



# Electricity Network Service Provider Registration Exemption Guideline

27 August 2013

© Commonwealth of Australia 2013

This work is copyright. Apart from any use permitted by the Copyright Act 1968, no part may be reproduced without permission of the Australian Competition and Consumer Commission. Requests and inquiries concerning reproduction and rights should be addressed to the Director Publishing, Australian Competition and Consumer Commission, GPO Box 3131, Canberra ACT 2601.

Inquiries about this document should be addressed to:

Australian Energy Regulator  
GPO Box 520  
Melbourne Vic 3001  
Tel: (03) 9290 1444  
Fax: (03) 9290 1457  
Email: [AERInquiry@acr.gov.au](mailto:AERInquiry@acr.gov.au)

AER reference: 22342

#### Amendment record

Version	Date	Pages
01	14 October 2011	27
02	16 December 2011	28
03	27 August 2013	44

---

# Contents

<b>Contents</b> .....	<b>3</b>
<b>1 Nature and authority</b> .....	<b>4</b>
1.1 The National Electricity Law and the National Electricity Rules and what it means for you.....	4
1.2 Who should read this guideline? .....	4
1.3 About the AER .....	6
<b>2 Part A – About this guideline</b> .....	<b>7</b>
2.1 Introduction .....	7
2.2 Who must register or obtain exemption?.....	10
2.3 What type of exemption applies to me? .....	12
2.4 How do I obtain an exemption? .....	14
<b>3 Introduction and exemption classes</b> .....	<b>18</b>
3.1 Deemed exemption classes .....	18
3.2 Registrable exemption classes.....	20
3.3 Individual exemption .....	22
<b>4 Part B – Conditions</b> .....	<b>23</b>
4.1 General requirements .....	23
4.2 Metering installation.....	30
4.3 Metering accuracy .....	31
4.4 AEMO and retail competition .....	32
4.5 Distribution loss factors.....	33
4.6 Pricing.....	34
<b>5 Part C – Registration, Applications and Revocation</b> .....	<b>38</b>
5.1 Pre-registration .....	38
5.2 Registrable exemption information requirements.....	38
5.3 Application for individual exemption or variation of conditions .....	39
5.4 Revocation of an exemption .....	40
5.5 Transfer, amendment or cessation of an exemption .....	41
<b>Glossary</b> .....	<b>43</b>

# 1 Nature and authority

## 1.1 The National Electricity Law and the National Electricity Rules and what it means for you

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

- registered with the Australian Energy Market Operator (AEMO) as an electricity network service provider<sup>1</sup>, or
- must gain an exemption from the requirement to be a registered network service provider from the Australian Energy Regulator (AER).<sup>2</sup>

This guideline explains which 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.

No matter how small the network, anyone who supplies electricity to another person over a private 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.

Registration with the market operator is a complex and expensive process. 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

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
- car-park
- public land or marina
- shopping centre

---

<sup>1</sup> NEL section 11(2)(a) and NER, clause 2.5.1(a)

<sup>2</sup> NEL section 11(2)(b) and NER, clause 2.5.1(d)

- industrial estate
- private property
- retirement village
- industrial complex
- strata-title property
- office development
- mining development
- residential development
- tram, train or rail network or
- elsewhere.

You should read this guideline if you think that you are operating a private electricity network — which is illegal unless it is registered with AEMO or exempted from registration by the AER.<sup>3</sup>

To avoid the risk of serious penalties you might only need to make some small adjustments. You might not 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.<sup>4</sup>

This guideline deals with network exemptions under the NEL and NER. For retail exemptions under the National Energy 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).

---

<sup>3</sup> NEL sections 11(2)(a) and (b); NER, clauses 2.5.1(a) and (d)

<sup>4</sup> An amount not exceeding \$100 000; and an amount not exceeding \$10 000 for every day during which the breach continues

### **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

This Guideline relates to a privately owned embedded or exempt network ('private network'). A private network means any network for the supply of electrical energy to a third party, but not a transmission or distribution network registered with AEMO.

**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>5</sup>**

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

- The requirement to register the network or be exempted is analogous to the registration of the car.
- The requirements about selling electricity are analogous to a driver having a valid driver's licence.

This Guideline is about the exemption or registration of the physical assets that make up the network. Please note that all existing *individual* exemptions granted prior to 1 January 2012 and published on the AER's website remain in place and are unaffected by the issue of this Guideline. All other pre-existing exemptions (which were deemed categories under the former Guidelines) must comply with this guideline including, where required, registration of the network in the 'registrable' exemption category as provided for in this Guideline.

Most small network owners/operators will want to avoid the onerous and costly requirements to register with AEMO as a distributor. Our Guideline sets out eligible classes of distribution activity and the requirements which must be met for an exemption to apply. Regardless of whether a network is registered or exempt, it will be subject to additional requirements governing matters including construction standards and electrical safety under the laws of the State or Territory in which it is located.

All exempt private networks are subject to conditions. These conditions cover 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. This may expose you legally to a civil penalty (a fine) under the National Electricity Law or other relevant legislation.

#### **Exempt Selling Guideline**

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

#### **On-selling**

The terms selling and on-selling have very broad connotations when used in this Guideline. They include all manner of situations where electricity is supplied to another person. It 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.

---

<sup>5</sup> Available at: <http://www.aer.gov.au/node/18677>

Where the sale of electricity takes place the party selling the electricity must be registered or exempt under the Retail Exempt Selling Guideline, wherever it is in effect.

The test for selling electricity is about an action or activity. In contrast, the test for a network exemption is a mix of a physical and activity test. For example, is your wiring connected to the National Electricity Market and are you supplying electricity to a third person? If so, even if the electricity is given away for free both you (as the network owner) and your agents must be registered or exempt under this Network Guideline. Fortunately, almost all minor situations will be deemed to be exempt.

## **Terminology**

In this Guideline the terms ‘private network’, ‘embedded network’ and ‘exempt network’ are generally interchangeable. The terms all refer to the physical assets that deliver electricity to another person or party. They include any privately owned wires, switches, meters, transformers or other electrical equipment owned, operated or controlled by the applicant.

In some jurisdictions one or other term is used, or some of the terms have narrow meanings when used by the local electricity distribution company or referred to in legislation or regulations. However, for the purposes of the National Electricity Law all private networks must be exempted by the AER.

## **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 what type of exemption relates to particular activities. In section 3 we detail the pre-defined exemption classes.

The range of predefined exemption classes encompasses both deemed and registrable exemptions in both Guidelines. The AER has aligned the classes for deemed and registrable network exemptions as closely as possible with the equivalent classes in the Retail Exempt Selling Guideline. However, the Network Guideline deals with a wider range of activities than those captured under the Retail Law. Therefore, there are more classes in the Network Guideline. The classes are set out in four tables numbered 1 to 4. The classes in tables 1 and 3 are directly related to the Retail Exempt Selling Guideline classes. All deemed and registrable exemptions exempt the holder from the technical requirements of chapter 5 of the NER.

Individual exemptions operate differently between the Retail Law and the National Electricity Law. We expect that there will be few instances where an individual network exemption is necessary. 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 some new, unanticipated activity or to be for a variation of the conditions attached to a deemed or registrable exemption.

All applications will be subject to a formal determination by the AER. Applications for a variation of conditions will only be granted in exceptional circumstances. All applications will also be subject to a careful examination of public benefits and any detriments to customers. They are registrable and will be published.

## **Exemption tables**

Deemed exemption classes are described in Tables 1 and 2 for a number of network activities, 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 Guideline. Penalties may apply to any party who wrongly claims to be eligible for a deemed exemption.

Registrable exemptions are described in Tables 3 and 4 for a number of network activities, 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 Guideline.

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

## Conditions

There are four 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 strict controls
- 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.

Section 4 details the specific conditions which must be met for each exemption class. Compliance with all the relevant conditions set out in this 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.

## Access to retail competition

Three jurisdictions allow customers in private networks to exercise a right to choose their electricity retailer. They are Victoria, New South Wales and South Australia. To achieve this outcome, special arrangements exist to create a 'parent/child'<sup>7</sup> relationship for the metering. Elsewhere, access to retail competition through a private network is subject to agreement between the private network owner and the customers of that network. It can be difficult or impossible to set up a 'parent/child' relationship elsewhere. Customers in the ACT, Queensland and Tasmania will normally require a direct connection to a distributor to access retail competition.

## Victoria, New South Wales or South Australia

To make access to retail competition work, these jurisdictions arranged with AEMO to put in place procedures (called metrology procedures) to register 'parent' and 'child' meters for customers of private networks that access retail competition.<sup>8</sup> Metrology procedures are complex. Describing how these procedures work is difficult and beyond the scope of this Guideline.

A private network operator must not obstruct access to retail competition and must take reasonable steps to facilitate access for a tenant.<sup>9</sup> In particular, under the AEMO procedures the 'gate' meter owned by the private network owner must be recorded as a 'parent' meter in the market settlement

---

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

<sup>7</sup> A 'parent' 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>8</sup> AEMO, *Metrology Procedure: Part A National Electricity Market*, Section 2.5, pp. 38-39

<sup>9</sup> 'Tenant' is to be interpreted in the widest possible sense to include any tenant, lease holder, strata title occupier or the like, connected to a private network and who is subject to charges for electricity consumed.

system by the new retailer. This is arranged by the retailer for the tenant but requires information from the site owner/operator.

Where a tenant accesses an external retailer, the new retailer will arrange to install additional metering, namely a NEM registered 'child' meter to record the energy component of the bill. Arrangements must be made for the retailer to provide energy billing information to the private network operator. Otherwise, an additional meter may be necessary to record the network charges component to be charged by the private network operator. The cost of the meter installation is borne by the tenant and is charged to the tenant either directly by the metering provider or by the retailer.

The network charge for the energy use by that tenant (i.e. the child meter) must be manually calculated. The AER permits the associated external network component to be recovered either directly from the tenant or from the other energy retailer by the private network operator under section 4.6.1. Note that in South Australia, the Electricity (General) Regulations 2012 - Reg 44B (2)(b) limits the recovery of this charge to the new energy retailer. If these arrangements are not followed closely there is a serious risk of billing errors. These errors can be difficult, if not impossible, to unravel later.

The private network owner cannot charge a surcharge to the customer for use of the network. The recovery of externally imposed costs is permitted however, under charge group B (see Section 4.6 of this Guideline). Some private network owners may consider that they should be able to charge extra for special electricity infrastructure they provide, particularly transformers. However, the National Electricity Rules currently require the AER to set charges for network assets on the same basis as a 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 private networks. The AER does allow 'shadow pricing' to apply in this situation.<sup>10</sup>

### **Other NEM Jurisdictions**

If the AEMO Metrology Procedures do not apply a different approach must be taken to access an external retailer through a private network. The tenant will need 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.

### **Unmetered supplies**

Unmetered supplies 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 then 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 unmetered installations are not required to be upgraded. However, from 1 January 2015 the AER will cease accepting registrations in category NR7 which relates to some unmetered legacy installations. In all other cases we expect meters or sub-meters will be installed to measure the electricity supplied to a customer.

## **2.2 Who must register or obtain exemption?**

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

---

<sup>10</sup> See section 4.6.1.

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.

Common sense says that it was not the intention of the NEL to require persons to register networks for common activities like this. Fortunately, the exemption framework exists. 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 activities that are relatively common or which have low-risk of abuse (see table 1, section 3.1.1).

### **Multiple parties must register**

The National Electricity Law also requires everyone associated with a private 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 private 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 or businesses that own or manage a site containing an embedded 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 NEM registered distributor about these matters, etc.<sup>11</sup> The terms 'operator' and 'controller' are largely interchangeable when applied to a private network.

The examples below help illustrate when a network exemption is required. We stress, however, that given the potential differences between apparently similar scenarios it is not possible to apply a blanket approach. We will therefore consider the particular facts of each situation and encourage you to contact us and discuss your circumstances if you are unsure about a class. We also recommend that you take your own legal advice.

#### **Example A**

Company A operates and maintains a private electricity network across Tasmania. The network's primary purpose is to provide high voltage traction power for electric trains and low voltage power to some stations, signal equipment and other infrastructure.

Operating a rail network and associated infrastructure is a deemed exempt activity (Class NDO5, table 2). However, if the company provides power to retail areas at its stations Company A should seek a network exemption for that activity. The most likely categories would be ND1 (table 1) or NR1 or NR5 (table 3).

---

<sup>11</sup> The 'agent' operating or having control of the private 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.

## Example B

Company B manages contractors for procurement of power and managing the installation of sub-metering in a building owned by Company C. Company B also manages the connection/disconnection process, data collection, customer services and billing operations.

It would be appropriate for Company B to seek a network exemption as some of the activities require company B to exercise control over the network. Company C, as the network owner, must also seek a network exemption.

## 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 selling 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 otherwise provide energy to a third party. Generally, these are people or businesses who sell or provide a connection to electricity incidentally, meaning that energy sales are not their primary business or part of their business model, and are generally motivated by considerations other than profit.

A deemed exemption is an exemption that applies automatically to certain classes of people. A person 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 selling arrangements where the costs associated with registration would outweigh the benefits of increased regulation.

Situations that deemed exemptions apply to include:

- selling energy to a related company
- selling metered energy to fewer than 10 small tenants or residents
- caravan parks or holidays parks selling metered energy in short term accommodation
- plug-in and rack mounted equipment
- selling unmetered electricity in Queensland<sup>12</sup>
- telecommunications companies for a telecoms related activity
- government agencies that sell metered energy ancillary to their core functions
- private solar PV and generator installations
- broadcasting sites
- rail network operators
- electric vehicle charging stations
- building and construction sites

---

<sup>12</sup> Unmetered on-selling to residential customers is currently allowed in Queensland (provided certain conditions are met) under the Residential Tenancies and Rooming Accommodation Act 2008 (Qld), s. 165.

- large corporate entities (both parties: buyer and seller)
- demand-side scheme participants.

A full 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 only applies to a particular individual or entity for a particular site, and is subject to conditions. Registrable classes are for energy selling activities that we consider need greater transparency and regulatory oversight, usually because the scale of the activities is larger and the impact on the market greater.

Situations that registrable exemptions apply to include:

- selling metered energy to 10 or more small tenants or residents, or to an adjacent site
- retirement villages or caravan parks selling metered energy to permanent residents
- selling energy to large customers
- some unmetered energy supply arrangements entered into prior to the commencement of the Retail Law
- generators offering market services
- mining and primary production developments
- sites where a customer can access retail competition in a participating jurisdiction.

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

Similar to a retail individual exemption, a network individual exemption is required 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.

Individual exemptions are 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 burden that meeting those conditions will place on the exemption holder. But, as the network conditions relate to safety, metering, dispute resolution and pricing we will need to be convinced of a compelling case to vary our standing conditions for these matters.

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

*Example C*

Company C is a small telecommunications company that provides large business customers with telecommunications services. It owns an electricity generation asset at its business premises and, for convenience, wants to sell generated energy to 3 business customers that are located within the same industrial park and 2 rural customers who are adjacent to the park (there is currently no other viable energy supply to these customers).

Its business is primarily to sell communications services — not energy — and it does so only because it is mutually convenient for the company and its customers. It does not have any plans to expand its energy selling activities.

For network purposes, the generator facility (unless it is over 30 MW) is deemed exempt (class NDO1). Company C is a telecommunications company. If the customers are all directly involved in telecoms activity then this is also a deemed exempt activity (class ND9). However, if the activity is selling electricity to 'large' customers (not in the telecommunications industry) the network must be registered in class NR5. Because two customers are on adjacent sites, registration in class NR6 is also required.

## 2.4 How do I obtain an exemption?

### 2.4.1 Pre-registration

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

### 2.4.3 Registrable exemptions

These exemptions are not automatic. You can register an exemption by completing our registration form, which is available on our website.<sup>13</sup> To obtain a network exemption, you need to complete Parts A and B of the form.<sup>14</sup> More than one registration class or charge group may 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>15</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. Once you've completed your registration form(s), we prefer that you submit it electronically to: [aerexemptions@aer.gov.au](mailto:aerexemptions@aer.gov.au).

Alternatively, you can fax your form to 03 9290 1457 or post it to:

General Manager  
Network Development and Operations  
Australian Energy Regulator  
GPO Box 520  
Melbourne Victoria 3001

There is no formal approval process for registrable exemptions; your exemption comes into effect when it appears on our public register of network exemptions.<sup>16</sup> Once the exemption appears on the register, it becomes a "registered exemption". Conditions apply to all registered exemptions.

---

<sup>13</sup> A copy of our exemption registration form can be found here: <http://www.aer.gov.au/node/476>

<sup>14</sup> If you also sell energy you may also need a retail exemption (which can be obtained by completing Part A of the form)..

<sup>15</sup> For example, retail shopping centre, residential apartment building, and caravan park or retirement village.

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 customers), or you start selling energy to life support customers.

#### 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. We believe that individual network exemptions should not be necessary for common activities. Almost all common activities will be covered by a deemed or registrable network exemption. This category exists in case we have missed something.

Part D of the form sets out the information that you must provide when you apply for an individual exemption.<sup>17</sup> Please contact us if you cannot provide any of this information.<sup>18</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.

Or you can send it to:

General Manager  
Network Development and Operations  
Australian Energy Regulator  
GPO Box 520  
Melbourne VIC 3001

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

#### 2.4.5 Public consultation process

Once we have received and accepted your application for an individual exemption, we will generally 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 run for at least 20 business days. Unlike the Retail Law, the rules made under the NER do not require wide consultation on network exemptions. The NER allows the AER to limit consultation to affected stakeholders under some circumstances. Nonetheless, our preference is to be transparent in making regulatory decisions.

---

<sup>16</sup> The AER's public register of exemptions can be found here: <http://www.aer.gov.au/node/2446>.

<sup>17</sup> A copy of our exemption registration form can be found here: <http://www.aer.gov.au/node/476>

<sup>18</sup> We will generally not commence processing your application until we have received all required information.

Individual network exemptions will 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 private network is involved or, where an application has potential to affect larger groups of customers, 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.

#### **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 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 if, for example:

- we believe that granting an exemption may not contribute to the achievement of the National Electricity Objective
- 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 of sites) and 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.

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

## 3 Introduction and exemption classes

### 3.1 Deemed exemption classes

No application is required for a deemed exemption to apply. Deemed exemptions are subject to compliance with the activity description set out in Tables 1 and 2, and the conditions, set out in sections 4.1, 4.2, 4.3, 4.4, 4.5, and 4.6 of Part B of the Guideline, as modified by table 6.

Note: Operating a network in breach of the AER's conditions will invalidate your exemption and could expose you to sizeable civil penalties.<sup>19</sup> These requirements apply to the network owner, network operator and any party or agent of the owner or operator who has control of the private network.

#### 3.1.1 Energy selling

**Table 1 – Deemed classes of exemption – energy selling**

Class	Activity	Deemed exemption applicable to:
ND1	Persons selling metered energy to <b>fewer than ten</b> small commercial/retail customers within the limits of a site that they own, occupy or operate.	Current and future sellers.
ND2	Persons selling metered energy to <b>fewer than ten</b> residential customers within the limits of a site that they own, occupy or operate.	Current sellers and sellers who commence operation prior to 1 January 2015 and from 1 January 2015 holders of a retail exemption.
ND3	Persons selling metered energy to occupants of holiday accommodation on a short-term basis.	Current sellers and sellers who commence operation prior to 1 January 2015 and from 1 January 2015 holders of a retail exemption.
ND4	<b>DELETED</b>	<b>DELETED</b>
ND5	Unmetered supply via plug-in or rack mounted equipment in any premises.	All situations.
ND6	Persons selling unmetered electricity to small customers in Queensland.	Current sellers and sellers who commence operation prior to 1 January 2015 and from 1 January 2015 holders of a retail exemption.
ND7	<b>DELETED</b>	<b>DELETED</b>
ND8	Persons selling energy to a related company.	Current and future sellers.
ND9	Persons selling energy to customers in conjunction with, or ancillary to, the provision of telecommunications information services.	Current and future sellers.
ND10	Government agencies, other than housing authorities, selling metered energy to non-residential customers.	Current and future sellers.

Notes: Classes of exemption labelled 'ND\_' are 'network deemed' classes. Classes ND1 through ND10 (but not ND5) are aligned to the Exempt Selling Guideline. The activity description and application criteria in this table are indicative only. Applicants should refer to the Retail Exempt Selling Guideline to determine eligibility for a deemed exemption.

Note: Where the customers within a private network in New South Wales, South Australia or Victoria seek access to full retail competition the exemption will be registrable, not deemed. The applicable class of exemption is table 4, class NRO5.

<sup>19</sup> NER, clause 2.5.1(d)

### 3.1.2 Network specific situations

The conditions specified in Part B of the Guideline apply to all deemed network specific exemption classes. The relevant conditions correspond to this table, as further modified by table 7.

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

Class	Activity	Deemed exemption applicable to:	Applicable Conditions:
NDO1 <sup>20</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 solar energy system providers	Energy generation installations not intended to supply network support or demand management services to the NEM and not otherwise required to be registered with AEMO. <sup>21</sup>	4.1, 4.2, 4.3, 4.5, 4.6
NDO2	Sites broadcasting television and radio signals.	Current and future facilities.	4.1, 4.5
NDO3 <sup>22</sup>	Electric vehicle charging station within a private network (e.g. a privately owned charging station located in a public area, hotel, shopping centre, university, etc.)	Current and future facilities.	4.1, & to the extent relevant: 4.2, 4.3, 4.4, 4.5 & 4.6
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 an adjoining site	4.1, & to the extent relevant: 4.2, 4.3, 4.4, 4.5 & 4.6
NDO5	Electric traction systems supplying passenger or freight vehicles and associated infrastructure (i.e. rail networks) but not including commercial and/or retail activities	Current and future facilities.	4.1
NDO6	Large corporate entities <sup>23</sup>	Current and future facilities.	4.1, & to the extent relevant: 4.2, 4.3, 4.4, 4.5 & 4.6
NDO7	Residential, commercial and industrial sites where demand-side participation equipment and facilities is installed, including the owners and operators of the equipment and facilities	Current and future facilities.	4.1, 4.2, 4.3, 4.5, 4.6

Notes: Classes of exemption labelled 'NDO\_' are 'network deemed other' classes, and have no equivalent class in the Exempt Selling Guideline. Eligibility for a network deemed exemption is set out in this table.

The supply of network services in accordance with a commercial agreement between private parties is permitted for each category listed in Table 2.

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

<sup>20</sup> This class applies only to the network to which the generator is connected. Generator registration and exemptions are handled by AEMO. Safety requirements are determined by each jurisdiction.

<sup>21</sup> If you have a contract or agreement to supply network support or demand management services based on a generator or inverter you must register under the appropriate class (NRO1) of Table 4.

<sup>22</sup> Note that no exemption is required if the charging facility is directly connected to a distributor.

<sup>23</sup> A 'large proprietary company' as defined under clause 45A(3) of the Corporations Act 2001.

is involved. For example, a shopping centre will have tenants and often, a generator. The network must be exempted because of the supply to third parties, not because it has a generator. If the generator belongs to someone else, however, then the network must be exempted.

Also, jurisdiction specific regulations exist which impose additional requirements on the installation of generators. Even if it is your network and it is your generator connected to the network you must still comply with the local safety requirements. Contact your local distributor for details.

## 3.2 Registrable exemption classes

Tables 3 and 4 set out the classes of registrable exemption. More than one category may apply. If so, tick each relevant category when registering.

The conditions set out in sections 4.1 – 4.6 of Part B of the Guideline apply to all registrable exemptions, as modified by table 8 or table 9. A variation of these conditions requires an individual exemption application made in accordance with sections 3.3 and 5.3.

**Table 3 – Registrable classes of exemption – energy selling**

Class	Activity	Registrable exemption	Application for individual exemption
NR1	Persons selling metered energy to ten or more small commercial/retail customers within the limits of a site that they own, occupy or operate.	Registrable for current and future sellers	Only where exempt seller believes conditions of exemption are not appropriate for their situation
NR2	Persons selling metered energy to ten or more residential customers within the limits of a site that they own, occupy or operate.	Registrable for current sellers and those who commence selling before 1 January 2015	Required for those who commence selling on or after 1 January 2015
NR3	Retirement villages selling metered energy to residential customers within the limits of a site that they own, occupy or operate.	Registrable for sellers commencing selling before 1 January 2015	Required for those who commence selling on or after 1 January 2015
NR4	Persons selling metered energy in caravan parks, residential parks and manufactured home estates to residents who principally reside there.	Registrable for current and future sellers	Only where exempt seller believes conditions of exemption are not appropriate for their situation
NR5	Persons selling metered energy to large customers.	Registrable for current and future sellers	Only where exempt seller believes conditions of exemption are not appropriate for their situation
NR6	Persons selling metered energy to small customers at a site or premises adjacent to a site that they own, occupy or operate.	Registrable for current and future sellers	Only where exempt seller believes conditions of exemption are not appropriate for their situation
NR7	Persons selling unmetered energy to small commercial/retail customers at a site that they own, occupy or operate.	Registrable for current sellers, until 1 January 2015.	The AER does not support unmetered energy sales to small customers.

Note: Classes of exemption labelled 'NR\_' are 'network registrable' classes. Classes NR1 to NR7 are aligned to the Exempt Selling Guideline. The activity description and application criteria in this table are indicative only. Applicants should refer to the Exempt Selling Guideline to determine eligibility for a registrable exemption.

As discussed later in section 4, the AER does not anticipate the conditions associated with network exemption categories NR2 and NR3 will necessarily be amended from 1 January 2015. The application and approval process is subject to change to maintain consistency with the retail exempt selling guideline. Thus, under the AER’s consolidated application process, an application for a retail individual exemption will trigger a requirement to apply for an individual network exemption. As noted in section 3.3, prior to 1 January 2015 the AER will seek to minimise the need for this application.

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

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

Class	Activity	Registrable exemption	Application for individual exemption
NRO1 <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	Energy generation installations intended to supply network support or demand management services to the NEM	Only where exempt party believes conditions of exemption are not appropriate for their situation
NRO2 <sup>25</sup>	On-market energy generation by equipment owned, operated or controlled by a third-party and connected to the NEM via a private electricity connection	Energy generation installations required to be registered with AEMO under clause 2.5.2 of the NER	Only where exempt party believes conditions of exemption are not appropriate for their situation
NRO3	Ongoing supply to a mining or primary production facility and associated residential, commercial, industrial, processing and ancillary support facilities <sup>26</sup> in areas with restricted access to NEM supply	All bona fide installations, subject to demonstrable circumstances of remoteness from existing NEM supply infrastructure	Only where exempt party believes conditions of exemption are not appropriate for their situation
NRO4	Industrial, commercial and ‘mixed-use’ facilities but not including residential or energy generation activity and any activity listed in table 3. Includes the unmetered supply of energy under an agreed commercial scheme between large customers.	All installations	Only where exempt party believes conditions of exemption are not appropriate for their situation
NRO5	Metered energy selling to customers in networks with metering infrastructure enabling access to full retail competition in a jurisdiction <sup>27</sup>	All installations	Only where exempt party believes conditions of exemption are not appropriate for their situation

Note: Classes of exemption labelled ‘NRO\_’ are ‘network registrable other’ classes, and have no equivalent class in the Exempt Selling Guideline. Eligibility for a network registrable exemption is set out in this table.

<sup>24</sup> This class applies only to the network to which the generator is connected. Generator registration and exemptions are administered by AEMO. Safety requirements are determined by each jurisdiction.

<sup>25</sup> This class applies only to the network to which the generator is connected. Generator registration and exemptions are administered by AEMO. Safety requirements are determined by each jurisdiction.

<sup>26</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.

<sup>27</sup> This class applies only to private networks where customers have access to full retail competition via ‘child’ metering registered in accordance with applicable AEMO requirements. It does not apply where a customer arranges direct connection to a NEM registered network service provider or where customers within a network do not require access to full retail competition. In all other circumstances, table 1 or table 3 applies.

The supply of network services in accordance with a commercial agreement between private parties is permitted for each class listed in Table 4, except class NRO5.

### 3.3 Individual exemption

Class NRI in Table 5 refers to network exemptions specific to the circumstances of the applicant. This 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.

The conditions set out in sections 4.1 – 4.6 of Part B of the 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 Guideline.

Parties who assume control of a private network subject to an individual exemption must, within not more than 20 business days of commencing to own, operate or control that private network, make an application for exemption in the form set out in section 5 in Part C of this 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 and has no equivalent in the Exempt Selling Guidelines. It applies to exemptions to individuals made in accordance with clause 2.5.1 of the NER.

From 1 January 2015 the AER will move to individual exemptions for retail selling. Allied to this we will review the conditions applicable to tables 1 and 3 of this guideline to determine whether those conditions should continue to apply post-2015.

Our intention is to predefine the network element of the conditions to apply to each class of retail selling activity from 1 January 2015. If it is found that is not necessary to change the network conditions we will not do so.

Consistent with this, we do not propose requiring an application for an individual network (as distinct from retail) exemption for network activities linked to retail selling post 1 January 2015, except where a variation of conditions is sought.

## 4 Part B – Conditions

### 4.1 General requirements

The following conditions are applicable to all private networks as set out in tables 6, 7, 8 & 9 for the respective exemption class. These conditions will only be varied in response to a written application (see sections 3.3 and 5.3) demonstrating that exceptional circumstances apply such that a material detriment to customers will be significantly reduced or eliminated by varying these conditions.

Words in italics are primarily intended as commentary to assist understanding of a condition but they 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 7.2 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 recovery of supply costs from a tenant or co-tenant.*

3. All private 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 private 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 NSP’s private 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 a private network contains a generation source of any kind.*

5. All selling of electricity conducted within a private network must be undertaken by:
  - a. a registered market retailer, or
  - b. by the holder of a valid retail exemption or authorisation registered with the AER, or
  - c. by a party or parties entitled to a deemed retail selling exemption in accordance with the current AER Exempt Selling Guideline, or
  - d. a person authorised to on-sell electricity in accordance with regulations in force in a jurisdiction where the National Electricity Retail Law does not apply.

*Applies whenever energy is exchanged for money across a private network.*

6. A private network must have in place dispute resolution procedures which customers can access at no cost or on a fee for service basis. Where retail on-selling is occurring under the Retail Law and a dispute resolution mechanism is available under that Law, the same arrangement may apply for the resolution of disputes. In all other circumstances a suitable dispute resolution mechanism must be specified in the formal agreements between the network owner or its appointed agent and the end-use customer. These procedures must allow a customer to request, and be provided with, written details of all charges applicable to that customer.

*A suitable dispute resolution mechanism does not require express 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 private networks.*

*This condition is permissive in its operation: it allows a proprietor or customer of one or more private 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 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 and 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 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 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 private network operator must, without undue delay, promptly notify the local DNSP of the existence of a life support requirement in accordance with the reasonable requirements of the local DNSP.

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

11. A private network operator 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 to across a private network to an eligible retail customer.*

12. A private network operator must not impede a customer's access to retail competition where it is available in a jurisdiction.<sup>28</sup>

When requested by a customer or tenant connected to the private network (or a person acting on behalf of the customer or tenant) for details of the National Metering Identifier of the gate meter, the private network owner or operator must, without undue delay, accurately provide the relevant details of that meter to that customer, tenant or other person, as appropriate.

A private network owner or operator or agent must not alter the electrical supply arrangement to a customer or tenant in a private network directly connected to a registered distributor without the written consent of that customer or tenant, freely given.

*This condition means that a private network operator must actively facilitate access to retail competition if requested to do so. Also, a customer or tenant of commercial, industrial or residential premises cannot be compelled to become part of a private network or subject to an exempt selling regime without the express written consent of that customer or tenant.*

---

<sup>28</sup> As of 1 July 2013, the relevant jurisdictions are New South Wales, South Australia and Victoria.

### 4.1.1 Exemption class conditions

Table 6 – Deemed classes of exemption – energy selling

Class	Conditions											
	1	2	3	4	5	6	7	8	9	10	11	12
ND1	✓	✓	✓	✓	✓	✓	✓	Not applicable	✓	✓	✓	✓
ND2	✓	✓	✓	✓	✓	✓	✓	Not applicable	✓	✓	✓	✓
ND3	✓	✓	✓	✓	✓	✓	✓	Not applicable	✓	✓	✓	✓
ND4	Deleted	Deleted	Deleted	Deleted	Deleted	Deleted	Deleted	Deleted	Deleted	Deleted	Deleted	Deleted
ND5	Not applicable	Not applicable	✓	Not applicable	✓	Not applicable	Not applicable	Not applicable				
ND6	Not applicable	Not applicable	✓	✓	✓	✓	✓	Not applicable	✓	✓	✓	✓
ND7	Deleted	Deleted	Deleted	Deleted	Deleted	Deleted	Deleted	Deleted	Deleted	Deleted	Deleted	Deleted
ND8	✓	✓	✓	✓	✓	✓	✓	Not applicable	✓	✓	✓	✓
ND9	Not applicable	Not applicable	✓	✓	Not applicable	✓	✓	Not applicable	✓	Not applicable	Not applicable	Not applicable
ND10	✓	✓	✓	✓	✓	✓	✓	Not applicable	✓	✓	✓	✓

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

Class	Conditions											
	1	2	3	4	5	6	7	8	9	10	11	12
NDO1	✓	✓	✓	✓	✓	✓	✓	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	✓
NDO3	✓	✓	✓	✓	✓	✓	✓	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
NDO5	Not applicable	Not applicable	✓	Not applicable	Not applicable	✓	Not applicable	Not applicable	✓	Not applicable	Not applicable	Not applicable
NDO6	4.2.1	4.2.1	✓	Not applicable	✓	Not applicable	Not applicable	Not applicable				
NDO7	✓	✓	✓	✓	✓	✓	✓	Not applicable	✓	Not applicable	Not applicable	✓

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

Class	Conditions											
	1	2	3	4	5	6	7	8	9	10	11	12
NR1	✓	✓	✓	✓	✓	✓	✓	✓	✓	Not applicable	Not applicable	✓
NR2	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
NR3	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
NR4	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
NR5	✓	✓	✓	✓	✓	✓	✓	✓	✓	Not applicable	Not applicable	✓
NR6	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
NR7	Not applicable	Not applicable	✓	✓	✓	✓	✓	✓	✓	Not applicable	Not applicable	✓

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

Class	Conditions											
	1	2	3	4	5	6	7	8	9	10	11	12
NRO1	✓	✓	✓	✓	✓	✓	✓	✓	✓	Not applicable	Not applicable	Not applicable
NRO2	✓	✓	✓	✓	✓	✓	✓	✓	✓	Not applicable	Not applicable	Not applicable
NRO3	✓	✓	✓	✓	✓	✓	✓	✓	✓	Not applicable	Not applicable	Not applicable
NRO4	✓	✓	✓	✓	✓	✓	✓	✓	✓	Not applicable	Not applicable	✓
NRO5	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

**Table 10 – Individual network exemption class**

Class	Conditions											
	1	2	3	4	5	6	7	8	9	10	11	12
NRI	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

The AER decision on an individual exemption may nominate some, or all of these conditions apply. The default position is that all the numbered conditions apply. In the absence of a decision to omit a particular condition, the condition continues to apply.

## 4.2 Metering installation

The following requirements relate to all new installations and to any reconfiguration of a metering installation within an existing private network. This clause applies to each activity class wherever condition 4.1(12) applies, as set out in tables 6, 7, 8, 9 & 10.

Metering at the connection point to the NEM is to be determined in conjunction with the relevant transmission or distribution network service provider's requirements for connection of a customer.

Network owners and operators must ensure that all metering installations used in private networks are fit for purpose and compliant with the requirements of the National Measurement Act, which is administered by the National Measurement Institute and the regulations in force under that Act.

*Please note: The AER does not require an existing metering installation to be upgraded; however, in the event of a billing dispute it will be incumbent on the network operator to demonstrate that the metering installation is accurate. This may require that you 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. This cost must be borne by the private network owner/operator.*

### 4.2.1 Transmission networks

Regardless of whether a network is registered with AEMO or exempted from registration by the AER, all metering in electricity transmission networks 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>29</sup>

### 4.2.2 Distribution networks

In all private network distribution situations meters must either:

1. be installed in a reasonably accessible location with safe, convenient and unhindered access to facilitate meter reading by the network operator and the customer or their respective agents, testing and meter maintenance, or
2. in private networks serving only private network customers, meters may have remote facilities to permit access to current metering data by customers either by a readout device or by electronic means including via a web portal or other equivalent facility.

Where a meter is provided by a registered retailer, clauses 4.2.2 (1) & (2) of this Guideline do not apply. Instead, the meter must be installed 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.

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.

---

<sup>29</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.

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

All generation (i.e. all *off-market* and *on-market energy generation*) installations, 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.

It is not intended that small generator installations within private networks should be exposed to unduly onerous metering requirements. For all generator 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.

A word of caution: Generator installations within private networks do not necessarily enjoy access to government incentive schemes. A generator or solar PV 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 a problem for situations like retirement villages which install solar systems. You should consult your local energy authorities before investing in such systems.

Further details of metering requirements must be obtained from the local electricity distribution or transmission network service provider. Additional requirements set by AEMO apply to generator installations larger than 30MW.

### 4.2.4 Electric vehicle charging facilities

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

This classification only applies to a private network with a vehicle charging facility owned by another party connected to a private 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 private network owner/operator (i.e. the shopping centre) because their private network sits between the DNSP 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 DNSP. This applies wherever there is a direct relationship between the DNSP and the charging facility.

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.

Where the facility operates only as a load, metering and charging arrangements within the private 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 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 also comply with the metering requirements in clause 4.2.3 for energy generation sources.

## 4.3 Metering accuracy

This section applies wherever a meter is required to be installed. Otherwise, it does not apply.

Meters used within private networks must be pattern approved, consistent with the requirements of the *National Measurement Act* 1960 (Cth) and regulations made under that Act, in accordance with

the equivalent requirements for NEM electricity meters and to accuracy classes as stipulated in schedule 7.2 of the NER, unless otherwise exempted by the National Measurement Institute.<sup>30</sup>

## 4.4 AEMO and retail competition

This clause applies wherever a customer has access to retail competition, even if located within a private network. Currently, this applies in New South Wales, South Australia and Victoria. Registration in class NR05 is optional if no customers exercise their right to accept a market offer. However, pre-registration is recommended because it saves later paperwork. Registration (within 20 business days) becomes compulsory if a customer chooses to exercise this right.

Billing and settlement of meters in a private network is complex. Explaining how the metering and settlement system operates is beyond the scope of this guideline.

If a tenant or customer of a private network decides to take supply from a market retailer the following requirements will apply.

The metering arrangements for customers obtaining supply from a NEM registered retailer must comply with all applicable 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 metrology procedure and the associated AEMO embedded network guideline.<sup>31</sup> A private network operator is required to permit reasonable access and provide details of the 'gate' (i.e. 'parent') meter to an accredited metering service provider or a registered NEM participant or an agent, as appropriate, appointed by the 'Responsible Person' for the provision, installation, registration, reading and maintenance of the metering installation.<sup>32</sup>

In private networks where none of the customers obtain supply from a NEM registered retailer there is no immediate need to apply unique metering identifiers (NMI) to the metering installation apart from the 'parent' meter.<sup>33</sup> However, as soon as a customer within a private network commits to obtain supply from a NEM registered retailer there is an immediate need for both the 'parent' and the 'child' meter **for that customer** to be recorded in the metering and settlements system. This will normally be arranged by the retailer for the customer in the first instance. Other customers are unaffected.

Note that condition 4.1(12) applies to all private networks in New South Wales, South Australia and Victoria where a customer in the private network has elected to obtain supply from a NEM registered retailer. This condition requires the network owner to facilitate access to retail competition.

The right of a customer to access retail competition is absolute. A private network owner or their agent must not impede a customer who has chosen to exercise that right nor may they impose unfair or unreasonable conditions on the customer.

---

<sup>30</sup> The requirement for pattern approval commenced from 1 January 2013.

<sup>31</sup> AEMO, Metrology Procedure: Part A National Electricity Market.

<sup>32</sup> The 'Responsible Person' is as specified in chapter 7 of the NER and in AEMO metrology procedures the NEM participant with financial responsibility for the energy used by a retail customer. Typically, for embedded networks, this is the NEM registered retailer and not the distributor.

<sup>33</sup> NMIs are issued by the local DNSP and recorded in the market settlement system operated by AEMO.

## 4.5 Distribution loss factors

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

Network losses in a small private network will generally not be of sufficient magnitude to warrant calculating a distribution loss factor (DLF) for meters within that network. 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 a private network to exceed this size.

In private networks which constitute a 'small load' and which serve a number of smaller loads ('children'), your DLF is the DLF that would be applied by the local DNSP at the metered point of connection. If this cannot be readily ascertained, the DLF is the DLF otherwise applicable to the connection of the embedded network to the local distribution network, i.e. at the 'parent' meter.

1. For all small loads the standard DLF applicable to the 'child' meters within the installation is the approved DLF as would be determined by the local DNSP if the local DNSP were supplying that metering installation.<sup>34</sup> The operator of a private network does not need to calculate and seek annual approval of a DLF for the child meters within that network.

Annual approval of DLFs is not required for private networks applying clause 4.5.1.

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

If the combined loading results in an embedded network becoming a significant load, clause 4.5 (2) or 4.5 (3) can 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 private 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.

2. The methodology for calculating a DLF is the same as that published by local DNSP; or<sup>35</sup>
3. 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 mechanism.

DLFs, including site-specific DLFs, calculated in accordance with this section must be approved annually by the AER in accordance with the NER, clause 3.6.3(i). Where the customers are small customers or a DLF is needed for settlement via the AEMO market settlement systems, the DLF

<sup>34</sup> See: <http://www.aer.gov.au/node/484>, select the category: 'Distribution Loss Factors' and the most recent year.

<sup>35</sup> The NER specifies that the methodology for the calculation of distribution loss factors is either the methodology published by the local DNSP or as published by the AER. However, we consider publishing a single national methodology would result in significant disruption in a number of jurisdictions to existing pricing arrangements and unduly impact consumers.

calculated will be subject to the AER's annual audit requirements for DLFs. The methodology will be subject to approval by the AER. Where the parties are large corporate entities or large customers applying charging group C and settlement is handled privately, approval of an agreed methodology is not required. Annual approval may take the form of an annual confirmation that the pre-agreed methodology for calculation continues to apply.

## 4.6 Pricing

The following paragraphs describe predefined pricing arrangements accepted by the AER for network charges in private networks. Table 11 sets out the charge groups which may apply to private networks.

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.

**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 private 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	Value added services	Large customers and network specific activities subject to commercial arrangements agreed between consenting, well informed (i.e. sophisticated) customers. Eligible private networks only. Restricted application (see text).  Charging mechanism for network charges is specified in a commercial agreement.
D	Separate charge for private network facilities	Registered & individually exempted networks. Pricing determined by the AER.
E	Rebate for exported energy	Unrestricted.

### Group A

May apply to any retail on-selling situation where customers are charged an energy only charge or all-inclusive tariff which includes external network charges. This is the most common category of charging.

*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>36</sup>

### **Group B**

No charge is made for the private network assets. However, externally imposed charges may be applied pro-rata to customers as per section 4.6.1. This may apply in any private 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.*

### **Group C**

Applicable to 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. The network proprietor provides additional services to customers of the network such as on-site fault repair services or charging is based on a commercial agreement freely entered into on mutually agreed terms.

*This group is intended to apply to commercial, industrial and mining situations and private networks serving large customers or on-site generation exporting to the NEM. The general principle which applies here is that commercial arrangements between parties with similar bargaining power should not be regulated. Energy on-selling to small customers is not permitted within this charge group in accordance with the relevant provisions of the AER's Retail Exempt Selling Guideline.*

*Where it can be demonstrated that access to the NEM would not otherwise be available except at significant 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.*

### **Group D**

Charge group D is for new individual exemptions only. Exemptions in this category will only be contemplated in exceptional circumstances and require individual approval by the AER in accordance with section 5.3 of this Guideline. 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 would need to demonstrate that NEM registration and compliance costs would be disproportionate to the size of the community to be served by the network and that compelling grounds exist for an exemption to be considered.

### **Group E**

Where a generator within a private network earns credits for energy exported to the NEM all credits remain the property of the embedded 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. This

---

<sup>36</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.

requirement does not prevent the 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.*

*This group applies in addition to any other applicable charge group.*

#### **4.6.1 External network charges**

External network charges may be levied by a registered NEM network service provider and charged to the parent meter of a private 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 in which the network is located. Such charges may be apportioned to each customer in a private 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.

#### **4.6.2 Internal network charges**

We do not encourage separate network charges for private 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 private network.

Where an embedded 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 energy network services.

#### **4.6.3 Charging customers**

The most frequently asked question is what can I charge customers? 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 (4.6.1)
- 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 (4.6.1)
- 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: charging not restricted).

#### **Individual Exemptions**

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

## 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.

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

- the name of the party for whom exemption is sought
- details of the company registration (ABN/ACN)
- 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
- the name of the NEM registered service provider to whom the network connects
- nature of the activities conducted which require exemption
- applicable class or classes of exemption
- date activities commenced (may be ongoing)
- applicable dispute resolution mechanism
- applicable enhanced safety management obligations
- charging group or groups
- distribution loss factor calculation method if not 'standard', and
- if relevant, the name(s) of any NEM metering service provider(s).

Application forms can be downloaded from our website. Applications to register or amend a registration may be made in writing or submitted electronically to us at [aerexemptions@aer.gov.au](mailto:aerexemptions@aer.gov.au), in accordance with information requirements set out above. We will develop a unified registration process for both the network Guideline and 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 a private network, complete the registration requirements. Multiple classes may apply to some private 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 is seeking (or has 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 NSP
- 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 for 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 will 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.

The individual exemption applies to an operator for a particular site from the time they are entered on the Register of Exempt Networks. We will inform the applicant of our decision regarding the application for the grant or variation of the individual exemption.

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 that we are satisfied that there has been a failure by the exempt party to meet the conditions imposed on them. 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:

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

3. 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 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:

1. 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.
2. 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 Transfer, amendment or cessation of an exemption**

A notice addressed to the AER is required for all transfers of ownership, changes of accountabilities and/or registration details and for the cessation of operation of a registrable or individually exempt private 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 private 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.

Note that the party acquiring an existing exempt private network is required to submit a registration application in accordance with sections 0 or 5.3, as appropriate. 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 private 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 deregister 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 deregister that network without further notice.

If the AER later determines that a deregistered private network should be re-registered we may, at our discretion, re-register the network on the same or amended conditions or may require that a new application for a registrable or individual exemption be submitted.

# 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> (Cwth).
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.
Disconnect, disconnection of premises	Means in the case of electricity, the opening of a connection in order to prevent the flow of energy to the premises.
Embedded network	See private network
Energy	Means electricity
Exempt network	See private network
Large customer	Means a business customer who consumes energy at business premises at or above the upper consumption threshold, as defined by the relevant jurisdiction. If no threshold is defined, 100 megawatt hours per annum for electricity.
Large corporate entity	A 'large proprietary company' as defined under clause 45A(3) of the <i>Corporations Act 2001</i> .
Meter	Means any device (compliant with metrology requirements and Australian standards) that measures the quantity of energy passing through it or records the consumption of energy at the customer's premises.
MWh	Megawatt Hour
NEL	National Electricity Law
NER	National Electricity Rules
Off-market energy generation	Means an energy generation option not required to be registered with AEMO under clause 2.5.2 of the NER and applicable AEMO guidelines.  <i>Note: The category includes — but is not limited to — small scale diesel, petrol, bio-fuel, gas (including coal-seam and other methane sources), fuel cells, an electric vehicle inverter, thermal-electric, geothermal, solar (including photovoltaic), wind or hydro generation and cogeneration and tri-generation installations.</i>

On-market energy generation	<p>Means an energy generation option required to be registered with the AEMO under clause 2.5.2 of the NER and applicable AEMO guidelines. This category includes the four AEMO registration categories of scheduled generation, non-scheduled generation, market generation and non-market generation.</p> <p><i>Note: The category includes — but is not limited to — small scale diesel, petrol, bio-fuel, gas (including coal-seam and other methane sources), fuel cells, an electric vehicle inverter, thermal-electric, geothermal, solar (including photovoltaic), wind or hydro generation and cogeneration and tri-generation installations. Typically, this category relates to generation systems of 30MW or greater capacity.</i></p>
On-selling, selling	<p>On—selling or selling means an arrangement where a person acquires energy from a retailer following which the person acquiring the energy or a person acting on their behalf sells energy for use within the limits of premises owned, occupied or operated by the person.</p>
Private network	<p>Means any network connected to the NEM or an islanded network subject to regulation under the NER, supplying electrical energy to a third party, but not a transmission or distribution network registered with AEMO.</p>
Public Register	<p>Public Register of network exemptions</p>
Residential customer	<p>Means a customer who purchases energy principally for personal, household or domestic use at premises.</p>
Responsible person	<p>Has the meaning specified in clause 7.2.1(a) of the NER</p>
Retailer	<p>Means a person who is the holder of a retailer authorisation for the purposes of section 88 of the Retail Law.</p>
Retail Law	<p>National Energy Retail Law</p>
Small customer	<p>Means a customer—</p> <ol style="list-style-type: none"> <li>1. who is a residential customer, or</li> <li>2. who is a business customer who consumes energy at business premises below the upper consumption threshold, as defined by the relevant jurisdiction. If no threshold is defined, 100 megawatt hours per annum for electricity.</li> </ol>