



ENM Solutions Submission  
Australian Energy Regulator (AER)  
Network Exemption Guideline Review

December 2022



## Submission to AER Draft Network Exemptions Guideline

### **1. AER Notice of Draft Instrument**

The following section details our commentary in response to the Notice of Draft Instrument Summary detailing the proposed changes to the guideline. Following this, we have addressed conditions within the updated guideline where we felt further clarity or commentary should be considered for the final document.

#### **a. Streamlining of guideline**

ENM Solutions is supportive of the shift to streamline and re-organise the guideline, as is proposed in the current Draft.

#### **b. Small Generation Aggregator (SGA) schemes**

We have included our feedback regarding the proposed updates to the SGA schemes regulation within Part 1: General Conditions, below.

#### **c. Embedded Network Manager Requirements**

ENM Solutions recommends defining within the guideline, the geographical boundaries of “Regional Queensland” pertaining to deferral of appointment. If in reference to the Ergon Distribution zone specifically, or otherwise.

#### **d. Explicit Informed Consent**

ENM Solutions supports the move towards Explicit Informed Consent and acceptance of both hard copy and digital/electronic signature. We would also recommend consideration of explicit informed consent to include other electronic means of consent, than electronic signature alone.

The proposed standardising of information that must be given to tenants in the retrofit process, may still leave room for how that information is conveyed to tenants. Regarding Point 1 in “Part 1: Eligibility Requirements” (page 67), the AER may consider creating a fact sheet like that of the “accessing an authorised retailer of your choice” to accompany such applications and address all standard information. Providers are not limited in the additional information they can provide, with site specific information able to be given in conjunction to better convey the details of retrofit site nuances that fall outside of the fact sheet.

#### **e. Disconnection protections for energy only customers**

ENM Solutions supports extending the disconnection obligations of the Retail Exempt selling Guideline to the Network Exemption Guideline for On Market customers, who have a Network agreement in place with the Exempt Embedded Network Service Provider (EENSP). We also support the availability of Hardship provisions to these customers.

#### **f. Additional Amendments**

ENM Solutions supports further guidance to stakeholders on the scenarios applying to whether someone is an 'Owner, Controller or Operator' of a Network, in particular the guidance offered around those defined as a Controller and/or Operator.

### **AER Draft Network Exemption Guideline (Version 7)**

#### **2. Deemed Exemptions**

For removal of doubt, we would propose consideration of a linked Deemed Exemption Column to the appropriate Registrable Exemption in the event of the site needing to appoint an ENM.

#### **3. Registrable exemptions**

Recently, the AER has made significant headway in processing the Registrable Exemption applications it receives to the public register. However, given that the exemption conditions and reliance on the public exemption to legally operate an exempt network are tied explicitly to being on the public register – it may be pertinent for either an estimated guideline for time to publish these, or a service level provision for the AER from date of application to publication date. This would better aid applicants to understand what timelines should apply to them, and align operation of networks with their requirement to have the exemption on the public register. It would also align with the guidance of the AER, not to publish the exemption until the network is ready to operate. We note also that there is currently no confirmation as indication that publication has occurred, meaning that registrants will need to continue to check the website for when publication has occurred. Without a provided timeline, this may also create further work and contact with the AER Exemptions team as registrants follow up publication.

#### 4. Part 1: General Conditions

##### a. Condition 1.12: Obligation where an Embedded Network Manager is appointed

The previous iteration of the guideline included a table stipulating the party responsible for payment to install a metering upgrade in section 4.2. Would these same scenarios apply to footnote 51 regarding upgrade works required to accept an on-market metering installation due to a customer accessing a market retail offer? Or can the Exempt Network Operator (ENO) impart these costs regardless, onto the customer following their agreement to continue to exercise choice of retailer?

##### b. Condition 1.15: When disconnection or de-energisation is prohibited

**ENM Solutions comment:** Section 2 of this condition implies that the EENSP will need to ask the Distribution Network Service Provider (DNSP) for extreme weather conditions in all instances. This would be a considerable time impost. Is there an associated timeframe requirement on the DNSP to respond to such a request? Alternatively, DNSP's may place this information on their website as part of their current notification procedure for extreme weather conditions which would allow retailers and EENSP's to simply access the website to get real-time information on these notifications from DNSP's. What may define as "Extreme Weather" conditions may also be definable, which could also provide a clear reference to stakeholders on what would constitute a scenario preventing disconnection.

We also note the reference to 3pm within the guideline and would seek clarity on this being an example where state legislation would take precedence. For example, in Victoria, this is set at 2pm for residential customers.

#### 5. Part 2: Detailed Conditions

##### a. Condition 2.1 Retail competition – access requirements -energisation

ENM Solutions would propose that the AER provide a draft lease agreement that retailers/FRMP's have opportunity to provide feedback and consult on, and broadly accept. Our concern in this condition surrounds the timeframe to commercially negotiate and enter a meter lease, and if this failed – the meter replacement. The extension to this is that the retailers/Financially Responsible Market Participants (FRMPs) may stop providing quotes/offers to retail customers due to the additional cost of replacing the meter or paying a lease to the EENSP. We may need further structure stipulated regarding how a lease would look, specifically around overall length of lease and cost recovery.

Pertaining to the discretion of the retailer or customer in arranging access to meter data, our understanding would be that this access is defined with the National Electricity Rules (NER) and not determined by the incoming FRMP or customer.

### **b. Condition 2.2 Prohibition of measures which impede competition**

We note only here that Condition 2.1 may have an indirect impact on a customer seeking retail competition, and that this excludes passing on the costs of works necessary to modify an installation to accept an on-market metering installation – in line with condition 1.12.

### **c. Condition 2.3 Meter accuracy testing, billing disputes, maintenance and operation**

Further clarity on how long the notice must be retained by the EENSP would assist providers to manage their data retention policies. For the purposes of clarity around the cost allocation for meter replacement, we would consider also including the existing table under Section 4.2 of the current guideline. Either within the Appendices or within this condition.

### **d. Condition 2.4 On-market generating systems**

Within the existing market, there may be a significant number of On-market generating systems sitting behind a parent meter on a child meter. A significant proportion of those may currently sit under an alternate activity class and range of conditions, such as NDO1. It is possible that many of these already have Australian Energy Market Operator (AEMO) review of their generation and simply then sit under a 'legacy' activity class. Inclusion of clarity around the transition to this new classification for existing embedded networks would assist planning for EENSPs and their customers. Would all NDO1 scenarios need to re-apply to AEMO to transition to the NRO2 category as one example, or can they present evidence AEMO has previously reviewed their generation system and apply for the NRO2 category? Similar for movement from NRO1 to NRO2?

## **6. Part 3: Access to retail competition in embedded networks conditions**

### **a. Condition 3.2 ENM appointment trigger conditions**

It is our opinion that less than 30 customers, specifically for commercial (NR1) and large customers (NR5) is a common occurrence throughout the NER and the threshold placed on these activity classes is a barrier to their capacity to access retail competition. These network configurations are often more complex and would benefit from further involvement with an Embedded Network Manager (ENM) at earlier stages in their operation, providing further assistance to tenants and operators ability to navigate on-market scenarios and inform customers of their options and negotiation capabilities.

## 7. Part 5: Pricing condition for embedded networks

For the purpose of clarity, we believe that there should be a stipulated obligation on the retail customer to enter into a formal agreement with the EENSP for the supply of electricity. The guideline infers that the EENSP may charge these fees, but there is no reference to a stipulated obligation for this to occur. Clarifying this within the guideline may assist EENSP's to understand this obligation and network agreement, improving the experience of the customer in understanding the on-market scenario better and the ensuring billing of these charges occurs at the time. Discovery or application of these charges further down the line is not in the best interests of either the customer or the EENSP.

## 8. Part 6: Embedded Network Manager – appointment and revision

The deferral of an ENM in regional Queensland does not align with the [“Review of Queensland Energy Legislation – Part 1: Options Paper”](#) outcomes which specifically identified unlocking access and choice for regional energy customers, to “improve the efficacy and efficiency” of energy regulation in Queensland. We revisit our comments in the initial consultation that customers have a right to choose, and this choice is not based on price alone. Should deferral of the ENM role within regional Queensland be retained in the final document, defining specifically what constitutes regional Queensland would provide less room for confusion or error.

### a. Condition 6.1 Cost recovery for appointment or service provision

We believe it is ambiguous within this condition, that it does not apply “where all on-market customers have reverted to off-market customers”. This condition refers to the costs being apportioned directly to customers, the involvement or an advance or rebate, and sliding scale charges. To comment that it does not apply where there are no longer on-market customers, may infer that if this does occur, any ENM appointment costs can be passed onto off-market customers, or to secure rights to an embedded network. Further context around the condition not applying to scenarios where an ENM is not required may improve the readability and remove any possible interpretation of what is allowed - being misconstrued.

### b. Condition 6.2. Information provision

Regarding point 6.2.1.1(a), further clarity on the “options for metering that would allow choice” to customers would remove any opportunity for disagreement between customers and EENSPs. Our recommendation would be to make this a general statement, outlining to the customer that there are options to adjust your metering to enable choice of retailer. This would align with the direction of the Better Bills Guideline in providing customers with direction, rather than an onus to try and provide onerous specific detail that may be lost on them, and become quickly out of date, leading to further issues.

Similarly, in 6.2.1(d) it may be further onerous on a customer to provide them in the first instance a complete unbundled outline of the network and electricity costs associated with their invoice. We would interpret this to reference their flat or TOU rate, the Network Tariff they fall under and the fees and charges specific to their account, as would be applicable to most small customers receiving their energy invoice.

### **c. Condition 6.2.3 Maintaining Records**

Where a customer premise has been assigned a NMI, the EENSP will likely be billing the customer for Network Charges against that NMI and be required to maintain that information for the premise. However, if that customer moves out and a new customer moves in, reverting off-market to within the network, will the EENSP still be required to maintain the NMI record linked to the premise meter?

## **9. Appendix C: Applying to convert an existing site to an embedded network (retrofit)**

The definition of a tenant for the purposes of the consent campaign appears to exclude owners living within the site. Although there may be support at the site level to proceed with a consent campaign, owners living with the proposed network should still fit within this category, receiving all the information from the campaign, and having a final option to provide consent or not. Although beyond the control of the proposed network, it may be worth some indication for a level of occupancy required within the building to ensure that the consent campaign is at least representative of a significant portion of those living in the building. For example, if a site has capacity for 100 tenants and at the time of the campaign the occupancy level is less than 50% - it is possible that this consent campaign may not be representative of the needs and wants of those likely to be living within the network.

### **a. Condition 7.1 and 7.2 – offer matching small and large customers**

Note footnote 80 appears to refer to 7.3.1(c) when it may mean to refer to 7.1.1(c), as 7.3.1(c) does not exist.

The exercise of price matching is one that can build trust between the customer and their responsible electricity provider or create further barriers, be they retail or exempt. The obligation to price match may be improved by including reference to the quote being for “energy only” which is what they would obtain were they on the market, and only for a comparative energy offer.

## 10. General Comments

For the purposes of clarity, we would propose to include “Shadow Pricing” within the glossary of this document. This aspect of billing in Embedded Networks is a common question from prospective Networks and existing networks looking to improve their knowledge or refresh their understanding of the regulations. While this is referred to in section 5.2.1, inclusion in the Glossary would provide a clear definition and location of reference.

This would also assist ENSP’s who find themselves in a scenario with an on-market retailer who is charging for network fees and does not remit those to the EENSP. Some obligation for this to occur and be addressed may fit within the remit of the guideline for on-market retailers who are retailing to customers within an embedded network.

An area we also feel is not clearly addressed within the guideline, is the operation of an Embedded Network within an Embedded Network. While these are rare, it is often this type of complex network where issues can arise, often issues that affect end customers. Further commentary regarding how access to the market may occur, and further considerations that Embedded networks who find themselves in this situation should take on would be of assistance to guide industry.