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16 February 2023

Anna Collyer
Chair
Australian Energy Market Commission

[REDACTED]
[REDACTED]

Dear Ms Collyer,

Re: National Electricity Amendment and National Energy Retail Amendment (unlocking CER benefits through flexible trading) Rule

The Australian Energy Regulator (AER) welcomes the opportunity to provide a submission to the Australian Energy Market Commission's (AEMC) 'National Electricity Amendment and National Energy Retail Amendment (unlocking CER benefits through flexible trading) Rule' consultation paper.

The AER exists to ensure energy consumers are better off, now and into the future. As part of our functions, the AER protects the interests of household and small business customers by enforcing the National Energy Customer Framework (NECF), which applies in New South Wales, South Australia, Tasmania, the Australian Capital Territory and Queensland. The AER also has a number of roles under the NECF, which include administering the retailer authorisation and exemption regime, approving retail hardship policies, administering a retailer of last resort (RoLR) scheme and providing the Energy Made Easy price comparator website. The AER also sets the Default Market Offer (DMO) price each year under the Competition and Consumer (Industry Code – Electricity Retail) Regulations 2019 which provides the legislative framework for the DMO and the AER's role. It is in the context of these functions and roles that the AER provides the comments in this submission.

Overall, the AER supports the aim of this rule change to promote choice for consumers to access more value from their consumer energy resources (CER).

We note that as the penetration of CER in the market continues to increase, a multiple service provider model may help facilitate the deployment of CER into the grid, including through the provision of energy and system services into wholesale and system security markets.

However, as the Energy Security Board highlighted in its NEM 2025 Final Design advice¹, for these benefits to be achieved it is critical that market and regulatory frameworks such as Flexible Trading Arrangements work in a way that builds trust with consumers in relation to the delivery of new energy services, including through robust consumer protections and inclusive design. It is important that new and innovative products and services are provided in a simple, coordinated way so that consumers are able to realise the benefits. Most importantly, the arrangements must be designed and tested with consumers in mind – so that consumers choose products and services that they can comprehend, that are best suited to their circumstances, and which do not cause harm.

Overall, consumer trust and confidence in new services (across the whole consumer journey – from purchase through to operation and use) is a key enabler to the successful integration of CER and demand side services into the market. Without an adequate level of trust in the energy market, consumers are unlikely to want to play the role in the market that will be vital to achieve the aims of the energy transition.

Areas surrounding flexible trading arrangements that require careful consideration

While the AER supports this rule change in principle, we note several areas that require careful consideration by the AEMC to ensure a final proposal that best promotes the interests of consumers. These areas include:

- how to minimise, to the extent possible, the complexity this rule change will introduce for consumers
- how service providers can manage signals regarding network capacity at the connection point
- whether, and how, the RoLR framework and the DMO should be applied at secondary settlement points
- how service providers operating at the same premises communicate information and data with each other to provide consumers with the best outcome from their suite of energy services and products, and
- how network tariffs should be levied to avoid unnecessary and/or inefficient costs being passed down to consumers.

We provide our views on these issues in the appendix to this letter. The AER is willing to further discuss with the AEMC these and other issues that arise as the rule change is progressed. We consider the detail in the design of any proposal for FTAs requires thorough interrogation to ensure it is robust and does not result in unintended consequences, or risk creating harms for consumers or skewed incentives.

Assessment of the various flexible trading models

The AEMC's consultation paper requests feedback on different models for FTAs. The AER does not have a preference for any particular model, however, we urge the AEMC to consider how each model can address the issues outlined above.

The AER supports the AEMC's proposal to assess the rule change against the proposed six key criteria which include: outcomes for consumers, security and reliability of the electricity system, principles of market efficiency, innovation and flexibility, implementation, and

¹ Energy Security Board, Post-2025 Market Design, Final Advice to Energy Ministers, July 2021

decarbonisation. It is particularly important that the AEMC examines the consumer impacts of the proposal, including understanding the consumer journey and experience associated with FTAs in place and the risks that consumers may face. Such an analysis can help to inform a consumer inclusive design of the arrangements, that promotes consumer uptake of the new energy services and products that FTAs will enable, whilst ensuring protections for consumers as a whole. Part of this is promoting consumers' understanding of the arrangements.

We also suggest that the AEMC may wish to consider the potential role of the AER's Energy Innovation Toolkit² as an avenue to test the benefits and costs of the rule change. Further details have been provided in the appendix to this letter.

The AER's response to the issues raised in the consultation paper

In the appendix to this letter, we also provide our feedback on the various issues relating to FTAs raised by the AEMC in its consultation paper. Many of these issues intersect with the work and roles carried out by the AER. Our comments are summarised as follows:

- Consumer protections considerations—we provide insights from our risk analysis work as part of the AER's Review of consumer protections for future energy services, and we provide a summary of the risks and benefits within an FTA.
- Pricing protections, such as the DMO—we respond to the AEMC's consultation question regarding whether pricing caps and/or reference pricing should be considered suitable mechanisms to protect consumers with secondary settlement points if standard contracts are applicable. We consider this question will need careful consideration. Further, we have identified compliance issues for retailers at the primary settlement point (if they are responsible for network charges associated with loads at the secondary settlement point), which may financially burden those retailers.
- Interaction with flexible export limits—a review of the regulatory framework for flexible export limits is being undertaken by the AER under the Energy Security Board's CER Implementation Plan. We provide some comments on the interaction between our review and the FTA rule change. Further, we comment on the challenges of passing signals regarding network capacity to the party able to manage this at the connection point.
- Communication, information and data flows between parties, including networks—multiple parties may be introduced through a secondary settlement point, which may give rise to complexities such as miscommunication or network safety issues. The AER considers there is a need for the coordination of information/communication/data flows between distribution network service providers and energy service providers parties to ensure critical information is communicated clearly and in a timely manner.
- RoLR—if a retailer supplying the primary connection point fails, the RoLR framework is currently set up for a RoLR to be appointed and designated to take over the responsibility of supplying energy at that connection point to the affected customer. We suggest that the appointment of a RoLR should not be considered in the event of retailer failure at a secondary settlement point, as such failure would generally not affect the continuity of supply at the primary connection point.
- Embedded networks—the AEMC notes in its consultation paper that some

² AER, [Regulatory Sandboxing – Energy Innovation Toolkit](#), 2022.


consumers have attempted to establish similar arrangements to the proposed rule change using embedded networks. We are of the view that FTAs should not be managed under the embedded networks framework. We detail our reasoning in the Appendix.

- Network pricing related considerations—once a secondary settlement point is introduced, consumers may be required to negotiate the network charges between the retailers for the two settlement points. We provide comments on the consequences for network charging of the models proposed in the AEMC’s consultation paper and note the associated risks to both customers and primary retailers under the proposed approaches.

We thank the AEMC for the opportunity to provide our input on the consultation paper, and we welcome the opportunity to work closely with the AEMC on the identified issues above.

If you have any questions in relation to this submission please contact Isabel Durie, Assistant Director, at [REDACTED] or on [REDACTED].

Yours sincerely

A large black rectangular redaction box covering the signature of Mark Feather.

Mark Feather
General Manager - Strategic Policy General Manager - Strategic Policy and Energy Systems
Innovation
Australian Energy Regulator

Submitted on: 16.02.2023

Appendix: The AER's comments in response to the consultation paper

The AER supports the aim of the National Electricity Amendment and National Energy Retail Amendment (unlocking CER benefits through flexible trading) Rule change proposal. As outlined in the Energy Security Board's (ESB) final recommendations to Energy Ministers³, FTAs can promote choice for consumers to access more value from their consumer energy resources (CER), including being rewarded for their flexible demand and generation. This may also have broader benefits to the energy system, to the extent that CER can support wholesale and system services markets reducing the costs of managing and balancing the electricity grid.

It is equally as important, however, that the reform is very carefully assessed and designed with the consumer in mind and in a way that builds consumer trust in the products and services that are being offered, including through consideration of consumer risks and necessary consumer protections. Without this the benefits of the reform may not be achieved. This is discussed further below.

1. Consumer protections considerations

The AER supports the AEMC's focus on understanding the impacts on consumers from this rule change and we urge the AEMC to ensure the consumer benefits outweigh the potential challenges that consumers are likely to face. The AER's 'Review of consumer protections for future energy services'⁴ (the Review) is providing useful insights into how consumers are likely to be impacted by flexible trading arrangements (FTAs), including the potential risks and challenges they may face. As we progress this work, we look forward to continuing to share these insights with the AEMC and AEMO to assist with the assessment of this rule change.

The AER's Review is a key component of the ESB's Consumer Energy Resources (CER) implementation plan. Currently, the National Energy Customer Framework (NECF) regulates entities that sell energy to consumers at their premises. In the future, we are likely to see providers offering products and services that do not involve the sale of energy and, as a result, may fall outside the scope of NECF. The AER's Review aims to understand the risks that new energy products and services may pose to consumers, and whether these risks are within the scope of the current regulatory framework. Where these risks fall outside the current framework, the AER is considering the need to bring new energy products and services into the future framework.

Outcomes and changes to the framework arising from the AER's Review could impact FTAs if implemented. We note the AEMC is considering this rule change under current regulatory settings but that the AER's Review may result in changes to the existing framework. As such, the AER will consider through its Review how FTAs may work under a future approach to regulating energy service providers.

1.1. Risk analysis undertaken for the AER's Review

As part of the AER's Review, we have been conducting a thorough risk analysis, which has included stakeholder workshops and customer journey mapping.⁵ We have conducted this risk analysis using several use-cases of energy service models that are emerging, and/or

³ <https://www.datocms-assets.com/32572/1629945809-post-2025-market-design-final-advice-to-energy-ministers-part-b.pdf>, p.64

⁴ AER, [Review of consumer protections for future energy services](#), April 2022.

⁵ The customer journey involves the stages of pre-engagement, point of sale, use of product, switching providers, and end of product life.

are likely to emerge. This work has helped the AER to identify both consumer benefits and risks that may arise through a consumer having multiple energy providers at their premises through an FTA.

1.1.1. Benefits of a multiple energy provider model

One benefit of a multiple energy provider model is that consumers can take on additional types of energy products or services with a new separate retailer, with their current supplier meeting the rest of their electricity demand. Subsequently, consumers may shop around for the best possible deal. This may increase retail competition, which may produce lower prices, higher quality services and products, and increase innovation.

Another benefit of a multiple energy provider model is that consumers are offered greater flexibility and a potentially more efficient home energy system or arrangement as they can choose to enter into a combination of multiple contracts, with the same or different retailer(s), that best meets their needs.

More broadly, as the penetration of CER in the market continues to increase, a multiple service provider model should also help facilitate the deployment of CER into the grid, through the provision of energy and system services into wholesale and system security markets. The successful deployment of CER into the grid may also assist networks in reducing the costs of congestion and avoiding expensive investment in poles and wires.

FTAs can also support larger commercial and industrial customers by providing an alternative method of accessing wholesale demand response mechanism. By managing controllable resources, benefits can also arise by providing a market-driven response to issues affecting the energy system, such as minimum system load, directly benefiting the customer.

However, as the ESB highlighted in its NEM 2025 Final Design advice⁶, for these benefits to be achieved it is critical that consumers are engaged in the development of products and services and that there are effective levels of consumer trust. Building trust with consumers in relation to the delivery of new energy services, including through robust consumer protections and inclusive design, is a key enabler to the successful integration of CER and demand side services into the market.

Relatedly, we note that the ability of customers to make fair comparisons between existing and new energy services products will be important to the success of FTAs and building consumer trust. In this regard, the AER is currently undertaking work to develop Energy Made Easy into a comparator service which may assist in this area.

1.1.2. Risks of a multiple energy provider model

Protections for consumers

The AER's risk analysis conducted under the Review has identified that many new services and products will not be captured by the NECF, leaving consumers without the framework's protections. With many new products and services expected to arise under multiple energy provider models, consumers under these models may therefore be exposed to several risks. We are happy to work with the AEMC in how these issues might be addressed, leveraging our insights from the Review.

Complexities for consumers

⁶ Energy Security Board, Post-2025 Market Design, Final Advice to Energy Ministers, July 2021

Our Review has also identified that the complexity of the multiple energy provider model may create barriers for consumer uptake as they may face challenges in understanding the potential value, benefits and also risks of engaging separately with various energy providers. In particular, stakeholders who have contributed to the AER's Review have identified that consumers will likely struggle to:

- navigate a more complex market and compare different offers to determine which deals offer the greatest savings
- engage and maintain relationships with multiple service providers to ensure their energy systems work in unison to ultimately enable energy efficiency, savings, innovation, and the use of renewable energy within their household
- understand the contract terms, which may result in consumers involuntarily entering into a lock-in contract, creating further risks down the customer journey when consumers may decide to switch suppliers, move houses, or in the event that they experience vulnerability and struggle to pay for a service.

Consequently, consumers' trust in new products and services in the market may be low if they perceive a risk that they will not receive the benefits promised by the product or service. There may also be increased chances of issues and problems arising during a customer's journey, especially when consumers sign up to products and services that are too complicated to understand and/or not fit for purpose for their needs. This is particularly the case for consumers experiencing vulnerability. All of these factors may contribute to lowering consumer trust in the energy market if customers cannot comprehend the energy efficiency and cost savings within their household.

Further, under a multiple energy provider model, complications may arise during the dispute resolution process, such as consumers having to seek out different bodies of complaints resolution for different energy services and providers, which would prolong the dispute resolution process. This may occur, for example, where a consumer engages service providers at their secondary connection point that are not captured under the NECF as they do not involve the sale of energy, such as an aggregation service. It may not be apparent to the consumer that, should things go wrong, the avenue for dispute resolution is different for these services. It may also be difficult for the consumer to understand where their NECF services finishes and their non-NECF services start. We are exploring this issue through the Review of consumer protections for future energy services and will continue to provide relevant insights to the AEMC.

Stakeholder feedback from the AER's Review also highlighted that in circumstances where consumers are experiencing issues during any stages of the customer journey, suppliers may try to divert the blame to other suppliers within the multiple energy provider model. Again, this could contribute to lengthy disputes and costly resolutions.

Therefore, while having multiple energy providers may provide flexibility for consumers, such flexibility is likely to come with complexity for consumers regarding the way they interact with and manage their home energy usage. The AER considers this can be mitigated by ensuring multiple energy provider models are designed to promote:

- fit for purpose and clear contracts
- clear communication between the consumer and energy service provider
- accessible, free and independent external dispute resolution processes.

We strongly recommend the AEMC carefully consider how a multiple energy provider model can be designed to be as simple as possible for consumers, including minimising flow on complexities for impacted stakeholders. It should also be accompanied by a strong and well-

coordinated education campaign for consumers, including clear information about the framework and the opportunities it presents for them.

A carefully designed and implemented multiple energy provider model could offer consumers efficient home energy systems and arrangements that meet their individual needs. It would also promote effective competition as consumers are provided with increased options to shop around for energy services or products that best suit their needs.

As noted above, a successful FTA framework would also support efficient deployment of CER exports into energy and system security services markets potentially reducing costs for all customers. Success however is critically dependent on building trust and consumer engagement in new products and services that enable aggregation of CER.

We also note the AEMC is considering this rule change under current settings whilst the AER's Review is considering risks to be addressed by a future framework. We encourage the AEMC to assess and address the risks to consumers under the current framework and we will continue to provide insights to the AEMC from our Review as it progresses.

2. Pricing protections including the Default Market Offer for consumers with a secondary connection point

The AEMC consultation paper suggests non-NECF pricing protections such as the DMO could be extended to customers with secondary settlement points. We support further consideration of this issue. Whilst it could be argued the types of customers that would enter arrangements for flexible trading are expected to be more engaged than the cohort of consumers that primarily benefit from the DMO pricing protections (i.e. consumers that have not entered a market offer), there may be circumstances where customers at secondary connection points should be able to access the DMO or other pricing protections. Overall, we agree that the issue requires further consideration of the potential risks to customers (potentially through case studies/use cases) to determine whether DMO or similar protections should be extended.

The AER has also identified some practical issues in applying a DMO to secondary settlement points and we encourage further consideration and engagement with the AER on these issues, as well as with government and the Australian Competition and Consumer Commission as the respective legislators and enforcers of DMO regulations. These issues include:

- if pricing caps and/or reference pricing are considered suitable mechanisms to protect consumers with secondary settlement points, the pricing protections regulatory framework may need to be reviewed. It is not clear whether the DMO regulations, in their current form, would cover secondary settlement points, or would require amendments to expand its scope
- establishing estimates for wholesale, network, environmental and retail costs specific to retailers for secondary settlement points
- establishing 'broadly representative' annual consumption amounts and usage patterns for the secondary loads, due to the likely variability arising from individual consumer characteristics and CER at the settlement point
- whether establishing 'broadly representative' annual generation amounts and generation patterns for the secondary loads is required. Currently the DMO does not require the AER to establish 'broadly representative' generation amounts and patterns
- the potential role of generation credits and other incentives that offset charges for grid-based usage in assessing the overall price of an offer, used to assess

compliance for standing offers and the reference price discount for market offers. Currently the DMO excludes solar feed-in tariffs credits when assessing standing offer compliance and calculating market offer discounts off the reference price.

The AER has also identified a potential issue relating to applying a DMO protection to standing offers for the primary settlement point. If the network charges for usage at the secondary settlement point are to be recovered from the retailer at the primary settlement point, it could be difficult for the retailer at the primary settlement point to price their standing offer sufficiently high to recover these additional network charges while still being compliant with the DMO price.

3. Interactions with flexible export limits

As noted in the AEMC's consultation paper, the proposed rule change may interact with other reforms in the National Electricity Market (NEM), such as Dynamic Operating Envelopes (DOEs).

We also refer the AEMC to the AER's Flexible export limits issues paper⁷ where we identify that the current primary use case for DOEs (or flexible export limits) is to manage network capacity. In this paper, we apply the capacity allocation principles from the Distribution Energy Integration Program Working Group DOE Outcomes Report.⁸ One of these principles is that capacity allocation for flexible export limits is to be measured at the customer's connection point to the network. This enables networks to manage network capacity. In the AER's view, any FTA model proposed would have to identify how signals regarding network capacity are passed on to the party able to manage this at the secondary connection point. As outlined later in this response, this challenge is also experienced with cost-reflective network tariffs.

4. Communication, information and data flows between parties, including networks

The AEMC's consultation paper seeks stakeholders' views on the need to include provisions in the rules regarding explicit information or communication requirements between:

- the Distribution Network Service Provider (DNSP) and the Financially Responsible Market Participant (FRMP) for the secondary points
- the primary and secondary FRMPs.

There is a risk that communication, information and data flows will become significantly more complicated with the introduction of secondary settlement points. The AER considers that separate lines of communication from the DNSP to both FRMPs would be the most straightforward way for the FRMPs to be apprised of network support or safety requirements, for example the requirement to interrupt supply. However, it may also be appropriate to require the DNSP to include both FRMPs on the same line of communication where confidential or sensitive issues do not need to be raised. We consider these measures would together reduce the risk of miscommunication on network requirement or safety issues, given the DNSP's level of expertise in this area.

The AER also notes the significant challenges in terms of communication, information and data flows between the primary and secondary FRMPs. We note that a key issue with the smart metering obligations, when introduced, was the level of coordination and transaction costs associated with multiple parties being involved in a meter replacement (where

⁷ AER, [Flexible Export Limits – Issues paper](#), 17 October 2022.

⁸ ARENA, [DEIP Dynamic Operating Envelopes Workstream – Outcomes report](#), March 2022.

previously, just one party was managing it). Based on this experience, the AER considers that explicit requirements for coordination of information/communication/data flows between primary and secondary FRMPs are important to ensure that critical information is clearly communicated between the relevant parties in a timely manner. In this respect, the AER is not opposed to the particular information requirements and processes highlighted by AEMO in its rule change request, including the provision of metering data by the secondary FRMP to the primary FRMP for the purposes of both wholesale settlement and network charges.

As the AEMC notes in its consultation paper, it is also important to consider the risk of 'hollowing out' the primary FRMP such that they retain the costs of consumer protections but lose material revenue streams to a secondary FRMP that may not have similar protection requirements. This issue of competitive neutrality is also being considered in the AER's Review where we explore the appropriate level of obligations that should apply to traditional retailers and new service providers.

5. Retailer of Last Resort

The AEMC's consultation paper considers the possibility of FRMP insolvency at a secondary settlement point and whether any regulatory arrangements need to be put in place as a result. In the AER's view, the arrangements at the secondary settlement point should not be considered a RoLR scenario as the failure of a retailer (or other market participant) responsible for a secondary settlement point would generally not directly affect the continuity of supply at the primary connection point.

The RoLR framework is set up to ensure continuity of supply for customers in the event of retailer failure. The RoLR mechanism is a significant intervention in the market and in consumer choice. However, it is a warranted consumer protection given the essential nature of energy. In contrast, FTAs aim to facilitate consumers' ability to proactively participate in the wholesale market on a voluntary basis. The addition of a secondary settlement point is designed for CER benefits to be promoted, including bill reduction via greater control of energy generation and consumption, along with emissions reductions.

Therefore, while the AER agrees that consumer protections are important to enable consumers to engage with the energy market in this new way, and acknowledges that measures to manage the failure of a market participant providing FTA services to customers will be needed, we do not consider the extension of the RoLR mechanism is warranted at this stage.

6. Embedded networks

The AEMC's consultation paper questions whether the rules should forbid the use of embedded networks to establish secondary settlement points within an end user's electrical installation. The AER understands this arises from AEMO's concerns that embedded networks may be used by customers to obtain a secondary settlement point to engage in FTAs which goes against their intended purpose and poses potential risks and harms to settlement integrity and customer protections.⁹ The AER shares similar concerns to AEMO – notably, we consider the embedded networks framework may not be appropriate for FTAs that propose to facilitate a single customer's engagement with the wholesale market and manage relationships between multiple market participants on a large scale.

⁹ The AER is currently considering consumer protections through our [Towards energy equity – a strategy for an inclusive energy market](#) and [Review of consumer protections for future energy services](#).

While we support customers being able to engage with and benefit from CER, we consider that the framework should be appropriate to facilitate this. In the AER's view, FTAs should not be managed under the embedded networks framework for the reasons outlined by AEMO. Further, we urge the AEMC to clarify this through the rules, noting this will likely result in consequential amendments to the AER's Network Exemptions Guideline.

7. Network pricing related considerations

While there may be some benefits to AEMO's proposed model, the AER is concerned with the associated network pricing considerations and encourage the AEMC to consider the points noted below. The AER considers AEMO's proposed flexible trading model outlined as one possible flexible trading model in the AEMC's consultation paper, gives rise to the potential for significant complexity, a range of new costs and significant risks for customers. It will be important for the AEMC to consider whether these risks and costs outweigh the potential benefits from the additional flexibility of the model. The AER would be happy to engage further with AEMC and AEMO on these issues.

In its rule change request, AEMO identified five options for allocating network charges if secondary settlement points are introduced. These are summarised as follows:

1. Retain the status quo—this is where all network charges apply at the primary connection point and are payable by the consumer via their FRMP at the primary connection point.
2. Distributors are to allocate network fees between the primary and secondary retailer or develop a new network tariff with components that could be shared between the two FRMPs
3. The FRMP at the primary connection point is required to pass on charges and credits.
4. An independent third party (e.g., AEMO) is to perform a 'wash-up' service,¹⁰ with the costs then divided between FRMPs at a premise following network billing.
5. A hybrid capacity-based tier system, whereby secondary settlement points below a predetermined capacity limit would be treated as outlined in option 1, with a bespoke network fee allocation method (e.g., option 2, 3 or 4) only being applied for secondary settlement points that exceed that limit.¹¹

In its rule change request, AEMO rejected the four alternative options to retaining the status quo (options 2 to 5 above) as they would require new layers of data sharing, and administrative, process and system changes, and would incur costs to implement. AEMO notes they may also lead to double counting, overcharging and/or disputes between the various participants.¹² We agree with AEMO that the four options set out as alternatives to retaining the status quo network billing arrangements involve significant complexity, costs and a range of new risks. For these reasons, we consider they should not be pursued.

Further on the option of levying multiple network tariffs on a single connection point, being option 2 above, the network tariff objective and pricing principles in the National Electricity

¹⁰ AEMC, [Consultation Paper – National Electricity Amendment \(unlocking CER benefits through flexible trading rule\)](#), 8 December 2022 (p. 48).

¹¹ AEMC, [Consultation Paper – National Electricity Amendment \(unlocking CER benefits through flexible trading rule\)](#), 8 December 2022 (p. 36).

¹² AEMC, [Consultation Paper – National Electricity Amendment \(unlocking CER benefits through flexible trading rule\)](#), 8 December 2022 (p. 37).

Rules (NER) require network tariffs to reflect a distributor's efficient cost and to be based on the long run marginal cost of serving a customer. It is unclear how a distributor's efficient costs would be allocated if the customer's load were split over multiple settlement points (with potentially multiple retailers) at a single premise. We also note that most distributors would likely have to reconfigure (or renew) their billing management systems to accommodate multiple network tariffs. Those costs would be borne by all customers through higher network tariffs. We note that similar billing system upgrades may be required by retailers, again putting upwards pressure on customer bills.

AEMO's preferred network tariff option, option 1 above, is to retain the status quo arrangements whereby the primary retailer would face 100 per cent of the customer's network tariff liability, while a secondary retailer would face no network price signal. While we understand AEMO's rationale for maintaining the status quo, the AER is concerned charging network tariffs only to the primary retailer may undermine the effectiveness of network tariffs in guiding network use by consumers with two-way technologies on their premises. It may also contradict the NEM-wide network tariff reform program we administer under the NER. The AEMC's 2014 distribution pricing rule change¹³ that introduced this program sought distributors progressively enhance network tariffs to signal to retailers and their customers when it is more or less costly to draw energy from, or send energy to, the network.

The potential absence of network price signals applicable to a secondary retailer(s) could, in the long run, lead to more costly network upgrades as secondary retailers would respond to the short run marginal cost of supply reflected in wholesale market pricing without having to consider long run marginal cost network price signals. This issue is exacerbated given customers' flexible loads (e.g. electric vehicles, pool pumps and storage batteries) are best placed to respond to network price signals but these same loads would be managed by secondary retailers blind to those price signals.

Maintaining the status quo tariff arrangements would also place all network price risk on the primary retailer despite that retailer not being responsible for wholesale market purchases of energy to meet load managed by a secondary retailer. Overcoming this issue would likely require either:

- confidence that secondary retailers would take network price signals into account when managing the customer's flexible loads despite not being liable for network tariffs
- some sort of relationship, presumably a contract, between the primary retailer and a secondary retailer to have network tariffs in effect passed through to the secondary retailer
- additional regulatory interventions to mandate how a secondary retailer manages the customer's flexible load with respect to network tariffs.

We consider the above requirements would involve either significant risk to both customers and primary retailers or additional administrative and regulatory burden.

Again, the AER would be happy to work with the AEMC in considering the appropriate charging arrangements to enable FTAs that best promote consumers' interests. Flexible load appliances may already be split under existing arrangements, such as hot water load and separately managed from less flexible load, to optimise wholesale, frequency control ancillary services and network price signals for customers. Distributors and retailers are

¹³ AEMC, [Distribution Network Pricing Arrangements](#), 27 November 2014.

continuing to develop more innovative and cost reflective tariffs for CER customers, including virtual power plant offers to customers with active CER, such as behind the meter batteries that are available with the customer's choice of retailer. New services, such as community batteries, are beginning to emerge to help optimise passive CER. We ask the AEMC to consider the current flexibility in assessing the incremental benefits customers would obtain from facilitating multiple retailer relationships, including the likely number of customers that are expected to receive direct cost saving benefits. This should be compared with the number of customers without the appliances from which flexible load is derived, who may instead be exposed to higher network tariffs depending on the extent of long-term complexities and costs under the framework.

8. AER's regulatory sandboxing – Energy Innovation Toolkit

The AEMC's consultation paper focuses on how the AEMC should assess the rule change request to determine if it will promote the long-term interests of consumers. We encourage the AEMC to consider the AER's Energy Innovation Toolkit¹⁴ – of which the AEMC is a project partner – to help support the AEMC's decision-making. The AEMC could use the opportunity to run trials (whether waivers of rule changes) before a permanent rule change is fully implemented to ensure that the rule change request does unlock CER benefits through flexible trading.

The Energy Innovation Toolkit supports energy innovators and start-ups to navigate complex regulatory frameworks and trial new products and services that will deliver greater choice and cheaper energy options for consumers. It provides a structured framework within which innovative technologies, approaches, business models, products and services can be trialled in a real-world environment without having to meet all the regulatory requirements, while still protecting consumers.

¹⁴ AER, [Regulatory Sandboxing – Energy Innovation Toolkit](#), 2022.