

31 October 2017

Mr John Pierce
Chair
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Consultation on Draft Determination - Contestability of energy services

Dear Mr Pierce,

Energy Networks Australia welcomes the opportunity to provide a submission to the Australian Energy Market Commission's (AEMC) draft determination on the rule changes proposed by the COAG Energy Council and the Australian Energy Council relating to contestability of energy services published on 29 August 2017.

Energy Networks Australia is the national industry body representing businesses operating Australia's electricity transmission and distribution and gas distribution networks. Member businesses provide energy to virtually every household and business in Australia.

The proposed draft rule is a matter of significant concern for the network sector. If adopted, the AEMC's draft rule would prevent distributors from investing in certain assets, except in limited circumstances. This approach fails the critical regulatory design principles of technology neutrality and service delivery discretion.

The draft determination highlights a change that may see consumers, in some circumstances, asked to pay an increased price for competition goals because of asset-based restrictions.¹ At a time of critical customer focus on all aspects of energy charges, Energy Networks Australia is concerned with the regime that knowingly exposes consumers to higher costs, without having identified a definable benefit.

Market-based solutions will deliver innovation and efficiency benefits to consumers only if they are underpinned by effective competition. Just as there are considerable potential benefits of a well-functioning market, markets that do not function well can lead to significant costs for consumers.

The AEMC is required to make a final determination in a way that will, or is likely to, contribute to the achievement of the *National Electricity Objective* (NEO). It should be noted that the NEO relates to efficiency in the supply of electricity generally, not just in the provision of regulated network services. Therefore, in considering whether its proposed measures will, or are likely to, contribute to the achievement of the NEO, the AEMC will need to consider any impact on the efficiency of the electricity supply chain as a whole.

¹ AEMC, Draft determination, Contestability of energy services, p.60.

While the AEMC is not prevented from imposing asset-based restrictions that result in additional costs or hinder efficiency in some way, it will need to be satisfied that, on balance, its proposed measures are in the long-term interests of electricity consumers. This indicates that the AEMC should at least take into account the costs and benefits of new measures before seeking to impose these measures through its final rule.

In light of the above, Energy Networks Australia considers that the final determination should strike a better balance between supporting the efficient delivery of network services to consumers and protecting the integrity of new and emerging markets. The following considerations are paramount to achieving this objective:

- » **Proportionality.** Networks are concerned that stakeholders, as a collective, may not be clear about the scope and type of problem to be solved. For example, distributors do not have plans to invest in assets on the customer's side of the meter unless there is the need to do so, and that will only be the case in very limited circumstances and be subject to regulatory approvals and oversight.
- » **Efficient delivery models.** Less intrusive alternatives should be considered, which do not undermine the incentive-based nature of the existing regulatory regime. Energy Networks Australia continues to be of the view that this is best achieved by adopting 'service-based' rather than 'asset-based' regulation as promoting the long-term interests of consumers by encouraging a technology neutral approach to efficient delivery of regulated services.
- » **Permissionless innovation.** Technology and changing consumer participation in the energy supply system requires networks be innovative and responsive so that they are able to provide efficient services to meet future needs. The AEMC's draft rule in its current form is likely to stifle innovation by preventing businesses from investing in the most efficient solutions for consumer, which is particularly problematic in a rapidly evolving market. Aspects of the complicated exemptions, regulatory approval, potential resubmission if exemptions are rejected, process are a long distance away from the public policy goal of 'permissionless innovation', which should be the objective.

Energy Networks Australia recommends that the AEMC consider whether introduction of restrictions on service delivery discretion is consistent with new directions in the industry and preferable to incentive frameworks for networks. More attention should be placed on the regulatory arrangements, which are required to allow for the transformation of the energy sector over the next decade which will be informed in part by the Electricity Network Transformation Roadmap (Roadmap) released by Energy Networks Australia and CSIRO.

Further, Energy Networks Australia agrees with the AEMC that issues related to the overarching incentive design should be addressed in a separate process. Energy Networks Australia's members fully support the objective of avoiding capital-based investments, where other solutions are more efficient. The AEMC's intention to investigate a total expenditure framework is a welcome step. Given the potentially significant transformation of the energy sector, we consider that a clear conversation on the purpose and expectation of a regulatory framework is required.

For example, Cambridge Economic Policy Associates, in expert advice included in the Roadmap, have suggested that there is strong potential over the medium-term to move away from the existing schemes to TOTEX (Total Expenditure - both capital and operational) based approaches, which provide clearer and stronger incentives aligned to customer outcomes. This was adopted as a Roadmap recommendation to be trialled by 2018 and implemented by 2027.

Should you have any additional queries, please contact Garth Crawford, Executive Director Regulation, on (02) 6272 1555 or gscrawford@energynetworks.com.au.

Yours sincerely,

A handwritten signature in blue ink that reads "A. Dillon".

Andrew Dillon
Interim CEO