Issues Paper

Draft Amendments to the Electricity Network Service Provider Registration Exemption Guideline

17 November 2017

AUSTRALIAN ENERGY REGULATOR

© Commonwealth of Australia 2017

This work is copyright. In addition to any use permitted under the Copyright Act 1968, all material contained within this work is provided under a Creative Commons Attributions 3.0 Australia licence, with the exception of:

- the Commonwealth Coat of Arms
- the ACCC and AER logos
- any illustration, diagram, photograph or graphic over which the Australian Competition and Consumer Commission does not hold copyright, but which may be part of or contained within this publication. The details of the relevant licence conditions are available on the Creative Commons website, as is the full legal code for the CC BY 3.0 AU licence.

Requests and inquiries concerning reproduction and rights should be addressed to the Director, Corporate Communications,
Australian Competition and Consumer Commission,
GPO Box 3131,
Canberra ACT 2601
or publishing.unit@accc.gov.au.

Inquiries about this publication should be addressed to:

Australian Energy Regulator
GPO Box 520
Melbourne Vic 3001

Tel: 1300 585165

Email: AERInquiry@aer.gov.au
AER Reference: 63082

Amendment Record

Version	Date	Pages
1.0	17 November 2017	30

Request for submissions

Interested parties are invited to make written submissions to the Australian Energy Regulator (AER) regarding this paper by the close of business, **15 January 2017**.

Submissions should be sent electronically to: aerinquiry@aer.gov.au

Alternatively, submissions can be mailed to:

Mr Chris Pattas
General Manager, Networks
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

The AER prefers that all submissions be publicly available to facilitate an informed and transparent consultative process. Submissions will be treated as public documents unless otherwise requested.

Parties wishing to submit confidential information are requested to:

- clearly identify the information that is the subject of the confidentiality claim
- provide a non-confidential version of the submission in a form suitable for publication.

All non-confidential submissions will be placed on the AER's website at www.aer.gov.au. For further information regarding the AER's use and disclosure of information provided to it, see the *ACCC/AER Information Policy*, June 2014 available on the AER's website.

Enquiries about this paper, or about lodging submissions, should be directed to the Network Regulation branch of the AER on (03) 9290 6984.

Throughout the document we ask questions to help focus submissions. For convenience, a full list of consultation questions are provided in section 6 (page 24).

Contents

Request for submissions iii

Background 4

1.1. Purpose of this issues paper 4

1.1.1 Transmission Connection and Planning rule change amendments. 4

1.1.2 Other amendments 5

1.1.3 Relevant legislation 5

1.2. Transmission Connection Rule Change 6

1.2.1 Scope of this issues paper in relation to the rule change 7

1.2.2 Victoria's Transmission Connection Framework unaffected 8

1.2.3 Consultation on 'other' conditions for DCASPs exemptions 8

1.3. Other amendments 9

1.3.1 Generator and battery connections 9

1.3.2 Administrative amendments and clarifications 9

1.4. Next steps and procedural issues 11

2 Introduction 13

2.1. AEMC Transmission Connection and Planning Rule Change 13

3 Dedicated Connection Assets 16

3.1. What is a dedicated connection asset? 16

3.2. Requirement to register as a party who owns, controls or operates a DCA 17

3.3. Requirement to classify each DCA as large or small 17

3.4. Third party access policy for large dedicated connection assets 17

3.4.1 What must be included in the access policy? 18

3.4.2 Obligation for LDCASPs to report access requests 18

3.4.3 Obligation for LDCASPs to comply with commercial arbitration for access disputes 19

3.5. Arrangements for Distribution Network Service Providers 19

4 Transitional Arrangements for Existing Dedicated Connection Assets 20

4.1. Application of new rules to existing connection agreements 20

4.2. Application of new rules to Existing DCAs 20

4.2.1 Existing DCA Owners grandfathered by registering with AEMO or seeking an AER exemption..... 20

4.2.2 Existing DCA Owners grandfathered by notifying the AER of their pre-existing registration covering the Existing DCA..... 20

4.2.3 Public Register for 'Existing DCA Owners' notified to the AER 21

5 Other amendments to the guideline.....22

5.1. Significant generator systems within exempt/embedded networks supplying power to the NEM 22

5.2. Exempt customer dispute resolution and ombudsman scheme access.....22

5.3. Further support for the introduction of the Embedded Network Manager.....23

5.4. Other amendments to the guideline.....23

6 Summary of consultation questions.....25

Glossary

This issues paper uses the following definitions

Term	Definition
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
Connecting Party	A load, generator, embedded network or market network service provider (MNSP) connecting to the shared transmission network.
Dedicated Connection Asset	The collection of components that are used to connect a party to the shared transmission network and which could be isolated from the shared transmission network without disrupting the supply of electricity to other network users. Defined in Chapter 10 of the NER as: "The apparatus, equipment, plant and buildings that: (a) are used for the purpose of connecting an identified user group to an existing transmission network; (b) are used exclusively by the identified user group; (c) can be electrically isolated from the transmission network without affecting the provision of shared transmission services to persons who are not members of the identified user group; (d) are not: i. network connection assets; ii. part of a generating system; iii. part of a distribution system; iv. part of transmission system for which a Market Network Service Provider is registered under Chapter 2; v. part of a Transmission Customer's facility that utilises electricity energy; or vi. part of the declared transmission system of an adoptive jurisdiction.

Energy	Means electricity
Existing Dedicated Connection Asset	Means a dedicated connection asset which, before 1 July 2018: • Exists; or • Is contracted to be constructed under an existing Connection Agreement; or • An asset by which a Transmission Network Service Provider has agreed to connect to a transmission network under an Existing Connection Agreement.
Existing Dedicated Connection Asset Owner	A party that owns, controls or operates an Existing Dedicated Connection Asset.
Identified user group	One or more connecting parties that are connected to the transmission network via the same connection point. Defined in the rule as: "One or more persons (other than a Network Service Provider who is not a Market Network Service Provider) who, from time to time, are connected to a transmission network at the same single connection point."
Identified user shared asset	The collection of components that are used to connect a connecting party to the shared transmission network and which, once commissioned, form part of the shared transmission network, for example parts of a substation. Defined in Chapter 10 of the NER.
Large Dedicated Connection Asset	A dedicated connection asset that is 30km or longer which is subject to the third party access regime. Defined in the rule as: "A dedicated connection asset where the total route length for any power lines forming part of the dedicated connection asset is 30 kilometres or longer".
Large Dedicated Connection Asset service	Service provided by means of a large dedicated connection asset as a 'large Dedicated Connection Asset service' that is subject to a regime for third party access.
Network connection asset	Components of a transmission system which are used to provide connection services between Network Service Providers (excluding a Market Network Service Provider).
NEL	National Electricity Law
NER	National Electricity Rules
Public Register	Public Register of network exemptions

Transmission network	As defined in Chapter 10 of the NER as: "A network within any participating jurisdiction operating at nominal voltages of 220kV and above plus: • any part of a network operating at nominal voltages between 66kV and 220kV that operates in parallel to and provides support to the higher voltage transmission network; • any part of a network operating at nominal voltages between 66kV and 220kV that is not referred to in paragraph (a) but is deemed by the AER to be part of the transmission network. An identified shared user asset forms part of the transmission network.
Transmission system	Defined in the existing NER as "a transmission network, together with the connection assets associated with the transmission network, which is connected to another transmission or distribution system. It is amended in the final rule to make it clear that a transmission system includes dedicated connection assets that are owned by a third party who is a party other than the TNSP. To avoid doubt, an identified user shared asset or a dedicated connection asset for which the Primary Transmission Network Service Provider is registered will form part of that provider's broader transmission system (even if the dedicated connection asset is operating at a distribution voltage) rather than constituting a separate transmission system requiring separate registration under Chapter 2.

Background

1.1 Purpose of this issues paper

This issues paper introduces amendments to our Guideline on the exemption from registration as a network service provider (network guideline). The issues paper sets out seven proposed amendments to the guideline, three of which relate to the AEMC's Transmission Connection and Planning Arrangements final rule determination, and four of which involve other amendments necessary to update and clarify aspects of the guideline. This paper calls for consultation on all aspects of the proposed amendments, encouraging submissions from stakeholders by 15 January 2017.

1.1.1 Transmission Connection and Planning rule change amendments

On 23 May 2017, the Australian Energy Markets Commission (AEMC) released the National Electricity Amendment (Transmission Connection and Planning Arrangements) Final Rule Determination ('the rule change').[1] This determination aims to improve transparency, contestability and clarity in the transmission connection framework while maintaining clear, singular accountability for shared network outcomes. The connections aspects of the final rule will commence on 1 July 2018, and the AER must amend the electricity network service provider registration exemption guideline[2] to reflect the rule change by 1 March 2018.[3]

Although the AEMC rule change itself is complex, the amendments required to our guideline are relatively straightforward. The primary changes in relation to the rule change involve three amendments:

1. to implement amended registration requirements for large dedicated connection assets (LDCAs), with a new class for registrable exemptions (NRO6) for parties that own, operate or control LDCAs;[4]
2. to implement amended registration requirements for small dedicated connection assets (SDCAs), with a new deemed registrable exemption class (NDO8) for parties that own, operate or control SDCAs;
3. to outline our approach for the administration of the access policy condition for LDCAs, and our approach to establishing and publishing an Existing Dedicated Connection Asset Owner register.

Parts 2, 3 and 4 of this paper set out the rationale and explanation for these amendments, in relation to the Transmission Connection and Planning rule change.

1 AEMC, Final Rule (Transmission Connection and Planning Arrangements)
2 Developed under clause 2.5.1(d) of the NER
3 As per clause 11.98.3(a) of the final rule
4 Inserting Clause 2.5.1(d3) of the NER

1.1.2 Other amendments

In addition, we propose to make other amendments to address evolving regulatory issues in the sector and clarify aspects of the guideline. This involves several amendments and clarifications:

- to amend the conditions concerning the connection of energy generation plants of market significance within exempt networks,[5] which may involve amendment to the scope and criteria attached to the NDO1, NRO1 and NRO2 activity classes;
- to clarify that the AER may review any exemption and amend conditions or remove or revoke an exemption if it does not serve the long term interests of consumers under clause 11(2) of the NEL;
- to impose obligations on Embedded Network Operator's to provide information to AEMO required for the implementation of the Embedded Network Manager rule;
- to make minor administrative changes to clarify some aspects of the Guideline, including:
    - updates to our approach towards micro-grids;
    - consideration of the frequency of which meters can be read;
    - updates to the metering requirements for the 1 December 2017 Embedded Network manager rule change;
    - insertion of illustrative examples to clarify the meaning of 'own', 'operate' and 'control';
    - clarification that all classes of exemption holder must appoint an ENM if a customer goes 'on-market', and clarifying the trigger point for ENM appointment for specific exemption classes;
    - harmonising the network guideline with proposed changes to the retail guideline in relation to residential customers accessing Ombudsman scheme services; and
    - minor grammatical or typographical amendments.

1.1.3 Relevant legislation

Under Section 11(2) of the National Electricity Law (NEL) a person must not engage in the activity of owning, controlling or operating, a transmission system or distribution system that forms part of the interconnected national electricity system unless the person is a Registered participant in relation to that activity, or the person is exempted by the Australian Energy Regulator (AER) from the requirement.

This section (and the others that form Division 1 of Part 2 of the NEL) establishes two parallel regulatory frameworks for the regulation of network assets:

1. Transmission Network Service Providers (TNSPs) and Distribution Network Service Providers (DNSPs), as registered with Australian Energy Market Operator (AEMO), are regulated under the relevant provisions of the NEL and National Electricity Rules (NER).

5 Generation plants considered to be of significance by the Australian Energy Market Operator (AEMO).

From 1 July 2018, these parties must amend their registration to clarify which of their network assets are dedicated connection assets (DCAs) and which of their network assets are identified user shared assets (IUSAs), and classify their DCAs as 'large' or 'small'.

2. Exempt Network Service Providers (exempt NSPs), as exempted by the AER, are regulated under the AER Electricity Network Service Provider Registration Exemption Guideline (the Network Guideline). From 1 July 2018, these parties may be required to register with AEMO or seek an exemption from the AER as a party that owns, controls or operates DCAs by applying for a NRO6 registrable exemption for large DCAs, or may be deemed to be exempt if they only own, operate or control small dedicated connection assets under NDO8.

1.2 Transmission Connection Rule Change

The AER is responsible for administering the exemptions framework under the NEL as outlined in the Network Guideline. In accordance with rule 2.5.1 of the National Electricity Rules (NER), the Network Guideline sets out the criteria for eligibility for an exemption and the conditions that exemption holders must comply with. DCASPs granted an exemption under NRO6 will be subject to conditions set out in Clause 2.5.1(d3) and Clause 2.5.1(d4) of the final rule determination, including:

- **Negotiating principles**[6]: setting out the rules for negotiating connections to a large DCA by a connecting party and a DCASP. These incorporate negotiating principles under the new schedule 5.12;
- **Access policy obligations**: requiring the DCASP exemption holder to create, publish and be bound by a 'third party access policy' as administered by the AER;[7]
- **Commercial arbitration**: requiring the exemption holder to comply with the commercial arbitration process set out in Rule 5.5, to resolve any access disputes;[8]
- **Any other conditions imposed by the AER**[9]

Table 1.1 Differences in regulatory obligations for small and large DCA exemption classes

Conditions of Exemption	NRO6 exemption holder as DCASP for 'large' DCAs	NDO8 exemption holder as DCASP for 'small' DCAs
Negotiating principles	✓	×
Access policy	✓	×
Commercial arbitration for access	✓	×

6 As per 5.2A.6(c) in the final rule
7 As per 5.2A.8 in the final rule
8 As per 2.5.1(d3) in the final rule
9 As per 2.5.1(d4)

disputes		
Other conditions imposed by the AER, including general conditions of network exemptions	✓	×
General conditions of exemption holders	✓	✓

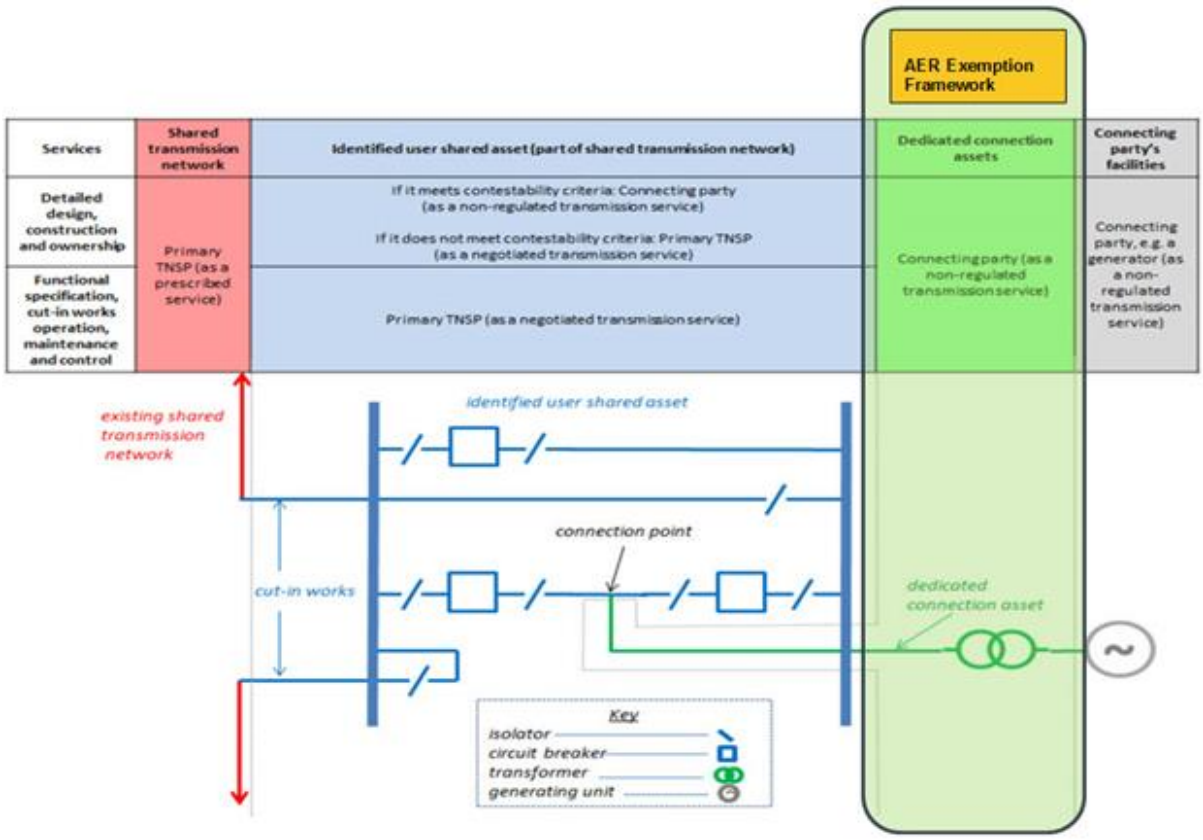
1.2.1 Scope of this issues paper in relation to the rule change

The AEMC rule change is extensive. It addresses matters which fall both within the scope of the AER network exemption guideline and a range of further matters which affect:

1. the economic regulation of 'identified shared user assets' (i.e. components of a substation which is considered to be part of the shared transmission network);
2. TNSP connections arbitration/negotiation frameworks (including the appointment of an 'independent engineer'); and
3. network planning arrangements.

This issues paper is confined to the requirement for a party that provides services by means of a dedicated connection asset to seek an exemption from registration from the AER under NRO6, or deemed under NDO8. Please refer to figure 1 for a depiction of the scope of the network exemptions amendment in the context of the AEMC Transmission Connection and Planning Arrangements rule change.

Figure 1.1 Relevant aspects of Transmission Connection and Planning rule change



Source: AEMC, Information sheet, Transmission Connection and Planning Arrangements - Final determination, Attachment A

1.2.2 Victoria's Transmission Connection Framework unaffected

The amended rule does not apply in jurisdictions where AEMO is 'authorised to exercise declared network functions', which means that the rules do not apply to Victoria.

1.2.3 Consultation on 'other' conditions for DCASPs exemptions

The AEMC considered that the AER would have regard to the need for an exempt network service provider in respect of a DCA to be subject to certain conditions that relate to power system security and reliability. In its submission to the consultation paper, AEMO considered that parties who own, operate or control large DCAs should be subject to the provisions in Chapter 4 of the NER that require Registered Participants to follow AEMO instructions for power system security purposes, and Chapter 5 of the NER in relation to performance standards. [10]

10 AEMC Final Rule determination, p260

Q.1 What 'other' conditions should the AER consider applying, on a case by case basis, to NRO6 and/or NDO8 exemption holders for parties who own, operate or control dedicated connection assets**?**

1.3 Other amendments

1.3.1 Generator and battery connections

AEMO has advised the AER that it has concerns with generating systems, which may include several generation assets, connecting to the network via exempt or embedded networks without the application of the Generator Performance Standards. AEMO has observed that there is an increasing number of hybrid generating systems supplying power to the NEM, and consider that aspects of the Guideline contribute to a lack of regulatory oversight. Accordingly, there is a risk that generating systems are not bound by adequate technical standards, impinging on system security, reliability and safety.

To address these concerns, we propose to amend the scope and criteria for the NRO1 and NRO2 exemption classes, and propose to amend part 4.2 of the guideline. See part 5 of the issues paper for the proposed amendments.

Q.2 Should NRO2 be closed?

1.3.2 Administrative amendments and clarifications

1.3.2.1 Further support for ENM rule change

AEMO has raised concerns that the ENM rule change requires that ENO's share information about the parent NMI and ENM details which is fundamental for the ability of ENO's to access an alternative ENM service. AEMO consider that ENMs are not equipped with sufficient information to know what services are contestable, and will not be able to operate without knowledge of the location of the parent NMI. To address this, we propose to amend part 4.8.1 to add that on the appointment of an ENM, the parent NMI and ENM details must be provided to every customer by a notice on the bills issued after the date.

1.3.2.2 Exempt customer dispute resolution and ombudsman scheme access

We propose to amend part 4.1.6 and add a condition (4.1.13), to harmonise the dispute resolution requirements with the Retail Exempt Selling Guideline. This is the result of the AER's joint project with Australia and New Zealand Energy and Water Ombudsman Network (ANZEWON) to provide Ombudsman dispute resolution services for residential exempt customers.[11]

[11] AER Website, https://www.aer.gov.au/retail-markets/retail-guidelines-reviews/access-to-dispute-resolution-services-for-exempt-customers-june-2017.

1.3.2.3 Consultation on the meaning of 'own, operate and control'

Section 11(2) of the NEL provides that any person engaging in the activity of owning, controlling or operating a transmission or distribution system must register as a Network Service Provider with AEMO or be subject to a network exemption from the AER. 'Ownership' is an unambiguous concept and 'control' implies an authority to act or direct. However, operation can be understood rather broadly.

The current Network Exemption Guideline provides some guidance as to which parties require exemption by offering the example of an electrician and a person who regularly reads the meters. The person who regularly reads the meter is considered to operate the network while the electrician conducting repairs is not. With the increasing professionalisation of embedded network services and the multitude of different contractual parties involved in the day to day running of some exempt networks, it is becoming more difficult to understand which parties are considered to operate a network.

To provide further guidance on this matter, we ask the question should the AER clarify the meaning of 'own, operate and control' with further illustrative examples in the guideline beyond the activities set out in table 1.2? If so, what activities are unclear to stakeholders?

Table 1.2 Activities that constitute operation

Activity	Operating?	Comments
Connecting a customer	✓	Activity is central to network operation
Disconnecting a customer	✓	Activity is central to network operation
Facilitating sales to customers within an exempt network as a billing agent	?	Professionalisation and specialisation of this role may indicate it is central to the operation of the network. However, can network operation extend to activities beyond manipulation and direction of the physical infrastructure?
Reading the meter on a continual basis	✓	Professionalisation and specialisation of this role may indicate it is central to the operation of the network.
Network maintenance and repair as part of an accredited service (i.e. electrician)	×	The activity is already sufficiently regulated through professional accreditation. This interpretation mirrors the relationship between registered Network Service Providers and accredited service providers who work on a

		registered network.
Reading the meter as part of providing an accredited service (i.e. Meter Data Provider)	×	Professionalisation and specialisation of this role may indicate it is central to the operation of the network. However, can network operation extend to activities beyond manipulation and direction of the physical infrastructure?

1.3.2.4 Distributions systems configured as embedded networks

The AER has detected a risk that some ENOs may be considering configuring large parcels of land over more than one lot as embedded networks to avoid the requirement to register as a distribution service provider. We note that under clause 11(2) of the NEL, if it is deemed that an exemption is not consistent with the National Electricity Objective the AER must not approve an exemption. A criteria we apply is whether a decision serves the long term interests of consumers. Networks of this type may not meet this criteria. We propose to add an additional provision that notes the AER may use this power to review any proposed registration at any time to determine if a network should not be exempt.

1.3.2.5 Clarifications

We propose to clarify that Section 4.4.2.1 of the guideline stipulates that an ENM is required whenever a customer is or goes on market, regardless of the exemption class. This is in accordance with clause 2.5.1(d2) of the NER. This should address questions raised by stakeholders in relation to the trigger point for appointing an ENM for exemption activity classes that are not explicitly listed under the condition (e.g. activity class NR4).

In relation to meter reading, some stakeholders have noted that some customers may benefit from flexible payment arrangements, such as weekly billing, that may assist customers in organising their finances. In particular, it has been suggested that low-income customers may benefit from this change. It has been suggested that condition 4.6.4.1, which limits the frequency of meter reading to no more than once per month, restricts exemption holders from offering more frequent billing options. The condition is intended to limit the amount of meter reading charges that could be charged to a customer. However, this condition could be inadvertently preventing consumers from choosing billing options which may enable them to better manage their finances..

Q.3 Should the restriction to meter reads of no more than once per month be relaxed to allow more flexible, weekly payments?

1.4 Next steps and procedural issues

The amended guideline will take effect on 1 March 2018, four months before the new rules take effect. This allows Transmission Network Service Providers and other parties who may own, operate or control a new dedicated connection asset to become familiar with the AER's requirements before the rule takes effect from 1 July 2018. For Transmission Network

Service Providers and other parties who may own, operate or control an existing dedicated connection asset, please refer to page 20 of this Issues Paper for the regulatory framework for existing DCAs.

Table 1.3 Guideline Amendment Timeline

Date	Milestone
17 November 2017	Publish Issues paper/draft guideline
14 December 2017	Multi-site public forum
15 January 2018	Submissions due
1 March 2018	Publication of final guideline

2 Introduction

2.1 AEMC Transmission Connection and Planning Rule Change

The rule change in relation to Dedicated Connection Assets is designed to introduce contestability for the design, construction and ownership of assets on the transmission network used exclusively for connection. It also clarifies aspects of the connection process, improves transparency of information for connection applicants and strengthens the principles for negotiations between connecting parties and transmission businesses.

The existing NER does not distinguish between assets required to connect the party to the transmission network and assets needed to facilitate that party's incorporation into the network. Consequently, the NER does not specify how the provision of services for those types of assets is economically regulated. The AEMC considered that the lack of clarity distorts incentives – encouraging higher cost, complex connection services arrangements, and exacerbates bargaining inequality between the Primary TNSPs and connecting parties.

The intended benefits of the rule change involve greater competition in connection arrangements, increased transparency of the connections process and a stronger negotiating framework to deliver the most efficient solutions for expanding the network. The AEMC estimate that 30 to 50 new large-scale generators, including significant solar and wind generators, will seek to connect to the transmission network by 2020, and estimate that the rules will create cost savings of $100m in the next three years.

A key objective of the rule change is to distinguish between assets required for a party's connection to the transmission network, and assets which are provided to benefit all transmission customers, namely:

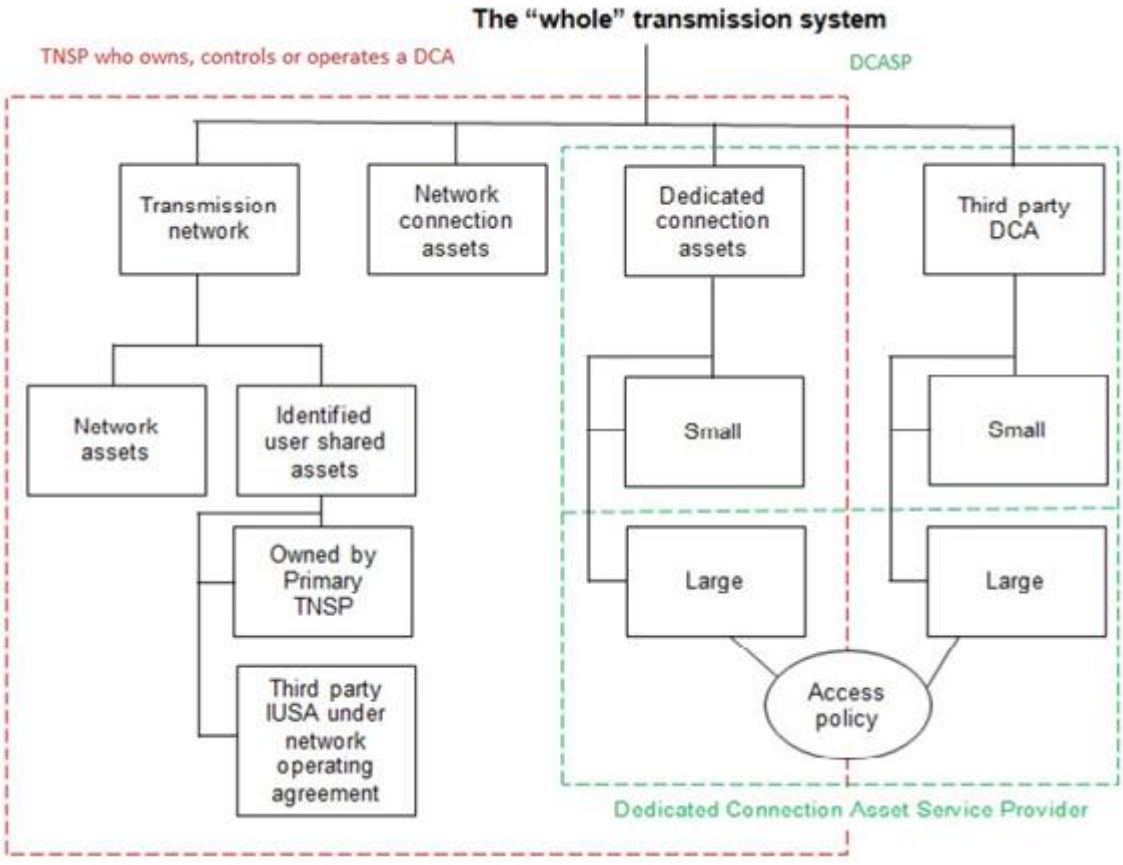
- **Identified user shared assets** broadly describe the collection of components that are required to facilitate the connection of a connecting party to the shared transmission network and which, once commissioned, form part of the shared transmission network, for example parts of a substation; and
- **Dedicated connection assets** describe the collection of components that are used to connect a connecting party to the shared transmission network and which, once commissioned, are able to be isolated from electricity flows on the transmission network, for example the power line that connects parts of a substation to a generating system. As DCAs are part of the 'whole transmission system', all parties that own, operate or control DCAs must register with AEMO or seek an exemption from the AER. Further, if the DCA is 'large', the party will be subject to an access regime, administered by the AEMO registration, or as a mandatory condition with the AER exemption (NRO6). Parties that own, operate or control a DCA that is 'small', may fall under a deemed exemption registration class (NDO8).

The final rule either amends the definitions of existing terms, or introduces new terms, to provide clarification on the components that make up a transmission system. Specifically, it clarifies that the 'whole' transmission system is comprised of:

- **transmission networks**: including networks owned, operated and controlled by TNSPs, which include all shared network assets and identified user shared assets (regardless of whether or not the identified user shared assets (i.e. substations) are owned by the TNSP);
- **network connection assets**: including assets that connect a network service provider to another network service provider; and
- **dedicated connection assets**: assets that are owned, operated and controlled by either the TNSP or a third party and which are used exclusively by one or more parties connected at the same, single connection point on the shared transmission network. Further, a DCA, which will be made up of several components, will be classified as 'large' and subject to a third party access regime, if any individual component part of the DCA (i.e. a power line) exceeds 30km in length.

See figure 2.1, extracted from the AEMC's Final Determination, for a depiction of the 'whole' transmission system and the assets that comprise it, and note how all large dedicated connection assets are subject to an access regime:

Figure 2.1 Conceptual diagram of the 'whole' transmission system, and the assets that comprise it



Source: AEMC, Rule Determination, National Electricity Amendment (Transmission Connection and Planning Arrangements) Rule 2017, p. 240

In summary, the rule change with respect to transmission connections:

- Clarifies aspects of the connection process and removes ambiguity and scope for interpretation with regard to the economic regulation of services required to connect parties to the shared transmission framework;
- Clarifies that two types of assets provide services required to connect parties to the shared transmission network;
- Introduces contestability for the design construction and ownership of identified shared user assets, if these assets are deemed to be 'contestable'.[12]
- Clarifies that services provided for new DCAs, including design, construction, ownership, operation and maintenance, are non-regulated transmission services and can be provided by any party on commercial terms; and
- Requires all parties who own, operate or control DCAs to register with AEMO or seek an exemption from the AER, as DCA's comprise part of the 'whole transmission system'. Further, parties who own, operate or control large DCAs must either register with AEMO, or seek an exemption with the AER that is subject to mandatory access policy obligations.

12 To be contestable, the component must have a capital cost that can reasonably be expected to exceed $10 million; and be comprised of new components or a complete replacement of existing components; and the design and construction is separable in that the new assets will be distinct and definable from the existing transmission network.

3 Dedicated Connection Assets

3.1 What is a dedicated connection asset?

The new term ‘dedicated connection asset’ has been introduced to broadly comprise those assets used to connect a generator or load to the transmission network, but which are able to be isolated from electricity flows across the transmission network. For the avoidance of doubt, a dedicated connection asset is defined in the final rules as:

> *“The apparatus, equipment, plant and buildings that:*
>
> *a) are used for the purpose of connecting an identified user group to an existing transmission network;*
>
> *b) are used exclusively by the identified user group;*
>
> *c) can be electrically isolated from the transmission network without affecting the provision of shared transmission services to persons who are not members of the identified user group;*
>
> *d) are not:*
>
> *i. network connection assets;*
>
> *ii. part of a generating system;*
>
> *iii. part of a distribution system;*
>
> *iv. part of transmission system for which a Market Network Service Provider is registered under Chapter 2;*
>
> *v. part of a Transmission Customer's facility that utilises electricity energy; or*
>
> *vi. part of the declared transmission system of an adoptive jurisdiction.”*

The AEMC make clear that a DCA may be comprised of a number of components, provided that the collection of all the components meets the definition set out above. The rule sets out how services for those assets are regulated and places certain obligations on the parties who own control and operate them. All services provided for new dedicated connection assets are **non-regulated transmission services** and can be provided by any party on commercial terms. This includes design, construction, ownership, operation and maintenance. There is no obligation on any party, including TNSPs, to offer these services and there is no regulated framework for the setting of price and non-price terms and conditions for the provision of these services.

3.2 Requirement to register as a party who owns, controls or operates a DCA

As dedicated connection assets form part of a transmission system,[13] any person who provides services by means of owning, operating or controlling a dedicated connection asset will be required to register with AEMO, or seek an exemption from the AER. Parties that are registered as a generator, customer or market network service provider (MNSP) will be required to also register with respect to any dedicated connection assets that they intend to own, operate or control. Further, a party is required to register or seek an exemption for each DCA that it owns, operates or controls, similar to existing arrangements for Registered Participants, for example Generators who own, operate or control more than one generating system.[14]A party registered as a TNSP are taken to be a DCA service provider to the extent that its activities relate to any of its DCAs and are not required to separately register as a DCA service provider.[15]

3.3 Requirement to classify each DCA as large or small

As DCA's are part of the transmission system, a DCA owner, controller or operator must classify its DCAs as 'large' or 'small' in its application for registration, or through a separate notice to AEMO, or fall under the relevant AER network exemption (NRO6 or NDO8).[16]

A 'large' DCA is defined as a connection asset which includes a component that exceeds 30km in total route length. In practical terms, a DCA is 'large' if the power line component is over 30km in total route length. Large DCAs will be subject to an access regime, either under a condition of AEMO registration, or as a condition under AER's NRO6 registrable exemption.

As registered participants, DCA service providers will be subject to a range of existing obligations under the NER, including those that relate to AEMO's power to issue instructions to registered participants to maintain or re-establish power system security. However, they are only required to comply with a rule that applies to a NSP or a TNSP if the rule specifies that it applies to a DCA service provider.[17]

3.4 Third party access policy for large dedicated connection assets

A key condition for a NRO6 exemption from registration for large dedicated connection asset service providers (LDCASP) is the obligation to create an access policy, and the obligation to comply with commercial arbitration obligations in the event of an access dispute.

13 See definitions of transmission system above, which includes dedicated connection assets.

14 Rule determination p 258

15 Rule 2.5.1A(g). Also, see the final rule determination pg. 257, where a person that is already registered as a TNSP is not required to separately register as a DCASP in respect of a DCA, where they are required to classify their connection assets as large and small in consultation with AEMO.

16 Rule 2.5.1A(d)

17 Rule 2.5.1A(f)

The AEMC considered it inefficient for parties to duplicate this connection infrastructure, [18] and have established a third party access regime which obliges the LDCASP to comply with the mandatory access policy condition and related commercial arbitration condition. Accordingly, LDCA service providers must prepare, maintain and publish an access policy for its LDCA on its website to provide a framework for applicants to obtain access to LDCA services, and this access policy must be approved, and administered by the AER.[19] Large DCA service providers must submit their access policy for approval by the AER within 30 days of an asset being classified as a large dedicated connection asset,[20] and may seek a variation to the access policy at any time with the AER.[21] The variation of an access policy process is set out in the rules, which prescribes the process for the AER to 'propose' an access policy in limited circumstances.

A submitted registration for an NRO6 network exemption class should include an access policy for approval by the AER, which can be uploaded onto the online registration form.

3.4.1 What must be included in the access policy?

As noted, all NRO6 exemption holders must prepare, maintain and publish an access policy on its website, and this access policy must include, as a minimum:[22]

1. A description of the routes, tenure arrangements and main components of the large dedicated connection asset and the facilities connected to it;
2. Material regulatory limitations relating to the development and operation of the large dedicated connection asset;
3. Pricing principles and key terms proposed to apply to the provision of large DCA services where such principles/terms must be consistent with schedule 5.12;
4. Process by which applicant may seek access to large DCA services, which must include a right for applicant to obtain information;
5. Advice on the availability of commercial arbitration under new rule 5.5

3.4.2 Obligation for LDCASPs to report access requests

The rules state that LDCASPs must report on requests for connection/access to the AER in a manner and form as notified by the AER.[23] This is not an onerous requirement and the information required is factual in nature. We require, at a minimum:

---

18 Final Rule determination p 258

19 Clause 5.2A.8(c)(1) and (2).

20 Clause 5.2A.8(d)).

21 Clause 5.2A.8(e). For variations, AER must approve the variation if it is reasonably satisfied that it complies with the requirements in (b) (i.e. description of routes/assets, regulatory limitations for its development/operation, pricing principles/terms underpinning DCA service provision, process for applicant to seek access and availability of commercial arbitration). If AER does not approve, the AER must notify of changes required for approval, and if six months elapse since the AER's notification, the AER itself may propose an access policy (5.2A.8(f)).

22 Clause 5.2A.8(b)).

23 Clause 5.2A.8(k)

- A short pdf or word document enclosed within an email addressed to AERexemptions@aer.gov.au, setting out the material facts of the access request with contact details of all relevant parties. This should include the details of the applicant and their contact details, the date of the application and a brief description of how the respondent proposes to deal with the application.

3.4.3 Obligation for LDCASPs to comply with commercial arbitration for access disputes

The 2.5.1(d3) condition requires all NRO6 exemption holders to comply with the commercial arbitration rules, in the event of an access dispute. These rules are set out in Schedule 5.5. The regime applies to LDCASPs who have a NRO6 exemption; and the regime applies to connection applicants or other third parties who seek connection by:

- Prescribed transmission services;
- Negotiated transmission services; or
- Provision of large DCA services[24]

For negotiated transmission services, the terms of access include price and other non-price terms.[25] For prescribed transmission services, the terms of access include price and other non-price terms.[26] For LDCA services, the terms include the price and other conditions for the provision of the service.[27]

3.5 Arrangements for Distribution Network Service Providers

As DNSPs connecting to a transmission network will be provided with prescribed transmission services, not negotiated transmission services, none of the aspects of the final rule referred to above will apply.

24 Clause 5.5.1(b)
25 Clause 5.5.1(c)(1)
26 Clause 5.5.1(c)(2)
27 Clause 5.5.1(c)(3)

4 Transitional Arrangements for Existing Dedicated Connection Assets

4.1 Application of new rules to existing connection agreements

The new rules do not affect connection agreements entered into prior to 1 July 2018. However, the new rules apply to amendments to connection agreements made after 1 July 2018 insofar as the new rules apply to the modification of the connection agreement. For example, if an existing connection agreement is modified to involve the commission or construction of a new DCA, then all services for that asset would be contestable, non-regulated transmission services; and the provisions regarding classification of the asset as 'large' or 'small' would apply, and the party would be required to register with AEMO, update or apply for a registration with AEMO, or apply for a NRO6 network exemption with the AER, or be deemed exempt if the DCA is less than 30km in length.

4.2 Application of new rules to Existing DCAs

Clause 11.98.1 of the final rule sets out a means by which parties who own, operate or control existing DCAs can have that asset 'grandfathered'.[28] The AEMC consider that visibility of where and what these existing DCAs are, and which party owns, operates and controls DCAs is an essential policy objective. Thus, any party, who owns, operates or controls a dedicated connection asset, both new and existing, must be registered or exempt from registration.

An Existing DCA is simply a DCA that is in existence prior to 1 July 2018, or is commissioned prior to 1 July 2018, or is an asset that is the subject of a connection arrangement between a TSNP and a connecting party entered into prior to 1 July 2018. An Existing DCA Owner means an owner, operator or controller of an Existing DCA.

4.2.1 Existing DCA Owners grandfathered by registering with AEMO or seeking an AER exemption

The savings and transitional amendments to the NER under the final rule require an Existing DCA Owner that is not already registered or exempt with respect to that asset to:

- Register with AEMO as a network service provider for the Existing DCA; or
- Seek an exemption from the AER from the requirement to register.

4.2.2 Existing DCA Owners grandfathered by notifying the AER of their pre-existing registration covering the Existing DCA

28 Final Rule determination, p73

If an Existing DCA Owner is already registered (or exempt) with respect to that asset then they will be required, by 1 May 2018, to notify the AER of:

- The identity of each owner, controller or operator of the Existing DCA;
- The category of registered participant for which the owner, controller or operator of the Existing DCA is registered (or for which it has an exemption) for the Existing DCA.;
- Whether the Existing DCA would be classified as a large DCA or small DCA if the EDCA Owner was to register as a network service provider for that asset; and
- The location and route of the EDCA.

Notifications containing the above information should be sent to AERexemptions@aer.gov.au.

4.2.3 Public Register for 'Existing DCA Owners'

By 1 July 2018, the AER must establish and publish a register of all Existing DCA service providers who have notified the AER of their Existing DCAs in accordance with 4.2.2 (above).[29] Existing DCA Owners recorded on the register will be grandfathered and are not required to re-register in the new DCA categories of registration with AEMO or exemption with the AER.[30]

29 Clause 11.98.2(b) of the final rule

30 Final rule determination, p74-75

5 Other amendments to the guideline

5.1 Significant generator systems within exempt/embedded networks supplying power to the NEM

The increasing number of wind and solar farms that seek connection to the NEM has caused AEMO to commence to re-examine the capacity of generator that it considers may be of significance for the purpose of system security and reliability. In connection with this examination, AEMO has advised the AER that it has concerns with generators and battery installations that may affect system security and market dispatch connecting to the NEM via exempt and/or embedded networks. Clause 5.3.4A of the Rules requires registered Network Service Providers to refer proposed negotiated generator performance standards to AEMO in order to review the impact on power system security. An exempt network is not bound to apply clause 5.3.4A of the NER because an exemption excludes the operation of chapter 5 of the NER.

This results in a different review and compliance arrangements for generators in an embedded network, compared to directly connected generators.

We would be concerned if the widespread use of embedded networks to connect generators resulted in a threat to system security. This would not be consistent with the National Electricity Objective. Equally though, we consider if the use of an embedded network is efficient in minimising generator installation and operating costs then their use should continue while the broader question of access to performance standards data is resolved by a wider consideration. This might entail a rule change proposal sponsored by AEMO, the AER or other stakeholders.

Consequently, as an interim measure, we propose amending the exemption activity classes NDO1, NRO1 and NRO2 to align these exemption classes in line with AEMO's new threshold of significance, which is systems of 5MW or greater aggregate generating capacity. Therefore, we propose requiring all parties with a system of 5MW or greater generating capacity aggregate seek a review by AEMO that their generator(s) will not affect adversely affect power system security before the AER accepts the applicable proposed deemed or registrable exemption should be allowed. This will ensure power system security is not jeopardised whilst this issue is being resolved.

Further, we also propose to amend part 4.2.2 of the guideline to address the trend to connection of small generators via embedded networks. Currently, part 4.2.2 of the guideline requires an exempt network service provider to consult with AEMO for the safe, reliable or secure operation of an exempt distribution network operating at a nominal voltage of 66kV or more. We propose to amend this condition, by requiring the exempt NSP to consult with AEMO if they operate at a normal voltage of 11kV or more, and have commissioned, or plan to commission the installation of a generation asset that, in aggregate, will supply greater than or equal to 5MW into the NEM.

5.2 Exempt customer dispute resolution and ombudsman scheme access

We have replicated the dispute resolution and ombudsman conditions proposed in the Draft Retail Exempt Selling Guideline. It has been the intention throughout the AER joint project with the Australia and New Zealand Energy and Water Ombudsman Network (ANZEWON) to harmonise these provisions for both retail exemption holders and network exemption holders as it is for both Authorised Retailers and registered Distributors under Part 4 of the National Energy Retail Law. The ombudsman membership condition applies only to residential exemption classes.

5.3 Further support for the introduction of the Embedded Network Manager

The ENM rule commences on 1 December 2017. We propose to make some minor amendments to accommodate a concern raised by AEMO that when an ENM is appointed, it is unclear how the customer will know who to approach to give effect to the necessary metering changes. Our response is to require the Embedded Network Operator to provide the required information to the customer. This involves amending condition 4.8.1 to add that on the appointment of an ENM, the parent NMI and ENM details must be provided to every customer by a notice on the bills issued after that date.

5.4 Other amendments to the guideline

Other proposed changes added for clarification:

- Reformatted ‘who pays for meter upgrade’ condition (4.2) into a table
- Moved wording from an ENM condition to condition 4.2.2.4 to make explicit that advanced fees cannot be paid to secure exclusive rights over an embedded network
- In accordance with clause 2.5.1(d2) of the NER, make explicit in condition 4.4 that should an EN customer be/go on market, an ENM must be appointed
    - Redrafting of pricing section (4.6) to clarify:
        - charge group A is an all-inclusive tariff
        - charge group B is an external network charge only (on-market EN customers)
        - differences between ‘large corporate entities’ and large customers in charge group C
        - difference between an ‘internal network charge’ (charging for network services that benefit the entire EN customer base) and charging a fee that would be charged by the local DNSP (can be attributed to a single customer)
    - Allowed link to guideline to be sent to customers to fulfil 4.8.1.1.c obligation to provide copy of conditions to customer
    - Made explicit that retrofit conditions (4.9) regarding consent and information provision relate equally to both tenants and owner occupiers.

- Rephrased mentions of price matching to offers available to customers as ‘if they were still a grid customer’ to as ‘if they were still directly connected to the local distribution network service provider’. This clarifies that EN customers are still grid connected.
- Revocation and transfer of exemption
    - provided more detail in section 5.4 regarding grounds for revocation (network operated in a manner considered to be contrary to long term interests of consumers or is of a scale/kind that should be registered with AEMO)
    - clarified in section 5.5 that exemptions are not transferable as noted in other sections of the guideline

6 Summary of consultation questions

Q.1 Are there any other conditions the AER should consider applying, on a case by case basis, to NRO6 and /or NDO8 exemption holders for parties who own, operate or control dedicated connection assets?

Q.2 Should activity class NRO2 be closed to new applications or should the generator performance standards issue be dealt with by a rule change proposal?

Q.3 Should the restriction to meter reads of no more than once per month be relaxed to allow more flexible, weekly payments for selected customer groups?

Q.4 Do stakeholders have comments to make on any of the other proposed amendments?