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ACTIVE

9 June 2026

Rebecca Holland
General Manager (a/g) – Compliance, Enforcement and Surveillance
Australian Energy Regulator
GPO Box 3131
Canberra ACT 2601

Subject: Review of the Exemptions Guideline

Dear Ms Holland

Active Utilities welcomes the opportunity to provide feedback on the Australian Energy Regulator's (AER) Exemption Guidelines Review Consultation Paper.

Overall, we support the proposed amendments to the Network Exemptions Guideline and Retail Exempt Selling Guideline. We consider that the proposed changes provide greater clarity regarding the application of the exemptions framework to flexible trading arrangements and will reduce administrative burden for participants while maintaining existing customer protections.

We are particularly supportive of the proposed changes relating to commercial embedded network retrofits and the recognition of secondary settlement point arrangements under the flexible trading framework.

Response to Consultation Questions

Question 1
Are there any aspects of the proposed Network Guideline amendments, to reflect the flexible trading rule changes, that raise concerns for stakeholders? If so, please provide details, including any additional changes required.

Active Utilities supports the proposed amendments to the Network Guideline and does not identify any significant concerns with the proposed approach.

The proposed amendments provide greater clarity regarding the interaction between the exemptions framework and the flexible trading reforms. In particular, clarifying that network exemptions are not required solely because a secondary settlement point has been established, or because a third party has operational control of customer-owned CER, reduces unnecessary regulatory burden and aligns the Guideline with the policy intent of the flexible trading reforms.

Question 2

Do stakeholders agree that non-authorised financially responsible market participants (FRMPs) selling energy at secondary settlement points within the premises of large customers can be adequately captured by the existing registrable retail exemption class R5 (including conditions)? If not, what conditions should apply in these scenarios?

We agree that non-authorised FRMPs selling energy at secondary settlement points within the premises of large customers can be appropriately captured through the existing registrable retail exemption class R5.

Utilising the existing exemption class provides a practical approach that avoids creating additional regulatory complexity while ensuring appropriate protections remain in place for large customers.

Question 3

Do stakeholders foresee any scenarios where a non-authorised FRMP would engage a small customer via a secondary settlement point arrangement (for example, non-traditional service offerings)? If so, please provide examples.

Active Utilities considers that the existing framework appropriately limits the likelihood of non-authorised FRMPs engaging directly with small customers through secondary settlement point arrangements.

While such arrangements do not appear likely in the current market, it is possible that future non-traditional energy service offerings could emerge. For example, a provider may seek to offer bundled battery, electric vehicle charging or home energy management services through a secondary settlement point arrangement associated with specific controllable loads.

However, Active Utilities does not currently foresee such arrangements arising within its own commercial operating framework and considers the existing customer protection mechanisms remain appropriate.

Question 4

Do stakeholders support the AER's proposal to remove the existing retrofit application requirement and develop a new registrable retail exemption class for commercial retrofits?

We consider the proposed registrable exemption class for commercial retrofits to be a positive regulatory development that will reduce unnecessary administrative burden while maintaining appropriate customer protections.

In our experience, commercial retrofit projects frequently achieve the required consent thresholds and involve customers who are generally well placed to assess the proposed arrangement. The existing approval process can add time and administrative effort to projects where the underlying customer risk is relatively low.

The proposed registrable exemption class is therefore a positive and practical reform.

Question 5

Do stakeholders consider the conditions the AER proposes to attach to a retrofit exemption class appropriate?

The proposed conditions appear reasonable and consistent with those historically applied through individual exemption determinations. We consider they provide an appropriate balance between customer protection and regulatory efficiency.

Question 6

Do stakeholders support removing the requirement for prospective exempt network service providers to obtain AER approval for commercial retrofits and replacing it with a self-certification and registration option?

We support the move to a self-certification model for eligible commercial retrofit projects, provided the existing consent and record-keeping requirements are retained.

Provided that eligibility requirements, consent thresholds and record-keeping obligations remain in place, the proposed approach should significantly reduce administrative burden while maintaining confidence in the integrity of the framework. In our experience, retrofit projects can involve substantial time and resources associated with approval processes, and the proposed self-certification model may assist in reducing project approval and implementation timeframes.

Question 7

Do stakeholders support the AER developing marketing and consent campaign materials with minimum standardised statements to be used by parties under the self-certification and registration option? If yes, what content and consumer information do stakeholders consider should be prioritised for inclusion? If not, please provide reasons why.

The development of standardised marketing and consent materials should improve consistency of customer communications and reduce compliance complexity for applicants.

Standardised statements should prioritise:

- a clear explanation of what an embedded network is;
- the practical impacts on customer retail choice;
- customer rights and available protections;
- pricing implications and any anticipated customer benefits;
- dispute resolution pathways;
- information regarding the role of the exempt seller and exempt network service provider; and
- a clear explanation of the customer's right to provide or withhold consent.

Consistent, plain-English messaging should help customers understand the proposed arrangement and ensure greater consistency across retrofit projects.

Closing Comments

Active Utilities appreciates the opportunity to provide feedback on the proposed amendments.

Overall, we support the proposed reforms and consider that they will improve regulatory efficiency, support innovation in consumer energy resources and virtual power plant participation and facilitate commercial embedded network developments while maintaining appropriate customer protections.

Active Utilities would welcome continued engagement with the AER as the draft guidelines and supporting materials are developed.

Regards

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Alison Kelsall
Risk & Compliance Officer