

14 December 2022

Mark Feather
General Manager, Strategic Policy and Energy Systems Innovation
Australian Energy Regulator
Canberra ACT 2601
By online submission

Dear Mr Feather,

Review of consumer protections for future energy services: Options for reform of the National Energy Customer Framework

AEMO welcomes the opportunity to provide a submission to the AER's *Review of consumer protections for future energy services: Options for reform of the National Energy Customer Framework*, published for consultation in October 2022 (the Review).

Importance and support for the AER's Review

AEMO supports an evolution of the design of the National Energy Customer Framework (NECF, herein referred to as the 'Framework') with the intent to establish a fit-for-purpose and flexible regulatory framework as new energy products and services emerge. It is recognised that the Framework must evolve to not only keep pace with existing energy business models; but also establish a clear and flexible regulatory environment that supports innovation in service delivery.

Underpinning the design of the Framework with characteristics of principles-based regulation (Model 2) or outcomes-based regulation (Model 3), or a hybrid of both, is a welcome direction. Similarly, the need to extend the Framework beyond its current scope (i.e. the sale of energy to premises) is likely a necessary shift to support consumers and accommodate the provision of energy products and services by evolving energy businesses, new entrants and non-traditional energy service providers. Furthermore, the AER's adoption of a risk analysis approach to assess potential harms of new energy products or services provides a sound foundation upon which to apply any future Framework.

Opportunity to establish DER and CER rights and responsibilities

The National Electricity Rules (NER) and the Framework prescribe rights to participants. They provide transparency and certainty of each parties' permissions and authorities related to their role in the market combined with the nature of their activities and undertakings. Associated responsibilities make clear the obligations on parties in relation to those rights. This initiative to evolve the Framework presents a prime opportunity to establish a set of benchmark rights and responsibilities and guiding principles for consumers' passive and active participation in energy markets, recognising the increasingly prevalent and important role of distributed energy resources (DER) and consumer energy resources (CER) in the NEM.

AEMO considers that a principles-based regulatory approach (e.g. Models 2 or 3) would be well-suited to the provision of such a set of "ground rules", relating to both the passive and active participation of DER and CER. If designed in such a way that is accessible to consumers, their service providers and agents, the broader



community and market participants, it would provide a platform upon which DER and CER services could be formed and delivered and would acknowledge the consumer and their resources as either an active or passive participant in the market.

An example of a right might be that consumers have an explicit right to self-consume their generated or stored energy, with an associated responsibility being that limitations might be placed on that energy being sent-out into the system at times when doing so is problematic for system management.

An approach to establishing this type of arrangement has been described in a paper titled “*An Australian DER Bill of Rights and Responsibilities*”, which expands on this concept.¹

AEMO appreciates the opportunity to input to this review. Should you wish to discuss any of the matters raised in this submission, please contact Kevin Ly, Group Manager – Reform Development & Insights on

[REDACTED]

Yours sincerely,

[REDACTED]

Violette Mouchaileh

Executive General Manager, Reform Delivery

Attachment: Considerations and responses to consultation questions; and electric vehicle charging use case

¹ N.N. Lal, L. Brown, 2022. *An Australian DER Bill of Rights and Responsibilities*, arXiv:2112.04855. At: <https://arxiv.org/abs/2112.04855>

Attachment

Considerations and responses to consultation questions

The consultation paper seeks stakeholder feedback across a range of important themes as well as targeted consultation questions including:

- Which new products and services should be captured by the future framework?
- What protections do consumers need to effectively engage with the future energy market?
- Who should be regulated in the future energy market?
- How and when are energy providers regulated?

AEMO values the breadth of matters explored in the Options Paper and appreciates this invitation to provide feedback. There is strong agreement that the uptake of new energy products and services is a vital component to realising the benefits of the broader energy system transformation. Reflections on the reach of the current customer protections framework and potential aspects of any future Framework are shared below.

Topic	Current and future Framework considerations
<p>New products</p>	<p>Rather than suggesting specific product types or categories, AEMO considers that any future framework could contemplate the ‘characteristics’ of energy products that would subsequently bring them within scope of the Framework. For example, an energy product could be identified and captured based on characteristics such as its ability to:</p> <ul style="list-style-type: none"> • be ‘price-responsive’ in relation to wholesale market prices; • be ‘manageable’ or ‘controllable’ by an actor; • control the flows of injections and withdrawals of energy from a customer’s premises to and from the network; or • store and generate energy flows that have been, or will be, injected or withdrawn from the grid. <p>Once these product types have been identified, this could then infer ‘who’ would be captured under the Framework, being parties selling the products themselves, or those responsible for their operation.</p>
<p>New services</p>	<p>Similarly, the paper recognises the challenges in defining a set of new services that may be captured within the future Framework.</p> <p>Akin to the current approach in which customer protection responsibilities and obligations are determined based on the act of the ‘sale’ of energy to premises; the Framework could consider how other actions may establish the grounds for regulation. For example, actions performed by a service provider could include the ‘management’, ‘optimisation’, ‘control’ or ‘sale’ of energy or energy products.</p> <p>Furthermore, AEMO agrees that the ‘essentiality’ of various energy products and services is diverse and that this too could serve as a principle from which to consider applicability of relevant consumer protections.</p>
<p>Definition and application of protections</p>	<p><i>A reflection on current NEM arrangements</i></p>

<p>needed by consumers</p>	<p>The current regulatory and market framework establishes the arrangements for the classification of connection points and/or units within a Registered Participant's portfolio.²</p> <p>Registered participants may classify generating units, bi-directional units or load connection points.³ Dependent on assigned classification codes, any residential or business customer at a load connection point can be captured by the respective NERR provisions. This has the effect of assuming that the 'sale' of energy to premises is occurring at 'load' classified connection point.</p> <p>As more consumers adopt behind-the-meter CER, invest in new products and services, and engage with new service providers or innovative service offerings, this presumption no longer holds true. As explored in the Options Paper, the 'activities' occurring at each connection point commonly extend beyond the traditional sale of energy to premises, and will increasingly accommodate activities including the storage, generation and management of energy by a range of service providers.</p> <p><i>Considerations of an evolving market framework</i></p> <p>A principles-based Framework provides a fitting approach by which to consider the application of protections for all consumers.</p> <p>In June 2024, a new universal participant category, the Integrated Resource Provider (IRP), will be established.⁴ In addition to better accommodating large-scale storage and hybrid facilities, the existing Small Generation Aggregator category will be subsumed into the IRP under the new label 'Small Resource Aggregator' and will be explicitly enabled to classify small bidirectional units in addition to small generating units. The IRP will also be able to classify load (scheduled and retail) connection points and generating units.</p> <p>Given the breadth of different connection points the IRP may classify, there may be cases where, for example, an IRP may be involved in only the injection of energy at some connection points; and withdrawal of energy at other connection points. These activities might likely switch at each connection point on a temporal basis. If an IRP is only classifying a large generator or small generating unit (in its capacity as a Small Resource Aggregator), then it would not currently require a retailer authorisation.</p> <p>The introduction of the IRP reflects the shift in direction of the framework whereby NERR obligations can no longer be inferred based on the registered participant category, but from the services provided to consumers at each connection point.</p> <p>Considering the fluid nature by which services may be offered to consumers, there is a rationale for the principles-based approach (as described in Model 2) to establish the coverage of requirements based on the service provided to consumers and with consideration of potential harms.</p>
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² AEMO, *MSATS CATS Procedure*. At: <https://aemo.com.au/-/media/archive/files/other/msats/msats-procedures-cats-v4-0-final-determination-v1.pdf>

³ 'Bi-directional unit' to be established as per the Integrating Energy Storage Systems rule change.

⁴ AEMC, *Final Determination, Integrating Energy Storage Systems into the NEM*. At: <https://www.aemc.gov.au/rule-changes/integrating-energy-storage-systems-nem>

	<p><i>Flexible Trading Arrangements</i></p> <p>The AEMC has initiated consultation on AEMO’s rule change proposal for the establishment of Flexible Trading Arrangements in the NEM.⁵ The consultation paper explores potential models that could be adopted by consumers to have their CER separately identified, and therefore treated independently in market settlements, allowing consumers to engage with multiple service providers if they choose to.</p> <p>AEMO’s proposal identified a range of considerations within the NERR that may require specific review should the proposed Flexible Trading Arrangement model, or potentially any alternate model, be enabled within the market framework.⁶ These include arrangements for customer transfers, de-energisation and re-energisation of premises, customer information requirements and life support requirements. Notwithstanding the next stages of the AEMC’s consultation, AEMO consider that the matters raised are of relevance to this Review.</p> <p><i>Scheduled Lite</i></p> <p>As part of the ESB’s CER Implementation Plan – Horizon One, AEMO is preparing a NER rule change proposal for the introduction of the Scheduled Lite mechanism. Scheduled Lite is a voluntary mechanism that aims to lower barriers and provide incentives for price responsive, distributed resources to provide visibility and participate in the market scheduling process of the NEM.</p> <p>The proposed mechanism design enhances options for consumers through enabling more opportunities for market engagement (where consumers choose to participate), with complexity, risk and day-to-day participation largely managed by traders on behalf of consumers. The mechanism is technology neutral and facilitates a range of business models. While the introduction of Scheduled Lite would provide an opportunity for CER and flexible demand to participate in scheduling processes and maximise the value of their resources, participation in the mechanism could carry risks for the customer that warrant consideration.</p> <p>For example, some customer risks that may need to be considered as any determination of a Scheduled Lite mechanism is made include: situations where a trader is suspended from participation; a trader’s liability associated with participation; and considerations of multiple service providers and potential for financial mismatch between service offers.⁷</p>
<p>Other matters raised – interaction and integration with retail and market</p>	<p>The Options Paper recognises that changes to the Framework may warrant reconsideration of the coverage and arrangements within the Retailer of Last Resort (RoLR) scheme or Embedded Network Framework. Other market functions that may interact with market entry or exit also include NMI discovery, customer transfers, and cooling-off arrangements.</p>

⁵ AEMC, *Consultation Paper, National Electricity Amendment (Unlocking CER benefits through flexible trading) Rule*. At: <https://www.aemc.gov.au/rule-changes/unlocking-CER-benefits-through-flexible-trading>


⁶ AEMO, *Flexible Trading Arrangements Rule Change Proposal*, section 4.3. At: <https://www.aemc.gov.au/sites/default/files/2022-05/ERC0346%20Rule%20change%20request%20pending.pdf>

⁷ AEMO, *Scheduled Lite: Draft High Level Design June 2022*. At: <https://aemo.com.au/initiatives/trials-and-initiatives/scheduled-lite>

<p>systems processes</p>	<p>Rather than comment on which protections should apply to customers, AEMO notes that once principles are determined or outcomes are established, consideration would then be given to how the NEM's retail and market systems should accommodate their application.</p> <p>AEMO notes that the Options Paper specifically invites views and practicalities regarding how respective models may consider and treat residential embedded network sellers within the evolved Framework. AEMO's recent submission (dated 9 December 2022) to the AER's Draft Network Exemptions Guideline (version 7) identified and communicated a number of matters (related to, for example, misuse of the current network exemption framework), for the AER's consideration. It is suggested that these matters be addressed and that in by doing so, any new regulatory arrangements applying to any new products and services would be suitably applied so as not to introduce unintended potential harms to consumers within residential embedded networks.</p>
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Electric vehicle charging service use case

This Review seeks to establish a Framework that strikes the right balance between encouraging market innovation and supporting and protecting consumers as they adopt new products and services. In contextualising a potential future state that reflects a move towards Models 2 or 3, a worked example is provided for reflection of a consumer's perspective.

 <p>'New Service' and 'New Product' use case: Electric vehicle charging service offering for a Small Customer (i.e. residential)</p> <p><i>Delilah is considering the purchase of a new electric vehicle. In addition to the purchase of the vehicle, Delilah is informed about her options for charging arrangements as part of the EV purchasing process. This is where she finds out about potential options for establishing a dedicated connection point for the EV, unlocking new types of offers for her newly acquired 'flexible' load without needing to change her normal household consumption. Delilah chooses an offer and signs a contract with a specialist retailer, 'Budget Charging Co.', which covers the cost of the first 1,000km of off-peak charging and provides a discounted rate for charging off-peak thereafter. The offer makes it easy to charge off-peak by having 'Budget Charging Co.' control the charging profile. 'Budget Charging Co.' partners with 'Chargers in a Flash' to install the electric vehicle supply equipment at Delilah's premises. Delilah is provided clear information about what her new offer means for installation and billing and what her ongoing options are.</i></p>	
<p>What protections does Delilah need to effectively engage with the future energy market?</p>	<p>Many of the 'risk themes' may relate to Delilah's interaction with these energy products and services. For example, are the contract terms and conditions fit for purpose; how will 'Budget Charging Co.' control Delilah's electric vehicle supply equipment; is Delilah provided with key information about the operation of the charger at the point of sale?</p> <p>For this use case, some examples of how the evolved NECF could mitigate any potential harms to Delilah might include:</p> <ul style="list-style-type: none"> • That Delilah provides explicit informed consent at the point of signing up to the charging service and the terms and conditions clearly explain how 'Budget Charging Co.' will operate the charger. • That the terms and conditions consider Delilah's right to self-consumption from use of generated or stored energy available from Delilah's other CER to be

	<p>diverted to charge her EV, or to the extent that it does not, Delilah's agreement to forgo this facility is made explicit.</p> <ul style="list-style-type: none"> • That if the supplier of Delilah's electric vehicle supply equipment, 'Chargers in a Flash', were to go out of business, that any product quality issues are covered by the relevant consumer rights legislation or ombudsman scheme.
<p>Who should be regulated in the future energy market?</p>	<p>The following parties could be regulated with consideration of 'essentiality' under the future Framework:</p> <ul style="list-style-type: none"> • '<i>Budget Charging Co.</i>' is responsible for the service, undertaking the actions of the: <ul style="list-style-type: none"> ○ supply of electricity to Delilah's dedicated EV charging connection point ○ settlement of electricity at Delilah's dedicated EV charging connection point ○ control of the charging profile via the electric vehicle supply equipment to Delilah's vehicle • '<i>Chargers in a Flash</i>' is responsible for the product, undertaking the actions of the: <ul style="list-style-type: none"> ○ installation and maintenance of the electric vehicle supply equipment
<p>How and when are energy providers regulated?</p>	<p>Delilah is a small customer in the context of the NECF. As both '<i>Budget Charging Co.</i>' and '<i>Chargers in a Flash</i>' are involved in the provision of services and products, respectively, to Delilah, they are captured by the NECF from the point of customer acquisition and ongoing for the duration of service and product provision.</p>