

18 January 2016

Ms. Sarah Proudfoot
General Manager—Retail Markets Branch
Australian Energy Regulator (AER)
GPO Box 520
Melbourne VIC 3001.

Via email: AERinquiry@aer.gov.au

Review of the Retail Exempt Selling Guideline - 2015

Dear Ms. Proudfoot,

The Energy Networks Association (ENA) welcomes the opportunity to make a further submission on the AER's *Review of the Retail Exempt Selling Guideline – 2015*.

The Energy Networks Association is the national industry association representing the businesses operating Australia's electricity transmission and distribution and gas distribution networks. Member businesses provide energy to virtually every household and business in Australia. ENA members own assets valued at over \$100 billion in energy network infrastructure.

The ENA supports customers being able to exercise choice of energy services, including choices supported by a well informed understanding of the implications of being, or not being, part of an exempt network. The ENA considers that the AER should consider expanding its assessment of brownfield embedded networks to include the relevant metering issues and large customer appointment of Metering Coordinators. Additionally, the changes as proposed do not provide an indication of the threshold level of customer agreement before a brownfield exempt network can be created.

The AER proposes a further amendment to the *Retail Exempt Selling Guideline* relating to the manner in which businesses consult with tenants/customers over proposed network conversions, including;

- » Advising tenants about how the establishment of a brownfield embedded network will impact their ability to access a retailer of choice;
- » That they have informed tenants that the AER consults on individual exemption applications and provide them information about how to make a submission to the AER consultation;
- » Advising tenants when the exemption application is published and when the consultation period ends; and
- » Being able to provide evidence of the tenants' explicit informed consent for applications involving retrofitting embedded networks.

Whilst an improvement on the current provisions, the ENA suggests that further improvements below may be considered to the proposed amendments.

1. The proposed amendments currently do not ensure that the relevant customer is provided with a full explanation of the change in the energy service provision and the change in the costs.

The recent Australian Energy Market Commission (AEMC) Final decision on Embedded Networks clarified that the regulated metering provided to the customers on the licensed network or provided in accordance with the Australian Energy Market Operator (AEMO) Embedded Network Guideline would not be covered by the metering competition 'deeming' arrangements when an embedded network is formed. With the introduction of contestable metering for small customers on 1 December 2017, 'embedded network customers with regulated metering' (that is, who do not have access to the retail market but are serviced by their Embedded Network Operator) will need to swap to a competitively provided meter and, on the establishment of a brownfield embedded network, all 'embedded network customers with regulated metering' would need to move to a competitive metering arrangement.

The AER should expand the requirement that customer's must be provided with details about how this will impact their ability to access a retailer of choice, to also include information regarding the cost and service impacts of embedded networks in order to ensure customers are fully informed when making decisions on these arrangements. This should include the following information:

- » Where regulated metering is removed there may be an exit fee payable or an ongoing regulated meter fee even if a competitive meter is used;
- » The creation of the embedded network requires the customer to move to a type 4 meter which may warrant a new/different retail contract/pricing, at a minimum the metering charges and implications for management/testing of CT meters etc. should be made clear;
- » The installation of a parent meter to allow the creation of a brownfield embedded network may require a power outage which will impact all customers. The installation of new metering may require a further power outage which will impact the customer;
- » Changes from the licensed network as a contact point for faults etc. should change to the exempt network owner/manager;
- » The cost sharing arrangements of the costs to create the embedded network and any ongoing metering charges, exit fees etc. and how they would be shared across the customers;
- » Given the metering competition rules commence on 1 December 2017, the impacts of creation of a brownfield network in the interim and the provision of any regulated type 5 meters and the consequential changes/cost impacts should be made clear to the customer;
- » Where large customers have chosen their own metering providers (MC and MP/MDP) it should be clear what rights they have to maintain this choice on the creation of the exempt network and what terms the exempt seller might offer.

The details and information provided under Proposed Amendment to Appendix B, 16 (a) could be included in the application process for review of the adequacy by the AER. This may improve the quality and consistency of the information over time and provides a mechanism for the AER to address customer issues and improve future customer information over time.

The Draft AER Retail Exemption Guideline v4.0 September 2015, states¹:

*Property owners seeking to retrofit embedded networks into a pre-existing retail development will only be eligible for **deemed or registrable exemptions** (classes D1, D2, R1 and R2) if **all***

¹ Draft AER Retail Exemption Guideline v4.0 September 2015, p. 48.

affected customers give explicit informed consent to the network conversion. Otherwise the property owner must apply for an individual exemption.'

2. **The AER proposed changes still do not address the threshold question of how many customers need to agree to the conversion of the site to an embedded network in the case of an individual exemption.** ENA seeks guidance from the AER on how it is likely to approach applications for Embedded Networks if not all customers are in agreement. ENA notes that there may also be some challenges in ensuring informed engagement by customers. Customers can be advised of the application process and the consultation period without fully understanding that if they disagree with the approach then they need to respond to the AER. Informing customers of a consultation process is not the same as explaining the impacts of the consultation processes and whether their dissenting view might make any difference to the ultimate decision
3. **The ENA queries why the notification to the impacted customers on the conversion to an embedded network is coming from the exempt seller and not the exempt network owner/manager.** The consultation paper on page 5 states that the embedded network operator/exempt seller as the applicant require these parties to inform the customer. The AER proposal only amends the *Retail Exempt Seller Guideline* and does not seek to amend the *Exempt Network Operator Guideline* and so would have no effect in Victoria. The AER may like to consider amending both guidelines.

ENA feels that there may be value in AER considering these issues in their review of the guidelines.

If further information is sought on this matter, please contact Ms. Kate Healey, Director Regulation, on 02 6272 1516 or by email on khealey@ena.asn.au

Yours sincerely,



John Bradley
Chief Executive Officer