Reasons for Decision - Amended Network Exemption Guideline - Version 5

1 December 2016

AUSTRALIAN ENERGY REGULATOR

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

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Amendment Record

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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 *Corporations Act* 2001 (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 **Error! Reference source not found.** and **Error! Reference source not found.**.
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 *Corporations Act* 2001 or, if not a reporting entity under that Act, includes a public company as defined in section 9 of the Act, or an unlisted company, trust, or other legal entity which fulfils any two of 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
NBN	National Broadband Network
NEL	National Electricity Law
NER	National Electricity Rules
Off–market energy generation	Means an energy generation option not required to be registered with AEMO under clause 2.2 of the NER and applicable AEMO guidelines. 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.
On–market energy generation	Means an energy generation option required to be registered with the AEMO under clause 2.2 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. 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.
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
Registered distributor	A market participant registered with AEMO as a distribution network service provider in accordance with clause 2.5.1(a) of the NER.
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 **Error! Reference source not found.**, a relevant exempt embedded network service provider is deemed to 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 Guideline consultation process

Rule change

On 17 December 2015, the Australian Energy Markets Commission (AEMC) released the Embedded Networks Final Rule Determination. This Rule is intended to reduce the barriers customers in embedded networks face in obtaining access to retail market competition. The rule requires the AER to consult and, by 1 December 2016, amend the AER's network exemption guideline to give effect to the new rule.

Consultation process

As is our practice for the development of all our guidelines, we are guided by the diverse views of our stakeholders. We have been assisted in developing this guideline by the submissions received in consultation, which covered a wide range of relevant issues. A number of submissions have made suggestions for enhancements and clarifications of the drafting which we consider have materially improved the guideline.

This consultation is undertaken in accordance with clause 2.5.1(e) of the NER. In addition to submissions from the public, we also sought the views of Registered Participants and authorities responsible for administering the jurisdictional electricity legislation. Other steps we have undertaken in this consultation include:

- On 24 August 2016 we released a draft guideline and an issues paper which set out our proposed changes to the Network Guideline.
- A notice was published on website seeking submissions from stakeholders, which period closed on 10 October 2016.[1]
- We issued an email notification to subscribers registered for the AER's notification service and to a further 50 parties known or expected to be concerned with this consultation.
- On 26 September 2016 we conducted a public forum by video conference from the AER offices in Adelaide, Brisbane, Melbourne and Sydney. Additionally, stakeholders in Townsville, Canberra and Hobart participated by telephone.

To assist stakeholders to understand our decision, we have identified the material issues raised in written submissions or in meetings with stakeholders and set out our response to those issues.[2] Our determination also details the reasons for our decision.[3]

The material issues are set out in section 2 of this determination, together with our reasons for decision on each issue. In attachment 1 we list the amendments made to the guideline in response to material issues. In attachment 2 we respond in detail to each submission.

[1] NER Clause 8.9(b)
[2] NER Clause 8.9(g)(4)
[3] NER Clause 8.9(k)

Submissions

We received 20 submissions at the close of the date for submissions. Five stakeholders sought approval to lodge late submissions, which was agreed. Four late submissions were subsequently received and have been considered as follows:

- Residential Tenancies Authority (QLD) (RTA)
- Caravan, Camping & Touring Industry & Manufactured Housing Industry Association NSW Ltd (CCIA)
- Ashurst Australia (Ashurst)
- Shopping Centre Council Of Australia (SCCA).

These twenty four submissions are published on our website. We also met with the CCIA, SCCA and Energy Intelligence. These stakeholders requested meetings. We have incorporated the outcome of those meetings in our considerations.

We have summarised each submission in the attachment to this decision. The summary includes our response to each issue raised where we consider the matter is material. In the body of this determination we summarise the material issues and give our reasons for decision.

2 Reasons for decision

Throughout the issues paper we asked for responses to our proposals grouped under eleven headings, as set out below. We have added a twelfth heading to respond to other matters raised by submissions but not otherwise captured in our issues paper. In each section we recount the major elements of our proposals, set out the significant issues raised in response by stakeholders and set our reasons for decision in our response to each issue.

2.1 Embedded network billing proposal

A customer in an embedded network may receive two bills in situations where a customer purchases energy from a retailer external to the embedded network (i.e. an on-market embedded network customer). One bill is an energy–only bill from the retailer; the other for the recovery of network charges from the embedded network operator. Although we would prefer a single bill approach wherever possible, we recognise that in most embedded networks it is impractical for a range of reasons related to the cost of altering NEM metrology and billing systems. There is a risk that a customer receiving two bills may be charged twice for network charges due to the lack of communication between the two billing entities. We proposed that the party responsible for rectifying double charging depends on the situation:

- Errors arising at the time of conversion of an existing site are to be resolved by the embedded network operator.
- Resolution of errors arising at new sites and on–going retail churn post site conversion are primarily the responsibility of the retailer.

We impose 'shadow pricing' as a cap on the maximum charge that can be levied on a customer or their retailer when billed for network services. The 'shadow price' is the charge that the local distributor would have charged if that distributor were serving the customer directly.

2.1.1 Issues raised in submissions

2.1.1.1 Shadow pricing

No submissions opposed the AER's 'shadow pricing' approach. A number of submissions endorse it as appropriate (e.g. Caravan Parks Association of QLD (CPAQ), Brookfield Energy (Brookfield), Caravan and Camping Industry Association of NSW (CCIA), Shopping Centre Council of Australia (SCCA), Energy Intelligence and MyCom Energy (MyCom)). However, Energy Australia said: over the long term, shadow pricing may influence pricing in ways not in the embedded network customers' best interests as retail, wholesale (affected by peakier or flatter usage profiles) and network costs can vary vastly for different types of networks.

AER reasons for decision

As no submissions opposed shadow pricing or suggested an alternative, we confirm the shadow pricing should continue to apply. The shadow pricing approach caps the network

component of embedded network energy bills. The combination of shadow price and energy–only price totals to the final cost for an embedded network customer. The main attraction of shadow pricing is that is easier for an embedded network operator to apply than attempting to reconcile and apportion the gross charge for network services at the parent meter to individual customers.

The AEMC determination recommended that the AER require that energy bills in embedded networks be unbundled into these components when requested by a customer. This was seen as necessary to facilitate price comparisons. We have adopted that recommendation in this release of the guideline. Longer term, we will monitor and review our approach to billing and shadow pricing when effective retail competition is established in embedded networks to determine if it remains appropriate.

2.1.1.2 Responsibility for duplicated network charges

The Energy and Water Ombudsman, NSW (EWON) consider the AER's proposed method for assigning responsibility to resolve duplicate network charges is simple and common sense. Target, Coles, Kmart (TCK) also supported the AER proposal that the embedded network operator must resolve transitional charging problems (e.g. duplication of network charges/network billing errors) in brownfield situations but recommended adding a timeframe (e.g. 15 days) for embedded network operator to take action and respond to tenant concerns/enquiries related to transitional charging issues

Energy Intelligence also generally supported the AER proposal that the embedded network operator be primarily responsible for resolving duplication of network charges for brownfield sites. However, Energy Intelligence recommend amendment to the wording of our proposal so an embedded network operator must use 'best endeavours' to resolve any duplication for brownfield retrofits. Brookfield also supported our proposal that the retailer is responsible for rectifying billing errors on new sites and the embedded network operator for converted sites.

The SCCA took a different view of the issue. They consider double billing issues are predominantly a result of market retailers not billing correctly. They therefore recommended responsibility for billing errors should sit with the party responsible for that error, particularly if the embedded network operator has used their best endeavours. SCCA also consider that disputes as to responsibility should be resolved through appropriate dispute resolution mechanisms. Mr Scouller thought this responsibility should rest with the retailer.

The SCCA went on to recommend the AER ensures retailers bear appropriate responsibility for billing issues concerning on-market embedded network customers. Further, if the AER is not able to achieve this through the exemption guidelines, the AER should investigate alternative solutions such as a Memorandum of Understanding or undertakings from retailers on this issue.

AER reasons for decision

Our final decision is to maintain the approach proposed in the draft guideline: errors arising at the time of conversion of an existing site are to be resolved by the embedded network operator. We note that the majority of submissions supported our approach. However, we also agree with submissions that there are circumstances with embedded network billing

errors where the primary cause of a duplicated billing situation is a defect in the market retailer's sales, transfer and billing processes not recognising the existence of a child meter.

We therefore agree that additional work is desirable with the industry to produce enhanced guidance on our expectations of parties converting networks to resolve billing errors. But, as this problem commonly arises at the time of conversion, we continue to believe the party converting the network must initially shoulder the major burden for resolving the problem of duplicated charges. This is because the problem only arises as a consequence of the conversion but when it arises it imposes a potential cost on another party. We consider it unreasonable to expect another party to absorb costs that have arisen in this circumstance. We will consider further how the 'best endeavours' concept as was proposed by Energy Intelligence might be incorporated in additional guidance notes.

2.1.1.3 Single bill

The EWON agreed it is preferable that customers receive a single bill but noted that the AER also allows for a two bill approach. EnergyAustralia also agreed that best outcome for a customer is to have a single bill but acknowledge this is difficult to achieve until retailers and ENMs develop better arrangements for handling customers in embedded networks. EnergyAustralia also considered that effective ENMs would be expected to act in customers' best interest and identify whether the embedded network operator is charging prices that significantly exceed costs. The SCCA supported the principle of a 'single bill' but noted practical difficulties which they attribute to market retailers not offering unbundled bills.

WINconnect stated that their experience indicates opponents of embedded networks use the two source billing scenario as a deterrent to 'churn' out of the embedded network. WINconnect further suggested separation of network charges from a retail customer's bundled bills will be essentially unworkable and expensive for retailer systems and they recommend mandating the ENM to put into practice a comprehensive 'B2B NUoS billing facility' (on behalf of the embedded network operator) consistent with market retailers.

In a different vein, Brookfield considered it significantly simpler for the embedded network operator to bill embedded network customers for their 'network charge' (the two bill approach) rather than bill the embedded network customer's retailer (the single bill approach). Brookfield also stated a second private meter is required alongside a retailer's to accurately calculate an on-market embedded network customer's 'shadow network' charges.

AER reasons for decision

Although there is general recognition in submissions that a single bill approach is desirable, there is no consensus on how this might be implemented. Indeed, a number of the submissions point to the two bill approach as being necessary, or even desirable, until competition evolves in this market segment.

For a single bill approach to be viable, we recognise that retailers have to be willing to contract directly with embedded network operators to pass on the associated network charges. This could mean that market retailers serving embedded network customers would need to have service agreements in place with (potentially) dozens of suppliers of network services, an arrangement that current retail billing systems are not designed to handle.

WINconnect believe ENMs should have a comprehensive B2B NUoS billing facility to address this problem. We note that this may emerge as a competitive offering in the new market but also note that is not a requirement mandated by the Embedded Network Rule change.

Although this may change over time, we have concluded that the current market arrangements remain dependent on both the single–bill and dual–bill arrangements to serve customers, depending on individual circumstances. We will continue to allow both approaches. On Brookfield's second meter approach, we think that it should be unnecessary as the Rule provides a requirement that meter data be shared.

2.2 Fees, charges and transactions costs proposal

Our proposed conditions 4.6.4 (charging customers) and 4.6.4.1 (meter reading charges) outline how and what charges and fees may be levied by an exempt embedded network operator. The major points are as follows:

- Charges cannot be imposed that would not be charged by the relevant local area distributor under their standard distribution connection contract.
- Charges and fees may not exceed (but may be less than) the tariff schedule of the relevant local distributor.
- Notification of a change in network tariff must be no later than the exempt customer's next bill.
- Any late payment fees must be limited to a recovery of reasonably incurred costs.
- A meter reading charge may only be levied once per month or once per billing cycle (whichever is the least frequent).
- If an advanced meter is installed, meter charges, energisation charges and de-energisation charges must not exceed the published applicable distributor charge for advanced meters.
- Manual read charges may only be charged for:
    - type 5 or type 6 meters
    - advanced meters where a customer requests a physical read.

2.2.1 Cap on charges

There was broad support for AER’s proposal to continue to cap charges to the local area distributor’s standard distribution connection contract charges (i.e. shadow pricing). The submitters that supported this included: the Caravan Parks Association of QLD, WINconnect, MyCom, Brookfield, CCIA and the SCCA.

WINconnect further proposed that retail charges outside those included in the local area retailer standing offer should only be applied to customers after attaining their explicit informed consent (e.g. charges for re-energisation and de-energisation).

MyCom however proposed that additional fees, such as ENM fees, need to be passed on to the customer, which could be a flat fee included in each customer's regular bill.

TCK recommended that no meter reading charge should be charged by an embedded network operator for child NMI (on–market) situations on the basis that on–market embedded network customers are already billed a meter reading fee by the retailer and should not be double billed by the embedded network operator.

Energy Intelligence proposed that the AER's draft condition 4.6.4.1 regarding manual meter read charges for advance technology meters be amended. Energy Intelligence identified a legacy situation where a new owner takes over an existing embedded network but the incumbent meter provider chooses not to supply access to remote metering data for commercial reasons. Energy Intelligence believe this could force the new embedded network operator to manually read meters or replace them all. Replacement would place significant costs on the embedded network operator for no additional immediate benefit to end users.

AER reasons for decision

We confirm our proposal to maintain shadow pricing will continue. However, we consider that the addition of *retail* pricing requirements for explicit informed consent as proposed by WINconnect is outside the scope of the *network* guideline. On the issue of ENM fees, our position is that ENM fees must be absorbed by the exempt embedded network service provider, except as provided for in condition 4.7. MyCom does not set out a case why it would better satisfy the NEO if customers were to pay this charge. Therefore, we do not accept that ENM fees should be charged to customers, which is what MyCom proposes.

Energy Intelligence are concerned our condition could force an immediate replacement of the metering installation. As drafted, our condition would have required all advance technology meters to be remotely read. It remains our view that this should occur. However, it may emerge that due to insolvency or licencing or technical problems with a communications system, a new embedded network operator may be unable to access the meters remotely.

We consider that a sufficient case has not been made to amend condition 4.6.4.1 as suggested to resolve the concern with communication with legacy metering installations. If access to data is not available then this would be a significant commercial factor in taking over an existing network. We do not consider it will always be necessary to replace the meter. Meters may only require the communication card be replaced or reprogrammed to work with a new service provider. Also, we do not accept that meters in embedded networks should be subject to lesser requirements than all other advanced technology meters

2.2.2 Impact of jurisdictional legislation

The Caravan Parks Association of QLD and RTA Qld both raised concerns that the impact of jurisdictional legislation placed restrictions on the supply of energy in a range of situations which correspond to our activity class NR4. The submissions point out that the Manufactured Homes (Residential Parks) Act (QLD) and the Residential Tenancies and Rooming Accommodation Act (QLD) contain provisions in relation to fees and charges. These Acts create conflicts with the AER guideline which has caused some confusion in the industry as

to the obligations of caravan park owners. It was noted that under the Residential Tenancies and Rooming Act 2008 (QLD), the owner/manager is not permitted to make a profit when on-supplying electricity services to tenants, or charge tenants for the cost of supplying or maintaining equipment, or for time and labour costs in reading electricity meters.

The RTA further recommended the AER ensure embedded network operators have registered their embedded networks for exemption and that embedded network customers have access to their electricity billing information so customers may exercise their rights and make informed choices.

The CCIA made a similar submission in relation to jurisdictional legislation in NSW. The CCIA support our proposed amendments to section 4.6 including in relation to late payments and manual meter reading charges. However, they point out that state based legislation specific to the caravan park industry restricts what caravan park operators can charge.

The EWON under the heading 'who pays for the ENM?' submitted that the costs of an ENM may be significantly out of proportion to potential benefit of access to retail competition to customers.

AER reasons for decision

Our initial proposal would have required class NR4 to appoint an ENM immediately. For the reasons set out here, we have amended the classification to make activity class NR4 exempt from the requirement to immediately appoint an ENM.

We find these submissions to be persuasive of the need to take a different approach to activity class NR4. We consider that the restrictions placed on these activities by jurisdictional legislation (wherever these restrictions apply) mean that appointment of an ENM will result in costs for network operators but will not provide offsetting benefits. On the other hand, in those places where these legislative restrictions do not apply, customers will retain the right to seek a market offer and, if they do so, an ENM must be appointed, albeit with a modest delay.

We consider the impact of a modest delay for some customers is preferable to imposing an unrecoverable cost burden on embedded networks in some jurisdictions. Therefore, we consider that by amending our approach to this activity class, a better overall outcome will be achieved for customers in this activity class, consistent with the NEO.

2.3 Metering types and access arrangements proposal

In framing our draft proposal it is important to note we have required all meters installed in embedded networks since 1 January 2012 to be NEM compliant, in accordance with the AER's Network Guideline. Also, before a customer can access a retail market offer, their meter must be NEM compliant.

We proposed the costs of any meter replacement necessary to become compliant with NER requirements will be borne by different parties, depending on the circumstances:

- The embedded network operator must bear the costs of replacement if the customer's meter is owned or operated by the embedded network operator and the non-compliant meter was installed on or after 1 January 2012.
- The customer or market retailer must bear the costs of replacement if the non-compliant meter was installed before 1 January 2012.

Further, if meters are replaced by an incoming market retailer, an embedded network operator will not be entitled to recover costs for the redundant meter. We proposed this to prevent meter replacement costs being used as a barrier to competition and to provide an incentive to negotiate access to compliant metering on reasonable commercial terms.

Under our proposal, the embedded network operator would be required to allow a market retailer or customer to exercise the following options where a market retailer accesses an existing embedded network child meter:

1. Purchase or lease the existing meter from the owner of the meter (as determined at the discretion of the retailer or customer along with arrangements to access meter data); or
2. Replace the meter with a meter of their choosing (with no compensation payable to the embedded network operator for any unrecovered costs of the meter).

A new requirement we proposed is that all metering installations must be maintained to the standards set out in schedule 7.3 of the NER in all embedded networks. In this circumstance, the embedded network operator is deemed to be and must undertake the role of the 'responsible person' where mentioned in schedule 7.3.

2.3.1 Replacement of non–compliant meters

AGL, Brookfield, EnergyAustralia and Mr Scouller all supported our approach whereby customers in embedded networks are treated the same as any other customer in the NEM. However, Brisbane Airports Corporation (BAC) argued the costs of metering replacement, upgrade, maintenance or servicing should be able to be passed on to all customers, regardless of when work is incurred.

Energy Intelligence recommended greater clarity be provided relating to meters installed before 1 January 2012. Further, Energy Intelligence argued that where a single meter needs to be replaced at an older site, it would be cost prohibitive to maintain data communications for one ‘smart’ Type 4 meter amongst the remaining older meters. Instead, they proposed embedded network operators be permitted to install a Type 5 or Type 6 capable replacement metering asset in these situations.

The SCCA submitted that the guideline should provide explicit direction around grandfathering of metering (e.g. where a meter fails in an embedded network installed prior to January 2012) as costly network upgrades may be required to support the replacement of a single meter with a ‘market meter’, as opposed to a simple NMI compliant meter. The SSCA also recommended clarification on what types of meters are required for different embedded networks installed prior to 2012 to remove confusion as to the specific metering requirements for existing networks.

The CCIA supported our proposal but proposed a number of suggested amendments:

1. The prohibition on measures which impede competition be redrafted to ensure it is not retrospective.
2. Requirements of 4.2.2.5 on meter accuracy testing seem reasonable but request the obligation to provide information about testing be met by inclusion on a customer's bill.

AER reasons for decision

For competition to be effective in embedded networks, we consider there is no alternative but to apply the same approach to metering in embedded networks as applies everywhere else in the NEM. This is the position set out in the draft guideline and issues paper and it remains our view. Customers in embedded networks should have the same assurance as to the accuracy and safety of their metering installation as any other customer. We discuss this further in section 2.3.3, which concerns metering installation maintenance requirements.

Two of the submissions sought additional measures to insulate older metering installations from a requirement for immediate upgrades. However, since 2011 the AER network guideline has adopted the approach of the National Measurement Institute, which recognised that older metering should be grandfathered. Prior to the introduction of requirements for embedded network metering from 1 January 2012 by the AER, metering in embedded networks was not subject to specific requirements. The AER requirements were modelled on the National Measurement Institute approach to legacy installations. Therefore, under our guideline, the grandfathering of older metering installation is already in place and this will continue.

This means old meters may continue in place but, with few exceptions, it is unlikely old metering installations will satisfy future NER requirements, which are to commence on 1 December 2017 under the Power of Choice package of reforms. It is inevitable that many older meters will be replaced under the Power of Choice reform package.

We note that the detail of metrology requirements is appropriately dealt with in the AEMO metrology procedures. These procedures are mandatory and affect all meters used in the market settlement systems. This includes the process for issuing exemptions for defective metering. Therefore, in the context of this guideline there is little the AER can usefully add to the discussion about replacing older metering. In a similar vein, we do not believe that the guideline can, or should, seek to apply a different standard to the NER requirements where legacy problems arise, such as those identified by Energy Intelligence.

As was noted in the public forum, the NEM metrology arrangements in some jurisdictions, particularly in some situations in NSW, may result in a need for significant metering upgrades when the Power of Choice reforms commence. This is an issue that should be addressed by the jurisdictional Energy Minister, who has the power to determine the form of the metrology requirements that are to be applied to embedded networks by AEMO in their jurisdiction.

BAC argue that all metering costs must be passed on to the customer(s), regardless of when, or why, metering work is carried out. As an economic principle, this is a reality that is

inevitable. In future, under Power of Choice, metering will cease being a network issue and will become part of the retail framework. The AEMC reforms recognise that this is a better approach than the current approach. Under this approach, metering costs will cease being an issue for embedded network operators as the customer will see the cost directly.

Currently, for small, medium and many large customers, metering is included in network cost structures and the costs are not separately dealt with as an identified cost for an individual customer. Typically, costs are smeared across customer classes. This is because distributors need to bill their customers and, to do so, they must have a metering installation to comply with the National Measurement Act. Also, we note the NER does not currently contain any provisions for a 'light-handed' approach to the price regulation of small networks.

Consequently, where the current approach under the AER's network guideline of 'shadow pricing' does not properly compensate a network for their costs, a cost recovery problem can arise. This is particularly the case when the network involves a substantial investment in distribution assets such as transformers and street reticulation and there is no applicable network tariff, as has arisen for major industrial parks in Queensland, such as BAC. The AER understands a problem has arisen in Queensland since the abolition of a published network tariff for customers over 4GWhrs p.a. In this context it is understandable that the operators of these establishments would seek to directly recover actual metering costs, if only as a partial offset to the more pressing issue of addressing the lack of a suitable tariff.

We do not agree with BAC that the AER should change its approach to metering cost recovery to reflect actual costs. This is because in the absence of a rule to permit light-handed regulation, the alternative would require all affected embedded networks to be regulated under chapter 6 of the NER. The costs of that approach are disproportionate to the scale of small networks and would make them unviable. Our guideline permits embedded network operators to negotiate a commercial arrangement with large customers. We understand that this can be difficult with legacy customers with a long-term lease. However, if this is not sufficient to address this problem, then BAC should seek a rule change to permit a specific response to their unique circumstance.

We have not redrafted the prohibition on measures which impede competition, as suggested by the CCIA. We do not agree that the AER has ever permitted exempt embedded network service providers a right to impede competition where competition is available. The opposite is true: it is prohibited behaviour in the current guideline – see condition 4.1.12. Therefore, any existing agreement containing an impediment to access to competition is in violation of our requirements. As such, we consider it to be invalid.

Finally, we think the proposed guideline requirement for unbundled information is less of an imposition than the CCIA proposal. Our condition addresses the AEMC's recommendation that unbundled information be provided to customers on request – we have no objection to CCIA members implementing their proposal if they wish to do so.

2.3.2 Access to meters and meter replacement by market retailers

MyCom supported the arrangements we proposed for access to competition.

The CCIA also supported our proposal but made a number of suggested amendments:

1. clause 4.2 to make explicit ENO does not pay for meter upgrade if retailer or on/market customer replaces meter
2. clause 4.2.2.1 to make applicable to new and replacement meters
3. clause 4.2.2.3 to make explicit that a purchase or lease of an existing meter is negotiated by both parties

Similar to the CCIA's first point, BAC argued that (new) meters should only be installed after the customer has chosen a retailer and the retailer should pay for the costs of meter changes or upgrades on the basis this is consistent with the wider electricity market. This view is also supported by the SCCA.

BAC further argued that there should be no automatic right of a market retailer or customer to purchase, lease or replace a child meter on terms the retailer or customer sees fit without adequate compensation for unrecovered costs of the meter. They argue the embedded network operator should be entitled to full replacement value.

Energy Intelligence proposed that embedded network operators be afforded the same financial protections as distributors (in relation to stranded assets) and maintain the ability to apply a reasonable termination fee, consistent with the principles of Chapter 6 of the NER.

WINconnect made a similar argument that there should be fair and equitable cost recovery for stranded assets where a retailer or customer replaces an embedded network operator's market compliant meter. WINconnect propose that shadow pricing extend to the metering exit fee applicable in the LNSP's network.

On the other hand, the SCCA considered the purchase or lease of a meter to be a commercial arrangement with the embedded network operator or ENM but accepted that no compensation should be payable to the embedded network operator for the unrecovered costs of a meter.

On a different subject, WINconnect suggested all new and replacement metering, wiring and switch board installations in embedded networks should be compliant with the Service Installation Rules (SIRs).

AER reasons for decision

Our final decision is to maintain the approach to access to competition as set out in the draft guideline but, having regard to the submissions received, we have adopted a number of drafting amendments to clarify our requirements.

We have amended conditions 4.2(d) and 4.2.2.3 as suggested by the CCIA (and supported by BAC and SCCA). There appears to have been some confusion as to our requirements. Our amendment is to address a misplaced concern that the embedded network operator must pay for a replacement meter where a customer elects to accept a market retail offer but does not elect to use the existing metering installation. This is the intent and effect of the draft proposal but, in the condition, it is expressed as *an exception* to the requirement on the embedded network operator to pay. Our clarification addresses this confusion by stating

explicitly that a replacement meter is at the cost of the customer or retailer that elects to not re–use an existing meter.

However, we don't think it necessary to amend condition 4.2.2.1 as the CCIA proposed because the condition already covers both new and replacement meters. The condition applies to 'all meters' used in the embedded network. Similarly, we have not amended condition 4.2.2.3 as the CCIA proposed. The need to negotiate the purchase or lease of the existing meter is intrinsic to the clause. If a retailer determines an existing meter is not suitable for use for any reason there would be no basis for negotiation. If it is suitable, the retailer's interest is best served if it achieves a fair price for access on reasonable terms, which they can only do through negotiation.

BAC, Energy Intelligence and WINconnect all argued that an embedded network operator should be compensated if a customer elects to adopt a retail offer but does not elect to retain the existing meter. Our view is that where an existing meter is satisfactory, it should be reused on commercial terms. Hence, we framed condition 4.2 to support negotiation between the embedded network operator and the new retailer (or customer) to reach a commercial agreement. We note AGL, Brookfield, EnergyAustralia, MyCom and the SCCA all support this approach. If the embedded network operator demands an unrealistic price for a meter and the cost of replacement is low, the retailer will make an economic choice to replace the meter. This consideration allocates a market value to a meter and reflects commercial considerations.

We do not agree with Energy Intelligence that the regulation of embedded networks is comparable to the regulation of market participants under chapter 6 of the NER. There is no principle stated in chapter 6 which we think relevant to this issue. Chapter 6 places regulatory controls on prices that can be applied by a monopoly service provider but places no controls on services which are subject to competition.

The basis of metering installed by distributors was in response to an obligation imposed by the jurisdiction as a monopoly service provider whereas, embedded network meters are installed as a result of a commercial decision to form an embedded network in the pursuit either of lower prices or profits (or a mix of these outcomes). If the intention was to achieve lower prices for customers then customers will have very little incentive to leave the network. If the intention was to achieve profits, then this is a commercial investment decision. In future, metering services are to face competition. The associated commercial investments should face a commercial risk accordingly. We do not agree to compensating the owner of a meter that has no, or a low, market value. This would reward a poor investment choice and remove any incentive to negotiate a realistic value for a meter.

WINconnect point out that the SIRs apply to all other metering situations, but are not explicitly cited in the AER network guideline as applicable to embedded networks. SIRs are a jurisdictional requirement that are incorporated indirectly in the AER's requirements through condition 4.1.3, which requires compliance with all jurisdictional requirements. However, it is evident from WINconnect's submission that this requirement is easily overlooked. We agree that this is an oversight that should be corrected. We have amended condition 4.2.2.1 accordingly.

2.3.3 Metering installation maintenance standards

AGL, Brookfield, MyCom and WINconnect all agreed metering installations should be maintained to the standards of schedule 7.3 for metering installation maintenance.

The SCCA did not support the proposal for the embedded network operator to act as if they are the Responsible Person in relating to the metering standards of schedule 7.3 of the NER. The SCCA argued the ENM rule change was developed to separate market activities (managed by the ENM) and other activities by existing embedded network operators.

The CCIA did not support proposed the amendments to section 4.3 requiring the maintenance standards as set out in schedule 7.3 of the NER. This was on the basis the language and requirements of this schedule are too complex for embedded network operators in holiday parks and residential land lease communities to understand and implement.

AGL and TCK both noted that from 1 December 2017 the Metering Coordinator accredited service provider will take the place of the Responsible Person. They sought clarification regarding condition 4.3 that places obligation on an embedded network operator to act as if they are the Responsible Person in ensuring Schedule 7.3 of NER is met.

Energy Intelligence recommended NER clause 7.3.1.7 be mandatory only where solar is connected to a specific end user and for that end user's meter only, as it would be difficult for a customer in a multi-tenanted site to install an individual solar unit.

AER reasons for decision

We think for competition to be effective in embedded networks, we must apply the same approach to metering in embedded networks as applies everywhere else in the NEM. This is the position set out in the draft guideline. We note a number of submissions support our proposal. Also, in their rule determination, the AEMC recommended that the AER address this issue.

In relation to the maintenance of a metering installation, for technical reasons, it is necessary to periodically verify that a meter is accurate and that the installation is safe. The need in an embedded network is no different to the need in any other electricity distribution situation. For competition to work seamlessly within an embedded network it is evident that the metering installation should be NEM compliant in all respects. We agree with the CCIA though, that additional guidance should be provided by the AER to the industry to 'de-mystify' what is a complex and difficult topic. We intend to develop a number of fact sheets to respond to this need.

AGL and TCK both correctly point out that the terminology in schedule 7.3 may change. If so, we will update the guideline to reflect the shift when it occurs.

Finally, Energy Intelligence has mistaken clause 7.3 of the NER for schedule 7.3 of the NER. Clause 7.3.1.7 of the NER is not relevant to our conditions for metering in embedded networks. We agree the rule would be unworkable but it does not apply within an embedded network and we do not seek to apply it through the guideline.

2.4 Who must appoint an ENM

We proposed that where 30 or more customers under the following network exemption classes are within an embedded network, an ENM must be appointed:

- ND1, ND2, ND10, NR1, NR2, NR3, NR4, NR5 and NR6.

These classes involve the supply of energy to small and large residential, commercial and industrial customers.

Holders of all other network exemption classes will only be required to appoint an ENM once the ENM conditions trigger is activated by either a small customer entering into a market retail contract and the cooling off period has expired or a large customer entering into a contract for the sale of energy (as mandated by the embedded networks rule change).

Existing networks must comply by 1 December 2017 and all subsequent embedded networks must comply immediately upon commencement of operation.

2.4.1 Threshold

Many submissions supported our proposed threshold of 30 customers whilst only two were opposed. Submissions which supported the proposal are EWON, Energy and Water Ombudsman, South Australia (EWOSA), Mr Scouller, the SCCA, MyCom and TradeCoast Central (TCC). Opposed were WINconnect and TCK. Sixteen submissions are silent on the issue.

Supporters generally did not cite a specific reason for their support but acknowledge having a threshold seemed 'sensible' and the level of 30 customers seemed 'right'.

AER reasons for decision

We confirm our draft proposal that there should be a threshold of 30 customers before an ENM is required to be appointed immediately. The AEMC gave the AER discretion to set a basis for a delayed appointment of an ENM but the drafting of the rule in clause 2.5.1(d2) is clear: if a customer of any size seeks a market offer, an ENM must be appointed. We state this requirement of the rule in condition 4.4.2 and we referred to it in the issues paper.

We note the opposition of TCK and WINconnect to a threshold, but their positions are not supported by an economic argument that the benefits of their position outweighs the costs. Under clause 2.5.1(d2) we must apply a cost–benefit criteria to the question of the threshold. No evidence has been produced in any submission that a threshold of 30 customers is unreasonable.

A number of submissions actively support the threshold of 30. We also consider that if concern with the threshold was widespread, more submissions would have raised it as an issue. TCK express concern that the presence of a threshold will delay the availability of access to competition. But, if a customer of any size seeks a market offer and does not withdraw it, the rule requires that an ENM must be appointed, thus giving access to a market offer. We do not agree the effect of our threshold is material. At most the delay should be 40

business days if a customer elects to take a market offer. We therefore consider that the threshold of 30 customers should be adopted.

2.4.2 Relevant categories

In section 2.2.2 we discussed the submissions which proposed removing category NR4 from the list of activity classes that must appoint an ENM immediately. In the list of proposed activity classes we also included classes ND1 and ND2, which apply to small retail and residential networks with less than 10 customers.

AER reasons for decision

Our initial proposal would have required class NR4 to appoint an ENM immediately. For the reasons set out in section 2.2.2, we have amended the classification to make activity class NR4 exempt from the requirement to immediately appoint an ENM. We do not think it necessary to repeat that discussion here.

Also, we note that categories ND1 and ND2 need not be included in the list of activity classes. As we have adopted a threshold of 30 customers we should also remove activity classes ND1 and ND2. This is because those categories have a maximum of 9 customers. Our proposed threshold is 30 customers and thus, they are below the threshold. They were initially included in case submissions supported a lower threshold. But, as we have confirmed the threshold of 30, their retention is unnecessary.

2.5 Who pays for the ENM

We presented three options for stakeholders to consider, however we drafted the amended guideline on the basis that the exempt embedded network service provider will be required to absorb the ENM costs except in the limited case of an eligible community bulk purchasing scheme. Stakeholders were also invited to submit alternative approaches for the AER to consider.

The three options we proposed were:

Option 1

Our baseline requirement is that the exempt embedded network service provider must absorb the cost of ENM services, except where an embedded network has been formed to operate as a community based bulk purchasing scheme.

Option 2

There is a case to be made that to the extent a particular service results in costs that are clearly attributable to a customer that the cost should be placed with that customer.

Option 3

The third option for recovery is a hybrid of these approaches. Where a cost is identifiable as relating to a single customer, the cost is recovered from that customer but ongoing costs which are not readily attributable to a specific customer are recovered from all customers.

2.5.1 Who pays?

Support for proposal

The EWON agreed with our proposal that ENM costs should be absorbed by embedded network operators (i.e. option 1 of the issues paper).

Brookfield Energy supported our proposal costs on the presumption that market competition between accredited ENMs will keep prices close to the cost of performing these duties 'in-house'.

Similarly, WINconnect said they expect competitive market for ENM services will keep costs low and will present no issue for embedded network operator's to absorb costs without passing them on to customers. They went on to note that most embedded network operators (such as body corporates) already use third party service providers without passing on costs to customers.

TCK supported our proposal that embedded network operators must absorb ENM costs except in the case of an eligible community bulk purchasing scheme. TCK stated they believe only in such bulk purchasing schemes will all tenants be better off inside the embedded network and agree to be part of it. TCK pointed out that passing on the charge to customers would contradict the "no worse off" condition the AER otherwise applies in embedded networks.

AGL also supported our proposal but recommend the cost recovery model be at the discretion of the embedded network operators providing it aligns with existing AER pricing and cost recovery policy and does not create an artificial barrier to customers seeking to go on-market. AGL believe most embedded networks to be operated for profit and therefore costs are better spread across all customers within the embedded network. AGL also support our approach to eligible communities. They consider small community groups not operating for profit may prefer to employ a user pays charging structure, which is better suited to sharing the benefits of bulk purchasing.

Objections to proposal

BAC submitted that in their opinion, it is inappropriate, non-commercial and unreasonable that an embedded network operator, such as an airport, be required to absorb the costs of ENM services. BAC believe ENM costs should either:

- be initially paid by AEMO and then recovered as "market charges" from the Retailers and customers (as it is essentially an administrative function for the benefit of the embedded network customer, their Retailer and AEMO); or
- be passed on to, and recovered from, the embedded network customer by the embedded network operator using option 3 stated in the issues paper (charge specific customers for ENM service costs identifiable as relating to a single customer and recover from all customers any ongoing costs not readily attributable to a specific customer).

The Australian Airports Association (AAA) submitted they do not support the proposal for embedded network operators to absorb network charges and costs of an ENM. They stated

this would place a disproportionate financial and administrative burden on airports across the country. They also stated they endorse the BAC submission.

TCC did not support our proposal that embedded network operators absorb ENM costs.

MyCom proposed we add a condition to ensure cost recovery occurs on an equitable basis for all embedded network customers. They do not agree the embedded network operator should have to bear the ENM costs. A fixed fee per annum could be charged and recovered in each billing period on the basis of a $/day amount.

The SCCA did not support embedded network operators absorbing ENM costs or costs being recovered from embedded network customers that do not utilise the service of an ENM. Instead, they support the proposition that ENM cost recovery on a user pays basis with costs not specifically identifiable recovered from the entire embedded network customer base (option 3).

The CCIA considers an ENM is unnecessary for residential land lease communities and will result in additional costs for operators to bear without a means of cost recovery through utility billing because NSW legislation prevents ENM cost recovery from the customer base of utility users in residential land lease communities. They propose that embedded network operators recover ENM costs from the retailers of on-market embedded network customers (which approach would be a variant of option 2).

AER reasons for decision

Our final position remains that the exempt embedded network service provider will be required to absorb the ENM costs, except in the limited case of an eligible community bulk purchasing scheme. We consider this position will provide the lowest barrier to effective competition in embedded networks and thereby ensure embedded networks seek to operate on a competitive basis.

Our preferred option (option1) for cost recovery has divided opinion on predictable lines: the parties asked to pay ENM costs (i.e. embedded network operators) object to this option whilst the customer and retailer submissions support option 1. Embedded network operators express a preference for option 3 (the hybrid approach whereby customers who use ENM services pay direct costs and unrecovered costs are smeared across all on-market customers).

Our preferred position (option 1) as set out in the issues paper is consistent with the view of the AEMC, whose view is set out in their determination but was not made a rule requirement.[4] We note AGL's point that most embedded networks are operated for profit. The concern with these situations is that local monopolies may form that are exploited for profit. The natural cap on the ability of a monopoly to exploit market power is to open up that situation to competition, which is the point of the embedded networks rule change. This benefit applies to all the customers in the embedded network. We consider option 1 will place this cost with the party who stands to profit from exploitation of the potential monopoly

[4] AEMC, Rule Determination - National Electricity Amendment (Embedded Networks) Rule 2015,17 December 2015, p.48

and thereby, provide them with a commercial incentive to competitively price their energy offers.

The AER understands that a significant driver of the profitability of embedded networks is the arbitrage possible between the bulk supply tariff for the embedded network and the ability to recover the equivalent of the sum of the individual customer connections. A further potential source of profit may be derived from bulk discounts on the supply of retail energy.

Where embedded network operators pass on a proportion of these benefits to customers the incentive for customers to seek an alternative market offer will be low and the need for ENM services correspondingly low. The corollary of this also applies: if the embedded network operator charges above market rates the incentive for customers to seek an alternative market offer will be high and the need for ENM services correspondingly high. We expect therefore, that any costs incurred by the embedded network operator will result in reduced discounts that are available to be shared across the embedded network customer base. But we also note it is not apparent the ENM costs will be on-going or significant. No submissions accurately identify this cost or how it may be levied. Brookfield and WINconnect propose that competition will ensure this cost is low. If ENM costs are billed per transaction, the costs may be very low if no customers leave the network or the service provided by retailers. None of the opposing submissions have explained why cost recovery from customers would better satisfy the NEO than cost recovery from the monopolist.

Similarly, we are not satisfied that the claim of the AAA that the costs of appointing an ENM will be excessive for airport businesses. Many larger airports have evolved from a focus on air–services to include a substantial retail, commercial and industrial/warehousing component in their activity and revenue base. Cost considerations may be true for small airports, such as those in regional areas, but airports operating embedded networks with fewer than 30 tenants will not be affected, except where a customer seeks a market offer.

The opposing submissions do not offer reasons *why* the AER should adopt a different approach to cost recovery for ENM costs. Our position remains that the ENM fee must be absorbed by the exempt embedded network service provider.

2.5.2 Associated issues

Various submissions raised associated issues which we now consider and address.

1. Mr McCormick proposed that from March 2017 embedded network operators should inform residents of the criteria for selection of an ENM.
2. Mr Scouller considered the cost of appointing an ENM, for retirement villages at least, outweighs the benefits of any appointment.
3. WINconnect recommended that embedded network specific Retailer of Last Resort (ROLR) procedures be introduced to provide certainty of supply if the AER has concerns about the possibility of embedded network operators defaulting.
4. TCC suggested the user pays ENM cost recovery model available to eligible communities (condition 4.7.1.1) should also be applicable to all embedded networks that provide cheaper prices than market retailers.

5. The SCCA asked that embedded network operators be permitted to contract the same ENM for multiple sites.
6. RTA sought clarification as to how ENM costs would be levied on temporary residents of caravan and holiday park accommodation.

AER reasons for decision

1. We believe our requirements in conditions 4.7 and 4.8 will address most of Mr McCormick's concern, if an ENM is to be appointed. However, if competition is not available in the retirement village (as is currently the case in Queensland) then the requirement to appoint an ENM will not apply. If competition is later allowed to apply then, if a sufficient number of residents seek a poll, the appointment of an ENM can be deferred and, if an appointment is to be made, the basis of that appointment will be transparent.
2. We believe Mr Scouller's concern is similar to that of Mr McCormick above. Please refer to our answer in 1 above.
3. The arrangements for appointment of a ROLR is a retail issue and is outside the scope of the AER's network guideline. This matter might best be raised when further consultation on the ROLR arrangements occurs.
4. We think there is merit in allowing a bona fide bulk purchasing group to also seek dispensation to be treated as an eligible community.
5. We have clarified that appointments based on multiple sites and any associated rebates are permitted.
6. If competition is not available in the residential tenancy park (as is currently the case in Queensland) then the requirement to appoint an ENM will not apply. If competition is later allowed, our amended approach to class NR4 as discussed in section 2.2.2 will address much of the RTA concern. Our requirements for non-appointment of an ENM in condition 4.7 will now apply. Temporary residents will be excluded from the voting arrangements for eligible communities. This means a temporary resident must be resident for at least 40 business days before an ENM appointment could be triggered, the permanent residents will determine if they agree that an ENM should be appointed and the cost of that appointment can be recovered from the temporary resident. This should ensure that a frivolous or vexatious resident cannot unreasonably impose costs on the permanent residents.

2.6 ENM time limit extension for eligible communities

We proposed that 'eligible communities' are those communities in activity classes NR2, ND2, NR3 and NR4 that operate cooperative bulk purchasing schemes with the intention to share the savings of reduced electricity prices amongst all customers. If a customer accepts a retail market offer triggering the need to appoint an ENM, these eligible communities may decide not to absorb the costs of an ENM into the network charges payable by the all customers within the network. Instead, eligible communities may decide to charge the reasonable costs of ENM services to those customers that have opted to leave the bulk purchase scheme and accept retail market offers. Customers in an eligible community

considering whether to accept a retail market offer must therefore factor in the added costs of ENM services to their decision. As set out in section 2.5.1, we expect these costs will be low or possibly absorbed by the market retailer.

Exempt embedded network service providers for eligible communities must appoint an accredited ENM within 40 business days of the ENM trigger event occurring. This period of around 8 weeks allows time for:

- Exempt embedded network services providers to alert those customers that will bear the reasonable costs of ENM services so they may fully consider the benefits of accepting a market offer; and
- A competitive process for appointment of an ENM involving the agreement of a two-thirds majority of customers of the embedded network.

2.6.1 Issues raised in submissions

Mr Scouller noted that the Queensland Retirement Villages Act 1999 provides some protections against increased costs by obligating the operator to search out a more cost effective alternative. He supported embedded network customers having involvement in appointing an ENM through a competitive process and this aligns with the provisions of the Act. Mr Scouller believes 12 months for appointment would be ample time. Appointment of an outsourced meter read and billing provider within his QLD retirement village was within two and a half months.

MyCom submitted that our proposed 40 business days is reasonable and provides ample time to nominate an ENM. Our proposed protections are also deemed sufficient.

AER reasons for decision

We note that access to retail competition is not currently available in embedded networks in Queensland. If this policy changes based on the current Qld government review, although our process for eligible communities does involve some inconvenience, we think it will be applicable to Mr Scouller's situation. We appreciate the nature of the costing model in retirement villages and have attempted to avoid increasing costs to such residents by creating the concept of 'eligible communities' whose members have more autonomy over the appointment and cost recovery for ENM services. Mr Scouller's reference to 12 months appears to relate to the time between this amendment of the guideline and the commencement of the rule in December 2017.

As submissions were generally silent on this issue or supported our approach, we confirm our proposed time limit of 40 business days for appointment of an ENM by an eligible community.

2.7 ENM non-appointment and reversion

Embedded networks with 30 or more customers operating in the relevant activity classes will be required to appoint an ENM by 1 December 2017 or otherwise immediately upon commencement of the network's operation. However, condition 4.7.2 would permit eligible communities with 30 or more customers to delay appointment of an ENM until a customer

accepts a market offer and the cooling off period has expired. It also allows an eligible community to cease to engage an ENM if no customers are served by a market retail offer.

Members of the eligible community can request a poll of members to be held by the embedded network service provider as to whether an ENM should be appointed, not appointed or cease to be appointed. Should the requisite number or proportion of members request the poll, the embedded network service provider must comply and honour the decision of a two-thirds majority of members. The AER will approve the decision of the eligible community to appoint, not appoint or cease to appoint an ENM upon receipt and validation of polling evidence.

2.7.1 Issues raised in submissions

WINconnect did not support our proposed conditions for ‘eligible communities’. WINconnect believe the approach risks everyone becoming an eligible community to have more favourable regulation. They believe that regulation should be technology agnostic and the AER should not pick ‘winners’ and ‘losers’.

On the other hand, TCC and the CCIA recommended condition 4.7.2, which provides for non-appointment of an ENM or reversion for eligible communities, should be applicable to all embedded networks that provide cheaper prices than market retailers.

The CCIA recommended condition 4.7.2 be redrafted to make it easier to be understood by less sophisticated operators, as they are the primary audience of the clause (i.e. non energy industry affiliates). The CCIA also noted that price matching under condition 4.9.4 appears to be linked only to network conversions when condition 4.7.2 mandates it applies to eligible communities.

AER reasons for decision

Our final decision is to maintain our approach set out in the draft guideline to permitting 'eligible communities' to defer the immediate appointment of an ENM. However, having regard to the submissions received, we have adopted a number of drafting amendments to clarify our requirements. We also accept the proposal that eligible communities need not be restricted to small customers.

We do not share WINconnect's concern that eligible communities will form to access more favourable regulation. If eligible communities were to flourish as WINconnect postulate, it would be on the basis that they are achieving cost savings that cannot be matched by market retailers or embedded network operators. Moreover, they are doing so by mutual consent of the members of that community. We think this is an outcome consistent with the NEO and is the more preferable outcome. We reject the suggestion the AER is 'picking winners'. The AER is required under the rule change to put in place provisions that allow a subset of customers to not appoint an ENM if the costs would outweigh the benefits to that subset. Our condition 4.7.2 serves that role. More broadly, our ongoing role will be to monitor compliance: i.e. to ensure that the process requirements we impose through the guideline are followed. We do not select 'winners or losers'. The affected subset of customers select the outcome themselves, by conducting a private poll and reporting the results.

We consider that TCC and the CCIA are correct in noting that our proposed conditions for eligible communities may be too restrictive. If a private buying group can achieve better prices than market retailers (as WINconnect postulate will occur), it is in their interest to not artificially restrict the buying group from also applying condition 4.7.2. We have amended the condition to allow other bona fide buying groups to apply this condition.

We also agree with the CCIA that the draft conditions 4.9.3 and 4.9.4 need to be revised to permit price matching to work as intended in eligible communities.

2.8 External dispute resolution

The AER intends to add a requirement that exempt embedded networks service providers must apply to join an Ombudsman scheme where it is available in a jurisdiction or otherwise abide by decisions of Ombudsman schemes. Jurisdictional schemes are currently exploring options and we intend to include any developments on this issue in the revised guideline.

2.8.1 Issues raised in submissions

EWOSA was generally supportive of embedded network customers having access to energy ombudsman but notes there are some issues with embedded network operators becoming members. The EWOSA Constitution and Charter may require amendment through approval of both their Board and current Membership before embedded network operators could be accepted as members.

The Department of Energy and Water Supply, Queensland (DEWS) noted that EWOQ has a 'user-pays' structure that works well for large retailers but could be difficult to administer for multiple smaller embedded network operators. Also, DEWS note that where existing dispute resolution mechanisms are currently available to embedded network customers, they are considered adequate.

EWON strongly supported a requirement that exempt embedded network service providers must apply to join an Ombudsman scheme where available, or otherwise abide by decisions of Ombudsman schemes.

Mr Scouller supported our proposal, as did Brookfield, RTA and TCK. TCK believe embedded network customers should be afforded the same protection and dispute resolution resources as any market customer.

WINconnect supported a requirement for exemption holders to become members of jurisdictional Ombudsman schemes. However, they caution that establishment of appropriate Ombudsman cost structures are important to ensure existing members do not cross-subsidise entry of exempt providers.

MyCom stated they believe the biggest issue will be about dates, and when a customer was transferred from one energy seller to another. In this respect, the ENM will be able to adjudicate as an independent umpire. This will save a lot of time and expense to the Retailer and/or embedded network operator. They support a capacity for major issues to be taken up with the Ombudsman.

The SCCA submitted they do not currently support our proposal that embedded network operators be required to join an Ombudsman scheme where such a scheme is open to them. Instead, they propose the AER specify that existing low-cost dispute resolution associated with retail leases (e.g. VCAT, NCAT etc.) be appropriate for shopping centre embedded networks.

AER reasons for decision

The support for requiring access to Ombudsman schemes is very strong in the submissions. However, a number of submissions note two qualifying factors we consider to be relevant to our condition 4.1.6 namely:

- For shopping centres and a range of residential situations there is already an appeal tribunal or other dispute resolution mechanism in place, which should continue to apply; and
- Many of the Ombudsman schemes will need to make administrative changes before embedded network operators could join the scheme.

We accept these factors should be dealt with in our conditions. We have therefore expanded our condition 4.1.6 in the network guideline to permit a hierarchical approach to access to dispute resolution. Our condition has been amended to allow in order of precedence that:

1. where an existing tribunal in a jurisdiction has coverage of energy disputes within an embedded network, that tribunal continues to apply;
2. if 1 does not apply, a scheme which applies under the retail law of a jurisdiction also applies to the network component of embedded network disputes. Further, if a jurisdictional Ombudsman advises an embedded network operator that the embedded network operator is eligible to join a scheme, that embedded network operator must join the Ombudsman scheme;
3. If none of the above apply, the embedded network operator must have a have a dispute resolution process in place that meets Australian Standards: AS/NZS 10002:2014 Customer Satisfaction – Guidelines for complaints handling in organisations.

We consider this approach will address the matters raised in submissions. Low-cost existing arrangements will continue to be available to affected customers. If such a mechanism is not applicable, Ombudsmen schemes will apply where the scheme is open to embedded network operators, from the time the Ombudsman declares the scheme open to embedded network operators. If neither preceding option applies, the embedded network operator will be required to have a dispute resolution scheme compliant with the Australian Standard. This should ensure all customers have recourse to appropriate dispute resolution mechanisms.

2.9 Pricing

We proposed expanding our requirement re pricing to incorporate a requirement to notify customers of changes in tariffs and to limit the recovery of any fee for late payment to reasonably incurred costs. This better aligns the network guideline with our Retail Selling guideline.

2.9.1 Issues raised in submissions

MyCom, TCK, WINconnect and Mr Scouller supported our proposals requiring notification of changes to tariffs and limiting late payment fees to reasonably incurred costs.

The SCCA generally supported the proposal but raised practical issues with embedded network operators providing notice to an embedded network customer no later than the customer's next bill.

Mr McCormick stated he considers the expanded information required on billing statements from an embedded network operator is unnecessary for residents of a retirement village.

TCC also supported our proposal but raised an unrelated issue of the potential for an unintended interaction between charge group C and the broader requirements of the guideline, as did Ashurst.

AER reasons for decision

As these proposed notification requirements were strongly supported in submissions, we confirm they will be adopted as set out in the draft guideline, but with some drafting amendments concerning charge group C.

In response to the SCCA, we reconsidered our requirements for advance advice of tariff changes but did not amend our proposal. The condition for the provision of changed tariff information is intended to ensure customers are advised of a tariff change before the tariff is applied. So long as this outcome is achieved, we do not believe there will be a problem with timing. We will clarify these requirements with further guidance for the industry.

We believe Mr McCormick has not interpreted our information requirements correctly. Although the unbundled information could be included on regular bills, our requirement in condition 4.8.1 is for unbundled information to be provided on commencement of an arrangement and thereafter, on request. However, we agree with TCC and Ashurst that the drafting of charge group C should be expanded to clarify the distinction between mutually agreed arrangements (which are permitted) and other forms of charging where no agreement is applicable.

2.10 Access to retail competition

We have rephrased and expanded our requirement to allow access to retail competition in clause 4.1.12, in keeping with the intent of the rule change to promote competition in embedded networks.

2.10.1 Issues raised in submissions

MyCom and Mr Scouller supported our proposal regarding access to competition in clause 4.1.12.

Mr McCormick considered the provision of competition for embedded network customers is unachievable for many QLD retirement villages in view of existing village infrastructures.

TCK stated they have experienced several network conversions where exemption has been granted but the embedded network operator has not carried out a communication campaign prior to exemption approval or communication has been limited to smaller, non-informed and less sophisticated tenants.

TCK also stated that, in their experience, there is a lack of evidence of adequate communication as is otherwise required during the retail exemption application process. Under the Retail Exempt Selling Guideline, embedded network operators are only required to explain what they plan to do in a communication campaign with no verification that the campaign took place. TCK further propose that applications must include explicit informed consent forms signed by every tenant and clear evidence that a communications campaign has been carried out prior to the grant of an exemption.

The SCCA submitted an amendment be made to condition 4.1.12.1(c) that prevents 'imposing a requirement for compensation for lost capital, income or profit by a customer exercising the right to access a market retail offer'. This was on the grounds that this may incur unfair costs upon an embedded network operator as a result of infrastructure changes required to facilitate the customer transfer (e.g. the potential incompatibility with the parent meter or switchboard).

BAC submitted the wording of Condition 4.1.12.1(e) – 'not alter the electrical supply arrangement' – has broad application and could have an inappropriate effect of preventing network upgrades, enhancements, maintenance and improvements.

BAC and WINconnect both proposed that condition 4.1.12.1(e) should be deleted as customers are adequately covered by condition 4.1.12.1(f).

Ashurst recommend clarification be provided as to what may be considered 'unreasonable' in relation to conditions 4.1.12.2 and 4.2.2.3. These conditions stipulate an embedded network operator must not unreasonably prevent an embedded network customer from arranging, at their own cost, a direct connection to a local distributor.

AER reasons for decision

Our final decision is to maintain the approach to access to retail competition as set out in the draft guideline but, having regard to the submissions received, we have adopted a number of drafting amendments to clarify our requirements.

We note that access to retail competition inside embedded networks is not currently available in Queensland. If this policy changes, based on the current Queensland government review, and notwithstanding our process for eligible communities may involve some inconvenience, we think it will be applicable to Mr McCormick's and Mr Scouller's situations.

Our new conditions 4.8 and 4.9 are intended to improve the quality of information communicated in embedded networks. These requirements should help address most of TCK's concern. We will monitor industry outcomes and adjust these requirements if necessary.

Condition 4.1.12.1(c) is not intended to prohibit the recovery of costs directly incurred if a customer or their retailer changes the metering installation. In response to the SCCA we have added a footnote to make this distinction clear.

We agree with BAC that condition 4.1.12(e) should not apply to network upgrades. We have amended the condition accordingly. However, we do not agree with BAC and WINconnect that condition 4.1.12(e), 4.1.12(f) or 4.9 should be deleted. These conditions are a fundamental protection for customers to obtain a direct connection to a distribution network to maintain access to retail competition. In the absence of these conditions customers may lose that access with no protection from arrangements that may reduce their rights and expose them to monopoly pricing behaviour.

We have considered Ashurst's request but we do not believe the concept of 'unreasonable' can be adequately explained in the guideline. To determine what is unreasonable requires the exercise of judgement that is intrinsically linked to specific circumstances. If embedded network costs are high, some degree of disputation is inevitable in these circumstances.

2.11 Network conversions — supplementary conditions

Under the previous Network Guideline, network conversions required the written consent of all customers at any site located within a jurisdiction where retail competition is available. We proposed to revise this approach to allow a network conversion to proceed if a substantial majority of customers consent. In such cases, we proposed to attach additional conditions to the exemption focused on mitigating any detriment customers may suffer from becoming part of an embedded network and providing customers with the information required to make an informed decision on giving consent. This approach aims to prevent a minority of customers preventing the majority benefiting from reduced electricity costs passed on through a bulk purchase at the gate meter while protecting customers from the effects of reduced market contestability.

2.11.1 Issues raised in submissions

2.11.1.1 Marketing campaign requirements and consent threshold

Brookfield supported our proposals. Mr Scouller also supported our proposals relating to network conversions but recommended requiring a percentage of consent for conversion. Ausgrid strongly supported the proposals in condition 4.9 but asked we include a requirement to inform the distributor of a pending conversion and also suggested we adopt a percentage of consent for conversion.

TCK recommended that the 100% consent requirement is upheld. Failing that, a consent threshold of 90% measured by the volume of electricity consumed by active tenants should be required. TCK proposed that consent by volume of energy not number of customers is fairer as ENOs stand to make a profit from the volume of electricity on-charged, not the number of tenants.

The SCCA asked that further clarity be given as to what constitutes a 'substantial majority of tenants' in terms of a consent threshold. This issue was also raised by the SCCA at the public forum, at which the AER had suggested a number above 80% might be considered.

The SCCA also submitted that they do not support a specified timeframe for conducting a communications campaign to gain consent for conversion. They submitted that the critical requirement is that tenants be appropriately informed and not that an arbitrary timeframe be applied, which could unnecessarily extend the overall application process. They also asked that clarity be given that tenants who are already market customers should not need to be consulted on a proposed conversion.

Jemena submitted that the mandatory consultation period of at least three months should be deleted from condition 4.9.7 on the basis this would offer flexibility to accommodate shorter campaigns that may be more suitable for different circumstances (e.g. small sites).

Energy Intelligence submitted that the reference to a minimum time period of three months should be removed from condition 4.9.7 as smaller sites will not require a communications campaign of this duration. They also sought greater clarity that the proposed reference to 'a substantial majority of tenants and residents' who must provide consent for conversion. Energy Intelligence proposed a threshold of 70% consent.

WINconnect stated there were sympathetic to the motivation behind the supplementary conditions on network conversions but thought our proposals are overly prescriptive. WINconnect argued that additional conditions are not relevant if competition is facilitated through the ENM.

AER reasons for decision

Our final decision is to maintain the approach to brownfield conversions as set out in the draft guideline. However, having regard to the submissions received, we have adopted drafting amendments to vary our approach to consent requirements. We consider the changes we have adopted will give greater certainty to the consent threshold required, reduce the time taken to complete a marketing campaign but retain the flexibility to apply a modified threshold if appropriate circumstances are found to warrant a higher or lower threshold.

In response to Ausgrid, we will add a requirement to condition 4.9 for the exempt embedded network service provider to inform the DNSP of an impending brownfield site conversion. We consider it important that the local distributor be aware of pending changes to network infrastructure which they currently service.

Although WINconnect consider condition 4.9 is overly prescriptive, the conditions that we will apply through condition 4.9 to brownfield conversions are less onerous than our pre-existing requirement for 100% consent for a conversion. This condition is based on our regulatory experience and seeks to strike a balance between individual rights and the best interests of the whole community. In the issues paper we noted that in brownfield situations an issue which exists now is that a single tenant of any size can block a conversion, even if every other tenant thinks a conversion would be good for them. Condition 4.9 will allow a conversion to proceed if an overwhelming majority agree the conversion should proceed, but on the basis that non-consenting parties are not included in the embedded network or, arrangements are made to retain their existing retailer or, they receive a price match offer.

We agree with WINconnect that if competition works well under this rule change, the need for many conditions may change. We will monitor industry outcomes and revise the guideline based on that experience.

We note that no submission supported our proposal for a flexible threshold. All who opposed it preferred a fixed numerical threshold. Our intention in the flexible approach proposal was to allow us to set a higher threshold in some activity classes (e.g. retail) versus a lesser threshold when local issues such as short-term tenancies mean that a lesser threshold may be appropriate.

Having considered the submissions and the range of values proposed as a notional threshold for conversion, we have adopted 85% as a numerical threshold. This number is, for commercial and many residential situations, a figure attained or exceeded by past applicants to the AER for individual network or retail exemptions. However, we will retain the capacity to apply a greater or lower threshold to an application based on consideration of special circumstances which may be relevant to a particular situation. As we have adopted a numerical threshold for consent, we also accept that the three month requirement for the marketing campaign may be removed.

2.11.1.2 Price matching

Our final decision is to maintain the approach to price matching as set out in the draft guideline. However, having regard to the submissions received, we have adopted drafting amendments to vary our approach to permit wider application of price matching on a voluntary basis. We consider the changes we have adopted will assist in reducing the cost of appointing an ENM in some situations where only a limited number of customers seek to leave an embedded network but ensure those customers are not financially disadvantaged. As previously noted, under Rule 2.5.1(d2), customers at all time retain the right to accept a market retail offer. The acceptance or refusal of a price match offer remains a choice for the customer alone to make.

As noted above, Ausgrid, Brookfield and Mr Scouller supported our proposals. The CCIA submitted network conversions are unlikely to occur in their industry but where they do, they agreed that the proposed requirements in section 4.9 reasonably strike the balance between the rights of different customers in favour of potential benefits if a conversion were allowed.

However, TCK submitted the current minimum requirements for offer price matching do not guarantee that any actual benefit from reduced electricity costs from the site's aggregated bulk supply is passed through to small tenants and less empowered consumers. TCK base this view on the following premise:

> *Off-market embedded network customers are required to pay no more than standing offer price of the local area retailer. However, without a NMI, no competitive retailer offer can be accessed by a tenant as retailers are not able to offer a customised quote. This limits offer matching to published gazetted bundled tariffs with non-competitive pricing.*

Energy Intelligence submitted that they do not support condition 4.9.3.1(c) which requires the embedded network operator to price match a large customer if their existing contract with

a retailer cannot be continued or if they are not able to maintain their direct connection to a regulated distributor. Their reason for this is compliance with this condition may require the embedded network operator to supply energy at a loss.

The SCCA submitted that they:

1. Do not support price matching for large customers on the grounds that embedded network operators may have to sell at a loss in order to price match.
2. Recommended amendments to small customer price matching to accommodate practical difficulties of matching offers. Embedded network operators should be required to price-match only bona fide comparable offers.
3. Recommended clarity be given that tenants cannot unreasonably withhold consent (e.g. if offered the same price or better).

AER reasons for decision

We note the limitation of offer matching identified by TCK but it ensures a tenant is no worse off than if they were to accept a market offer. The effect of competition should ensure that retail prices within an embedded network are similar to market outcomes. We consider condition 4.9 will achieve that objective.

We note that the objections by Energy Intelligence and the SCCA to price matching for large customers, however, the decision to install an embedded network at a brownfield site is a commercial and economic decision. The costs of ensuring that no customer will be worse off than if they were outside the embedded network must be factored into an assessment of the economic feasibility of the network. We remind stakeholders that the conditions we apply must be consistent with the NEO. We consider it would not be consistent with the NEO to allow a customer to be disconnected from their existing supplier without these safeguards.

Our reason for applying condition 4.9.3.1(c) is we apply the principle that no customer should be worse off for being included in a network conversion. The decision to install an embedded network at a brownfield site is an economic one and the costs of ensuring that no customer will be worse off than if they were outside the embedded network must be factored into an assessment of the economic feasibility of the network.

We further note from the SCCA submission that there may be confusion as to the status of customers receiving a market offer. We consider a customer that agrees to accept an alternative as set out in clause 4.9.1 is consenting to the conversion of their installation on that basis. If a party is to be built out of a proposed embedded network, retain their existing market offer or accepts an offer to price match, their further consent would not be required.

2.11.1.3 Pre–conversion

MyCom submitted they do not support our proposals.

> *AER assumes the embedded network operator will always sell energy to the end user which is not always true. MyCom Energy sometimes converts site to an embedded network through installation of a gate meter but then may not retail energy for the next five years, simply charging the end user for the network component.*

For MyCom, our requirements to conduct a marketing campaign impose additional cost for no discernible reason and conditions such as offer matching may not be applicable.

AER reasons for decision

We are concerned that MyCom would convert a network and not provide retail energy for an extended period. This indicates there is no benefit from the network conversion for the customers within the embedded network. Although this approach can apply in a greenfields site because customers enter into a tenancy or residence knowing the site is an embedded network, we do not approve of the conversion of existing sites if there is no benefit to the customers. As set out above, this would be inconsistent with the NEO.

The reluctance to conduct a marketing campaign or offer match retail prices indicates MyCom seeks to profit from network charges alone. Unless there is informed customer consent to such conversions, the conversion is in not in compliance with our requirements.

2.12 Other issues raised by respondents

2.12.1 Definitions

2.12.1.1 Large Corporate Entity

Ashurst proposed the expand the definition of large corporate entity to include public companies and clarify the application of the Corporations Act to non-reporting entities.

AER reasons for decision

We defined the category of large corporate entity in version 3 of the guideline. It was intended to apply to all large, sophisticated companies with access to independent legal, technical and financial expertise on the basis these customers are capable of negotiating the energy requirements for major projects without oversight from the AER. However, the previous definition did not achieve that objective for all large entities. We agree that this change as proposed by Ashurst is desirable. It better reflects the intent of the Guideline in this regard. Our conditions for exemption place these entities when accessing an embedded network in a similar position to companies seeking negotiated access to a registered NEM network service provider.

2.12.1.2 Licensed Distributor

Jemena proposed that the AER should define the term 'licensed distributor' to make clear a distinction between private networks and regulated networks.

AER reasons for decision

We do not consider this to be a significant issue. It has not previously arisen in our operational experience. We have used the term 'registered distributor' but not the term 'licenced distributor' in the guideline. We agree that the distinction Jemena proposed should be made but to ensure there is no residual ambiguity, we have defined the term 'registered

distributor' to be consistent with the NER and better reflect the distinction between a private network and a NEM registered distribution network.

2.12.2 Administrative matters

2.12.2.1 Impact On Individual Exemptions

Ashurst, BAC and TCC each suggest the impact of the rule change on individual exemptions is unclear in the guideline.

AER reasons for decision

We have reviewed the draft guideline and agree that it should be clarified. We think the AEMC Rule is unambiguous. It clearly requires in any situation where, in a jurisdiction, a customer has access to retail competition that an ENM must be appointed if a trigger condition is satisfied. Therefore, to the extent that in some jurisdictions there are individual network exemptions which relate to activities described in tables 1 and 3 of the guideline, the amended requirements must apply to the affected individual exemptions. We have made this change accordingly.

2.12.2.2 NBNCo FTTdp technology

NBNCo asked the AER to provide certainty that its FTTdp equipment is deemed exempt.

AER reasons for decision

Although we believe that the NBN's FTTdp equipment is already subject to a deemed exemption, to remove all doubt we have clarified that all NBN equipment is deemed exempt in category ND5. We understand that the FTTdp equipment in particular receives a low–energy, direct current supply at low-voltage from a plug–in or direct wired adapter in the customer's premises. The equipment is required to complete a broadband connection to the household. As such, it is an intrinsically safe operating voltage and a trivial example of an embedded network application, which does not require additional regulation by the AER.

2.12.2.3 Deemed exemption registration required

Clarify that deemed exemptions should be registered when and if an ENM is appointed.

AER reasons for decision

The effect of the rule change is to require in any situation where a customer seeks access to a market offer, an ENM must be appointed. This requirement when triggered will affect small networks which are currently deemed exempt, as well as larger networks. To maintain visibility of ENM appointments, we will require a registration be made for deemed network, if the requirement is triggered when an ENM is appointed. The registration task is not difficult, complicated or costly. We therefore think the inconvenience is outweighed by the benefits of better monitoring by the AER of customer access to competition.

2.12.2.4 Amend activity description to match retail selling guideline

Amended activity descriptions to use similar terminology to the retail guideline - notably 'metered supply' rather than 'selling metered energy'.

AER reasons for decision

This change is to align the terminology used in the network exemption guideline with the AER's retail exemption guideline.

2.12.2.5 Category ND4 - 'Metering installations'

Add category ND4 'Metering installations'.

AER reasons for decision

This change was mentioned in the text of the guideline but is not explicit in either of the relevant tables: table 2 or table 4. The change corrects an oversight.

2.12.2.6 Revise category NRO4

Jemena proposed activity class NRO4 should be amended to remove a reference to table 3. This was because the activity described in this class is intended to relate to large customers in the industrial and commercial classes, trading energy in accordance with a private agreement and for which an ENM would not be required. However, the inclusion of the reference to table 3 has the effect of requiring an ENM to be appointed when this was not intended.

AER reasons for decision

We consider Jemena's proposal has merit. It is stated in the guideline that the appointment of an ENM is not required for class NRO4 but the effect of the reference to table 3 in that clause definition has the contrary effect. That reference is historical and related to the initial intent of class NRO4 to be the catchall for any industrial or commercial activity not otherwise described in table 3. With the introduction of the ENM requirements it is desirable to remedy the conflict that now results. We note that regardless of the change, if a customer in class NRO4 does seek a market offer they can do so when their current agreements expire. The activity class for that customer will then become a relevant class in table 3.

2.12.2.7 Amend retail selling requirement

Amend condition 4.1.5 to simplify the reference to the Retail Law requirements.

AER reasons for decision

This change is to align the terminology used in the network exemption guideline with the AER's retail exemption guideline.

2.12.2.8 Other drafting changes

We have redrafted a number of provisions to improve readability and to address grammar and typographical errors. The most noteworthy example is the redrafting of condition 4.5,

which concerns distribution loss factors, to adopt a style which is now consistent with the rest of the guideline.

3 Decision

We have consulted on amending the AER's guideline for exemption from registration as network service provider. We have amended the draft guideline taking into account the submissions of stakeholders, meetings held with individuals and issues raised at a public forum. The amended guideline incorporates changes necessary to implement the AEMC's embedded network rule change.

We determine that the amended guideline, version 5 should be published with effect from 1 December 2016.

Attachment 1 - Summary of changes to the draft guideline

Table 1 - Summary of changes in page order

No.	Issue	Source
1	Expand the definition of 'large corporate entity' to include public companies.	Ashurst
2	Define 'National Broadband Network'.	AER, NBNCo
3	Define 'registered distributor'.	Jemena
4	Expanded the list of activities covered by the guideline.	CCIA
5	Clarify the impact of the rule change on individual exemptions.	Ashurst, BAC, TCC
6	Clarified that NBN equipment is deemed exempt.	NBNCo
7	Clarified that deemed exemptions should be registered if an ENM is appointed.	AER
8	Changed table headings to better match activities.	Various
9	Amended activity descriptions to use similar terminology to the retail guideline - notably 'metered supply' rather than 'selling metered energy'.	AER
10	Add category ND4 'Metering installations' (mentioned in text but not explicit in table).	AER
11	Amend NRO4 to remove reference to table 3.	Jemena
12	Amend condition 4.1.5 to simplify reference to the Retail Law requirements.	AER
13	Amend condition 4.1.6 to recognise retail and residential tribunals.	SCCA, CCIA, RTA, DEWS Qld
14	Amend condition 4.1.6 to adopt Ombudsman schemes where an Ombudsman declares access is available.	EWOSA, EWON.
15	Amend condition 4.1.12(c) to clarify that it does not apply to costs incurred to change a metering installation for an on-market offer.	CCIA
16	Amend condition 4.1.12(e) to clarify that it only applies to the removal of access to retail competition or the reduction of service capability.	SCCA
17	Update table 6 re ND4, 'Metering installations'.	AER
18	Update table 9 - correction to allow unmetered supply.	AER

19	Amend condition 4.2(d) to make clear a replacement meter is funded by the customer or retailer.	CCIA
20	Amend conditions 4.2.1. and 4.2.2 to include a requirement to consult AEMO on technical impacts of major assets and add an open access requirement for major distribution networks.	AER
21	Amend condition 4.2.2.1 to add reference to service installation rules.	WINconnect
22	Amend condition 4.2.2.3 - see 4.2(d)	CCIA
23	Clarify condition 4.3 applies to meters owned by the embedded network operator and add provision for the role of the responsible person to change under the Power Of Choice reforms .	BAC, AGL
24	Amend condition 4.4 to make clear that access to competition may not be available in all regions of a State.	DEWS
25	Amend condition 4.4.2 to allow manufactured home and residential land lease sites to delay appointment of an ENM as jurisdictional price controls exist in this category.	CCIA, RTA, CPAQ, EWON
26	Amend condition 4.4.2 to clarify the 30 site threshold is per site, not cumulative.	AGL
27	Redraft condition 4.5 re DLFs to adopt a cleaner style and clarify annual reporting requirements.	Ashurst
28	Amend table 11 and condition 4.6.1 to better reflect and explain scope of charge group C.	Ashurst
29	Add passage to clarify impact of Power of Choice reforms on tariff options.	AER
30	Amend condition 4.6.4 to resolve a possible conflict with charge group C.	Ashurst, TCC
31	Amend condition 4.7.1 to restrict members of an eligible community to persons resident in the community.	CCIA, RTA, John Scouller
32	Amend condition 4.7.1 to make clear a rebate based solely on volume of work is permitted.	Public forum
33	Amend condition 4.7.2 to allow large customers an opportunity to also apply to not appoint an ENM if participating in a bulk purchasing scheme.	TCC
34	Amend condition 4.9 to include a requirement to also notify local DNSP of impending conversion.	Ausgrid
35	Amend conditions 4.9.3 and 4.9.4 to apply to eligible communities, as intended.	CCIA
36	Amend conditions 4.9.3 and 4.9.4 to footnote price matching is an	SCCA, EI

	option open to the exempt embedded network service provider.	
37	Amend condition 4.9.7 to remove three month minimum and add 85% threshold for consent.	Various
38	Amend 5.4 to clarify that basis of revocation include consideration of the NEO.	AER
39	Corrected minor typos and grammar.	Various

Attachment 2 - Summary of submissions and responses

Please note: in this table there are frequent abbreviated references. The major terms are:

- Embedded Network Manager (ENM)
- Embedded Network (EN) and
- Embedded Network Operator (ENO).

Table 1 - Summary of submissions and responses in order of stakeholder

Stakeholder	Submission issues	AER Response
1. NBN co	**Class ND9 expanded to include 'Fibre to the Distribution Point' (FTTdp)** • FTTdp does not include exchange of money for power supply/usage so **there is no 'customer'** and therefore should be considered as owning, controlling or operating a distribution system. • ND5 class originally proposed for FTTdp. New **ND9 class has more conditions** (not just 3 and 9 but also 4, 6 and 7 of 4.1 in addition to any applicable conditions in sections 4.2 to 4.9). Most of these conditions relate to situations involving 'customers' of exempt networks. • Should not impose unreasonable and unnecessary regulatory compliance burden on end users which could be a barrier to cost effective and efficient role out of FTTdp services. • Need to create a new deemed exemption for the FTTdp situation where telecoms equipment 'reverse powered' through NBN user's own wiring where no money is being exchanged for supply. This exemption should	**Class ND9 expanded to include 'Fibre to the Distribution Point' (FTTdp)** We regard this to be a minor matter that should not require regulation. We note NBN's argument that it may not require regulation but, we also note that NBN is unsure that their argument is valid as there is an absence of certainty in how section 11(2) of the NEL should be interpreted. We consider FTTdp to be deemed exempt by virtue of class ND5 but, if it were not, then it would be captured in class ND9. However, to eliminate all doubt we will amend ND5 to explicitly include any NBN supplied equipment fed from a plug-in or rack supply.

only be subject to conditions 3 and 9 of section 4.1.

2. Energy and Water Ombudsman, South Australia	**External dispute resolution** • Generally supportive of EN customers having access to energy ombudsman but there are some issues with ENOs becoming members. • Costs may outweigh benefits for embedded networks with few customers. More appropriate for large ENs (with greater likelihood of receiving complaints) to be required to become members. • Size threshold could be 30 or more customers to align with ENM requirement threshold. • Smaller ENOs would still have the option of joining. • EWOSA may establish fee structure similar to that for intermediate and minor water retailers. • EWOSA Constitution and Charter may require amendment through approval of both Board and Membership. This will take time. AER should advise EWOSA Board of intension to include requirement in guideline to ascertain timeframe required for changes. • Retail Exemption Guideline will need to be updated in parallel to ensure consistency.	**External dispute resolution** We defer to the experience of the individual ombudsman schemes We intend our condition to enable ombudsman to manage their schemes as they see fit. They will have complete discretion to determine if exempt embedded network service providers may join their scheme. Our condition provides an alternative if the scheme is not available in a jurisdiction. We note EWOSA agree that a 30+ customer threshold would be sensible. Any condition would be structured to allow ombudsmen complete discretion in fee structures and timeframes for necessary amendments. The Retail Exemption Guideline will be updated to incorporate any conditions for joining ombudsman schemes probably sometime next year.
3. Barrie McCormick, QLD retirement village resident	**Pricing** • Consider expanded information required on billing statements from an ENO unnecessary for residents of a retirement village. **Access to retail competition** • Consider provision of competition for EN customers is unachievable for many QLD retirement villages in view of existing village infrastructures. **Fees, charges and transaction costs**	**Pricing** We note Mr McCormick's view that expanded information is unnecessary in his retirement village. However, our guideline does not impose this as an ongoing requirement. It must be provided on request. **Fees, charges and transaction costs, Who pays for the ENM?**

	• If the owner of an embedded network outsources the meter reading and billing process, the details of that contract together with costs should be fully explained to residents together with an indication of capped future cost increases. **Who pays for the ENM?** • From March 2017 ENOs should inform residents of the criteria for selection of an Embedded Network Manager.	We believe our requirements in conditions 4.7 and 4.8 will address most of Mr McCormick's other concerns. If a sufficient number of residents seek a poll, the appointment of an ENM can be deferred and, if an appointment is to be made, the basis of that appointment will be transparent. If the appointment is not transparent the party appointing the ENM must absorb the cost of the ENM.
4. John Scouller, QLD retirement village resident	**Billing on-market EN customers** • Responsibility for billing errors when network charges are duplicated should rest with the retailer. **Fees, charges and transaction costs** • Would prefer no meter reading charge – outsourcing metering reading and billing has resulted in energy costs increasing by a third. If a charge is allowed, costs should be capped with increases being less than CPI. • Experience of excessive fees: Until meter reading and billing was outsourced, the only cost additional to electricity usage was the cost of staff time. Unlikely residents of retirement villages would seek more competitive price on-market due to advantageous energy prices inside the EN. • Why are fees excessive and what should the AER do about it: As ENM appointment increases cost of energy supplied by at least 5 cents per kWh and the cost of a meter upgrade, no further charges should be permissible. Residents should be allowed to use existing lines at no cost as opposed to directly wiring out of the EN. **Metering types and access arrangements** • If an ENO's meter is out dated, the customer should not be charged for	Mr Scouller supports much of our proposal but his submission raises some concerns which are outside the scope of matters we can respond to through this guideline. This is principally because those concerns relate to matters that are subject to price controls, which controls are imposed through jurisdictional legislation. In turn, those controls currently limit the scope for competition in retirement villages. We also note the specific issues raised. **Metering types and access arrangements** We think customers in embedded networks should be treated the same as any other customer in the NEM. If retailers make offers that require a new meter then that cost is an important factor in the customer exercising choice. Our approach encourages the continued use of existing metering wherever that is practicable. **Who must appoint an ENM?** If competition is not available in the village then the

	replacement in seeking to access retail competition. **Who must appoint an ENM?** • Most retirement villages will have 30 or more customers but some sort of threshold for immediate ENM appointment is supported. • Consider the cost of appointing an ENM (at least for retirement villages) outweighs the benefits of any appointment. **Who pays for the ENM?** • Costs for a meter read and billing agent are roughly equivalent to one third of the energy costs for the specific QLD retirement village. • Additional costs of an ENM do not threaten the viability of an EN in a retirement village as they are not paid by the network owner but the collective residents. • Any increase to retirement village operational costs are shared amongst all residents. The introduction of the ENM will mean residents are paying even more. • Due to the cooperative costing model in retirement villages, any additional conditions imposed by the AER in regards to cost recovery will not be applicable. **Time limit extension to appoint an ENM for eligible communities** • The *Queensland Retirement Villages Act 1999* provides some protections against increased costs by obligating the Operator to search out a more cost effective alternative. Support ENO customers having involvement in appointing an ENM through a competitive process, which would align with the provisions of the Act. • 12 months for appointment would be ample time. Appointment of outsourced meter read and billing provider within this QLD retirement village was within two and a half months.	requirement to appoint an ENM will not apply. Also, the ENM does not preform the functions of a meter reading or billing agent. The ENMs functions involve the identification of a customer's meter within an embedded network to enable market retailers to provide energy offers and limit double charging for network costs. **Who pays for the ENM?;Time limit extension to appoint an ENM for eligible communities; Non-appointment of an ENM and reversion for eligible communities** We appreciate the nature of the costing model in retirement villages and have attempted to avoid increasing costs to such residents by creating the concept of 'eligible communities' whose members have more autonomy over the appointment and cost recovery for ENM services. We note that access to retail competition is not currently available in embedded networks in Queensland. If this policy changes based on the current Qld government review, although our process for eligible communities does involve some inconvenience, we think it will be applicable to Mr Scouller's situation. **External dispute resolution** Noted. **Pricing** Noted. **Access to retail competition**

	Non-appointment of an ENM and reversion for eligible communities • Mechanism for non-appointment of ENM for eligible communities seems to provide suitable solutions (excepting this village). **External dispute resolution** • Support proposal. **Pricing** • Support proposal requiring notification of changes to tariffs and limiting late payment fees to reasonably incurred costs. **Access to retail competition** • Support proposal regarding access to competition in clause 4.1.12. **Network conversions – supplementary conditions** • Support proposals relating to network conversions. • Recommend requiring a percentage of consent for conversion.	Noted. **Network conversions – supplementary conditions** Noted.
5. Energy and Water Ombudsman, New South Wales	**Consumer protections** • Where appropriate, consumer protections contained in the Retail Exemption Guideline should be included in the Network Exemption Guideline. Where EN is billing a small customer directly for network charges, exempt ENO should adhere to protections in Retail Exemption Guideline. Such protections include but are not limited to: o content and timeliness of invoices o management of customers in financial hardship o disconnection for non-payment o adequate information about effective external dispute resolution **Billing on-market EN customers**	This submission generally supports our approach. **Consumer protections** Noted. **Billing on-market EN customers** Noted. **Retail contestability** Noted. **Who pays for the ENM?** Based on this submission and similar submissions from Caravan & Camping Industry Association of NSW, the Caravan Parks Association of QLD and

- Agree it is preferable that customers receive a single bill. However, EWON notes AER will continue to allow for a two bill approach.
- AER's proposed method for assigning responsibility to resolve duplicate network charges is simple and common sense.

Retail contestability

- Agree that retail competition limits prices in EN but is also incentivises improvements in customer service, quality of supply and reception to customer feedback.

Who pays for the ENM?

- Agree that ENM costs should be absorbed by ENO.
- Previously submitted to AEMC that residential parks are relatively small businesses, operating quite old networks.
    - Costs of ENM may be significantly out of proportion to potential benefit of access to retail completion to customers.
    - Additional costs likely to be reflected in increased rental rates for all residents.
- AER should monitor costs of ENM services to inform a re-assessment of who should pay when the guideline is next reviewed.

External dispute resolution

- EWON strongly supports requirement that exempt embedded network service providers must apply to join an Ombudsman scheme where available, or otherwise abide by decisions of Ombudsman schemes.
- EWON requires exemption holders to be bound by decisions and to become a member to ensure full participation in the dispute resolution process.

Confusion about the 'Embedded Network Manager'

the Residential Tenancies Authority, Qld, we accept that class NR4 should be allowed to defer the appoint of an ENM. Also, the provisions for non-appointment of an ENM should apply to long-term residents of these sites.

External dispute resolution

We have amended our dispute resolution requirements to recognise commercial and/or residential tribunals may exist and be available to address disputes. We also have created a discretion for the energy ombudsman to determine if an exempt embedded network service provider is eligible to join their scheme.

Confusion about the 'Embedded Network Manager'

To address the problem of complexity, we will work with the industry to produce simplified guides for affected groups.

	• The Embedded Network Manager does not manage the embedded network from a consumer perspective. This adds to the complexity of existing energy terminology. • The AER should ensure clear information is provided to customers of exempt networks.	
6. Caravan Parks Association of QLD	**Fees, charges and transaction costs** • Queensland caravan park members support AER's proposal to cap charges to local area distributor's standard distribution connection contract charges. This ensures consistency. And fairness across all QLD resident types. • QLD caravan park members believe their charges to be fair and reasonable. All network charges are combined into a bundled energy price which is no greater than the standard offer price of the local area retailer. • No additional restrictions on levying charges are necessary. • The *Manufactured Homes (Residential Parks) Act (QLD)* and the *Residential Tenancies and Rooming Accommodation Act (QLD)* contain provisions in relation to fees and charges which has caused some confusion in the industry as to the obligations of caravan park owners.	**Fees, charges and transaction costs** Based on this submission and similar submissions from Caravan & Camping Industry Association of NSW, Energy and Water Ombudsman of NSW and the Residential Tenancies Authority, Qld, we accept that class NR4 should be allowed to defer the appoint of an ENM. Also, the provisions for non-appointment of an ENM should apply to long-term residents of these sites. We have amended our dispute resolution requirements to recognise commercial and/or residential tribunals may exist and be available to address disputes. We also have created a discretion for the energy ombudsman to determine if an exempt embedded network service provider is eligible to join their scheme. To address the problem of complexity, we will work with the industry to produce simplified guides for affected groups that address this concern.
7. Brisbane Airport	**Costs of exemption** • The cost and complexity of formal registration with the AER as a network service provider and maintaining that exemption is disproportionate to the scale of BAC's business and network.	**Costs of exemption** We do not agree with the assertion that the cost of complexity of registration as an embedded network operator is excessive for airports. No evidence is

- Requirement to appoint an ENM and absorb network charges places a disproportionate financial and administrative burden on BAC.
- Guideline should clearly state what is required for each condition, and should be developed in a way that can be practically and efficiently implemented by embedded network owners and operators.

Effect of Network Exemption Guideline on current individual exemptions

- Wording in Part 2.1 of the draft guideline should be clarified to demonstrate either individual exemptions are:
    - not subject to the new guideline; or
    - not subject to any guideline but must comply only to specific conditions of exemption within the individual instrument of exemption; or
    - not subject to the guideline in the process of granting an exemption but the holder must comply with the draft Network Exemption Guideline unless inconsistent with specific AER determined conditions.
- Do the conditions stated as applying specifically to all individual exemption holders apply to current exemption holders are just those who apply once the guideline is in force?

Pricing

- BAC supports the position that charges under condition 4.6.4 be capped to the tariff schedule published by the relevant local distributor. However, distributors in QLD do not publish segregated charges for loads over 4GWh so this method does not work for some large customers.
- The AER should resolve the issue in regards to large customers by either publishing network tariffs for these cases or approving a

supplied which supports this claim.

Similarly, we are not satisfied that the assertion that costs of appointing an ENM will be excessive. This may be true for small airports but those with fewer than 30 tenants will not be affected except where a customer seeks a market offer.

Effect of Network Exemption Guideline on current individual exemptions

We have amended the discussion of individual exemptions to make clear the guideline applies to all individual exemptions where an activity is listed in table 1 or table 3.

Pricing

We note the absence of a published tariff for customers over 4 GWh has become problematic in Queensland. However, it is not our role to develop or publish a network tariff.

The alternative of the AER developing a pricing methodology has not been suggested previously. To do so may require a rule change. This is outside the scope of the current consultation.

Recouping internal network charges

Our guideline allows for large customers consenting to the arrangement. This issue mainly arises with brownfield sites where existing tenant leases do not anticipate a change in electricity regulations.

The NER specifies a complex mechanism for determining network prices in chapter 6. It does not

methodology to allow network owners to calculate these network charges.

Recouping internal network charges

- ENOs, for airports in particular, should be able to charge EN customers for energy network services including a component for separate internal network charges.
- Some large networks, such as those at airports, have extensive energy networks in place that require constant operation and maintenance as well as upgrade and extension.
- Guideline only allows a charge for internal energy network services where the customer is a large customer or large corporate entity that agrees to factor these charges into lease payments or fit-out charges. However, non-conventional ENs such as airports may not include such costs as part of the lease.

Charge Groups

- The Guideline should clarify which individual network exemptions are captured in conditions relating to Charge Groups (i.e. current individual exemptions or those granted post publication of the new guideline.
- Specific wording should be added to explain what is included in 'network charges', as the current alternative references to 'network charges', 'network development costs' and 'charge for network services' are unclear and it is difficult to ascertain what specific charges may and may not be passed on including whether those charges relate to internal or external network charges.
- When ENO is billing an on-market customer, a 2 part bill must be issued to cover separately the network charges and the energy charges. Accordingly, Charge Groups A and B should be amended to take this into account

allow for a light-handed approach to network revenue and pricing.

Charge Groups

Charge groups apply to all network exemptions.

WE note the comments regarding charge groups A and B. These have been merged to remove the inconsistency when a two bill approach applies.

Distribution loss factors (DLF)

We do not agree that our approach to DLFs for large loads or generators is not appropriate. It is derived from the NER requirements and these requirements apply to all distribution networks, including all embedded networks.

The alternative methodology to using the DLF calculated by the DNSP is to calculate a DLF as the distributor would do if the distributor owned the private network. It would take into account a reconciliation of losses as proposed by Brisbane Airports. We do not see any reason to deviate from this approach.

Our third option is to approach the AER with an alternative methodology if the DNSP methodology is defective in some way. This is rare but most commonly arises when a generator is added that closely matches the intrinsic load. Under some methodologies this can create anomalous high loss factors due to division by a number close to zero.

Who must appoint an ENM?

The time frame for appointment is specified in the

Distribution loss factors (DLF)

- Options provided by AER for calculation of DLF for networks with large loads or generators are not appropriate (use of methodology published by DNSP or methodology approved by AER via an application by ENO & customer).
- The cost of lost energy within the EN is unlikely to reflect the costs associated with the distribution network losses.
- An application to the AER involving a customer may be hindered when a customer is unwilling to take part in that application.
- Recommend the AER adopt a methodology comprised of a reconciliation by the ENO of the EN losses and cost of those losses relevant to each customer or class of customer. Otherwise non-contestable customers connected to the EN may pay for some portion of the losses accrued by large contestable customers.

Who must appoint an ENM?

- There is no reasonable time frame specified within which an ENM can be retained and appointed following the trigger event. A reasonable time frame should be specified.
- If an ENM is appointed in advance of a trigger event, the ENM should be treated as validly appointed in compliance with the Guideline.
- AER or AEMO should publish a list of ENM providers from which an ENO can select and appoint an ENM.

Who pays for the ENM?

- It is inappropriate, non-commercial and unreasonable that an ENO, such as an airport, be required to absorb the costs of ENM services.
- ENM costs should either:
    - be initially paid by AEMO and then recovered as “market

NER, in clause 2.5.1(d2).

We agree that early appointment is permitted.

AEMO will publish a list of accredited ENM service providers starting in March 2017.

Who pays for the ENM?

Our position is consistent with the view of the AEMC as set out in their determination. We expect that any costs incurred by the ENO will result in reduced discounts that are shared across an embedded network customer base. Also, it is not apparent the ENM costs will be on-going. If ENM costs are billed per transaction, the costs may be very low if no customers leave the network. BAC has not explained why cost recovery from customers would better satisfy the NEO.

Metering Costs

We intend that embedded networks in future be operated on a basis closely aligned to the broader market.

If a customer or retailer choose to replace a meter that will be done at their own cost. We prefer that the existing meter continue to be used if it is suitable. If the current meter is suitable, the fee negotiated for its use will reflect its market value.

We do not agree though to compensating the owner of a meter that has no or a low market value. This would be rewarding a poor investment choice and remove any incentive to negotiate a realistic value for a meter.

charges" from the Retailers and customers (as it is essentially an administrative function for the benefit of the EN customer, their Retailer and AEMO); or

- be passed on to, and recovered from, the EN customer by the ENO using option 3 stated in the issues paper (charge specific customers for ENM service costs identifiable as relating to a single customer and recover from all customers any ongoing costs not readily attributable to a specific customer)

Metering Costs

- Costs of metering replacement, upgrade, maintenance or servicing should be able to be passed on to all customers regardless of when work is incurred.
- Meters should only be installed after customer has chosen a retailer and the retailer should pay for the costs of meter changes or upgrades. This is consistent with the wider electricity market.
- There should be no automatic right of a market retailer or customer to purchase, lease or replace a child meter on terms the retailer or customer sees fit without adequate compensation for unrecovered costs of the meter. The ENO should be entitled to full replacement value.

Metering arrangements

- Metering obligations need to be clear.
- ENOs must be able to obtain metering information from retailers of on-market customers to ensure proper functioning of the EN and for accurate network charges.
- All meters for on-market customers must be interval meters to reconcile energy and load data against the bulk supply meter with any accuracy.
- Retailers of on-market customers should appoint the Responsible

Metering arrangements

The rule change provides that metering data will be available to the ENO.

- NER clause 7.5A.2 (commencing 1 December 2017) provides that the ENM must information available to the Exempt Embedded Network Service Provider on request.
- NER clause 7.15.5 (commencing 1 December 2017) provides that metering data may be accessed or received by an ENM and Exempt Embedded Network Service Provider.

We agree that the exempt embedded network service provider is only responsible for meters they own. We have amended condition 4.3 to make this clear.

Embedded Generation

Embedded generation is permitted, subject to the provisions of the NER and AEMO registration or exemption requirements. We do see a need to impose restrictions on embedded generation through this guideline.

Access to retail competition

We agree that condition 4.1.12(e) should not apply to network upgrades. We have amended the condition accordingly. However, we do not agree it can be deleted. It is a fundamental protection for customers with an existing direct connection.

Person for an on-market customer's meter.
• ENO should be the party required to ensure a 'responsible person' is appointed at the parent meter.
• It is not a practical approach to make the ENO the 'responsible person' for all the EN meters.
Embedded Generation
• The guideline should explicitly permit installation of embedded generation, storage and inverters without requiring an additional exemption providing:
  ○ the embedded generation, storage and inverters are not used for export to the external distribution network;
  ○ appropriate interval meters are installed to record the electricity sent out or taken from the EN;
  ○ the network and energy charges are separated;
  ○ the embedded generator, storage and inverter should be permitted to operate for safety and emergency needs (particularly when the network is not supplying the appropriate amount of electricity), demand side management and for management of efficient supply within the EN;
  ○ appropriate safety mechanisms are in place with the distribution network provider; and
  ○ is otherwise approved or exempt under the NEL and NER as a generator, storage or inverter.
Access to retail competition
• The words of Condition 4.1.12.1(e), 'not alter the electrical supply arrangement', have broad application and could capture any network upgrades, enhancements, maintenance and improvements.
	Minor comments
	Noted.

	• Condition 4.1.12.1(e) should be deleted as customers are adequately covered by Condition 4.1.12.1(f). **Minor comments** • Suggested errors in formatting identified (see page 15 of the submission for detail).	
8. Ausgrid	**Network conversions** • Strongly supportive of the proposed arrangements for brownfield conversions (4.9), in particular the arrangements for obtaining customer consent, metering, duplication of network charges and AER approval for network conversion. • Should add requirement that ENO keep local DNSP informed prior to and throughout the conversion process. • AER should provide further clarification on the consent thresholds for a network conversion. The term 'substantial majority' could be misinterpreted. **Metering requirements** • Agree that any meter within an EN must be compliant with NER requirements for a customer to receive a retail market offer. **Consumer protections** • Consider the proposed amendments contain sufficient customer protections but note it will be important for ENOs to maintain accurate records of life support customers and ensure appropriate parties are notified of changes. **Information provision** • Support the requirements for recording and providing information to exempt customers.	The submission notes some issues as important and generally supports the proposal. **Network conversions** We will add a requirement to inform the DNSP of an impending conversion. We have also adopted the suggestion to adopt a firm target for consent to a brownfield conversion. **Metering requirements** Noted. **Consumer protections** Noted. **Information provision** Noted.

9. WINconnect	**Enforcement**
	• To ensure all exempt networks are operated to an appropriate standard it is necessary for the AER to:
	  ○ Publish a clear and unambiguous guideline as contemplated by this review
	  ○ Publish any associated enforcement and compliance plan;
	  ○ Introduce compulsory breach reporting (self);
	  ○ Publish a list of penalties for non-compliance; and
	  ○ Monitor and enforce the revised Network Exemption Guideline on stakeholders.
	Billing on-market EN customers
	• Experience indicates opponents of ENs use the 2 source billing scenario as a deterrent to 'churn' out of the EN.
	• Separation of network charges from a retail customer's bundled bills will be essentially unworkable and expensive for retailer systems.
	• Credit risk: whose responsibility is it for the disconnection of a customer within an embedded network for non-payment?
	• Recommend mandating ENM to put into practice a comprehensive B2B NUoS billing facility (on behalf of the ENO) consistent with market retailers.
	Fees, charges and transaction costs
	• Shadow pricing continues to be an appropriate mechanism. It is transparent and affords protections to customers.
	• Retail charges outside those included in the local area retailer standing offer should only be applied to customers after attaining their explicit
		Enforcement
		Although outside the scope of this consultation, we agree enforcement is important. It is our intention to strictly enforce the provisions of this guideline.
		Billing on-market EN customers; Fees, charges and transaction costs
		We note the issues raised but consider they fall outside the scope of this guideline.
		Metering types and access arrangements
		We agree the Service Installation Rules (or their equivalent) should apply in each jurisdiction.
		We intend that embedded networks in future be operated on a basis closely aligned to the broader market.
		If a customer or retailer choose to replace a meter that will be done at their own cost. We prefer that the existing meter continue to be used if it is suitable. If the current meter is suitable, the fee negotiated for its use will reflect its market value.
		We do not agree to compensating the owner of a meter that has no or a low market value. This would be rewarding a poor investment choice and remove any incentive to negotiate a realistic value for a meter.
		Also, the basis of metering installed by distributors was in response to an obligation to invest imposed by the jurisdiction whereas embedded network meters are installed as a result of a commercial

informed consent (e.g. charges for re-energisation and de-energisation).

Metering types and access arrangements

- Recommend all metering, wiring, switch boards etc. in ENs are Service Installation Rules (SIRs) compliant subject to grandfathering arrangements.
- Market retailers are reluctant to provide offers to EN customers due to additional handling time required in attaining the customer. Requirements to upgrade SIRs non-compliant wiring is a factor.
- Agree metering installations be maintained to standards of schedule 7.3 where ENM is required.
- Need to be mindful of jurisdictional issues around safety procedures for meeting (e.g. in Victoria, an EN customer moving from off-market to on-market is considered as a new connection to the LNSP).
- Should be fair and equitable cost recovery for stranded assets where retailer/customer replaces an ENO's market compliant meter. Could shadow price metering exit fee applicable in the LNSP's network.

Who must appoint an ENM?

- Do not support proposal of customer number threshold to determine requirement to appoint ENM. All ENs should be subject to same regulatory constraints so customers have equal protections.
- Anecdotal evidence suggests some of worst ENs are those with few customers or connection points.
- No obvious reason why payments of an 'advance fee or rebate' by ENM to property owner/developer or ENO should fall under AER regulation. ENM is accredited by AEMO and accountable to AEMO through CATS procedures with failure to comply subject to possible legal action. AER should restrict regulation to ENO and leave ENM regulation to AEMO.

decision. They should face a commercial risk accordingly.

Who must appoint an ENM?

We note WINconnect's opposition to a threshold but their position is not supported by an economic argument that the benefits of this position outweigh the costs. Under clause 2.5.1(d2) we must apply this criteria to the question of the threshold. No evidence has been produced in any submission that a threshold of 30 customers is incorrect.

AEMO accredits ENM's but is not an enforcement body. An accredited ENM must comply with AER requirements for behaviour within an embedded network. We consider the payment of rebates to be an undesirable behaviour in the circumstances set out in the guideline.

Who pays for the ENM?

Noted. ROLR is outside the scope of the network guideline.

ENM requirements for eligible communities

The NER requires that in all embedded network situations, the AER must determine whether the costs of appointing an ENM outweigh the benefits of competition. None of the submissions we received have provided supporting evidence to adopt a lower, or no threshold. On the other hand, a number of submissions support our threshold and 'eligible communities' approach.

It is not apparent that 'eligible communities' have

Best way to keep industry honest is to encourage retail competition.

Who pays for the ENM?

- Expect competitive market for ENM services will keep costs low and will present no issue for ENO's to absorb costs without passing on to customers. Most ENO's (such as body corporates) already use third party service providers without passing on costs to customers.
- Recommend EN specific ROLR procedures be introduced to provide certainty of supply if AER has concerns about possibility of ENO's defaulting due to cost burden.

ENM requirements for eligible communities

- Do not support unique conditions for 'eligible communities'. The approach risks everyone becoming an eligible community to have more favourable regulation. Regulation should be technology agnostic and the AER should not pick 'winners' and 'losers'.

External dispute resolution

- Support requirement for exemption holders to become members of jurisdictional Ombudsman schemes. However, establishment of appropriate Ombudsman cost structures are important to ensure existing members do not cross-subsidise entry of exempt providers.

Pricing

- Support expanded requirement on ENOs to notify customers of changes in tariffs and that recovery of late payment fees be limited to costs reasonably incurred.
- Requiring a customer to have multiple supply arrangements for same connection points raises operational issues including:
    - Confusion around unbundled tariffing
    - Disconnection for non-payment to either party

more favourable regulation. Indeed, some submissions are concerned that our process is complex and may be difficult to apply without support.

We do not consider that we are picking winners and losers. Our role is to ensure where a community proposes that they not appoint an ENM that a proper democratic process has been followed to arrive at the outcome.

External dispute resolution

Noted.

Pricing

- NER clause 7.5A.2 (commencing 1 December 2017) provides that the ENM must information available to the Exempt Embedded Network Service Provider on request.
- NER clause 7.15.5 (commencing 1 December 2017) provides that metering data may be accessed or received by an ENM and Exempt Embedded Network Service Provider.

Network conversions

We note the conditions that we now apply through condition 4.9 to brownfield conversions are less onerous than the pre-existing requirement for 100% consent for a conversion. The conditions are based on regulatory experience, striking a balance between individual rights and the best interests of the whole community.

We agree that if competition works well under this

	○ Effective and unambiguous treatment of cases in independent dispute resolution • B2B procedures should be introduced to best replicate those which exist in the contestable market where practical. This would address many issues noted above. • Potential disconnect between the procedures proposed by AER, the drafting in the EN Rule Change and the market design proposed by AEMO. The rule allows ENO access to meter data but it is difficult to understand how when ENO will not have access to MSATS and MMS systems. It is not clear that the Rules allow for direct access to child data via the ENM. **Network conversions** • Sympathetic to motivation behind supplementary conditions on network conversions but proposals are overly prescriptive. • Additional conditions are not relevant if competition is facilitated through the ENM. AER and AEMO should work together to make competition so seamless that such conditions as offer matching are not required. • Clause 4.1.12(e) is problematic and creates a duty of care inside an EN not existent elsewhere across NEM. Clause 4.1.12(e) should be omitted along with new clause 4.9 which appears to have been included to address the deficiencies of clause 4.1.12(e).	rule change, the need for many conditions may change. We will monitor industry outcomes and revise the guideline based on that experience. We agree with other submissions that condition 4.1.12(e) should not apply to network upgrades. We have amended the condition accordingly. However, we do not agree it can be deleted. It is a fundamental protection for customers with an existing direct connection.
10 MyCom Energy	**Fees, charges and transaction costs** • Support the proposal for meter charges • Some fees need to be passed on to the customer, such as ENM fees, which could be a flat fee included in each customer's regular bill. **Metering types and access arrangements** • Support metering arrangements proposed for access to competition.	**Fees, charges and transaction costs** Our position is that the ENM fee must be absorbed by the exempt embedded network service provider. We only allow the ENM fee to be passed on in limited circumstances. We do not agree ENM fees can be passed on to the customer as a general rule.

	• Support proposal for metering installation maintenance. **ENM appointment?** • Support proposal for classes required to appoint an ENM immediately (with 30 or more customers) • Support proposal for customer threshold of 30 for appointment of ENM. However, MyCom Energy will appoint an ENM for all sites for a consistent process and simpler operating model. **Who pays for the ENM?** • Cannot comment on possible costs of ENM without further detail on exact ENM role requirements. • Support an additional condition to ensure cost recovery occurs on an equitable basis for all EN customers. It defeats the purpose if only the ENO has to bear the ENM costs. A fixed fee per annum could be charged and recovered in each billing period on the basis of a $/day amount. **Time limit extension to appoint an ENM for eligible communities** • 40 days is reasonable to provide ample time to nominate an ENM. These protections are sufficient. **Non-appointment of an ENM and reversion for eligible communities** • Recommend all ENs must appoint an ENM regardless of customer numbers. This will make the process far simpler to manage, especially when there is a dispute. • An ENM is like an independent umpire should there be a problem with billing. **External dispute resolution** • The biggest issue will be about dates, and when a customer was	**Metering types and access arrangements** Noted. **ENM appointment?** Noted. **Who pays for the ENM?** Our position is that the ENM fee must be absorbed by the exempt embedded network service provider. We expect that any costs incurred by the ENO will result in reduced discounts that are shared across an embedded network customer base. Also, it is not apparent the ENM costs will be on-going. If ENM costs are billed per transaction, the costs may be very low if no customers leave the network. MyCom has not explained why cost recovery from customers would better satisfy the NEO. **Time limit extension to appoint an ENM for eligible communities** Noted. **Non-appointment of an ENM and reversion for eligible communities** Although we agree that if all ENs appoint an ENM regardless of customer numbers this would provide a simpler process overall, we are required to have regard to the likely costs – hence the adoption of a 30 customer threshold, which MyCom supports. **External dispute resolution** Although the ENM will be able to adjudicate on

	transferred from one energy seller to another. • The ENM will be able to adjudicate accordingly as an independent umpire. This will save a lot of time and expense to the Retailer and/or ENO. • Good that major issues can be taken up with the Ombudsman. **Pricing** • Support proposals. **Access to retail competition** • Support proposals. **Network conversions – supplementary conditions** • Do not support proposals. • AER assumes ENO will always sell energy to the end user which is not always true. MyCom Energy sometimes converts site to an EN through installation of a gate meter but then may not retail energy for the next five years simply charging the end user for the network component. • For MyCom Energy, requirements to conduct a marketing campaign impose additional cost for no discernible reason and conditions such as offer matching may not be applicable.	transfer dates, this is not their primary role. As MyCom notes, major issues can be taken up with the Ombudsman, where that is possible in a jurisdiction. **Pricing** Noted. **Access to retail competition** Noted. **Network conversions – supplementary conditions** We are concerned that MyCom would convert a network and not provide retail energy for an extended period. This indicates there is no benefit to the network conversion for the customers within the embedded network. The reluctance to conduct a marketing campaign or offer match retail prices indicates MyCom seeks to profit from network charges alone. Unless there is informed customer consent to such conversions, the conversion is in breach of our requirements and may be subject to enforcement action.
11 Jemena	**Registrable exemption class NRO4** • Recommend description clearly identify the activity as on-going supply to industrial, commercial and mixed-use facilities. • Welcome the intention behind class NRO4 but recommend removing from the class description 'and any activity listed in table 3' because there seems to be no activity that fall under NRO4 that would not also fit	**Registrable exemption class NRO4** We have accepted Jemena's proposal. NRO4 exclude residential supply but includes large customers operating in charge group C, for whom an ENM is unlikely to ever be required. However, if an ENM is required, the customer will continue to

		the criteria of NR5 ‘supply of energy to large customers’. **Network conversions – supplementary conditions** • Recommend that the mandatory consultation period of at least three months be deleted from condition 4.9.7 offering the flexibility to accommodate shorter campaigns that may be more suitable for different circumstances (e.g. small sites). **Table headings – selling and supply** • Recommend table headings aligned and made clear in their references to ‘energy selling OR supply’, ‘energy selling AND supply’, ‘energy selling [only]’ and ‘at no cost’. **Glossary** • Recommend ‘registered distributor’ (a distributor who is a registered market participant in the NEM) be defined to also mean licensed distributor.	have that right. **Network conversions – supplementary conditions** We accept that the three month requirement for the marketing campaign may be removed as we have adopted a numerical threshold of 85% for consent. **Table headings – selling and supply** Noted. **Glossary** We have inserted a definition of ‘registered distributor’.
12	Target, Coles and Kmart	**Billing on-market EN customers** • Support proposal ENO must resolve transitional charging problems (e.g. duplication of network charges/network billing errors) in brownfield situations. • Recommend adding timeframe (e.g. 15 days) for ENO to take action and respond to tenant concerns/enquiries related to transitional charging issues. **Fees, charges and transaction costs** • Recommend no meter reading charge should be charged by ENO for child NMI (on market) situations. On-market EN customers are already billed a meter reading fee by the retailer and should not be double billed by the ENO.	**Billing on-market EN customers** Noted – we will monitor industry outcomes. If experience demonstrates a timeframe for an ENO to take action and respond to tenant concerns is necessary we may add this at a later date. **Fees, charges and transaction costs** Noted. **Metering types and access arrangements** Noted – we have amended the guideline to note the exempt embedded network service provider is only responsible for off-market meters. **Who must appoint an ENM?**

	Metering types and access arrangements • Support proposals on meter maintenance costs. However, for on-market EN situations, the responsible person is the market retailer, and this distinction should be clearly outlined in the guideline. **Who must appoint an ENM?** • Support proposed classes that require immediate appointment of an ENM. • Do not support threshold of 30 customers for appointment of an ENM. Tenants should not be disadvantaged for being located in small commercial embedded networks, with lower protection and customer service requirements. • The distinction should be made on the commercial activity type of the EN (e.g. community vs commercial). Commercial ENs (classes NR1 and NR5) should be required to appoint an ENM regardless of number of tenants. **Who pays for the ENM?** • Support proposal that ENO must absorb ENM costs except in the case of an eligible community bulk purchasing scheme. Only in such schemes will all tenants be better off inside the EN or agree to be part of it. Passing on the charge to customers would contradict the no worse off condition in ENs. **External dispute resolution** • Support intention to require providers to join Ombudsman scheme and make it compulsory. EN customers should be afforded the same protection and dispute resolution resources as any market customer. **Pricing** • Support proposal on notification of tariff changes and limiting recovery of	The NER requires that in all embedded network situations, the AER must determine whether the costs of appointing an ENM outweigh the benefits of competition. None of the submissions we received have provided supporting evidence to adopt a lower, or no threshold. On the other hand, a number of submissions support our threshold and 'eligible communities' approach. A tenant retains the right to access an external offer, but there is a delay involved to appoint the ENM. **Who pays for the ENM?** Noted. **External dispute resolution** Noted. **Pricing** Noted. **Access to retail competition** Our conditions 4.8 and 4.9 are intended to improve the quality of information communicated in embedded networks. We will monitor industry outcomes and adjust these requirements if necessary. **Network conversions – supplementary conditions** We note the limitation of offer matching identified by TCK but it ensures a tenant is no worse off than if they were to accept a market offer. The effect of

	fee for late payment to reasonably incurred costs. **Access to retail competition** • Have experienced several network conversions where exemption has been granted but ENO has not carried out a communication campaign prior to exemption approval or communication has been limited to smaller, non-informed and less sophisticated tenants. • There is a clear lack of communication evidence required during the exemption application process. Under the Retail Exempt Selling Guideline, ENOs are only required to explain what they plan to do in a coms campaign with no verification that the campaign took place. This regulatory gap needs addressing urgently. • Recommend that applications must include explicit informed consent forms signed by every tenant and clear evidence that a communications campaign has been carried out prior to grant of exemption. **Network conversions – supplementary conditions** • Consider current minimum requirements for offer price matching does not guarantee that any actual benefit from reduced electricity costs from the site's aggregated bulk supply is passed through to small tenants and less empowered consumers. • Off-market EN customers are required to pay no more than standing offer price of the local area retailer. However, without a NMI, no competitive retailer offer can be accessed by a tenant as retailers are not able to offer a customised quote. This limits offer matching to published gazetted bundled tariffs with non-competitive pricing. • Recommend that 100% consent requirement is upheld. Failing that, a consent threshold of 90% measured by the volume of electricity consumed by active tenants should be required. Consent by volume of energy not number of customers is fairer as ENOs stand to make a profit from the volume of electricity on-charged, not the number of	competition should ensure that retail prices within an embedded network are similar to market outcomes. We have adopted 85% as a threshold.

		tenants. • Recommend recording of consent be via a transparent process with results made available to all tenants.	
13	Department of Energy and Water Supply, Queensland	**Who must appoint an ENM?** • Recommend that ENs be exempt from requirement to appoint an ENM by 1 December 2017 if situated where retail competition is not yet established. **External dispute resolution** • Note that EWOQ has a 'user-pays' structure that works well for large retailers but could be difficult to administer for multiple smaller ENOs. • Note that where existing dispute resolution mechanisms are currently available to EN customers, they are considered adequate.	**Who must appoint an ENM?** We will amend the ENM appointment condition to reference the availability of retail competition in a region, as the submission requests. **External dispute resolution** The external dispute resolution condition has been structured to compel membership of an Ombudsman scheme (where permitted by the Ombudsman scheme) if no other external dispute resolution services are available. We note that it is open to the Ombudsman schemes themselves whether they open their membership to ENOs and how they structure their fees.
14	AusNet	**Information requirements** • Support proposed life support notification requirements of ENO to retailers a both child and parent meters. • Support proposed requirement on ENO to provide 24-hour emergency contact line. • Do not support proposal that eligible communities may recover ENM costs solely from on-market EN customers. This would disincentivise anyone from becoming an on-market customer. ○ Danger of a strata title or very large apartment building being an eligible community where an ENO offers a greater discount if customers agree to become an eligible community thereby	**Information requirements** AusNet argue that the eligible communities provision may result in larger groups becoming an eligible community to secure a greater discount from a retailer. In turn, this would limit competition for individual customers. Firstly, we note the basic proposition is that the scheme results in a benefit for the vast majority of members. Whilst this may limit individuals, the individual customer still retains a right to seek a market offer. Also, we require that if the embedded network appoints an ENM, it must be the lowest cost option

		limiting retailer choice within the EN. ○ Eligible community members that wish to go on-market but seek to avoid being the sole payer of ENM costs may request the local Distribution Business to provide another physical connection point which would be an inefficient solution.	from an open tender. We consider the risk that the customer would see a direct connection to a distributor as a cheaper option is unlikely to ever arise in practice. Consequently, if the ENM cost is low and the other retailer offer attractive, the individual customer can choose to leave the network.
15	EnergyAustralia	**Role of the ENM** • Note apparent discrepancy between Network Exemption Guideline and AEMO Procedures: ○ Procedures imply ENM only required to register NMI once a customer wants to go on market. ○ Guideline suggests ENM is responsible for registering all connections once an ENM is appointed to an EN site. **Who must appoint an ENM?** • Recommend AER reconsider issue of which ENOs may defer appointment of an ENM once AEMO procedures have developed to a point where participants might estimate their cost and where the minimum feasible size and scale of an economic EN becomes clearer. • Recommend AER also consider other ways of administering a threshold as customer numbers are just one factor but type of customers (residential or small business) or volume of energy consumed are factors also. • Note AEMC's recommendation that the threshold framework be flexible enough to adjust to 'evolutions in embedded networks'. **Billing on-market EN customers** • Agree that best outcome for a customer is to have a single bill but also	**Role of the ENM** The AER's guideline does not regulate the role of the ENM only the ENO (the holder of a network exemption). AEMOs Procedures regulate the role of the ENM and is the authoritative document for these matters. Any mention of the role of the ENM in the guideline's accompanying Issues Paper is included purely by way of background as to the purpose of the new role. **Who must appoint an ENM?** Noted – we will monitor industry outcomes and adjust our approach based on the future experience. **Billing on-market EN customers** Noted. **Metering types and access arrangements** Noted.

		acknowledge this is difficult to achieve until retailers and ENMs develop arrangements for handling customers in ENs. • Support proposals at present but nature and extent of any problems with respect to billing will become apparent over time. • Support shadow pricing approach for the present. However, over the long term, shadow pricing may influence pricing in ways not in EN customers' best interests as retail, wholesale (affected by peakier or flatter usage profiles) and network costs can vary vastly for different types of ENs. • Consider that effective ENMs would be expected to act in customers' best interest and identify whether the ENO is charging prices that significantly exceed costs. **Metering types and access arrangements** • Support proposals that ensure EN customers have meters that satisfy NEM minimum standards. Consistent standards across NEM contribute to efficiencies in the customer transfer process and therefore facilitate competition.	
16	Australian Airports Association	**Costs associated with exemption** • Consider the cost and complexity of formal registration with the AER as an ENO and compliance with that exemption is disproportionate to the scale of an airport's business and network. **Who pays for the ENM?** • Do not support the proposal for ENOs to absorb network charges and costs of an ENM. This would place a disproportionate financial and administrative burden on airports across the country. **Brisbane Airport Corporation submission** • Australian Airports Association formally endorses and supports the	**Costs associated with exemption** We do not agree with the assertion that the cost of complexity of registration as an embedded network operator is excessive for airports. No evidence is supplied which supports this claim. **Who pays for the ENM?** Similarly, we are not satisfied that the assertion that costs of appointing an ENM will be excessive. This may be true for small airports but those with fewer than 30 tenants will not be affected except where a customer seeks a market offer.

		content of the Brisbane Airport Corporation submission and feedback from members indicates it aligns with the general views held by major airports nationwide.	**Brisbane Airport Corporation submission** Noted.
17	Energy Intelligence	**Billing on-market EN customers** • Generally support proposal that ENO primarily responsible regarding duplication of network charges for brownfield sites and authorised retailers being primarily responsible for greenfield sites. • Recommend amendment to wording of proposal so ENO must use 'best endeavours' to resolve any duplications for brownfield retrofits. There are cases in brownfield sites where the ENO has done all possible to minimise duplication of charges but retailers or distributors have not updated their appropriate systems to resolve duplication. **Fees, charges and transaction costs** • Recommend condition 4.6.4.1 regarding manual meter read charges for advance technology meters be amended. Where a new owner inherits an EN and the incumbent meter provider chooses not to supply remote access metering data for commercial reasons, the new ENO must manual read the meters or replace them all. This would place significant costs on the ENO for no additional immediate benefit to end users. **Metering types and access arrangements** • Recommend ENOs be afforded the same financial protections as distributors (in relation to stranded assets) and maintain the ability to apply a reasonable termination fee consistent with the principles of Chapter 6 of the NER. • Recommend greater clarity be provided relating to meters installed before 1 January 2012. Where a single meter needs to be replaced at an older site, it would be cost prohibitive to maintain data communications for one 'smart' Type 4 meter amongst the remaining older meters. Recommend ENOs be permitted to install a Type 5 or	**Billing on-market EN customers** We will issue guidance notes where necessary to help resolve any implementation issues with the new requirements. **Fees, charges and transaction costs** We have not amended condition 4.6.4.1 as suggested to resolve the concern with communication with legacy metering installations. We do not consider it always necessary to replace the meter. Meters may only require the communication card be replaced or reprogrammed to work with a new service provider. We also do not accept that meters in embedded networks should be subject to lesser requirements than all other advanced technology meters. **Metering types and access arrangements** We do not agree that ENOs should be protected by a termination fee. This condition is intended to encourage reuse of an existing compliant meter. No argument is presented that demonstrates why a termination charge would better satisfy the NEO. We do not believe the guideline prevents an embedded network operator from voluntarily changing a meter. Energy Intelligence has misread our condition 4.3. Our requirement refers to schedule 7.3 of the NER

		Type 4 **capable** replacement metering asset in these situations. • Recommend requirement 7.3.1.7 of the NER be mandatory only where solar is connected to a specific end user and for that end user's meter only as it would be difficult for a customer in a multi-tenanted site to install an individual solar unit. **Network conversions – supplementary conditions** • Do not support condition 4.9.3.1.c which requires ENO to price match a large customer if their existing contract with a retailer cannot be continued or if they are not able to maintain their direct connection to a regulated distributor. Compliance with this condition may require ENO to supply energy at a loss. • Recommend that the reference to a minimum time period of three months be removed from condition 4.9.7. Smaller sites will not require a communications campaign of this duration. • Recommend greater clarity with reference to 'a substantial majority of tenants and residents' who must provide consent for conversion. Recommend a threshold of 70% consent. • Recommend a timeframe be specified for the AER's consideration of a retrofit application. Consider that applications would take the same time to process as Retail Individual Exemption applications.	which is solely about maintenance of a metering installation, whereas it is rule 7.3.1(i)7 which refers to small generators exporting energy. **Network conversions – supplementary conditions** Condition 4.9.3.1.c is fundamental to the principle that no customer should be worse off for being included in a network conversion. The decision to install an EN at a brownfield site is an economic one and the costs of ensuring that no customer will be worse off than if they were outside the embedded network must be factored into an assessment of the economic feasibility of the network.
18	Brookfield Energy Australia	**Billing on-market EN customers** • Support proposal that retailer responsible for rectifying billing errors on new sites and the ENO for converted sites. • Consider it significantly simpler for the ENO to bill EN customers for their 'network charge' (the two bill approach) rather than bill the EN customer's retailer (the single bill approach). A second private meter is required alongside a retailer's to accurately calculate an on-market EN	This submission is supportive of our proposed approach. **Billing on-market EN customers** We note Brookfield's comment that a single bill approach may introduce additional metering requirements if implemented poorly. We note the rule change includes provision for metering data to be shared. This should alleviate this concern.

		customer's 'shadow network' charges. **Fees, charges and transaction costs** • Support proposal that all charges from ENO should mirror those that would be charged to EN customer were they directly connected to DNSP. • Do not support meter reading charges additional to components covered by 'shadow pricing'. **Metering types and access arrangements** • Support proposals. **Who pays for the ENM?** • Support proposals that ENO absorb ENM costs on the presumption that market competition between accredited ENMs will keep prices hopefully close to cost of performing these duties 'in-house'. **External dispute resolution** • Support proposal that ENOs join Ombudsman schemes where available. Brookfield Energy Australia has already adopted an Ombudsman scheme. **Network conversions – supplementary conditions** • Support proposals to ensure smaller customers are not prevented from accessing retail competition through network conversions.	**Fees, charges and transaction costs** Noted. **Metering types and access arrangements** Noted. **Who pays for the ENM?** Noted. **External dispute resolution** Noted. **Network conversions – supplementary conditions** Noted.
19	TradeCoast Central	**Who must appoint an ENM?** • Consider that the Draft Guideline deviates from the AEMC's Final Rule Determination. ○ Rule provides that ENM appointment may be deferred if the AER determines the costs of appointing an ENM are likely to outweigh	**Who must appoint an ENM?** We do not agree with TradeCoast Central that the AER has deviated from the rule determination. The AEMC gave the AER discretion to set a basis for a delayed appointment of an ENM but the drafting of the rule in clause 2.5.1(d2) is clear: if a customer of

the benefits.

- AER consider this from the perspective of whether EN customers benefit from bulk purchasing.
- The Draft Guideline assumes bulk purchasing benefits only EN customers within activity classes for caravan parks, manufactured home sites and retirement villages – 'eligible communities'.
- Consider AER's assessment of bulk purchasing benefits should relate to whether prices offered within the collective group are cheaper than energy prices offered to on-market EN customers individually not what the activity class is or the number of customers.
- Recommend clause 4.7.2, non-appointment of an ENM and reversion for eligible communities, should be applicable to all ENs that provide cheaper prices than market retailers.

- Recommend the Guideline be clarified as to whether the 30 customer threshold applies for just small customers or large customers too. Confusion caused by the wording of clause 4.4.2 and 4.4.2.1.

Who pays for the ENM?

- Do not support clause 4.7.1(a) that ENOs absorb ENM costs.
- Recommend the user pays ENM cost recovery model available to eligible communities (clause 4.7.1.1) be applicable to all ENs that provide cheaper prices than market retailers.

Pricing

- Support proposal to notify customers of tariff changes and limit recovery of late payment fees to reasonable costs incurred.
- Recommend clause 4.6.4(a) (restriction on ENO from levying charges not charged by local area distributor under standard distribution

any size seeks a market offer, an ENM must be appointed. We state this requirement of the rule in condition 4.4.2 and we referred to it in the issues paper.

We accept that condition 4.4.2 should not include a reference to activity classes ND1 and ND2 as these are smaller than the threshold of 30 customers.

Our condition for not appointing an ENM (condition 4.7.2) has been amended to permit large customers participating in a bulk purchasing arrangement to seek dispensation to not appoint an ENM. This will allow user pays to all ENs that provide cheaper prices than market retailers.

Who pays for the ENM?

Our position is that the ENM fee must be absorbed by the exempt embedded network service provider. We expect that any costs incurred by the ENO will result in reduced discounts that are shared across an embedded network customer base. Also, it is not apparent the ENM costs will be on-going. If ENM costs are billed per transaction, the costs may be very low if no customers leave the network. TradeCoast Central has not explained why cost recovery from customers would better satisfy the NEO.

Pricing

We have clarified our drafting around charging in charge group C.

		connection contract) be amended to clarify that it does not preclude ENOs from recovering internal use of system charges from Charge Group C EN customers.	
20	AGL	**Metering types and access arrangements** • Support proposal that metering arrangements within ENs be consistent with NER Chapter 7 requirements as this will assist EN customers access retail competition. • Support proposal ENOs must ensure meters install from 1 January 2012 be NEM compliant and that retailers/customers have responsibility to upgrade meters installed before 1 January 2012. • Recommend clarification be given regarding condition 4.3 that places obligation on ENO to act as if they are the Responsible Person in ensuring Schedule 7.3 of NER is met. However, from 1 December 2017 the Metering Coordinator accredited service provider will take the place of the Responsible Person. o How will the Metering Coordinator appointment process for EN customers operate? o How will the ENM and Metering Coordinator interact? **Who must appoint an ENM?** • Support proposal that larger ENs require an ENM immediately whereas smaller ENs may delay until a customer enters into a market retail contract. • Support the view that smaller ENs and community groups will be more sensitive to transaction costs and should only be required to have an ENM where benefits outweigh the costs. • Recommend clarification on whether an ENO with more than 30 customers spread across multiple sites would be required to have an	Overall, this submission supports our proposed approach. **Metering types and access arrangements** We agree that some clarification may be required in 2017 when the Metering Coordinator accredited service provider will take the place of the Responsible Person. We will amend the guideline if this proves necessary. **Who must appoint an ENM?** We have amended condition 4.4.2 to make clear that the condition applies to individual sites, not cumulatively. **Who pays for the ENM?** Noted – the comments generally support our approach to costing but suggest some flexibility might be introduced. We will monitor industry outcomes and revise the guideline based on that experience.

		ENM for each site if each individual site has less than 30 customers.
		
		Who pays for the ENM?
		
		• Support proposal that ENM costs be borne by ENO but recommend cost recovery model be at the discretion of the ENO providing it aligns with existing AER pricing and cost recovery policy and does not create an artificial barrier to customers seeking to go on-market.
		  ○ Consider most ENs to be operated for profit and therefore costs are better spread across all customers within EN.
		  ○ Consider small community groups not operating for profit may prefer to employ a user pays charging structure which is better suited to their arrangement of sharing the benefits of bulk purchasing.	

21	Shopping Centre Council of Australia (SCCA)	**Billing on-market EN customers**
		
		• Support proposal ENOs may continue to recover charges through 'shadow pricing'.
		
		• Support principle of a 'single bill' but note practical difficulties largely due to market retailers not offering unbundled bills.
		
		• Consider double billing issues are predominantly a result of market retailers not billing correctly. Therefore recommend:
		  ○ Responsibility for billing errors should sit with the party responsible for that error particularly if the ENO has used their best endeavours.
		  ○ Disputes as to responsibility can be resolved through appropriate dispute resolution mechanisms.
		
		• Recommend AER ensures retailers bear appropriate responsibility for billing issues concerning on-market EN customers. If the AER is not able to achieve this through the exemption guidelines, the AER should
			Billing on-market EN customers
			
			Although we agree that issues with double billing are often traceable to retailers, this issue is largely outside the scope of the embedded networks rule change and the AER exemption framework. Our condition only relates to double billing caused by brownfield conversions.
			
			Fees, charges and transaction costs
			
			Noted.
			
			Metering types and access arrangements
			
			We agree that the cost of meter replacement in clause 4.2(d) was possibly ambiguous – this cost is borne by the customer or retailer replacing the meter.
			
			We will issue guidance notes where necessary to

investigate alternative solutions such as a Memorandum of Understanding or undertakings from retailers on this issue.

Fees, charges and transaction costs

- Support proposal regarding metering reading charges.

Metering types and access arrangements

- Consider the purchase or lease of a meter be a commercial arrangement with the ENO or ENM to ensure that costs are recoverable by the ENO.
- Recommend that, although no compensation should be payable to the ENO for unrecovered costs of a meter, the ENO should not be liable for any costs in association with the installation of a replacement meter. Replacement meter costs should be borne instead by the retailer seeking to replace the meter.
- Recommend provision of explicit direction around grandfathering of metering (e.g. where a meter fails in an EN installed prior to January 2012, costly network upgrades may be required to support the replacement of a single meter with a 'market meter' as opposed to a simple NMI compliant meter).
- Recommend clarification on what types of meters are required for different ENs installed prior to 2012 to remove confusion as to the specific metering requirements for existing networks.
- Do not support proposal for ENO to act as if they are the Responsible Person in relating to the metering standards of schedule 7.3 of the NER. ENM rule change was developed to separate market activities (managed by ENM) and other activities by existing ENOs.

Who must appoint an ENM?

- Support the proposal as to who may defer appointment of an ENM as this recognises the lack of economies of scale to support ENM costs

help resolve any implementation issues with the new requirements.

We do not agree that the scope of our amendments should be restricted to the ENM matters set out in the AEMC determination. The AEMC determination referred to several matters outside the scope of the rule change which they recommended the AER address. It is this context we have amended the meter maintenance requirements. We do not agree that meters that are used for retail settlement purposes in embedded networks should be subject to less onerous requirements than any other meter used in a retail settlement. No evidence has been provided in any submission to demonstrate why this would be consistent with the NEO.

Who pays for the ENM?

We have clarified that rebates based on multiple sites are permitted.

The submission does not offer reasons why the AER should adopt a different approach to cost recovery for ENM costs. Our position is that the ENM fee must be absorbed by the exempt embedded network service provider. We expect that any costs incurred by the ENO will result in reduced discounts that are shared across an embedded network customer base. Also, it is not apparent the ENM costs will be on-going. If ENM costs are billed per transaction, the costs may be very low if no customers leave the network. The SCCA has not explained why cost recovery from

across a small number of customers in a network.

- Support proposed customer threshold of 30 for immediate appointment.

Who pays for the ENM?

- Support proposal that ultimately it is the customer that will pay the costs associated with an ENM.
- Recommend ENOs be permitted to contract the same ENM for multiple sites.
- Recommend ENM cost recovery on a user pays basis with costs not specifically identifiable recovered from the entire EN customer base.
- Do not support ENOs absorbing ENM costs or costs being recovered from EN customers that do not utilise the service of an ENM.
- Recommend requirement that ENM costs be identifiable on a customer's bill.

External dispute resolution

- Do not currently support proposal that ENOs be required to join an Ombudsman scheme where such a scheme is open to them. There are many issues that need to be resolved concerning the practical application and appropriate financing.
- Recommend AER specify that existing low-cost dispute resolution associated with retail leases (e.g. VCAT, NCAT etc.) be appropriate for shopping centre ENs.

Pricing

- Support principle of notification of tariff changes but may be practical issues with ENOs providing notice to an EN customer no later than the EN customer's next bill. Timing of the billing cycle may mean this occurs after the next bill.

customers would better satisfy the NEO.

External dispute resolution

We have amended our dispute resolution requirements to recognise commercial and/or residential tribunals may exist and be available to address disputes. We also have created a discretion for the energy ombudsman to determine if an exempt embedded network service provider is eligible to join their scheme.

Pricing

So long as a customer is not billed on the basis of a change in network tariffs until they are notified of the change, there is no issue with a delay in notification of tariff changes.

Access to retail competition

Condition 4.1.12.1(c) is not intended to prohibit the recovery of costs directly incurred if a customer or their retailer changes the metering installation. We have added a footnote to make this distinction clear.

Network conversions – supplementary conditions

Price matching is an option which we allow as an alternative to direct connection to a distributor. Therefore, there is no compulsion on an embedded network operator to price match. We intend price matching to be based on bona fide offers, as noted.

We have amended condition 4.9.7 to remove the three month minimum and add 85% threshold for

Access to retail competition

- Recommend amendment to condition 4.1.12.1(c) that prevents 'imposing a requirement for compensation for lost capital, income or profit by a customer exercising the right to access a market retail offer'. This may incur unfair costs upon an ENO as a result of infrastructure changes required to facilitate the customer transfer (e.g. the potential incompatibility with the parent meter or switchboard).

Network conversions – supplementary conditions

- Do not support price matching for large customers. ENOs may have to sell at a loss in order to price match. This is particularly relevant as the impact of a network conversion to a large tenant can be negligible.
- Recommend amendments to small customer price matching to accommodate practical difficulties of matching offers that often include conditions such as contract length and pay-on-time discounts. ENOs should be required to price-match only bona fide comparable offers.
- Do not support a specified timeframe (three months) for conducting a communications campaign to gain consent for conversion. The critical requirement is that tenants be appropriately informed not that an arbitrary timeframe be applied which could unnecessarily extend the overall application process.
- Recommend that further clarity be given as to what constitutes a 'substantial majority of tenants' in terms of a consent threshold. At the AER forum held on 26 September 2016 it was commented that this would be 'well over 80%'.
- Recommend clarity be given that tenants who are already market customers should not need to be consulted on a proposed conversion.
- Recommend clarity be given that tenants cannot unreasonably withhold consent (e.g. if offered the same price or better).

Other issues

We also agree that the requirements in the guideline have become complex and may be difficult to apply for less sophisticated players caught by these requirements. To address this problem we will work with the industry to produce simplified guides for affected groups that address this concern.

We will monitor industry outcomes and revise the guideline as necessary.

	Other issues • Recommend AER develop 'customer-friendly' fact sheet (or similar), which ENOs can use to help provide context and explanation for the new regulatory framework and operational issues (particularly issues such as double-billing and network charges). • Recommend an informal review of Guideline in 12 months once operation and effect of ENM on market becomes more apparent.	

22 Ashurst	**Definition of large corporate entity**
	• Consider that if the definition is expanded as proposed, 'large corporate entity' would continue to be limited in application to well informed, sophisticated entities with the bargaining power to protect their own interests.
	• Recommend definition be further amended to capture:
	  ○ a public company as defined in section 9 of the Corporations Act 2001; and
	  ○ an entity that is part of a corporate group where an entity in the corporate group fulfils the financial and/or staffing criteria specified in 45A(3).
	• Recommend clarification as to whether the reference to 'financial and/or staffing criteria' means:
	  ○ the relevant entity has to satisfy 2 of the criteria specified in section 45A(3) of the Act (which we understand to be the intention as this aligns with section 45A(3)); or
	  ○ the relevant entity has to satisfy all 3 of the criteria specified in sections 45A(3)(a) to (c) of the Act.
	Effect of Network Exemption Guideline on current individual exemptions
		We have adopted a number of the drafting suggestions contained in this submission.
		Definition of large corporate entity
		We have expanded the definition of large corporate entity and include text to clarify the scope of changes affecting individual exemptions.
		Effect of Network Exemption Guideline on current individual exemptions
		We have added text to make clear that this guideline also applies to individual exemptions which relate to any retail selling activity described in table 1 or table 3.
		Access to retail competition
		We do not believe the concept of 'reasonable' can be adequately explained in the guideline as it is intrinsically linked to specific circumstances. Although unfortunate, if embedded network costs are high, some degree of disputation is inevitable in these circumstances.
		Table headings – selling and supply

	• Consider the statement 'individual exemptions granted by the AER and published on the AER's website are unaffected by changes to this Guideline' creates considerable uncertainty for holders of existing individual exemptions:
	  ○ ENM rule change deems all exemptions are subject to the ENM conditions unless AER determines to defer but position is not clear in the draft guideline.
	  ○ If individual exemptions are not subject to revised guideline are they to continue to be governed by the current guideline?
	  ○ A number of changes made in draft guideline clarify matters relating to holders of individual exemptions (e.g. definition of large corporate entity and which general conditions apply to individual exemptions).
	• Recommend revised guideline apply to all exemption holders.
	Access to retail competition
	• Recommend clarification be provided as to what may be considered 'unreasonable' in relation to condition 4.1.12.2 and 4.2.2.3 that stipulate an ENO must not unreasonably prevent an EN customer from arranging, at their own cost, a direct connection to a local distributor.
	• Consider this condition will be relied upon by EN customers in jurisdictions where access to retail competition is not available through parent-child metering. Defining 'unreasonable' may minimise the likelihood of dispute.
	Table headings – selling and supply
	• Recommend the words 'or supply' be added to the heading of table 8 for consistency with other amendments.
	Distribution loss factors
	• Recommend clause 4.5 be amended to clarify whether AER approval is
		Noted.
		Distribution loss factors
		We have rewritten the clause concerning DLFs to be consistent with the style of the rest of the guideline and better explain the requirements for annual reporting for large energy users and suppliers.
		Pricing – Charge Group C; Charging customers
		We have clarified our drafting around charging in charge group C.

or is not required in regards to distribution loss factor methodology.

Pricing – Charge Group C

- Recommend description of Charge Group C (Value Added Services) be amended to indicate it captures network activities such as connection services, use of system services, operation and maintenance (or any other network related service agreed between the parties).
- Consider the current description has been used by some stakeholders to assert Charge Group C does not capture network services mentioned above as these are not value added but essential to the supply of electricity.
- Recommend description in Table 11 be amended consistent with amendments to clause 4.6.1.3 by adding ‘, large corporate entities’ between the words ‘Large customers’ and ‘and network specific activities’.
- Recommend clause 4.6.1.3 be amended to clarify whether:
    - if the reference to large customers in paragraph 5 is also intended to limit the words “commercial, industrial and mining situation’ and not just the words “private network” (which would be captured by paragraph 3 in any event) and
    - if the qualification in paragraph 3 also applies to “commercial, industrial and mining situations” (i.e. the relevant qualification being that charge groups A and/or B apply if commercial agreement cannot be reached).

Charging customers

- Recommend clause 4.6.4(a) (ENO may not levy charges that would not be charged by local area distributor under a standard contract) be amended to clarify if it is:
    - intended to limit the nature of the charges (similar to the

		limitation to charges which apply in normal circumstances in clause 4.6.1.1 for which the supporting schedule has been provided); and ○ not intended to limit an ENO recovering internal network changes (if permitted under clause 4.6.3 and Charge Group C).	
23	Caravan & Camping Industry Association of NSW	**Fees, charges and Transaction Costs** • Support proposed amendments to section 4.6 including in relation to late payments and manual meter reading charges. However, state based legislation specific to the caravan park industry restricts what caravan park operators can charge. **Metering types and access arrangements** • The requirements for all new metering installations and to any reconfiguration of an existing metering installation within an EN are generally reasonable but recommend clarifying: ○ clause 4.2 to make explicit ENO does not pay for meter upgrade if retailer or on/market customer replaces meter ○ clause 4.2.2.1 to make applicable to new and replacement meters ○ clause 4.2.2.3 to make explicit that a purchase or lease of an existing meter is negotiated by both parties • The prohibition on measures which impede competition should be redrafted to ensure it is not retrospective. • Requirements of 4.2.2.5 on meter accuracy testing seem reasonable but request the obligation to provide information about testing be met by inclusion on a customer's bill. • Do not support proposed amendments to section 4.3 requiring the maintenance standards as set out in schedule 7.3 of the NER. The	**Fees, charges and Transaction Costs** Based on this submission and similar submissions from the Energy and Water Ombudsman, NSW, the Caravan Parks Association of QLD and the Residential Tenancies Authority, Qld, we accept that class NR4 should be allowed to defer the appoint of an ENM. Also, the provisions for non-appointment of an ENM should apply to long-term residents of these sites. By imposing a requirement for a delay of 40 business days in clause 4.7 we expect transient residents will not be able to trigger a requirement to appoint an ENM and, if they were to do so, it would be at their own cost. **External dispute resolution** We have amended our dispute resolution requirements to recognise commercial and/or residential tribunals may exist and be available to address disputes. We also have created a discretion for the energy ombudsman to determine if an exempt embedded network service provider is eligible to join their scheme. **Metering types and access arrangements** We agree that the cost of meter replacement in clause 4.2(d) was possibly ambiguous – this cost is

language and requirements of this schedule are too complex for operators of ENs in holiday parks and residential land lease communities to understand and implement. Such requirements should be detailed in the Network Exemption Guideline.

Who must appoint an ENM?

- The AEMC's rule change places an unnecessary compliance and cost burden on the operators of embedded networks in holiday parks (short stay) and residential land lease communities (permanent residents) in NSW (which fall within Classes ND3, NR4 and NR05).
- The limitations placed on utility charges in residential land lease communities under the *Residential (Land Lease) Communities Act 2013 (NSW)* and the *Residential (Land Lease) Communities Regulation (NSW)* effectively removes the incentive for residents to go on-market:
    - May charge no more than standing offer price of local area retailer if customer receives 60 amps or more.
    - May charge no more than 70% of the standing offer price of local area retailer if customer receives less than 60 amps but more than 30 amps.
    - May charge no more than 50% of the standing offer price of local area retailer if customer receives less than 30 amps but more than 20 amps.
    - May charge no more than 20% of the standing offer price of local area retailer if customer receives less than 20 amps.
- Support class ND3 not being required to appoint an ENM unless a customer enters into a retail contract but references to 'rental' and 'tenancy' is inaccurate in the context of short term holiday accommodation.
- Recommend NR4 class (regardless of the number of customers) not be required to appoint an ENM unless a customer enters into a retail

borne by the customer or retailer replacing the meter.

We agree that the requirements in the guideline have become complex and may be difficult to apply for less sophisticated players caught by these requirements. To address this problem we will work with the industry to produce simplified guides for affected groups that address this concern.

Who must appoint an ENM?

We have accepted the compliance and cost burden on the operators of embedded networks in holiday parks (short stay) and residential land lease communities (permanent residents) justifies an amended approach.

Who pays for the ENM?

We believe our amended approach to class NR4 will address these concerns.

Eligible communities

It was our intention that residential land lease communities fall within definition of 'eligible communities'. We have made a change to reflect this point.

Non-appointment and reversion

As noted above, Residential land lease communities will be 'eligible communities'.

Information provision

Our provision requires that information be given both initially and on request. We think this concern

contract.

Who pays for the ENM?

- ENM are unnecessary for residential land lease communities and result in additional costs for operators to bear without a means of cost recovery through utility billing. Operators will have to resort to site fee increases to the detriment of customers largely in need of affordable housing.
- We agree with a 'user pays' model for ENM cost recovery. However, because NSW legislation prevents ENM cost recovery from the customer base of utility users in residential land lease communities, there is no incentive for customers to vote for fees to be recovered on a user pays basis instead.
- Recommend that ENOs recover ENM costs from the retailers of on-market EN customers. Should the retailer not agree the costs of the ENM are 'reasonable costs' the parties may seek a binding determination from the Ombudsman.

Eligible communities

- Residential land lease communities will not fall within definition of 'eligible communities' as property is not shared with residents and energy savings which are passed through to residents are usually the result of the residential land lease community operator (a separate legal entity) choosing to share the cost benefits of their commercial energy contract. Residents in a residential land lease community don't generally "participate consensually in a group buying scheme".
- Throughout condition 4.7 the words "eligible members", "eligible residents" and "network customers" appear to be used interchangeably. This causes confusion.

Non-appointment and reversion

is misplaced.

Network conversions – supplementary conditions

Noted.

Other issues

We have made a number of minor drafting amendments in response to this submission.

- Recommend condition 4.7.2 be redrafted to make it easier to be understood by less sophisticated operators, as they are the primary audience of the clause (i.e. non energy industry affiliates).
- Holiday parks are not included as eligible communities and therefore are not able to cease to engage an ENM if no-market customers are in the EN). AER could address this by accepting applications for reversion eligibility.
- Price matching under condition 4.7.2 appears to be linked to network conversions. Need to clarify whether this is the case.

Information provision

- Overall, amendments set out in section 4.8 appear reasonable regarding the provision of information, contact details and maintaining records except:
    - Unbundled bills – the AEMC's recommendation was for unbundled network and retail charges to be available to a customer upon request but section 4.8.1 of the proposed Network Exemption Guideline revision obligates the unbundled tariff information be given to customers at the start of their tenancy/electricity sale agreement. Do not believe that this is a useful time to provide the information if it is supposed to help customers make energy offer comparisons. If this method is adopted anyway, we ask that the AER provide guidance to assist less sophisticated operators in how to provide such information.
    - 24-hour emergency contact line – not all ENs have the capacity to provide this service and so it should be amended to reflect this.

Network conversions – supplementary conditions

- We anticipate network conversions are unlikely to occur in industry. Where they do, we agree that some of the proposed requirements in

section 4.9 reasonably strike the balance between the rights of different customers in favour of potential benefits if a conversion were allowed. However we recommend:

- Section 4.9.1.3 be reworded to exclude a person's capacity to provide consent as this is covered by the common law.
- Section 4.9.2.3 be reworded to provide clarification as to how an ENO must engage with prospective customers who do not consent, and seek to mitigate their concerns.
- Sections 4.9.2 and 4.9.4 on offer matching should be reworded to replace the word "fulfil" with the words "respond to". This would clarify that price matching is not mandatory.
- Section 4.9.7 be amended from requiring a marketing campaign be conducted for at least 3 months to requiring a communications plan to be carried out to gain the consent of a substantial majority. A 3 month campaign is inappropriate for smaller network conversions.

Other issues

- 1.2 'Who should read this guideline?' should include holiday parks and residential land lease communities.
- Support proposal to refer to 'supply' of electricity rather than 'selling' to better reflect the distinction between network exemptions and retail exemptions.
- Mentions of 'caravan parks", "residential parks" and "manufactured home estates" should also include references to "residential land lease community".
- Section 4.4.3 'registration required when ENM is appointed' should be clarified to explain whether ENOs with deemed exemption ND3 are required to register once an ENM is appointed and, if so, what they

should register under.

24	Residential Tenancies Authority	**Fees, charges and transaction costs** • Under the *Residential Tenancies and Rooming Act 2008 (QLD)*, the owner/manager is not permitted to make a profit when on-supplying electricity services to tenants, or charge tenants for the cost of supplying or maintaining equipment, or for time and labour costs in reading electricity meters. • Recommend AER ensure ENOs have registered their ENs for exemption and that EN customers have access to their electricity billing information so customers may exercise their rights and make informed choices. **Who pays for the ENM?** • Recommend clarification as to how ENM costs would be levied on temporary residents. **External dispute resolution** • Consider it unclear whether an EN customer has ability to raise concerns or dispute resolution with the AER. • Consider EN customers who are dissatisfied with fees, charges or transaction costs must be able to address such concerns via proper resolution processes.	**Fees, charges and transaction costs** Based on this submission and similar submissions from the Energy and Water Ombudsman, NSW, the Caravan & Camping Industry Association of NSW and the Caravan Parks Association of QLD, we accept that class NR4 should be allowed to defer the appoint of an ENM. Also, the provisions for non-appointment of an ENM should apply to long-term residents of these sites. **Who pays for the ENM?** By imposing a requirement for a delay of 40 business days in clause 4.7 we expect transient residents will not be able to trigger a requirement to appoint an ENM and, if they were to do so, it would be at their own cost. **External dispute resolution** We have amended our dispute resolution requirements to recognise commercial and/or residential tribunals may exist and be available to address disputes. We also have created a discretion for the energy ombudsman to determine if an exempt embedded network service provider is eligible to join their scheme.