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Ms Stephanie Jolly
Executive General Manager, Policy
Australian Energy Regulator
GPO Box 3130
Canberra ACT 2601

By email AERexemptions@aer.gov.au

23 April 2025

Dear Ms Jolly,

**Submission to the Australian Energy Regulator:
Review of the AER Exemptions Framework for Embedded Networks Draft Decision**

The Energy and Water Ombudsman (SA) Limited (EWOSA) welcomes the opportunity to submit to the Australian Energy Regulator (AER) on the Draft Decision on the Review of the AER Exemptions Framework for Embedded Networks and the associated changes to the Retail Exempt Selling Guideline and the Network Exemptions Guideline.

EWOSA is the independent energy and water ombudsman scheme in South Australia. It receives, investigates and facilitates the resolution of complaints by customers with regard to (*inter alia*) the connection, supply or sale of electricity, gas or water.

We acknowledge that the scope of the review and the ability to make improvements to the regulation of embedded networks are limited to the AER's Guidelines and that broader, holistic changes would require consideration of both the National Energy Laws and jurisdictional instruments. Unfortunately, many of the improvements considered by the Australian Energy Market Commission to the regulatory arrangements for embedded networks in their review in the late 2010s remain at least partly unresolved.

Within these constraints, EWOSA commends the AER for many of the changes proposed to the two Guidelines, particularly the extension of some important customer protections to residential and small business customers located within embedded networks and improving the visibility and oversight of exempt sellers and exempt network service providers.

We provide comments on some of the changes proposed to the two Guidelines below. These include suggestions for further improvements to customer protections and visibility over embedded networks. Ensuring consistency where possible and relevant between the Retail Exempt Selling Guideline and the Network Exemptions Guideline is supported.

Please note that EWOSA supports the suggestion from Active Utilities that the AER publish a list of energy retailers offering energy-only offers to assist customers located in embedded networks looking to go on-market. We urge the AER to adopt this proposal.

Retail Exempt Selling Guideline

Family violence protections

EWOSA strongly supports the proposed extension of family violence protections to residential and small business customers located within embedded networks. This includes:

- the requirement on exempt sellers to develop, implement, maintain and comply with a family violence policy
- the AER developing an “Exempt Seller Family Violence Policy Template”
- the information provision under Condition 2
- the six month transitional period for existing exempt sellers and three month period for new exempt sellers
- penalties for non-compliance.

We believe that the “Exempt Seller Family Violence Policy Template” should include a standardised statement regarding the customer’s right to access an energy ombudsman scheme. This will ensure that affected customers are aware of their right to access free, fair and independent external dispute resolution services.

While we understand the AER’s position on the difficulties in providing training and resources for exempt sellers that would help them comply with the family violence protections, we note that small exempt sellers, in particular, may struggle to fulfil their obligations without access to training and resources. The potential for harm to customers and for penalties to be imposed on small exempt sellers, in the event of non-compliance, may cost more than the provision of training and resources. We therefore encourage the AER to consider providing support and guidance for small operators.

Updating contact details

EWOSA supports the proposed new requirement for exempt sellers to inform the AER of any changes in their contact details. This will improve visibility for the AER.

We believe other changes in details could also be required to be reported to the AER, such as a change in customer numbers. This would further improve visibility over exempt sellers. While we acknowledge the position of the AER to make this a requirement on some exempt network service providers, please see our comments on compliance reporting requirements.

We also encourage the AER to consider an additional requirement for exempt sellers to notify Energy Ombudsman of any changes in their contact details. This would help to ensure that Ombudsman can perform their external dispute resolution role in a timely and efficient manner and avoid the need to be chasing people up.

Compliance reporting requirements

While we acknowledge the cost and difficulties that some exempt sellers, particularly smaller operators, as well as the AER itself, would have in administering compliance reporting requirements, there are some customer protections where it is paramount to know whether providers are complying with their obligations. These could particularly impact vulnerable customers and include life-support requirements, payment plans and disconnections. EWOSA therefore suggests the AER reconsider whether to apply compliance reporting requirements on exempt sellers for these protections.

One option would be for the AER to impose compliance reporting requirements on larger exempt sellers, particularly if exempt sellers are required to keep the AER informed of up to date customer numbers. Another alternative to determining the size of the exempt seller would be the amount of energy passing through the parent meter.

Meanwhile, EWOSA continues to commit to working with the AER to identify areas of non-compliance from our complaints data and associated analysis, including on the proposed new publishing of tariffs requirement below.

Publishing of tariffs

We support the proposal to require exempt sellers to publish their residential and small business tariffs on their website or some other accessible location, including a percentage comparison to the local area's retailer standing offer. This will provide customers in embedded networks with important information, including the ability to compare prices across embedded networks and their own price with prices that are available to on-market customers.

Closure of small exempt seller classes D1 and D2

EWOSA supports the proposal to close the deemed retail exempt seller classes D1 and D2 for future embedded networks and require that these new exempt sellers register under the R1 and R2 classes. This will improve visibility over embedded networks going forward.

However, we are disappointed that existing retail exempt sellers within the D1 and D2 classes will remain deemed and therefore not visible to the AER and other stakeholders, including Ombudsman. Requiring existing exempt sellers within the D2 class to register would improve visibility further over exempt sellers that should be members of Ombudsman schemes, but are not. Differentiating between future and existing exempt sellers means that external dispute resolution is likely to be a protection accessible to some residential embedded network customers and not others.

Other core condition variations

EWOSA supports the other core condition variations proposed to the Retail Exempt Selling Guideline, including:

- the requirement that exempt sellers provide notice of at least five business days to their customers when there is to be a tariff change
- considering credit card payment fees to be a charge
- extending the condition that an exempt seller must not hinder the attempts of a customer to establish eligibility for government concessions, rebates and the like, to small business customers.

Extending external dispute resolution services to small business customers

While the scope of the AER's review is generally limited to residential embedded networks, we note that a few of the proposed changes to the Guidelines by the AER improves the situation for small business customers of exempt sellers. Given this, EWOSA suggests that the AER consider extending the important customer protection of access to external dispute resolution services to small business customers of exempt sellers.

In particular, we believe that the condition requiring exempt sellers selling to residential customers to be a Member of an Ombudsman scheme when allowed should be extended to exempt sellers selling to small business customers as well. For this to occur, there is no change required to Condition 17 – Member of Energy Ombudsman scheme. It effectively just requires a tick in the box under classes D1 and R1 for Condition 17 in Table 3 of the Retail Exempt Selling Guideline. This could also be done for the R7 class as well, if appropriate.

Energy and Water Ombudsman details on customer bills

EWOSA suggests that the AER consider requiring exempt sellers to provide the telephone details of Energy and Water Ombudsman on customer bills in Condition 3 of the Retail Exempt Selling Guideline. This would mirror the current obligations in the Better Bills Guideline and ensure that embedded network customers are aware of external dispute resolution services.

Network Exemptions Guideline

Previous proposed changes to the Guideline

EWOSA supports the proposed changes to the Network Exemptions Guideline that were published in October 2022, including:

- the introduction of a voluntary primary registrant model
- new protections for “energy-only” customers experiencing payment difficulties that are serviced by authorised retailers, associated with disconnection, de-energisation, reconnection and re-energisation
- continuity of supply requirements that oblige exempt network service providers to notify embedded network customers and the AER if they are at risk of failure or disconnection and also advise of actions that they are taking to protect customers.

Closure of small exempt network service provider classes ND1 and ND2

EWOSA supports the proposal to close the deemed exempt network service provider classes ND1 and ND2 for future embedded networks and require that these new exempt network service providers register under the NR1 and NR2 classes. This will improve visibility over embedded networks going forward.

However, we are disappointed that existing exempt network service providers within the ND1 and ND2 classes will remain deemed and therefore not visible to the AER and other stakeholders, including Ombudsman. Requiring existing exempt network service providers within the ND2 class to register would improve visibility further over exempt network service providers that should be members of Ombudsman schemes, but are not. Differentiating between future and existing exempt network service providers means that external dispute resolution is likely to be a protection accessible to some residential embedded network customers and not others.

Reporting and notification requirements

EWOSA supports the proposed new reporting and notification conditions. These will increase the visibility of the AER over embedded networks and the number of customers within them.

However, Condition 1.18, the reporting requirement for an exempt network service provider to report the number of residential customers, only applies to the NR2 class. We believe the requirement should also apply to classes NR3 and NR4, which are retirement villages and caravan parks respectively, as well as to NR1, which are small businesses located in embedded networks. An alternative could be for these exempt network service providers to be required to advise the AER on when there are changes in customer numbers, rather than possibly be reporting the same number of customers annually. This would be likely to reduce compliance costs and still provide the same information.

Other changes

EWOSA supports the proposed changes to the individual exemption application process and the exemption cancellation process.

Extending external dispute resolution services to small business customers

While the scope of the AER’s review is generally limited to residential embedded networks, we note that a few of the proposed changes to the Guidelines by the AER improves the situation for small business customers located in embedded networks. Given this, EWOSA suggests that the AER consider extending the important customer protection of access to external dispute resolution services to small business customers of exempt network service providers.

In particular, we believe that the condition requiring exempt network service providers supplying residential customers to be a Member of an Ombudsman scheme when allowed should be extended to exempt network service providers supplying small business customers as well. For this to occur, there is no change required to Condition 1.13 – Member of Energy Ombudsman scheme obligation. It effectively just requires a tick in the box under classes ND1 and NR1 for Condition 1.13 in Table 3 of the Network Exemptions Guideline. This could also be done for the NR7 class as well, if appropriate.

Thank you for consideration of this submission. Should you require further information or have any enquiries regarding this submission, please contact me at [REDACTED] or on [REDACTED].

Yours sincerely

[REDACTED]

Antony Clarke
Policy and Governance Manager