



# **Electricity Network Service Provider - Registration Exemption Guideline**

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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 4.7.1.1 and 4.7.2.
Embedded network	Has the meaning specified in chapter 10 of the NER. A type of exempt network.
Embedded Network Manager (ENM)	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	<p>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.</p> <p>Exempt networks are:</p> <ol style="list-style-type: none"><li>1. connected (either directly or indirectly) to the National Electricity Market</li><li>2. are not otherwise registered as a network with AEMO by a</li></ol>

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 a 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</i> 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 otherwise 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.
Metering coordinator	Has the meaning specified in clause 2.4A.1(a) of the NER. For the purposes of condition 4.2.2.3, a relevant Exempt Network Operator is deemed to be the metering coordinator.
minimum services specification	Has the meaning specified in chapter 10 of the NER.
MWh	MegaWatt hour
NBN	National Broadband Network
NEL	National Electricity Law
NER	National Electricity Rules
Off-market energy generation	<p>Means an energy generation option not required to be registered with AEMO under clause 2.2 of the NER and applicable AEMO guidelines.</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), battery/inverter, fuel cell, an electric vehicle inverter, thermal-electric, geothermal, solar (including photovoltaic), wind or hydro generation and cogeneration and tri-generation installations.</p>
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 AEMO

	<p>registration categories of scheduled generation, semi-scheduled generation, non-scheduled generation, market generator and non-market generator.</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), battery/inverter, fuel cell, an electric vehicle inverter, thermal-electric, geothermal, solar (including photovoltaic), wind or hydro generation and cogeneration and tri-generation installations. <b>For the purpose of this guideline, this category relates to generation systems of 5MW or greater capacity in aggregate measured at the parent connection point.</b></p>
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.
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.
Registered transmission business	A market participant registered with AEMO as a transmission 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.
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 non-residential customer 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.



# 1 Nature and authority

## 1.1 The regulatory framework

Under the National Electricity Law (NEL) and the National Electricity Rules (NER) anyone who engages in an electricity distribution or transmission activity must either be:

- registered with the Australian Energy Market Operator (AEMO) as an electricity network service provider (i.e. a registered distributor or registered transmission business), or
- must gain an exemption from the requirement to be a registered network service provider from the Australian Energy Regulator (AER).

This guideline explains which electricity network activities are deemed exempt, which activities must be registered and how to register. It also sets the conditions for all the exemption classes pre-defined by the AER. Note that the AER does not regulate an exemption framework for gas distribution. This remains a local matter in the relevant States and Territories.

No matter how small the network, anyone who supplies electricity to another person over a network of any kind is providing an electricity distribution service. An exemption is required for any unregistered network by which electricity is supplied to another party, be that party a legal person, corporation, government department or statutory body of any kind.

In contrast to registration with the market operator, which is necessarily rigorous, exemption registration is simple and incurs no direct cost. Obtaining an exemption for eligible networks is relatively easy and low cost (there is no application fee). The granting of an exemption can also relieve a network owner/operator or controller of the requirements to comply:

- with the technical requirements set out in Chapter 5 of the NER and/or
- the obligation to provide other network suppliers and other registered participants in the NEM with access to its network and other obligations which exist under the NER<sup>1</sup>

but not safety and related requirements.

## 1.2 Who should read this guideline?

This guideline is for people or businesses that are involved in allowing anyone else to use electricity by connecting to wiring in a:

- farm
- hotel
- factory
- marina
- car-park
- public land

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<sup>1</sup> However, the default position is that access must be provided on request (i.e. 'open access' applies).

- holiday park
- caravan park
- industrial estate
- private property
- shopping centre
- retirement village
- electricity network
- industrial complex
- strata–title property
- office development
- mining development
- residential development
- tram, train or rail network
- residential land lease communities.

You should read this guideline if you think that you are operating an electricity network – which is illegal unless it is registered with AEMO or exempted from registration by the AER.

To avoid the risk of serious penalties you might only need to make some small adjustments. You might not even have to do anything at all. Maybe, you need to:

- register your details with the AER, or
- register with AEMO, or
- apply to the AER for a network exemption.

If you think you may need a network exemption, this guideline will help you understand:

- what network exemptions are and how they work
- whether or not you, or your business, need a network exemption
- how to obtain a network exemption and which exemption class applies to you
- the factors we will consider when assessing individual exemption applications.

This guideline deals with electricity network exemptions under the NEL and NER. For retail exemptions under the National Energy Retail Law (Retail Law), please see the AER's Retail Exempt Selling Guideline.

If you are not sure whether you need an exemption or not, please contact us. You can email us at [aerexemptions@aer.gov.au](mailto:aerexemptions@aer.gov.au) with any questions, or phone the AER/ACCC Infocentre on 1300 585 165 (Australian callers) or + 612 6243 1305 (overseas callers).

## 1.3 About the AER

The AER is an independent statutory authority established under Part IIIAA of the Competition and Consumer Act 2010 (Commonwealth). The AER is the national regulator of electricity and gas. Our responsibilities include administering and regulating authorisations and exemptions (retail and network) in participating jurisdictions.

## 2 Part A – About this guideline

### 2.1 Introduction

We recognise that different models of electricity supply benefit different customers in different situations. This guideline aims to provide customers in exempt networks with a level of consumer protection comparable to customers who source their energy directly from distribution and transmission businesses while allowing for a range of electricity supply solutions to operate.

The updates in the previous version of the Network Exemption Guideline largely related to improving access to retail competition for customers in exempt networks. The updates in this version incorporate amendments to:

- add exemption Activity Classes for transmission system dedicated connection assets
- address concerns raised by AEMO regarding generators that connect to the NEM via an exempt network
- harmonise the Network Exemption Guideline with the dispute resolution and ombudsman requirements of the Retail Exempt Selling Guideline
- update the guideline to incorporate the effect on metering of the AEMC's Power of Choice reforms, which commenced on 1 December 2017
- correct minor typographical errors and update the text to reflect current NEM interest in Microgrids and private energy sales.

This Network Exemption Guideline relates to electricity networks that are:

1. connected (either directly or indirectly) to the national electricity grid;
2. are not otherwise registered as a network with AEMO by a distributor or transmission business; and
3. used to supply electricity to a third party.

It incorporates earlier amendments necessary to give effect to the AEMC Embedded Networks rule change.<sup>2</sup>

It also incorporates amendments necessary to give effect to the AEMC's Transmission Connection and Planning Arrangements rule change, specifically the exemption of parties who, own, control or operate 'dedicated connection assets'.<sup>3</sup> It should be noted that under the final rule, dedicated connection assets do not satisfy the legal definition of 'networks'. Rather, they are assets that are *deemed* by the rule to be *transmission systems* for the purposes of requiring registration (or exemption) under Chapter 2 of the NER.

We addresses the arrangements specific to dedicated connection assets in section 4.10. The conditions which apply to dedicated connection assets are:

- the conditions specified in section 4.1, as modified by Table 9;

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<sup>2</sup> AEMC, National Electricity Amendment (Embedded Networks) Rule 2015, No. 15, December 2015

<sup>3</sup> AEMC, National Electricity Amendment (Transmission Connection and Planning Arrangements) Rule 2017, No. 4, May 2017

- condition 4.2.1;
- condition 4.6.1.3 (charge group C only); and
- section 4.10.

Additional 'mandatory conditions' are specified in the final rule and are listed in section 4.10. These mandatory conditions apply to large dedicated connection assets only. Unless specifically referred to, no other conditions in this Guideline apply to dedicated connection assets.

This Guideline refers to electricity networks that meet the above three-part criteria as 'exempt networks'. This is because under the National Electricity Law and National Electricity Rules, anyone who owns, controls or operates a network meeting the above criteria must be subject to a network exemption from the AER. Exempt networks must be operated in accordance with the conditions of exemption detailed in this Guideline.

Electrical wiring on your own site is normally just a private electricity installation or private distribution 'connection assets'. It is only required to be an exempt network if it *supplies* electricity to a third party. It does not matter if the supply is free – you are still providing a distribution service. The term 'embedded network' is now defined in chapter 10 of the NER. Under the NER definition, all embedded networks are exempt networks. Therefore, when this Guideline uses the term exempt network it also includes embedded networks.

Persons involved in the on-selling of electricity may, depending on their circumstances, need to conform both to this guideline and our guideline for retail exemptions, the Retail Exempt Selling Guideline<sup>4</sup> or, where the AER does not regulate on-selling, the requirements for on-selling administered by the jurisdictional regulator.

An analogy that might help to explain the relationship between the two guidelines: To drive a car legally on the road the car must be registered and the driver must have a driver's licence.

- Registration or exemption of the network is analogous to registration of the car.
- Having a retail exemption is analogous to the driver having a driver's licence.

This Network Exemption Guideline is about the exemption from registration with AEMO of the physical assets that make up the network.

### Impact on individual exemptions

Please note: Individual exemptions are subject to the relevant conditions of the version of the AER's network exemption guideline that was in force at the time the individual exemption was granted. However, where this provision conflicts with the requirements of the National Energy Rules, individual exemption holders will be subject to the requirements of the current Guideline. All deemed and registrable exemptions must comply with this guideline including, where required, registration or amendment of the registration details of the network in the 'registrable' exemption category as provided for in this guideline.

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<sup>4</sup> Available at: <http://www.aer.gov.au/node/469>

## Registration with AEMO

Most small network owners/operators will prefer to not register with AEMO as a distributor. If you register with AEMO, you will incur initial registration costs and ongoing reporting obligations and costs. Our Network Exemption Guideline sets out eligible classes of distribution activity and the requirements which must be met for an exemption to apply. If the AER is not satisfied for any reason that a network exemption is appropriate, we may require the network to be registered with AEMO.

## Impact of State laws and regulations

Regardless of whether a network is registered with AEMO or exempt, it will be subject to additional requirements governing matters including price controls, construction standards and electrical safety under the laws of the State or Territory in which it is located.

Where State or Territory laws conflict with the conditions in this Guideline, those State or Territory laws take precedence over the Guideline's conditions. An example of this is the charging restrictions which exist under State or Territory laws in a number of jurisdictions and which may apply to caravan parks, retirement villages, manufactured home estates or like situations.

## AER conditions are enforceable

All exempt networks are subject to conditions to ensure appropriate consumer protections are in place for the customers they serve. These conditions cover access to retail competition, safety, dispute resolution, metering and pricing. Even if your network is in a 'deemed' category, if you fail to observe the relevant conditions your exemption will be invalid and you will be operating illegally. This may expose you legally to a civil penalty (a fine) under the National Electricity Law or other relevant legislation. The conditions are in Part B, Section 4 of this guideline.

## Retail Exempt Selling Guideline

The AER's requirements governing retail on-selling exemptions are set out in our Retail Exempt Selling Guideline, which should be read in close conjunction with this Guideline.

## Selling, On-selling and Supply

The terms 'selling', 'on-selling' and 'supply' have very broad connotations when used in this Guideline. They include all manner of situations where electricity is supplied from one person to another person. This includes residential boarding houses, flats, apartments, retirement villages, caravan parks, retail centres, strata title, industrial parks, airports, office building, mining facilities, joint venture arrangements, quasi-retail or distribution arrangements and third-party connections to generators, to name but a few examples.

Where the sale of electricity takes place, the party selling the electricity must be an authorised retailer or exempt under the Retail Exempt Selling Guideline, wherever the Retail Law is in effect, or under the local jurisdictional requirements elsewhere.

The test for 'selling' or 'on-selling' electricity is about an action or activity that normally involves an exchange of money. In contrast, the test for a network exemption is about the

'supply' of energy over physical assets such as wires or busbars and the associated technical issues. In this Guideline some deemed and registrable exemptions refer to 'supply' of electricity, rather than 'selling' to reflect this distinction.

If your wiring is connected to the National Electricity Market (NEM, or informally, the national electricity 'grid') and you are supplying electricity to a third person, you must hold a network exemption.<sup>5</sup> It doesn't matter if you charge for it or not. Even if the electricity is given away for free both you (as the network owner) and your agents (if you have any) must be registered or exempt under this Network Exemption Guideline.

Under this guideline, minor supply situations where the network is small and electricity is provided for free have been deemed to be exempt.

### Microgrids and local energy sales

Recent developments in alternative energy and battery systems have created a lot of interest in creating 'Microgrids' and also in selling power to one's neighbours. If a network is not connected to the NEM it is not regulated by the AER, except if a State or Territory has determined otherwise. These isolated networks are referred to as Microgrids.

In recent times, the AER has seen many proposals for schemes to trade excess solar electricity between neighbouring properties. However, although it is physically possible to supply electricity to your neighbours, you should check the laws in your State or Territory. In most normal circumstances it is illegal under State or Territory law for private wiring to cross a site boundary or public land without additional State or Territory approvals. Normally, only an electricity distributor registered with AEMO is authorised to provide this service. Note also that where the AER considers an electricity network (existing or proposed) is of a scale or kind that it should be registered with AEMO as a distribution (or transmission) network, we may not allow or we may revoke the exemption for the network. Consequently, the network will require registration with AEMO or must cease supply activities to avoid breaching section 11(2) of the National Electricity Law.

Further, be aware that current NEM metrology procedures do not support private electricity transactions for the sale of excess power. These factors can make private selling difficult or impossible to implement.

The AER is supportive of the concepts of microgrids and private trading but we caution there are significant regulatory hurdles which must be overcome before a microgrid or private selling of excess electricity can be implemented. We will work with proponents to develop models that respect and enhance the rights of customers to access new energy options but our ability to facilitate microgrids is limited by the constraints of the current regulatory framework.

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<sup>5</sup> The exception to this requirement is wiring in a building with multiple tenants or residents that connects those customers directly to a distributor. We treat that wiring as 'connection assets'. Under the NER definition of a *distribution system*, *connection assets* on their own do not form a *distribution system*. Therefore, there is no need for the AER to deem this wiring exempt. This approach has been standard industry practice since the commencement of the NEM.

## Terminology

In this Guideline the terms 'embedded network' and 'exempt network' are generally interchangeable. However, note that 'embedded network' is a defined term in the NER. Wherever that term is used in this guideline, it has the meaning assigned to it under the NER. Under the National Electricity Law all networks not registered with AEMO must be exempted by the AER. In earlier versions of this guideline we also used the term 'private network'. We now prefer to use the term 'exempt network'

The terms all refer to the physical assets that deliver electricity from one person to another person or party. They include any privately owned wires, switches, transformers or other electrical equipment owned, operated or controlled by the applicant. While meter installations are used to deliver electricity and may form part of a registrable exempt network, we deem them to be exempt from AER registration given that they are essential to provide access to competitive energy services under the NER.

This Guideline also refers to 'Exempt Network Operators (ENOs)', 'exemption holders' and 'exempt persons'. These terms are all used interchangeably regardless of whether the exempt party is the owner, controller or operator of the network. The NER uses the term Exempt Embedded Network Service Provider to refer to the ENO of an embedded network. Just as an embedded network is a type of exempt network; an Exempt Embedded Network Service Provider is a type of ENO, exemption holder or exempt person.

## Deemed, Registrable and Individual Exemptions

Similar to the Retail Exempt Selling Guideline, there are three categories of exemption – 'deemed'; 'registrable' and 'individual'. In section 2.3 we explain the types of exemption as they relate to particular activities. In section 3 we detail the pre-defined exemption classes and in section 4 the conditions which apply to those activities.

The range of predefined exemption classes encompasses both deemed and registrable exemptions in both guidelines. All deemed and registrable network exemptions maintain important consumer protection measures but exempt the holder from the technical requirements of chapter 5 of the NER.

The AER has aligned many of the activity classes for deemed and registrable network exemptions with the equivalent classes in the Retail Exempt Selling Guideline. However, the Network Exemption Guideline deals with a wider range of activities than those captured under the Retail Law. Therefore, there are more classes in the Network Exemption Guideline. The predefined classes are set out in four tables numbered 1 to 4. The classes in tables 1 and 3 are related to the Retail Exempt Selling Guideline classes. The classes in tables 2 and 4 are concerned with a range of situations that are not directly related to the retail sale of electricity.

Individual exemptions operate differently between the National Energy Retail Law and the National Electricity Law. We have tried to anticipate a wide range of 'real world' activities in the deemed and registrable categories. We expect an application for an individual network exemption will be for either a new, unanticipated activity for which no exemption class exists or for a variation of the conditions.



All applications for individual exemption will be subject to a formal determination by the AER. Applications for a variation of conditions will only be granted in exceptional circumstances. The application must demonstrate that a variation of conditions will be consistent with the National Electricity Objective and will enhance the long term interests of consumers. Individual exemptions are registrable and will be published.

## Exemption tables

Deemed network exemption classes are described in Tables 1 and 2 in section 3.1, along with details of the parties to whom the exemption applies. Deemed exemptions are subject to strict observance of the conditions detailed in Part B of the Network Exemption Guideline. Penalties may apply to any party who wrongly claims to be eligible for a deemed exemption.

Registrable network exemptions are described in Tables 3 and 4 in section 3.2, along with details of the parties to whom the exemption applies both during and after a transition period, and are subject to strict observance of the conditions detailed in Part B of the Network Exemption Guideline.

The NER also provides for individual exemptions, which are a single category described in Table 5 in section 3.3.

### 2.1.1 Basic exemption conditions

There are five basic requirements for exempt networks. An exempt person must:

- ensure that their network is safe
- have a dispute resolution mechanism
- ensure that network pricing is in accordance with this Network Exemption Guideline
- ensure that electricity meters:
  - comply with National Measurement Act 1960 (Cth) requirements for electricity meters installed from 1 January 2013<sup>6</sup> and other applicable Australian standards; and
  - for electricity meters installed from 1 December 2017, where a jurisdiction has adopted the AEMC Power of Choice reforms,<sup>7</sup> are compliant with the minimum specification for advanced metering (NER schedule 7.5);
- provide ready access to retail competition where it is available in a jurisdiction.

Section 4 details the specific conditions which must be met for each exemption activity class.

Compliance with all the relevant conditions set out in this Network Exemption Guideline is a mandatory requirement for a network service provider exemption to be valid. Non-compliance may result in penalties in accordance with the provisions of section 11 of the NEL.

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<sup>6</sup> For further information, see [www.measurement.gov.au](http://www.measurement.gov.au).

<sup>7</sup> The minimum specification for advanced metering condition also applies in exempt networks in Victoria despite the delayed introduction of the competition in metering Power of Choice rule change in that jurisdiction.

Before we discuss our general administration requirements for exempt networks, we discuss access requirements, some basic metrology terminology and general background matters.

## Access to retail competition

The Australian Capital Territory, Victoria, New South Wales, South Australia and the south east region of Queensland allow customers in exempt networks to exercise a right to choose their electricity retailer. To achieve access to retail competition in these jurisdictions, arrangements exist to create a 'parent/child'<sup>8</sup> relationship for the metering. However, these arrangements have not always worked as smoothly as they should, which led to the embedded networks rule change proposal sponsored by AEMO to expand the NER to address problem areas.<sup>9</sup>

The AEMC made the Embedded Networks rule change in December 2015, which is intended to make parent/child metering consistent and simpler to implement. The rule change requires that a special, new class of accredited NEM participant, the *Embedded Network Manager* (ENM) be appointed wherever customers want access to retail competition. The ENM is tasked with ensuring the metering installation is correctly recorded in the AEMO market settlement system. AEMO accredits and maintains a register of ENMs.

Elsewhere, access to retail competition through an exempt network is subject to agreement between the Exempt Network Operator and the customers of that network. Customers in regional Queensland and Tasmania have traditionally required a direct connection to a distributor to access retail competition. With the introduction of the Embedded Networks rule from 1 December 2017, the new access arrangements may also be adopted by one or more of the other NEM jurisdictions. The situation which is to apply in Tasmania and the Northern Territory is subject to further consideration by those jurisdictions.

## Australian Capital Territory, Victoria, New South Wales, South Australia and south east Queensland

To make access to retail competition work it is essential that an Exempt Network Operator not impede access to retail competition and take reasonable steps to facilitate access for a resident.<sup>10</sup> With this in mind, since revision 3 we have required an Exempt Network Operator to support (and not obstruct) retail competition when it was available in a jurisdiction.

These jurisdictions (and any who adopt the parent/child approach) have (or will have) procedures in place with AEMO (called metrology procedures) to register the 'parent' and 'child' meters for customers of exempt networks that access retail competition.<sup>11</sup> Metrology procedures are very detailed. Describing how these procedures work is generally beyond the scope of this guideline but we summarize them here to help explain how access to retail competition works in an embedded network.

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<sup>8</sup> A 'parent' (or 'gate') metering point is a metering point through which the energy measured is supplied to a whole building or site. A 'child' metering point is a metering point serving one tenant in a building or on a site through the 'parent' meter.

<sup>9</sup> AEMC, National Electricity Amendment (Embedded Networks) Rule 2015 No. 15, December 2015

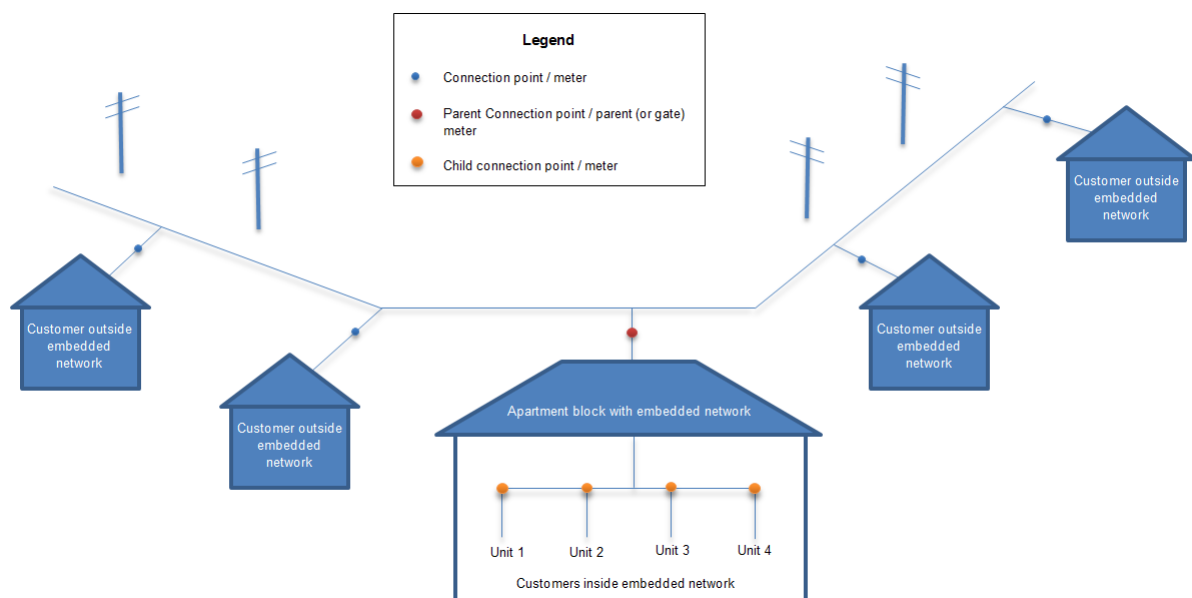
<sup>10</sup> In this guideline the term 'tenant' is interpreted in the widest possible sense and includes any tenant, resident, lease holder, strata title occupier or the like, connected to a exempt network and who may be subject to charges for electricity consumed.

<sup>11</sup> AEMO, *Metrology Procedure: Part A National Electricity Market*, Section 2.5, pp. 38-39

If you live in an apartment building or occupy a shop in a shopping centre it is quite common for there to be one meter which records all the energy used on the site. This meter is generally known of as the 'parent' or 'gate' meter. The owner's corporation or the shopping centre proprietor (in their role as the exempt embedded network service provider) is usually responsible for all the energy and network charges which are billed to this meter. It is important to note that the network charges are billed to the 'gate' meter because special arrangements must be made to attribute this external network cost to each user of the network.

Stated simply, an embedded network is formed when a 'parent' or 'gate' meter is placed between meters of multiple customers and the poles and wires that form part of the national grid. This simple act transforms all the electrical distribution system on the customer's side of the parent meter into an embedded network and the customers' meters into 'child' meters. Figure 2.1 illustrates an embedded network in an apartment block.

**Figure 2.1 Example of an embedded network**



Under the AEMO metrology procedures the 'gate' meter owned by the exempt embedded network service provider must be recorded as a 'parent' meter in the market settlement system by the new retailer. Previously, where a tenant accessed an external retailer, the new retailer would arrange to install additional metering, namely a NEM registered 'child' meter to record the energy component of the bill. Arrangements needed to be made for the retailer to provide energy billing information to the exempt embedded network service provider. Also, the network charge for the energy use by a tenant (i.e. the child meter) would be manually calculated. We expect the embedded networks rule change will result in significant streamlining and improvement of these processes. An ENM will be required to actively manage these processes in embedded networks to ensure the correct information is recorded and exchanged in timely fashion.

The exempt network will continue to incur distribution charges from the local distributor for all customers in the exempt network, including customers that obtain supply from an authorised (or 'market') retailer. This external network cost must be passed on to all the respective customers, including the market customers. The AER permits the Exempt Network operator

to recover the associated external network component either directly from the tenant or from the tenant's market retailer under condition 4.6.2. If these arrangements are not followed closely there is a serious risk of billing errors.

Under this guideline the Exempt Network Operator can only pass on external costs; they cannot impose a surcharge to the customer for use of the network. The recovery of externally imposed network costs is permitted; however, under charge groups A/B (see Section 4.6 of this guideline).<sup>12</sup> Note that the restrictions in condition 4.7 apply to the recovery of ENM costs.

Some Exempt Network Operators may consider that they should be able to charge extra for special electricity infrastructure they provide, particularly transformers. However, the National Electricity Rules require the AER to set charges for network assets owned and operated by a registered (and licensed) distribution network. This is a very complex and involved process which takes considerable time and expense to negotiate. It is impractical to apply this process to exempt networks. The AER allows 'shadow pricing' to apply in this situation.<sup>13</sup>

## Other NEM Jurisdictions

If the AEMO Metrology Procedures for parent/child metering do not apply, a different approach must be taken to access an external retailer through an exempt network. To access a market retailer the tenant will need to first arrange a direct connection to the local distributor, which is individually metered in the normal way. This may require changes to the wiring within the network. Any such changes will be an expense borne by the tenant. Where access to competition requires a direct connection, we have amended this guideline to make clear that an Exempt Network Operator must allow that direct connection on reasonable terms.

## Unmetered supplies

Unmetered supplies may exist for many reasons. We have established specific circumstances where an unmetered supply is permitted. The situations we permit are limited, especially if small customers are involved. If energy is being supplied at no cost or as part of a broader commercial arrangement, an unmetered supply is permitted. However, we consider that small customers should not be subject to unmetered supply of electricity. Some jurisdictions have existing unmetered supplies. Existing registered unmetered installations are not required to be upgraded. In all other circumstances we require meters or sub-meters to be installed to measure the electricity supplied to a customer.

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<sup>12</sup> Note that in South Australia, the Electricity (General) Regulations 2012 – Reg. 44B (2)(b) limits the recovery of network charges to the new energy retailer.

<sup>13</sup> See section 4.6.1.

## 2.2 Who must register or obtain exemption?

In this Network Exemption Guideline, the key regulatory factor is whether the network you own, operate or control is providing an electricity supply to a third party for any reason. If it is, you must register or be exempt.

Technically, under a very strict interpretation of the NEL, even the simple act of allowing a cleaning contractor to plug-in a vacuum-cleaner in your office or shop may be considered to be providing a distribution service under the NEL.

Obviously, it was not the intention of the NEL to require persons to register networks for common activities like this. The exemption framework exists and this allows the AER to deem a wide range of activities like this example to be exempt. We apply this approach to a wide range of incidental activities that are relatively common or which have a low financial impact (see table 1, section 3.1.1).

### Only legal persons may hold exemptions

The National Electricity Law (clause 11(2)) and National Electricity Rules (clause 2.5.1) refer to the exemption of a 'person' engaged in the activity of owning, controlling or operating networks. Persons may be natural (a human being) or artificial (e.g. a company). As trusts are not defined as legal persons, they may not hold exemptions. However, the trustees of trusts may hold an exemption.

### Multiple parties must register

The National Electricity Law also requires everyone associated with a network to register or be exempt. This applies to the network owner or joint owners, a lease holder or legally appointed representatives if they have rights of control over the physical assets that comprise the electricity network. In many cases there is no one else with these rights. If no other person or firm is involved then the network owner alone has whole responsibility for the registration and operation of the network.

Where the network owner has made an agency arrangement with another entity to be the 'operator' or 'controller' of the network, registration or exemption of that agent or entity is also required. The 'operator' or 'controller' of a network is anyone who arranges to provide services normally associated with a network service provider. This most commonly means specialist energy companies that provide services in exempt networks.

Exemption classes apply to persons including businesses that own or manage a site containing an exempt network. Examples of the services that lead to a need to register include, but are not limited to: fault response; metering and meter reading; switching (fuse removal); access management to meters and meter panels; interfacing to a registered distributor about these matters, etc.<sup>14</sup> The terms 'operator' and 'controller' are largely interchangeable when applied to an exempt network.

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<sup>14</sup> The 'agent' operating or having control of the exempt network may, for example, be a property manager or a specialist energy services company engaged to arrange or provide energy services to customers. This role is generally distinct from the role of people or firms engaged by the owner or the agent to design, install or service a network such as architects, engineers and electricians. These latter activities do not normally require exemption. Also parties registered with AEMO to

Where contractors and sub-contractors are employed to provide services on behalf of exemption holders, exemption holders must be aware that they are accountable for actions carried out on their behalf that may violate the conditions of their exemption.

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provide services related to an exempt network will not normally require registration.

## 2.3 What type of exemption applies to me?

There are three types of exemption: deemed, registrable and individual. The type of exemption you may be eligible for will depend mainly on the nature of your business, who you are supplying energy to and why you are doing it.

Deemed and registrable exemptions are class exemptions that apply to certain groups of people—or classes—who sell or supply energy to a third party. Generally, deemed exemptions are targeted towards people or businesses who sell or provide a connection to electricity incidentally. Energy sales and supply is not their primary business or is an incidental part of their business model. They are generally motivated by considerations other than profit.

A deemed exemption is an exemption that applies automatically to certain classes of people or firms. A party covered by a deemed exemption does not need to either apply or register with us (however, conditions will generally apply). Deemed classes are usually for small-scale supply arrangements where the costs associated with exemption registration would outweigh the benefits of increased regulation. We apply the principle that the regulatory obligation should be proportionate to the benefits to the customer.

Situations that deemed exemptions apply to include selling or supplying electricity to:

- a related company
- fewer than 10 small tenants or residents
- short term accommodation in caravan parks or holiday parks selling metered energy
- plug-in or rack mounted equipment, including NBN equipment
- unmetered tenants in Queensland<sup>15</sup>
- telecommunications companies for a telecoms related activity of any kind
- government agencies that sell metered energy ancillary to their core functions
- private solar PV inverter and generator installations
- broadcasting sites
- rail network operators
- electric vehicle charging stations
- building and construction sites
- large corporate entities (both parties: buyer and seller)
- Small Dedicated Connection Assets
- demand-side scheme participants.

A comprehensive list of deemed exemptions is set out at Section 3.

A registrable exemption applies to certain classes of people and must be registered with us. It applies to a particular individual or entity for a particular site, and is subject to conditions.

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<sup>15</sup> Unmetered on-selling to residential customers where it is allowed in Queensland (provided certain conditions are met) under the Residential Tenancies and Rooming Accommodation Act 2008 (Qld), s.165.

As registrable exemptions concern a person's network activity (ownership, control, operation) within a particular site, multiple exemptions are not required for each network a person may operate within a site unless the supply activity for each network requires a different exemption class. For example, two networks supplying electricity to five business customers each will require a single NR1 exemption. However, if one network supplied five residential customers and the other network supplied five business customers the Exempt Network Operator would require the ND1 and ND2 exemptions.

Registrable classes are for energy supply activities that we consider need greater transparency and regulatory oversight, usually because the scale of the activities is larger and the impact on the electricity market and customers is greater. Again, we apply the principle that the regulatory obligation should be proportionate to the benefits to the customer.

Situations that registrable exemptions apply to include supplying electricity to or by:

- sites with ten or more small tenants or residents, or to an adjacent site
- permanent residents of retirement villages or caravan parks
- large customers
- unmetered energy supply arrangements entered into prior to the commencement of the Retail Law
- generators offering market services
- Dedicated Connection Assets
- mining and primary production developments
- sites where a customer can access retail competition in a participating jurisdiction.

A comprehensive list of registrable exemptions is set out at Section 3.

A network individual exemption is required in circumstances where an applicant demonstrates why they are unable to conform to all of the conditions applicable to any relevant class of registrable exemption, or where no class exists which covers the activities for which the applicant seeks exemption.

Where no class covers the activities to be undertaken an individual exemption will be tailored to the specific situation of the person or business seeking the exemption and their customer(s). Conditions attached to an individual exemption are generally applied with a view to balancing the needs and rights of customers and the regulatory cost that meeting those conditions will place on the exemption holder.

As the network exemption conditions relate to access to retail competition, safety, metering, dispute resolution and pricing, where an application is to vary the conditions we will need to be convinced of a compelling case to vary our standard conditions for these matters.

If your activities do not fall within one of our activity class exemptions you should contact us to discuss the best course of action.



## 2.4 How do I obtain an exemption?

### 2.4.1 Pre-registration

Pre-registration is permitted where a network is under construction and is expected to commence operation within 6 months of the date of registration. You can pre-register for a network exemption by following the processes outlined in this Network Exemption Guideline.

### 2.4.2 Deemed exemptions

Deemed exemptions are automatic. Provided you meet all the criteria and conditions attached to the deemed class, you do not need to apply; rather, you are ‘deemed’ to be exempt. However, if you are required to appoint an ENM, you are required to register any applicable deemed activity classes.

### 2.4.3 Registrable exemptions

These exemptions are not automatic. You can register an exemption by completing the online registration form on the AER website.<sup>16</sup> To obtain a network exemption, you need to complete Parts A, B and C of the form.<sup>17</sup> Follow the instructions on the website. More than one registration class may apply. Select all that apply.

You must provide all the information requested in the form, including:

- the legal name (and trading name) of the business or person seeking the exemption, and their Australian Business Number (ABN) (preferred) or Australian Company Number (ACN)
- the site address for the exemption, the number of customers at that site and the class of exemption (for example, class NR1), and a brief description of the normal business activities undertaken at that site<sup>18</sup>
- contact details of the authorised representative for the applicant.

The proforma should be repeated for any other parties (i.e. agents, energy service operators, etc.) who must also register for the network.

Other than for brownfield conversions under condition 4.9, there is no formal approval process for registrable exemptions; your exemption comes into effect on the nominated effective date when it is published on our public register of network exemptions.<sup>19</sup> Once the exemption appears on the register, it becomes a “registered exemption”. Conditions apply to all registered (and deemed) exemptions.

You should advise us if your details change, for instance if the site for which you have the exemption changes owners, or the nature of your energy selling activities changes (for example, you no longer sell energy to small non-residential customers, but to large

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<sup>16</sup> The online exemption registration form can be found here: <http://www.aer.gov.au/node/476>

<sup>17</sup> If you also sell energy you may also need a retail exemption (which can be registered on the same form).

<sup>18</sup> For example, retail shopping centre, residential apartment building, and caravan park or retirement village.

<sup>19</sup> The AER’s public register of exemptions can be found here: <http://www.aer.gov.au/node/2446>.

customers). Please send updates concerning your exemption to [AERexemptions@aer.gov.au](mailto:AERexemptions@aer.gov.au).

#### **2.4.4 Individual exemptions**

We recommend that you contact us before applying for an individual exemption or if you are planning a development that would rely on an individual exemption. This is so that we can provide information and guidance relevant to your individual circumstances, and assist you with the application process. Individual network exemptions should not be necessary for common activities. Almost all common activities will be covered by a deemed or registrable network exemption. We reserve this category for new and novel situations or where a variation of conditions is considered necessary and desirable.

Section 5.3 sets out the information that you must provide when you apply for an individual exemption.<sup>20</sup>

Please be aware that providing false or misleading information in an application for the grant or variation of an individual exemption is a serious offence under the Criminal Code Act 1995 (Cth). The maximum penalty for such an offence is 12 months imprisonment.

Once you have completed your application please email it to: [aerexemptions@aer.gov.au](mailto:aerexemptions@aer.gov.au) with 'Application for individual exemption' in the subject line.

Applications for an individual electricity network service provider exemption may be lodged together with an application for an individual retail exemption.

#### **2.4.5 Public consultation process**

Individual network exemptions may be subject to consultation with affected stakeholders before a determination is made. This consultation may affect only a small number of parties if a small exempt network is involved or, where an application has potential to affect larger groups of customers, it may involve a formal public process. In accordance with clause 2.5.1 of the NER, the AER will decide the scope of consultation on a case by case basis.

Once we have received and accepted an application for an individual exemption, we will consider whether the application raises matters which should be the subject of wider consultation. If we decide to consult broadly we will publish a notice on our website:

- stating that the application has been received
- seeking written submissions on the application from interested stakeholders.

The consultation period will normally run for 10 to 20 business days.

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<sup>20</sup> We may not commence processing your application until we have received all required information.

## 2.4.6 Confidentiality

We understand that you may provide us with confidential information as part of your application. If you do, we ask that you clearly identify and mark anything you consider confidential and give reasons for each confidentiality claim. Please also advise us of any potential disadvantage that disclosing the information might cause you. If your application contains confidential information, you should submit both a public and confidential version of the information. You should only remove information in the public version that you consider confidential.

A confidentiality claim, by itself, is not always enough to prevent disclosure. Under the NEL and the *Competition and Consumer Act 2010 (Cth)*, we may disclose confidential information in certain circumstances, for example, where disclosure would not cause detriment, or the public benefit in disclosing the information outweighs that detriment.

If we are considering disclosing this information, we will let you know and give you an opportunity to comment in the first instance.

## 2.4.7 Decision making process

We will advise you, in writing, of our decision. If your individual exemption application is approved, we will also advise you of the conditions attached to the individual exemption. You will need to formally accept those conditions before your individual exemption takes effect.

When considering applications for individual exemptions, we will be guided by the National Electricity Objective, which is:

*...to promote efficient investment in, and efficient operation and use of, energy services for the long term interests of consumers of energy with respect to price, quality, safety, reliability and security of supply of energy.*

## 2.4.8 Grounds for refusal

We may refuse an application for an individual or registrable exemption or we may revoke an exemption (including a deemed exemption) if, for example:

- we believe that granting a new (or continuing an existing) exemption may not contribute to the achievement of the National Electricity Objective<sup>21</sup>
- there is any breach of our conditions for exemptions (Part B of this Network Exemption Guideline)
- you have provided us with false or misleading information.

## 2.4.9 Location and length of exemption

Most individual exemptions will be issued for a particular site or area, and will limit the supply of energy to a certain class or classes of customers. Generally, we will not issue individual exemptions for multiple sites (but we may issue an individual exemption that covers a class

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<sup>21</sup> This may apply if we consider the network is of a kind which ordinarily would be registered with AEMO as a distribution network.

of sites). We will only issue them where we consider that doing so is consistent with the NER and the National Electricity Objective.

The NER does not place a limit on the duration or validity of an exemption. However, we may impose a time limit on the grant or variation of an individual exemption. This will be determined on a case-by-case basis.

If no expiry date is stated as a condition of exemption, the grant or variation of the individual exemption will continue indefinitely, unless it is revoked or retired.

#### **2.4.10 Change of circumstances**

Your exemption will specify the conditions of the exemption. You will need to apply for a new or separate individual exemption to vary the conditions specified.

If your details change in any other way, for example if there is a change in contact details, you should contact us promptly so that we can vary your exemption.

If there is a change in ownership, the existing exemption will be retired but will not be amended or deleted. The new owner should apply promptly for a new exemption via our website, as set out in section 5.5. The site may continue to operate on the same basis as the old exemption (but to maintain services, the new owner/operator will be deemed to replace the old owner/operator in the interim) until the new exemption is published.

## 3 Introduction and exemption classes

Operating a network in breach of the AER's conditions will invalidate your exemption and could expose you to sizeable civil penalties. The requirement to observe the conditions for exemption applies jointly and severally to the network owner, network operator and any party or agent of the owner or operator who has control of the exempt network. Please read the following sections carefully and observe all the conditions related to your activities.

### 3.1 Deemed exemption classes

Except where an Embedded Network Manager (ENM) is appointed (see conditions 4.4 and 4.7), no application is required for a deemed exemption described in table 1.

#### 3.1.1 Energy supply

**Table 1 – Deemed classes of exemption – energy supply<sup>22</sup>**

Class	Activity
ND1	Persons supplying metered or unmetered energy to fewer than ten small non-residential customers within the limits of a site that they own, occupy or operate. Not applicable if an Embedded Network Manager is appointed (see exemption class NR1).
ND2	Persons supplying metered or unmetered energy to fewer than ten residential customers within the limits of a site that they own, occupy or operate. Not applicable if an Embedded Network Manager is appointed (see exemption class NR2).
ND3	Persons supplying metered or unmetered energy to occupants of holiday accommodation on a short-term basis. <sup>23</sup>
ND4	Metering installations (includes metering panels and associated sundry equipment but not including incoming sub-mains or outgoing service wiring)
ND5	All supply of energy via plug-in or rack mounted equipment in any premises. Includes NBN equipment in any premises with an input current rating not exceeding 3 amps AC.
ND6	Persons supplying unmetered electricity to residential customers in Queensland where premises are not separately metered and the relationship with the customer is covered by the Residential Tenancies and Rooming Accommodation Act 2008 (Qld).
ND7	Reserved
ND8	Persons supplying metered or unmetered energy to a related company.
ND9	Any supply of energy in conjunction with, or ancillary to, or to facilitate the provision of telecommunications/data centre services. Includes internet, telephone, mobile phone, fibre optic, hybrid fibre cable, television, radio, Wi-Fi or other communications technology.

<sup>22</sup> All energy supply must be metered where the sale of energy occurs. Unmetered energy only applies where there is no sale.

<sup>23</sup> This category applies to casual and annual renewal occupants of caravan parks and like accommodation but does not include occupants who primarily reside there - see Activity Class NR4.

ND10 Government agencies, other than housing authorities, supplying metered or unmetered energy to non-residential customers. Includes all public and private educational institutions.

Notes: Classes of exemption labelled 'ND\_' are 'network deemed' classes. For all classes: the AER does not support the sale of unmetered energy to small customers except that unmetered sites within camping and caravan parks are permitted.

### 3.1.2 Deemed network specific situations

The conditions specified in Part B of the Network Exemption Guideline apply to all deemed network specific exemption classes. In particular, the 'applicable conditions' listed in table 2 corresponding to a deemed exemption class apply, as further modified by table 7.

**Table 2 – Deemed classes of exemption – other situations**

Class	Activity	Deemed exemption applicable to:	Applicable Conditions:
NDO1 <sup>24</sup>	Off-market energy generation by equipment owned, operated or controlled by a third-party and connected to the NEM via a private electricity connection or equipment intended solely to provide emergency energy supply, or third-party renewable energy system providers	Energy generation (including inverter) installations not intended to supply network support or demand management services to the NEM and not otherwise required to be registered with AEMO. <sup>25</sup>	4.1, 4.2, 4.3, 4.5, 4.6
NDO2	Sites broadcasting television and radio signals.	All situations.	4.1, 4.5
NDO3 <sup>26</sup>	Electric vehicle charging stations within an exempt network (e.g. a privately owned charging station located in a public area, hotel, shopping centre, university, etc.)	All situations.	4.1, & to the extent relevant: 4.2, 4.3, 4.4, 4.5, 4.6 & 4.7
NDO4	Temporary supply for the construction and commissioning phase of building, civil, construction industrial, transport, mining or other projects	Incidental supply to facilitate bona fide construction and commissioning of new facilities on the same or	4.1, & to the extent relevant: 4.2, 4.3, 4.4, 4.5, 4.6 & 4.7

<sup>24</sup> This class applies only to the registration requirement in rule 2.5.1 of the NER for the exempt network to which a generator or inverter is connected. Generator registration and exemptions are handled by the AEMO. Safety requirements for generators and inverters are determined by each jurisdiction. This class does not affect any other requirement under any other legislation or rule of the NER.

<sup>25</sup> If you have a contract or agreement to supply network support or demand management services to a network service provider or the AEMO based on a generator or inverter you must register the exempt network under class NRO1 of Table 4. Also, the size limit set out in condition 4.2.3 has changed. If the total generation measured at your connection point to the NEM is 5MW or more, you must confirm with AEMO that registration of generator performance standards is not required to be eligible for an exemption in this Activity Class.

<sup>26</sup> If the charging facility is directly connected to a network service provider, no exemption is required.

		an adjoining site	
NDO5	Electric traction systems supplying passenger or freight vehicles and associated infrastructure (i.e. rail networks) but not including commercial and/or retail activities	All situations.	4.1
NDO6	Large corporate entities <sup>27</sup>	All situations.	4.1, & to the extent relevant: 4.2, 4.3, 4.4, 4.5, 4.6 & 4.7
NDO7	Residential, commercial and industrial sites where demand-side participation equipment and facilities are installed (see footnote), including the owners and operators of the equipment and facilities. <sup>28</sup>	All situations.	4.1, 4.2, 4.3, 4.5, 4.6

*Notes: Classes of exemption labelled 'NDO\_' are 'network deemed other' classes. The supply of network services in accordance with a commercial agreement between private parties is permitted for each category listed in Table 2.*

### 3.1.3 Using deemed exemptions

All deemed exemptions are subject to compliance with the activity class description set out in Tables 1 and 2, and the conditions 4.1 – 4.9, set out in Part B of the Network Exemption Guideline.

To use a deemed exemption:

1. Review the Activity Description and match it to your situation. Note the Activity Class.
2. Look up the Activity Class in table 6 or 7 (whichever applies). Identify which of the general conditions apply to your network and are relevant.
3. Read the relevant general conditions (which are numbered 4.1.1 to 4.1.13) that apply to your activity class.
4. Read specific conditions 4.2 through 4.9.
5. Comply with all the applicable conditions.

<sup>27</sup> See the glossary definition. The terms and arrangements for supply between two or more large corporate entities are not regulated. However, at the point of connection to the NEM the supply arrangements must conform to the reasonable requirements of the AEMO and the local network service provider for connection to the NEM.

<sup>28</sup> Demand-side participation equipment is intended as a broad term which includes any form of customer load management capability, including solar, renewable energy, energy storage, load-control or other equipment intended to assist a consumer manage their load impact on the NEM.

## 3.2 Registrable exemption classes

Tables 3 and 4 set out the classes of registrable exemption. More than one Activity Class may apply. If so, when registering select each relevant Activity Class. You should also select the applicable deemed categories if any are relevant to your exempt network.

As changed arrangements apply to access to retail competition, all registration applications which previously involved activity class NRO5 must now nominate every applicable activity class in table 3.

**Table 3 – Registrable classes of exemption – energy supply<sup>29</sup>**

Class	Activity
NR1	Persons supplying metered or unmetered energy to ten or more small non-residential customers within the limits of a site that they own, occupy or operate. Additionally, persons that have appointed an Embedded Network Manager who would otherwise meet the ND1 class activity description.
NR2	Persons supplying metered or unmetered energy to ten or more residential customers within the limits of a site that they own, occupy or operate. Additionally, persons that have appointed an Embedded Network Manager who would otherwise meet the ND2 class activity description.
NR3	Retirement villages supplying metered or unmetered energy to residential customers within the limits of a site that they own, occupy or operate.
NR4	Persons supplying metered or unmetered energy in caravan parks, holiday parks, residential land lease parks and manufactured home estates to residents who principally reside there.
NR5	Persons supplying metered energy to large customers.
NR6	Persons supplying metered or unmetered energy to small customers at a site or premises adjacent <sup>30</sup> to a site that they own, occupy or operate.
NR7	Persons supplying unmetered energy to small commercial/retail customers at a site that they own, occupy or operate. ( <b>Closed to new applicants.</b> )

*Note: Classes of exemption labelled 'NR\_' are 'network registrable' classes.*

*Class NR7 excludes exempt networks in Queensland that are deemed exempt under Class ND6 in Table 1.*

The conditions set out in sections 4.1 – 4.9 of Part B of the Network Exemption Guideline apply to all registrable exemptions, as modified by table 8 or table 9.

Any variation of these conditions requires AER approval under an individual exemption application made in accordance with sections 3.3 and 5.3.

<sup>29</sup> All energy supply must be metered where the sale of energy occurs, with the exception of class NR7. For all other classes in this table, unmetered energy only applies where there is no sale.

<sup>30</sup> Adjacent sites include sites divided by an access way, easement, laneway or minor road.



**Table 4 – Registrable classes of exemption – other situations**

Class	Activity	Registrable exemption
NRO1 <sup>31</sup>	Off-market energy generation by equipment owned, operated or controlled by a third-party and connected to the NEM via an exempt network connection	Energy generation (including inverter) installations intended to supply network support or demand management services to the NEM
NRO2 <sup>32</sup>	On-market energy generation by equipment owned, operated or controlled by a third-party and connected to the NEM via an exempt network connection	Energy generation (including inverter) installations required to be registered with the AEMO under clause 2.5.2 of the NER
NRO3	Ongoing supply to a mining or primary production facility and associated residential, commercial, industrial, processing and ancillary support facilities <sup>33</sup> in areas with restricted access to NEM supply	All bona fide installations, subject to demonstrable circumstances of remoteness from existing NEM supply infrastructure
NRO4	Industrial, commercial and 'mixed-use' facilities but not including residential or energy generation activity. Includes the metered or unmetered supply of energy under an agreed commercial scheme negotiated with large customers	All installations
NRO5	Metered energy selling to customers in networks with metering infrastructure enabling access to full retail competition in a jurisdiction <sup>34</sup>	<b>Closed to new applications. Replace with activity class from table 1 or table 3.</b>
NRO6	Large (30 km or greater) Dedicated Connection Assets (see definition in Glossary)	All dedicated connection assets
NRO7	Small (under 30 km) Dedicated Connection Assets (see definition in Glossary)	All dedicated connection assets

Note: Classes of exemption labelled 'NRO\_' are 'network registrable other' classes.

<sup>31</sup> This class applies only to the network to which the generator is connected. Generator registration and exemptions are administered by the AEMO. Safety requirements are determined by each jurisdiction.

<sup>32</sup> This class applies only to the network to which the generator is connected. Generator registration and exemptions are administered by the AEMO. Safety requirements are determined by each jurisdiction.

<sup>33</sup> The term 'ancillary support facilities' is intended to be interpreted broadly to encompass a wide range of sundry activities including, but not limited to, incidental supply to local residents, local tourism, communication, health, public safety and emergency services. Supply to such loads is permitted where the cost of supply by a local distribution network service provider would be uneconomic.

<sup>34</sup> Activity class NRO5 formerly applied only to embedded networks where customers had access to full retail competition via 'child' metering registered in accordance with applicable AEMO requirements. It did not apply where a customer arranged direct connection to a NEM registered network service provider or where customers within a network did not have access to full retail competition. It is now closed and table 1 or table 3 applies.

For activity classes NRO1 and NRO 2, the size limit set out in condition 4.2.3 has changed. If the total generation measured at your connection point to the NEM is 5MW or more, you must confirm with AEMO that registration of generator performance standards is not required to be eligible to register in this Activity Class.

Except for class NRO5 the supply of network services in accordance with a mutually agreed commercial agreement between private parties is permitted for each class listed in Table 4 - see charge group C in section 4.6.1.3.

For all classes note that the AER does not support the sale of unmetered energy to small customers. We will only consider approving an individual exemption for unmetered selling in exceptional circumstances, based on an application made in accordance with sections 3.3 and 5.3, however, unmetered sites within camping and caravan parks and equivalent situations are permitted by the AER. Note however, State or Territory laws also apply. In some jurisdictions those laws may impose additional requirements that must also be observed.

### 3.3 Individual exemption

Class NRI in Table 5 refers to network exemptions specific to the circumstances of the applicant. This class will apply in circumstances where an applicant is unable to conform to all of the conditions applicable to any relevant class of registrable exemption or where no class exists which covers the activities for which the applicant seeks exemption.

Conditions 4.1 – 4.9 of Part B of the Network Exemption Guideline apply to all individual network exemptions unless specifically varied by a decision of the AER. Where an application for an individual network exemption or for a variation of conditions is required, it must be made in the form set out in section 5.3 in Part C of this Network Exemption Guideline.

**Table 5 – Individual network exemption class**

Class	Activity	Registrable exemption	Application for individual exemption
NRI	Specific exemption of a network not otherwise described	All approved applications	Detailed application required

*Note: Exemption class 'NRI' is 'network registrable individual' exemption.*

We prefer, wherever it is practicable, to convert individual network exemptions to registrable exemptions. We recommend you contact the AER and discuss your situation at the earliest opportunity before proceeding to lodge an application.

The AER decision on an individual network exemption may nominate some, or all, of the general and specific conditions apply or that different conditions apply. The default position is that all the conditions listed in Part B apply unless they are clearly irrelevant. In the absence of an AER decision to omit a particular condition, the condition continues to apply.

Parties who assume control of an exempt network subject to an individual exemption must, within not more than 20 business days of commencing to own, operate or control that exempt network, make an application for exemption in the form set out in section 5.5 in Part C of this Guideline.

## 4 Part B – Conditions

Our conditions for exemption are detailed in this section. It is divided into nine sub-sections, numbered 4.1 through 4.9. Section 4.1 contains twelve general sub-conditions which apply to all exempt networks, except where modified by tables 6, 7, 8 & 9 for the respective exemption class.

Conditions 4.2 through 4.9 provide a detailed explanation of our requirements for metering, interaction with AEMO, distribution loss factors, pricing, appointment of an Embedded Network Manager, information provision and conversion of an existing site.

These conditions will only be varied by the AER in response to a written application (see sections 3.3 and 5.3) demonstrating that exceptional circumstances apply. We consider exceptional circumstances should mean that a material detriment to customers will be significantly reduced or eliminated by varying these conditions.

### 4.1 General requirements

Words in italics are primarily intended as commentary to assist understanding of a condition but also form part of the condition. Where a tick appears in a table the numbered condition applies to the named exemption activity class. Where the words “Not applicable” appear in any of tables 6, 7, 8 or 9, the numbered condition does not apply to that class of activity. Where a clause reference appears, only that specific clause applies.

1. All meters used for the measurement of electrical energy whether delivered to, or exported by, a customer must comply with the requirements of the *National Measurement Act, 1960 (Cth)* and regulations made under that Act for electricity meters and sub-meters and with the requirements set out in schedule 7.4 of the NER.

*This condition applies to all metered energy situations. It does not apply if an unmetered supply is permitted by the AER.*

2. All paid energy consumption must be metered except where the AER has determined an unmetered supply is permitted.

*Note that the AER does not approve unmetered supplies except in unique or exceptional circumstances. Metering is not required if no charge is levied for electricity or for the recovery of energy supply costs from a tenant or co-tenant.*

3. All exempt networks must, at all times, be installed, operated and maintained in accordance with all applicable requirements (within the jurisdiction in which the network is located) for the safety of persons and property. This includes, where relevant, an industry Code or Guideline otherwise applicable to a network service provider providing similar services.

In some jurisdictions larger networks may also have an obligation to have current, and/or maintain, a safety management plan or similar, with a competent safety authority or regulatory agency within that jurisdiction. You must obey these local safety requirements.

All owners and operators of exempt networks must comply with the reasonable requests of a local Distribution Network Service Provider (DNSP) for demand forecasting data, relevant details of the physical network infrastructure and assets and any other data relevant to the control, operation or maintenance of the network.

Electrical networks may be subject to mandatory load shedding requirements in emergency situations, in accordance with the NER. This requirement will generally be specified by the local DNSP in the connection agreement for the connection to the NEM system.

*There are no exceptions to these safety requirements.*

4. Any generation source located within a Exempt Network Operator's (ENO's) exempt network must be designed in the event of a loss of supply from the local DNSP's network to either:
  - (a) shutdown entirely or
  - (b) disconnect from that other network (i.e. 'island') and not reconnect except in accordance with arrangements approved by the relevant NEM registered network service provider.

*Applies whenever an exempt network contains a generation or inverter source of any kind.*

5. All selling of electricity conducted within an exempt network must be undertaken by:
  - (a) where the National Electricity Retail Law applies, a person authorised to sell electricity in accordance with that Law, or
  - (b) where the National Electricity Retail Law does not apply, a person authorised to sell electricity in accordance with regulations in force in that jurisdiction.

*Applies whenever energy is exchanged for money across an exempt network.*

6. Where charges are to apply for services provided by, or in connection with, an exempt network, the following dispute resolution conditions apply:<sup>35</sup>
  - (a) An exempt person must develop and make a set of procedures detailing the exempt person's procedures for handling complaints and disputes, and those procedures must be provided to exempt customers in accordance with condition 4.8.1.1(b)(i).
  - (b) The procedures must be consistent with the Australian Standard *AS/NZS 10002:2014 Guidelines for complaint management in organizations* as amended and updated from time to time.
  - (c) In the event of a complaint or dispute concerning the supply of energy to an exempt customer, and in the absence of a determination of the relevant tenancy tribunal if the customer is a tenant, the exempt person must:
    - i. deal with the complaint or dispute in accordance with the exempt person's procedures for handling complaints and disputes, and
    - ii. make reasonable endeavours to resolve the dispute, and
    - iii. advise the exempt customer:

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<sup>35</sup> We note that in many States or Territories there is additional legislation regulating charges for energy in one or more residential, commercial, caravan and holiday park or residential land lease situations – check the legislation applicable in your State or Territory.

- of any right the exempt customer has to access an energy ombudsman (if applicable), including to lodge a complaint or for free independent information and advice, or any other external dispute resolution body in the State or Territory where the exempt customer is located, and
- of the telephone number and other contact details of the energy ombudsman (if applicable).

A dispute resolution mechanism does not require approval by the AER, but must be of a type ordinarily applicable to disputes of the kind, be reasonably accessible, timely, binding on the parties to the dispute and not subject to excessive or unnecessary costs nor to costs disproportionate to the amount in dispute.

*Where a network owner or operator appoints an agent they, as the principal, remain responsible for ensuring this condition is satisfied.*

7. Where a single customer has energy delivered to adjoining sites or to multiple exempt sites within a jurisdiction and the sites are subject to a common supply arrangement and suitable metering is installed, meter readings for that customer may be aggregated for corresponding time periods.

'Suitable metering' means meters that record energy to the same accuracy class and equivalent time intervals, but not necessarily meters of identical design. 'Exempt sites' refers to exempt networks.

*This condition is permissive in its operation: it allows a proprietor or customer of one or more exempt networks to negotiate a bulk pricing arrangement with a willing retailer. This condition does not require that meter readings must be aggregated: it only permits them to be aggregated if a commercial agreement exists to do so. Note also that this condition does not require any NEM service provider or AEMO to modify its systems or procedures to facilitate aggregation.*

8. An application for registration of an exempt network is to be made within 20 business days of acquiring a requirement to register. Applications for exemption are personal to the applicant. They are not transferable.

*Note that registrable exemptions require minimal effort for the new proprietor of an existing registered exempt network to obtain. Therefore, there is no practical impact in requiring a new application. Note also that no application is required for a deemed exemption category.*

9. The AER may revoke or amend an exemption at any time or may vary the conditions applicable to an exemption from time to time.

*If the AER does so it will notify a registered applicant using the registered contact details or otherwise, in accordance with the procedures set out in this Network Exemption Guideline and the NER. There are no exceptions to this requirement.*

10. Where notified by a customer ('life support customer') of the existence of a requirement to maintain supply for life support equipment, the exemption holder must, without undue delay, promptly notify the parent connection point retailer of the existence of a life support requirement in accordance with the reasonable requirements of the parent connection point retailer. In addition, if the identity of the child connection point retailer is known, the exemption holder must, without undue delay, promptly notify the child connection point retailer when they are informed of life support requirements at a child

connection point. The same process and obligations apply in relation to notification of deregistration of a life support customer.

*Applies whenever electricity is provided across an exempt network to an eligible retail customer.*

11. An exemption holder must not disconnect supply to a life support customer without making arrangements for the safety of a life support customer.

*Applies whenever electricity is provided across an exempt network to an eligible retail customer.*

12. Where an exemption holder must appoint an Embedded Network Manager (i.e. an ENM as defined above) to comply with condition 4.4, the appointment must also comply with condition 4.7.

1. Where an exempt customer is eligible under State or Territory legislation to purchase energy from a retailer of their choice, the exemption holder must not do anything to discourage or prevent them from exercising this choice, whether by:

- (a) requiring the exempt customer to waive their ability to choose a retailer; or
- (b) unreasonably hindering their efforts to find another retailer; or
- (c) imposing a requirement for compensation for lost capital, income or profit by a customer exercising the right to access a market retail offer;<sup>36</sup> or
- (d) allowing, causing or permitting any other person to do any of the things mentioned in (a), (b) or (c) above;

and, except where the requirements of section 4.9 have been met:

- (e) an exemption holder or agent must not alter the electrical supply arrangement to a customer or tenant in an exempt network directly connected to a registered distributor without the written consent of that customer, resident or tenant, freely given; and<sup>37</sup>
- (f) a customer, resident or tenant of commercial, industrial or residential premises must not be compelled to become part of an exempt network or subject to an exempt selling regime without the express written consent of that customer, resident or tenant.

2. Where condition 4.1.12.1 does not apply, an exemption holder must not prevent or unreasonably impede a customer, resident or tenant within the exempt network from obtaining, at their own cost, a direct connection to the local distributor.

13. An exempt person must, if permitted by an energy ombudsman scheme:<sup>38</sup>

- (a) be a member of, or subject to, an energy ombudsman scheme in the State or Territory where the exempt network is located; and
- (b) comply with the requirements of that scheme.

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<sup>36</sup> This requirement does not apply to works necessary to modify an installation to accept an on-market metering installation.

<sup>37</sup> This requirement only applies to works which would alter the metering arrangements for a customer that result in that customer ceasing to have a direct connection to a distributor or which adversely affect access by that customer to their retailer of choice. General works to maintain or enhance supply are permitted.

<sup>38</sup> Consult ['Dispute resolution in exempt networks'](#) on the AER website for more information on specific schemes.

## **Exemption Class condition tables**

The exemption class condition tables are set out on the following pages.



**Table 6 – Deemed classes of exemption – energy selling or supply**

Applicable conditions under section 4.1 'General Requirements'													
Class	1	2	3	4	5	6	7	8	9	10	11	12	13
ND1	✓	✓	✓	✓	✓	✓	✓	Not applicable	✓	✓	✓	✓	Not applicable
ND2	✓	✓	✓	✓	✓	✓	✓	Not applicable	✓	✓	✓	✓	✓
ND3	✓	✓	✓	✓	✓	Not applicable	✓	Not applicable	✓	✓	✓	✓	Not applicable
ND4	Not applicable	Not applicable	✓	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	✓	Not applicable	Not applicable	Not applicable	Not applicable
ND5	Not applicable	Not applicable	✓	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	✓	Not applicable	Not applicable	Not applicable	Not applicable
ND6	Not applicable	Not applicable	✓	✓	✓	✓	✓	Not applicable	✓	✓	✓	✓	✓
ND7	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
ND8	✓	✓	✓	✓	✓	Not applicable	✓	Not applicable	✓	Not applicable	Not applicable	Not applicable	Not applicable
ND9	Not applicable	Not applicable	✓	✓	Not applicable	✓	✓	Not applicable	✓	Not applicable	Not applicable	Not applicable	Not applicable
ND10	✓	✓	✓	✓	✓	✓	✓	Not applicable	✓	Not applicable	Not applicable	✓	Not applicable

**Table 7 – Deemed classes of exemption – other situations**

Applicable conditions under section 4.1 'General Requirements'													
Class	1	2	3	4	5	6	7	8	9	10	11	12	13
NDO1	✓	✓	✓	✓	✓	✓	✓	Not applicable	✓	Not applicable	Not applicable	Not applicable	Not applicable
NDO2	Not applicable	Not applicable	✓	Not applicable	Not applicable	✓	Not applicable	Not applicable	✓	Not applicable	Not applicable	✓	Not applicable
NDO3	✓	✓	✓	✓	✓	✓	✓	Not applicable	✓	Not applicable	Not applicable	✓	Not applicable
NDO4	Not applicable	Not applicable	✓	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	✓	Not applicable	Not applicable	Not applicable	Not applicable
NDO5	Not applicable	Not applicable	✓	Not applicable	Not applicable	✓	Not applicable	Not applicable	✓	Not applicable	Not applicable	Not applicable	Not applicable
NDO6	✓	✓	✓	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	✓	Not applicable	Not applicable	Not applicable	Not applicable
NDO7	✓	✓	✓	✓	✓	✓	✓	Not applicable	✓	Not applicable	Not applicable	✓	Not applicable

**Table 8 – Registrable classes of exemption – energy selling or supply**

Applicable conditions under section 4.1 'General Requirements'													
Class	1	2	3	4	5	6	7	8	9	10	11	12	13
NR1	✓	✓	✓	✓	✓	✓	✓	✓	✓	Not applicable	Not applicable	✓	Not applicable
NR2	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
NR3	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
NR4	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
NR5	✓	✓	✓	✓	✓	Not applicable	✓	✓	✓	✓	✓	✓	Not applicable
NR6	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Not applicable
NR7	Not applicable	Not applicable	✓	✓	✓	✓	✓	✓	✓	Not applicable	Not applicable	✓	Not applicable

**Table 9 – Registrable classes of exemption – other situations**

Applicable conditions under section 4.1 'General Requirements'													
Class	1	2	3	4	5	6	7	8	9	10	11	12	13
NRO1	✓	✓	✓	✓	✓	✓	✓	✓	✓	Not applicable	Not applicable	Not applicable	Not applicable
NRO2	✓	✓	✓	✓	✓	✓	✓	✓	✓	Not applicable	Not applicable	Not applicable	Not applicable
NRO3	✓	✓	✓	✓	✓	✓	✓	✓	✓	Not applicable	Not applicable	Not applicable	Not applicable
NRO4	✓	Not applicable	✓	✓	✓	✓	✓	✓	✓	Not applicable	Not applicable	✓	Not applicable
NRO5	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Not applicable
NRO6	✓	✓	✓	Not applicable	✓	✓	✓	✓	✓	Not applicable	Not applicable	Not applicable	Not applicable
NRO7	✓	✓	✓	Not applicable	✓	✓	✓	✓	✓	Not applicable	Not applicable	Not applicable	Not applicable

**Table 10 – Individual network exemption class**

Applicable conditions under section 4.1 'General Requirements'													
Class	1	2	3	4	5	6	7	8	9	10	11	12	13
NRI	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

## 4.2 Metering installation and NEM requirements

The following requirements apply to all new metering installations and to any reconfiguration of an existing metering installation within an existing exempt network. This clause also applies to an activity class where condition 4.1.12 applies, as set out in tables 6, 7, 8, 9 & 10.

Metering at the parent connection point of an exempt network is to be determined in conjunction with the relevant transmission or distribution network service provider's requirements for connection of a customer. Metering requirements for child connections in an exempt embedded network, including a requirement to appoint an ENM, are set out in section 4.2.2. A metering installation is non-compliant if the metering installation does not conform to current standards for NEM metering in any material respect - see condition 4.2.2.5.

An existing non-compliant metering installation for a child customer in an exempt network must be upgraded at the cost of the Exempt Network Operator except where:

- (a) the child exempt network customer has not sought to take advantage of a market retail offer; or
- (b) the metering installation was in existence on 1 January 2012 and was not altered after that date; or
- (c) a metering installation was installed on or after 1 January 2012 and that installation complied with the requirements of this guideline in force on the date of commissioning or first use of the installation; or
- (d) a customer, market retailer or other person provides a replacement metering installation of their own volition and at their own cost.

Where an Exempt Network Operator is non-compliant due to a customer having no metering installation, a compliant metering installation must be installed at the Exempt Network Operator's expense.

These requirements to pay for a metering upgrade can be summarised as follows:

Situation	Who pays?
Metering installation existed before 1 January 2012, and has not been changed since	Customer/Customer's retailer
Metering installation installed after 1 January 2012 and was compliant at the time of installation	Customer/Customer's retailer
Customer/customer's retailer or other person provides a replacement metering installation of their own volition and cost.	Customer/Customer's retailer

Any other situation where metering installation does not conform with NEM metering standards (see condition 4.2.2.5).

Exempt Network Operator

Customer has no metering installation in non-compliance with the requirements of this Guideline

Exempt Network Operator

## 4.2.1 Transmission networks

Regardless of whether a transmission network or dedicated connection asset (DCA) is registered with AEMO or exempted from registration by the AER, all metering in electricity transmission networks and DCAs must be installed in accordance with all reasonable requirements of AEMO and additionally, in accordance with the requirements specified in a connection agreement with a network service provider.<sup>39</sup>

An exempt person must consult AEMO on AEMO requirements for the safe, reliable or secure operation of an exempt network or DCA. Where AEMO advises that an exempt transmission network or DCA is likely to affect the safe, reliable or secure operation of the National Electricity Market, an exempt person must maintain and operate (or ensure their authorised representatives maintain and operate) all equipment that is part of their facilities in accordance with:

- (a) relevant laws;
- (b) the requirements of the National Electricity Rules as apply to the safe, reliable and secure operation of the National Electricity Market as advised by AEMO; and
- (c) good electricity industry practice and relevant Australian Standards.

When requested to do so, an exempt person must negotiate in good faith to permit access to an exempt electricity transmission network on reasonable commercial terms. This condition does not require an exempt person to offer firm access to the exempt network.

## 4.2.2 Distribution networks

An Exempt Network Operator must consult AEMO on AEMO requirements for the safe, reliable or secure operation of an exempt distribution network operating at a nominal voltage of 11kV or more. Where AEMO advises that an exempt distribution network operating at a nominal voltage of 11kV or more is likely to affect the safe, reliable or secure operation of the National Electricity Market, an Exempt Network Operator must maintain and operate (or ensure their authorised representatives maintain and operate) all equipment that is part of their facilities in accordance with:

- (a) relevant laws;

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<sup>39</sup> A transmission network as defined in the National Electricity Rules is nominally one which operates at voltages of 220 kV and above or, subject to a determination by the AER, at lower voltages in parallel with and providing support to the main transmission network.

- (b) the requirements of the National Electricity Rules as apply to the safe, reliable and secure operation of the National Electricity Market as advised by AEMO; and
- (c) good electricity industry practice and relevant Australian Standards.

When requested to do so, an Exempt Network Operator must negotiate in good faith to permit access to an exempt electricity distribution network on reasonable commercial terms. This condition does not require an Exempt Network Operator to offer firm access to the exempt network.

#### **4.2.2.1 Basic metering requirements**

As provided for in condition 4.1.1, an Exempt Network Operator must ensure that all metering installations used in an exempt network are fit for purpose and compliant with the requirements of the National Measurement Act, which Act is administered by the National Measurement Institute and the regulations in force under that Act.

An exempt network metering installation for which an ENM must be appointed must be installed and operated consistent with the AEMO Metrology Procedure: Part A National Electricity Market. The metrology procedure and technical standards applicable to a metering installation remain subject to the laws of the jurisdiction in which the installation resides. This requirement includes compliance with any applicable service installation rules in the jurisdiction in which the meter is installed.

In addition to any other requirement under the NER and/or jurisdictional requirements for a metering installation, all meters installed in an exempt distribution network must be in an accessible location with safe, convenient access at no cost to the customer to facilitate meter reading by the network operator and the customer or their respective agents and, where relevant, to permit meter testing and maintenance.

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.

#### **4.2.2.2 Competition in metering**

Competition in Metering was introduced on 1 December 2017 and applies to NEM metering installations. Where an ENM must be appointed in a State or Territory under this guideline, the current *minimum services specification* for new or replacement metering installations under chapter 7 of the NER applies to all new exempt networks and to any rebuild of an existing network which involves a replacement of more than 50% of the then active metering installations.

#### **4.2.2.3 Retail competition – access requirements**

Where a market retailer accesses an existing exempt network child meter the market retailer or the customer (as the case may be) may:



- (a) purchase or lease the existing meter from the owner of the meter; or
- (b) at their own cost, replace the meter with a meter of their own choosing.

If option (a) applies, the purchase or lease of the meter and the arrangements to access meter data are to be determined at the discretion of the retailer or, otherwise, by the customer.

If option (b) applies, no compensation is payable to the Exempt Network Operator for the unrecovered cost of the meter.

In all States and Territories an Exempt Network Operator must provide access on reasonable terms to all necessary facilities to allow the metering of a customer obtaining supply from a market retailer. Where access to retail competition by parent/child metering is not available in a State or Territory, an Exempt Network Operator must not unreasonably prevent an exempt network customer from arranging at their own cost a direct connection to a local distributor.

#### **4.2.2.4 Prohibition of measures which impede competition**

The AER does not permit an Exempt Network Operator to impose any measures on a customer either directly or indirectly, which would impede or penalise a customer seeking access to retail competition. The prohibited measures may be either physical, financial or contractual.

An Exempt Network Operator is not entitled to receive and must not impose a requirement for compensation on a person, Owners Corporation, body corporate, strata corporation, landlord, resident, tenant or trust for the loss of capital, income or profits however it arises resulting from the exercise of a customer of the right to access an alternative retail market electricity price offer.

A supply contract must not include any charge for early termination of the supply agreement or any condition which unreasonably restricts the ability of a consumer to access an alternative retail market offer or that requires the Exempt Network Operator to be the sole supplier of any metering related service.

Also, an Exempt Network Operator must not seek an advance fee or a rebate from any other person:

- (a) in connection with the provision of ENM services; or
- (b) to secure a right to provide services to an exempt network regulated by the AER.

#### **4.2.2.5 Meter accuracy testing and billing disputes**

In the event of a billing dispute, an Exempt Network Operator must inform a customer of the right to request a meter test. A copy of the notice must be retained by the Exempt Network operator and be available for inspection on request by the AER. If requested in writing by a customer to perform a metering test, the Exempt Network Operator must demonstrate that the metering installation is accurate to the applicable standard specified in schedule 7.4 of the NER. If the customer does not request testing or waives the right to testing, the meter is deemed to be accurate.

An offer to conduct a metering test must be in writing and, if a cost may be incurred, must declare the cost to be incurred by the customer if the meter is found to be accurate. The offer must also state the customer bears no cost if the metering installation is found to be deficient in any material respect. For the purposes of this condition, a defect is not material if it does not affect the accuracy or timeliness of metering data obtained from the metering installation.

If the meter has not been installed and maintained to an appropriate standard or is not accurate relative to the applicable standard specified in schedule 7.4 of the NER, the cost of testing must be borne by the exemption holder. The reasonable cost of testing may be recovered from a customer if:

- (a) the meter is tested and found to be accurate; and,
- (b) the metering installation has been installed to an appropriate standard; and
- (c) the metering installation has been maintained to current NEM standards up until the time of testing; and
- (d) there is no evidence of a material defect as stipulated above; and
- (e) the customer requested in writing that the meter be tested.

Testing may require that the Exempt Network Operator arrange for a specialised electrical contractor to install a calibrated 'check meter' for a period to compare the readings of your metering with the check meter.

### 4.2.3 Off-market and on-market energy generation

All generation installations (i.e. all off-market and on-market energy generation, including inverter systems), whether connected directly or indirectly to a NEM distribution network, must be metered in accordance with the applicable requirements for connection to a NEM distribution or, where applicable, transmission network.

Caution: Generator and battery/inverter installations within exempt networks do not necessarily have access to government incentive schemes. A generator or solar PV or battery/inverter system not directly connected to the local distributor may have no access, or restricted access, to government or industry incentive programs. In particular, access to feed-in tariffs may not be available for such generators. This can be an issue for situations like retirement villages which install solar systems. You should consult your local energy authorities to determine if suitable arrangements can be made before investing in such systems.

The AER considers that the metering requirements imposed for small generator installations within exempt networks should be proportional to the size of the installation and kept to the minimum necessary to adequately record energy flows to and from the NEM. For all generator and battery/inverter installations adequate metering must be determined in consultation with the relevant NEM registered service provider. For small installations this may involve a bidirectional meter installed at the connection point to the local distribution network. Further details of metering requirements must be obtained from the local electricity distribution or transmission network service provider.

Additional requirements set by AEMO may apply to generator or battery or inverter type installations with an aggregate capacity measured at the connection point to the NEM greater than 5MW output.<sup>40</sup> All such systems intending to register or be deemed exempt in classes NDO1, NRO1 and NRO2 require review by AEMO. This is to ensure that all necessary generator performance standards will apply and that the system is unlikely to pose an undue risk to system security or reliability.

When seeking to register in Activity Class NRO1 or NRO2 the applicant must hold evidence of this AEMO review and make it available to the AER on request. In the absence of an AEMO review, an NDO1, NRO1 or NRO2 exemption is invalid and of no effect. A further review by AEMO must be sought whenever an increase in generation capacity is added to any deemed or registered exempt network in classes NDO1, NRO1 or NRO2 which results in total aggregate generation exceeding 5MW.

Special note for generator and inverter installations: Simply owning a generator or solar inverter does not automatically mean an exemption is required for your network. Exemption of a network is required only where a third party is involved.

For example, a shopping centre will have tenants and often, a generator. In this example we assume the tenants are being supplied by the shopping centre through an exempt network. The shopping centre network must be exempted because of the supply to third parties (i.e. the tenants), not because it has a generator. However, the situation changes if the generator belongs to someone else (a third person) and is supplying electricity to the shopping centre or to the NEM – then the shopping centre network must be exempted because the shopping centre is supplying a distribution service to the generator.

Also, network users should be aware that additional jurisdiction specific regulations exist which impose additional requirements on the installation of generators and inverters (with or without batteries or other storage). Even if it is your network and it is your equipment connected to the network, you must still comply with the local safety requirements. Contact your local distributor for details.

#### 4.2.4 Electric vehicle charging facilities

As this is a deemed exemption category, no application is required for this exemption.

This classification applies to an exempt network with a vehicle charging facility owned by another party connected to the exempt network. An example might be a shopping centre which allows a vehicle leasing company to install a charging system that can be used by members of the public. An exemption is required by the shopping centre because their exempt network sits between the distributor and the charging facility.

On the other hand, no network exemption is required if the vehicle charging facility is directly connected to the local distribution network. It will be directly metered by the local distributor. This applies wherever there is a direct relationship between the distributor and the charging facility.

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<sup>40</sup> The output is the aggregate nameplate capacity of all generation sources. It is not the export capacity of the system, which may be a lesser amount.

Note that the supply of electricity from a charging facility to a vehicle is a service to the transport sector, which is not regulated by the AER.<sup>41</sup>

Where the facility operates only as a load, metering and charging arrangements within the exempt network may be determined by agreement between the network owner/operator and the proprietor of the charging facility. Although the AER prefers all connections be metered, we permit private commercial and industrial (but not residential) vehicle charging arrangements which include an unmetered connection.

A vehicle charging facility which has a capacity to export electricity into the local distribution network must comply with the metering requirements in clause 4.2.3 for energy generation sources.

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<sup>41</sup> Under the National Energy Retail Law (s. 88), a person requires authorisation or exemption for the sale of energy to a person for a premises. As a vehicle is not a premises, the AER does not regulate the sale of energy for vehicles.

## 4.3 Metering operation and maintenance

This condition applies wherever a meter is required to be installed.

An Exempt Network Operator must operate and maintain a metering installation which they own, operate or control in accordance with the requirements of schedule 7.4 of the NER. For the purposes of this condition, the Exempt Network Operator is deemed to be and must undertake the role of the 'Metering Coordinator' where mentioned in schedule 7.4. This requirement does not apply to market meters owned, operated or controlled by another party.

## 4.4 AEMO requirements for access to retail competition

This condition applies in those regions of a State or Territory where an exempt customer is eligible under State or Territory legislation to purchase energy from a retailer of their choice and a customer must access retail competition through a parent metering installation serving an exempt embedded network service provider. This requirement includes any embedded network that would otherwise be deemed exempt. It does not apply in any region of a State or Territory where access to retail competition is not mandated by that State or Territory.

### 4.4.1 Appointment of an Embedded Network Manager

Subject to the further requirements specified in section 4.7, an Embedded Network Manager (ENM) must be appointed and an appointment maintained if the trigger conditions specified in condition 4.4.2 are met. It should be noted that if the requirements specified in condition 4.7.2 for reversion to no ENM have been met, this condition will not apply.

### 4.4.2 ENM appointment trigger conditions

The relevant activity classes which require the early appointment of an ENM are those involving small and large residential, commercial and industrial customers. Subject to the further requirements set out in this condition, the relevant exemption activity classes for which an ENM must be appointed are ND10, NR1, NR2, NR3, NR5 and NR6 ('relevant activity classes').

This condition applies to each individual site. An exempt embedded network with 30 or more customers operating in a relevant activity class and not subject to a non-appointment or reversion entitlement under condition 4.7.2 must appoint an ENM.

For each activity class not listed above we have determined the costs will outweigh the benefits of the appointment of an ENM.

We have omitted classes ND1 and ND2 from the relevant activity classes. These classes have fewer than 30 customers. We have omitted classes ND3 and NR4 from the relevant activity classes. These classes concern short-term rental accommodation (as is common in tourism) residential land lease and manufactured home sites. For class ND3, we do so on the basis that the transient nature of those tenancies makes it unlikely that there would be sufficient opportunity to offset the transaction costs of appointing an ENM. For class NR4, we are satisfied that the price control effect of State based legislation (where it exists) makes the costs of an immediate appointment of an ENM unlikely to outweigh the benefits of an early appointment.

We also omit specific reference to the generation, industrial and commercial situations described in tables 2, 4 and 5 on the basis that these situations are likely to involve a direct arrangement with a market retailer with the necessary accreditation to correctly manage the metering installation. In these circumstances, the costs of appointing an ENM are likely to outweigh the benefit of an early appointment.

For any of these situations though, if the appointment of an ENM becomes necessary because an ENM conditions trigger has arisen as provided for in clause 2.5.1(d2) of the NER, an accredited ENM must be appointed in accordance with rule 2.5.1(d2). For the

avoidance of doubt, if an embedded network contains a market customer then an ENM must be appointed.

#### 4.4.2.1 Small size network threshold

Note that in this condition 4.4.2.1 we use the term 'ENM trigger event' for convenience. It should not be mistaken for the similar term defined in the NER: *ENM conditions trigger*.

We have determined under clause 2.5.1(d2) of the NER that some network activity classes should be exempted on the basis of size from appointing an ENM immediately. We consider that scale is an important consideration for these activities. Consultation with stakeholders strongly supported a threshold of fewer than 30 retail customers on the basis these networks are less attractive than larger networks because of transaction costs.

For networks with fewer customers and/or smaller loads we also consider it possible that the exempt embedded network service provider may be willing to match the prices proposed by the market retailer. This may result in a net saving for both the exempt embedded network service provider and the customer or customers of the network. In condition 4.7.2 we provide the exempt embedded network service provider a window of opportunity to make a counter-offer in some circumstances. If no counter-offer is made or if a counter-offer is not accepted then the ENM trigger event requirements are satisfied and an ENM must be appointed. Please note: this condition does not prevent a small network from appointing an ENM of its own volition.

As the timeframe for actions required to appoint an ENM is limited, we expect that all parties will communicate electronically, either by email or SMS communication or other similar means, wherever possible.

This condition concerns small residential customers in activity classes ND2, NR2, NR3 and NR4 and small non-residential customers governed by activity classes ND1, ND10, NR1 and NR6. When an ENM trigger event occurs, an ENM must be appointed.

For an exempt embedded network with 29 or fewer small customers or class NR4, an ENM trigger event occurs when the following is satisfied:

- (a) A customer or a retailer notifies the exempt embedded network service provider that they have entered a market retail contract for the sale of energy at the relevant child connection point and the cooling period for that market contract has expired OR
- (b) a customer or a retailer notifies the exempt embedded network service provider of the desire of the customer to access retail competition; and
- (c) the mechanism for eligible communities to not appoint an ENM immediately as provided for in condition 4.7.2 has been invoked; and
- (d) an eligible member of an eligible community notifies the exempt embedded network service provider as provided for in condition 4.7.2 that the customer does not accept a binding written price counter-offer; and
- (e) the cooling off period for that market retail contract has expired.

A notice under this condition must be addressed to the exempt embedded network service provider at the normal business address of the network. If the network is registered with the AER, the notice may be addressed to the address recorded in the public register of network exemptions. The notice may be in writing or delivered electronically by email or SMS.

#### **4.4.3 Registration required when an ENM is appointed**

Class NRO5 was originally introduced to distinguish exempt network metering systems which had been established specifically to support access to retail competition. Early registrations did not require the NDx or NRx activity classes of tables 1 or 3 to be recorded. With the introduction of the amended rules governing embedded networks, we will cease to apply class NRO5. This is on the basis that the default position is that in all NEM jurisdictions where access to competition is available, all metering installations will be required to be capable of facilitating that competition, either immediately or following additional metering works.

For all embedded networks for which an ENM has been appointed, registration in the relevant activity class or classes is required. An existing registration must be updated or amended where necessary to record each relevant NDx or NRx activity class. An existing registration may also be amended to add or revise any other relevant activity classes. An amendment should be lodged with the AER within 20 business days of the appointment of the ENM.

#### **4.4.4 AEMO metrology and guideline requirements**

The metering arrangements for customers obtaining supply from a NEM registered retailer must comply with all applicable current NER and AEMO requirements for the installation and maintenance of a metering installation, the registration of meters, provision of metering data and, where necessary, the transfer of the customer to another retailer. These requirements are published by AEMO in a range of relevant accreditation, metrology and service procedures (which procedures are subject to amendment over time) and in the AEMO Guide to Embedded Networks.<sup>42</sup>

An exempt embedded network service provider is required to appoint an accredited ENM to perform these tasks. These tasks may only be performed by an exempt embedded network service provider if that exempt embedded network service provider has obtained accreditation from AEMO and holds a current registration with AEMO which has not been suspended or revoked.

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<sup>42</sup> AEMO, Metrology Procedure: Part A National Electricity Market v6.04, 1 December 2017; AEMO, Guide to Embedded Networks, 1 December 2017; See the AEMO website for additional relevant documentation.



## 4.5 Distribution loss factors

Unless you are setting up a large exempt network, you own a large generator in a exempt network or you are very large load in a exempt network (think large factory) this section does not apply to you. Your distribution loss factor is the 'standard loss factor approach' as applied by the local distributor to other customers similar to you. See sub-clause 4.5.1.

Network losses in a small exempt network will generally not be of sufficient magnitude to warrant calculating a distribution loss factor (DLF) for meters within that network. To avoid imposing additional costs on exempt networks we apply a policy that the losses within the exempt network can be ignored for each individual child meter. This policy means the Exempt Network Operator must absorb the cost of losses in the exempt network in their overheads. Offsetting this cost though, we also note that we allow shadow pricing to apply to network charges. This results in a differential between network costs paid by the Exempt Network Operator and the sum of the costs paid by customers, which differential will normally favour the Exempt Network Operator.

We consider this policy is balanced and fair as the profits made on the network charge can compensate the Exempt Network Operator for the electrical losses incurred, in most circumstances. We note, however, that some exempt networks are subject to additional price controls under State or Territory legislation and may not be able to recover this cost except through higher lease costs, general service or site charges, etc.

### NER requirements

DLFs are governed by clause 3.6.3 of the NER. Under clause 3.6.3(b)(2)(i)(B) a 'small load' is any load or a collection of loads which, in total, is less than 10MW peak demand or 40 GWh per annum. It is rare for an exempt network to exceed this size.

Clause 3.6.3(i) of the NER requires that every distributor must submit DLF calculations to the AER for approval before their DLFs are published by AEMO. This process occurs every year in early March for publication by 1 April.

For historical reasons, DLF calculations are performed by each distributor using a methodology that the local distributor has developed for their own use in their network. Although there is no standard methodology which applies across the NEM, distributors in a State generally share a common approach in that State. However, States differ widely in their approaches. Note that the NER allows every distributor to have a different methodology, provided pre-defined criteria are met.

Calculating accurate DLFs is not a simple or easy task. Therefore, for small loads we allow the 'standard loss factor approach' to apply as it avoids imposing additional costs on exempt networks. For large loads and generators a 'site-specific' loss factor may be required.

### 4.5.1 Standard loss factor approach

In exempt networks which constitute a 'small load' and which serve a number of smaller loads ('children'), the DLF of each child meter is the published DLF that would be applied by the local DNSP at the metered point of connection if the DNSP were serving the customer

directly. If this DLF cannot be readily ascertained, the DLF is the DLF otherwise applicable to the connection of the exempt network to the local distribution network, i.e. at the 'parent' meter.

Under this policy, for all small loads it is assumed the effective DLF of the exempt network is 1.000. The losses within the exempt network are ignored. Instead, we apply the standard DLF applicable to ordinary distribution customers in the equivalent distribution tariff class to the 'child' meters within the installation. This is the approved DLF as would be determined by the local DNSP if the local DNSP were supplying that installation.<sup>43</sup>

## 4.5.2 Large loads, generators and site specific loss factors

If the combined loading of an exempt network results in that network becoming a significant load or, if the network contains a significant generation source, this condition or condition 4.5.3 below, will apply.

Clause 3.6.3(b)(2)(i) of the NER governs the calculation of a DLF for large loads and generators connected to a network. In exempt networks involving loads or generators otherwise described in clause 3.6.3(b)(2)(i), a site-specific DLF for those loads or generators must be calculated in accordance with clause 3.6.3(b)(2)(i), using the methodology published for this purpose by the local DNSP.

## 4.5.3 Site specific DLF using alternative methodology

Where the methodology of the local DNSP is not suitable for the calculation of a site-specific DLF for any reason, the network operator and the connecting party may jointly approach the AER and seek approval of an alternative methodology for determining the applicable allocation of electrical losses between the parties. Approval by the AER will be subject to there being no material impact on the rights of another party as a consequence of the alternative methodology.

A situation where this need may apply is if the size of a generator is very close to the size of the load served. This is because under some of the mathematical formulae sometimes used in these calculations, a problem of division by a small number can arise. This can cause an unrealistic value for the loss factor to be calculated.

## 4.5.4 Annual DLF approval requirements

An exempt network applying clause 4.5.1 does not need to calculate any DLFs for the child meters within that network. The DLFs are as calculated by the distributor for the distributor's network and published by AEMO. The distributor seeks annual approval from the AER under clause 3.6.3(i). The Exempt Network Operator has no need to submit DLFs to the AER for approval.

However, DLFs calculated in accordance with conditions 4.5.2 and 4.5.3 must be approved annually by the AER under clause 3.6.3(i) of the NER. We impose an audit requirement on DLFs submitted for approval if the DLFs are to be used in the AEMO market settlement

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<sup>43</sup> See: <http://www.aer.gov.au/node/484>, select the category: 'Distribution Loss Factors' and the most recent year.

system. Our requirements for audit vary for private settlement and market settlement as follows.

#### 4.5.4.1 Large corporate entities & large customers applying charge group C

This provision applies where a large corporate entity or large customer applying charging group C has connected to another exempt network. The parties may have in place private commercial agreements that set a static DLF or a dynamic DLF (i.e. varies over time, including annually) calculated in accordance with a methodology agreed between themselves.

- (a) Annual approval of the DLF applicable to the installation is required under clause 3.6.3(i) of the NER and is subject to publication by the AER and AEMO.
- (b) AER approval of the privately agreed DLF methodology **is not** required.
- (c) An audit is not necessary if settlement is handled privately. If the DLF is dynamic the calculated value must be reported annually. If the DLF is static, the agreed DLF value must be reported annually.

#### 4.5.4.2 Market settlement audit requirement

Where the customers are small customers or a DLF is needed for settlement via the AEMO market settlement systems, the DLF calculated is subject to the AER's annual audit requirements for DLFs.

- (a) Annual approval of the DLF applicable to the installation is required under clause 3.6.3(i) of the NER and is subject to publication by the AER and AEMO.
- (b) AER approval of the privately agreed DLF methodology **is** required initially or where a methodology is later amended.
- (c) An independent audit is required.

The party submitting the DLFs for approval must ask a third-party accounting, engineering or other specialist advisor to review the data used and the calculations made and certify they are accurate. The auditor's report must accompany the annual submission which must be received by the AER by 15 March each year or such other date as the AER may advise in writing.

## 4.6 Pricing

The following paragraphs describe predefined pricing arrangements accepted by the AER for network charges in exempt networks and dedicated connection assets (DCAs). Table 11 sets out the charge groups which may apply to exempt networks and DCAs.

**Table 11 – Network charges – applicable charge groupings**

Charge Group	Description	Applicable situations
A	Bundled energy and external network tariff	All retail selling (i.e. the vast majority of situations whereby energy is sold to customers within a exempt network).
B	No additional network charge	Unrestricted: there is no charge for the network or, the applicant is billed for network services by a distributor and is passing that cost on to customers in proportion to their metered energy use or, the pass-through of costs incurred to meet customer requirements.
C	Consensual agreements between large energy users	Large customers, large corporate entities and network specific activities subject to commercial arrangements agreed between consenting, well informed (i.e. sophisticated) customers. Dedicated connection assets and eligible exempt networks only. Restricted application (see text).  Charging mechanism for network charges is specified in a mutually accepted commercial agreement.
D	Separate charge for exempt network facilities	Registered & individually exempted networks. Pricing determined by the AER.
E	Rebate for exported energy	Unrestricted.

### 4.6.1 Charge groups

#### Amended treatment of charge groups

When registering an exemption, we only require the dominant applicable charge group be nominated. We treat charge groups A and B as a single group. This is the category applicable to most normal retail activity.

Charge group C is expanded to incorporate groups A and B in the case of exempt networks and to apply to dedicated connection assets.

Charge group D is not available to the public. It is reserved for decisions of the AER.

Charge group E was introduced as a transitional measure. We consider with the widespread development of embedded generation, solar PV systems and storage, separate registration in this group is no longer required if the activity occurs in conjunction with charge groups A, B, C or D. We now treat charge groups A, B, C and D as automatically including charge group E.

## Power of Choice reform

Consistent with the AEMC's Power of Choice reforms, an energy seller may structure an all-inclusive or energy-only retail price offer as they see fit. This guideline only places a cap on the maximum charge to be made for the network services component.

Where multiple network tariffs may apply to a customer, the applicable tariff assigned to the customer should be the most favourable tariff having regard to the consumption of the customer in the period immediately prior to assignment, or otherwise, the tariff selected by the customer or their nominated retailer.

### 4.6.1.1 Group A

May apply to any retail on-selling situation where customers are charged an **all-inclusive tariff** which includes any external network charges. All-inclusive tariffs may consist of separately itemised consumption and supply charges as is the standard practice of market retailers. Charge group A is the most common category of charging.

Note that for retail activities regulated under the AER's Retail Exempt Selling Guideline, all-inclusive tariffs for small customers must often be no higher than the applicable standing offer of the local area retailer. Refer to the current Retail Exempt Selling Guideline for details.<sup>44</sup>

If the external network charge is clearly attributable to a specific customer, it may be passed through at cost to that customer. Note that the exempt network must not charge fees for services which would not be charged by the distributor to a customer in the same circumstances.

Many energy consumers are ultimately concerned with the overall expense of their energy consumption. The critical point of comparison in this situation is the bundled price of energy and network charges. We consider that bundled tariffs which include all network charges are unlikely to be contrary to the long term interests of consumers.<sup>45</sup>

### 4.6.1.2 Group B

**External network charge only.** If the external network charge is clearly attributable to a specific customer, it may be passed through at cost to that customer. Alternatively, if the charge cannot be readily attributed to a particular customer, the network charge for each customer may be based on a charge no greater than the published regulated charge which

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<sup>44</sup> The AER's Retail Exempt Selling Guideline applies to all exempt selling activities in NEM jurisdictions except Victoria. <https://www.aer.gov.au/retail-markets/retail-guidelines-reviews/retail-exempt-selling-guideline-march-2016>

<sup>45</sup> This charge implicitly is a form of 'shadow price'. A customer is able to compare this price with other retail offers and thus can make an informed selection.

the DNSP would have charged that customer, had the customer been served directly by the distributor. A cost imposed in relation to the appointment of an ENM is not a valid external network charge. The restrictions in condition 4.7 apply to all ENM costs.

In this guideline we refer to this arrangement as 'shadow pricing' of the network charge. The shadow pricing approach applies if customers are receiving an energy only offer from a market retailer and there is no exempt selling occurring. No charge is allowed for the exempt network assets. Alternatively, externally imposed charges may be applied pro-rata to customers as per condition 4.6.2, which condition may apply in any exempt network situation.

Note that the agreed cost for the initial establishment or upgrade of a network to meet customer requirements may still occur, i.e. may be passed through to the customer, in accordance with a bona fide lease or ancillary agreement between the network owner, operator or controller (as appropriate) and the network customer. Such charges may be subject to normal commercial financing arrangements.

#### 4.6.1.3 Group C

This charging group applies to **large customers and large corporate entities**. We make the distinction as a large customer is defined by energy usage. Some small businesses are energy intensive and are defined as large customers. Alternatively, some large corporate entities can have tenancies with energy consumption that would define them as small customers.

This charge group is applicable to all network charges for exempt network classes NDO1, NDO2, NDO3, NDO4, NDO5, NDO6, NR5, NRO1, NRO2, NRO3 and NRO4 and individual exemptions approved by the AER in accordance with section 5.3 of this Guideline. Also, this charge group applies to the dedicated connection asset exemption classes NRO6 and NRO7.

For large customers only (but excluding exemption classes NRO6 and NRO7), network charges may be based on a commercial agreement, freely entered into on mutually agreed terms. If agreement cannot be reached then charge groups A and/or B apply for customers of these exempt networks.

For large corporate entities and exemption classes NRO6 and NRO7, no restrictions apply. Parties must reach an agreed commercial solution or subject their disagreement to a dispute resolution process.

Charge group C is intended to apply to all manner of commercial, industrial and mining situations and exempt networks serving large customers, large corporate entities or on-site generation exporting to the NEM. The principle which applies here is that commercial arrangements between parties with similar bargaining power should not be regulated.

Charge group C does not apply to small residential, retail, industrial or commercial customers or to large customers who have not agreed to an alternative charging mechanism. A party registered in charge group C must charge small residential, retail, industrial or commercial customers or large customers who have not agreed to an alternative charging mechanism in accordance with the requirements of charge groups A and B.

Registration in charge group C is deemed to include charge groups A and B where this requirement applies.

Where it can be demonstrated that access to the NEM would not otherwise be available except at significant incremental cost to the affected customers, the network may also service supporting infrastructure, isolated communities, emergency services, farms and pastoral holdings and unrelated loads or generators on reasonable commercial terms.

#### 4.6.1.4 Group D

Charge group D is for **individual exemptions only**. Parties applying this charge group require an individual exemption issued by the AER in accordance with section 5.3 of this Guideline. Approval will only be contemplated in exceptional circumstances.

Parties wishing to earn a commercial return on network assets should generally be registered as a network service provider and be subject to the operation of chapter 6 or chapter 6A of the NER.

Applicants in this charge group must demonstrate compelling grounds for an exemption to be approved. For example, that NEM registration and compliance costs would be disproportionate to the size of the community to be served by the network.

#### 4.6.1.5 Group E

Charge group E registration concerns rebates for generation in an exempt network and is **largely historical**. It remains available on our website application form but a new application is not required for anyone registered in any of charge groups A,B,C or D. This is because we now treat charge groups A, B, C and D as including charge group E. Charge group E may be necessary in some exempt networks to deal with energy exported to the NEM when individual members of a community generate excess energy that is not used within the exempt network.

Where a generator within an exempt network earns credits for energy exported to the NEM all credits remain the property of the exempt generator. All credits must be rebated to the embedded generator or, if more than one, to each embedded generator in proportion to the credits earned. However, this requirement does not prevent the owner of an embedded generator from entering into an agreement with another party to reallocate those credits.

For example, a retirement village may develop a community scheme whereby each resident with a PV system surrenders their rights to the credits earned on appropriate terms.

### 4.6.2 External network charges

External network charges may be levied by a registered NEM network service provider and charged to the parent meter of an exempt network. These charges are known variously as 'transmission use of system charges' (TUOS), 'distribution use of system charges' (DUOS) and 'network use of system' (NUOS) charges depending on the State or Territory in which the network is located. Such charges may be apportioned to each customer in an exempt network on a 'causer pays' basis in proportion to the metered energy consumption of each

customer over the equivalent period no matter which charge group or groups apply (see Table 11).

Alternatively, the charges borne by each customer may be determined on a 'shadow price' basis. In this context a 'shadow price' is charging each customer a tariff no greater than the tariff that would have applied had that customer obtained supply directly from the local NEM registered distribution or, where appropriate, transmission company.

We recognise that these charges may be difficult to apportion on a precise basis, especially where time variable charges apply. The shadow price approach may be simpler to implement in those situations or in situations where bulk supply is obtained at a different voltage level.

Note that ENM costs may not be recovered under this provision. See condition 4.7 for our restrictions on the recovery of ENM costs.

### **4.6.3 Internal network charges**

We do not encourage separate network charges for exempt networks. Few, if any, situations currently exist where such charges are warranted. The formal determination of network charges by the AER is a complex and involved process, the costs of which will usually be disproportionate to the scale of a exempt network.

Where an exempt network exists within a commercial building, shopping centre, airport, residential apartment building, retirement village or the like, the AER considers the network development costs to have been met in the initial establishment of the facility. Such costs are capital in nature and are normally recoverable through lease payments, fit-out charges or the like. A charge for network services is not appropriate as it may result in the customer being charged twice for the same facility.

Accordingly, no charge is permitted for internal network services except where the parties have entered into an agreement on mutually agreed terms and both parties are:

- large customers; or
- large corporate entities.

#### **Small customers (excluding large corporate entities)**

Exempt Network Operators are prohibited from billing for exempt network service charges. Network installation charges are only permissible where specified in a residential or commercial lease, tenancy agreement or similar instrument but only where such charges are permitted under relevant jurisdictional legislation.

#### **Large customers and large corporate entities**

Can be charged for services in accordance with charge group C (condition 4.6.1.3)

### **4.6.4 Charging customers**

Our agreement to a network charging mechanism is predicated on a requirement that there must not be a sustained over-recovery of any network charge. Where an over-recovery



occurs, it is required to be rebated to customers at intervals of not more than annually. Note that the energy component of any charge is subject to the Retail Exempt Selling Guideline in those jurisdictions where that guideline applies or otherwise, jurisdiction specific retail selling requirements.

An Exempt Network Operator must:

- (a) not impose any network charge on an exempt customer that would not be charged by the relevant local area distributor to that customer if the customer were directly connected to the distributor and subject to a standard distribution connection contract;
- (b) provide notice to the exempt customer of any change in the exempt customer network tariff as soon as practicable, and no later than the exempt customer's next bill; and
- (c) limit any fee charged to a customer for late payment to a recovery of reasonably incurred costs by the Exempt Network Operator as a result of the customer's late payment.

A charge under this provision must be directly linked to a tariff schedule approved by the AER and published by the relevant local distributor. A charge may not exceed (but may be less than) the applicable tariff schedule item.

Exception: Condition 4.6.4(a) does not apply to, or limit, an agreed charge between large customers or large corporate entities under charge group C and condition 4.6.3.

#### **4.6.4.1 Meter reading charges**

A meter reading charge may only be levied at a frequency of once per billing cycle (if the billing cycle is greater than monthly) and, in any other circumstances, not more than once per month. A more frequent meter reading cycle is permitted:

- (a) if the extra meter reads do not attract a fee; or
- (b) in response to a customer request to allow more flexible payment arrangements but only if, and for as long as, the customer consents to more frequent meter read fees.

A manual meter reading charge may only be charged for a type 5 or type 6 metering installation which was compliant with this guideline at the date of commissioning or first use of the metering installation.

Where the installed meter type is an advanced technology meter, the applicable metering charge and the charge for energisation, re-energisation or de-energisation must not exceed the published applicable distributor charge for an advanced technology meter. For advanced technology meters, a manually read meter charge is only permitted when a customer requests a physical read of the meter and the read is subsequently performed by physical inspection of the meter.

#### **4.6.4.2 Summary**

Our pricing condition permits the network owner or operator to charge:

### **Small customers**

- A bundled energy tariff (Group A)
- Actual costs incurred in making metering changes or service capacity upgrades requested by the tenant (Group A or Group B)
- A pro-rata charge levied by a registered distributor no greater than the charge the distributor would have made to the customer had the distributor serviced the customer directly (4.6.2)
- Charges specified in a residential or commercial lease, tenancy agreement or similar instrument but only where such charges are permitted under relevant jurisdictional legislation.

### **Large customers**

- A bundled energy tariff (Group A)
- Actual costs incurred in making metering changes or service capacity upgrades requested by the tenant (Group A or Group B)
- A pro-rata charge levied by a registered distributor no greater than the charge the distributor would have made to the customer had the distributor serviced the customer directly (4.6.2)
- Mutually agreed additional charges or value added services under a commercial agreement (Group C).

### **Large corporate enterprises**

- Charges agreed commercially between the parties (Group C).

### **Individual Exemptions**

- Other charging mechanisms as approved by the AER (Group D).

### **Dedicated Connection Assets**

- All charges are agreed commercially between the parties (Group C).

### **Embedded Network Manager costs**

- Cost recovery not permitted except where condition 4.7.1.1 applies.

## 4.7 Embedded Network Manager – Appointment and Reversion

### 4.7.1 Appointment and cost recovery

The NER definition of ENM conditions provides:

*ENM conditions*

*An Exempt Embedded Network Service Provider must:*

*(a) act as the Embedded Network Manager for the relevant embedded network; or*

*(b) engage an Embedded Network Manager to provide embedded network management services for the relevant embedded network; and*

*(c) enter into an agreement with an Embedded Network Manager for the provision of embedded network management services where that person has engaged an Embedded Network Manager under paragraph (b).*

Any costs which arise through non-competitive processes or the payment of a bounty are inevitably recovered through additional fees paid by current and future residents and/or tenants. Therefore, we consider the appointment of anyone with a statutory right to recover fees from a captive group of customers may be contrary to the long-term interest of those consumers if no safeguards are provided against improper practices.

The operators of an embedded network may think our safeguards are intrusive on their business model. However, we think it is incumbent upon those operators to demonstrate that their network offers benefits to customers and that any costs incurred can be demonstrated to be the minimum necessary. In any event, under limb (a) of the definition above, the exempt embedded network service provider may seek accreditation and thereby, maintain their control over the metering installation.

Note that under some circumstances the effect of this condition 4.7 is to allow every customer in an embedded network to be served exclusively by the exempt embedded network service provider. This may be an advantage in a group buying situation. This condition may allow a community group to delay the appointment of an ENM until such time as a fellow resident accepts a retail market offer but, under clause 2.5.1(d2) of the NER, you cannot defer the appointment of an ENM indefinitely.

This is because under rule 2.5.1 (d2) of the NER every customer in an embedded network in a jurisdiction which allows access to retail competition has an absolute right of access. It would be a breach of our conditions for exemption if an exempt embedded network service provider were to restrict this right in any way.

In this condition 4.7 we use the term 'eligible member'. An 'eligible member' is any person who is subject to a requirement to pay a charge for service by the exempt embedded network and, for activity class NR4 (which concerns residential land lease and manufactured home estates), is a person who principally resides there.

Our conditions for the appointment of an ENM are:

- (a) Unless the requirements of condition 4.7.1.1 are met, any cost resulting from the accreditation of any person as an ENM or from the appointment or provision of services by an ENM must be borne by the exempt embedded network service provider. Cost recovery is not permitted from any other person.
- (b) An ENM must not pay an advance fee or a rebate to a property owner, developer or exempt embedded network service provider or any other person in connection with the provision of ENM services or to secure a right to provide services to an embedded network regulated by the AER.
- (c) An ENM may make a bona fide offer of a sliding scale of charges based on volume of work. A bona fide offer based on volume of work is not a breach of conditions 4.7.1(b) and (c).

#### 4.7.1.1 Cost recovery in an eligible community

Note: This condition applies where an eligible community elects to appoint an ENM for any reason and the cost of ENM services is to be recovered from ENM customers. See condition 4.7.2 if the community wish to not appoint or to revoke an appointment of an ENM.

This condition applies to an embedded network serving eligible community based groups registered in activity classes ND2, NR2, NR3, and NR4 or other bona fide groups approved by the AER. In particular, eligible community based groups include caravan park, holiday park, residential land lease, manufactured home site and retirement communities and other groups of a similar nature participating in a group purchasing scheme whereby the cost and benefits of bulk purchasing are shared across all members of the community. An eligible community (or a person or body corporate acting on behalf of the community) may act as an exempt embedded network service provider.

If the eligible community is an exempt embedded network service provider, the cost of the ENM services may be recovered from consumers in the embedded network as provided for in this condition 4.7.1.1. An important consideration for the AER in the appointment of an ENM in this situation is to ensure the appointment of the ENM by the exempt embedded network service provider is also in the long-term interests of consumers. To mitigate against the possibility of future customers being locked in to long-term binding contracts that are not in their interests we require that:

- (a) the appointment of an ENM is conducted as an arm's length transaction through a robust competitive process which includes a poll of eligible members conducted in accordance with condition 4.7.3; and
- (b) an ENM must not pay an advance fee or a rebate to a property owner, developer or exempt embedded network service provider or any other person in connection with the provision of ENM services or to secure a right to provide services to an embedded network regulated by the AER ; and
- (c) an ENM may make a bona fide offer of a sliding scale of charges based on volume of work. A bona fide offer based on volume of work is not a breach of conditions 4.7.1.1 (b).

The appointment of an ENM other than the operator of an embedded network must be conducted by a transparent competitive process and with the agreement of a two-thirds majority of eligible members of the embedded network, each voting once.

A resolution under this condition must include the name of the party making each competing competitive offer and, if the recommended party is not the lowest price offer, a statement of reasons why each offer has been preferred or not preferred, as appropriate.

Where an ENM trigger event has occurred for one or more of the activity classes applicable to an embedded network, the exempt embedded network service provider, if the exempt person is not an accredited ENM, must appoint an accredited ENM within 40 business days of the occurrence of an ENM trigger event.

#### **4.7.2 Non-appointment of an ENM and reversion**

This condition applies to an embedded network serving eligible community based groups registered in activity classes ND2, NR2, NR3, and NR4. Other bona fide bulk purchasing groups not in the list of eligible activity classes may apply to the AER for dispensation to also be treated as an eligible community.

Eligible community based groups will include caravan park, holiday park, residential land lease, manufactured home site and retirement communities and other groups of a similar nature participating in a group purchasing scheme whereby the benefits of bulk purchasing are shared across all members of the community.

This condition provides a mechanism for eligible communities to not appoint an ENM immediately or, if no community member is served by a market retail offer, to cease to engage an ENM. In this condition, an eligible member is any person who is subject to a requirement to pay a charge for service by the exempt embedded network.

- (a) If requested by to do so by the lesser of 10 per cent of eligible members or ten eligible members, an exempt embedded network service provider must, within 30 days, prepare a resolution and conduct a poll of eligible members whether to adopt the resolution.
- (b) A poll may be sought at any time, however, an exempt embedded network service provider is only required to conduct one poll in any twelve month period.
- (c) For those eligible communities in which an exempt embedded network service provider offers price-matching in accordance with condition 4.9.3 or condition 4.9.4, the exempt embedded network service provider may, if requested by the eligible member, offer to match the prices offered by a relevant market retailer.<sup>46</sup>
- (d) If no counter-offer is made or, if the counter offer is not accepted, the exempt embedded network service provider must appoint an ENM when the ENM condition trigger is satisfied.

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<sup>46</sup> For the avoidance of doubt, for the purposes of this condition 4.7.2, conditions 4.9.3 and 4.9.4 are not restricted to a brownfields conversion but may be applied in an eligible community on request by an eligible member.

### 4.7.3 Poll requirements

Where an eligible community proposes by a resolution of its members to appoint, or not appoint, or to cease to appoint, an ENM the exempt embedded network service provider must:

1. provide a notice at least 14 calendar days prior to a vote to all eligible members of the intention to consider a resolution
2. provide every eligible member with a copy of the notice required under condition 4.8.1, a copy of the proposed resolution and written information supporting or opposing the resolution
3. conduct a poll of eligible members in which eligible members may vote once (but voting is not compulsory)
4. record and report to the AER separate tallies of the total votes for and against the resolution, the total proxy votes for and against, the total number of eligible voters and the total number of informal votes and excluded votes.
5. report the results of the poll to the AER (electronically is preferred) within a further ten business days, including a copy of all material circulated to members under condition 4.7.3.2 and a detailed description of the benefit sharing mechanism.

If a two-thirds majority of eligible members of the community who vote are in favour of a resolution and the AER is satisfied with the conduct of the poll and that the benefit sharing mechanism is equitable, the AER will determine whether the exempt embedded network service provider may appoint, not appoint, or cease to appoint, an ENM as the case requires. The decision of the AER does not take effect until receipt of a notice from the AER of this decision.

An application under this condition may be treated as a public matter and may be subject to publication as discussed in section 2.4 of this guideline.

## 4.8 Information provision

An Exempt Network Operator must provide information to customers on request, maintain a contact point and keep records as set out in this condition 4.8.

### 4.8.1 Provision of information to exempt customers

1. The Exempt Network Operator must advise an exempt customer, in writing, at the start of their tenancy/electricity sale agreement of the following:
  - a. any right of the exempt customer, under State or Territory laws, to elect to purchase energy from a retailer of their choice and information on the options for metering that would allow this choice
  - b. the exempt customer's rights in relation to dispute resolution including:
    - i. any right that the exempt customer has to access the energy ombudsman scheme (if applicable), including to lodge a complaint or for free independent information and advice, or any other relevant external dispute resolution body in the State or Territory in which the exempt customer is located.
    - ii. the exempt person's procedures for handling complaints and disputes.
  - c. a copy of, or link to, the conditions applicable to the exemption that the Exempt Network Operator is operating under and a printed copy upon request
  - d. unbundled details of the network tariffs and all associated fees and charges that will apply to the exempt customer in relation to the sale of energy
  - e. contact numbers in the event of an electricity fault or emergency, including the number for a 24-hour emergency contact line.
2. In addition to the requirement to provide the information at the commencement of the exempt customer's tenancy/agreement, the information set out in paragraph 1 of this condition must be provided by the Exempt Network Operator at any time on request by the exempt customer or the AER.
3. If an Embedded Network Manager has been assigned to the exempt network, the name of the company acting as the Embedded Network Manager for the exempt network must be displayed on the customer's bill and made available on request to:
  - a. the customer
  - b. the customer's retailer.

### 4.8.2 Contact details

1. The Exempt Network Operator must provide a means of contact for account inquiries and complaints that can be readily accessed by exempt customers. Where a telephone number is provided, the charge for this call must be no more than the cost of a local call.

### 4.8.3 Maintaining records

1. The Exempt Network Operator must maintain records of the following for each of its exempt customers:
  - a. The name of the exempt customer.
  - b. The address of the exempt customer's premises.
  - c. The identifier of the meter for the exempt customer's premises (if applicable).
  - d. The date that the customer account was created.
  - e. Copies of any bills issued for the previous 12 months.
  - f. The date of the most recent meter read for the customer (if applicable).
  - g. The basis for determining any estimates of consumption for the purpose of billing where a meter read could not be obtained.



## 4.9 Conversion of an existing site (Brownfield conversion)

An existing electricity distribution system may be converted to an embedded or exempt network without the consent of every customer but only if the alternative requirements specified in this condition are strictly applied. Condition 4.9 replaces conditions 4.1.12.1(e) and 4.1.12.1(f). The balance of condition 4.1.12 continues to apply.

Prior to lodging an application for approval with the AER, the prospective Exempt Network Operator must inform the relevant registered distributor in writing of the proposed conversion.

### 4.9.1 Provision of retrofit information

Drafting note: The term 'tenant' includes a 'resident' in our usage but amended to remove any residual uncertainty.

1. The prospective Exempt Network Operator must provide notice, by letter, to all tenants at the retrofit location, of the plan to install an embedded or exempt network at the site.
2. The prospective Exempt Network Operator must provide each tenant/resident with the following information regarding the installation of the embedded or exempt network:
  - a. a written notice which provides the tenant/resident with information concerning:
    - i. the tenant/resident's right to choose their own retailer, even within an embedded or exempt network
    - ii. the tenant/resident's ability to enter into an energy only contract with an authorised electricity retailer
    - iii. the obligations regarding electricity offer matching, as set out in conditions 4.9.3 and 4.9.4
    - iv. the obligations regarding duplication of network fees, as set out in condition 4.9.5.
  - b. a copy of the electricity sales agreement to be offered by the exempt person
  - c. the contact details of a representative of the prospective Exempt Network Operator who will address any concerns and queries relating to the planned retrofit.
3. The prospective Exempt Network Operator must ensure that information regarding the proposed retrofit is clearly, fully and adequately disclosed, and that it has regard to a person's capacity to provide consent.

### 4.9.2 Collecting and recording explicit informed consent

1. The prospective Exempt Network Operator must provide the tenant/resident with the information set out in condition 4.9.1, prior to seeking the tenant/resident's explicit informed consent to the retrofitting of the embedded or exempt network.
2. The prospective Exempt Network Operator must keep records of the consent obtained. These records must:
  - a. include copies of the information provided to tenants/residents
  - b. include records of consultations and meetings held with tenants/residents

- c. identify and record which tenants/residents have not consented and the reasons for non-consent
  - d. record the outcome of any negotiation and/or dispute resolution with tenants/residents
  - e. be kept for a period of two years
  - f. be provided to the AER on request.
3. The prospective Exempt Network Operator must engage with prospective customers who do not consent, and seek to mitigate their concerns.
  4. The prospective Exempt Network Operator must obtain the tenant/resident's consent for the retrofit in a separate document, that is, the document recording the exempt customer's consent to the retrofit must be separate to a document acknowledging that the exempt customer is selecting the prospective Exempt Network Operator as its electricity supplier.

### 4.9.3 Offer matching for large customers

This condition applies only if the large customer was a tenant at the time of the creation of the exempt network or otherwise, if the large customer is a member of an eligible community.

1. If a tenant, who is categorised as a large electricity customer, does not consent to becoming part of the exempt network or is a member of an eligible community, the Exempt Network Operator must:
  - a. facilitate, within the exempt network, the continuation of the tenant's electricity contract with their current retailer, or
  - b. facilitate the tenant's direct connection to a registered distributor, or
  - c. if a or b do not apply, fulfil a request made by the tenant that the Exempt Network Operator match any genuine electricity offer that would be available to the particular tenant if they were still directly connected to the local distribution network service provider.<sup>47</sup>
2. The Exempt Network Operator must fulfil any subsequent request made by a tenant to match an electricity offer if the request is made 12 months or more after a previous request.
3. In the absence of a subsequent request to match an electricity offer, the Exempt Network Operator need only apply the matched offer for a period of 12 months.
4. The exempt person's obligation to match an electricity offer expires upon termination or renewal of the large customer's tenancy/lease.

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<sup>47</sup> Condition 4.9.3.1(c) applies by mutual consent. The exempt embedded network service provider may offer to price match or may negotiate an alternative pricing arrangement with a customer if the exempt embedded network service provider determines conditions 4.9.3.1(a) or 4.9.3.1(b) are not feasible or are too costly.

#### 4.9.4 Offer matching for small customers

This condition applies only if the small customer was a tenant or resident at the time of the creation of the exempt network or otherwise, if the small customer is a member of an eligible community.

1. If a tenant/resident, who would be categorised as a small electricity customer, does not consent to becoming part of the exempt network or is a member of an eligible community, the Exempt Network Operator must:
  - a. facilitate, within the embedded network, the continuation of the tenant/resident's electricity contract with their current retailer,<sup>48</sup> or
  - b. fulfil a request made by the tenant/resident that the Exempt Network Operator match any genuine electricity offer that would be available to the particular tenant/resident if they were still directly connected to the local distribution network service provider.
2. The Exempt Network Operator must fulfil any subsequent request by a tenant/resident to match an electricity offer if the request is made 12 months or more after a previous request.
3. In the absence of a subsequent request to match an electricity offer, the Exempt Network Operator need only apply the matched offer for a period of 12 months.
4. The exempt person's obligation to match an electricity offer expires upon termination or renewal of the small customer's tenancy/lease.

#### 4.9.5 Duplication of network charges

This condition applies only if the customer was a tenant or resident at the time of the creation of the exempt network.

1. The Exempt Network Operator must take steps to remedy any duplication of network charges experienced by tenants/residents who have entered into an energy supply contract with an authorised retailer.
2. The Exempt Network Operator must not charge a connection charge to any tenant/resident who enters into an energy supply contract with an authorised retailer as provided for in condition 4.9.1.

#### 4.9.6 Metering arrangements

1. The Exempt Network Operator must bear the costs of any changes to metering and other network alterations that take place in the course of the retrofitting of the exempt network.
2. The Exempt Network Operator must ensure that metering arrangements within the exempt network allow exempt customers to access retail competition.

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<sup>48</sup> An Exempt Network Operator is not prohibited from arranging a direct connection to a registered distributor for a small customer if that is a viable option.

### 4.9.7 Approval by the AER

The applicant must conduct a marketing campaign based wholly on this condition 4.9. If the applicant can demonstrate at the conclusion of that campaign nominally, an eighty-five per cent or greater majority of tenants and/or residents have agreed to conversion to an embedded network, the applicant may apply to the AER to convert the network.<sup>49</sup>

The application must detail the marketing campaign undertaken and provide the AER with a report summarising the information collected under condition 4.9.2. An application must contain:

- a. details of the sign-up percentage attained,
- b. the views of customers both accepting and refusing to accept the conversion
- c. the steps taken to mitigate these concerns and an undertaking to observe conditions 4.9.1 to 4.9.6.

If the AER is not satisfied with the application in any respect we may, at our discretion, require the applicant to rectify the defect in the application or may publicly consult on the application or both. We may include a requirement that the marketing campaign be modified or extended, the application or any supporting material provided to consumers or the AER be revised or that an undertaking be amended.

If the AER is satisfied with an application we will issue a notice of eligibility to register or hold an exemption, which may specify an effective date. The network must not be converted until the effective date specified in a notice issued by the AER.

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<sup>49</sup> If the AER determines special circumstances apply, we may apply a lower or higher threshold to a specific application.

## 4.10 Dedicated connection assets

The AEMC published a final determination and final rule on the Transmission Connection and Planning Arrangements rule change on 23 May 2017. The final rule, effective 1 July 2018, sets out significant changes to the arrangements by which parties connect to the transmission network.

In particular, the final rule defines two types of assets that provide the services required to connect a party to the shared transmission network – identified user shared assets and dedicated connection assets:

- Identified user shared assets broadly describe the collection of components that are used to connect a connecting party to the shared transmission network and which, once commissioned, form part of the shared transmission network. For example, parts of a substation.
- Dedicated connection assets (defined in the glossary) describe the collection of components that are used to connect a connecting party to the shared transmission network and which, once commissioned, are able to be isolated from electricity flows on the transmission network. For example, the power line that connects parts of a substation to a generating system.
- Under the final rule, dedicated connection assets are assets that are deemed to be transmission systems only for the purposes of requiring registration (or exemption) under Chapter 2 of the NER. Dedicated connection assets by themselves do not otherwise meet the relevant definitions under the NER to be transmission system, and are therefore not 'networks' as defined in the NER. This section on dedicated connection assets has been separated from the description of other assets (i.e. networks) eligible for exemption under this guideline to reflect this point and to aid clarity.

### 4.10.1 Large dedicated connection assets

**Table 12 - Large dedicated connection assets**

<b>Class</b>	<b>Activity</b>	<b>Registrable exemption</b>
NRO6	Large (30 km or greater) Dedicated Connection Assets (see definition in Glossary).	All dedicated connection assets

A large dedicated connection asset is a dedicated connection asset for which the total route length for any power lines forming part of it is 30 kilometres or longer.

The conditions set out in section 4.1 apply as modified by Table 9. Conditions 4.2.1 and 4.6.1.3 also apply. Other conditions set out in conditions 4.2 – 4.9 of the Network Guideline do not apply except where dedicated connection assets are specifically referenced.

Any variation of these conditions requires AER approval under an individual exemption application made in accordance with sections 3.3 and 5.3.

The following mandatory conditions also apply.

## Mandatory conditions

The AEMC final rule requires that an exemption for a party who owns, operates or controls a large dedicated connection asset is deemed to be subject to the condition that they comply with:

- clause 5.2A.8 of the NER (the access framework for large dedicated connection assets);
- clause 5.2A.6(c) of the NER (a requirement to comply with its access policy and the negotiating principles in schedule 5.12 of the NER if an applicant seeks large DCA services; and
- rule 5.5 of the NER (commercial arbitration for large DCA services), as if that person were a Dedicated Connection Asset Service Provider.

Under the requirements of clause 5.2A.8 of the NER, parties who own, operate or control a large dedicated connection asset must submit an access policy to the AER for approval.

Registrations for exemption class NRO6 will not be accepted unless they also include an access policy for AER approval. Approved access policies will be published on the AER website.

### 4.10.2 Small dedicated connection assets

**Table 13 - Small dedicated connection assets**

Class	Activity	Registrable exemption
NRO7	Small (under 30 km) Dedicated Connection Assets (see definition in Glossary)	All dedicated connection assets

A small dedicated connection asset is a dedicated connection asset for which the total route length for any power lines forming part of it is less than 30 kilometres.

This guideline introduces a new class of registrable exemption for parties who own, operate or control small dedicated connection assets (NRO7).

The conditions set out in section 4.1 apply as modified by Table 9. Conditions 4.2.1 and 4.6.1.3 also apply. Other conditions set out in conditions 4.2 – 4.9 of the Network Guideline do not apply except where dedicated connection assets are specifically referenced.

## 5 Part C – Registration, Applications and Revocation

### 5.1 Pre-registration

You can pre-register for a network exemption by following the processes outlined in this Guideline.

### 5.2 Registrable exemption information requirements

Registrable exemptions do not require an application to the AER, but cover network activities that must be registered with the AER to receive the benefit of an exemption. Online applications can be lodged directly from our website.

Applicants must submit the following information to record a registrable exemption:

- the name of the party for whom exemption is sought (additional parties can be added)
- details of the company registration (ABN/ACN) (ABN is preferred)
- authorised representative contact details, including physical address, email address, and telephone contact numbers
- whether registering as owner or as the controller/operator of a network
- location of the embedded or exempt network
- nature of the activities conducted which require exemption
- applicable class or classes of exemption
- date activities commenced
- applicable dispute resolution mechanism
- charging group or groups.

Applications to amend a registration may be submitted electronically to us at: [aerexemptions@aer.gov.au](mailto:aerexemptions@aer.gov.au), in accordance with the information requirements set out above. We operate a unified registration process for both the Network Exemption Guideline and Retail Exempt Selling Guideline to facilitate applicants seeking an exemption from both sets of requirements.

Parties who believe a registrable exemption is applicable to their current circumstances must, within not more than 20 business days of commencing to own, operate or control an exempt network, complete the registration requirements. Multiple classes apply to some exempt networks.

We will acknowledge all registrations with a reply email and provide details of a contact person within the AER who will respond to any inquiries regarding the registration. If any of the information provided to us for the purposes of registration changes during or after registration, we should be notified within 20 business days of the change to ensure that the registered exemption remains valid.

The registered exemption applies to the owner and the operator (as appropriate) for a particular site from the time they are entered on the Register of Exempt Networks.

Should an affected party seek to vary any conditions associated with a registrable exemption, they no longer meet the requirements for a registrable exemption and would need to apply for an individual exemption.

### **5.3 Application for individual exemption or variation of conditions**

Individual exemptions are granted by application to the AER on a case-by-case basis for network activities that do not meet the criteria for a deemed or registrable exemption.

Applicants must submit the following information to apply for an individual exemption:

- the name of every party for whom exemption is sought
- the nature of the normal business activities of the applicant
- if the application is made by an authorised agent, proof of authority for the agent to act on behalf of each named applicant
- the precise network to be subject to the exemption, including circuit diagrams if necessary (in most circumstances less complex single-line diagrams will be sufficient)
- a description of the parties connected to, or likely to connect to, or otherwise obtain services from the network
- if an industrial or commercial situation, whether the proposed on-supply is subject to agreed commercial terms between consenting parties with appropriate recourse to professional advice
- whether the applicants are seeking (or have received) exemptions from any other codes or regulations governing the ownership or operation of networks or metering requirements applicable within the relevant jurisdiction, including details of those exemptions or applications for exemptions
- whether they are seeking exemption from the requirement to register as an NSP or from the application of chapter 5 of the NER or if they are seeking to vary the conditions otherwise applicable to a defined exemption class (if so, which conditions and why a variation is justified)
- details of the registered NSP to whom the network is, or will be, connected
- details of any preliminary discussions which have taken place between the applicant and the network service provider and if relevant, AEMO.
- the arrangements proposed for setting network charges for parties using the network
- mailing details for all stakeholders affected by the grant of an individual exemption
- the arrangements proposed for energy charges (e.g. fixed percentage of total costs or direct access to retailers by tenants), and
- detailed supporting argument why exemption will serve the long-term interests of electricity consumers connected to the network and more generally, across the NEM.



An application for an individual exemption must be made in writing and may be submitted electronically to us at [aerexemptions@aer.gov.au](mailto:aerexemptions@aer.gov.au).

We will acknowledge all individual exemption applications with a reply email and provide details of a contact person within the AER who will respond to any inquiries regarding the application. If any of the information provided to us changes during or after the individual exemption application is made, we should be promptly notified of the change.

Applications for variation of conditions must explain in persuasive terms why the pre-defined conditions will result in an excessive regulatory burden and demonstrate how relief from the conditions will better serve customers. We may request additional information from applicants prior to processing an application for exemption.

We are empowered to consult affected stakeholders on any application for exemption. As stated in section 2.4.5 we may seek written submissions on the application from interested stakeholders via a notice on our website. Applications may contain confidential information. If so, a redacted version of each submission is required in a form suitable for publication electronically should the AER elect to consult widely on a particular application.

We will inform the applicant of our decision regarding the application for the grant or variation of the individual exemption. The individual exemption applies to an operator for a particular site from the time stated in a notice issued by the AER and entered on the Register of Exempt Networks.

An individual exemption is personal to the applicant, and does not apply to any other person that owns, controls or operates the network at the time of the decision or in the future. An individual exemption is not transferrable; however, we accept the need for transitional arrangements.

Where an application for individual exemption is for a network previously registered with us and we have not revoked that registration, the terms of the pre-existing arrangement will continue to apply to the new applicant until the effective date of a new exemption notified by us in response to the application.

## 5.4 Revocation of an exemption

We can revoke any network exemption granted including an exemption for a network operating under a deemed exemption or a registered exemption. The grounds for revocation are broad. In particular, we may revoke an exemption if we are satisfied that there has been a failure by the exempt party to meet the conditions imposed on them or that the operation of an exempt network is not consistent with the National Electricity Objective in all respects.

We will consider what constitutes a 'failure' on a case by case basis as matters come to our attention. In general, we will conclude there to have been a failure by an exempt party where there is:

- an unacceptable impact on a connected network or
- an unacceptable impact on national electricity market operations as a result of the operation of the network or

- the network is, or is proposed to be, operated in manner which we consider does not serve the long term interests of consumers within that network or is of a scale or kind which we consider should be registered with AEMO or
- the exempt party has not complied with conditions imposed on them as part of their exemption and as a result, there has been a significant or widespread impact on one or more of their customers.

Subject always to there being no immediate threat to the health or safety of any party served by an exempt network and there being no adverse impact on a connected network or on market operations, we will align the process for revocation of a network exemption to the equivalent process imposed in Section 120 of the Retail Law for retail matters. This process includes the following steps:

- We will first give the exempt network proprietor a notice that it intends to revoke the exemption, and the reasons why the AER considers that grounds for revocation exist.
- The exempt network proprietor must respond to the notice in writing during the time specified by the AER, showing why the exemption should not be revoked and proposing actions the exempt network proprietor will take to rectify the problem.

If we are not satisfied with the exempt party's response, we may fix a time for the revocation to take effect and inform the exempt party of any conditions with which they must comply. Where an exemption for an exempt party operating under a class exemption is revoked, the exempt party is no longer eligible to operate under that class. If they continue to operate the network, they will be in breach of section 11(2)(b) of the National Electricity Law, which prohibits the operation of a network without registration or exemption or an approved derogation.

Following revocation of the network exemption, customers of the exempt network will either need to obtain supply from a NEM registered distribution or transmission network service provider or must otherwise satisfy the conditions necessary to qualify for a new deemed, registrable or individual exemption.

In situations where revocation may place undue hardship on customers of an embedded network, to the extent practicable, we will seek to minimise hardship on innocent parties while enforcement action is taken. This may involve the grant of a limited individual exemption to operate the network under restricted conditions. This will be assessed on a case-by-case basis.

## **5.5 Change or amendment of ownership, control or operation or cessation of an exemption**

A notice addressed to the AER is required for all changes of ownership, accountabilities and/or registration details and for the cessation of operation of a registrable or individually exempt network. No notice is required for a deemed exempt network.

The notice must detail the change of circumstances and should be submitted at the earliest opportunity whenever an exempt network is to be subject to a transfer of ownership, change of registration details or a change or restructure of accountabilities. If a notice is incomplete

or missing necessary detail, we may require further detail be provided before the notice is accepted and acted upon.

Our administration process does not transfer a registration. We deactivate the existing registration and mark it as historical. Note therefore, that the party acquiring an existing exempt network is required to submit a new registration application in accordance with sections 5.2 or 5.3, as appropriate. If this results in a transition period, the conditions for the operation of an existing exempt network continue to apply until we determine otherwise in response to the new application.

Where a registered exempt network is to cease operation, the authorised representative(s) should notify us of the planned or actual date for the network to cease operation. We will deactivate the registration of the network from the date specified in a notice.

If the AER receives advice from any other party that a registered network has ceased operation we will attempt to contact the registered responsible person to confirm the status of the network. This contact may be by telephone or by a written or electronic notice addressed to the registered authorised representative. If no response is received within 20 business days we may deactivate the registration of that network without further notice.

If the AER later determines that a deactivated registered network exemption should be reactivated we may, at our discretion, reactivate the network exemption on the same or amended conditions or we may require that a new application for a registrable or individual exemption be submitted.