customers, highlighting that it proposes to install a high voltage (HV) ring main

¹ [Updating the regulatory frameworks for embedded networks | AEMC](#)

² See Item 14 of its application titled “detailed supporting argument why exemption will serve the long-term interests of electricity consumers connected to the network and more generally, across the NEM.” See Page 5 of the Application.



configuration. Where there is a failure of a HV cable, it will be able to maintain supply to customers via another route. However, we are aware that Sustainable Asset Co Pty Ltd does not include any redundancy in its low voltage (LV) network or ring main configuration. Consequently, any failure of a transformer or LV cable network will result in long duration interruptions to customers while repairs or replacement are completed. This contrasts with SA Power Networks where some redundancy exists in the LV network and transformer capacity to minimise supply interruptions in these circumstances.

Also, the customer connections to Sustainable Asset Co Pty Ltd are planned to be single phase, limiting the type of connection that customers within the develop can receive (eg 3 phase). This limitation will impede customers' ability to connect large loads (eg 3 phase air-conditioning) and charge their electric vehicle at their premises.

Sustainable Asset Co Pty Ltd advises that once it received its Distribution Licence from ESCoSA that it *"must abide by the Electricity Distribution Code in its entirety. We place a strong emphasis on adhering to Section 2 of the Code, which represents service standards for customer service and reliability of supply"*. This is incorrect. The Code will not apply to Sustainable Asset Co Pty Ltd once its licence is granted. The Code only applies to licensed distributors who have 50,000 or more customers³.

Sustainable Asset Co Pty Ltd has advised in its application that *"Each home in the Oakden Rise development is mandated to install a minimum 1.5 kW solar PV system" and "1. Individual CER: Each consumer will need to negotiate the installation and connection of their own energy storage and solar PV systems, whereas we will negotiate on behalf of all consumers with SAPN for the maximum connection possible."*⁴

We note, Sustainable Asset Co Pty Ltd is yet to negotiate with SA Power Networks on the export capacity of its connection points. SA Power Networks has developed an Australian leading flexible export regime where small customers are able to export up to a peak of 10kW per phase. This is only available where SA Power Networks can control the quantity of energy exported to the network, ensuring that SA Power Networks complies with its regulatory obligations. Sustainable Asset Co Pty Ltd will be required to control customers' energy exports within their network to ensure that it does not exceed the agreed export capacity. That capacity will be significantly lower than permitted by our flexible export regime, as Sustainable Asset Co Pty Ltd is treated as a major customer connection. There is no mention of this ability to control customers' export capacity within their application.

Sustainable Asset Co Pty Ltd has detailed that they will provide an undisclosed discount on the LNSP's 'shadow tariffs'. SA Power Networks is required to provide postage stamp pricing to small customers within South Australia. This means that there is a cross subsidy from small customers in the metropolitan area to small customers in country locations. Therefore, there is head room to reduce the tariffs to metropolitan customers if the tariffs were cost reflective. Consequently, for Sustainable Asset Co Pty Ltd tariffs to be cost reflective and efficient there should be a significant discount on SA Power Networks' tariffs (eg more than 10%), otherwise Sustainable Asset Co Pty Ltd would be making monopoly profits from their operations.

³ ESCOSA in its final Decision on its review of the Electricity Distribution Code dated 23 June 2023, advised that the Code would only apply to distributors where a distributor is defined as "means a Distribution Network Service Provider regulated by the Australian Energy Regulator whose distribution network is situated in South Australia and who has 50,000 or more connections at any given time". Final Decision can be found [here](#).

⁴ Sustainable Asset Co Pty Ltd application page 10, response to Question 1.



Proposed retail tariffs

Regarding retail tariffs, Sustainable Asset Co Pty Ltd has advised that their preferred retail partner (which is yet to obtain retail authorisation or retail exemption) will provide to customers a (undisclosed) discount when compared to AGL's, Origin's and Energy Australia retail prices. We note that IPART has published its Draft Decision on Embedded Networks, with the Maximum prices based on the prices paid by on-market customers. IPART state⁵:

"Our draft recommendations are that maximum gas and electricity prices should be set by benchmarking them to retail offers being advertised on the Australian Energy Regulator's (AER) Energy Made Easy website. Our draft methodology proposes that the maximum prices for electricity and gas to be determined by the median of the lowest tariffs, fixed and consumption, of all active retailers. These would be updated six monthly."

We consider that this pricing methodology will lead to significantly lower prices than those charged by AGL, Origin and Energy Australia. This implies that unless the discount is significant, then customers in Oakden Rise are likely to be paying too much for electricity.

If you have any queries or require further information in relation to our submission, please contact

[Redacted contact information]

Yours sincerely

[Redacted signature]

⁵ IPART Embedded Networks Draft Report December 2023 pg 3. The Draft Report can be accessed [here](#).

