



Submission to *Updating the regulatory arrangements for embedded networks* draft report:

Based on meeting summary AEMC – Consumer Action Law Centre (CALC)

3:00pm – 4:00pm, 21 March 2019, Melbourne

Attendees:

Name	Organisation
Richard Owens	AEMC
Andrew Truswell	AEMC
Martina McCowan	AEMC
Alix Pearce	CALC
Jake Lilley	CALC

- CALC is supportive of the AEMC’s proposed regulatory framework for new embedded networks, as equity in consumer protections should not be dependent on the business model of the supplier of energy. In particular, CALC considers that consumer protections should not be lessened in situations when consumers are supplied by exempt subsidiaries of authorised retailers.
- To illustrate the problems consumers in embedded network face as a result of regulatory gaps and insufficient consumer protections, CALC presented a case study on disconnection in an embedded network in Victoria in 2017 (for the complete case study see Attachment A - Unnecessary disconnection by exempt network operator). In this instance, a tenant in an embedded network had an unpaid debt lower than \$120 (the equivalent minimum disconnection amount for a licensed retailer under Victoria’s Energy Retail Code at that point in time and much less than the current \$300 minimum disconnection amount that is aligned with other Australian jurisdictions). Although the tenant contacted the business responsible for the exempt network’s billing, notifying them that she was able to pay, in full, within a week due to delay in receiving a week’s pay after having started a new job, the worker at the exempt seller’s billing management business explicitly refused to accept the offer of late payment. The responsible worker did not offer any other form of assistance or flexibility, and stated that they were proceeding with disconnection. The tenant contacted the Energy and Water Ombudsman of Victoria (EWOV), who had to refer to Consumer Affairs Victoria, who could do nothing and escalated the case to the National Debt Hotline, due to lack of access to EWOV. The process required significant amounts of the tenant’s time compared to simply contacting EWOV.
- CALC also presented other common issues consumers experience in embedded networks:
 - Unreasonable connection fees in embedded networks (up to \$500)
 - Customers do not receive appropriate bills (no breakdown of costs or metering proof, inconsistent billing periods, no explanation of tariffs), which is currently non-

compliant under the Victorian Energy Retail Code, but continues to represent an ongoing enforcement issue.

- No access to join the competitive market, customers have no choice other than staying on very expensive offers.
- Issues with solar power purchase agreements (PPAs), which fall into a regulatory gap. Issues arise as contracts lock in prices for a long period of time and do not contain any consumer protections. CALC mentioned as an example that they had seen issues where people on low incomes who own homes are aggressively sold PPA arrangements which include oversized solar installations. The inappropriate capacity of the systems could mean that these customers export the majority of their generation for a feed-in tariff that is significantly lower than the rate at which they are required to purchase the energy their system generates, resulting in additional costs for these customers. Residential PPA customers often happen to be customers that are vulnerable to financial stress.
- Although CALC is highly supportive of the AEMC's proposed regulatory framework for new embedded networks, CALC also considers that a strong focus should rest on transitioning legacy embedded networks. Regarding the question *why* some legacy embedded networks should not have to transition, CALC encourages the AEMC to make a strong case/provide a strong rationale for non-transitioning. Why should a customer in a legacy embedded network enjoy less consumer protections compared to if the same customer would reside in a new embedded network?
- CALC therefore supports universal transitioning arrangements, provided that the costs are fairly allocated if retrofitting is required.
- In the absence of full retail competition in legacy embedded networks, CALC considers price regulation as an important means. Regarding how a 'fair' price should be determined, CALC expressed support for the Victorian Default Offer (VDO) as a price cap, but sees issues with the current methodology of the Default Market Offer (DMO) and is unsure whether the DMO would represent a 'fair' price cap for customers in embedded networks. CALC encourages the AEMC to formulate a strong recommendation on how to provide effective price control in existing embedded networks.
- As regards legacy embedded networks, CALC made two additional points of importance that should likewise apply to customers in existing embedded networks:
 - universal access to dispute resolution,
 - increased enforcement mechanisms to ensure compliance with exemption conditions.
- Regarding the proposed exemptions framework, CALC stated that they are supportive of the AEMC's proposal of capturing all new embedded network arrangements in terms of being a registrable exemption (there would be no more deemed exemptions under the new framework), similar to Victoria, where 'Persons selling metered electricity in all caravan parks, holiday parks, residential land lease parks and manufactured home estates' fall under a registrable retail activity exemption (exemption category VR4 under the Victorian Essential Services Commission's *Registration Guidelines for Exempt Persons*, May 2018).
- Lastly, CALC mentioned bulk hot water as an issue and acknowledged the AEMC's initiative to address gas embedded networks as part of the review. CALC shared some of their understanding that in particular consumers in fringe housing arrangements often find themselves in gas embedded networks/bulk hot water supply arrangements. As these are

however the customers that would need adequate consumer protections most, CALC considers regulatory changes with regard to bulk hot water to be crucial.

Attachment A – Case study: Unnecessary disconnection by exempt network operator

Case Study: Unnecessary disconnection by exempt network operator

The National Debt Helpline received a call from a tenant in an apartment building within an exempt network. Exempt sellers and the businesses who administer and profit from these networks are able to be completely unreasonable. This was highlighted by the tenant's situation.

The tenant had an unpaid debt lower than \$120 (the equivalent minimum disconnection amount for a licensed retailer under Victoria's Energy Retail Code at that point in time and much less than the current \$300 minimum disconnection amount that is aligned with other Australian jurisdictions).

The tenant was able to pay, in full, within a week having only fallen short because of a delay in receiving a full weeks' worth of pay after starting a new job. She took proactive steps to contact the business responsible the exempt network's billing yet received no response specific to this early disclosure that she was facing payment difficulty despite communications on billing that the business would respond.

A worker at the exempt seller's billing management business was repeatedly rude and explicitly refused to accept the offer to pay in full only a week late nor any other form of assistance or flexibility and stated that they were proceeding with disconnection. The worker also mocked the tenant when they threatened to take their business elsewhere (the tenant was unaware that they were practically unable to leave the network at that time, clearly this not explained adequately when the tenant moved in to the apartment).

The tenant called EWOV, who had to refer to Consumer Affairs Victoria who said they could do nothing and referred to the National Debt Helpline (Consumer Action). Our Financial Counsellor referred back to Consumer Affairs Victoria to make a complaint and seek urgent conciliation. [The Financial Counsellor also suggested the tenant identify and make contact with their building manager via their real estate agent to discuss hardship (the tenant had never been clearly informed who this is).

The FC commented that it was infuriating that someone calling the National Debt Helpline who had proactively taken all the correct steps to resolve payment difficulties under normal circumstances was likely to be disconnected. The FC was afraid that many people may be forced to access credit from predatory lenders to stay connected or simply be disconnected because of a lack of access to EWOV.

The process to resolve disputes and protect consumers in exempt networks is unnecessarily complex. This actively engaged person working hard to avoid disconnection was still unlikely to have stopped the disconnection. The process required significant amounts of the tenant's time compared to simply contacting EWOV, a step the tenant made proactively in this situation.