



Department of Energy, Mines,
Industry Regulation and Safety
Energy Policy WA

Decision Regulatory Impact Statement – Sale and supply of electricity in embedded networks

June 2024

Working together for a **brighter** energy future.

An appropriate citation for this paper is: Decision Regulatory Impact Statement

Energy Policy WA

Level 1, 66 St Georges Terrace
Perth WA 6000

Locked Bag 100, East Perth WA 6892
Telephone: 08 6551 4600

www.energy.wa.gov.au
ABN 84 730 831 715

Enquiries about this report should be directed to:

Email: EPWA-AES@deed.wa.gov.au

Contents

Glossary and abbreviations	iv
Executive summary	vi
1. Introduction	1
1.1 Overview of this paper	1
1.2 What is an embedded network?	1
1.3 The new AES registration framework	2
1.4 Problem statement	3
1.5 Is there a need for additional regulation?	4
1.6 Project objective	4
2. Consultation	5
2.1 Out of Scope	6
2.2 Options considered	6
3. Collation of consultation responses	7
3.1 Overview	7
3.2 Consultation feedback overwhelming supportive of Option 4	7
3.3 Main themes raised in consultation	7
3.4 Feedback on AES Code obligations	15
4. Outcomes of cost benefit analysis	16
4.1 Costs and benefits	16
4.2 Estimation of future costs	17
5. Decision	18
5.1 Statement of decision	18
5.2 Discussion	18
5.3 Key recommendations	18
5.4 Potential unintended consequences	19
6. Implementation issues	20
6.1 Implementation timeframe	20
6.2 Transitional provisions	20
6.3 Evaluation after implementation	21

Tables

Table 1: Options to address the problem	6
Table 2: AES registration framework – indicative impact	16

Figures

Figure 1: Embedded electricity network	1
Figure 2: Comparison of licensing, AES and exemptions frameworks	3

Figure 3: Indicative implementation timeframe for AES registration framework and prescription of initial services 20

Glossary and abbreviations

TERM	EXPLANATION
AES Code	A proposed code of practice applicable to providers of prescribed services under the Alternative Electricity Services registration framework.
AES registration framework	The registration framework for alternative electricity services in Western Australia enabled under Part 3A of the Electricity Industry Act 2004.
Alternative electricity service or AES	A service prescribed as an alternative electricity service under the AES registration framework, such as potentially embedded network services or on-site power supply arrangements.
Caravan Park Exemption Order	The exemption that allows caravan park operators to on-supply electricity to permanent residents without a retail licence – the ‘Electricity Industry (Caravan Park Operators) Exemption Order 2005’ .
Consultation Regulatory Impact Statement (CRIS)	A requirement under the Better Regulation Program of the Department of Treasury for a consultation document that sets out key details and potential impacts of a regulatory proposal and seeks stakeholder feedback.
DEMIRS	Department of Energy, Mines, Industry, Regulation and Safety
DER	Distributed Energy Resources such as solar photovoltaic panels, batteries and electric vehicle charging infrastructure
Disclosure Statement	Annexure A to the Voluntary Embedded Networks Code.
embedded network	means a distribution system that: (a) is located on a property; and (b) supplies electricity to at least one customer who is not a person in control of the distribution system, or related to a person in control of the distribution system; and (c) is supplied with electricity by another distribution system operated by another person; and (a) is not part of a covered network. <i>Note: a ‘covered network’ is one that is covered by access regulation under the Electricity Industry Act 2004, for example Western Power’s network.</i>
embedded network seller or ENS	The person who has the contract or arrangement for the purchase of electricity from the grid at a master meter for the embedded network, or another person subject to approval of the regulator.
End-use customer or customer	A person who buys electricity for their own personal consumption (or consumption by their household or business) and does not sell that electricity on to someone else.

TERM	EXPLANATION
Energy Ombudsman	Western Australian Energy and Water Ombudsman.
ERA	Economic Regulation Authority, which is the regulator of the electricity licensing framework and the AES registration framework.
EV	Electric vehicle
Exemption Order	<u>Electricity Industry Exemption Order 2005</u>
OPS	On-site power supply
Small Use Code	<u>Code of Conduct for the Supply of Electricity to Small Use Customers 2022</u> which is the code that set out the standards of conduct that licensed retailers and distributors must comply with.
small-use electricity customers	A customer to whom electricity is sold for the purpose of consumption and who consumes not more than 160 MWh of electricity per year.
the Act	<u>Electricity Industry Act 2004</u>
the Survey	A survey of customers, operators and service providers of embedded networks and other interested stakeholders undertaken by Energy Policy WA in November 2022.
Voluntary Embedded Networks Code or Voluntary EN Code	A non-binding voluntary embedded networks code of practice for the supply of electricity to customers within embedded networks, to be complied with by ENS who choose to participate to 'learn by doing' prior to the potential application of the (mandatory) AES Code to ENS.

Executive summary

It has been almost 20 years since the *Electricity Industry Act 2004* (the Act) came into effect and set up the electricity licensing and exemption framework. The framework was established at a time when electricity supplies were for the most part centrally generated and supplied to consumers via large transmission and distribution networks under supply contracts with retailers.

Licences were applied to large operators (e.g. retailers like Synergy), while exemptions from the licensing requirements recognised that not all arrangements would be practical to be licensed. For example, operators of caravan parks were exempted from the requirement to hold a retail electricity licence as they tend to be smaller operators and they do not sell electricity as their core business¹.

There is, however, now a growing range of atypical electricity retail services that involve the selling and management of electricity under differing arrangements, such as the sale and supply of electricity in embedded networks, to those provided by 'typical' licensed electricity retailers.

These arrangements, referred to in this paper as alternative electricity services (AES), include services like the sale and supply of electricity in embedded networks, on-site power supply (OPS) services, peer to peer trading, electricity aggregation services and electric vehicle charging services. AES business models can include the retailing, storage, aggregation, generation, and/or distribution of electricity, and could incorporate a membership-based or subscription payment arrangement for electricity or electricity services.

Following a 2019 review of the electricity licensing and exemption framework in Western Australia, Energy Policy WA developed the AES registration framework to apply customer protection obligations on persons offering electricity services through emerging and atypical business models that fall outside the licensing framework, or for which the licensing framework is not fit for purpose.

Legislative amendments to the Act to establish the AES framework took effect on 23 April 2024.

The amended Act does not prescribe services required to register as an AES. If a need to regulate a service has been identified, then the service will be prescribed in regulations as an AES, and providers of that service will then need to register and meet any relevant obligations in the Act, regulations and mandatory AES Code of Practice (AES Code).

During an 8-week period from 22 February to 19 April 2024 Energy Policy WA sought feedback by way of a [Consultation Regulatory Impact Statement \(CRIS\)](#). The CRIS considered options to regulate the sale and supply of electricity in embedded networks including whether embedded networks should be covered by the AES registration framework. On 5 March 2024 Energy Policy WA held an online public forum for stakeholders on the proposed regulation of embedded networks in Western Australia. One hundred and four stakeholders attended.

The policy objective of the consultation was to identify the best and most practical way to extend customer protections to embedded network customers, including an adequate dispute resolution pathway and a suitable compliance and enforcement mechanism, without imposing unnecessary regulatory burden on embedded network sellers. Thirty-one submissions were received.

Feedback on proposed obligations on embedded network sellers contained in the final Voluntary Embedded Networks Code of Practice (Voluntary EN Code) was also received during the consultation period. In addition to the formal consultation process, embedded networks sellers were invited to participate in a voluntary period to test and refine the obligations as a learn by doing exercise commencing 22 February 2024. Ongoing feedback is being gathered as part of this

¹ [Electricity Industry \(Caravan Park Operators\) Exemption Order 2005](#)

voluntary period which will continue until the end of September 2024 and inform the final AES Code as it relates to embedded networks.

Following review of stakeholder feedback to date and received as part of the CRIS process, including analysis of costs and benefits, Energy Policy WA considers the best method for the regulation of the sale and supply of electricity in embedded networks in Western Australia, is Option 4 – AES registration framework.

Accordingly, Energy Policy WA recommends the sale and supply of electricity in embedded networks be regulated under the new AES registration framework.

Key policy decisions

The following key policy decisions have been made in accordance with Energy Policy WA recommendations, as follows:

- The sale and supply of electricity in embedded networks should be regulated under the new AES registration framework. The AES registration framework is the best option to address the issues raised in the problem statement (see Section 1.4).
- Regulations should be made pursuant to section 59C of the Act to prescribe the sale and supply of electricity in embedded networks as an “activity”.
- The costs of requiring the ENS to register under the AES registration framework are proportional to the benefits and will provide a net benefit to the economy.
- It is suitable to apply some obligations to ENS in respect to their supply to large use customers and these obligations should be set out in regulations.
- A fast-track route to assess ENS registration applications should be adopted.
- Licensed electricity retailers should be required to obtain a separate AES registration if intending to provide the service of an ENS.
- There is evidence of a potential need for transitional arrangements or a phased approach for certain sectors of the embedded networks market and/or for commencement of certain AES Code obligations and Energy Policy WA will consider appropriate transitional arrangements.
- The regulations should define who will need to register to provide the service, for example, the embedded network seller or ENS. A working definition of “embedded network seller” is contained in the Voluntary EN Code and will be finalised in regulations to prescribe embedded networks as an AES.
- The regulations should set out circumstances where registration is not required, for example, an exemption for on-suppliers where the electricity costs are bundled into a room rate that does not vary according to the customer’s electricity consumption or for persons on-selling electricity for the sole purpose of charging electric vehicles.

1. Introduction

1.1 Overview of this paper

This DRIS sets out a decision on the regulation of the sale and supply of electricity in embedded networks in Western Australia. This follows consideration of feedback received from stakeholders as part of a Consultation Regulatory Impact Statement (CRIS), which sought feedback on the best option for the future regulation of electricity supply in embedded networks.

Section 1 sets out what an embedded network is, the problem statement and project objective.

Section 2 provides an overview of the CRIS process.

Section 3 provides a summary of the stakeholder feedback received during the CRIS process.

Section 4 summarises feedback on the costs and benefits of the preferred option.

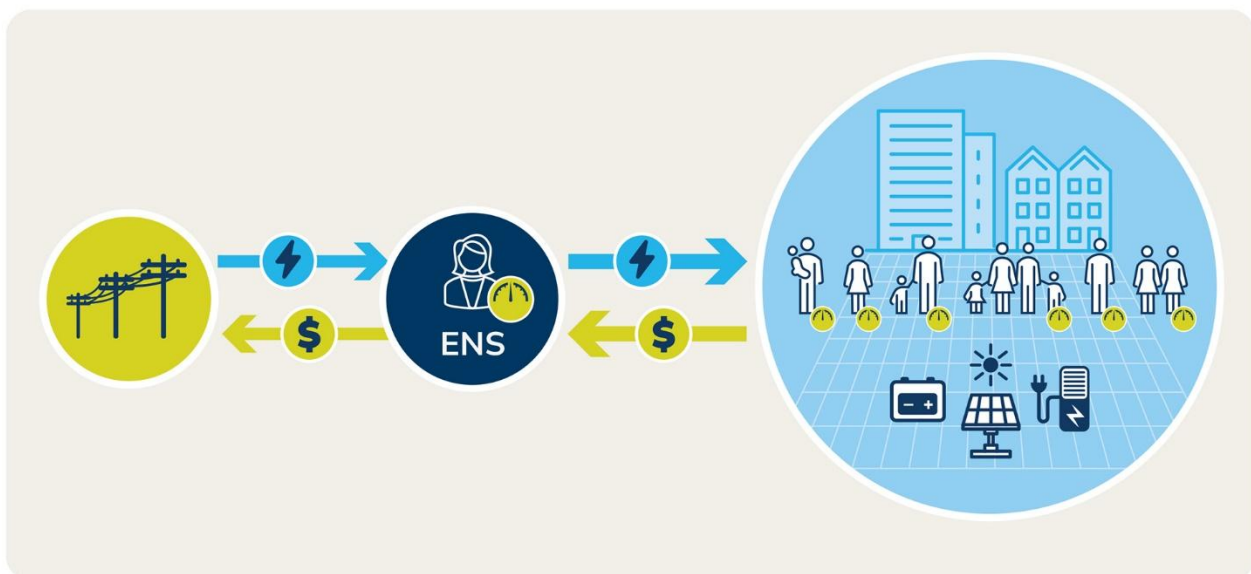
Section 5 provides the recommendation on how the sale and supply of electricity in embedded networks should be regulated.

Section 6 provides an overview of the implementation issues.

1.2 What is an embedded network?

An embedded network is a private electricity network servicing multiple lots or tenancies within the one property. It is connected to the electricity grid through a 'master meter' measuring the power supplied to the private network on that property through that connection point (Figure 1).

Figure 1: Embedded electricity network



The operator of the embedded network buys electricity from a licensed retailer (or sometimes another on-seller) to supply the whole property and on-sells that electricity to individual customers on the property. The operator of the embedded network may be the property owner (or owners), or a third party under contract and can be referred to as the embedded network seller or ENS.

Persons on-supplying and on-selling electricity in embedded networks are currently exempt from the requirements to hold an electricity retail or distribution licence and there is no obligation for these operators to register to provide the service. There is consequently a lack of data on the number of embedded networks operating in Western Australia and number of customers supplied

electricity in this manner. It is estimated that small business customers in embedded networks in Western Australia number in the thousands, and residential customers in the tens of thousands.

There is no formal enforcement framework to monitor compliance with the Exemption Order. If a company operating under the Exemption Order doesn't meet any of the conditions of the exemption (no matter how minor the breach), the exemption automatically ceases to apply for the period of the breach and the entity that held the exemption can no longer legally conduct its business. This is one of the major disadvantages of the exemptions framework for regulating embedded networks. Theoretically, a customer within an embedded network could be left without a provider of an essential service until the breach was rectified or until the exempt provider obtained a retail licence. Stakeholders commented on this regulatory uncertainty in the consultation feedback (see Section 3).

Embedded network customers do not have access to the customer protections that are provided to customers of licensed retailers like Synergy, including those contained in the Code of Conduct for the Supply of Electricity to Small Use Customers (the Small Use Code). For example, customers in embedded networks do not have access to regulated protections in relation to:

- supply agreements needing to be in writing;
- a right to request a meter test if they suspect the meter may be inaccurate;
- support for residential customers experiencing financial hardship or family violence;
- robust dispute resolution procedures; or
- suitable processes for supply disconnections, reconnections and interruptions.

Customers who otherwise would be able to access market offers and choose their retailer (i.e. non-residential customers consuming more than 50 MWh of electricity in any 12 month period) do not have this ability in embedded networks as they are only able to source electricity supply from the exempt on-seller.

Over time this atypical business model is becoming more prevalent. For most, if not all, customers in embedded networks the on-selling arrangement is usually the customer's sole supply of electricity. This is exactly like any customer connected directly to the grid via a Western Power or Horizon Power meter.

Continuing to rely on licence exemptions for the sale and supply of electricity in embedded networks leaves potentially tens of thousands of small use customers without recourse to enforceable customer protections. These customers are also left without access to the Energy Ombudsman to resolve complaints and disputes for their essential electricity supply.

The Western Australian Government is concerned that these customers are negatively impacted by the current lack of customer protections. Energy Policy WA in its CRIS dated 22 February 2024, sought public and stakeholder feedback on the different options for regulating the sale and supply of electricity in embedded networks. These options ranged from maintaining the status quo to requiring embedded network operators to become licensed retailers and distributors.

The CRIS is discussed at section 2 and feedback received on the options considered in the CRIS is discussed in detail at section 3.

1.3 The new AES registration framework

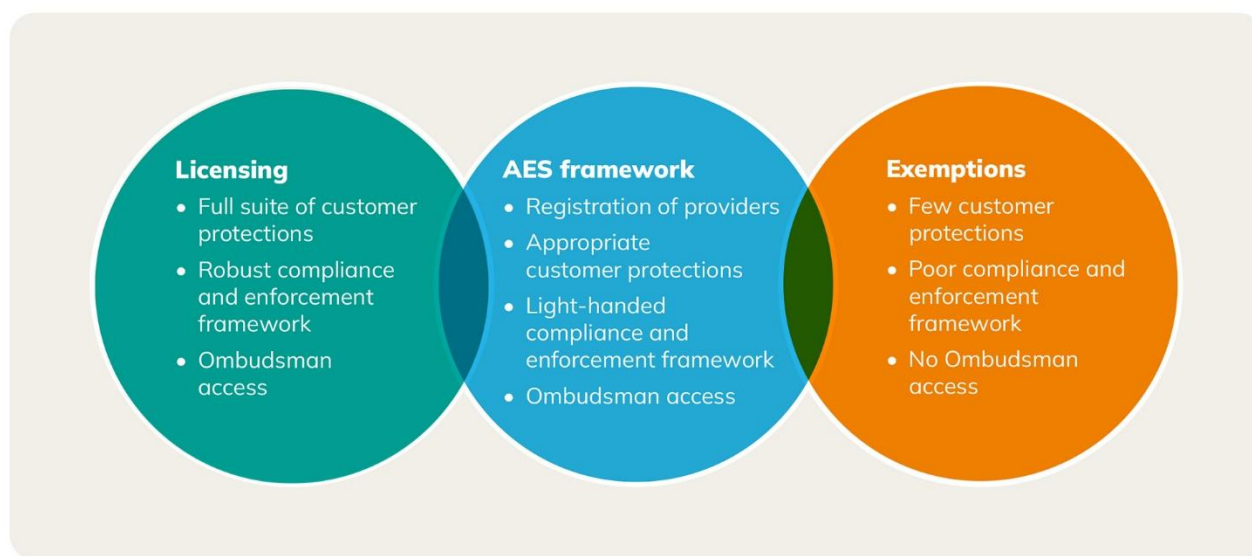
The AES registration framework operates alongside the existing electricity licensing and exemption frameworks established under Part 2 of the Act.

The AES framework will require providers of a prescribed service to register, become a member of the Electricity Ombudsman scheme and comply with obligations contained in a single mandatory code of practice, the AES Code. This registration framework will deliver enforceable protections for electricity customers of those AES providers.

To allow flexibility for the framework to be applied to new and innovative services, the activities regulated under the AES registration framework will be prescribed in regulation. The requirements for providers of each prescribed service can be tailored to the particular characteristics of that service. The ERA will be responsible for monitoring compliance with, and enforcement of, the registration framework, as well as for maintaining the public register of AES providers.

The AES registration framework is intended to be flexible enough to cover a broad range of electricity-related activities into the future, if and when a need for regulation of those activities arises. It is designed to provide a fit for purpose regulatory regime to extend protections to customers of innovative and emerging electricity services.

Figure 2: Comparison of licensing, AES and exemptions frameworks



Consistent with the Principles of the Better Regulation Program, before any activity is regulated under the AES registration framework a regulatory impact assessment will be undertaken, including stakeholder consultation, to examine whether regulation is warranted, whether the AES registration framework is the appropriate form of regulation for the activity, and – if so – the regulatory settings that should be applied for that activity.

1.4 Problem statement

Customers sold or supplied electricity in embedded networks do not have the customer protections that equivalent grid-connected customers enjoy, including access to the Energy Ombudsman to help resolve any problems.

Energy Policy WA considers that both types of customers should have access to similar customer protections.

Energy Policy WA estimates that tens of thousands of small use customers are currently sold and supplied electricity as an essential service through embedded networks.

This atypical business model is becoming more common, particularly in medium to large strata complexes (such as urban infill projects). Sophisticated third party service providers have emerged to assist with installing and/or operating embedded networks, most commonly embedded networks in situations where there is a shared property ownership structure (e.g. strata scheme).

Drivers for the embedded network business model in the South West Interconnected System include:

- Reducing total energy costs for the property by aggregating total load and bulk buying electricity, which can yield savings for occupants and/or an arbitrage opportunity for the ENS on both retail and network components of electricity costs.
- Enabling easier integration of shared sustainable infrastructure, such as solar panels or electric vehicle chargers.
- For greenfields projects, it may be faster and/or cheaper to install a private embedded network than for Western Power to install metering infrastructure at the site.

Given the expansion of this business model, continuing to rely on licence exemptions for ENS leaves more and more small use customers:

- without recourse to important electricity-specific customer protections;
- with no fit for purpose compliance and enforcement framework to impose proportionate consequences on ENS who do not comply with the current (limited) protections; and
- without access to the Energy Ombudsman to resolve complaints and disputes.

1.5 Is there a need for additional regulation?

Since 2021, Energy Policy WA has undertaken extensive consultation with embedded network stakeholders to better understand the current situation.

As well as one on one consultation with embedded network service providers and industry representative bodies, Energy Policy WA:

- surveyed residential and non-residential customers in embedded networks, embedded network sellers and service providers as detailed in the CRIS at section 3.1.1;
- published a draft Voluntary EN Code and associated Consultation Paper and in March 2023;
- published final Voluntary EN Code and associated Decision Paper on 22 February 2024; and
- published the CRIS on 22 February 2024.

Energy Policy WA has also received numerous queries and complaints regarding customer experiences in embedded networks. Additionally, Energy Policy WA has consulted with the Australian Energy Regulator and other Australian States' energy policy departments on the regulation of embedded networks.

These inputs have highlighted that many small use customers who receive their primary electricity supply (an essential service) within an embedded network would benefit by having enforceable customer protections (including access to the Energy Ombudsman for dispute resolution) and a robust compliance and enforcement regime. Large use customers in embedded networks have also provided feedback to consultation processes highlighting key areas of concern for this cohort.

1.6 Project objective

Energy Policy WA considers that small use electricity customers who receive their electricity supply through embedded networks should have substantively equivalent protections as customers of licensed retailers because:

- the electricity sold or supplied in embedded networks is the sole or primary source of electricity for the vast majority of these customers, making the arrangement an essential service;
- the number of customers supplied through embedded networks is growing, meaning more customers are receiving electricity as an essential service from an ENS;
- most other Australian jurisdictions benefit from greater regulatory oversight of embedded networks including better visibility of ENS by the regulator, Government and potential customers, as well as customer access to a relevant ombudsman service;

- there is evidence that customers are unaware that they will not have the same customer protections as grid connected customers at the time that they consider moving to an embedded network, or even that electricity supply arrangements vary between different property types; and
- aligning customer protections with grid-connected customers addresses a majority of concerns raised in both the Survey and directly with Energy Policy WA.

Energy Policy WA also considers that the licensing regime would impose potential barriers to entry and/or force some existing suppliers to exit the market due to the costs and regulatory burden of licensing, which are disproportionate to the operating model of most ENS.

Therefore, the policy objective is to find the best and most practical way to extend substantively equivalent protections to customers of ENS as provided by licensed retailers, including an adequate dispute resolution pathway and a suitable compliance and enforcement mechanism, without imposing unnecessary regulatory burden on ENS.

Examples of the types of customer protections that Energy Policy WA seeks to extend to customers sold or supplied electricity in an embedded network include, but are not limited to:

- a requirement for supply agreements to be in writing and include certain information such as tariffs, fees and charges and how they may be varied;
- a prohibition on unreasonably withholding, preventing or obstructing the supply of electricity to a customer;
- disclosure of information up-front prior to a customer being supplied by the ENS;
- facilitating non-residential customers who consume more than 50MWh of electricity in any 12 month period obtaining a supply of electricity from a different supplier, at the customer's cost;
- access to suitable meters and the ability to request testing of a meter;
- minimum billing information requirements;
- support for residential customers experiencing financial hardship or family violence;
- robust dispute resolution procedures, including access to the Energy Ombudsman to assist with disputes;
- suitable processes for managing disconnections, reconnections and supply interruptions;
- protections for residential customers who rely on life support equipment; and
- cost pass-through measures to facilitate decarbonising the electricity supply in embedded networks.

It is also proposed that ENS would be required to make safety net prices available, based on existing Government regulated tariffs for small-use customers.

The above obligations are contained in the Voluntary EN Code attached at Appendix B which is currently operating as a “learn by doing” process to test the suitability of and inform future AES Code obligations in relation to embedded networks.

2. Consultation

On 22 February 2024 Energy Policy WA launched an 8-week comprehensive consultation process for the future regulation of the sale and supply of electricity in embedded networks by releasing the CRIS and opening the Voluntary EN Code to participants in the voluntary period.

The CRIS outlined the issues that impact customers, notably the lack of specific and/or easily enforceable electricity customer protections under the current form of regulation for customers in embedded networks which has the potential to negatively affect customers.

The consultation sought feedback on the four options for regulating the sale and supply of electricity in embedded networks, ranging from maintaining the status quo to requiring embedded

network seller (as defined in the Voluntary EN Code of Practice) to register under the AES Registration Framework.

The term “embedded network seller” or “ENS” is used to mean the person who has the contract or arrangement for the purchase of electricity from the grid at a master meter for the embedded network, or another person subject to approval of the regulator.

The scope of the CRIS related to:

- the on-sale of electricity – that is, the function of retailing electricity to customers – in embedded networks, other than in the situations listed as being out of scope below; and
- elements of the supply of electricity that are necessary to support the on-sale of electricity, for example providing electrical meters and/or the management of disconnections and interruptions to supply.

The regulated party – the one doing the on-selling – would be the person who has the contract or arrangement for the purchase of electricity at the point at which the embedded network connects to the main electricity grid (where a person may be an individual or a company). A different person could take on responsibility for the regulatory obligations, subject to approval by the regulator.

2.1 Out of Scope

Consultation did not consider:

- grid-connected customers (those who receive a bill from Synergy, Horizon Power or other licensed retailers in the contestable market);
- customers supplied by BHP or Rio Tinto in mining towns, or by the Rottnest Island Authority;
- the proposed business model of private embedded networks supplying multiple green titled lots in new developments for which electricity retail and distribution licences would be required;
- microgrids using on-site generation and storage that are designed to operate independently (i.e. islanded from the main grid) for a period of time, for which electricity retail and distribution licences would be required; and
- the short-term on-supply of electricity to end use customers where there is no retailing of electricity, for instance the on-supply of electricity in hotels and other short-term accommodation where electricity costs are bundled into a room rate.

2.2 Options considered

Table 1: Options to address the problem

Option	Description
Option 1	Status quo – class-based exemption
Option 2	Individual exemption
Option 3	Licensing
Option 4	AES registration framework

Options 1 to 3 are not reconsidered in detail as stakeholder feedback (outlined below) indicates overwhelming support for Option 4. Energy Policy WA does not consider Options 1 to 3 meet the policy objective. Where feedback was received from stakeholders on why Options 1 to 3 are not supported, this is discussed at section 3.

3. Collation of consultation responses

3.1 Overview

Energy Policy WA invited (via email) 1,838 stakeholders to provide feedback to the CRIS process². A public forum on embedded networks was also held on 5 March 2024 for stakeholders. One hundred and four stakeholders attended the public forum and there were 161 subsequent visits to the forum page after it was published.

3.2 Consultation feedback overwhelming supportive of Option 4

Energy Policy WA received 32 submissions. All submissions except two showed some support for Option 4 (AES registration framework). Some stakeholders proposed modifications to Option 4 (see discussion below).

One submission from an individual residential customer in an apartment complex expressed support for Option 3 (licensing). However, the response highlighted support for access to the Energy Ombudsman, which could be achieved through Option 4.

Another stakeholder, not currently an embedded network customer but is proposing a community-run embedded network at her property, was in favour of Option 4 with exemption for embedded network sellers who only pass on the actual costs of electricity and electricity services to embedded network customers.

14 individual stakeholders did not expressly state a preference for Options 1, 2, 3 or 4, however of this group:

- 13 submissions indicated clear support for the features of regulation under the AES registration framework; and
- one individual stakeholder (owner in strata) was not in favour of increased regulation of embedded networks due to a perceived regulatory burden on strata companies and lack of evidence of a problem.

The submission from the Shopping Centre Council of Australia (SCCA) was not supportive of Option 4 in its current form however offered suggested modifications if Option 4 were inevitable.

3.3 Main themes raised in consultation

Positive feedback on reform and consultation process

Most stakeholders accepted the need for reform of the regulation of embedded networks in Western Australia. Several were complimentary of Energy Policy WA's consultation processes. Support focussed on the ability of Option 4 (AES registration framework) to deliver customer protections to customers in embedded networks, regulatory oversight by the ERA and access to the Ombudsman to resolve disputes at a lower cost than Option 3 (Licensing).

² This figure includes stakeholders consulted on regulation of on-site power supply arrangements and proposed general regulations for the AES registration framework as a combined invitation was sent.

We acknowledge Energy Policy WA's ongoing efforts in facilitating extensive consultation with stakeholders regarding regulations around Embedded Networks, aimed at ensuring fairness and consumer standards for consumers. This commitment to inclusivity and transparency has provided stakeholders with a vital platform to share feedback, insights, and perspectives crucial to the development of a robust energy policy framework. – Energy Intelligence

We agree with EPWA that there are deficiencies in the current exemption framework. The exemption places fewer obligations on an embedded network seller compared to a licensed retailer and as such customer protections are often diminished. We support the proposed Alternative Electricity Services (AES) registration framework as a means of providing customers with substantially equivalent customer protections as are supplied by a licensed retailer, without incurring the cost or regulatory burden associated with a full licence. – Origin Energy

The SBDC strongly supports regulatory intervention to enhance the protections available to embedded network customers. This includes requiring embedded network suppliers to register with government and introducing minimum bill requirements, restrictions around electricity mark-up and enhanced dispute resolution avenues. – Small Business Development Corporation

We are pleased to see the development of the Alternative Energy Services registration framework as a mechanism to extend relevant consumer protections to embedded network customers. – Energy Consumers Australia

Status quo, individual exemptions and licensing options not supported

Most stakeholders did not support class based exemptions (the status quo), individual exemptions or licensing in favour of the AES registration framework. Stakeholders provided detailed answers to Energy Policy WA questions regarding these options and feedback overwhelmingly supported the regulation of the sale and supply of electricity in embedded networks being regulated by the AES registration framework.

Option 1 (class based exemption)

Stakeholders shared their views on the costs and benefits of Option 1. Costs included:

- a lack of customer protections;
- poor metering practices;
- a lack of transparency around pricing;
- a lack of a dispute resolution pathway such as access to the Ombudsman; and
- a lack of clarity on current regulatory settings creating regulatory uncertainty.

Other issues cited included:

- the possible regulatory uncertainty in the event of the failure of an exempt ENS; and
- the consequential risks to embedded network customers regarding their on-going energy supply (if an ENS exits the market).

Benefits of Option 1 included low compliance costs and the ability of the current settings to drive investment in renewables within embedded networks. However, this investment in renewables is not necessarily of benefit to end use consumers within embedded networks (e.g. in terms of any reduction in price paid for electricity). ENS investment in renewables, such as solar panels, if not passed on to end use customers in the form of discounts on the price caps under the Exemption Order, can allow ENS to increase profit margins on the supply of electricity once capital investment on the infrastructure is repaid.

Option 2 (individual exemption)

No stakeholders were in favour of Option 2 and very little feedback was provided. Some feedback was provided in response to Energy Policy WA's request for information on minimum conditions which would be necessary for an individual exemption, many of which are proposed AES Code obligations.

Option 3 (licensing)

Alinta and National Electrical and Communications Association (NECA) noted a preference for ENS who operate large scale or community sized embedded networks to be licensed. This is the current arrangement for any ENS supplying customers over more than one property and is outside the scope of the CRIS.

Most stakeholders who commented on Option 3 cited the costs of licensing and onerous obligations on licensees as disproportionate to any benefits to customers. Further, stakeholders identified that the increased costs would most likely be passed through to customers.

Submissions not in support of Option 4

SCCA did not consider there is sufficient evidence of issues in non-residential embedded networks to warrant any change and says Energy Policy WA's policy objective has become self-justifying. However, over the course of consultation, Energy Policy WA has received feedback of very high prices paid by non-residential customers from the Small Business Development Corporation (SBDC), multiple shopping centre tenants, industry associations and from independent customer stakeholder submissions, substantiated by copies of bills.

SCCA considers Option 4 will impose heavy cost and regulatory burden on the ENS. However, most other ENS stakeholders do not share this concern and in fact are supportive of clarity on the regulation of embedded networks in Western Australia.

In relation to potential code obligations contained in the Voluntary EN Code, SCCA commented that these remained unchanged from the draft Voluntary EN Code. SCCA also commented that its feedback on the draft Voluntary EN Code was *"ignored without clear justification"*. However, Energy Policy WA published a detailed Decision Paper on 22 February 2024 outlining all changes made as a result of consultation feedback on the draft Voluntary EN Code received in 2022 and setting out a clear explanation of why changes were made. A public forum was also held on 5 March 2024 to outline key changes to stakeholders.

SCCA's concerns related mostly to regulatory costs for ENS, eligible customer's ability to obtain a separate master meter connection and there being no requirement for a customer to make requests of the ENS in writing. SCCA seek deferment of the AES registration framework for non-residential networks until a clearer body of evidence is provided of actual regulatory and market failures.

SCCA also proposed modifications to the application of the AES registration framework should Option 4 be inevitable. These include a guaranteed fast track registration process without a public interest test and a cap on ERA and Ombudsman fees. As the AES registration framework is a new framework and embedded networks would be one of the first services to be regulated, costs cannot be guaranteed. Estimated costs have been developed in conjunction with ERA and Ombudsman's office.

Submissions in support of Option 4 with modifications

In addition to SCCA's submission, Energy-Tec did not see a need for reform and believe the costs of Option 4 are high. On balance Energy-Tec were supportive of the AES framework in principle though believe there are aspects of the Voluntary EN Code obligations which are too rigidly aligned to a licensed electricity retailer's business model.

Strata Communities Australia (WA) (SCA(WA)) provided a submission five weeks after the closing date. SCA(WA) considered the level of engagement on the best form of regulation for embedded networks was not as comprehensive as they expected, however, the submission was supportive of Option 4 to provide standardised electricity rights for consumers. SCA(WA) expressed reservations regarding some code obligations as these would be detrimental to the commerciality of schemes or functionality for those managing operations. For example, SCA(WA) took issue with proposed pricing obligations like introducing a default flat rate tariff.³ SCA(WA) was supportive of customer access to the Ombudsman and considered this may serve to improve outcomes for consumers.

One residential stakeholder wishing to convert an existing multi master meter property to an embedded network was in favour of Option 4 however, with exemption for embedded networks sellers where the actual costs only of electricity and electricity services are passed through to customers (that is, a non-profit embedded network).

Alinta Energy encouraged Energy Policy WA to consider an exemption threshold similar to the Australian Energy Regulator's (where a deemed exemption exists for ENS that sell electricity to fewer than 10 small use customers) and/or a class exemption for specific on-supply arrangements (e.g. granny flats).

SBDC strongly supported Option 4 with a modification to restrict landlords to charge the regulated tariff rate that a tenant would otherwise be entitled to if it was a standalone shop.

Energy Policy WA notes this is extremely difficult to regulate as market offers in the contestable retail market are not transparent. On balance, Energy Policy WA is of the view that a default flat rate tariff equal to the L1 Business Tariff is the most appropriate solution. However, consultation on final AES Code obligations in relation to price is ongoing.

For residential and non-residential customers, price is the main concern

Residential

For residential customers who provided feedback to the consultation, price is a main concern along with customer service, metering quality and safety and the ability to install distributed energy resources (DER) such as solar panels, on premises. Lack of access to the Ombudsman is also a key issue.

The residential customers who responded reside in strata complexes, retirement villages and long stay caravan parks. Several described prices exceeding the price cap contained in the [Exemption Order](#) which currently authorises embedded network sellers to on-sell electricity. For example, customers reported being charged a business rate rather than a residential rate. Some customers noted that supply charges had increased significantly overnight without explanation or justification. These customers believe ENS should be required to be more transparent about the supply charge and what charges it actually includes.

³ SCA(WA) provided the example of ENS who on-sell at regulated tariffs while paying higher tariffs at their master meter. Energy Policy WA notes that this is the current status quo under the Exemption Order, if the ENS is supplied by Synergy or Horizon Power. The proposal for a default flat rate tariff in line with the regulated tariffs extends this price cap protection to customers no matter who supplies the ENS.

I have been a lease holder at _____, an over 55 village for three years, during that time I have paid a business rate for electricity which is currently 41.30 cents per unit. I was not given this information when I signed the lease and having worked for Western Power for 12 years would have immediately asked why a business rate and not residential. I am on a full aged pension and cannot apply for an electricity rebate. – retirement village resident

I have recently escaped from a retirement village where the owner is charging for electricity at 0.413 per unit. A majority of residents in the village do not use their air conditions because of this and therefore cannot afford heating and cooling. – Former retirement Village resident

We are long term residents (over 10 years) in _____ and as such get charged for weekly meter reading (currently \$3.10 per week). I am writing this for myself and the other permanent residents who are mostly elderly and not tech users. The meters in the park haven't been serviced, upgraded or maintained for more than 8 years and many are inoperable leading to long extension cords to the next box. – long stay park resident

I think it should be compulsory for all residents to be advised of how their electricity is supplied, what an Embedded Network is, how they can monitor their usage, how they are billed, and what they can do if they have a query. I also think that residents of apartment blocks should be billed directly by the supplier (it is very annoying to have to pay the strata management company an additional administration fee for re-issuing the bill). Residents of apartment blocks need access to an Ombudsman. – strata resident

Some customers provided feedback on difficulties experienced with utilising solar at their premises including getting permission to install it or not benefiting from solar assets of the embedded network operator. One stakeholder considered embedded network customers should not be limited in their ability to install solar and batteries.

Every electricity consumer in an embedded network should have the fundamental right to install the largest PV solar system that can be practically fitted onto their available roof space to minimize ongoing electricity expenses and ultimately assist our environment by fully utilizing this abundant renewable resource. The ability to install storage batteries to meet overnight power demands. Last time I check, batteries are not allowed by management. – long stay park resident

Feedback was also provided on a lack of information provided on bills by ENS including electricity charges per unit and units consumed. Also noted was the irregularity of billing intervals ranging from between 2 and 6 months.

The feedback provided in these submissions is consistent with previous feedback to Energy Policy WA from residential embedded network customers.

Non-residential

SBDC provided feedback on its inquiry into small business customers' experiences in embedded networks. SBDC commented that the lack of regulation around the price that landlords can charge for on-sold electricity and a lack of appropriate dispute resolution avenues for embedded network customers has created an environment whereby landlords are able to profit through the provision of an essential service to their captive tenants.

In some cases, the price difference is significant – up to \$10,000 over the course of a year – particularly where the tenant is a high user of electricity and would otherwise be deemed a contestable customer. – Small Business Development Corporation

SBDC strongly supported Option 4 however with modification to restrict landlords to charge the regulated tariff rate that a tenant would otherwise be entitled to if it was a standalone shop.

Kirby Swim confirmed this experience in its submissions noting that the business pays more for electricity at its premises inside an embedded network than outside. Kirby Swim also expressed concern at:

- an inability to benefit from installing its own solar panels at embedded network premises; and
- frequent power surges experienced at an older embedded network site resulting in additional costs to their business.

I am very disappointed and angry that I was unaware that landlords could source energy for as low as 13-15 cents per unit through a retailer and then on-sell to (us) tenants at the Synergy Tariff rate of much more than this 40 cents per unit. We only found this out as we had a freehold commercial business that was paying (at the time) 18 cents per unit elsewhere before we started operating another similar business at another location within an embedded network. – Kirby Swim

This feedback to the CRIS (including additional confidential price data not contained in the published version of this decision paper) supports previous feedback received on high prices paid by non-residential customers within embedded networks.

Costs of the AES registration framework should be kept as low as possible, however seem reasonable when compared to benefits

Most stakeholders believed registration costs should be kept as low as possible, however the estimated fees seem reasonable when compared to the benefits. Energy Policy WA understands that costs applied to ENS may be passed through to customers and notes as compared to licensing (Option 3), AES (Option 4) offers the least cost method of regulation while enabling access to the Ombudsman and regulatory oversight by the ERA. Ombudsman access and regulatory oversight are the key benefits when compared to the status quo (Option 1) and individual exemptions (Option 2).

The proposed AES registration framework is a good middle ground between the heavily regulated licensing framework and the unconstrained exemption framework. – Alinta Energy

ECP considers that the proposed AES registration framework is an appropriate balance of benefits of consumer rights, flexibility for DER and new business models that aid the energy transition, while controlling the cost and regulatory burden. – Expert Consumer Panel

It is important to keep costs as low as possible. However, based on the indicative information provided, the costs seem reasonable when compared to the potential benefits. – Origin Energy

SCCA and Energy-Tec considered the costs of Option 4 are high when compared to the benefits. SCA (WA) also considered the costs of requiring an ENS to register under the AES framework are

high and those costs would likely be passed on directly to end users. Synergy recommended an amendment be made to the [Electricity Industry \(Ombudsman Scheme\) Regulations 2005](#) to prohibit cross sub-subsidisation between different member types.

We state clearly that we don't believe that the listed benefits are real, or outweigh the costs and regulatory burden. We would certainly prefer the 'regulatory certainty' and 'consistency' of the AER framework. - SCCA

We believe that the costs to the ENS, given what has been communicated so far, are high, impacting the profitability of the embedded network, and would likely be passed directly to the customers which would be against the spirit of the EN CoP. – Energy Tec

Synergy recommends EPWA amend proposed regulation 3(e) of the general regulations to explicitly state that the extension of the EO scheme to accommodate ENS service provision must occur on a cost reflective basis. – Synergy

Fast track option is preferred for registration processing

For those stakeholders who responded on this issue, most expressed support for the fast-track method of processing registration applications on the grounds of efficiency and cost reduction.

The Expert Consumer Panel (ECP) however, suggested that modification of the 'fast track' criteria be considered as the proposed route may lack sufficient scrutiny to ensure the safety and security of consumers and the credibility of the market, particularly where the ENS also provides an on-site power supply service to customers.

Energy Policy WA recommends the fast-track option be utilised for AES registrations for embedded networks and will consider whether any modification to criteria is required.

Key information should be provided at time of registration

In addition to the information proposed in the CRIS, stakeholders suggested requiring information on how many of each type of customer are supplied by the embedded network (i.e. residential or non-residential).

ECP suggested:

- past revocations or suspensions of licences, in Western Australia or other Australian states or territories;
- if transitional arrangements are in place, the date of full adoption of obligations; and
- links to official websites in digital and phone formats,

should be required.

NECA consider that details and roles of third parties engaged by the ENS to operate or maintain the EN should be required.

SBDC suggested requiring the predominant purpose of each premises (e.g. caravan park, shopping centre, residential).

Mixed views on licensed retailers being required to hold an AES

Synergy expressed concern with retail licensees needing to obtain a separate AES registration. Synergy supports the approach that a licensed retailer may choose the most cost effective and practical option of supplying customers. In addition, Synergy considered where a licenced retailer

separately registers as an ENS they may seek ERA approval to amend their retail licence to remove the embedded network from the licenced geographic area to avoid regulatory duplication.

Alinta Energy considered licensed retailers should be able to act as an ENS under authority of a current retail licence. Origin Energy believed that electricity retailers should be permitted to operate embedded networks under authorisation of their licences (with additional licence conditions), as it would be an unnecessary burden to have to also hold an AES registration.

Energy Policy WA notes that licensed retailers who also hold distribution licences could currently operate embedded networks under their licences. Synergy is prevented from owning and operating a distribution network under legislation⁴, so may not operate embedded networks. Licensed retailers (except Synergy) may currently hold both retail and distribution licences to operate large-scale embedded networks that span multiple properties.⁵ Energy Policy WA will review the application of the Exemption Order post implementation of the AES registration framework in particular in relation to distribution requirements.

Energy-Tec and SCA(WA) expressed concern with licensed retailers being authorised to operate embedded networks at all. It considers the opportunity for an electricity retailer to become an ENS adds further market complexity. NECA and Energy Intelligence consider requiring separate AES registration is acceptable.

In the interests of transparency for customers, consistency of regulation across the sector and accuracy in data on embedded networks in Western Australia, Energy Policy WA considers a separate registration should be required and will consider what policy settings should be applied to registration by this sector.

Use of standard form documentation is supported

For those stakeholders who responded on this issue, all were supportive of Energy Policy WA providing standard form documents and policies for use by ENS along with guidance materials. In addition, ECP recommends information sessions for customers should be held through relevant representatives and peak bodies. Fact sheets and short explainer videos should also be produced regarding expanded protections and hardship and family violence policies.

Energy Intelligence recommended a comprehensive guidance document be produced to outline the registration process requirements and timelines. Further, simple questionnaires or checklists for ENS to assess their compliance status and understand obligations, should also be produced.

SBDC was strongly supportive of Energy Policy WA rolling out an awareness campaign.

Obligations for large use customers

While most stakeholders who provided feedback on this issue consider large use customers have considerable bargaining power to negotiate their own commercially acceptable contract, one stakeholder (Energy Intelligence) provided detailed feedback on obligations which could apply to large use customers. Noting that the AES Code will only apply to small use customers, any obligations on ENS towards large use customers would need to be contained in the regulations.

These suggestions related to obligations on ENS to provide options for large use customers:

- for flexible supply arrangements;
- to promote energy efficiency and sustainability initiatives to help customers optimise energy consumption and reduce environmental impact;
- to collaborate with customers to manage electricity demand and optimize load profiles, enhancing efficiency and reducing costs;

⁴ *Electricity Corporations Act 2005*

⁵ For example, Zenith Energy group companies at Peel Business Park, Eglington Village, Ocean Reef Marina

- to make efforts to provide competitive pricing options whenever feasible, considering the unique needs and circumstances of large use customers (noting price matching may pose challenges as this is heavily reliant on the master meter contract and the wholesale market patterns).

Energy Policy WA considers there is evidence of a need for some obligations in relation to large use customers and will consider the feedback further as regulations are developed.

There will be important transitional considerations for some sectors and code obligations

Feedback was received from multiple stakeholders in relation to transitional considerations for implementation of the AES registration framework to embedded networks and for the introduction of certain obligations in the AES Code.

Concern was raised by Alinta Energy that registration applications may “trickle in” over time dependent on ENS awareness of the introduction of the AES registration framework. Alinta Energy suggested a well-supported phased approach for smaller and/or less well-resourced ENS would be appropriate as these ENS may require considerable time to not only transition to the new arrangements, but to understand the new obligations that apply to them. As some smaller ENS may wish to engage third parties to take on the role of ENS, this may also take time to arrange.

ECP noted it is essential for existing customers that existing providers do not exit the market or face suspension due to difficulties in meeting the registration requirements. ECP suggested a financial turnover or number of full-time employee’s equivalent or other metric could be used to determine which businesses are afforded a longer transition period. ECP noted that some ENS are very small companies and are not dedicated to full time energy management making it essential to stage a transitional period with the time and resources necessary to navigate challenges effectively.

Origin Energy noted that further consideration would need to be given to the transition process, particularly for smaller operators like strata companies or caravan parks. Additionally, for some small strata companies, Origin Energy believes it will be very difficult to meet the AES Code obligations. Origin Energy considered there would need to be a transition to alternative providers (and potentially meter upgrades) which would be a challenging and lengthy transition process.

SBDC supported transitional arrangements to allow time for embedded network suppliers to understand their new obligations and register under the new AES registration framework.

Energy Intelligence suggested transitional arrangements could include using grace periods to rectify non-compliance issues without immediate penalties or revocation of registration.

Energy-tec, who did not support licensed retailers being authorised to register as an ENS at all, considered that if this is permitted, their ability to register should be restricted to at least 18 months from commencement to allow current ENS to prepare for the competition of licensed retailers to the embedded networks sector.

There may also be unintended negative cost consequences to be considered for some sectors such as strata, where the bulk of compliance obligations may end up falling to strata managers and thereby increasing costs for the strata administration.

The feedback on transitional arrangements received in response to the CRIS will inform further policy development for implementation.

3.4 Feedback on AES Code obligations

Some stakeholders provided detailed feedback on the obligations contained in the Voluntary EN Code which was attached to the CRIS to represent the types of obligations which may be applied to ENS and included in the mandatory AES Code as it relates to embedded networks. This feedback will help inform development of the initial mandatory AES Code as it relates to embedded networks. Refinement of these obligations is ongoing and will also occur as part of the Voluntary

EN Code process and development of drafting instructions for preparation of the AES Code by Parliamentary Counsel's Office.

Further stakeholder consultation will be carried out on final AES Code obligations relating to embedded networks.

4. Outcomes of cost benefit analysis

4.1 Costs and benefits

While the customer protection obligations would be similar to those applying to a licensed retailer (with the added benefit of tailorable obligations via the AES Code), it is anticipated that costs under the AES registration framework would be materially less than those for licensees.

Table 2: AES registration framework – indicative impact

Affected party	Impacts
Industry	
Costs (negative impacts)	- AES registration and Ombudsman fees and levies – best estimate for these costs is in the order of \$10 to \$37 per customer per year. - Costs to develop systems and processes to comply with registration obligations.
Benefits	- Increases industry standardisation, improving consumer trust in the sector. - Increases regulatory certainty and allows for proportionate enforcement options in the event of minor non-compliance with obligations.
Government	
Costs (negative impacts)	- Establishment costs – best estimate is in the order of \$1 to \$1.5 million for both system and resource costs (noting these establishment costs are a once-off cost associated with any and all services regulated under the AES registration framework – they are not duplicated if both on-site power supply (OPS) services and embedded network services are prescribed as AES). - Cost to the ERA to administer and enforce the AES registration framework for ENS (noting these would be industry funded and do not duplicate the regulatory costs to industry listed above). - Cost to the Energy Ombudsman to manage complaints and disputes of ENS customers (noting these would be industry funded after a transitional period and do not duplicate the regulatory costs to industry listed above)
Benefits	- Equality of customer protections between different groups in the community (with a few exceptions, such as the ability to access concessions directly through the customer's provider). - Flexible and tailorable regulatory obligations that can respond to change. - Meets policy objective. - Clear legislated responsibility for administration and enforcement. - Transparency of number of ENS and number of customers supplied electricity by ENS.
Community/Customer	

Affected party	Impacts
Costs (negative impacts)	Licensing and administration costs would ultimately be borne by customers.
Benefits	- Equality of customer protections between different groups in the community (with a few exceptions, such as the ability to access concessions directly through the customer's provider). - Access to Energy Ombudsman to assist with resolving complaints and disputes. - Robust and proportionate compliance and enforcement regime to ensure customers have access to compliant operators. - Price regulation for non-residential customers that cannot access the contestable market.

As discussed above at section 3, other than SCCA and Energy-Tec, stakeholders who responded on the issue consider the costs of Option 4 are reasonable considering the benefits.

4.2 Estimation of future costs

Energy Policy WA undertook a process with input from the ERA and the Energy Ombudsman to develop estimates for both establishment costs (for example building new systems) and ongoing operational costs for the AES registration framework. These estimates are based on a high-level overview of the framework and are yet to be tested. The costs are based on high, medium and low:

- cost scenarios for ongoing system and resourcing costs, if both embedded network services and OPS services and were to become registered AES; and
- customer numbers ranging from 30,000 to 100,000 customers (estimated customer numbers for embedded network services and OPS combined).

The indicative costs assume the estimated operating costs of the registration scheme are recovered through an annual fee. However, the legislation makes provision for application and annual fees. As it has not yet been determined what portion of the operating costs will be recovered from each fee, full recovery through an annual fee is assumed for simplicity.

Based on this process Energy Policy WA was able to estimate indicative annual costs per customer for ongoing operational costs of the AES registration framework under different scenarios, ranging from \$10 to \$37 per customer per year⁶ (combined annual costs for both Energy Ombudsman and ERA).

By comparison existing licensees (retail and distribution combined) would expect to pay around \$41 per customer in annual fees and around \$110 per customer for auditing that has to occur every three years (and is likely not to be required as regularly or at all for small AES service providers). It should be noted that the ongoing operational costs for the AES registration framework are all inclusive, meaning some of these costs may be recovered through application fees. In contrast, the licensing fees above do not include application fees, which can be several thousands of dollars in each instance, increasing the total regulatory cost per customer.

It is also noted that the ERA's licensing process is well established with knowledgeable service providers and an experienced regulator, so it is expected that licensing costs represent efficient

⁶ While this range represents Energy Policy WA's best estimate for the combined ongoing annual costs of the ERA and Ombudsman, it is based on high level assumptions and incomplete data. Final per customer costs may fall outside this range.

unit costs. It may take some years for the AES registration process to become established, with costs expected to become more efficient over time.

The proposed AES registration framework would have a simpler assessment process for embedded network applicants than the licensing framework.

Further, the AES registration framework would not require regular performance audits of ENS holding an AES registration. Compliance audits will be the exception, rather than the norm. Unlike audits of electricity licensees, the auditor will be appointed by the ERA, not the regulated entity, to avoid potential conflicts of interest and/or bias – this is consistent with the audit arrangements for water licensees under the *Water Services Act 2012*.

The ERA will have access to a similar toolkit of enforcement options as for that to address licensing contraventions, but with the important additional option of enforceable undertakings.

Ombudsman costs associated with dispute resolution payable by ENS members are not included in the above modelling and will be determined by the Ombudsman in due course in accordance with its governance procedures.

5. Decision

5.1 Statement of decision

The best method for the regulation of the sale and supply of electricity in embedded networks in Western Australia is Option 4 – AES registration framework.

5.2 Discussion

The policy objective of the CRIS was to find the best and most practical way to extend substantively equivalent protections to customers of ENS as provided by licensed retailers, including an adequate dispute resolution pathway and a suitable compliance and enforcement mechanism, without imposing unnecessary regulatory burden on ENS.

At section 6 of the CRIS, Energy Policy WA commented that *“realistically, only the AES registration framework option meets the objective of balancing regulatory burden with the provision of benefits to customers”*. Stakeholder sentiment, as summarised at section 3 above, confirms this statement.

Following review of stakeholder feedback to date and received as part of the CRIS process, including analysis of costs and benefits, Energy Policy WA considers the best method for the regulation of the sale and supply of electricity in embedded networks in Western Australia, is Option 4 – AES registration framework.

5.3 Key recommendations

The following key policy decisions have been made in accordance with Energy Policy WA recommendations, as follows:

- The sale and supply of electricity in embedded networks should be regulated under the new AES registration framework. The AES registration framework is the best option to address the issues raised in the problem statement (above).
- Regulations should be made pursuant to section 59C of the Act to prescribe the sale and supply of electricity in embedded networks as an “activity”.
- The costs of requiring the ENS to register under the AES registration framework are proportional to the benefits and will provide a net benefit to the economy, as discussed above.

- It is suitable to apply some obligations to ENS in respect to their supply to large use customers and these obligations should be set out in regulations.
- A fast-track route to assess ENS registration applications should be adopted.
- Licensed electricity retailers should be required to obtain a separate AES registration if intending to provide the service of an ENS.
- There is evidence of a potential need for transitional arrangements or a phased approach for certain sectors of the embedded networks market and/or for commencement of certain AES Code obligations and Energy Policy WA will consider appropriate transitional arrangements.
- The regulations should define who will need to register to provide the service, for example, the embedded network seller or ENS. A working definition of “embedded network seller” is contained in the Voluntary EN Code and will be finalised in regulations to prescribe embedded networks as an AES.
- The regulations should set out circumstances where registration is not required, for example, an exemption for on-suppliers where the electricity costs are bundled into a room rate that does not vary according to the customer’s electricity consumption or for persons on-selling electricity for the sole purpose of charging electric vehicles.

Energy Policy WA will consider:

- the feedback received on proposed AES Code obligations (contained in the final Voluntary EN Code) as part of the CRIS process; and
- feedback obtained during the operation of the Voluntary EN Code period over the course of 2024;

to refine obligations and inform drafting of the initial mandatory AES Code as it relates to embedded networks. The AES Code, along with regulations to prescribe embedded networks, will be drafted by Parliamentary Counsel’s Office and both are subject to Ministerial approval and/or endorsement.

5.4 Potential unintended consequences

An unintended consequence is that the registration costs or AES Code obligations present barriers to less sophisticated ENS. It is in the best interest of consumers that existing service providers do not exit the market or face suspension due to difficulties in meeting the registration requirements. Regarding costs, Energy Policy WA acknowledges that some ENS could be very sensitive to registration costs, such as the long-stay caravan park sector.

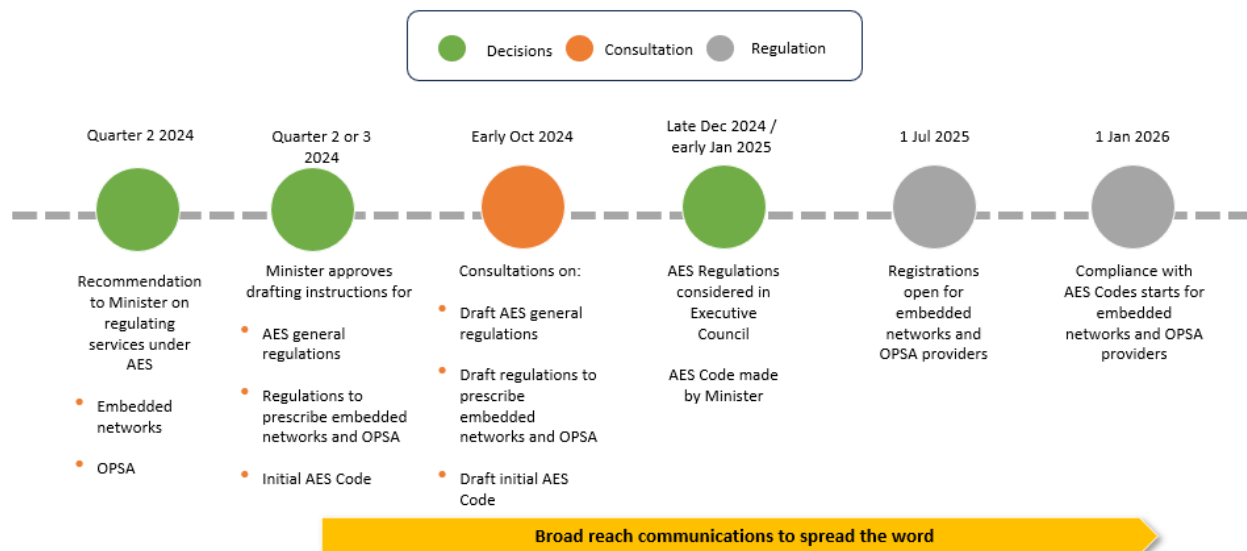
The indicative costs assume the estimated operating costs of the registration scheme are recovered through an annual fee. However, the legislation makes provision for application and annual fees. As it has not yet been determined what portion of the operating costs will be recovered from each fee, full recovery through an annual fee is assumed for simplicity.

Energy Policy WA will consider transitional or other arrangements for sectors sensitive to costs of the new AES registration framework, such as measures to incentivise initial registration.

6. Implementation issues

6.1 Implementation timeframe

Figure 3: Indicative implementation timeframe for AES registration framework and prescription of initial services



Due to the anticipated volumes of registration applications for ENS at the commencement of the AES registration framework, there would likely need to be a transition period of around six months between registrations opening and compliance obligations taking effect.

The six-month lead time is in addition to the three-year lead time between the socialisation of the draft obligations contained in the Voluntary EN Code and the opening of registrations.

Leading up to the commencement and operation of the AES registration framework, Energy Policy WA would:

- conduct awareness raising activities and education campaigns from at least six months prior to the EN service provider registration requirement commencing; and
- conduct further consultation on:
 - any other implementation issues not raised in the CRIS or CRIS feedback;
 - the final form of the regulations to prescribe the service; and
 - the AES Code obligations that would apply to ENS registered to provide the service.

Stakeholders provided some considered feedback regarding the most suitable resources and materials to help both ENS and their customers transition to the AES registration framework. Energy Policy WA will consider this feedback when developing awareness raising activities and education campaigns.

6.2 Transitional provisions

Energy Policy WA is considering what transitional arrangements are appropriate, as discussed above at section 3.

Leading up to the commencement and operation of the AES registration framework, Energy Policy WA will review the Exemption Order and *Electricity Industry (Caravan Parks)*

Exemption Order 2005 to assess if any residual exemptions are required once the sale and supply of electricity in embedded networks is prescribed as an AES.

The review of electricity retail licence exemptions that currently apply to operators of embedded networks is a separate body of work that will consider any transitional provisions necessary as exemptions are phased out or pared back.

6.3 Evaluation after implementation

The AES Code is flexible and is intended to be modified if obligations:

- are found to be a barrier to the operating model;
- result in unintended outcomes;
- need to be strengthened to achieve better customer outcomes; or
- need to adjust to respond to evolution of the services being offering in the market.

Energy Policy WA will work closely with the ERA and the Ombudsman during the first year of implementation to ensure the AES Code remains responsive to the embedded networks service business model.

It should be noted that the Act provides for five yearly reviews of the AES Code, or earlier if required. Energy Policy WA will conduct the first review on behalf of the Minister for Energy.

Depending on the transitional settings adopted at commencement of the AES registration framework for embedded networks, Energy Policy WA will work with the ERA and Ombudsman's office to manage and evaluate outcomes of any delayed implementation.

However, Energy Policy WA is intending to seek to register new services well in advance of the first five yearly review. As part of developing obligations for these services, Energy Policy WA plans to review existing AES Code provisions that will also apply to new services to ensure the AES Code remains a relevant and cohesive set of obligations.

Energy Policy WA

Level 1, 66 St Georges Terrace, Perth WA 6000

Locked Bag 100, East Perth WA 6892

Telephone: 08 6551 4600

www.energy.wa.gov.au

