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Dispute resolution for residential embedded network customers, Regulatory impact statement

AGL Energy (AGL) welcomes the opportunity to respond to the Queensland Department of Natural Resources, Mines and Energy's (DNRME) *Regulatory impact statement, Dispute resolution for residential embedded network customers*, October 2019 (RIS).

AGL supports the policy direction that embedded network customers should be able to access the services of the Energy and Water Ombudsman Queensland (EWOQ). We consider that residential embedded network customers will encounter the same energy related issues as other small energy customers, including with respect to payments, billing and switching between providers. We therefore agree that although there are a range of existing dispute resolution mechanisms available, embedded network customers would benefit from the unique capabilities of EWOQ in providing energy specific, efficient, binding dispute resolution services.

Extending access to EWOQ for residential embedded network customers also aligns with the Australian Energy Market Commission's suite of recommended reforms to improve consumer outcomes for embedded network customers by enabling access to retail market competition and improving consumer protections.¹

We have considered the proposed fee structure to enable access to EWOQ for residential embedded network customers and estimated quantum of complaints and costs, as elaborated in the RIS. Based on our experience as a foundational member of EWOQ we provide our preferred fee structure and approach to implementation below.

Preferred fee structure

We would recommend implementing a fee structure that incorporates a combination of user-pay charges and fixed charges, including:

- a suitable user-pay fee structure component designed around individual complaints, in a manner akin to Option 3 (maximum price per complaint based on a sliding scale that relates to the number of customers that the embedded network 'exempt seller'); and

¹ See AEMC, Final report on updating the regulatory frameworks for embedded networks (June 2019), available at <https://www.aemc.gov.au/market-reviews-advice/updates-regulatory-frameworks-embedded-networks>.



- an annual participation (membership) fee component, payable by all covered ‘exempt sellers’ to account for all fixed corporate costs associated with extending EWOQ access to residential embedded network customers.

User-pay charges

We agree that a suitable user-pay fee structure could assist in encouraging ‘exempt sellers’ to become compliant with current Australian Energy Regulator’s requirements regarding consumer protections and is therefore a more desirable approach to recouping the costs associated with individual complaints.

AGL generally supports establishing a suitable user-fee structure component designed around individual complaints, in a manner akin to Option 3 (maximum price per complaint based on a sliding scale that relates to the number of customers that the embedded network ‘exempt seller’). However, in order to ensure alignment with the fee structure that applies to other EWOQ scheme participants, we would recommend DNRME:

- Revise the fee structure sliding scale to scale up to the full fee costs, to appropriately account for larger embedded network operators conducting business in Queensland;
- Clarify that the fee structure sliding scale accords with customer numbers per site or per company based within Queensland; and
- Clarify the correlation between referral and refer back procedural categories under Option 3 with the refer higher level category applicable to existing EWOQ scheme participants and consider aligning the proposed charges for the categories.

Fixed charges

We also anticipate a range of fixed corporate costs associated with extending EWOQ access to residential embedded network customers, for example in the provision of advocacy and public outreach to raise awareness of EWOQ’s services. In our view, these fixed corporate costs would be more appropriately recouped through a base membership fee payable by all covered “exempt sellers”. Generally, we do not consider that a membership fee to cover these fixed corporate costs would be financially burdensome for “exempt sellers”. Absent a membership fee component, the costs of the extending EWOQ services risk being cross subsidised by existing EWOQ scheme participants and their customers.

Implementation and estimated quantum of costs and complaints

AGL supports the proposal to extend access to EWOQ for residential embedded network customers but defer commencement of the suitable user-pay fee scheme for at least 12 months to allow time for data collection on actual complaint numbers and dispute types.

Nevertheless, in order to mitigate any cost impact to existing EWOQ scheme participants and their customers, we recommend that for the initial 12 month period, all covered ‘exempt sellers’ be required to pay a higher membership fee that appropriately accounts for the projected complaints handling costs as well the fixed corporate costs. Following the initial period and as EWOQ introduces a suitable user-pay fee structure component designed around individual complaints, the membership fee component could be reduced to account for fixed corporate costs only. Any surplus funding from the initial 12-month period could be offset against future membership payment obligations.



In AGL's view, delaying the introduction of the suitable user-pay fee scheme will enable a more considered approach to the estimated resourcing impact to EWOQ. While we appreciate the estimated quantum of complaints and costs is based on the experience of the Energy and Water Ombudsman New South Wales, the actual quantum of complaints and the costs associated with managing resolution will depend upon a range of contingencies, including but not limited to:

- The extent to which embedded network customers are incentivised to make a complaint which may be impacted by the scale of advocacy and outreach undertaken by EWOQ and/ or the Government; and
- The stage in the dispute resolution process in which complaints can be resolved (upon referral versus after investigation).

We consider that the collection of data over the initial 12-month period will enable a minimum degree of visibility on the quantum of complaints and their trajectory, such that the suitable user-pay fee scheme can be appropriately tailored to finance EWOQ's services.

On the other hand, we note that the initial 12-month period may not be indicative of how the Queensland residential embedded network customers engage with EWOQ into the future, given that it is a new service that may not be well understood by these consumers. We would therefore recommend that EWOQ be mandated to undertake an annual review of the suitable user-pay fee structure (having regard to the actual quantum of complaints and costs incurred) at least for the first five years of the application of EWOQ's services to residential embedded network customers.

In our view, this would ensure that the fee scheme remains fit-for-purpose.

If you have any queries or would like to discuss our response further, please contact [REDACTED]

A handwritten signature in black ink, appearing to read 'Patrick Whish-Wilson', written over a light blue circular stamp.

Patrick Whish-Wilson

Senior Manager Regulatory Strategy