



# **Reasons for Decision - Amended Network Exemption Guideline - Version 6**

1 March 2018

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AER Reference: 63082 / D18-27692

#### 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 <i>Corporations Act 2001</i> (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.
Dedicated Connection Asset	Has the meaning specified in chapter 10 of the NER.
Eligible community	Has the meaning given in conditions <b>Error! Reference source not found.</b> and <b>Error! Reference source not found.</b>
Embedded network	Has the meaning specified in chapter 10 of the NER. A type of exempt network.
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. A type of Exempt Network Operator.
Exempt network	A network owned, controlled or operated by a person required to be subject to a network exemption in accordance with clause 11(2) of the NEL.  Exempt networks:

1. are connected (either directly or indirectly) to the National Electricity Market
2. are not otherwise registered as a network with AEMO by a registered distributor or transmission business
3. supply electricity to a third party

Exempt Network Operator (ENO)	A person engaged in the activity of owning, controlling or operating an exempt network in accordance with an AER network exemption.
GWh	GigaWatt hour
Large customer	Means a non-residential customer who consumes energy at non-residential 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 <i>Corporations Act 2001</i> 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.
Minimum services specification	Has the meaning specified in chapter 10 of the NER.
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.
Metering coordinator	Has the meaning specified in clause 2.4A.1(a) of the NER. For the purposes of condition <b>Error! Reference source not found.</b> , a relevant exempt embedded network service provider is deemed to the metering coordinator.
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	<p>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.</p> <p>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.</p>
On–selling, selling	<p>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.</p>
Parent connection point	<p>Has the meaning specified in chapter 10 of the NER.</p>
Public Register	<p>Public Register of network exemptions</p>
Registered distributor	<p>A market participant registered with AEMO as a distribution network service provider in accordance with clause 2.5.1(a) of the NER.</p>
Residential customer	<p>Means a customer who purchases energy principally for personal, household or domestic use at premises.</p>
Retailer	<p>Means a person who is the holder of a retailer authorisation for the purposes of section 88 of the Retail Law.</p>
Retail Law	<p>National Energy Retail Law</p>
Sell	<p>The provision of electricity in exchange for money.</p>
Small customer	<p>Means a customer–  who is a residential customer, or  who is a non-residential who consumes energy at non-residential premises below the upper consumption threshold, as defined by the relevant jurisdiction. If no threshold is defined, 100 megawatt hours per annum for electricity.</p>

# 1 Guideline consultation process

## Rule change

On 23 May 2017, the Australian Energy Markets Commission (AEMC) released the Transmission Connection and Planning Arrangements Rule Determination. This Rule is intended to improve transparency, contestability and clarity in the transmission connection framework. The rule requires the AER to consult and, by 1 March 2018, amend the AER's Network Exemption Guideline to give effect to the new rule.

The Electricity network service provider registration exemption guideline sets out the AER's approach to network exemptions. The guideline includes a list of the categories of activities that are exempt from the requirement to register as a distribution or transmission network service provider, which can range from small networks within a single building (such as shopping centres) or sites (such as caravan parks) to large rural networks serving primary production facilities. The guideline also set out the conditions imposed on parties under each exemption category.

A primary purpose of the guideline has been to provide protections to consumers within those networks.

The AEMC's rule change expands the purpose of the guidelines and concerns an open access regime to enhance the ability of generators or large loads to connect to transmission networks via existing privately operated connection assets. The rule requires the AER to amend the guideline and procedures regarding exemptions from the requirement to register as a dedicated connection asset service provider with respect to the ownership, operation or control of a dedicated connection asset, including accommodating any conditions of exemption.

Under the new rule, AEMO will maintain and publish a list of all parties registered as a TNSP with respect to a dedicated connection asset, and whether that asset is classified as large or small. We will maintain and publish a list of those parties that we have exempted from the requirement to register as a TNSP in respect of these assets. Together these lists will provide greater transparency for Registered Participants, market bodies and other interested parties as to what these assets are, where they are located, how long they are, who owns, operates and controls them and how they are regulated under the NER.

While the rule change only requires amendments to the Network Exemption Guideline that relate to aspects of transmission connection, we have taken the opportunity to seek stakeholders views on a number of other proposed amendments concerning matters that have come to our attention since the last version of the Guideline was published in December 2016.

## Consultation process

As is our practice for the development of all our guidelines, we are informed 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 17 November 2017 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 15 January 2018.<sup>1</sup>
- We issued an email notification to subscribers registered for the AER's notification service.
- On 14 December 2017 we conducted a public forum by video conference from the AER offices in Adelaide, Brisbane, Canberra, Melbourne, Sydney and Hobart.

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.<sup>2</sup> Our determination also details the reasons for our decision.<sup>3</sup>

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.

## Submissions

We received 17 submissions, which are published on our website. We also met with the PIAC, SCCA, CCIA and CPAQ. 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.

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<sup>1</sup> NER Clause 8.9(b)

<sup>2</sup> NER Clause 8.9(g)(4)

<sup>3</sup> NER Clause 8.9(k)



## 2 Reasons for decision

The topics of this Guideline review can be divided into three broad areas:

- Dedicated Connection Assets (Transmission Connection and Planning Arrangements rule change)
- Generator connections
- Protections for energy consumers

For Guideline changes relating to Dedicated Connection Assets refer to Section 2.1.

For Guideline changes relating to the connection of generators of 5MW capacity and above, refer to Section 2.2.

For Guideline changes relating to protections of energy consumers, refer to Section 2.3.

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. Towards the end of each section we present and respond to other matters raised by submissions but not otherwise captured in our issues paper.

### 2.1 Transmission Connection and Planning rule change

The connections aspects of the final rule will commence on 1 July 2018, and the AER must amend the electricity network service provider registration exemption guideline<sup>4</sup> to reflect the rule change by 1 March 2018.<sup>5</sup>

The amendments required to give effect to the AEMC's rule change are relatively straightforward. In the consultation we proposed the primary changes to the guideline stemming from the rule change could involve three amendments:

1. to explicitly include large dedicated connection assets (LDCAs) within the exemptions framework, with a new class for registrable exemptions (NRO6) for parties that own, operate or control LDCAs;<sup>6</sup>
2. to explicitly include small dedicated connection assets (SDCAs) within the exemptions framework, with a new deemed registrable exemption class (NDO8) for parties that own, operate or control SDCAs;<sup>7</sup>
3. to outline our approach for the administration of the access policy condition for LDCAs, and our approach to establishing and publishing an Existing Dedicated Connection Asset Owner register.

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4 Developed under clause 2.5.1(d) of the NER

5 As per clause 11.98.3(a) of the final rule

6 Inserting Clause 2.5.1(d3) of the NER

7 We have not adopted this proposal. Instead, we have applied a registrable class - NRO7.

These changes are intended to increase the visibility and accountability of parties responsible for dedicated connection assets which connect individual users to the shared transmission network and, in relation to these connection assets, to further the principles of open access in the National Electricity Market.

We also consulted on the open question, 'what other conditions should the AER consider applying, on a case by case basis, to NRO6 and/or NDO8 exemption holders for parties who own, operate or control dedicated connection assets?'

## 2.1.1 Exemption classes, access policies and existing assets

### Issues raised in submissions

No submissions opposed the AER's approach to explicitly include large and small dedicated connection assets through the formation of two new exemption classes NRO6 and NDO8. Similarly, no stakeholder objected to our approach for the administration of the access policy condition for Large DCAs. However, EnergyAustralia commented that further direction was required on the process to register existing Dedicated Connection Assets. At the public forum, the AEMC raised concern that to facilitate transparency in the market all DCAs should be identified on the AER register, both small and large.

### AER reasons for decision

The AER currently provide a web interface to give effect to the registration of network exemptions. All registrations are published as public information.<sup>8</sup> Exemption registrations for Dedicated Connection Assets (DCAs) are to be submitted via the existing online registration form used for the registration of exempt networks. The online form will allow users to register both small (i.e. up to 30km) and large (i.e. >30km length) DCAs. This will address the concern raised by the AEMC at the public forum that all DCAs, irrespective of size, should be visible to the market. This transparency is so the market knows where the DCAs are located and who owns and operates them in order to provide a comprehensive and coherent transmission connection and planning framework

TNSPs which control large DCAs are required to register the assets with AEMO and, within 30 days, lodge a connection policy to the AER for approval. Other parties granted exemption by the AER under NRO6 will be subject to the conditions set out in Clause 2.5.1(d3) and Clause 2.5.1(d4) of the final rule determination, including:

- **Negotiating principles**<sup>9</sup>: setting out the rules for negotiating connections to a large DCA by a connecting party and a Dedicated Connection Asset Service Provider (DCASP). These incorporate negotiating principles under the new schedule 5.12;
- **Access policy obligations**: requiring the DCASP exemption holder to create, publish and be bound by a 'third party access policy' as administered by the AER;<sup>10</sup> and

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<sup>8</sup> <https://www.aer.gov.au/networks-pipelines/network-exemptions/public-register-of-network-exemptions>

<sup>9</sup> As per 5.2A.6(c) in the final rule

<sup>10</sup> As per 5.2A.8 in the final rule

- **Commercial arbitration:** requiring the exemption holder to comply with the commercial arbitration process set out in Rule 5.5, to resolve any access disputes.<sup>11</sup>

In relation to Large DCAs, these conditions have the effect of requiring the exempt DCASP to be bound to a similar requirement to lodge a connection policy with the AER for approval and to be subject to the same principles, obligations and arbitration requirements as a TNSP. They will also be subject to the AER's general conditions set out in condition 4.1 as modified by table 6, and conditions 4.2.1 (the operation of exempt transmission assets) and 4.6.1.3 (network charges).

In response to the AEMC's issue of a need for transparency as raised at the public forum, we have reviewed the draft rule as it relates to registration of small DCAs. Rule 5.2A.2 (a) states in the table that DCAs must be registered by a DCASP. It does not distinguish between small or large DCAs. We therefore agree with the AEMC that it would be inconsistent for any exempt DCASPs to be treated differently to registered DCASPs. We will not proceed with class NDO8. Instead, small DCASPs will be registered in new category NRO7.

Small DCASPs will be subject to the AER's general conditions set out in condition 4.1 as modified by table 6, and conditions 4.2.1 and 4.6.1.3. However, they are not subject to the additional requirements contained in clauses 2.5.1(d3) and (d4) set out above, which only apply to large DCASPs. In particular, these requirements mean small DCASPs must operate their assets safely, in accordance with normal NEM standards and may negotiate a commercial agreement for access if a request is received and agreed. However, they need not develop or seek AER approval of a connection policy.

We have clarified these arrangements in the Guideline by summarising these requirements under a new, specific section for DCAs (i.e. section 4.10 of the Guideline).

## **2.1.2 Additional conditions for NRO6 and NRO7 (previously NDO8)**

### **Issues raised in submissions**

Energy Networks Australia was the only stakeholder to suggest possible additional conditions of the new exemptions classes for Large and Small DCAs. They suggested the AER add a condition to clarify or limit when changes in contractual arrangements may eventuate.

### **AER reasons for decision**

We consider it is not necessary to make the change suggested by Energy Networks Australia. If ownership or control of an asset changes hands, the requirement to register is captured in rule 2.5.1. There is no additional condition which the AER can impose to vary this requirement. The new party must register and, if large DCAs are involved, must lodge their own version of the connection policy for approval. It may enhance the prospects of acceptance if the policy lodged remains identical to an existing approved policy but this

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<sup>11</sup> As per 2.5.1(d3) in the final rule

cannot be guaranteed. It is incumbent on the AER to examine every policy lodged on its merits.

Other contractual matters may change from time to time, but if they do not affect registration or system operation they will not be of concern in this regard. If the change affected operation of the asset, we expect that matter to be captured within the connection agreement with the TNSP.

## **2.2 Generator and battery connections**

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

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

We also asked whether the exemption class NRO2 should simply be closed to new registrations.

As a second limb to this proposal, we proposed amending the nominal operating voltage of a network required to consult with AEMO from 66kV to 11kV. Network exemption holders will have to consult with AEMO for the safe, reliable or secure operation of the network if the exemption holder operates at a normal voltage of 11kV or more, and have commissioned, or plan to commission the installation of a generation asset that, in aggregate, will supply greater than or equal to 5MW into the NEM.

### **Issues raised in submissions**

No submissions received opposed the proposed amendments. ENA requested further clarity on the application of the 5MW generation capacity threshold (e.g. whether the 5MW generation capacity threshold is to be taken as aggregate at the parent connection or at child connection point). ENA requested further clarification relating to AEMO's ability to review new generator connections in existing registered exempt networks.

AGL submitted that an amendment to the Guideline is an acceptable interim solution but that AEMO should consult on a more targeted solution to tackle the issue of Generation Performance Standards in exempt networks in the future.

### **AER reasons for decision**

We have revised the drafting of the clauses concerning generating capacity to be clear that the aggregate of 5 MW of generation capacity is to be measured at the parent connection point and is not affected whether the generator exports to the grid or all consumption is internal. We consider the AER's conditions do not have retrospective effect. If a particular

installation is considered to be of concern to AEMO, we will work with AEMO and the network service provider to resolve that concern, on a case-by-case basis.

As no submissions opposed the AER's draft position, we have adopted this amendment. We note the AGL suggestion that a more targeted solution be developed to the underlying issue of generator performance standards. This agrees with our view, set out in the issues paper that this condition should be a temporary measure until a long-term solution is developed. This may involve a rule change proposal.

## **2.2.1 Other issues raised by respondents**

### **2.2.1.1 Registration of child generators**

ENA provided comment that child connected generation should be registered with the local distributor at the parent connection point to provide necessary visibility to enable the distributor to manage capacity and security on the network. They detailed specific obligations which they proposed should be required of Exempt Network Operators in relation to child connected generation sources above the local distributor's 'micro embedded generation connection offer':

1. Condition 4.2.3 to submit connection applications to the local distributor for all generation installations and modifications at child connection points in the exempt network. NER chapter 5 or 5A process regarding connection for embedded generation to be followed regardless of intent to export.
2. New condition 4.8.3(h) to maintained records for each child connection generator (inverter type, make, model, type of generation and size). Records to be made available to local distributor upon request.
3. New condition 4.8.1(4) to advise customers in writing once every three years of the need to maintain their generating systems in accordance with safety standards.

### **AER reasons for decision**

We agree with the ENA that greater clarity is needed around the obligations to connect embedded generation. However, the proposed amendments exceed the scope of the matters we have consulted upon. We therefore have not made the changes sought by the ENA in this revision. We note though, that the existing condition 4.1.3 places a general obligation on exempt network operators to provide all information that is reasonably required by a DNSP. We consider that DNSPs may therefore utilise this condition as an interim measure to request more information from embedded networks connected to their networks. This matter can then be subject to a more thorough review as part of a subsequent Guideline consultation at a later date.

## 2.3 Protections for energy consumers

### 2.3.1 Information provision: ENM contact details and parent NMI

In preparing the issues paper AEMO raised concerns that the Embedded Network Manager (ENM) rule change requires that Embedded Network Operators (ENOs) share information about the parent National Metering Identifier (NMI) and ENM details, which is fundamental to the ability of ENOs to provide an ENM service. AEMO considered that ENMs are not equipped with sufficient information to know what services are contestable, and will not be able to operate without knowledge of the location of the parent NMI. To address this issue, we proposed to amend part 4.8.1 to add that the parent NMI and ENM details must be provided to every customer by a notice on customer bills.

#### Issues raised in submissions

No submissions questioned the need for information to be provided to customers or their market retailers to enable the network's ENM to be contacted. Opposition to the proposed condition concerned two issues: the type of information that should be provided; and, the medium by which the information should be communicated.

EnergyAustralia supported the provision of ENM contact details on the bill but not the parent NMI. The provision of parent NMIs on the bills of customers seeking a market retailer at the child connection point could lead to the erroneous transfer of the parent not the child.

Watts Energy, VicParks, CPAQ, CCIA and Veeve Energy all submitted that it should not be the exemption holder but rather the AER that should publish such information. Reasons were twofold. Firstly, customers in exempt networks would be confused by the new information presented on their bills. Secondly, there would be costs incurred in altering billing templates to include this information, especially where billing software is primarily used for the main activity of the exempt person's business (e.g. running a caravan park). For these reasons it was suggested that the information simply be available on request or the exemption holder be required to provide the information to the AER, who in turn should publish this information on the relevant exemption entry on the AER's public register.

#### AER reasons for decision

In response to the issues raised, the final condition includes further amendments to the condition originally proposed in the draft Guideline. The final condition provides that the exempt person must display the name of the Embedded Network Manager on a customer's bill where one has been appointed.

#### Type of information to be provided

The risk of inadvertently transferring the customer at the parent NMI instead of the customer at the child NMI adds confusion to the market transfer process when the intent is to clarify it. Therefore, we will not require the parent NMI to be displayed on the customer's bill. The final condition instead specifies that the ENM's company name should be provided. AEMO has a published list of all accredited ENM's that details their company name and contact details.

Consequently, in lieu of the parent NMI, providing the ENM's company name is the smallest amount of information that will enable retailers to contact an ENM.

In the event that an ENM has yet to be assigned, the exemption holder will need to be contacted directly by the retailer so an ENM can be appointed.

### **How information should be communicated**

A customer's bill is one of the most effective means of communication for information relating to a customer's consumption, costs and identifying information. In the wider energy market, a customer's NMI is displayed on their bill. This provides the necessary information to identify the customer should they wish to exercise their right to access an alternative retailer. This is a well-established practice in the industry. Conversely, most customers (and likely many retailers) are unaware of the AER's Public Register of Network Exemptions. Moreover, it seems both more practical and a more effective way of providing information for the ENO to provide information about themselves to the customer directly rather than via a third party such as the AER.

We appreciate that the majority of customers will be unfamiliar with the role of the ENM and its inclusion on customer bills may lead to queries about this information. We consider that over time this may lead to increased consumer awareness of the ENM.

We note that a cost may be incurred in changing billing templates to include this new requirement but we do not agree that this cost is likely to be excessive. We also note that our requirement that the ENM company name be displayed once an ENM is appointed will not apply to all exempt networks. Exempt networks where customers are unlikely to seek an alternative retailer will not be effected by this provision. For these networks, there will be no need to alter billing templates. Where an ENM has not been appointed, the exemption holder must be contacted directly to initiate appointment of an ENM. However, we note that the condition 4.8.2 of the Guideline already provides that contact details be provided to customers for account inquiries and complaints.

### **2.3.2 Dispute resolution and ombudsman scheme access**

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

#### **Issues raised in submissions**

Submissions received on this topic were split according to the nature of the stakeholder with ombudsmen, customers and consumer groups in favour of the condition and caravan park peak bodies and an embedded network business opposing. Some of those in favour submitted that the AER should consider expanding the condition to those who supply energy to small business customers.



Stakeholders objecting to the condition cited the costs of membership and the duplication of pre-existing alternative avenues for dispute resolution.

### **AER reasons for decision**

The AER have previously consulted on the issue of whether an ombudsman scheme should be available to exempt customers through the membership of exemption holders and what type of exempt customers should be included.<sup>12</sup> Through that consultation we considered it appropriate to expand ombudsman access to residential exempt customers.<sup>13</sup>

Consultation on the issue for the Network Exemption Guideline review relates to the drafting of the condition (as opposed to the policy position) and whether we should harmonise the condition across the both the Network Exemption and Retail Exempt Selling Guidelines. Regardless of their position in relation to the membership of ombudsman schemes, the vast majority of stakeholder submissions recognised the importance of harmonising the condition across both Guidelines.

We note that appropriate membership and fee structures for exempt entities have not been settled and it is the decision of each ombudsman scheme to reach an appropriate position on both. Caravan parks in particular have voiced their concerns about membership fees. The ombudsman schemes are actively considering this issue and are committed to ensuring membership and fee structures are not overly burdensome on smaller operators, and as far as possible, remove any cross-subsidies from other members.

On the matter of the availability of pre-existing dispute resolution access, we contend that no submission has identified an external dispute resolution body that is free to access, independent and binding. We consider these attributes are particularly important in a dispute resolution body for residential exempt customers, especially in light of the higher levels of vulnerability amongst some exempt classes. Moreover, the decision to open ombudsman membership to exempt parties lies with the jurisdictions (for example, legislative change will be required to open the ombudsman scheme to exempt customers in Queensland). Our condition only provides the jurisdictions with the option.

We do not propose, at this time, to expand the scope of this provision to include exempt persons who supply energy to small business customers but we may return to this issue at a later in a future Guideline review.

The intent of the relevant conditions (condition 6 and 13) as proposed in the draft Guideline has been adopted in the final Guideline.

### **2.3.3 The meaning of 'own, operate and control'**

Section 11(2) of the NEL provides that any person engaging in the activity of owning, controlling or operating a transmission or distribution system must register as a Network

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<sup>12</sup> [AER review - Access to dispute resolution services for exempt customers - June 2017](#)

<sup>13</sup> Our final policy position on access to dispute resolution services for exempt customers is detailed in the AER's [Notice of Draft Instrument - Amendments to the Retail Exempt Selling Guideline - November 2017](#).



Service Provider with AEMO or be subject to a network exemption from the AER. 'Ownership' is an unambiguous concept and 'control' implies an authority to act or direct. However, operation can be understood rather broadly. Over time we have received a number of queries from the public which seek to establish whether certain activities are considered to involve operating a network.

The previous version of the Network Exemption Guideline provided some guidance as to which parties require exemption by offering the example of an electrician and a person who regularly reads the meters. The person who regularly reads the meter is considered to operate the network while the electrician conducting repairs is not. With the increasing numbers of exempt networks and providers of exempt network services there has also been an increase in the multitude of different contractual parties involved in the day to day running of some exempt networks. In these circumstances, it has become increasingly difficult to accurately identify which parties are considered to operate a network.

To provide further guidance on this matter, we asked the question:

*should the AER clarify the meaning of 'own, operate and control' with further illustrative examples in the guideline beyond the activities set out in table 1.2? If so, what activities are unclear to stakeholders?*

## Issues raised in submissions

We received two submissions that commented on this issue.

Watts Energy recommended taking a narrow interpretation of ownership to limit the number of entities required to be party to a network exemption. The increasing professionalisation of services for exempt networks has resulted in many different contractual parties being involved in the day to day running of the network with changes in these contractual arrangements occurring on a regular basis. Any definition of operation should not result in the continual registration and deregistration of contracted parties.

SACOSS's submission explored the nature of 'operation' and concluded that facilitating sales to customers is not 'operation' nor are all activities that may be considered to constitute providing a network service e.g. billing agents. Instead of ensuring all parties are subject to the network exemption, the focus must be on the chain of accountability.

## AER reasons for decision

The final Guideline does not contain any amendments in relation to the question of network operation. We acknowledge that the increasing professionalisation of the market comes with increasingly complex contractual and sub-contractual relationships. There is therefore a strong argument to take a narrow definition of operation and emphasise that exemption holders are responsible for the actions of parties in their employ.

### 2.3.4 Meter read frequency

Some stakeholders have noted that some customers may benefit from flexible payment arrangements, such as weekly billing, that may assist customers in organising their finances.

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

Consequently, we asked for stakeholder responses to the question of whether the restriction to meter reads of no more than once per month should be relaxed to allow more flexible, weekly payments.

### **Issues raised in submissions**

We received a wide range of views on this subject, but the general theme emerging from submissions was that flexible payment options should not mean extra costs were imposed on the customer. Conversely, CCIA submitted that more frequent meter reads should only be permissible where an exemption holder can charge for the extra reads.

PIAC and EWON both commented that the condition only prevents *charging* for more frequent reads. EnergyAustralia noted that they offer flexible payment arrangements without the need to conduct more frequent meter reads (e.g. a monthly bill can be divided into weekly payments).

EWON noted the importance of billing frequency not exceeding the fortnightly payment calendar common to both Centrelink and many employers. This would potentially have the perverse effect of increasing the difficulty for customers to manage their electricity payments.

A number of submissions commented that the issue of meter read fees will become less significant as advanced meters are rolled out and more customers are able to benefit from remote meter reads, which should not incur a fee.

### **AER reasons for decision**

We acknowledge that weekly payments may be counterproductive for customers needing to manage their finances through flexible billing if payments exceed the frequency of income. However, provided exemption holders are not able to unilaterally impose a more frequent meter read charge on customers, we would not want to impose restrictions on consumer choice.

As correctly noted in a number of submissions, the condition does not prevent meter reading frequency in excess of once a month; it only prevents exemption holders charging for it. However, exemption holders may infer from the condition's wording that more frequent meter reads (and therefore a more frequent billing cycle) is not permitted and consideration should be given to whether more frequent meter read charges may be levied if a customer agrees in order to facilitate a requested and more beneficial billing cycle.

Given the general level of support received for amending this condition, we have implemented two amendments:

1. To clarify the condition in no way restricts more frequent billing cycles or meter reads provided any charges are only levied once a month.
2. To provide that more frequent meter reading charges may be levied should the customer request more frequent meter reads and consents to the extra charges. A customer may withdraw their consent for this arrangement at any time.

## **2.3.5 Other issues raised by respondents**

### **2.3.5.1 Substantive issues**

#### **2.3.5.1.1 Entities entitled to hold exemptions**

Watts Energy's submission requested clarification on the ability of Trusts to hold network exemptions.

#### **AER reasons for decision**

NEL 11(2) and NER 2.5.1 both refer to the exemption of a 'person' engaged in the activity of owning, controlling or operating a network. As a trust is not defined as a legal person, trusts cannot hold exemptions. However, trustees of trusts can hold exemptions.

We have added a text in section 2.2 of the Guideline to clarify this point.

#### **2.3.5.1.2 Deemed exemption classes**

We received a submission from a private embedded network customer who suggested that the deemed exemption class should become registrable. The increased visibility of registrable exemptions would increase the AER's awareness of the complexities of some of these networks which may inform the need to address further matters in the Guideline. Due to the passive nature of attain these exemptions, deemed exemption holders may be unaware of their obligations.

#### **AER reasons for decision**

Deemed classes are largely intended for small-scale supply arrangements where the costs associated with exemption registration would outweigh the benefits of increased regulation. Deemed exemptions were introduced in the original exemptions framework to accord with the principle that the regulatory obligation should be proportionate to the benefits to the customer.

We recognise that there are limitations with this approach as identified by the submission. The AEMC has proposed in its review of the embedded network framework to improve the transparency of all embedded network situations. We consider that the AEMC review is an appropriate forum to resolve this issue. On balance, we consider deemed exemptions should be maintained, pending further decisions by the COAG Energy Council on the AEMC recommendation.

### **2.3.5.1.3 Access to infrastructure and compensation for metering assets**

We received two submissions that proposed exemption holders be compensated for assets removed (meter installations) due to alterations made by an incoming market retailer at a child connection point.

Additionally, VicParks submitted that exemption holders should be permitted to charge internal network fees to market retailers at child connection points (or their customers) and that network alterations required for a customer to access competition should be performed by a licenced electrician with knowledge of the network.

#### **AER reasons for decision**

We do not consider that an amendment is required in relation to these issues.

Provided the meter is of the appropriate standard, the condition incentivises all parties to negotiate for the lease or purchase of a meter, rather than replace it. Where meters must be replaced, we do not agree that a charging mechanism be imposed to regulate compensation for the stranded asset. An exempt seller should not be placed in a better position than a market retailer if a customer elects to adopt a new retail supplier. Other charges allowed by the Guideline are pegged to the comparable fee published by the local distributor. However, there is no comparable published fee for the range of meter types and depreciation models that will reflect the circumstances of specific exemption holders. We consider that an existing market meter will have a fair market value that will be discovered by negotiation between the parties.

The prohibition of internal network charges is a fundamental principle of the Guideline. Networks are monopoly services and therefore subject to economic regulation. AEMO registered network business undergo periodic determinations by the AER to assess how much a network can recoup from its customer base for the operation of the shared network. As it would be impractical for the AER to provide thousands of individual determinations for each exempt network, we do not permit the charging of internal network charges by exemption holders.

We agree with VicParks that anyone who conducts alterations to an electricity network should be a licensed electrician as this is required by jurisdictional law. There is an advantage in an electrician having knowledge of a particular network. However, limiting the customer or retailer to a specific electrical firm may result in local monopolies which result in exorbitant prices for necessary modification works. Electrical works are undertaken in accordance with a range of electrical standards and are subject to safety inspections. We think these are sufficient protections against improper modifications.

### **2.3.5.1.4 Access to metering installations**

Veeve Energy commented that tenants should be restricted from accessing their metering installation due to safety concerns.

#### **AER reasons for decision**

We note that the Guideline already anticipates this issue. Condition 4.2.2.1 states:

*Where security or safety considerations result in limited access to metering, local arrangements must be made that allow customers or their agents ready access to metering on request and at no cost to the customer. The use of a web portal or other electronic means of providing customer access to metering data is permitted. The provision of an alternative access option does not replace the right of the customer under this condition to physically inspect a meter at no cost at least once every month during business hours or at another mutually agreed time.*

No amendments are required to address this issue.

#### **2.3.5.1.5 Who pays for meter upgrades**

We received two submissions that provided comment in relation to condition 4.2. This condition specifies which party is liable for the costs of meter upgrades. Both submissions support the addition of the table for clarity but considered that more situations should be included.

The submission from the private embedded network customer requested detail be included to specify who pays for a meter where consumption was previously unmetered and the network operator is ineligible for an unmetered exemption class.

The SCCA proposed that the question of who pay should be extended to the costs for minor repairs and maintenance.

#### **AER reasons for decision**

The AER considers that minor repairs and maintenance are operating costs of the network and are treated as internal network costs. Exemption holders are not permitted to charge customers directly for these costs.

Where an exemption holder has not provided a customer with any metering installation where such action is in contravention of the Guideline, the AER would expect the exemption holder to rectify this compliance issue at their own cost. We have therefore clarified this expectation in condition 4.2 of the Guideline.

#### **2.3.5.1.6 Meter operation and maintenance**

The CCIA submitted that the AER should provide additional resources in plain English explaining the requirements of condition 4.3 to assist less sophisticated Exempt Network Operators.

#### **AER reasons for decision**

We acknowledge that the Guideline has a broad audience and appreciate that energy regulation can be a complicated area for exemption holders whose provision of network services is secondary to their primary occupation (e.g. caravan park operators). We intend to produce additional guidance materials to assist caravan park operators to better understand these requirements and will consult with industry bodies in developing these materials.

#### **2.3.5.1.7 Price-matching in small networks**

Veeve Energy's submission proposed that network charges and minimum demand charges levied by distribution networks for small sites be reduced to enable Exempt Network Operators to offer and maintain competitive energy prices. Without such a reduction Exempt Network Operators will be unlikely to sustain price matching with larger retailers if a customer seeks to go on-market.

#### **AER reasons for decision**

This suggestion is outside the scope of the Network Exemption Guideline. It is also likely to fall outside the scope of the AER's current powers under the National Electricity Law and Rules. Further, the AER and other market bodies are guided by the National Electricity Objective (NEO). The NEO provides that we act in the long term interests of consumers. Should distributors be required to reduce network tariffs for small networks, other types of customers will be required to pay a correspondingly increased network tariff. It is difficult to justify the argument that other network customers should subsidise a reduction in network tariffs to enable a commercial energy retail business to remain competitive. The AER supports competition where it advances the long term interests of consumers. It is not apparent this proposal would achieve this objective.

#### **2.3.5.1.8 Recouping network charges for on-market customers**

Veeve Energy submit that Exempt Network Operators should be permitted to recover network charges from an on-market exempt network customer's retailer. Retailers would not be required to provide an energy only offer. This would be more preferable for the customer then receiving a bill for energy charges from the retailer and a separate bill for network charges from the Exempt Network Operator.

#### **AER reasons for decision**

We agree that this is a much more preferable method for network cost recovery but it falls outside the scope of this Guideline review. The conditions of the AER's Network Exemption Guideline can only relate to the network exemption holder but not to registered market participants who do not hold an exemption. For Veeve Energy's suggestion to work, retailers must be obligated to repay collected network charges to the Exempt Network Operator. The NER has a provision to this effect in relation to AEMO registered network businesses but there is nothing similar for exempt networks. The AEMC's Final Report for the *Review of regulatory arrangements for embedded networks* notes this issue. It will likely to be addressed in a future AEMC rule review.

#### **2.3.5.1.9 Connection charges**

Veeve Energy provided comment that exemption holders be permitted to charge a fair and reasonable amount for connections and disconnections where the amount is the same for all their customers. They submitted that it is too burdensome for Exempt Network Operators to continually reference different pricing statements in different distribution zones and update connection and disconnection charges accordingly.

## **AER reasons for decision**

As networks are monopoly services they are subject to economic regulation. The AER is unable to make regular determinations as to what a fair and reasonable amount should be for connections and disconnections conducted by exempt networks. Therefore we must either peg such charges to the AER approved published prices of the relevant local distributor or prohibit the charges for connections and disconnections by exempt networks.

### **2.3.5.1.10 Energy concessions**

Veeve Energy suggested that exemption holders be able to apply for concessions on behalf of their customers.

## **AER reasons for decision**

The AER and our empowering legislation have no jurisdiction over government concessions and which parties are entitled to claim them. This issue is therefore outside the scope of this guideline review.

### **2.3.5.1.11 Life support notification**

Condition 10 of the 'General requirements' listed in 4.2 of the Guideline details the requirements for an exemption holder to communicate known users of life support equipment to both the parent connection point retailer (who is in turn required to inform the local distributor) and the relevant customer's market retailer. Life support customers have extra protections under the National Electricity Law in relation to supply interruptions.

The condition was amended to include the requirement to inform the customer's market retailer during the previous Guideline review (version 5). The amendment mirrors the obligation of a registered distributor. Without this obligation there would be a gap in the regulatory protections for exempt networks.

The condition was further amended as part of the proposed amendments to this version of the Guideline to remove mention of an expired commencement date (1 December 2017) for the obligation to inform a customer's market retailer.

## **Issues raised in submissions**

The Caravan and Camping Industry Association of NSW (CCIA) and Watts Energy both questioned the ability of exemption holders to comply with the condition as the identity of the exempt network customer's market retailer may not necessarily be known to them.

Energy Networks Australia (ENA) commented that exemption holders should also be required to notify parties when they become aware that life support equipment is no longer used by customers within the exempt network.

## **AER reasons for decision**

Although these comments relate to changes amended in the previous version of the Guideline, the issues raised by all three submissions have some merit. We do not intend this condition to impose an obligation that cannot be met so we have refined the condition to



apply where the identity of the exempt network customer's retailer is known. Likewise, we do not intend to add unnecessary burden on market participants by inadvertently adding to the numbers of outdated life support registrations.

#### **2.3.5.1.12 Interruptions to supply**

EWON submit that conditions 18 and 19 of the Retail Exempt Selling Guideline be incorporated into the Network Exemption Guideline. These conditions relate to notification requirements for planned and unplanned interruptions respectively.

#### **AER reasons for decision**

Although this proposal has some merit, we are unable to add new conditions that were not first the subject of consultation. Most customers in exempt networks will enjoy the protection of these conditions via their relationship with an exempt seller. Additionally, we note that exempt network customers are required to have access to a 24 hour contact line in case of faults. We may return to this issue in future Guideline revisions.

#### **2.3.5.2 Information provision**

The CCIA provided feedback that although allowing exemption holders to provide a link to applicable exemption conditions would be much more practical, many caravan park operators had many customers without internet access. The wording of the condition inadvertently required these caravan park operators to send a link to all customers and only provide a paper based copy upon request.

A private embedded network customer submitted that exemption holders should be required to provide information to customers about the exempt network where they have not done so before. Condition 4.8.1 currently stipulates this must occur at the commencement of a tenancy or electricity sales/supply agreement. The condition requires information relating to rights to access retail competition; the availability of internal and external dispute resolution; applicable exemption conditions; charges and fees; and contact details.

#### **AER reasons for decision**

We appreciate CCIA's comments that not all customers have internet access. We confirm that our intent was to increase the available options for communication but agree our proposed amendment may not have had this effect. We have amended the condition to allow flexibility in the use of paper or digital media to communicate a network operators' obligations under their exemption.

We do not consider it necessary to further amend the information provision condition to include an obligation on exemption holders to provide information where they have previously failed to do so at commencement of a customer's tenancy or electricity sales/supply agreement. The condition already provides for information to be provided to the customer at any time upon request. Moreover, if an exemption holder is alerted by a customer that they have not complied with the conditions of their exemption they would be expected to address their compliance issues immediately. Matters of non-compliance will not be resolved by adding further compliance obligations. For example, if the exemption holder



failed to supply the required information to customer's upon the start of their tenancy or electricity sale/supply agreement, they would be expected to rectify this fault by providing the information immediately.

### **2.3.5.3 Private gas networks**

We received a submission from a private embedded network customer advocating for private gas networks to be included in the AER's considerations.

#### **AER reasons for decision**

The Network Exemption Guideline is empowered under the National Electricity Law and therefore can only address matters that concern electricity. This matter is therefore out of this review's scope.

However, in the future the AER may have a role in regulating private (embedded) gas networks. The AEMC's Final Report for the *Review of regulatory arrangements for embedded networks* recommended the establishment of a regulatory framework for gas embedded network operators under the National Gas Law and National Gas Rules.

### **2.3.6 Administrative/editorial issues**

A number of administrative/editorial issues were raised by stakeholders in their submissions. We have summarised these issues and our comments in Table 3 of the second attachment to this document.

## **2.4 Other drafting changes**

We have redrafted a number of provisions to improve readability and to address grammar and typographical errors.

### 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 6 should be published with effect from 1 March 2018.

# Attachment 1 - Summary of changes to the draft guideline

**Table 1 - Summary of changes in page order**

No.	Issue	Source
1	Inserted definition of <i>minimum services specification</i> for metering	CCIA/ENA
2	Refined the use of terms exempt network, embedded network and private network with explanatory text added on use of terms in section 2.1.	Watts Energy
3	Added note regarding the consequence of exemption revocation in section 2.1	ENA
4	Amended 2.2.1 to address inconsistency with condition 4.2.2.2 regarding the application of the minimum specification for advanced metering	CCIA
5	Added footnote 7 to clarify the minimum specification for advanced metering applies to exempt networks in Victoria.	ENA
6	Added content to section 2.2 regarding the ability of trusts to hold network exemptions.	Watts Energy
7	Added note in section 2.2 to explicitly state exemption holders are liable for actions of parties working on their behalf	SACOSS
8	Added guidance on the meaning of site and the coverage of a single exemption in section 2.3	Private Exempt Network Customer
9	Replaced mentions of 'small business customer' with small non-residential customer' to eliminate confusion between business customers who are small customers as defined by energy usage and small businesses as according to generally usage of the term.	AER
10	Replaced 'annual renewal residents' with 'annual renewal occupants' in footnote 24 to maintain distinction between the ND3 and NR4 exemption classes	CCIA
11	Included explicit reference to data centres in exemption class ND09 to maintain consistency with corresponding retail exemption class	AER
12	Changed small dedicated connection asset exemption class from deemed (NDO8) to registrable (NDO7) to align with Transmission and Connection Planning Arrangements rule change	AEMC
13	Corrected reference to Australian Standard for internal dispute resolution condition (4.1.6)	CPAQ; CCIA

<b>14</b>	Added more specific detail to condition 4.1.6 regarding informing customers of a right to access an energy ombudsman scheme.	EWON
<b>15</b>	Life support notification obligation (condition 4.1.10) refined to provide exemption holder only required to inform child connection point retailer a life support customer where the identity of that retailer is known to them.	Watts Energy; CCIA
<b>16</b>	Life support notification obligation amended to include notifying parties when life support equipment no longer used	ENA
<b>17</b>	Added note to section 4.2 to clarify who pays for a metering installation where supply is currently unmetered and unmetered supply is not permitted by the guideline.	Private Exempt Network customer
<b>18</b>	Clarified that condition 4.2.1 applies to exempt dedicated connection assets	AER
<b>19</b>	Removed outdated reference to 1 December 2017 from the condition (4.4.2) requiring large networks to appoint an ENM immediately	Watts Energy
<b>20</b>	Amended condition 4.4.2.1 to clarify the eligible communities mechanism must first be invoked before it applies to the ENM trigger condition	CCIA
<b>21</b>	Clarified that condition 4.6 (specifically Charge Group C) applies to exempt dedicated connection assets	AER
<b>22</b>	Clarified that Charge Group A (all-inclusive tariff) allows separately itemised components to be displayed on a bill	CCIA
<b>23</b>	Amended meter read fee frequency condition (4.6.4.1) to allow more regular charges where customer consents and to clarify that increased meter reads are permitted regardless of consent providing extra charges are not applied	AER
<b>24</b>	Amended condition 4.8.1.1(b)(ii) to replicate change to condition 4.1.6 (see number 13 above)	EWON
<b>25</b>	Amended condition 4.8.1.1(c) to allow either a copy of applicable exemption conditions or a link to be provided to customers initially	CCIA
<b>26</b>	Amended proposed condition 4.8.1.3 from the requirement to provide parent NMI on bills and on request to the requirement to provide ENM company name once one has been assigned	AER
<b>27</b>	Added section 4.10 to summarise the relevant information for exempt dedicated connection assets in the Guideline and under the NER	AEMC

## Attachment 2 - Summary of submissions and responses

Please note: the following tables there are frequent abbreviated references. The major terms are:

- Network Service Provider Registration Exemption Guideline (Guideline)
- Embedded Network Manager (ENM)
- Exempt Network (EN) and
- Exempt Network Operator (ENO).

**Table 1 - Positions on main proposed amendments**

Issue	Support	Qualified support	No objection	Does not support
<b>Transmission connection rule change</b>	<p><b>EnergyAustralia</b></p> <ul style="list-style-type: none"> <li>• The new exemption classes will assist in improving contestability and provides greater clarity</li> </ul> <p><b>AGL</b></p> <ul style="list-style-type: none"> <li>• Strongly supports the registered and deemed exemption class approach</li> <li>• Require further direction from AER/AEMO on process to register</li> </ul>		<p><b>ENA</b></p> <ul style="list-style-type: none"> <li>• Additional conditions for NRO6 and NDO8 may clarify when changes in contractual arrangements may eventuate</li> </ul>	

Dedicated Connection Assets (DCA)s to make the process easy to manage for those with existing DCAs

**Generator and battery connections**

**TasNetworks**

- Critical for TNSPs and DNSPs to view any generation injected into the network regardless of exemption status
- 11kv threshold is prudent and appropriate
- Current threshold of 66kv above operating voltage of most embedded networks in Tasmania

**EnergyAustralia**

- Alignment of exemption classes to AEMO's 5MW threshold of significance is an appropriate interim measure

**ENA**

- Supports amendments to address lack of clarity around Generator Performance Standards

**AGL**

- Reasonable to align exemption classes with AEMO's new threshold of significance
- AEMO should consult on a more targeted solution for the GPS issue as the matter becomes of greater concern

(GPS)

- Supports 5MW capacity threshold of significance but requests clarity on application of threshold to either:
  - Parent or child connection point?
  - Single generator source or in aggregate?
  - Nameplate capacity rating or energy exported?
- Should be cognisant of the AEMC's GPS rule change proposal
- Require clarity regarding AEMO's ability to review all new generator connections with capacity above 5MW within existing networks (i.e. subsequent to registration)

**Information provision:  
ENM contact details and  
parent NMI**

**EWON**

- Customer bills are the most appropriate place

**EnergyAustralia**

- Support provision of ENM contact details via customer bills but not the

**Watts Energy**

- AER should publish NMI and ENM details

- such information
- AER register not easily accessible for customers
  - Extra compliance costs are the costs of doing business

provision of the parent NMI, which could lead to erroneous customer transfers

### **VicParks**

- Including information on customer bills requires support from software suppliers and will probably be impractical to apply

### **CPAQ**

- Software changes would incur additional costs with low probability of utility in caravan parks
- Could confuse customers
- AER should publish this information on its website with exemption holder responsible for providing updated details to the AER

### **CCIA**

- Adding the information to bills may cause confusion and will likely be irrelevant for residential communities
- Information should be provided on request or AER should record the information on the



exemptions register

### **Veeve Energy**

- ENM and NMI details should be provided on customer request
- Adding information to bills will confuse customers and increased compliance costs will be passed on to customers

### **VicParks**

- Costs will be significant and disproportionate to need
- Protections from overcharging and suitable avenues of dispute resolution and advice already exist

### **CPAQ**

- ND2 should not be subject to the requirement to join an Ombudsman scheme
- Customers in Qld have adequate protections already

<b>Internal dispute resolution and ombudsman scheme access</b>	<b>EWON</b>	<b>SACOSS</b>	
	<ul style="list-style-type: none"><li>• Also supports harmonisation of the guidelines regarding internal and external dispute resolution</li></ul>	<ul style="list-style-type: none"><li>• How will the AER reach 'deemed' exemption holders and how will they afford membership?</li><li>• Encourage the future inclusion of small business customers</li><li>• Supports harmonisation of the guidelines regarding internal and external dispute resolution</li></ul>	
	<b>EWOSA</b>		
	<ul style="list-style-type: none"><li>• Also supports harmonisation of the guidelines regarding internal and external dispute resolution</li></ul>		
	<b>Private embedded network customer</b>	<b>EWOV</b>	
	<ul style="list-style-type: none"><li>• An important proposed amendment as the customer's ENO does not have a dispute</li></ul>	<ul style="list-style-type: none"><li>• Encourage the future inclusion of small business customers</li></ul>	

resolution process

#### **EWOQ**

- General support for the proposed amendments.

#### **PIAC**

- Currently exemption customers are unable to access binding external dispute resolution
- Without external dispute resolution, exempt customers do not have a key protection against improper behaviour by their energy providers

- Supports harmonisation of the guidelines regarding internal and external dispute resolution

#### **SCCA**

- Ombudsman condition should explicitly state it does not apply to supply of electricity to non-residential customers

- Wording of the clause should ensure peak bodies may join schemes on behalf of their members

- AER should provide ENOs with access to the Australian Standard and notify ENOs every time a change to the Standards occurs

#### **CCIA**

- Dispute resolution requirements should continue to take a hierarchical approach
- Suitable avenues of dispute resolution and advice already exist

#### **Veeve Energy**

- Costs of joining an Ombudsman scheme far outweigh the benefits
- ENO dispute resolution processes that align with the Ombudsman scheme should be approved by a government body instead of requiring Ombudsman

**The meaning of 'own, operate and control'**

**Watts Energy**

- Narrow definition required due to involvement of multiple parties contracted for separate discrete roles

**SACOSS**

- Facilitating sales to customers is not operation neither are all activities that may be considered to constitute providing a network service e.g. billing agents
- Focus should be on chain of accountability

Meter read frequency	EWOSA	SACOSS	CCIA	EWON
	<ul style="list-style-type: none"> <li>• Removing restriction will allow flexible payment options</li> <li>• Administrative burden of more frequent reads will fall over time with the introduction of advanced meters and remote reads</li> </ul>	<ul style="list-style-type: none"> <li>• Overcharging needs to be addressed</li> <li>• Consider no fees for meter reading, one annual capped fee or fix annual fixed charge to standard retailer/DNSP charge</li> </ul>	<ul style="list-style-type: none"> <li>• NSW residential community operators are unable to charge for meter reading</li> <li>• Increase in meter read frequency to occur where a customer makes written request, the ENO agrees and the ENO can charge for each read</li> </ul>	<ul style="list-style-type: none"> <li>• Wording of condition 4.6.4.1 does not prevent ENO from reading more frequently than once a month provided there is no extra charge</li> <li>• Frequency more than fortnightly does not align with Centrelink payment cycles</li> </ul>
	<b>VicParks</b>	<b>CPAQ</b>		

- Weekly or fortnightly reads allow for regular smaller payments that align with rental payments

- Where a customer requests it and providing excessive meter reading fees are not charged
- Charging for meter reads is prohibited for Qld residential parks

#### **EWOQ**

- Supports the concept that more frequent meter reads may assist some customers with budgeting but this should be balanced against costs for those customers who can least afford it
- Proliferation of advanced meters (remote reads) will reduce the impact of this issue

#### **ENA**

- Supports availability of flexible payment options but this needs to be simple and understandable from a customer perspective and not create new

- If allowed, information must be provided for consent to new billing frequency

charges

**PIAC**

- Unclear whether the current condition 4.6.4.1 would prevent more frequent billing
- Supports amending the condition to allow flexible billing options if this will be the outcome

**Table 2 - Other matters raised (substantive issues)**

Topic	Proponent	Stakeholder comment
<b>Types of entities entitled to hold exemptions</b>	Watts Energy	Clarify whether trusts can hold exemptions.
<b>Deemed exemption classes</b>	Private embedded network customer	Deemed exemption holders should be required to register.
<b>Access to infrastructure and compensation for stranded assets</b>	VicParks	ENOs should be reimbursed for any investments in their electricity networks that are thrown away due to an incoming retailer.  Reasonable terms for access should include: <ul style="list-style-type: none"><li>• network alterations performed by licensed electricians with knowledge of the network</li><li>• charging market retailers or their customers for internal network fees</li></ul>
<b>Access to infrastructure and compensation for stranded</b>	Veeve Energy	ENOs should be able to request compensation on a cost-plus basis for meters purchased or leased by an incoming retailer or their customer. Fees should be set by the ENO.

<b>assets</b>		
<b>Access to metering installations</b>	Veeve Energy	Due to safety concerns, tenant's access to their meters should be restricted and conditional.
<b>Who pays for meter upgrades</b>	Private embedded network customer	Condition 4.8.1.1 is clearer with the addition of table but it should state who pays where there is not metering installation and the ENO is ineligible for an unmetered exemption class.
<b>Who pays for meter upgrades</b>	SCCA	Condition 4.8.1.1 is clearer with the addition of the table but further amendment should be added for matters such as minor repairs and maintenance.
<b>Meter operation and maintenance</b>	CCIA	AER should develop additional resources (i.e. factsheets, guidelines etc.) in plain English explaining the requirements to assist less sophisticated ENOs and customers regarding the requirements of condition 4.3.
<b>Price-matching in small networks</b>	Veeve Energy	ENOs will be unlikely to sustain price matching with larger retailers if a customer seeks to go on-market. Network charges and minimum demand charges levied by distribution networks for small sites should be reduced to enable ENOs to offer and maintain competitive energy prices.
<b>Recouping network charges for on-market customers</b>	Veeve Energy	ENOs billing a child customer's retailer for network charges or obligating the retailer to remit collected network charges to the ENO would be more preferable alternatives to the 2-bill scenario.
<b>Connection charges</b>	Veeve Energy	ENOs should be permitted to charge a fair and reasonable amount for connections/disconnections where the amount is the same for all their customers. It is too burdensome to continually reference different pricing statements in different distribution zones and update connection/disconnection charges accordingly.
<b>Energy concessions</b>	Veeve Energy	ENOs should be permitted to apply for concessions on behalf of eligible consumers.
<b>Life support notification</b>	CCIA / Watts Energy	Compliance with this condition may not be possible in instances where the ENO does not know the identity of the child connection point retailer. Perhaps the ENM could provide this information to the ENO.

<b>Life support</b>	ENA	Condition should include the corresponding obligation to notify parties of the deregistration of life support customers.
<b>Interruptions to supply</b>	EWON	Conditions 18 and 19 of the Retail Exempt Selling Guideline (planned and unplanned interruptions) should be included in the Guideline.
<b>Registration of child generators</b>	ENA	Child connected generation above the local distributor's micro embedded generation connection offers should require the distributor's approval as a parent connection modification and be registered at the parent connection point.
<b>Information provision</b>	CCIA	Condition 4.8.1.c. should be reworded to allow paper version to be provided at outset for customers without internet access
<b>Information provision</b>	Private embedded network customer	In addition to information being provided to customers at start of tenancy/energy sale, information should be provided to customers who have never before received the information  ENO's should notify customers when rights change due to legislative or guideline amendments
<b>Private gas networks</b>	Private embedded network customer	Supplying LPG gas (where it involves more than one customer receiving gas from the same bottle supply via a site's internal gas distribution system) should be included in the AER's consideration.

**Table 3 - Other matters raised (administrative/editorial issues)**

Topic	Proponent	Stakeholder comment	AER comment
<b>Defined terms</b>	Watts Energy	Consistency in use of terms 'private network', 'exempt network' and 'private network'	<p>As noted, the term 'embedded network' is defined in Chapter 10 of the National Electricity Rules. Although this definition is consistent with the majority of networks that are subject to network exemption there are many that fall outside of this definition. Therefore, the Guideline must often employ a broader term that encompasses the variety of network configurations that are connected to the interconnected national electricity system but are not owned, controlled or operated by an AEMO registered distribution or transmission service provider and hence require exemption.</p> <p>Nevertheless, we accept that our use of such terms could be improved and have attempted to provide greater clarity and consistency throughout the Guideline.</p> <ul style="list-style-type: none"> <li>• 'embedded networks' - those defined in Chapter 10 of the NER - we use this term wherever the NER's Embedded Network Manager provisions are referred to</li> <li>• 'exempt networks' - the broader term we use throughout the Guideline which refers to all networks that must be subject to an AER network exemption in accordance with NEL 11(2) and NER 2.5.1.</li> </ul>
<b>Defined terms</b>	ENA	Definition of on-market energy generation should explicitly include	Given their ability to both store and release energy, battery systems can be classified as both loads and



		<p>battery technology in its list of generation for the avoidance of doubt.</p> <p>Reference: Glossary (p.8)</p>	<p>generators. We have therefore focused on the specific component of a battery system (the inverter) that generates electricity from the stored chemical energy. The draft Guideline includes inverter in the list of generation for the definition of both on-market and off market energy generation in the Glossary. We retain this definition for the final version for the Guideline.</p>
<p><b>Outdated reference: ENM requirements post 1 December 2017</b></p>	<p>Watts Energy</p>	<p>Reference to 'from 1 December 2017' regarding appointment of ENM for networks of 30 or more customers should now be changed to 'immediately'.</p> <p>Reference: condition 4.4.2</p>	<p>We have amended condition 4.4.2 accordingly to remove the outdated reference.</p>
<p><b>Clarification: Registration and consequences of revocation</b></p>	<p>ENA</p>	<p>Clarify that revocation of exemption for existing network will require the network to register with AEMO and seek appropriate jurisdictional distribution licencing.</p> <p>Reference: 2.1 (p.16)</p> <p>Clarify that the registration referred to is with AEMO and licencing in the relevant jurisdiction</p> <p>Reference: footnote 21 (p.27)</p>	<p>A sentence has been added to this section for the avoidance of any doubt.</p> <p>We have added to the footnote to make clear that the registration relates to AEMO. We have not added text relating to licencing with the appropriate jurisdiction as we consider it to be unnecessary detail for the point we are attempting to convey.</p>
<p><b>Clarification: Revocation of exemption</b></p>	<p>CCIA</p>	<p>Clarify when the AER may revoke an exemption 'in the long-term interests of consumers'</p> <p>Reference: section 5.4</p>	<p>2.5.1(d) of the NER provides that the AER may only grant an exemption 'where (in the AER's option) an exemption is not inconsistent with the National Electricity Objective. Section 7 'National Electricity</p>

Objective' of the NEL states:

The objective of this Law is to promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to—

- (a) price, quality, safety, reliability and security of supply of electricity; and
- (b) the reliability, safety and security of the national electricity system.

Previous versions of the Guideline state that the AER has the power to revoke an exemption. In the draft Guideline, we added some guidance as to when the AER use its power to revoke by reference to the National Electricity Objective. However, we are unable to be more specific as to situations that may lead to revocation as we are not able to anticipate all such actions.

No amendment.

**Clarification: Exemption class criteria**

Private embedded network customer

Clarify what constitutes the limits of a site for the purpose of the 10 or more customer threshold for certain exemption classes.

Reference: section 3

The use of the term 'site' is necessarily broad. Most network exemptions are site specific. This means they are limited to a defined area. Most sites are easily defined by a particular street address. However, there are network exemptions that cover whole townships.

As network exemptions regulate a person's activity in relation to networks in a defined area (or site), multiple exemptions are not necessarily required for each network a person may operate within a site.

We have added some explanatory text to section 2.3 to

			make this point clear.
<b>Clarification: Exemption class criteria</b>	CCIA	<p>Occupants of holiday accommodation in holiday parks are not defined as "residents" in the industry. Avoid confusion by substituting with "annual renewal occupants".</p> <p>Clarify if ND3 includes supply to residents who sub-let their premises to holiday makers.</p> <p>Reference: footnote 23 (p.29)</p>	<p>We have made the requested amendment from 'resident' to 'occupant' as this is consistent with the intention of the exemption class criteria.</p> <p>We have not provided detail on sub-let situations as we cannot specify all relevant contractual relationships that could be considered to apply to each exemption class. We reserve the flexibility to assess such matters on a case by case basis.</p>
<b>Clarification: Applicable conditions</b>	CCIA	<p>Clarify that where a site is registered under multiple exemption classes, the applicable conditions that apply to each customer are only those which relate to the activity class that describes their relationship with the ENO.</p> <p>Reference: section 3</p>	
<b>Clarification: Internal dispute resolution standards</b>	CPAQ; CCIA	<p>Reference for the International Standard and the Australian Standard have been merged. Clarify which applies</p> <p>Reference: condition 4.1.6</p>	<p>This reference has been corrected to the intended Australian Standard that applied in the original condition.</p>
<b>Clarification: External dispute resolution</b>	CPAQ	<p>Clarify what requirements apply in jurisdictions that do not have an appropriate Ombudsman scheme to join</p> <p>Reference: condition 4.1.13</p>	<p>The condition only applies where 'an exempt person ... [is] ... permitted by an energy ombudsman scheme'. If there is no appropriate Ombudsman scheme to join, the Network Exemption Guideline does not specify an</p>

			<p>alternative external dispute resolution body.</p> <p>It is a matter for the jurisdictions to decide whether an ombudsman scheme should be available or whether alternative bodies are more appropriate. This conditions merely provides the individual jurisdictions with the option.</p> <p>No amendment.</p>
<b>Clarification: Unmetered supplies</b>	Private embedded network customer	<p>Clarify whether the allowance of unmetered supply where energy is "supplied at no cost or as part of a broader commercial arrangement" includes instances not considered as an energy sale under the Retail Exempt Selling Guideline (e.g. as part of a rental payment).</p> <p>Reference: section 2.1.1 (p.21)</p>	<p>We consider that the term 'part of a broader commercial agreement' aligns with the Retail Exempt Selling Guideline's position on instances not considered to be the sale of energy (e.g. a component of a fixed rental charge).</p> <p>No amendment.</p>
<b>Clarification: Unmetered supplies</b>	Private embedded network customer	<p>Clarify what constitutes a unique or exceptional circumstance under which the AER will approve unmetered supply.</p> <p>Reference: condition 4.1</p>	<p>The AER reserves the right to declare a circumstance unique or exceptional in relation to unmetered supply on a case-by-case basis. Such instances may require individual exemption. The section immediately preceding condition 4.1 addresses this point.</p> <p>No amendment</p>
<b>Clarification: Metering standards</b>	ENA	<p>Clarify that minimum specification still applies in embedded networks in Victoria despite aspects of the Power of Choice reforms being delayed in that jurisdiction.</p>	<p>We have added a footnote to the relevant section to address this point.</p>

Reference: section 2.1.1 (p.18)

<b>Clarification: Charge groups</b>	CCIA	Clarify that all-inclusive tariff may consist of separately itemised amounts for consumption and supply charges.  Reference: condition 4.6.1.1	We have amended condition 4.6.1.1 to clarify that all-inclusive tariffs may consist of separately itemised consumption and supply charges.
<b>Inconsistency: Metering standards</b>	CCIA	Reference to advanced metering standards applying in all Power of Choice jurisdictions inconsistent with condition 4.2.2.2  Reference: section 2.1.1 (p.18)	This section of the Guideline is a general summary of the conditions that appear in section 4. However, we have amended the text in section 2.1.1 for consistency with condition 4.2.2.2.
<b>Inconsistency: Provision of ENM/NMI details</b>	Watts Energy	ENM details not mentioned in the condition referenced in consultation documents as requiring them.  Reference: condition 4.8.1.3	This was a drafting error in the Issues Paper. We have since amended condition 4.8.1.3 to refer to the company name of the ENM as opposed to the parent NMI.
<b>Typographical/formatting error</b>	CCIA	Formatting error in the assignment of letters for the alphabetised list.  Reference: condition 4.2	Corrected.
<b>Typographical/formatting error</b>	ENA	Verify whether condition 8 should apply to NDO1. Information provision to customers should be an obligation on all ENOs.  Reference: Table 7 (p.42)	There is perhaps confusion between the condition in section 4.8 of the Guideline ('Information provision') and the eighth condition in section 4.1 of the Guideline ('General requirements'). Table 7 demonstrates which of the conditions detailed under 'General requirements' applies to each of the deemed 'other situation' exemption classes. Condition 4 in this table refers to exemption registration requirements and therefore does

			not apply to any of the exemptions listed in the table. We have attempted to clarify this distinction by changing the heading of the table to: <i>Applicable conditions under section 4.1 'General Requirements'</i>
<b>Typographical/formatting error</b>	ENA	Reference to NRO7 should be NRO6 Reference: Section 5.2.1 (p.79)	Corrected.
<b>Typographical/formatting error</b>	CCIA	Proposed amendments to condition in relation to NR4 implies that all three subclauses must be met. Reference: condition 4.4.2.1	We have adopted the CCIA's suggested amendment to this section.
<b>References in the Issues Paper</b>	ENA	A number of acronyms are used without explanation or a ready reference (e.g. activity classes NDO1, NRO1 and NRO2 on page 5)	We have drafted the Reason for Decision document with this feedback in mind but note that supplementary documents are to be read in concert with the Guideline. Only the Guideline itself is intended be read as a stand-alone document.
<b>Structure of the Guideline</b>	CCIA	Consider restructuring the Guideline for clarity (e.g. split into sections according to class activity)	We are currently developing materials for specific audiences to complement the Guideline. We may build upon this work to implement structural changes to the Guideline itself at a later date.  No amendment.
<b>Structure of the decision document</b>	ENA	Transpose extracts of the relevant explanatory tables (e.g. current Table 4 of the Draft Guideline) into an attachment to the finalised explanatory statement as an aid to readers unfamiliar with the subject.	Consultation documents such as Issues Papers and Reason for Decision documents are supplementary to the Guideline and must be read as a package to avoid unnecessary duplication. The Guideline itself is the primary document.

