



DRAFT Guideline Exemption from registration as a Network Service Provider

18 August 2016

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Glossary

This guideline uses the following definitions

Term	Definition
ABN	Australian Business Number
ACN	Australian Company Number
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
ACCC	Australian Competition and Consumer Commission
ASIC	Australian Securities and Investments Commission
Body Corporate	Means a controlling body of a scheme constituted under state or territory strata titles legislation, the members of which are lot owners (or their representatives), and includes an owners corporation but is not a body corporate for the purposes of the <i>Corporations Act 2001</i> (Cth).
Customer	Means a consumer of electricity for primary industry, domestic, commercial or industrial use but does not include a wholesale market customer who is registered by AEMO as a Customer under Chapter 2 of the NER.
Eligible community	Has the meaning given in conditions 4.7.1.1 and 4.7.2.
Embedded network	Has the meaning specified in chapter 10 of the NER.
Embedded network manager	Has the meaning specified in chapter 10 of the NER.
Energy	Means electricity
Exempt embedded network service provider	Has the meaning specified in chapter 10 of the NER.
Exempt network	See private network
GWh	GigaWatt hour
Large customer	Means a business customer who consumes energy at business premises at or above the upper consumption threshold, as defined by the relevant jurisdiction. If no threshold is defined, 100 megawatt hours per annum for electricity.

Large corporate entity	A 'large proprietary company' as defined under clause 45A(3) of the <i>Corporations Act</i> 2001 or, if not a reporting entity under that Act, an unlisted company, trust, or other legal entity which fulfils the financial and/or staffing criteria specified in clause 45A(3) of that Act.
Meter	Means any device (compliant with metrology requirements and Australian standards) that measures the quantity of energy passing through it or records the consumption of energy at the customer's premises.
MWh	MegaWatt hour
NEL	National Electricity Law
NER	National Electricity Rules
Off-market energy generation	<p>Means an energy generation option not required to be registered with AEMO under clause 2.5.2 of the NER and applicable AEMO guidelines.</p> <p>Note: The category includes – but is not limited to – small scale diesel, petrol, bio-fuel, gas (including coal-seam and other methane sources), inverter, fuel cell, an electric vehicle inverter, thermal-electric, geothermal, solar (including photovoltaic), wind or hydro generation and cogeneration and tri-generation installations.</p>
On-market energy generation	<p>Means an energy generation option required to be registered with the AEMO under clause 2.5.2 of the NER and applicable AEMO guidelines. This category includes the four AEMO registration categories of scheduled generation, non-scheduled generation, market generation and non-market generation.</p> <p>Note: The category includes – but is not limited to – small scale diesel, petrol, bio-fuel, gas (including coal-seam and other methane sources), inverter, fuel cell, an electric vehicle inverter, thermal-electric, geothermal, solar (including photovoltaic), wind or hydro generation and cogeneration and tri-generation installations. Typically, this category relates to generation systems of 30MW or greater capacity.</p>
On-selling, selling	On-selling or selling means an arrangement where a person acquires energy from a retailer following which the person acquiring the energy or a person acting on their behalf sells energy for use within the limits of premises owned, occupied or operated by the person.
Parent connection point	Has the meaning specified in chapter 10 of the NER.
Private network	Means any network connected to the NEM or an islanded network subject to regulation under the NER, supplying

	electrical energy to a third party, but not a transmission or distribution network registered with AEMO.
Private network operator	See: exempt embedded network service provider
Public Register	Public Register of network exemptions
Residential customer	Means a customer who purchases energy principally for personal, household or domestic use at premises.
Responsible person	Has the meaning specified in clause 7.2.1(a) of the NER. For the purposes of condition 4.2.2.3, a relevant exempt embedded network service provider is deemed to be the responsible person.
Retailer	Means a person who is the holder of a retailer authorisation for the purposes of section 88 of the Retail Law.
Retail Law	National Energy Retail Law
Sell	The provision of electricity in exchange for money.
Small customer	Means a customer– who is a residential customer, or who is a business customer who consumes energy at business premises below the upper consumption threshold, as defined by the relevant jurisdiction. If no threshold is defined, 100 megawatt hours per annum for electricity.

1 Nature and authority

1.1 The regulatory framework

On 17 December 2015, the Australian Energy Markets Commission (AEMC) released the Embedded Networks Final Rule Determination, which aims to reduce the barriers customers in embedded networks face in accessing retail competition. This draft guideline sets out proposed changes in response to the AEMC's determination and recommendations and submissions from stakeholders during the course of the Embedded Network rule change determination process. We also outline a number of other administrative changes.

Under the National Electricity Law (NEL) and the National Electricity Rules (NER) anyone who engages in an electricity distribution activity must either be:

- registered with the Australian Energy Market Operator (AEMO) as an electricity network service provider , or
- must gain an exemption from the requirement to be a registered network service provider from the Australian Energy Regulator (AER).

This guideline explains which network activities are deemed exempt, which activities must be registered and how to register. It also sets the conditions for all the exemption classes pre-defined by the AER.

No matter how small the network, anyone who supplies electricity to another person over a private network of any kind is providing an electricity distribution service. An exemption is required for any unregistered network by which electricity is supplied to another party, be that party a legal person, corporation, government department or statutory body of any kind.

Registration with the market operator is a complex and expensive process. Obtaining an exemption for eligible networks is relatively easy and low cost (there is no application fee). The granting of an exemption can also relieve a network owner/operator or controller of the requirements to comply:

- with the technical requirements set out in Chapter 5 of the NER and/or
- the obligation to provide other network suppliers and other registered participants in the NEM with access to its network and other obligations which exist under the NER

but not safety and related requirements.

1.2 Who should read this guideline?

This guideline is for people or businesses that are involved in allowing anyone else to use electricity by connecting to wiring in a:

- farm
- hotel
- factory

- car-park
- marina
- public land
- shopping centre
- industrial estate
- private property
- retirement village
- industrial complex
- strata-title property
- office development
- mining development
- residential development
- tram, train or rail network or
- elsewhere.

You should read this guideline if you think that you are operating a private electricity network – which is illegal unless it is registered with AEMO or exempted from registration by the AER.

To avoid the risk of serious penalties you might only need to make some small adjustments. You might not have to do anything at all. Maybe, you need to:

- register your details with the AER, or
- register with AEMO, or
- apply to the AER for a network exemption.
- If you think you may need a network exemption, this guideline will help you understand:
 - what network exemptions are and how they work
 - whether or not you, or your business, need a network exemption
 - how to obtain a network exemption and which exemption class applies to you
 - the factors we will consider when assessing individual exemption applications.

This guideline deals with network exemptions under the NEL and NER. For retail exemptions under the National Energy Retail Law, please see the AER's (Retail) Exempt Selling Guideline.

If you are not sure whether you need an exemption or not, please contact us. You can email us at aerexemptions@aer.gov.au with any questions, or phone the AER/ACCC Infocentre on 1300 585 165 (Australian callers) or + 612 6243 1305 (overseas callers).

1.3 About the AER

The AER is an independent statutory authority established under Part IIIAA of the Competition and Consumer Act 2010 (Commonwealth). The AER is the national regulator of electricity and gas. Our responsibilities include administering and regulating authorisations and exemptions (retail and network) in participating jurisdictions.

2 Part A – About this guideline

2.1 Introduction

This Network Guideline relates to a privately owned embedded or exempt network ('private network'). It incorporates significant amendments necessary to give effect to the AEMC Embedded Networks rule change.¹

A private network means any network for the supply of electrical energy to a third party, other than a transmission or distribution network registered with AEMO. Electrical wiring on your own site is normally just a private electricity installation. It only becomes a private network if it *supplies* electricity to a third party. It does not matter if the supply is free – you are still providing a distribution service. The term 'embedded network' is now defined in chapter 10 of the NER. Under the NER definition, all private networks are embedded networks.

Persons involved in the on-selling of electricity may, depending on their circumstances, need to conform both to this Guideline and our guideline for retail exemptions, the Retail Exempt Selling Guideline² or, where the AER does not regulate on-selling, the requirements for on-selling administered by the jurisdictional regulator.

An analogy that might help to explain the relationship between the two guidelines: To drive a car legally on the road the car must be registered and the driver must have a driver's licence.

- Registration or exemption of the network is analogous to registration of the car.
- Having a retail exemption is analogous to the driver having a driver's licence.

This Network Guideline is about the exemption or registration of the physical assets that make up the network. Please note: individual exemptions granted by the AER and published on the AER's website are unaffected by changes to this Guideline. All other exemptions must comply with this guideline including, where required, registration of the network in the 'registrable' exemption category as provided for in this Guideline.

Most small network owners/operators will want to avoid registering with AEMO as a distributor. If you register, you will incur initial registration costs and ongoing reporting obligations and costs. Our Network Guideline sets out eligible classes of distribution activity and the requirements which must be met for an exemption to apply. Regardless of whether a network is registered or exempt, it will be subject to additional requirements governing matters including construction standards and electrical safety under the laws of the State or Territory in which it is located.

All exempt private networks are subject to conditions. These conditions cover access to retail competition, safety, dispute resolution, metering and pricing. Even if your network is in

¹ AEMC, National Electricity Amendment (Embedded Networks) Rule 2015, No. 15, December 2015

² Available at: <http://www.aer.gov.au/node/18677>

a 'deemed' category, if you fail to observe the relevant conditions your exemption will be invalid and you will be operating illegally. This may expose you legally to a civil penalty (a fine) under the National Electricity Law or other relevant legislation. The conditions are in Part B, Section 4 of this Guideline.

Retail Exempt Selling Guideline

The AER's requirements governing retail on-selling registration and exemptions are set out in our Retail Exempt Selling Guideline, which should be read in close conjunction with this Guideline.

Selling, On-selling and Supply

The terms 'selling', 'on-selling' and 'supply' have very broad connotations when used in this Guideline. They include all manner of situations where electricity is supplied to another person. This includes residential boarding houses, flats, apartments, retirement villages, caravan parks, retail centres, strata title, industrial parks, airports, office building, mining facilities, joint venture arrangements, quasi-retail or distribution arrangements and third-party connections to generators, to name but a few examples.

Where the sale of electricity takes place, the party selling the electricity must be registered or exempt under the Retail Exempt Selling Guideline, wherever it is in effect, or under the local jurisdictional requirements elsewhere.

The test for 'selling' or 'on-selling' electricity is about an action or activity that normally involves an exchange of money. In contrast, the test for a network exemption is about the 'supply' of energy and the associated technical issues. In this revision of the guideline we have amended some deemed and registrable exemptions to refer to 'supply' of electricity, rather than 'selling' to better reflect this distinction.

For example, if your wiring is connected to the National Electricity Market and you are supplying electricity to a third person, you must hold a network exemption. It doesn't matter if you charge for it or not. Even if the electricity is given away for free both you (as the network owner) and your agents (if you have any) must be registered or exempt under this Network Guideline.

Under this Guideline, almost all minor supply situations where the network is small and electricity is provided for free have been deemed to be exempt.

Recent developments in alternative energy and battery systems have created a lot of interest in creating microgrids and selling power to one's neighbours. However, you need to be cautious: although it is physically possible to supply electricity to your neighbours, you should check the laws in your State or Territory. In many places it is illegal for private wiring to cross a site boundary or public land without additional State or Territory approvals under local laws. Normally, only a registered distributor is authorised to provide this service.

Terminology

In this Guideline the terms 'private network', 'embedded network' and 'exempt network' are generally interchangeable. However, note that 'embedded network' is now a defined term in the NER. Wherever that term is used in this guideline, it has the meaning assigned to it under the NER. For the purposes of the National Electricity Law all private networks must be exempted by the AER.

The terms all refer to the physical assets that deliver electricity to another person or party. They include any privately owned wires, switches, transformers or other electrical equipment owned, operated or controlled by the applicant. However, to maintain consistency with the NER rules governing competition in metering and to avoid any misunderstanding, we now deem all metering installations to be exempt from registration, even though they may form part of a registrable network.

Deemed, Registrable and Individual Exemptions

Similar to the Retail Exempt Selling Guideline, there are three categories of exemption – 'deemed', 'registrable' and 'individual'. In section 2.3 we explain the types of exemption as they relate to particular activities. In section 3 we detail the pre-defined exemption classes and in section 4 the conditions which apply to those activities.

The range of predefined exemption classes encompasses both deemed and registrable exemptions in both Guidelines. All deemed and registrable network exemptions exempt the holder from the technical requirements of chapter 5 of the NER.

The AER has aligned many of the activity classes for deemed and registrable network exemptions with the equivalent classes in the Retail Exempt Selling Guideline. However, the Network Guideline deals with a wider range of activities than those captured under the Retail Law. Therefore, there are more classes in the Network Guideline. The predefined classes are set out in four tables numbered 1 to 4. The classes in tables 1 and 3 are related to the Retail Exempt Selling Guideline classes. The classes in tables 2 and 4 are concerned with a range of situations that are not directly related to the retail sale of electricity.

Individual exemptions operate differently between the Retail Law and the National Electricity Law. We have tried to anticipate a wide range of 'real world' activities in the deemed and registrable categories. We expect an application for an individual network exemption will be for some new, unanticipated activity or for a variation of the conditions attached to a deemed or registrable exemption. We therefore expect that there will be few instances where an individual network exemption is necessary.

All applications for individual exemption will be subject to a formal determination by the AER. Applications for a variation of conditions will only be granted in exceptional circumstances. All applications will also be subject to a careful examination of public benefits and any detriments to customers. They are registrable and will be published.

Exemption tables

Deemed network exemption classes are described in Tables 1 and 2 in section 3.1, along with details of the parties to whom the exemption applies. Deemed exemptions are subject to strict observance of the conditions detailed in Part B of the Guideline. Penalties may apply to any party who wrongly claims to be eligible for a deemed exemption.

Registrable network exemptions are described in Tables 3 and 4 in section 3.2, along with details of the parties to whom the exemption applies both during and after a transition period, and are subject to strict observance of the conditions detailed in Part B of the Guideline.

The NER also provides for individual exemptions, which are a single category described in Table 5 in section 3.3.

2.1.1 Basic exemption conditions

There are five basic requirements for exempt networks. An exempt person must:

- ensure that their network is safe
- have a dispute resolution mechanism
- ensure that network pricing is in accordance with this Guideline
- ensure that electricity meters comply with National Measurement Act 1960 (Cth) requirements for electricity meters installed from 1 January 2013³ and other applicable Australian standards; and
- provide ready access to retail competition where it is available in a jurisdiction.

Section 4 details the specific conditions which must be met for each exemption activity class.

Compliance with all the relevant conditions set out in this Guideline is a mandatory requirement for a network service provider exemption to be valid. Non-compliance may result in penalties in accordance with the provisions of section 11 of the NEL.

Achieving access to retail competition in embedded networks is a complex process which many will find daunting. So, before we discuss our general administration requirements for exempting networks, we discuss some general background matters.

Access to retail competition

At the time of writing Victoria, New South Wales and South Australia allow customers in private networks to exercise a right to choose their electricity retailer. To achieve this access to retail competition in these jurisdictions, special arrangements exist to create a 'parent/child'⁴ relationship for the metering. However, these arrangements have not always

³ For further information, see www.measurement.gov.au.

⁴ A 'parent' metering point is a metering point through which the energy measured is supplied to a whole building or site. A 'child' metering point is a metering point serving one tenant in a building or on a site through the 'parent' meter.

worked as smoothly as they should, which led to a rule change proposal sponsored by AEMO to expand the NER to address problem areas.⁵

The AEMC made the Embedded Networks rule change in December 2015, which is intended to make parent/child metering work better. The rule change requires that a special, new class of accredited NEM participant, the *Embedded Network Manager* (ENM) be appointed wherever customers want access to retail competition. The ENM will be tasked with ensuring the metering installation is correctly recorded in the market settlement system. Commencing in March 2017, AEMO will be responsible for accrediting ENMs and will maintain a register of ENMs.

Other NEM jurisdictions are expected to review their arrangements for access to retail competition in embedded networks. With the introduction of the new rule from 1 December 2017, the new access arrangements may also be adopted by one or more of the other NEM jurisdictions.

Elsewhere, access to retail competition through a private network is subject to agreement between the exempt embedded network service provider and the customers of that network. Customers in the ACT, Queensland and Tasmania have traditionally required a direct connection to a distributor to access retail competition. The situation which is to apply in the Northern Territory and Western Australia is subject to further consideration by those jurisdictions.

Victoria, New South Wales, South Australia

To make access to retail competition work it is essential that an exempt embedded network service provider not impede access to retail competition and take reasonable steps to facilitate access for a tenant.⁶ With this in mind, we imposed a condition in revision 1.3 of this guideline to require an exempt embedded network service provider to support retail competition, which was available in these three jurisdictions. These jurisdictions (and any who adopt the parent/child approach) have (or will have) procedures in place with AEMO (called metrology procedures) to register the 'parent' and 'child' meters for customers of private networks that access retail competition.⁷ Metrology procedures are very detailed. Describing how these procedures work is generally beyond the scope of this guideline but we summarize them here to help explain how access to retail competition works in an embedded network.

If you live in an apartment building or occupy a shop in a shopping centre it is quite common for there to be one meter which records all the energy used on the site. This meter is generally known of as the 'gate' meter. The owners corporation or the shopping centre proprietor is usually responsible for all the energy and network charges which are billed to this meter. It is important to note that the network charges are billed to the 'gate' meter

⁵ AEMC, National Electricity Amendment (Embedded Networks) Rule 2015 No. 15, December 2015

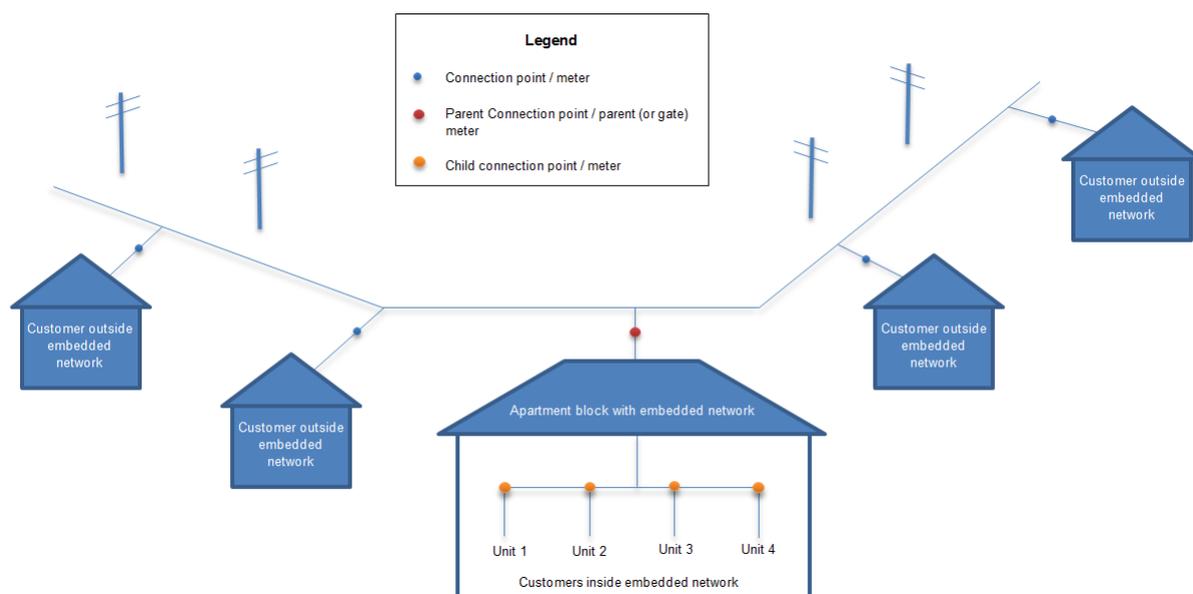
⁶ In this guideline the term 'tenant' is interpreted in the widest possible sense and includes any tenant, resident, lease holder, strata title occupier or the like, connected to a private network and who may be subject to charges for electricity consumed.

⁷ AEMO, *Metrology Procedure: Part A National Electricity Market*, Section 2.5, pp. 38-39

because special arrangements must be made to attribute this external network cost to each user of the network.

Stated simply, an embedded network is formed when a 'parent' or 'gate' meter is placed between meters of multiple customers and the poles and wires that form part of the national grid. This simple act transforms all the electrical distribution system on the customer's side of the parent meter into an embedded network and the customers' meters into 'child' meters. Figure 1.1 illustrates an embedded network in an apartment block.

Figure 2.1 Example of an embedded network



Under the AEMO metrology procedures the 'gate' meter owned by the exempt embedded network service provider must be recorded as a 'parent' meter in the market settlement system by the new retailer. Previously, where a tenant accessed an external retailer, the new retailer would arrange to install additional metering, namely a NEM registered 'child' meter to record the energy component of the bill. Arrangements needed to be made for the retailer to provide energy billing information to the exempt embedded network service provider. Also, the network charge for the energy use by a tenant (i.e. the child meter) would be manually calculated. We expect the embedded networks rule change will result in significant streamlining and improvement of these processes. An ENM will be required to actively manage these processes in embedded networks to ensure the correct information is recorded and exchanged in timely fashion.

The embedded network will incur distribution charges from the local distributor for all customers in the embedded network, including customers that obtain supply from a market retailer. This external network cost must be passed on to all the respective customers, including the market customers. The AER permits the exempt embedded network service provider to recover the associated external network component either directly from the tenant or from the tenant's market retailer under condition 4.6.2. If these arrangements are

not followed closely there is a serious risk of billing errors. These billing errors can be difficult, if not impossible, to unravel later.

Under this guideline the exempt embedded network service provider cannot impose a surcharge to the customer for use of the network. The recovery of externally imposed costs is permitted, however, under charge groups A/B (see Section 4.6 of this guideline).⁸

Some exempt embedded network service providers may consider that they should be able to charge extra for special electricity infrastructure they provide, particularly transformers. However, the National Electricity Rules require the AER to set charges for network assets owned and operated by a registered (and licensed) distribution network. This is a very complex and involved process which takes considerable time and expense to negotiate. It is impractical to apply this process to private networks. The AER allows 'shadow pricing' to apply in this situation.⁹

Other NEM Jurisdictions

If the AEMO Metrology Procedures for parent/child metering do not apply, a different approach must be taken to access an external retailer through a private network. To access a market retailer the tenant will need to first arrange a direct connection to the local distributor, which is individually metered in the normal way. This may require changes to the wiring within the network. Any such changes will be an expense borne by the tenant. Where access to competition requires a direct connection, we have amended this guideline to make clear that an exempt embedded network service provider must allow that direct connection on reasonable terms.

Unmetered supplies

Unmetered supplies may exist for many reasons. We have established specific circumstances where an unmetered supply is permitted. The situations we permit are limited, especially if small customers are involved. If energy is being supplied at no cost or as part of a broader commercial arrangement an unmetered supply is permitted. However, we consider that small customers should not be subject to unmetered supply of electricity. Some jurisdictions have existing unmetered supplies. Existing registered unmetered installations are not required to be upgraded. In all other circumstances we expect meters or sub-meters will be installed to measure the electricity supplied to a customer.

2.2 Who must register or obtain exemption?

In this Network Guideline the key regulatory factor is whether the network you own, operate or control is providing an electricity supply to a third party for any reason. If it is, you must register or be exempt.

⁸ Note that in South Australia, the Electricity (General) Regulations 2012 – Reg. 44B (2)(b) limits the recovery of network charges to the new energy retailer.

⁹ See section 4.6.1.

Technically, under a very strict interpretation of the NEL, even the simple act of allowing a cleaning contractor to plug-in a vacuum-cleaner in your office or shop may be considered to be providing a distribution service under the NEL.

Obviously, it was not the intention of the NEL to require persons to register networks for common activities like this. The exemption framework exists and this allows the AER to deem a wide range of activities like this example to be exempt. We apply this approach to a wide range of incidental activities that are relatively common or which have a low financial impact(see table 1, section 3.1.1).

Multiple parties must register

The National Electricity Law also requires everyone associated with a private network to register or be exempt. This applies to the network owner or joint owners', a lease holder or legally appointed representatives if they have rights of control over the physical assets that comprise the private electricity network. In many cases there is no one else with these rights. If no other person or firm is involved then the network owner alone has whole responsibility for the registration and operation of the network.

Where the network owner has made an agency arrangement with another entity to be the 'operator' or 'controller' of the network, registration or exemption of that agent or entity is also required. The 'operator' or 'controller' of a network is anyone who arranges to provide services normally associated with a network service provider. This most commonly means specialist energy companies that provide services in exempt networks.

Exemption classes apply to persons including businesses that own or manage a site containing an embedded network. Examples of the services that lead to a need to register include, but are not limited to: fault response; metering and meter reading; switching (fuse removal); access management to meters and meter panels; interfacing to a NEM registered distributor about these matters, etc.¹⁰ The terms 'operator' and 'controller' are largely interchangeable when applied to a private network.

2.3 What type of exemption applies to me?

There are three types of exemption: deemed, registrable and individual. The type of exemption you may be eligible for will depend mainly on the nature of your business, who you are supplying energy to and why you are doing it.

Deemed and registrable exemptions are class exemptions that apply to certain groups of people—or classes—who sell or supply energy to a third party. Generally, deemed exemptions are targeted towards people or businesses who sell or provide a connection to electricity

¹⁰ The 'agent' operating or having control of the private network may, for example, be a property manager or a specialist energy services company engaged to arrange or provide energy services to customers. This role is generally distinct from the role of people or firms engaged by the owner or the agent to design, install or service a network such as architects, engineers and electricians. These latter activities do not normally require exemption. Also parties registered with AEMO to provide services related to an embedded network will not normally require registration.

incidentally. Energy sales and supply is not their primary business or is an incidental part of their business model. They are generally motivated by considerations other than profit.

A deemed exemption is an exemption that applies automatically to certain classes of people or firms. A party covered by a deemed exemption does not need to either apply or register with us (however, conditions will generally apply). Deemed classes are usually for small-scale selling arrangements where the costs associated with registration would outweigh the benefits of increased regulation. We apply the principle that the regulatory obligation should be proportionate to the benefits to the customer.

Situations that deemed exemptions apply to include selling or supplying electricity to:

- a related company
- fewer than 10 small tenants or residents
- short term accommodation in caravan parks or holiday parks selling metered energy
- plug-in or rack mounted equipment
- unmetered tenants in Queensland¹¹
- telecommunications companies for a telecoms related activity of any kind
- government agencies that sell metered energy ancillary to their core functions
- private solar PV inverter and generator installations
- broadcasting sites
- rail network operators
- electric vehicle charging stations
- building and construction sites
- large corporate entities (both parties: buyer and seller)
- demand-side scheme participants.

A comprehensive list of deemed exemptions is set out at Section 3.

A registrable exemption applies to certain classes of people and must be registered with us. It applies to a particular individual or entity for a particular site, and is subject to conditions. Registrable classes are for energy selling activities that we consider need greater transparency and regulatory oversight, usually because the scale of the activities is larger and the impact on the electricity market and customers is greater. Again, we apply the principle that the regulatory obligation should be proportionate to the benefits to the customer.

Situations that registrable exemptions apply to include selling or supplying electricity to or by:

- sites with ten or more small tenants or residents, or to an adjacent site

¹¹ Unmetered on-selling to residential customers where it is allowed in Queensland (provided certain conditions are met) under the Residential Tenancies and Rooming Accommodation Act 2008 (Qld), s.165.

- permanent residents of retirement villages or caravan parks
- large customers
- unmetered energy supply arrangements entered into prior to the commencement of the Retail Law
- generators offering market services
- mining and primary production developments
- sites where a customer can access retail competition in a participating jurisdiction.

A comprehensive list of registrable exemptions is set out at Section 3.

A network individual exemption is required in circumstances where an applicant demonstrates why they are unable to conform to all of the conditions applicable to any relevant class of registrable exemption, or where no class exists which covers the activities for which the applicant seeks exemption.

Where no class covers the activities to be undertaken an individual exemption will be tailored to the specific situation of the person or business seeking the exemption and their customer(s). Conditions attached to an individual exemption are generally applied with a view to balancing the needs and rights of customers and the regulatory burden that meeting those conditions will place on the exemption holder.

As the network exemption conditions relate to access to retail competition, safety, metering, dispute resolution and pricing, where an application is to vary the conditions we will need to be convinced of a compelling case to vary our standard conditions for these matters.

If your activities do not fall within one of our activity class exemptions you should contact us to discuss the best course of action.

2.4 How do I obtain an exemption?

2.4.1 Pre-registration

Pre-registration is permitted where a network is under construction and is expected to commence operation within 6 months of the date of registration. You can pre-register for a network exemption by following the processes outlined in this Guideline.

2.4.2 Deemed exemptions

Deemed exemptions are automatic. Provided you meet all the criteria and conditions attached to the deemed class, you do not need to apply; rather, you are 'deemed' to be exempt. However, if for any reason you must register an exemption for your network, you will be required to also register any applicable deemed activity classes.

2.4.3 Registrable exemptions

These exemptions are not automatic. You can register an exemption by completing our registration form, which is available online on our website.¹² To obtain a network exemption, you need to complete Parts A, B and C of the form.¹³ Follow the instructions on the website. More than one registration class may apply. Select all that apply.

You must provide all the information requested in the form, including:

- the legal name (and trading name) of the business or person seeking the exemption, and their Australian Business Number (ABN) (preferred) or Australian Company Number (ACN)
- the site address for the exemption, the number of customers at that site and the class of exemption (for example, class NR1), and a brief description of the normal business activities undertaken at that site¹⁴
- contact details of the authorised representative for the applicant.

The proforma should be repeated for any other parties (i.e. agents, energy service operators, etc.) who must also register for the network.

There is no formal approval process for registrable exemptions; your exemption comes into effect on the nominated effective date when it is published on our public register of network exemptions.¹⁵ Once the exemption appears on the register, it becomes a “registered exemption”. Conditions apply to all registered (and deemed) exemptions.

You should advise us if your details change, for instance if the site for which you have the exemption changes owners, or the nature of your energy selling activities changes (for example, you no longer sell energy to small non-residential customers, but to large customers).

2.4.4 Individual exemptions

We recommend that you contact us before applying for an individual exemption or if you are planning a development that would rely on an individual exemption. This is so that we can provide information and guidance relevant to your individual circumstances, and assist you with the application process. Individual network exemptions should not be necessary for common activities. Almost all common activities will be covered by a deemed or registrable network exemption. We reserve this category for new and novel situations or where a variation of conditions is considered necessary and desirable..

¹² A copy of our exemption registration form can be found here: <http://www.aer.gov.au/node/476>

¹³ If you also sell energy you may also need a retail exemption (which can be obtained by completing Part A of the form).

¹⁴ For example, retail shopping centre, residential apartment building, and caravan park or retirement village.

¹⁵ The AER’s public register of exemptions can be found here: <http://www.aer.gov.au/node/2446>.

Section 5.3 sets out the information that you must provide when you apply for an individual exemption. Please contact us if you cannot provide any of this information.¹⁶

Please be aware that providing false or misleading information in an application for the grant or variation of an individual exemption is a serious offence under the Criminal Code Act 1995 (Cth). The maximum penalty for such an offence is 12 months imprisonment.

Once you have completed your application please email it to: aerexemptions@aer.gov.au with 'Application for individual exemption' in the subject line.

Applications for an individual electricity network service provider exemption may be lodged together with an application for an individual retail exemption.

2.4.5 Public consultation process

Individual network exemptions may be subject to consultation with affected stakeholders before a determination is made. This consultation may affect only a small number of parties if a small private network is involved or, where an application has potential to affect larger groups of customers, it may involve a formal public process. In accordance with clause 2.5.1 of the NER, the AER will decide the scope of consultation on a case by case basis.

Once we have received and accepted an application for an individual exemption, we will consider whether the application raises matters which should be the subject of wider consultation. We may consult only with stakeholders directly affected by the application or we may consult broadly. If we decide to consult broadly we will publish a notice on our website:

- stating that the application has been received
- seeking written submissions on the application from interested stakeholders.

The consultation period will run for at least 20 business days.

2.4.6 Confidentiality

We understand that you may provide us with confidential information as part of your application. If you do, we ask that you clearly identify and mark anything you consider confidential and give reasons for each confidentiality claim. Please also advise us of any potential disadvantage that disclosing the information might cause you. If your application contains confidential information, you should submit both a public and confidential version of the information. You should only remove information in the public version that you consider confidential.

A confidentiality claim, by itself, is not always enough to prevent disclosure. Under the NEL and the *Competition and Consumer Act 2010 (Cth)*, we may disclose confidential information in certain circumstances, for example, where disclosure would not cause detriment, or the public benefit in disclosing the information outweighs that detriment.

¹⁶ We may not commence processing your application until we have received all required information.

If we are considering disclosing this information, we will let you know and give you an opportunity to comment in the first instance.

2.4.7 Decision making process

We will advise you, in writing, of our decision. If your individual exemption application is approved, we will also advise you of the conditions attached to the individual exemption. You will need to formally accept those conditions before your individual exemption takes effect.

When considering applications for individual exemptions, we will be guided by the National Electricity Objective, which is:

...to promote efficient investment in, and efficient operation and use of, energy services for the long term interests of consumers of energy with respect to price, quality, safety, reliability and security of supply of energy.

2.4.8 Grounds for refusal

We may refuse an application for an individual or registrable exemption or we may revoke an exemption (including a deemed exemption) if, for example:

- we believe that granting a new (or continuing an existing) exemption may not contribute to the achievement of the National Electricity Objective
- there is any breach of our conditions for exemptions (Part B of this guideline)
- you have provided us with false or misleading information.

2.4.9 Location and length of exemption

Most individual exemptions will be issued for a particular site or area, and will limit the supply of energy to a certain class or classes of customers. Generally, we will not issue individual exemptions for multiple sites (but we may issue an individual exemption that covers a class of sites). We will only issue them where we consider that doing so is consistent with the NER and the National Electricity Objective.

The NER does not place a limit on the duration or validity of an exemption. However, we may impose a time limit on the grant or variation of an individual exemption. This will be determined on a case-by-case basis.

If no expiry date is stated as a condition of exemption, the grant or variation of the individual exemption will continue indefinitely, unless it is revoked or retired.

2.4.10 Change of circumstances

Your exemption will specify the conditions of the exemption. You will need to apply for a new or separate individual exemption to vary the conditions specified.

If your details change in any other way, for example if there is a change in contact details, you should contact us promptly so that we can vary your exemption.

If there is a change in ownership, the existing exemption will be retired but will not be amended or deleted. The new owner should apply promptly for a new exemption via our website, as set out in section 5.5. The site may continue to operate on the same basis as the old exemption (but to maintain services, the new owner/operator will be deemed to replace the old owner/operator in the interim) until the new exemption is published.

3 Introduction and exemption classes

Operating a network in breach of the AER's conditions will invalidate your exemption and could expose you to sizeable civil penalties. The requirement to observe the conditions for exemption applies jointly and severally to the network owner, network operator and any party or agent of the owner or operator who has control of the private network. Please read the following sections carefully and observe all the conditions related to your activities.

3.1 Deemed exemption classes

No application is required for a deemed exemption. Note that all components of a metering installation are deemed to be exempt. All deemed exemptions are subject to compliance with the activity class description set out in Tables 1 and 2, and the conditions 4.1 – 4.8, set out in Part B of the Guideline.

To use a deemed exemption:

1. Review the Activity description and match it to your situation. Note the Activity class.
2. Look up the Activity Class in table 6 or 7 (whichever applies). Identify which general conditions apply to your network.
3. Read the relevant general conditions numbered 4.1.1 to 4.1.12 that apply to your activity class.
4. Read specific conditions 4.2 through 4.9.
5. Comply with all the applicable conditions.

3.1.1 Energy selling or energy supply at no cost

Table 1 – Deemed classes of exemption – energy selling or supply

Class	Activity
ND1	Persons selling metered energy or supplying energy to fewer than ten small commercial/retail customers within the limits of a site that they own, occupy or operate.
ND2	Persons selling metered energy or supplying energy to fewer than ten residential customers within the limits of a site that they own, occupy or operate.
ND3	Persons selling metered energy or supplying energy to occupants of holiday accommodation on a short-term basis.
ND4	Reserved
ND5	All supply of energy via plug-in or rack mounted equipment in any premises.
ND6	Persons selling or supplying unmetered electricity to small customers in Queensland.
ND7	Reserved

ND8	Persons selling metered energy or supplying energy to a related company.
ND9	Any supply of energy in conjunction with, or ancillary to, or to facilitate the provision of telecommunications services. Includes internet, telephone, mobile phone, fibre optic, hybrid fibre cable, television, radio, Wi-Fi or other communications technology.
ND10	Government agencies, other than housing authorities, selling metered or supplying unmetered energy to non-residential customers. This category includes all public and private educational institutions.

Notes: Classes of exemption labelled 'ND_' are 'network deemed' classes.

3.1.2 Deemed network specific situations

The conditions specified in Part B of the Guideline apply to all deemed network specific exemption classes. In particular, the 'applicable conditions' listed in table 2 corresponding to a deemed exemption class apply, as further modified by table 7.

Table 2 – Deemed classes of exemption – other situations

Class	Activity	Deemed exemption applicable to:	Applicable Conditions:
NDO1 ¹⁷	Off-market energy generation by equipment owned, operated or controlled by a third-party and connected to the NEM via a private electricity connection or equipment intended solely to provide emergency energy supply, or third-party renewable energy system providers	Energy generation (including inverter) installations not intended to supply network support or demand management services to the NEM and not otherwise required to be registered with AEMO. ¹⁸	4.1, 4.2, 4.3, 4.5, 4.6
NDO2	Sites broadcasting television and radio signals.	All situations.	4.1, 4.5
NDO3 ¹⁹	Electric vehicle charging station within a private network (e.g. a privately owned charging station located in a public area, hotel, shopping centre, university, etc.)	All situations.	4.1, & to the extent relevant: 4.2, 4.3, 4.4, 4.5, 4.6 & 4.7

¹⁷ This class applies only to the registration requirement in rule 2.5.1 of the NER for the private network to which a generator or inverter is connected. Generator registration and exemptions are handled by the AEMO. Safety requirements for generators and inverters are determined by each jurisdiction. This class does not affect any other requirement under any other legislation or rule of the NER.

¹⁸ If you have a contract or agreement to supply network support or demand management services to a network service provider or the AEMO based on a generator or inverter you must register the private network under class NRO1 of Table 4.

¹⁹ If the charging facility is directly connected to a network service provider, no exemption is required.

NDO4	Temporary supply for the construction and commissioning phase of building, civil, construction industrial, transport, mining or other projects	Incidental supply to facilitate bona fide construction and commissioning of new facilities on the same or an adjoining site	4.1, & to the extent relevant: 4.2, 4.3, 4.4, 4.5, 4.6 & 4.7
NDO5	Electric traction systems supplying passenger or freight vehicles and associated infrastructure (i.e. rail networks) but not including commercial and/or retail activities	All situations.	4.1
NDO6	Large corporate entities ²⁰	All situations.	4.1, & to the extent relevant: 4.2, 4.3, 4.4, 4.5, 4.6 & 4.7
NDO7	Residential, commercial and industrial sites where demand-side participation equipment and facilities is installed, including the owners and operators of the equipment and facilities. ²¹	All situations.	4.1, 4.2, 4.3, 4.5, 4.6

Notes: Classes of exemption labelled 'NDO_' are 'network deemed other' classes. The supply of network services in accordance with a commercial agreement between private parties is permitted for each category listed in Table 2.

3.2 Registrable exemption classes

Tables 3 and 4 set out the classes of registrable exemption. More than one activity class may apply. If so, when registering select each relevant activity class. You should also select the applicable deemed categories if any are relevant to your private network.

As changed arrangements apply to access to retail competition, all registration applications which previously involved activity class NRO5 must now nominate every applicable activity class in table 3.

The conditions set out in sections 4.1 – 4.8 of Part B of the Guideline apply to all registrable exemptions, as modified by table 8 or table 9.

Any variation of these conditions requires AER approval under an individual exemption application made in accordance with sections 3.3 and 5.3.

²⁰ A 'large proprietary company' is as defined under clause 45A(3) of the Corporations Act 2001 or, if not a reporting entity under that Act, includes an unlisted company, trust, or legal entity which otherwise fulfils the financial and/or staffing criteria specified in clause 45A(3) of the Act. The terms and arrangements for supply between two or more large corporate entities are not regulated. However, at the point of connection to the NEM the supply arrangements must conform to the reasonable requirements of the AEMO and the local network service provider for connection to the NEM.

²¹ Demand-side participation equipment is intended as a broad term which includes any form of customer load management capability, including solar, renewable energy, energy storage, load-control or other equipment intended to assist a consumer manage their load impact on the NEM.

Table 3 – Registrable classes of exemption – energy selling or supply

Class	Activity
NR1	Persons selling metered energy or supplying energy to ten or more small commercial/retail customers within the limits of a site that they own, occupy or operate.
NR2	Persons selling metered energy or supplying energy to ten or more residential customers within the limits of a site that they own, occupy or operate.
NR3	Retirement villages selling metered energy or supplying energy to residential customers within the limits of a site that they own, occupy or operate.
NR4	Persons selling metered energy or supplying energy in caravan parks, residential parks and manufactured home estates to residents who principally reside there.
NR5	Persons selling metered energy or supplying energy to large customers.
NR6	Persons selling metered energy or supplying energy to small customers at a site or premises adjacent to a site that they own, occupy or operate.
NR7	Persons selling or supplying unmetered energy to small commercial/retail customers at a site that they own, occupy or operate.

Note: Classes of exemption labelled 'NR_' are 'network registrable' classes.

For Class NR7, note that the AER does not support the sale of unmetered energy to small customers. Closed to new applicants. We will only consider approving an individual exemption for unmetered selling in exceptional circumstances, based on an application made in accordance with sections 3.3 and 5.3.

Class NR7 excludes private networks in Queensland that are deemed exempt under Class ND6 in Table 1.

Table 4 – Registrable classes of exemption – other situations

Class	Activity	Registrable exemption
NRO1 ²²	Off-market energy generation by equipment owned, operated or controlled by a third-party and connected to the NEM via a private network connection	Energy generation (including inverter) installations intended to supply network support or demand management services to the NEM
NRO2 ²³	On-market energy generation by equipment owned, operated or controlled by a third-party and connected to the NEM via a private network connection	Energy generation (including inverter) installations required to be registered with the AEMO under clause 2.5.2 of the NER

²² This class applies only to the network to which the generator is connected. Generator registration and exemptions are administered by the AEMO. Safety requirements are determined by each jurisdiction.

²³ This class applies only to the network to which the generator is connected. Generator registration and exemptions are administered by the AEMO. Safety requirements are determined by each jurisdiction.

NRO3	Ongoing supply to a mining or primary production facility and associated residential, commercial, industrial, processing and ancillary support facilities ²⁴ in areas with restricted access to NEM supply	All bona fide installations, subject to demonstrable circumstances of remoteness from existing NEM supply infrastructure
NRO4	Industrial, commercial and 'mixed-use' facilities but not including residential or energy generation activity and any activity listed in table 3. Includes the unmetered supply of energy under an agreed commercial scheme between large customers.	All installations
NRO5	Metered energy selling to customers in networks with metering infrastructure enabling access to full retail competition in a jurisdiction ²⁵	Closed. Replace with activity class from table 1 or table 3.

Note: Classes of exemption labelled 'NRO_' are 'network registrable other' classes.

Except for class NRO5, the supply of network services in accordance with a mutually agreed commercial agreement between private parties is permitted for each class listed in Table 4.

3.3 Individual exemption

Class NRI in Table 5 refers to network exemptions specific to the circumstances of the applicant. This class will apply in circumstances where an applicant is unable to conform to all of the conditions applicable to any relevant class of registrable exemption or where no class exists which covers the activities for which the applicant seeks exemption.

Table 5 – Individual network exemption class

Class	Activity	Registrable exemption	Application for individual exemption
NRI	Specific exemption of a network not otherwise described	All approved applications	Detailed application required

Note: Exemption class 'NRI' is 'network registrable individual' exemption.

²⁴ The term 'ancillary support facilities' is intended to be interpreted broadly to encompass a wide range of sundry activities including, but not limited to, incidental supply to local residents, local tourism, communication, health, public safety and emergency services. Supply to such loads is permitted where the cost of supply by a local distribution network service provider would be uneconomic.

²⁵ Activity class NRO5 formerly applied only to embedded networks where customers had access to full retail competition via 'child' metering registered in accordance with applicable AEMO requirements. It did not apply where a customer arranged direct connection to a NEM registered network service provider or where customers within a network did not have access to full retail competition. It is now closed and table 1 or table 3 applies.

We prefer, wherever it is practicable, to convert individual network exemptions to registrable exemptions. We recommend you contact the AER and discuss your situation at the earliest opportunity before proceeding to lodge an application.

Conditions 4.1 – 4.9 of Part B of the Guideline apply to all individual network exemptions unless specifically varied by a decision of the AER. Where an application for an individual network exemption or for a variation of conditions is required, it must be made in the form set out in section 5.3 in Part C of this Guideline.

The AER decision on an individual network exemption may nominate some, or all, of the general and specific conditions apply or that different conditions apply. The default position is that all the conditions listed in Part B apply unless they are clearly irrelevant. In the absence of an AER decision to omit a particular condition, the condition continues to apply.

Parties who assume control of a private network subject to an individual exemption must, within not more than 20 business days of commencing to own, operate or control that private network, make an application for exemption in the form set out in section 5.5 in Part C of this Guideline.

4 Part B – Conditions

Our conditions for exemption are detailed in this section. It is divided into nine sub-sections, numbered 4.1 through 4.9. Section 4.1 contains twelve general sub-conditions which apply to all embedded networks, except where modified by tables 6, 7, 8 & 9 for the respective exemption class.

Sections 4.2 through 4.9 provide a detailed explanation of our requirements for metering, interaction with AEMO, distribution loss factors, pricing, appointment of an embedded network manager, information provision and conversion of an existing site.

These conditions will only be varied by the AER in response to a written application (see sections 3.3 and 5.3) demonstrating that exceptional circumstances apply. We consider exceptional circumstances should mean that a material detriment to customers will be significantly reduced or eliminated by varying these conditions.

4.1 General requirements

Words in italics are primarily intended as commentary to assist understanding of a condition but also form part of the condition. Where a tick appears in a table the numbered condition applies to the named exemption activity class. Where the words “Not applicable” appear in any of tables 6, 7, 8 or 9, the numbered condition does not apply to that class of activity. Where a clause reference appears, only that specific clause applies.

1. All meters used for the measurement of electrical energy whether delivered to, or exported by, a customer must comply with the requirements of the *National Measurement Act, 1960 (Cth)* and regulations made under that Act for electricity meters and sub-meters and with the requirements set out in schedule 7.2 of the NER.

This condition applies to all metered energy situations. It does not apply if an unmetered supply is permitted by the AER.

2. All paid energy consumption must be metered except where the AER has determined an unmetered supply is permitted.

Note that the AER does not approve unmetered supplies except in unique or exceptional circumstances. Metering is not required if no charge is levied for electricity or for the recovery of energy supply costs from a tenant or co-tenant.

3. All private networks must, at all times, be installed, operated and maintained in accordance with all applicable requirements (within the jurisdiction in which the network is located) for the safety of persons and property. This includes, where relevant, an industry Code or Guideline otherwise applicable to a network service provider providing similar services.

In some jurisdictions larger networks may also have an obligation to have current, and/or maintain, a safety management plan or similar, with a competent safety authority or regulatory agency within that jurisdiction. You must obey these local safety requirements.

All owners and operators of private networks must comply with the reasonable requests of a local Distribution Network Service Provider (DNSP) for demand forecasting data,

relevant details of the physical network infrastructure and assets and any other data relevant to the control, operation or maintenance of the network.

Electrical networks may be subject to mandatory load shedding requirements in emergency situations, in accordance with the NER. This requirement will generally be specified by the local DNSP in the connection agreement for the connection to the NEM system.

There are no exceptions to these safety requirements.

4. Any generation source located within a NSP's private network must be designed in the event of a loss of supply from the local DNSP's network to either:
 - (a) shutdown entirely or
 - (b) disconnect from that other network (i.e. 'island') and not reconnect except in accordance with arrangements approved by the relevant NEM registered network service provider.

Applies whenever a private network contains a generation or inverter source of any kind.

5. All selling of electricity conducted within a private network must be undertaken by:
 - (a) a registered market retailer, or
 - (b) by the holder of a valid retail exemption or authorisation registered with the AER, or
 - (c) by a party or parties entitled to a deemed retail selling exemption in accordance with the current AER Exempt Selling Guideline, or
 - (d) a person authorised to sell electricity in accordance with regulations in force in a jurisdiction where the National Electricity Retail Law does not apply.

Applies whenever energy is exchanged for money across a private network.

6. A private network must have in place dispute resolution procedures. Where retail on-selling is occurring under the Retail Law and a dispute resolution mechanism is available under that Law, the same arrangement may apply for the resolution of disputes. In all other circumstances a suitable dispute resolution mechanism must be specified in the formal agreements between the network owner or its appointed agent and the end-use customer. These procedures must allow a customer to request, and be provided with, written details of all charges applicable to that customer. In addition:
 - (a) In the event of a dispute concerning the sale of energy to an exempt customer, and in the absence of a determination of the relevant tenancy tribunal if the customer is a tenant, the exempt embedded network service provider must:
 - i. make reasonable endeavours to resolve the dispute, and
 - ii. advise the exempt customer of any right that the exempt customer has to access the energy Ombudsman scheme or any other relevant external dispute resolution body in the state or territory in which the exempt customer is located, if applicable.

- (b) The exempt person's dispute resolution process must meet, at a minimum, Australian Standards: AS/NZS 10002:2014 Customer Satisfaction – Guidelines for complaints handling in organisations.

A dispute resolution mechanism does not require approval by the AER, but must be of a type ordinarily applicable to disputes of the kind, be reasonably accessible, timely, binding on the parties to the dispute and not subject to excessive or unnecessary costs nor to costs disproportionate to the amount in dispute.

Where a network owner or operator appoints an agent they, as the principal, remain responsible for ensuring this condition is satisfied.

7. Where a single customer has energy delivered to adjoining sites or to multiple exempt sites within a jurisdiction and the sites are subject to a common supply arrangement and suitable metering is installed, meter readings for that customer may be aggregated for corresponding time periods.

'Suitable metering' means meters that record energy to the same accuracy class and equivalent time intervals, but not necessarily meters of identical design. 'Exempt sites' refers to private networks.

This condition is permissive in its operation: it allows a proprietor or customer of one or more private networks to negotiate a bulk pricing arrangement with a willing retailer. This condition does not require that meter readings must be aggregated: it only permits them to be aggregated if a commercial agreement exists to do so. Note also that this condition does not require any NEM service provider or AEMO to modify its systems or procedures to facilitate aggregation.

8. An application for registration of an exempt network is to be made within 20 business days of acquiring a requirement to register. Applications for exemption are personal to the applicant. They are not transferable.

Note that registrable exemptions require minimal effort for the new proprietor of an existing registered exempt network to obtain. Therefore, there is no practical impact in requiring a new application. Note also that no application is required for a deemed exemption category.

9. The AER may revoke or amend an exemption at any time or may vary the conditions applicable to an exemption from time to time.

If the AER does so it will notify a registered applicant using the registered contact details or otherwise, in accordance with the procedures set out in this Guideline and the NER. There are no exceptions to this requirement.

10. Where notified by a customer ('life support customer') of the existence of a requirement to maintain supply for life support equipment, the exempt embedded network service provider must, without undue delay, promptly notify:

- (a) before 1 December 2017: the local DNSP of the existence of a life support requirement in accordance with the reasonable requirements of the local DNSP; and
- (b) from 1 December 2017: the parent connection point retailer of the existence of a life support requirement in accordance with the reasonable requirements of the

parent connection point retailer. In addition the exempt embedded network service provider must, without undue delay, promptly notify the child connection point retailer when they are informed of life support requirements at a child connection point.

Applies whenever electricity is provided to across a private network to an eligible retail customer.

11. An exempt embedded network service provider must not disconnect supply to a life support customer without making arrangements for the safety of a life support customer.

Applies whenever electricity is provided to across a private network to an eligible retail customer.

12. Where an exempt embedded network service provider must appoint an embedded network manager (i.e. an ENM as defined above) to comply with condition 4.4, the appointment must also comply with condition 4.7.

1. Where an exempt customer is eligible under state or territory legislation to purchase energy from a retailer of their choice, the exempt embedded network service provider must not do anything to discourage or prevent them from exercising this choice, whether by:

- (a) requiring the exempt customer to waive their ability to choose a retailer; or
- (b) unreasonably hindering their efforts to find another retailer; or
- (c) imposing a requirement for compensation for lost capital, income or profit by a customer exercising the right to access a market retail offer; or
- (d) allowing, causing or permitting any other person to do any of the things mentioned in (a), (b) or (c) above;

and, except where the requirements of section 4.9 have been met:

- (e) an exempt embedded network service provider or agent must not alter the electrical supply arrangement to a customer or tenant in a private network directly connected to a registered distributor without the written consent of that customer, resident or tenant, freely given; and
 - (f) a customer, resident or tenant of commercial, industrial or residential premises must not be compelled to become part of a private network or subject to an exempt selling regime without the express written consent of that customer, resident or tenant.
2. Where condition 4.1.12.1 does not apply, an embedded network owner must not prevent or unreasonably impede a customer, resident or tenant within the embedded network from obtaining, at their own cost, a direct connection to the local distributor.

4.1.1 Exemption Class condition tables

The tables are set out on the following pages.

Table 6 – Deemed classes of exemption – energy selling and supply at no cost

Conditions												
Class	1	2	3	4	5	6	7	8	9	10	11	12
ND1	✓	✓	✓	✓	✓	✓	✓	Not applicable	✓	✓	✓	✓
ND2	✓	✓	✓	✓	✓	✓	✓	Not applicable	✓	✓	✓	✓
ND3	✓	✓	✓	✓	✓	✓	✓	Not applicable	✓	✓	✓	✓
ND4	Not applicable											
ND5	Not applicable	Not applicable	✓	Not applicable	✓	Not applicable	Not applicable	Not applicable				
ND6	Not applicable	Not applicable	✓	✓	✓	✓	✓	Not applicable	✓	✓	✓	✓
ND7	Not applicable											
ND8	✓	✓	✓	✓	✓	✓	✓	Not applicable	✓	Not applicable	Not applicable	Not applicable
ND9	Not applicable	Not applicable	✓	✓	Not applicable	✓	✓	Not applicable	✓	Not applicable	Not applicable	Not applicable
ND10	✓	✓	✓	✓	✓	✓	✓	Not applicable	✓	Not applicable	Not applicable	✓

Table 7 – Deemed classes of exemption – other situations

Conditions												
Class	1	2	3	4	5	6	7	8	9	10	11	12
NDO1	✓	✓	✓	✓	✓	✓	✓	Not applicable	✓	Not applicable	Not applicable	Not applicable
NDO2	Not applicable	Not applicable	✓	Not applicable	Not applicable	✓	Not applicable	Not applicable	✓	Not applicable	Not applicable	✓
NDO3	✓	✓	✓	✓	✓	✓	✓	Not applicable	✓	Not applicable	Not applicable	✓
NDO4	Not applicable	Not applicable	✓	Not applicable	Not applicable	✓	Not applicable	Not applicable	✓	Not applicable	Not applicable	Not applicable
NDO5	Not applicable	Not applicable	✓	Not applicable	Not applicable	✓	Not applicable	Not applicable	✓	Not applicable	Not applicable	Not applicable
NDO6	✓	✓	✓	Not applicable	✓	Not applicable	Not applicable	Not applicable				
NDO7	✓	✓	✓	✓	✓	✓	✓	Not applicable	✓	Not applicable	Not applicable	✓

Table 8 – Registrable classes of exemption – energy selling

Conditions												
Class	1	2	3	4	5	6	7	8	9	10	11	12
NR1	✓	✓	✓	✓	✓	✓	✓	✓	✓	Not applicable	Not applicable	✓
NR2	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
NR3	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
NR4	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
NR5	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
NR6	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
NR7	Not applicable	Not applicable	✓	✓	✓	✓	✓	✓	✓	Not applicable	Not applicable	✓

Table 9 – Registrable classes of exemption – other situations

Conditions												
Class	1	2	3	4	5	6	7	8	9	10	11	12
NRO1	✓	✓	✓	✓	✓	✓	✓	✓	✓	Not applicable	Not applicable	Not applicable
NRO2	✓	✓	✓	✓	✓	✓	✓	✓	✓	Not applicable	Not applicable	Not applicable
NRO3	✓	✓	✓	✓	✓	✓	✓	✓	✓	Not applicable	Not applicable	Not applicable
NRO4	✓	✓	✓	✓	✓	✓	✓	✓	✓	Not applicable	Not applicable	✓
NRO5	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

Table 10 – Individual network exemption class

Conditions												
Class	1	2	3	4	5	6	7	8	9	10	11	12
NRI	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

4.2 Metering installation and NEM requirements

The following requirements apply to all new metering installations and to any reconfiguration of an existing metering installation within an existing embedded network. This clause also applies to an activity class where condition 4.1.12 applies, as set out in tables 6, 7, 8, 9 & 10.

Metering at the parent connection point of an embedded network is to be determined in conjunction with the relevant transmission or distribution network service provider's requirements for connection of a customer. Metering requirements for child connections in an exempt embedded network, including a requirement to appoint an ENM, are set out in section 4.2.2. A metering installation is non-compliant if the metering installation does not conform to current standards for NEM metering in any material respect.

An existing non-compliant metering installation for a child customer in an embedded network must be upgraded at the cost of the exempt embedded network service provider except where:

- (a) the child embedded network customer has not sought to take advantage of a market retail offer; or
- (b) the metering installation was in existence on 1 January 2012 and was not altered after that date; or
- (c) a metering installation was installed on or after 1 January 2012 and that installation complied with the requirements of this guideline in force on the date of commissioning or first use of the installation; or
- (d) a customer, market retailer or other person provides a replacement metering installation of their own volition.

4.2.1 Transmission networks

Regardless of whether a transmission network is registered with AEMO or exempted from registration by the AER, all metering in electricity transmission networks must be installed in accordance with all reasonable requirements of AEMO and additionally, in accordance with the requirements specified in a connection agreement with a network service provider.²⁶

An exempt embedded network service provider must maintain and operate (or ensure their authorised representatives maintain and operate) all equipment that is part of their facilities in accordance with:

- (a) relevant laws;
- (b) the requirements of the National Electricity Rules as apply to the safe, reliable and secure operation of the National Electricity Market as advised by AEMO; and

²⁶ A transmission network as defined in the National Electricity Rules is nominally one which operates at voltages of 220 kV and above or, subject to a determination by the AER, at lower voltages in parallel with and providing support to the main transmission network.

- (c) good electricity industry practice and relevant Australian Standards.

When requested to do so, an exempt embedded network service provider must negotiate in good faith to permit access to an exempt electricity transmission network on reasonable commercial terms. This condition does not require an exempt embedded network service provider to offer firm access to the exempt network.

4.2.2 Distribution networks

Where AEMO advises that an exempt distribution network operating at a nominal voltage of 66kV or more is likely to affect the safe, reliable or secure operation of the National Electricity Market, an exempt embedded network service provider must maintain and operate (or ensure their authorised representatives maintain and operate) all equipment that is part of their facilities in accordance with:

- (a) relevant laws;
- (b) the requirements of the National Electricity Rules as apply to the safe, reliable and secure operation of the National Electricity Market as advised by AEMO; and
- (c) good electricity industry practice and relevant Australian Standards.

4.2.2.1 Basic metering requirements

An exempt embedded network service provider must ensure that all metering installations used in a private network are fit for purpose and compliant with the requirements of the National Measurement Act, which Act is administered by the National Measurement Institute and the regulations in force under that Act.

An embedded network metering installation for which an ENM must be appointed must be installed and operated consistent with the AEMO Metrology Procedure: Part A National Electricity Market. The metrology procedure and technical standards applicable to a metering installation remain subject to the laws of the jurisdiction in which the installation resides.

In addition to any other requirement under the NER and/or jurisdictional requirements for a metering installation, all meters installed in an exempt distribution network must be in an accessible location with safe, convenient access at no cost to the customer to facilitate meter reading by the network operator and the customer or their respective agents and, where relevant, to permit meter testing and maintenance.

Where security or safety considerations result in limited access to metering, local arrangements must be made that allow customers or their agents ready access to metering on request and at no cost to the customer. The use of a web portal or other electronic means of providing customer access to metering data is permitted. The provision of an alternative access option does not replace the right of the customer under this condition to physically inspect a meter at no cost at least once every month during business hours or at another mutually agreed time.

4.2.2.2 Competition in metering rule change

From 1 December 2017, the Competition in Metering rule change applies to NEM metering installations. Where an ENM must be appointed in a state or territory under this guideline, the current functional specification for new or replacement metering installations under the NER applies to all new embedded networks and to any rebuild of an existing network which involves a replacement of more than 50% of the then active metering installations.

4.2.2.3 Retail competition – access requirements

Where a market retailer accesses an existing embedded network child meter the market retailer or the customer (as the case may be) may:

- (a) purchase or lease the existing meter from the owner of the meter; or
- (b) replace the meter with a meter of their own choosing.

If option (a) applies, the purchase or lease of the meter and the arrangements to access meter data are to be determined at the discretion of the retailer or, otherwise, by the customer.

If option (b) applies, no compensation is payable to the exempt embedded network service provider for the unrecovered cost of the meter.

In all states and territories an exempt embedded network service provider must provide access on reasonable terms to all necessary facilities to allow the metering of a customer obtaining supply from a market retailer. Where access to retail competition by parent/child metering is not available in a state or territory, an exempt embedded network service provider must not unreasonably prevent an embedded network customer from arranging at their own cost a direct connection to a local distributor.

4.2.2.4 Prohibition of measures which impede competition

The AER does not permit an exempt embedded network service provider to impose any measures on a customer either directly or indirectly, which would impede or penalise a customer seeking access to retail competition. The prohibited measures may be either physical, financial or contractual.

From the earlier of the effective date of this guideline and 1 December 2017, an exempt embedded network service provider is not entitled to receive and must not impose a requirement for compensation on a person, Owners Corporation, body corporate, strata corporation, landlord, resident, tenant or trust for the loss of capital, income or profits however it arises resulting from the exercise of a customer of the right to access an alternative retail market electricity price offer.

A supply contract must not include any charge for early termination of the supply agreement or any condition which unreasonably restricts the ability of a consumer to access an alternative retail market offer or that requires the exempt embedded network service provider to be the sole supplier of any metering related service.

4.2.2.5 Meter accuracy testing and billing disputes

In the event of a billing dispute, an exempt embedded network service provider must inform a customer of the right to request a meter test. A copy of the notice must be retained by the exempt embedded network service provider and be available for inspection on request by the AER. If requested in writing by a customer to perform a metering test, the exempt embedded network service provider must demonstrate that the metering installation is accurate to the applicable standard specified in schedule 7.2 of the NER. If the customer does not request testing or waives the right to testing, the meter is deemed to be accurate.

An offer to conduct a metering test must be in writing and, if a cost may be incurred, must declare the cost to be incurred by the customer if the meter is found to be accurate. The offer must also state the customer bears no cost if the metering installation is found to be deficient in any material respect. For the purposes of this condition, a defect is not material if it does not affect the accuracy or timeliness of metering data obtained from the metering installation.

If the meter has not been installed and maintained to an appropriate standard or is not accurate relative to the applicable standard specified in schedule 7.2 of the NER, the cost of testing must be borne by the exempt embedded network service provider. The reasonable cost of testing may be recovered from a customer if:

- (a) the meter is tested and found to be accurate; and,
- (b) the metering installation has been installed to an appropriate standard; and
- (c) the metering installation has been maintained to current NEM standards up until the time of testing; and
- (d) there is no evidence of a material defect as stipulated above; and
- (e) the customer requested in writing that the meter be tested.

Testing may require that the exempt embedded network service provider arrange for a specialised electrical contractor to install a calibrated 'check meter' for a period to compare the readings of your metering with the check meter.

4.2.3 Off-market and on-market energy generation

All generation installations (i.e. all off-market and on-market energy generation, including inverter systems), whether connected directly or indirectly to a NEM distribution network, must be metered in accordance with the applicable requirements for connection to a NEM distribution or, where applicable, transmission network.

Caution: Generator and inverter installations within private networks do not necessarily have access to government incentive schemes. A generator or solar PV inverter system not directly connected to the local distributor may have no access, or restricted access, to government or industry incentive programs. In particular, access to feed-in tariffs may not be available for such generators. This can be an issue for situations like retirement villages which install solar systems. You should consult your local energy authorities to determine if suitable arrangements can be made before investing in such systems.

The AER considers that the metering requirements imposed for small generator installations within private networks should be proportional to the size of the installation and kept to the minimum necessary to adequately record energy flows to and from the NEM. For all generator and inverter installations adequate metering must be determined in consultation with the relevant NEM registered service provider. For small installations this may involve a bidirectional meter installed at the connection point to the local distribution network. Further details of metering requirements must be obtained from the local electricity distribution or transmission network service provider. Additional requirements set by AEMO apply to generator or inverter installations larger than 30MW.

Special note for generator and inverter installations: Simply owning a generator or solar inverter does not automatically mean an exemption is required for your network. Exemption of a network is required only where a third party is involved.

For example, a shopping centre will have tenants and often, a generator. In this example we assume the tenants are being supplied by the shopping centre through an embedded network. The shopping centre network must be exempted because of the supply to third parties (i.e. the tenants), not because it has a generator. However, the situation changes if the generator belongs to someone else (a third person) and is supplying electricity to the shopping centre or to the NEM – then the shopping centre network must be exempted because the shopping centre is supplying a distribution service to the generator.

Also, network users should be aware that additional jurisdiction specific regulations exist which impose additional requirements on the installation of generators and inverters (with or without batteries or other storage). Even if it is your network and it is your equipment connected to the network you must still comply with the local safety requirements. Contact your local distributor for details.

4.2.4 Electric vehicle charging facilities

As this is a deemed exemption category, no application is required for this exemption.

This classification applies to a private network with a vehicle charging facility owned by another party connected to the private network. An example might be a shopping centre which allows a vehicle leasing company to install a charging system that can be used by members of the public. An exemption is required by the shopping centre because their private network sits between the distributor and the charging facility.

On the other hand, no network exemption is required if the vehicle charging facility is directly connected to the local distribution network. It will be directly metered by the local distributor. This applies wherever there is a direct relationship between the distributor and the charging facility.

Note that the supply of electricity from a charging facility to a vehicle is a service to the transport sector, which is not regulated by the AER.

Where the facility operates only as a load, metering and charging arrangements within the private network may be determined by agreement between the network owner/operator and the proprietor of the charging facility. Although the AER prefers all connections be metered,

we permit private commercial and industrial (but not residential) vehicle charging arrangements which include an unmetered connection.

A vehicle charging facility which has a capacity to export electricity into the local distribution network must comply with the metering requirements in clause 4.2.3 for energy generation sources.

4.3 Metering operation and maintenance

This condition only applies wherever a meter is required to be installed.

An exempt embedded network service provider must operate and maintain a metering installation which they own, operate or control in accordance with the requirements of schedule 7.3 of the NER. For the purposes of this condition, the exempt embedded network service provider is deemed to be and must undertake the role of the 'responsible person' where mentioned in schedule 7.3.

4.4 AEMO requirements for access to retail competition

This condition applies where an exempt customer is eligible under state or territory legislation to purchase energy from a retailer of their choice and a customer must access retail competition through a parent metering installation serving an exempt embedded network service provider. This requirement includes any embedded network that would otherwise be deemed exempt.

4.4.1 Appointment of an ENM

Subject to the further requirements specified in section 4.7, an embedded network manager must be appointed and an appointment maintained if the trigger conditions specified in condition 4.4.2 are met. It should be noted that if the requirements specified in condition 4.7.2 for reversion to no ENM have been met, this condition will not apply.

4.4.2 ENM appointment trigger conditions

The relevant activity classes which require the early appointment of an ENM are those involving small and large residential, commercial and industrial customers. Subject to the further requirements set out in this condition, the relevant exemption activity classes for which an ENM must be appointed are ND1, ND2, ND10, NR1, NR2, NR3, NR4, NR5 and NR6 ('relevant activity classes').

An exempt embedded network with 30 or more customers operating in a relevant activity class and not subject to a non-appointment or reversion entitlement under condition 4.7.2 must appoint an ENM by:

- (a) existing networks: 1 December 2017; or
- (b) from 1 December 2017: immediately on the network commencing operation.

For each activity class not listed above we have determined the costs will outweigh the benefits of the appointment of an ENM.

We have omitted class ND3 from the relevant activity classes. This class concerns short-term rental accommodation (as is common in tourism). We do so on the basis that the transient nature of those tenancies makes it unlikely that there would be sufficient opportunity to offset the transaction costs of appointing an ENM.

We also omit specific reference to the generation, industrial and commercial situations described in tables 2, 4 and 5 on the basis that these situations are likely to involve a direct arrangement with a market retailer with the necessary accreditation to correctly manage the metering installation. In these circumstances, the costs of appointing an ENM are likely to outweigh the benefit of an early appointment.

For any of these situations though, if the appointment of an ENM becomes necessary because an ENM conditions trigger has arisen as provided for in clause 2.5.1(d2) of the NER, an accredited ENM must be appointed in accordance with rule 2.5.1(d2).

4.4.2.1 Small size network threshold

Note that in this condition 4.4.2.1 we use the term 'ENM trigger event' for convenience. It should not be mistaken for the similar term defined in the NER: *ENM conditions trigger*.

We have determined under clause 2.5.1(d2) of the NER that some network activity classes should be exempted on the basis of size from appointing an ENM immediately. We consider that scale is an important consideration for these activities. Discussion with industry representatives would suggest that networks with fewer than 30 small retail customers are less attractive than larger networks because of transaction costs.

We accept that small networks have a higher sensitivity to transaction costs than larger networks but note the choice of a threshold is, in some respects, arbitrary and will vary considerably depending on a range of factors which may include the actual load of customers and the efficiency of ENM and market retailers. In the absence of clear demarcation point, we consider for the purpose of this draft guideline thirty (30) is a reasonable threshold below which the immediate appointment of an ENM is not required. We note that this threshold may change as a result of this consultation. If so, we may vary this threshold in the final guideline.

For networks with fewer customers and/or smaller loads we also consider it possible that the exempt embedded network service provider may be willing to match the prices proposed by the market retailer. This may result in a net saving for both the exempt embedded network service provider and the customer or customers of the network. In condition 4.7.2 we provide the exempt embedded network service provider a window of opportunity to make a counter-offer in some circumstances. If no counter-offer is made or if a counter-offer is not accepted then the ENM trigger event requirements are satisfied and an ENM must be appointed.

As the timeframe for actions required to appoint an ENM is limited, we expect that all parties will communicate electronically, either by email or SMS communication or other similar means.

This condition concerns small residential customers in activity classes ND2, NR2, NR3 and NR4 and small commercial, retail and industrial customers governed by activity classes ND1, ND10, NR1 and NR6. When an ENM trigger event occurs, an ENM must be appointed.

For an exempt embedded network with 29 or fewer small customers, an ENM trigger event occurs when the following is satisfied:

- (a) a customer or a retailer notifies the exempt embedded network service provider of the desire of the customer to access retail competition; and
- (b) where an eligible member of an eligible community notifies the exempt embedded network service provider as provided for in condition 4.7.2 that the customer does not accept a binding written price counter-offer; and
- (c) the cooling off period for that market retail contract has expired.

A notice under this condition must be addressed to the exempt embedded network service provider at the normal business address of the network. If the network is registered with the AER, the notice may be addressed to the address recorded in the public register of network exemptions. The notice may be in writing or delivered electronically by email or SMS.

4.4.3 Registration required when an ENM is appointed

Class NRO5 was originally introduced to distinguish embedded network metering systems which had been established specifically to support access to retail competition. Early registrations did not require the NDx or NRx activity classes of tables 1 or 3 to be recorded. With the introduction of the amended rules governing embedded networks, we will cease to apply class NRO5. This is on the basis that the default position is that in all NEM jurisdictions where access to competition is available, all metering installations will be required to be capable of facilitating that competition, either immediately or following additional metering works.

For all embedded networks for which an ENM has been appointed, registration in the relevant activity class or classes is required. An existing registration must be updated or amended where necessary to record each relevant NDx or NRx activity class. An existing registration may also be amended to add or revise any other relevant activity classes. An amendment should be lodged with the AER within 20 business days of the appointment of the ENM.

4.4.4 AEMO metrology and guideline requirements

The metering arrangements for customers obtaining supply from a NEM registered retailer must comply with all applicable NER and AEMO requirements for the installation and maintenance of a metering installation, the registration of meters, provision of metering data and, where necessary, the transfer of the customer to another retailer. These requirements are published by AEMO in a metrology procedure and the associated AEMO embedded Network Guideline.²⁷

An exempt embedded network service provider is required to appoint an accredited ENM to perform these tasks. These tasks may only be performed by an exempt embedded network service provider if that exempt embedded network service provider has obtained

²⁷ AEMO, Metrology Procedure: Part A National Electricity Market.

accreditation from AEMO and holds a current registration with AEMO which has not been suspended or revoked.

4.5 Distribution loss factors

Unless you are setting up a large new private network, you own a large generator in a private network or you are very large load in a private network (think large factory) this section does not apply to you. Your distribution loss factor is the 'standard' loss factor applied by the local distributor to other customers similar to you. See sub-clause 4.5.1 below.

Network losses in a small private network will generally not be of sufficient magnitude to warrant calculating a distribution loss factor (DLF) for meters within that network. To avoid imposing additional costs on private networks we apply a policy that for small customers the losses within the private network can be ignored for each individual child meter. This policy means the exempt embedded network service provider must absorb the cost of losses in the private network in their overheads. Offsetting this cost though, we also note that we allow shadow pricing to apply to network charges. This results in a differential between network costs paid by the exempt embedded network service provider and the sum of the costs paid by customers, which differential will normally favour the exempt embedded network service provider. We consider this policy is balanced and fair as the profits made on the network charge can compensate the exempt embedded network service provider for the electrical losses incurred.

DLFs are governed by clause 3.6.3 of the NER. Under clause 3.6.3(b)(2)(i)(B) a 'small load' is any load or a collection of loads which, in total, is less than 10MW peak demand or 40 GWh per annum. It is rare for a private network to exceed this size.

1. In private networks which constitute a 'small load' and which serve a number of smaller loads ('children'), the DLF of each child meter is the published DLF that would be applied by the local DNSP at the metered point of connection if the DNSP were serving the customer directly. If this DLF cannot be readily ascertained, the DLF is the DLF otherwise applicable to the connection of the embedded network to the local distribution network, i.e. at the 'parent' meter.

Under this policy, for all small loads it is assumed the effective DLF of the embedded network is 1.000. The losses within the private network are ignored. Instead, we apply the standard DLF applicable to ordinary distribution customers in the equivalent distribution tariff class to the 'child' meters within the installation. This is the approved DLF as would be determined by the local DNSP if the local DNSP were supplying that metering installation.²⁸ This means that the operator of a private network applying clause 4.5.1 does not need to calculate and seek annual AER approval of a DLF for the child meters within that network.

Large loads, generators and site specific loss factors

Where the parties are large corporate entities or large customers applying charging group C and settlement is handled privately, AER approval of an agreed DLF methodology is not

²⁸ See: <http://www.aer.gov.au/node/484>, select the category: 'Distribution Loss Factors' and the most recent year.

required. Annual approval may take the form of an annual confirmation that the pre-agreed methodology for calculation of the DLF continues to apply. The agreed DLF must be reported to the AER annually and remains subject to publication by the AER and AEMO under clause 3.6.3 of the NER. However, in the absence of a private agreement and if the combined loading results in an embedded network becoming a significant load, condition 4.5.2 or 4.5.3 below will apply.

Clause 3.6.3(b)(2)(i) of the NER governs the calculation of a DLF for large loads and generators connected to a network. In private networks involving loads or generators otherwise described in clause 3.6.3(b)(2)(i), a site-specific DLF for those loads or generators must be calculated in accordance with clause 3.6.3(b)(2)(i) using the methodology published for this purpose by the local DNSP.

2. The methodology for calculating a DLF is the same as that published by local DNSP; or²⁹
3. Where the methodology of the local DNSP is not suitable for the calculation of a site-specific DLF for any reason, the network operator and the connecting party may jointly approach the AER and seek approval of an alternative methodology for determining the applicable allocation of electrical losses between the parties. Approval by the AER will be subject to there being no material impact on the rights of another party as a consequence of the alternative mechanism.

DLFs, including site-specific DLFs, calculated in accordance with conditions 4.5.2 and 4.5.3 must be approved annually by the AER in accordance with the NER, clause 3.6.3(i). Where the customers are small customers or a DLF is needed for settlement via the AEMO market settlement systems, the DLF calculated will be subject to the AER's annual audit requirements for DLFs. The methodology used will also be subject to approval by the AER.

4.6 Pricing

The following paragraphs describe predefined pricing arrangements accepted by the AER for network charges in private networks. Table 11 sets out the charge groups which may apply to private networks.

Table 11 – Network charges – applicable charge groupings

Charge Group	Description	Applicable situations
A	Bundled energy and external network tariff	All retail selling (i.e. the vast majority of situations whereby energy is sold to customers within a private network).
B	No additional	Unrestricted: there is no charge for the network or, the applicant is billed for network services by a distributor and is passing that

²⁹ The NER specifies that the methodology for the calculation of distribution loss factors is either the methodology published by the local DNSP or as published by the AER. However, we consider publishing a single national DLF methodology would be impractical. This is because the methodologies that apply in each jurisdiction vary widely and doing so would result in significant disruption in a number of jurisdictions to existing pricing arrangements and unduly impact consumers.

	network charge	cost on to customers in proportion to their metered energy use or, the pass-through of costs incurred to meet customer requirements.
C	Value added services	Large customers and network specific activities subject to commercial arrangements agreed between consenting, well informed (i.e. sophisticated) customers. Eligible private networks only. Restricted application (see text). Charging mechanism for network charges is specified in a commercial agreement.
D	Separate charge for private network facilities	Registered & individually exempted networks. Pricing determined by the AER.
E	Rebate for exported energy	Unrestricted.

4.6.1 Charge groups

Amended treatment of charge groups

When registering an exemption, we now only require the dominant applicable charge group be nominated. The distinction between charge groups A and B is historical. We now treat charge groups A and B as a single group. Charge group E was introduced as a transitional measure. We consider with the widespread development of embedded generation, solar PV systems and storage, separate registration in this group is no longer required if the activity occurs in conjunction with charge groups A, B or C. We now treat charge groups A, B, C and D as automatically including charge group E.

4.6.1.1 Group A

May apply to any retail on-selling situation where customers are charged an energy only charge, a shadow-priced network charge or all-inclusive tariff which includes external network charges. This is the most common category of charging.

If the external network charge is clearly attributable to a specific customer, it may be passed through at cost to that customer. Alternatively, if the charge cannot be readily attributed to a particular customer, the network charge for each customer may be based on a charge no greater than the published regulated charge which the DNSP would have charged that customer, had the customer been served directly by the distributor.

In this guideline we refer to this arrangement as 'shadow pricing' of the network charge. Note that the private network must not charge fees for services which would not be charged by the distributor to a customer in the same circumstances. We have attached a schedule of charges which we consider may apply to customers in normal circumstances.

Many energy consumers are ultimately concerned with the overall expense of their energy consumption. The critical point of comparison in this situation is the bundled price of energy

and network charges. We consider that bundled tariffs which include all network charges are unlikely to be contrary to the long term interests of consumers.³⁰

4.6.1.2 Group B

Network only charge. Applies to an embedded network where all customers are receiving an energy only offer from a market retailer and there is no exempt selling occurring. No charge is allowed for the private network assets. However, externally imposed charges may be applied pro-rata to customers as per condition 4.6.2, which condition may apply in any private network situation.

Note that the agreed cost for the initial establishment or upgrade of a network to meet customer requirements may still occur, i.e. may be passed through to the customer, in accordance with a bona fide lease or ancillary agreement between the network owner, operator or controller (as appropriate) and the network customer. Such charges may be subject to normal commercial financing arrangements.

4.6.1.3 Group C

This charging group applies to large customers and large corporate entities. It does not apply to small residential, retail, industrial or commercial customers.

This group is applicable to network charges for exempt network classes NDO1, NDO2, NDO3, NDO4, NDO5, NDO6, NR5, NRO1, NRO2, NRO3 and NRO4 and individual exemptions approved by the AER in accordance with section 5.3 of this Guideline.

For large customers only, network charges may be based on a commercial agreement, freely entered into on mutually agreed terms. If agreement cannot be reached then charge groups A and/or B apply.

For large corporate entities, no restrictions apply. Parties must reach an agreed commercial solution or subject their disagreement to a dispute resolution process.

This group also is intended to apply to commercial, industrial and mining situations and private networks serving large customers or on-site generation exporting to the NEM. The principle which applies here is that commercial arrangements between parties with similar bargaining power should not be regulated.

Energy on-selling to small customers is not permitted within this charge group in accordance with the relevant provisions of the AER's Retail Exempt Selling Guideline.

Where it can be demonstrated that access to the NEM would not otherwise be available except at significant incremental cost to the affected customers, the network may also service supporting infrastructure, isolated communities, emergency services, farms and pastoral holdings and unrelated loads or generators on reasonable commercial terms.

³⁰ This charge implicitly is a form of 'shadow price'. A customer is able to compare this price with other retail offers and thus can make an informed selection.

4.6.1.4 Group D

Charge group D is for new individual exemptions only. Exemptions applying this charge group require an individual exemption approval by the AER in accordance with section 5.3 of this Guideline. Approval will only be contemplated in exceptional circumstances.

Parties wishing to earn a commercial return on network assets should generally be registered as a network service provider and be subject to the operation of chapter 6 or chapter 6A of the NER. Applicants in this charge group would need to demonstrate that NEM registration and compliance costs would be disproportionate to the size of the community to be served by the network and that compelling grounds exist for an exemption to be considered.

4.6.1.5 Group E

Where a generator within a private network earns credits for energy exported to the NEM all credits remain the property of the embedded generator. All credits must be rebated to the embedded generator or, if more than one, to each embedded generator in proportion to the credits earned. This requirement does not prevent the owner of an embedded generator from entering into an agreement with another party to reallocate those credits.

For example, a retirement village may develop a community scheme whereby each resident with a PV system surrenders their rights to the credits earned on appropriate terms.

Where relevant, this charge group will apply automatically, in conjunction with any other applicable charge group (i.e. charge group A, B, C or D). This is to accommodate the addition of a generating option to an existing embedded network.

4.6.2 External network charges

External network charges may be levied by a registered NEM network service provider and charged to the parent meter of a private network. These charges are known variously as 'transmission use of system charges' (TUOS), 'distribution use of system charges' (DUOS) and 'network use of system' (NUOS) charges depending on the State in which the network is located. Such charges may be apportioned to each customer in a private network on a 'causer pays' basis in proportion to the metered energy consumption of each customer over the equivalent period no matter which charge group or groups apply (see Table 11).

Alternatively, the charges borne by each customer may be determined on a 'shadow price' basis. In this context a 'shadow price' is charging each customer a tariff no greater than the tariff that would have applied had that customer obtained supply directly from the local NEM registered distribution or, where appropriate, transmission company.

We recognise that these charges may be difficult to apportion on a precise basis, especially where time variable charges apply. The shadow price approach may be simpler to implement in those situations or in situations where bulk supply is obtained at a different voltage level.

4.6.3 Internal network charges

We do not encourage separate network charges for private networks. Few, if any, situations currently exist where such charges are warranted. The formal determination of network charges by the AER is a complex and involved process, the costs of which will usually be disproportionate to the scale of a private network.

Where an embedded network exists within a commercial building, shopping centre, airport, residential apartment building, retirement village or the like, the AER considers the network development costs to have been met in the initial establishment of the facility. Such costs are capital in nature and are normally recoverable through lease payments, fit-out charges or the like. A charge for network services is not appropriate as it may result in the customer being charged twice for the same facility.

Accordingly, no charge is permitted for energy network services except where the parties have entered into an agreement on mutually agreed terms and both parties are:

- large customers; or
- large corporate entities.

4.6.4 Charging customers

Our agreement to a network charging mechanism is predicated on a requirement that there must not be a sustained over-recovery of any network charge. Where an over-recovery occurs, it is required to be rebated to customers at intervals of not more than annually. Note that the energy component of any charge is subject to the Retail Exempt Selling Guideline.

An exempt embedded network service provider must:

- (a) not impose any network charge on an exempt customer that would not be charged by the relevant local area distributor to that customer if the customer were directly connected to the distributor and subject to a standard distribution connection contract;
- (b) provide notice to the exempt customer of any change in the exempt customer network tariff as soon as practicable, and no later than the exempt customer's next bill; and
- (c) limit any fee charged to a customer for late payment to a recovery of reasonably incurred costs by the exempt embedded network service provider as a result of the customer's late payment.

A charge under this provision must be directly linked to a tariff schedule approved by the AER and published by the relevant local distributor. A charge may not exceed (but may be less than) the applicable tariff schedule item.

4.6.4.1 Meter reading charges

A meter reading charge may only be levied at a frequency of once per billing cycle (if the billing cycle is greater than monthly) and, in any other circumstances, not more than once per month.

A manual meter reading charge may only be charged for a type 5 or type 6 metering installation which was compliant with this guideline at the date of commissioning or first use of the metering installation.

Where the installed meter type is an advanced technology meter, the applicable metering charge and the charge for energisation, re-energisation or de-energisation must not exceed the published applicable distributor charge for an advanced technology meter. For advanced technology meters, a manually read meter charge is only permitted when a customer requests a physical read of the meter and the read is subsequently performed by physical inspection of the meter.

4.6.4.2 Summary

Our pricing condition permits the network owner or operator to charge:

Small customers

- A bundled energy tariff (Group A)
- Actual costs incurred in making metering changes or service capacity upgrades requested by the tenant (Group A or Group B)
- A pro-rata charge levied by a registered distributor no greater than the charge the distributor would have made to the customer had the distributor serviced the customer directly (4.6.2)
- Charges specified in a residential or commercial lease, tenancy agreement or similar instrument but only where such charges are permitted under relevant jurisdictional legislation.

Large customers

- A bundled energy tariff (Group A)
- Actual costs incurred in making metering changes or service capacity upgrades requested by the tenant (Group A or Group B)
- A pro-rata charge levied by a registered distributor no greater than the charge the distributor would have made to the customer had the distributor serviced the customer directly (4.6.2)
- Mutually agreed additional charges or value added services under a commercial agreement (Group C).

Large corporate enterprises

- Charges agreed commercially between the parties (Group C: charging not restricted).

Individual Exemptions

- Other charging mechanisms as approved by the AER (Group D).

4.7 Embedded Network Manager – Appointment and Reversion

4.7.1 Appointment and cost recovery

The NER definition of ENM conditions provides:

ENM conditions

An Exempt Embedded Network Service Provider must:

(a) act as the Embedded Network Manager for the relevant embedded network; or

(b) engage an Embedded Network Manager to provide embedded network management services for the relevant embedded network; and

(c) enter into an agreement with an Embedded Network Manager for the provision of embedded network management services where that person has engaged an Embedded Network Manager under paragraph (b).

Any costs which arise through non-competitive processes or the payment of a bounty are inevitably recovered through additional fees paid by current and future residents and/or tenants. Therefore, we consider the appointment of anyone with a statutory right to recover fees from a captive group of customers may be contrary to the long-term interest of those consumers if no safeguards are provided against improper practices.

The operators of an embedded network may think our safeguards are intrusive on their business model. However, we think it is incumbent upon those operators to demonstrate that their network offers benefits to customers and that any costs incurred can be demonstrated to be the minimum necessary. In any event, under limb (a) of the definition above, the exempt embedded network service provider may seek accreditation and thereby, maintain their control over the metering installation.

Note that under some circumstances the effect of this condition 4.7 is to allow every customer in an embedded network to be served exclusively by the exempt embedded network service provider. This may be an advantage in a group buying situation but it also carries a substantial risk of price exploitation of customers otherwise. This condition may allow a community group to delay the appointment of an ENM until such time as a fellow resident accepts a retail market offer but, under clause 2.5.1(d2) of the NER, you cannot defer the appointment of an ENM indefinitely.

This is because every customer in an embedded network in a jurisdiction which allows access to retail competition has an absolute right of access. It would be a breach of our conditions for exemption if an exempt embedded network service provider were to restrict this right in any way.

Our conditions for the appointment of an ENM are:

- (a) Unless the requirements of condition 4.7.1.1 are met, any cost resulting from the accreditation of any person as an ENM or from the appointment or provision of

services by an ENM must be borne by the exempt embedded network service provider. Cost recovery is not permitted from any other person.

- (b) An ENM must not pay an advance fee or a rebate to a property owner, developer or exempt embedded network service provider or any other person in connection with the provision of ENM services or to secure a right to provide services to an embedded network regulated by the AER.
- (c) Also, an exempt embedded network service provider must not seek an advance fee or a rebate from any other person in connection with the provision of ENM services or to secure a right to provide services to an embedded network regulated by the AER.

4.7.1.1 Cost recovery in an eligible community

Note: This condition applies where an eligible community elects to appoint an ENM for any reason and the cost of ENM services is to be recovered from ENM customers. See condition 4.7.2 if the community wish to not appoint or to revoke an appointment of an ENM.

This condition applies to an embedded network serving eligible community based groups registered in activity classes ND2, NR2, NR3, and NR4. In particular, eligible community based groups include caravan park, manufactured home site and retirement communities and other groups of a similar nature participating in a group purchasing scheme whereby the benefits of bulk purchasing are shared across all members of the community. An eligible community (or a person or body corporate acting on behalf of the community) may act as an exempt embedded network service provider.

If the eligible community is an exempt embedded network service provider, the cost of the ENM services may be recovered from consumers in the embedded network as provided for in this condition 4.7.1.1. An important consideration for the AER in the appointment of an ENM in this situation is to ensure the appointment of the ENM by the exempt embedded network service provider is also in the long-term interests of consumers. To mitigate against the possibility of future customers being locked in to long-term binding contracts that are not in their interests we require that:

- (a) the appointment of an ENM is conducted as an arm's length transaction through a robust competitive process which includes a poll of network customers conducted in accordance with condition 4.7.3; and,
- (b) an ENM must not pay an advance fee or a rebate to a property owner, developer or exempt embedded network service provider or any other person in connection with the provision of ENM services or to secure a right to provide services to an embedded network regulated by the AER .

The appointment of an ENM other than the operator of an embedded network must be conducted by a transparent competitive process and with the agreement of a two-thirds majority of customers of the embedded network, each voting once.

A resolution under this condition must include the name of the party making each competing competitive offer and, if the recommended party is not the lowest price offer, a statement of reasons why each offer has been preferred or not preferred, as appropriate.

Where an ENM trigger event has occurred for one or more of the activity classes applicable to an embedded network, the exempt embedded network service provider, if the exempt person is not an accredited ENM, must appoint an accredited ENM within 40 business days of the occurrence of an ENM trigger event.

4.7.2 Non–appointment of an ENM and reversion

This condition only applies to an embedded network serving eligible community based groups registered in activity classes ND2, NR2, NR3, and NR4. In particular, eligible community based groups include caravan park, manufactured home site and retirement communities and other groups of a similar nature participating in a group purchasing scheme whereby the benefits of bulk purchasing are shared across all members of the community. This condition provides a mechanism for eligible communities to not appoint an ENM immediately or, if no community member is served by a market retail offer, to cease to engage an ENM. In this condition, an eligible member is any person who is subject to a requirement to pay a charge for service by the exempt embedded network.

If requested by to do so by the lesser of 10 per cent of eligible members or ten eligible members, an exempt embedded network service provider must, within 30 days, prepare a resolution and conduct a poll of eligible members whether to adopt the resolution. A poll may be sought at any time, however, an exempt embedded network service provider is only required to conduct one poll in any twelve month period.

For eligible communities for which an exempt embedded network service provider offers price–matching in accordance with condition 4.9.4, the exempt embedded network service provider may, if requested by the eligible member, offer to match the prices offered by a relevant market retailer.

If no counter–offer is made or, if the counter offer is not accepted, the exempt embedded network service provider must appoint an ENM when the ENM condition trigger is satisfied.

4.7.3 Poll requirements

Where an eligible community proposes by a resolution of its members to appoint, or not appoint, or to cease to appoint, an ENM the exempt embedded network service provider must:

1. provide a notice at least 14 calendar days prior to a vote to all eligible members of the intention to consider a resolution
2. provide every eligible member with a copy of the notice required under condition 4.8.1, a copy of the proposed resolution and written information supporting or opposing the resolution
3. conduct a poll of eligible members in which eligible residents may vote once (but voting is not compulsory)
4. record and report to the AER separate tallies of the total votes for and against the resolution, the total proxy votes for and against, the total number of eligible voters and the total number of informal votes and excluded votes.

5. report the results of the poll to the AER (electronically is preferred) within a further ten business days, including a copy of all material circulated to members under condition 4.7.3.2 and a detailed description of the benefit sharing mechanism.

If a two-thirds majority of eligible members of the community who vote are in favour of a resolution and the AER is satisfied with the conduct of the poll and that the benefit sharing mechanism is equitable, the AER will determine whether the exempt embedded network service provider may appoint, not appoint, or cease to appoint, an ENM as the case requires. The decision of the AER does not take effect until receipt of a notice from the AER of this decision.

An application under this condition may be treated as a public matter and may be subject to publication as discussed in section 2.4 of this guideline.

4.8 Information provision

An exempt embedded network service provider must provide information to customers on request, maintain a contact point and keep records as set out in this condition 4.8.

4.8.1 Provision of exempt selling information to exempt customers

1. The exempt embedded network service provider must advise an exempt customer, in writing, at the start of their tenancy/electricity sale agreement of the following:
 - a. any right of the exempt customer, under state or territory laws, to elect to purchase energy from a retailer of their choice and information on the options for metering that would allow this choice
 - b. the exempt customer's rights in relation to dispute resolution including:
 - i. the exempt person's procedures for handling disputes and complaints
 - ii. any right that the exempt customer has to access the energy Ombudsman scheme or any other relevant external dispute resolution body in the state or territory in which the exempt customer is located.
 - c. the conditions applicable to the exemption that the exempt embedded network service provider is operating under
 - d. unbundled details of the network tariffs and all associated fees and charges that will apply to the exempt customer in relation to the sale of energy
 - e. contact numbers in the event of an electricity fault or emergency, including the number for a 24-hour emergency contact line.
2. In addition to the requirement to provide the information at the commencement of the exempt customer's tenancy/agreement, the information set out in paragraph 1 of this condition must be provided by the exempt embedded network service provider at any time on request by the exempt customer or the AER.

4.8.2 Contact details

1. The exempt embedded network service provider must provide a means of contact for account inquiries and complaints that can be readily accessed by exempt customers. Where a telephone number is provided, the charge for this call must be no more than the cost of a local call.

4.8.3 Maintaining records

1. The exempt embedded network service provider must maintain records of the following for each of its exempt customers:
 - a. The name of the exempt customer.
 - b. The address of the exempt customer's premises.
 - c. The identifier of the meter for the exempt customer's premises (if applicable).
 - d. The date that the customer account was created.
 - e. Copies of any bills issued for the previous 12 months.
 - f. The date of the most recent meter read for the customer (if applicable).
 - g. The basis for determining any estimates of consumption for the purpose of billing where a meter read could not be obtained.

4.9 Conversion of an existing site (Brownfield conversion)

An existing electricity distribution system may be converted to an embedded network without the consent of every customer but only if the alternative requirements specified in this condition are strictly applied. Condition 4.9 replaces conditions 4.1.12(e) and 4.1.12(f). The balance of condition 4.1.12 continues to apply.

4.9.1 Provision of retrofit information

1. The exempt embedded network service provider must provide notice, by letter, to all tenants at the retrofit location, of the plan to install an embedded network at the site.
2. The exempt embedded network service provider must provide each tenant with the following information regarding the installation of the embedded network:
 - a. a written notice which provides the tenant with information concerning:
 - i. the tenant's right to choose their own retailer, even within an embedded network
 - ii. the tenant's ability to enter into an energy only contract with an authorised electricity retailer
 - iii. the obligations regarding electricity offer matching, as set out in conditions 4.9.3 and 4.9.4
 - iv. the obligations regarding duplication of network fees, as set out in condition 4.9.5.
 - b. a copy of the electricity sales agreement to be offered by the exempt person
 - c. the contact details of a representative of the exempt embedded network service provider who will address any concerns and queries relating to the planned retrofit.

3. The exempt embedded network service provider must ensure that information regarding the proposed retrofit is clearly, fully and adequately disclosed, and that it has regard to a person's capacity to provide consent.

4.9.2 Collecting and recording explicit informed consent

1. The exempt embedded network service provider must provide the tenant with the information set out in condition 4.9.1, prior to seeking the tenant's explicit informed consent to the retrofitting of the embedded network.
2. The exempt embedded network service provider must keep records of the consent obtained. These records must:
 - a. include copies of the information provided to tenants
 - b. include records of consultations and meetings held with tenants
 - c. identify and record which tenants have not consented and the reasons for non-consent
 - d. record the outcome of any negotiation and/or dispute resolution with tenants
 - e. be kept for a period of two years
 - f. be provided to the AER on request.
3. The exempt embedded network service provider must engage with prospective customers who do not consent, and seek to mitigate their concerns.
4. The exempt embedded network service provider must obtain the tenant's consent for the retrofit in a separate document, that is, the document recording the exempt customer's consent to the retrofit must be separate to a document acknowledging that the exempt customer is selecting the exempt embedded network service provider as its electricity supplier.

4.9.3 Offer matching for large customers

This condition applies only if the large customer was a tenant or resident at the time of the creation of the embedded network.

1. If a tenant, who is categorised as a large electricity customer, does not consent to becoming part of the embedded network, the exempt embedded network service provider must:
 - a. facilitate, within the embedded network, the continuation of the tenant's electricity contract with their current retailer, or
 - b. facilitate the tenant's direct connection to a registered distributor, or
 - c. if a or b do not apply, fulfil a request made by the tenant that the exempt embedded network service provider match any genuine electricity offer that would be available to the particular tenant if they were still a grid connected customer.
2. The exempt embedded network service provider must fulfil any subsequent request made by a tenant to match an electricity offer if the request is made 12 months or more after a previous request.

3. In the absence of a subsequent request to match an electricity offer, the exempt embedded network service provider need only apply the matched offer for a period of 12 months.
4. The exempt person's obligation to match an electricity offer expires upon termination or renewal of the large customer's tenancy/lease.

4.9.4 Offer matching for small customers

This condition applies only if the small customer was a tenant or resident at the time of the creation of the embedded network.

1. If a tenant, who would be categorised as a small electricity customer, does not consent to becoming part of the embedded network, the exempt embedded network service provider must:
 - a. facilitate, within the embedded network, the continuation of the tenant's electricity contract with their current retailer, or
 - b. fulfil a request made by the tenant that the exempt embedded network service provider match any genuine electricity offer that would be available to the particular tenant if they were still a grid connected customer.
2. The exempt embedded network service provider must fulfil any subsequent request by a tenant to match an electricity offer if the request is made 12 months or more after a previous request.
3. In the absence of a subsequent request to match an electricity offer, the exempt embedded network service provider need only apply the matched offer for a period of 12 months.
4. The exempt person's obligation to match an electricity offer expires upon termination or renewal of the small customer's tenancy/lease.

4.9.5 Duplication of network charges

This condition applies only if the customer was a tenant or resident at the time of the creation of the embedded network.

1. The exempt embedded network service provider must take steps to remedy any duplication of network charges experienced by tenants who have entered into an energy supply contract with an authorised retailer.
2. The exempt embedded network service provider must not charge a connection charge to any tenant who enters into an energy supply contract with an authorised retailer in accordance with condition 4.8.14.9.1.

4.9.6 Metering arrangements

1. The exempt embedded network service provider must bear the costs of any changes to metering and other network alterations that take place in the course of the retrofitting of the embedded network.

2. The exempt embedded network service provider must ensure that metering arrangements within the embedded network allow exempt customers to access retail competition.

4.9.7 Approval by the AER

The applicant must conduct a marketing campaign for at least three months based wholly on this condition 4.9. If the applicant can demonstrate at the conclusion of that period a substantial majority of tenants and residents have agreed to conversion to an embedded network, the applicant may apply to the AER to convert the network.

The application must detail the marketing campaign undertaken and provide the AER with a report summarising the information collected under condition 4.9.2. An application must contain:

- a. details of the sign-up percentage attained,
- b. the views of customers both accepting and refusing to accept the conversion
- c. the steps taken to mitigate these concerns and an undertaking to observe conditions 4.9.1 to 4.9.6.

If the AER is not satisfied with the application in any respect we may, at our discretion, require the applicant to rectify the defect in the application or may publicly consult on the application or both. We may include a requirement that the marketing campaign be modified or extended, the application or any supporting material provided to consumers or the AER be revised or that an undertaking be amended.

If the AER is satisfied with an application we will issue a notice of acceptance, which may specify an effective date. The network must not be converted until the effective date specified in a notice issued by the AER.

5 Part C – Registration, Applications and Revocation

5.1 Pre-registration

You can pre-register for a network exemption by following the processes outlined in this Guideline.

5.2 Registrable exemption information requirements

Registrable exemptions do not require an application to the AER, but cover network activities that must be registered with the AER to receive the benefit of an exemption. Online applications can be lodged directly from our website.

Applicants must submit the following information to record a registrable exemption:

- the name of the party for whom exemption is sought (additional parties can be added)
- details of the company registration (ABN/ACN) (ABN is preferred)
- authorised representative contact details, including physical address, email address, and telephone contact numbers
- whether registering as owner or as the controller/operator of a network
- location of the embedded or exempt network
- nature of the activities conducted which require exemption
- applicable class or classes of exemption
- date activities commenced
- applicable dispute resolution mechanism
- charging group or groups.

Applications to register or amend a registration may be submitted electronically to us at: aerexemptions@aer.gov.au, in accordance with the information requirements set out above. We operate a unified registration process for both the Network Guideline and Exempt Selling Guideline to facilitate applicants seeking an exemption from both sets of requirements.

Parties who believe a registrable exemption is applicable to their current circumstances must, within not more than 20 business days of commencing to own, operate or control a private network, complete the registration requirements. Multiple classes apply to some private networks.

We will acknowledge all registrations with a reply email and provide details of a contact person within the AER who will respond to any inquiries regarding the registration. If any of the information provided to us for the purposes of registration changes during or after registration, we should be notified within 20 business days of the change to ensure that the registered exemption remains valid.

The registered exemption applies to the owner and the operator (as appropriate) for a particular site from the time they are entered on the Register of Exempt Networks.

Should an affected party seek to vary any conditions associated with a registrable exemption, they no longer meet the requirements for a registrable exemption and would need to apply for an individual exemption.

5.3 Application for individual exemption or variation of conditions

Individual exemptions are granted by application to the AER on a case-by-case basis for network activities that do not meet the criteria for a deemed or registrable exemption.

Applicants must submit the following information to apply for an individual exemption:

- the name of every party for whom exemption is sought
- the nature of the normal business activities of the applicant
- if the application is made by an authorised agent, proof of authority for the agent to act on behalf of each named applicant
- the precise network to be subject to the exemption, including circuit diagrams if necessary (in most circumstances less complex single-line diagrams will be sufficient)
- a description of the parties connected to, or likely to connect to, or otherwise obtain services from the network
- if an industrial or commercial situation, whether the proposed on-supply is subject to agreed commercial terms between consenting parties with appropriate recourse to professional advice
- whether the applicants is seeking (or has received) exemptions from any other codes or regulations governing the ownership or operation of networks or metering requirements applicable within the relevant jurisdiction, including details of those exemptions or applications for exemptions
- whether they are seeking exemption from the requirement to register as an NSP or from the application of chapter 5 of the NER or if they are seeking to vary the conditions otherwise applicable to a defined exemption class (if so, which conditions and why a variation is justified)
- details of the registered NSP to whom the network is, or will be, connected
- details of any preliminary discussions which have taken place between the applicant and the network service provider and if relevant, AEMO.
- the arrangements proposed for setting network charges for parties using the network
- mailing details for all stakeholders affected by the grant of an individual exemption
- the arrangements proposed for energy charges (e.g. fixed percentage of total costs or direct access to retailers by tenants), and
- detailed supporting argument why exemption will serve the long-term interests of electricity consumers connected to the network and more generally, across the NEM.

An application for an individual exemption must be made in writing and may be submitted electronically to us at aerexemptions@aer.gov.au.

We will acknowledge all individual exemption applications with a reply email and provide details of a contact person within the AER who will respond to any inquiries regarding the application. If any of the information provided to us for changes during or after the individual exemption application is made, we should be promptly notified of the change.

Applications for variation of conditions must explain in persuasive terms why the pre-defined conditions will result in an excessive regulatory burden and demonstrate how relief from the conditions will better serve customers. We may request additional information from applicants prior to processing an application for exemption.

We are empowered to consult affected stakeholders on any application for exemption. As stated in section 2.4.5 we may seek written submissions on the application from interested stakeholders via a notice on our website. Applications may contain confidential information. If so, a redacted version of each submission is required in a form suitable for publication electronically should the AER elect to consult widely on a particular application.

We will inform the applicant of our decision regarding the application for the grant or variation of the individual exemption. The individual exemption applies to an operator for a particular site from the time stated in a notice issued by the AER and entered on the Register of Exempt Networks.

An individual exemption is personal to the applicant, and does not apply to any other person that owns, controls or operates the network at the time of the decision or in the future. An individual exemption is not transferrable; however, we accept the need for transitional arrangements.

Where an application for individual exemption is for a network previously registered with us and we have not revoked that registration, the terms of the pre-existing arrangement will continue to apply to the new applicant until the effective date of a new exemption notified by us in response to the application.

5.4 Revocation of an exemption

We can revoke any network exemption granted including an exemption for a network operating under a deemed exemption or a registered exemption. The grounds for revocation are that we are satisfied that there has been a failure by the exempt party to meet the conditions imposed on them. We will consider what constitutes a 'failure' on a case by case basis as matters come to our attention. In general, we will conclude there to have been a failure by an exempt party where there is:

- an unacceptable impact on a connected network or
- an unacceptable impact on national electricity market operations as a result of the operation of the network or
- the exempt party has not complied with conditions imposed on them as part of their exemption and as a result, there has been a significant or widespread impact on one or more of their customers.

Subject always to there being no immediate threat to the health or safety of any party served by an exempt network and there being no adverse impact on a connected network or on market operations, we will align the process for revocation of a network exemption to the equivalent process imposed in Section 120 of the Retail Law for retail matters. This process includes the following steps:

- We will first give the exempt network proprietor a notice that it intends to revoke the exemption, and the reasons why the AER considers that grounds for revocation exist.
- The exempt network proprietor must respond to the notice in writing during the time specified by the AER, showing why the exemption should not be revoked and proposing actions the exempt network proprietor will take to rectify the problem.

If we are not satisfied with the exempt party's response, we may fix a time for the revocation to take effect and inform the exempt party of any conditions with which they must comply. Where an exemption for an exempt party operating under a class exemption is revoked, the exempt party is no longer eligible to operate under that class. If they continue to operate the network, they will be in breach of section 11(2)(b) of the National Electricity Law, which prohibits the operation of a network without registration or exemption or an approved derogation.

Following revocation of the network exemption, customers of the exempt network will either need to obtain supply from a NEM registered distribution or transmission network service provider or must otherwise satisfy the conditions necessary to qualify for a new deemed, registrable or individual exemption.

In situations where revocation may place undue hardship on customers of an embedded network, to the extent practicable, we will seek to minimise hardship on innocent parties while enforcement action is taken. This may involve the grant of a limited individual exemption to operate the network under restricted conditions. This will be assessed on a case-by-case basis.

5.5 Transfer, amendment or cessation of an exemption

A notice addressed to the AER is required for all changes of ownership, accountabilities and/or registration details and for the cessation of operation of a registrable or individually exempt private network. No notice is required for a deemed exempt network.

The notice must detail the change of circumstances and should be submitted at the earliest opportunity whenever an exempt private network is to be subject to a transfer of ownership, change of registration details or a change or restructure of accountabilities. If a notice is incomplete or missing necessary detail, we may require further detail be provided before the notice is accepted and acted upon.

Note that the party acquiring an existing exempt private network is required to submit a registration application in accordance with sections 0 or 5.3 or 5.3, as appropriate. The conditions for the operation of an existing exempt network continue to apply until we determine otherwise in response to the new application.

Where a registered private network is to cease operation, the authorised representative(s) should notify us of the planned or actual date for the network to cease operation. We will deactivate the registration of the network from the date specified in a notice.

If the AER receives advice from any other party that a registered network has ceased operation we will attempt to contact the registered responsible person to confirm the status of the network. This contact may be by telephone or by a written or electronic notice addressed to the registered authorised representative. If no response is received within 20 business days we may deactivate the registration of that network without further notice.

If the AER later determines that a deactivated registered private network should be reactivated we may, at our discretion, reactivate the network on the same or amended conditions or we may require that a new application for a registrable or individual exemption be submitted.