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Energy Consumers Australia's submission to the Australian Energy Regulators Issues Paper on the Review of the Regulatory Framework for Flexible Export Limit Implementation

Dear Mark

We would like to thank the Australian Energy Regulator (AER) for the opportunity to provide comment on the Flexible Export Limits Implementation Issues Paper (the Issues Paper). Having contributed to the Distributed Energy Integration Program (DEIP) Dynamic Operating Envelope (DOE) Working Group Final Outcomes Report we are pleased to see the findings of the report being progressed.

Energy Consumers Australia is the national voice for Australian household and small businesses energy consumers. In recognising it will be these households and small businesses who will determine the level of uptake and broader benefits delivered from flexible export limits, we support the AER's decision to shift the naming from dynamic operating envelopes to flexible export limits. This recognises that consumers will have to understand and recognise what a flexible export limit is in order to opt-in. This name change also recognises that while dynamic operating envelopes could in future be applied to flexible loads, such as electric vehicles, this is not the most immediate use case and warrants further consideration and learnings from current trials. Therefore, the following submission is written within the context of flexible export limits only.

Energy Consumers Australia recommends that **the AER ensures that distribution network service providers (DNSPs) approach to the roll-out of flexible exports is transparent and communicated in a clear and understandable manner to both industry (including solar retailers and installers) and consumers.** This recommendation is consistent with the recommendations we have made in our recent submissions¹²³ to the AER's Connection Charge Guideline Review and Incentivising and Measuring Export Service Performance Review.

Why is communication and transparency so important in the roll-out of flexible exports?

Consumer trust and confidence in the market are low⁴ and may only get worse as energy prices rise. Transparency and communication will go a long way in helping to build the trust and community buy-in that the transitioning energy system will need.

¹ https://energyconsumersaustralia.com.au/wp-content/uploads/20221011_Correspondence-to-AER_re_Incentivising-and-Measuring-Export-Service-Performance-submission.pdf

² <https://energyconsumersaustralia.com.au/publications/submission-to-the-aers-draft-decision-in-the-connection-charge-guideline-review>

³ https://energyconsumersaustralia.com.au/wp-content/uploads/20220920_Correspondence_WAnderson_AER_Connection-guidelines-submission-ECA-final-002.pdf

⁴ <https://ecss.energyconsumersaustralia.com.au/sentiment-survey-june-2022/pulse-surveys-june-to-august-22/>

At the end of the day, it won't matter if flexible exports are clearly the more efficient and sustainable option unless consumers trust and understand the benefits. Consumers will own and operate from their backyards, garages, and homes much of the future energy system infrastructure. The industry will need their trust and willingness to buy into new ways of using their investment and technologies and shaping their electricity use (load).

Communication and transparency from networks are critical for educating and building trust between solar retailers and installers. Consumers depend on the technical knowledge of their solar retailer and installer to both advise them of the best system for them and also ensure it is set up in the correct way. Solar retailers and installers should have knowledge of local network constraints, capacity, or planned investments in the areas they are servicing so they can inform consumers ahead of any purchase about the best investment for them. Our submission to the AER's Incentivising and Measuring Export Service Performance Issues Paper in October 2022⁵ recommended that the AER develop metrics to measure distribution networks' engagement with solar retailers and installers, particularly metrics focused on network communication and compliance with solar system requirements, such as inverter settings.

Sharing learnings and insights from consumers lived experiences

Ensuring communication is successful requires understanding where consumers go for a source of trusted information. In June 2022, only 53% of households rated their trust in energy companies as positive⁶. Instead, consumers are much more likely to look to their own communities and fellow consumers for trusted sources of information. Merri-bek council in Victoria released the report *'Electrifying Everything: Communications Message Guide for Households'* in 2021⁷. The guide explains consumers aren't making lengthy cost benefit analyses or consulting all the relevant export advice but are instead influenced by *"stories that 'feel right' - narratives that resonate with their values and identity, presented by people they trust, and made acceptable by the social norms around them"*.

The stories or lived experiences of consumers currently participating in flexible export trials in South Australia and other jurisdictions should be shared across the broader community. A recent Insights Forum hosted by SA Power Networks and AusNet Services presented case studies of customers participating in these flexible export limit trials with different size rooftop PV systems and inverters. Each customer's journey to flexible exports was slightly different and so were the benefits, but these stories are important to share to understand the diversity of consumers' lived experience⁸.

The experiences of consumers in South Australia and Victoria participating in trials also present an opportunity for the AER in understanding where there may be gaps in the current regulatory framework that need to be addressed. SA Power Networks' current insights from their trials reveal the three main barriers to uptake of the flexible export offer are lack of awareness, limited compatible technology, and upfront costs to participate⁹. The second and third barriers may be addressed in adjacent workstreams of interoperability policy and technical standards governance. Barrier one should be addressed in this workstream. By setting requirements for DNSPs to regularly and transparently communicate with their communities (including installers) about the nature of system limits and the evolving role of flexible export limits, consumers and installers' current lack of awareness or knowledge may be significantly reduced.

⁵ https://energyconsumersaustralia.com.au/wp-content/uploads/2022/10/11_Correspondence-to-AER_re_Incentivising-and-Measuring-Export-Service-Performance-submission.pdf

⁶ <https://ecss.energyconsumersaustralia.com.au/sentiment-survey-june-2022/confidence-household-sentiment-june-2022/>

⁷ <https://morelandzerocarbon.org.au/wp-content/uploads/2021/11/Electrify-Everything-Communications-Message-Guide-for-Households.pdf>

⁸ <https://www.youtube.com/watch?v=2iJSn6c1n2k>

⁹ <https://arena.gov.au/assets/2022/06/flexible-exports-lessons-learnt-report-4.pdf>

Successful communication also requires understanding the consumer journey with a flexible export limit. Where is the consumer likely to engage with information on flexible export limits and who is that engagement with? What messaging is required to enable an informed choice? How is it conveyed? Messaging may also need to be tailored to those with or without solar, messaging between a customer in an area heavily saturated by solar may also be different to an area that is relatively 'new' to hearing about 'limits.' SAPN note in their Flexible Export Trial, that although it takes time early stakeholder engagement, and understanding the customer journey end to end, it is critical for a successful program.¹⁰ Communication may also need to be ongoing, as once connected, the system is part of the building premises, that can change hands possibly frequently during the life of the system.

Transparent and consumer driven capacity allocation

Networks should engage directly with the communities they serve to understand what those communities consider to be a fair allocation of network capacity. Consumers are no longer only paying for a one-way service provided by networks but are active investors and participants in a transitioning energy system. We appreciate there is a balance between overall system efficiency and individual consumer benefit. The best way of achieving this balance is by actively engaging in community conversations to understand where consumers' priorities and values lie.

These community level conversations are critical information gathering sessions to properly account for diverse consumer experiences and values. The AER's Draft Report on Incentivising and Measuring Export Service Performance¹¹ highlights that consumers living in different communities or geographical locations will have different export services and different expectations of their export service. While learnings from current trials, such as the SA Power Network trial, can be helpful in identifying gaps in the regulatory framework or sharing lived experiences, each network should be required to do its own community level engagement when allocating network capacity.

The methodology, data, and calculations networks use to determine export levels must also be transparent and shared for broad industry consultation. This is a key point we recently made in our submission to the AER's Consultation Paper on Incentivising and Measuring Export Service Performance¹². By requiring networks to more transparently share this methodology, the AER can ensure these calculations are efficient (improving affordability outcomes) and communicated with the broader community (improving trust and community acceptance outcomes). In the absence of transparent methodology, data, and calculations, there is no substance or reason for the broader public and industry to trust that the limits the network has imposed are efficient or reasonable. In a regulatory environment where export service is obligatory, it must also be mandatory for regulated networks to provide evidence (via methodology, data, and calculations) on when and where an export service is denied or where an export service requires additional payment from consumers.

In terms of the specific allocation principles noted by the AER's Issues Paper, we believe the fourth allocation principle "*Capacity should be allocated to small customers irrespective of the size or type of customer technology (e.g., solar or batteries) at the customer premises*" needs further clarity before it can be adopted.

Firstly, we believe this principle needs to be more specific in terms of whether it is referring to equal capacity allocated regardless of size or type of consumer energy resources (CER), or if capacity should be assessed based on CER.

¹⁰ <https://www.sapowernetworks.com.au/public/download.jsp?id=320258>

¹¹ <https://www.aer.gov.au/system/files/AER%20-%20Incentivising%20and%20measuring%20export%20service%20performance%20-%20Draft%20report%20-%20November%202022.pdf>

¹² https://energyconsumersaustralia.com.au/wp-content/uploads/20221011_Correspondence-to-AER_re_Incentivising-and-Measuring-Export-Service-Performance-submission.pdf

Secondly, we feel there may be further clarity required to inform how this principle aligns with the recently published AER Review of the Connection Charge Guideline. The review has made changes to the Connection Charge Guidelines that will allow DNSPs to restrict any capacity to some consumers under certain circumstances. These distinctions are important to make in understanding the potential variety of export service offerings to consumers depending on location or CER investments.

New and existing consumer equity considerations

Capacity allocation principle five reserves capacity for existing customers who are on, and continue to stay on, their legacy static export limit. While we recognise the need to honour these agreements, we note the equity issues that may arise between new and legacy solar customers. This balance of new and old, flexible, and static, requires some thinking around approach and messaging, to ensure further trust is not eroded. Engaging with communities on network capacity allocation is also important here, and information explaining why legacy customers can access a different export limit than new customers should be provided.

Where the flexible export limit is allocated

The DEIP Outcomes Report found that flexible exports should initially be allocated at the connection point. However, we believe this must be re-considered in light of prospective reforms and use cases. As the Issues Paper points out there may be future benefits or use cases in allocating the export limit at a device level or common point behind the meter as markets and technologies continue to develop creating new value streams for consumers to unlock. However, at this point, it is difficult to know how consumers will want to engage with these potential future services. We believe it is essential to prepare for these unknowns by establishing an adaptable framework that follows the principles of least harm.

Consumer protections

As the paper notes, if consumers are not adequately communicated to, meaning in a manner and form that is meaningful for them, consumers risk missing potential benefits and there is a risk to a successful implementation of flexible export limits. The AER states it's appropriate to await the outcome of the *Review of Consumer Protections for Future Energy Services* to address such areas that may fall within the review's domain.

We caution the AER on waiting to address the potential risks and issues consumers may face with flexible exports limits -- especially in the near term, as flexible export limits are already being implemented and their use will likely accelerate. Yet, the review of the consumer protections framework is still in its relative infancy. The measures the AER puts in place with this review should be flexible where possible, but also aim to work in synergy with the regulatory review of consumer protections.

There are some issues that fall within the banner of flexible exports and consumer protections that we address at a high level, those being; the question of opt-in or out, the connection agreement itself, additional information provisions that need consideration, and potential compliance and redress measures.

Opt-in or Opt-out

Whether a consumer has the choice to Opt-in or Opt-out, the critical component is that they feel confident to make that decision.

Exporting to the grid has long been considered a financial reward, a way to significantly reduce bills. However, more recently consumers have seen declining feed-in tariffs and for new customers potentially a very low or no ability to export. This new landscape is one that may be very confusing for consumers, so what resonates and what doesn't needs working through if potential benefits (for all parties) are to be had.

In an opt-in scenario, the onus is on the networks to take the steps necessary to engage and communicate with their community in an effective way, including how best to address the difference between new and existing solar customers, to get their buy in.

If a consumer needs to opt-out, networks may have less incentive to be proactive or diligent in their communication methods, which may hinder a consumer's ability to make an informed choice. This could be addressed by providing clear guidelines and requirements around communications for networks to meet in either an opt-in or opt-out scenario.

Connection Agreement

No matter what industry you are in, it is known that terms and conditions are not something we humans go through with a fine-tooth comb, that is, if we even have the ability to understand them¹³. The connection agreement is no different. In fact, it's probably worse, as often consumers do not even directly engage in the connection agreement process as it is done on their behalf by their solar installer and retailer.

The issues paper outlines what should be set out in the agreement, including the parameters set by the DNSP when no third party is involved. In addressing what is required to live in the agreement or whether it sits outside (or somewhere else), careful consideration needs to be had about who is best placed to inform these requirements, and how they will be monitored and enforced. As one example, if we consider compliance of the export limit when an inverter fails or drops out, and the limit reverts to a static one: what are the next steps, and who should be setting them? Are consumers made aware of the fault, and at which point? Is the fall back to the static limit temporary, or is new consent required? and how are these issues and requirements conveyed to the consumer? With monitoring and enforcement, what measures are in place to capture and act on these failures?

In our submission to the AER's Connection Charges Guideline, we noted that communication around export limits needs to think beyond the current connection agreement¹⁴ and to what mechanism is going to help consumers feel they have agency and control in these discussions. One option may be a very simple one pager on key things consumers need to know from the connection agreement (what is important to them) and what may not be in the agreement that they should know such as internet requirements, this can also sit alongside what is the connection agreement, who provides it, where can you access it, etc. A great example of trying to address the complexities of terms and conditions is a one pager in cartoon format developed by BankWest¹⁵. While it doesn't need to be this innovative, appreciating what information is key, delivering it at the appropriate time and in a manner and form that is easy to digest is.

Dispute resolution

It is our view that there should be universal access to free independent dispute resolution however a consumer interacts with energy, whether that be through a service or product.

¹³ As AER notes in the Toward Equity strategy over 40% of Australia's have low literacy levels

¹⁴ <https://energyconsumersaustralia.com.au/publications/submission-to-the-aers-draft-decision-in-the-connection-charge-guideline-review>

¹⁵ https://www.bankwest.com.au/content/dam/bankwest/documents/legal-library/PDS_20080125-110540.pdf

Consumers need to know what their rights are, what is expected of them in this process, and where they can go when things go wrong. A natural instinct for a consumer when they have an issue may be to go to their energy retailer as to them, it's all energy related. However, if it is the DNSP in the first instance, where is this information easily accessed from a consumer perspective? And how in this interaction do we avoid consumer frustration? Further, what happens when third parties outside the current energy ombudsman jurisdiction are the responsible party? While questions around dispute resolution are being considered within the AER consumer protections review, staying abreast of the speed at which flexible exports may be rolled out and progressed, against that of the consumer protections review is vital to act on gaps or mitigate for potential risks.

We appreciate the attention the AER has given to the consumer voice derived from the DEIP DOE Outcomes Paper, as at its core, a successful flexible export roll-out will depend on consumers choosing to opt-in and participate. Transparency and communication will go a long way in helping to build trust and community acceptance a successful roll-out will require. We look forward to continuing to work with the AER as they progress their work in this space. If you have any questions, please do not hesitate to contact Marie Harrowell at

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Yours sincerely

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