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Mark Feather
General Manager
Australian Energy Regulator
GPO Box 3131
Canberra ACT 2601

RE: Australian Government’s Community Batteries for Household Solar Program – proposed ring-fencing class waiver

Dear Mr Feather,

On behalf of Merri-bek City Council, we thank you for the opportunity to provide a submission on the Australian Energy Regulator’s (AER’s) consultation on the proposed *class ring-fencing waiver for distribution businesses seeking to apply for funding under the Commonwealth Government’s Community Batteries for Household Solar Program*- “The waiver”.

This submission has been prepared by council officers on behalf of Merri-bek City Council (‘Merri-bek’) and is based on endorsed Council policy.

Merri-bek acknowledges we are in a state of climate emergency that requires urgent action by all levels of government, including local Councils. Council has also committed to collaborate with others to investigate innovative solutions that transition our community to a smart, decarbonised, decentralised and socially just energy system. Our position, policy and actions are outlined in our Zero Carbon Moreland – Climate Emergency 2040 Framework and Action Plan 2021-2025, adopted by Council in 2019.

Whilst Merri-bek believes that the future grid will be comprised of Distributed Energy Resources (DER) like battery storage, there are number of concerns about the proposed waiver and the impacts these could have on the deployment of funding for the Community Batteries for Household Solar program. This includes funding streams administered by the Department of Industry, Science and Resources, the Australian Renewable Energy Agency (ARENA) and battery storage at the electricity distribution level more generally. These are highlighted below including where applicable, direct recommendation for your consideration.

1. Demonstration of benefit back to the customer

Although the funding is for the deployment of community batteries, the objective for these batteries is to allow for more households to install solar as well as store and discharge electricity at different times to its generation. Considering the waiver is proposing for spare battery capacity to be leased to a third party, there needs to be a strong focus on the holistic management of the battery (both in operation and contractually) and how this unregulated revenue still derives benefit back to the customers, that is consistent with the funding objectives. If by way of virtue the arrangements cannot demonstrated said benefit, then the waiver it not meeting its original intention and needs to be reconsidered.

RECOMMENDATION:

That the AER put in place the necessary conditions of the waiver to ensure that not only the battery capacity allocated for network benefit is delivering on the objectives of the funding, but that this requirement also extends to the portion allocated to the third-party leasing element. One way of ensuring this could include nominating a minimum percentage of the battery capacity that needs to be allocated to network benefit. We believe that this can be achieved without affecting any confidential contractual information.

2. Providing fair and equal access to all potential parties to the same information

DNSPs are in a unique situation whereby they play the role of both 'gate keeper' and 'key master' when it comes to information and data relating to the electricity distribution grid. Considering that the grant opportunities will not include funding allocated to feasibility studies or research, it presents a specific need for all potential proponents to have equal access to network-related data, linked to battery deployment (such as substation capacity information, customer connections and import/export data). Traditionally, customers have had mixed experiences when it comes to access to this data. We are concerned that by introducing this waiver, access and quality of this data provided to non-DNSP entities could deteriorate.

RECOMMENDATION:

If the waiver is introduced it is recommended that there are appropriate requirements imposed onto the DNSPs to publish the same information that they are gathering (excluding any contractual or customer-sensitive information), to potential applicants to the funding program(s).

3. Diverting resources away from core business

By allowing a class waiver to all Distribution Network Service Providers (DNSPs), it is sending a signal that actively encourages investigating revenue that is enabled by regulated electricity supply assets, that will not provide any financial benefit back to customers. DNSPs have obligations under the Ring Fencing Guidelines (Version 3, 2021) to not to discriminate against a customer or potential customer, (Clause 4.1 (a) i.) or provide the same quality/ timeliness to a service. Customers within Victoria for example, have had communications from DNSPs that resources are stretched and timelines around data requests, connections etc. are already delayed. We believe that by enabling the waiver, these issues could get worse.

How these obligations are going to be met and monitored whilst at the same time the DNSPs are enabled to seek third-part leasing services for any remaining capacity of a funded battery, remains unclear.

4. Reducing competition of the grant funding

Like mentioned previously, DNSPs are already in a position of significant advantage in terms of data and information relating to the network and the potential for battery deployment to improve services back to the customer. There is a significant concern that the introduction of the class waiver for DNSPs may influence the number and type of applications to the funding by other entities. Again, a class waiver of this nature sends a signal to the sector that it is preferred that DNSPs actively investigate models consistent with battery leasing to third parties for excess capacity.

The proposed waiver also implies that there is a current sector gap that is failed to be filled by others. Battery deployment consistent with the funding objectives has been demonstrated on a

number of fronts beyond that initiated by DNSPs both on an international front¹, as well as within Australian contexts.

5. Reducing sector capacity

The successful deployment of battery DER will be a combination of work by DNSPs as well as other entities. This is best seen by the rollout of the Victorian State Government Neighbourhood Battery Program² where a variety of community groups, retailers, DNSPs, Local Governments and private businesses have been recipients of funding, both for research and investigation as well as battery installation and deployment. This program is the biggest funding allocation currently in Australia and is a demonstration that there are many stakeholders that will play a vital role in the Battery DER deployment. An unintended consequence of the proposed waiver is that it might actually reduce the capacity of others to apply, receive and implement the funding, as it gives the DNSPs a substantial advantage over other potential funding applicants due to their 'monopoly-like' position of network operator and data manager.

RECOMMENDATION:

That the AER introduces conditions to the proposed class waiver that include a demonstration of how each application by the DNSP to the federal funding program(s) is not contributing to the narrowing of sector capacity.

6. Timing of the waiver without clear funding guidelines

According to the AER the proposed waiver is directly linked to the Australian Government's announcement of \$200 million in grant funding program for the Community Batteries for Household Solar Program. During public consultation held on Tuesday 12th December 2022, the AER stated that it 'recognises the practical role that DNSPs will play in the roll-out of batteries under the Program³' and the benefits associated with a DNSP leasing battery capacity. It is our view that it is difficult to substantiate this statement since the guidelines for both programs (administered by the Department of Industry, Science and Resources and ARENA respectively) have yet to be established. More so, by seeking an outcome to the waiver prior to both funding streams being officially opened, it could be unduly influencing how the funding is shaped.

RECOMMENDATION:

In terms of process, it would be more logical from a sequencing perspective for any waiver to be considered after both streams of the funding guidelines were established, rather than before it. Therefore, we strongly suggest that this waiver process is delayed until such time the funding guidelines are released.

7. Manage waivers on a case-by-case basis

DNSPs already have a clear pathway to seek a waiver from the AER. Unless there is evidence to the contrary, it appears this process is effective. The only apparent issue seems to be the timing of the funding and the waiver. This issue however has not been raised by the AER in any of the proposed waiver documentation.

RECOMMENDATION:

If there are concerns around the timing of waivers and funding due dates, it is recommended that the AER and the appropriate bodies associated with the battery funding work closely together to

¹ <https://rmi.org/wp-content/uploads/2017/03/RMI-TheEconomicsOfBatteryEnergyStorage-FullReport-FINAL.pdf>

² <https://www.energy.vic.gov.au/renewable-energy/batteries-energy-storage-projects/neighbourhood-batteries>

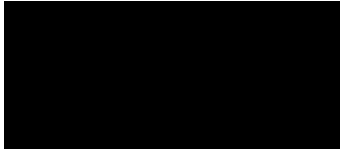
³ <https://www.aer.gov.au/system/files/AER%20-%20Verbal%20feedback%20session%20-%20Potential%20ring-fencing%20class%20waiver%20for%20community%20batteries%20-%2013%20December%202022.pdf>

ensure case-by-case waivers are incorporated in the process, rather than simply applying a sector-level waiver.

Merri-bek would welcome the opportunity to meet with representatives of the AER to discuss our submission in more detail.

If you would like to discuss aspects of this submission, please contact Victoria Hart, Manager Sustainability and Climate on [REDACTED] or at [REDACTED]

Kind regards



Phillip Priest

Acting Director, Place and Environment

9/01/2023