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24 April 2025

Stephanie Jolly
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Australian Energy Regulator
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Dear Ms Jolly

Review of the exemptions framework for Embedded Networks

The Energy and Water Ombudsman Queensland (EWOQ) welcomes the opportunity to comment on the Australian Energy Regulator's (AER) draft decision on its review of the exemptions framework for Embedded Networks, and Draft *Retail Exempt Selling Guideline* and Draft *Network Exemptions Guideline Versions 7* (the Guidelines).

EWOQ provides a free, fair and independent dispute resolution service for small electricity and gas customers across Queensland and water customers in South East Queensland who are unable to resolve a dispute with their supplier.

The comments set out in this letter reflect the views of EWOQ.

Energy and Water Ombudsman schemes (EWOs) have long advocated for improved consumer protections for embedded network customers, and EWOQ has welcomed the AER's draft decision of its exemption framework and accompanying draft Guidelines. Whilst we acknowledge the scope of the current review was limited to the AER's exemptions framework, which remains the key regulatory tool available to oversee the embedded network landscape, we agree the proposed changes not only introduce much needed additional protections for embedded network consumers, but also improves the visibility and compliance oversight over exempt sellers. We also commend the AER for its efforts to streamline the content of both Guidelines and clarify any ambiguities. This includes minor terminology and definition changes, and the use of consistent terminology and clarifying footnotes.

To address the changes proposed in each of the Guidelines, we provide the following comments.

Draft *Retail Exempt Selling Guideline*

(1) Family Violence provisions

We welcome family violence obligations being extended to exempt sellers who on-sell to residential and small business customers under newly created *Condition 27* and the proposed update of the associated conditions:

- (a) The information provision obligations under *Condition 2* to reflect the new requirements to:
- advise EN customers in writing at the start of their tenancy/agreement of the assistance available for those experiencing family violence and the process to follow, and
 - to provide a hardcopy or electronic link to its family violence policy; and

- (b) *Condition 9 Payment difficulties & disconnection/de-energisation* - to reflect the requirement for exempt sellers to offer its family violence policy (alongside its hardship policy) to any exempt customer experiencing payment difficulties.

We consider the proposed implementation timeframes of 6 months for existing exempt sellers from the date of enactment, and 3 months for new exempt sellers from the exemption registration or approval date to be reasonable. We agree penalty provisions should apply.

(2) Exempt seller family violence policy template

We commend the AER for its development of a template family violence policy for embedded network operators to adapt and adopt. We support the use of standardised statements in the policy, as was the approach with the Exempt Seller Hardship Policy template, which will ensure consistency across the sector. We request, however, the AER consider including a reference in the standardised statements to a customer's right to access energy ombudsman schemes. This will ensure affected customers are aware of their right to access external dispute resolution services. We further propose the AER encourage exempt sellers and embedded network service providers to consider accessibility and inclusive requirements, where practicable, in the development of their policy. This may include the translation of the policy into various languages and simple formatting of the policy.

(3) Classification review

Requiring all current and future embedded network service providers and exempt sellers to be registered on the AER's public registers of exemptions by closing deemed retail exemption classes (ND1 and ND2) and varying registrable retail exemption classes (R1 and R2) is strongly supported. We agree this will improve visibility across the embedded network sector. For Ombudsman schemes, this registration will facilitate easier and faster identification of parties to a complaint and key contact information.

(4) New pricing provisions

We endorse the inclusion in the *Retail Exempt Selling Guideline* of a new pricing condition (*Condition 7.4*), which would require exempt sellers to publish their residential and small business customer tariffs, as well as a percentage comparison of the exempt customer tariffs to the local area retailer's standing offer on their website or display in an accessible location (if no website is available). We agree this change will enable exempt customers to compare their prices with others available in the market to help make an informed decision about the costs and benefits of going on-market.

We further support the following additional revisions proposed to *Condition 7*:

- Aligning the timeframe in which an exempt seller must provide notice to an exempt customer relating to a tariff change under *Condition 7(2)* to 5 business days before the variation takes effect, which is consistent with rule 46 of the *National Energy Retail Rules*.
- Clarifying charges under *Condition 7(3)* to also include credit card payment fees.

We note *Condition 13*, which provides that an exempt seller must not hinder a customer's attempt to establish eligibility for a rebate/concession, has been extended to include small business customers. We support this inclusion.

Draft Network Exemptions Guideline

At the outset, we wish to reiterate our ongoing support for the amendments from the draft *Network Exemption Guideline* (published in 2022), which addressed some important consumer protection gaps. This included:

- new protections for 'energy only' embedded network customers (serviced by authorised retailers) experiencing payment difficulties, which will require the embedded network service provider to offer a payment plan and follow disconnection processes for the supply component of the bill; and
- continuity of supply – embedded network service providers will have to notify customers and the AER if they are at risk of failure or disconnection, and to advise of the actions they are taking to protect customers.

We further endorse the proposed introduction of the new application requirements highlighted and the added clarification on which the AER may revoke a network exemption and the revocation process.

(1) New Conditions

We note the AER have included two new conditions to the *Network Exemptions Guideline*: one being a notification requirement and the other for reporting.

We welcome the new notification obligation under *Condition 1.19*, which requires an exempt network service provider to notify the AER of updated contact details of their authorised representative, including their name, address and phone number, within 20 business days of any changes. We agree having the most up-to-date details provides a myriad of benefits for not only the AER, but will also assist Ombudsman schemes in identifying and notifying parties to a complaint which is often based on information sourced from the AER's public register.

We are disappointed the reporting requirements under *Condition 1.18* only apply to the reporting of residential customer numbers by exempt network service providers who have registered an NR2 (residential) network class exemption. We believe there is value in reporting on other measures such as life support numbers, residential customers on payment plans or disconnected for debt, as well as those on concessions/rebates.

We also note no compliance reporting was proposed. Whilst we concur with the AER's view that small-scale exempt sellers would likely not have adequate systems and processes in place to administer this requirement and may not report breaches for fear of reprisal, we reiterate our preference for reporting of compliance breaches relating to:

- Wrongful disconnection
- Life support
- Membership to Ombudsman schemes
- The relevant requirements to develop, implement, maintain and comply with a hardship policy and family violence policy (once in effect)

In the absence of such measures, EWOQ will continue to work closely with the AER to report on issues of exempt seller non-compliance.

Additional feedback

EWO details on customer bills

We ask that the AER consider implementing changes to *Condition 3* of the *Retail Exempt Selling Guideline* to mirror the current requirements under the Better Bills Guidelines, which requires a retailer to publish details of the relevant Energy Ombudsman scheme on on-market customer bills. This would ensure embedded network customers are aware of the existence of EWOs as the relevant external dispute resolution agency.

We propose amending *Condition 3 Billing and payment arrangements sub condition (3)*, which specifies the required particulars in a bill for an exempt customer, to also include the publication of the relevant EWO scheme and telephone number on the bill.

More broadly, we recommend an after-hours contact number for loss of supply or disconnections also be included as a requirement, in addition to the existing obligation under subsection 3 (p) to provide a telephone number for account inquiries and complaints.

New class exemption for EN operators on-selling gas

Whilst we understand bulk hot water was outside the remit of this review, we reiterate the need for further regulation of embedded network operators on-selling gas (and measured with a hot water meter). As highlighted in our earlier submission, bulk hot water is an essential service and customers of gas embedded networks should benefit from the same consumer protections that other retail energy customers are entitled to.

EWOs continue to advocate for reforms in this space; one of which is the proposed development of a new class exemption for embedded network operators on-selling gas as highlighted in EWON's previous submission of 6 February 2024.

If you require any further information regarding this response please contact Jeremy Inglis, Manager of Policy and Research on [REDACTED].

Yours sincerely,



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Energy and Water Ombudsman
Queensland