



16 January 2024

Mr Arek Gulbenkogl  
General Manager  
Australian Energy Regulator

Via email: [AERresets2024-29@aer.gov.au](mailto:AERresets2024-29@aer.gov.au)

Dear Mr Gulbenkogl

- **Endeavour Energy electricity distribution determination 1 July 2024 to 30 June 2029 – Draft decision and Revised proposal**
- **Ausgrid electricity distribution determination 1 July 2024 to 30 June 2029 – Draft decision and Revised proposal**

Thank you for the opportunity to comment on these draft decisions and revised proposals.

The Energy & Water Ombudsman NSW (EWON) investigates and resolves complaints from customers of electricity and gas providers in NSW, and some water providers. Our comments are informed by our investigations into these complaints, and through our community outreach and stakeholder engagement activities.

We have only responded to those questions that align with issues customers raise with EWON, or with our organisation's operations as they relate to this rule change.

We do not have any comments regarding the Essential Energy electricity distribution determination 1 July 2024 to 30 June 2029 Draft decision and Revised proposal.

If you would like to discuss this matter further, please contact Rory Campbell, Manager Policy & Systemic Issues, on (02) 8218 5266.

Yours sincerely

A handwritten signature in black ink that reads "Janine Young".

**Janine Young**  
Ombudsman  
Energy & Water Ombudsman NSW

### Embedded network tariffs

Ausgrid and Endeavour Energy are proposing to introduce embedded network tariffs over a transition period for the 2024-2029 regulatory period. The aim of these new network tariffs is to better reflect the costs that embedded networks impose on networks, and therefore ensure that embedded network customers are making a fair contribution to recovering the cost of the networks.

In our submission to the Issues Paper consultations<sup>1</sup>, we noted that the policy and economic basis for introducing network tariffs for embedded networks is reasonable. However, we also detailed two significant related issues which should be considered in relation to embedded network tariffs:

- the increased costs associated with these new tariffs will be passed on to customers living in the embedded networks who do not have access to retail competition
- customers living in embedded networks are not receiving the same protections that on-market customers receive through their direct relationship with distributors (supported by an EWON case study, reproduced as an attachment to this submission).

To contextualise our comments, we also provided an overview of the work being done around pricing in embedded networks at the state and national level.

Since the Issues Paper consultations, the Independent Pricing and Regulatory Tribunal (IPART) released its draft report in December 2023 looking at electricity, gas, hot and chilled water pricing in embedded networks in NSW<sup>2</sup>. One of IPART's primary recommendations is that there should be maximum pricing for customers in embedded networks, with six-monthly benchmarking based on the median of the lowest tariffs available to on-market customers. If IPART's recommendations are implemented successfully and in a timely manner, this may help to address our concerns about the potential increased costs of the proposed new tariffs being passed on to customers who are not then able to access retail competition in response to those increased costs.

However, even if these pricing protections are brought in, it is still important to take into account the lack of retail competition and differences in distributor protections when considering the proposed embedded network tariffs.

#### Endeavour Energy

The AER stated in its Draft decision that a significant number of the submissions raised issues in relation to Endeavour Energy's tariff structure statement, including the proposed embedded network tariff<sup>3</sup>. The AER requested that Endeavour Energy provide further analysis and supporting information on its embedded network tariff<sup>4</sup>.

We acknowledge that Endeavour Energy's Revised Proposal provides the requested supporting information and examples, and that it made targeted adjustments to its proposed embedded network tariffs.

Endeavour Energy advised in its revised Tariff Structure Statement that it accepts that the formation of an embedded network could result in an offsetting and incremental saving in operating expenditure which Endeavour would otherwise incur i.e. areas such as vegetation management,

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<sup>1</sup> [EWON submission - AER 2024-29 Network Regulatory Proposals - May 2023.pdf](#)

<sup>2</sup> [IPART Draft Report Embedded Networks - December 2023.pdf](#)

<sup>3</sup> [AER Draft Decision Overview - Endeavour Energy 2024-29 Distribution Revenue Proposal - September 2023.pdf](#), p9

<sup>4</sup> Ibid, pp27-28



maintenance and emergency response<sup>5</sup>. EWON supports Endeavour Energy's decision to adjust the network tariff in accordance with this principle. It aligns with EWON's position that customers in embedded networks are not covered by the same obligations a distributor has to its customers under a deemed customer connection contract, including notification requirements for interruptions, service standards and access to guaranteed service level schemes.

### Ausgrid

The AER stated in its Draft decision that a significant number of the submissions discussed issues relating to Ausgrid's proposed tariff structure which would apply to embedded network consumers<sup>6</sup>. The AER requested that Ausgrid consult further on its embedded network tariffs to hear from a broader range of stakeholder views and provide further information to justify the proposed new tariffs<sup>7</sup>.

We acknowledge that Ausgrid's Revised Proposal provides the requested supporting information, including additional stakeholder consultation.

Ausgrid advised in its revised Tariff Structure Statement that it has identified minimal avoided costs resulting from embedded networks<sup>8</sup>. EWON is of the view that Ausgrid should further consider this with a view to identifying further operational expenditure savings associated with the fact that embedded network customers are not covered by the obligations a distributor has to its on-market customers under a deemed customer connection contract.

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<sup>5</sup> [Endeavour Energy Revised Tariff Structure Explanatory Statement 2024-29 Regulatory Control Period - November 2023.pdf](#), p71

<sup>6</sup> [AER Draft Decision Overview - Ausgrid 2024-29 Distribution Revenue Proposal - September 2023.pdf](#), p11

<sup>7</sup> Ibid, p30

<sup>8</sup> [Ausgrid Our revised TSS Explanatory Statement for 2024-29 - November 2023.pdf](#), p30



## Attachment – Case study

### Case study: Embedded network customer unable to claim compensation for losses after 8-day power failure

In July 2020 a customer complained to EWON that he had experienced a power outage due to a transformer failure within the broader electricity network, which affected many customers in the area. The outage lasted eight days. The customer contacted the distributor and requested it provide an electricity generator for his residential building so that residents could run some appliances. The distributor's customer service representative told the customer he could submit a claim for compensation for food wastage if the outage lasted several days. After the power was restored, the customer submitted a claim to the distributor. The claim was declined because the customer lived in an embedded network. EWON advised the customer that as he was not covered by a customer connection contract with the distributor, he could only make a claim to his embedded network operator.

The customer returned to EWON after making the claim for losses caused by the unplanned outage to the embedded network operator. The embedded network operator had also declined the customer's claim. EWON referred the customer's complaint to the embedded network operator at a higher level. The embedded network operator provided EWON with the following reasons why the claim could not be taken further:

- The electricity outage was caused by the fault at the network substation and not within the embedded network, so the incident was outside the control of the embedded network.
- The embedded network operator did make a group claim on behalf of the customers within the embedded network, but the claim was declined by the distributor.
- An individual claim could not be made on behalf of the customer to the distributor as the incident was outside the regulated reporting period.

EWON contacted the embedded network provider to obtain more information about the handling of the customer's claim. The embedded network provider confirmed that the claim was initially rejected because the cause of the outage was an electrical storm, and the operator could not make a claim to the distributor on behalf of the affected residents. This was due to the nature of the connection contract between the distributor and the embedded network operator. The embedded network operator did offer to provide the customer with a credit of \$150 due to the lack of information provided in response to the customer's initial claim.

The customer complained to EWON again in November 2020. The customer advised that the network transformer that was replaced nine months earlier caught fire and caused a second electricity outage event in the building. The customer made a claim for \$400 due to food spoilage and was again referred by the embedded network operator to make the claim directly to the distributor. EWON referred the matter to a higher level and the embedded network operator contacted the customer and apologised for providing incorrect information. The embedded network operator offered to include the customer's claim in the group claim it was making to the distributor following the event.

EWON contacted the embedded network operator again to follow up on the outcome of the customer's claim. They advised that an explanation for the network event had not been received from the distributor. The embedded network operator offered the customer a credit of \$150 due to the customer service issues he experienced following the event. The embedded network operator also agreed to support the customer's claim to the distributor and to seek reasons for



any decision. The customer accepted this outcome to the complaint about the embedded network operator.

The customer again returned to EWON when his claim to the distributor was declined on the basis that he was an embedded network customer. EWON obtained the claim information from the embedded network operator and reviewed the customer contract for both the embedded network operator and the distributor. EWON provided the customer with additional information and acknowledged that the customer was in a situation where they were unable to claim further for unplanned network outages.