Draft Decision

Electricity Network Service Provider Registration Exemption Guideline

Appendix: Summary of submissions

October 2011

Summary of submissions

This Appendix summarises submissions made to the June 2011 Consultation Paper by the following parties:

- AGL
- Ergon Energy
- Origin Energy
- Ausgrid
- SP AusNet
- Jemena
- United Energy
- Citipower/Powercor
- Endeavour Energy
- Energy & Water Ombudsman NSW (EWON)
- AEMO
- Active Utilities
- Energy Response
- Broadcast Australia
- Seed Advisory
- VicUrban
- Colonial First State
- Network Energy Services
- WINenergy
- UED and Multinet Gas
- Shopping centre council of Australia
- Envestra
- Energy Division

Summary of submissions by section and question

Please note that the following summary reflects the structure of the June Consultation Paper. The first line heading introduces the relevant section, followed by the question(s) put to stakeholders under the corresponding heading, and a summary of the most significant submissions.

Distinction between the AER's retail and network guidelines

Q1. Do stakeholders support the AER's decision to align the classes of exemption in the network Guideline with the Exempt Selling Guideline?

AGL is supportive of the AER's general approach whereby it has sought to align the classes of exemption in the network guideline with the Exempt Selling Guideline. There are clear benefits to this approach, in particular that it will streamline the process for applicants seeking both type of exemptions, presumably leading to less chance of inconsistent outcomes.

Origin supports the alignment of the different classes of exemption in the Network Guideline and the Exempt Selling Guideline.

EWON believes that approach undertaken in these documents to align classes of exemptions between exempt networks and sellers is a sensible one which will have the potential to deliver greater consumer protection.

Active Utilities: We are comfortable in the decision to adopt the same classes; historically there has been inconsistency between regulatory guidelines so this will hopefully stop this from happening.

Ausgrid supports the alignment.

Seed Advisory:

We support the AER's decision to align the classes of exemption in the network Guideline with the Exempt Selling Guideline, but we believe some clarification is required in the network Guideline about the alignment where different parties may be involved in the two operations.

In the case of a decentralised energy development involving co-generation or tri-generation and district heating and/or cooling, it is possible to think of at least four different components of the activity separate from the site or sites: the generator(s); the network assets subject to the AER's regulation; other network assets not the subject of the AER's regulation — for example, a district heating network; and the sale of energy to third parties, which may or may not require an exemption, depending on the customers. It is also possible to think of elements of this activity being separately owned, with the activities subject to regulation being owned, operated or controlled by separate entities.

The AER's discussion of the alignment of the two exemption frameworks – Exempt Selling and network exemptions – in the network Guideline appears to assume that the same person will hold both exemptions, but, in the scenario above, the appropriate entities may be two or more separately owned companies and this situation is explicitly discussed in the Exempt Selling Guideline. We suggest some explicit recognition of this possibility in the AER's discussion of the network Guideline.

United Energy:

UE support the network exemption categories prevailing and the onselling categories being brought into line with those stated in the network exemption guideline. UE recommend the following:

- D2 should be amended in line with ND2, where this is available to current onselling/network exemptions and those that commence onselling/network exemptions prior to 1 Jan 2015. Similarly D3 and D4 should be bought into line with ND3 and ND4.

- ND2 is a deemed exemption class available where there is less than 12 residences, D2 should be bought into line with the 12 residences as opposed to 20.

CitiPower/Powercor: The Businesses support the AER's decision to align the two guidelines to provide greater clarity and understanding of classes of exempt networks and exempt onsellers. The Businesses note, however, that in many instances the classes listed in the Network Exemption Papers do not refer to the provision of network services but to the activity of energy onselling. This may lead applicants to incorrectly assume that a network exemption automatically qualifies them for a retail exemption, or vice versa. To avoid confusion, the Businesses request that the AER provide more precise descriptions of the activities eligible for exemption.

Endeavour Energy:

The AER is seeking to align and integrate the Network Exemption Guideline (which allows for individual and class exemptions from the requirement to register as a network service provider) with the Exempt Selling Guideline (which allows for individual and class exemptions from the requirement to hold a retailer authorisation) in an administrative process. However, these guidelines have differing foundations and emanate from different jurisdictions. The Network Exemption Guideline arises under the National Electricity Law (NEL), which has a national electricity objective (relating to both the supply of electricity and the national electricity system) and is underpinned by a purely economic efficiency principle. Conversely, the Exempt Selling Guideline arises under the National Energy Retail Law (NERL) which has a national energy retail objective (relating to the supply of energy only) and is effectively consumer protection legislation. Therefore, in developing and applying these guidelines, the AER should adopt an approach to each guideline based on their individual jurisdictional regulatory requirements rather than defer to an administrative process for justification of their development. This would also ensure that any perception of conflict, breach or confusion is avoided.

Endeavour Energy is concerned that the AER's alignment of the Network Exemption Guideline with the Exempt Selling Guideline for the stated intention to "provide affected patties with greater clarification and certainty in the requirements for exemption"' will in fact have the unintended consequence of blurring the objectives of the NEL and the NERL, and undermining the economic efficiency principle underpinning the national electricity objective. Particularly concerning is the statement that "the AER aims to have a single consistent approach to both guidelines to the extent possible because of the synergies in their application to situations in retail onselling and networks.'

The extent to which a consistent approach is possible should be defined by reference to the regulatory jurisdiction of the guidelines, in particular their relevant underlying laws and rules, and the proper interpretation of their objectives. The AER has also stated that "should any inconsistency in interpretation arise between the two guidelines the AER will have regard to the Exempt Selling Guideline in resolving the dispute."~ Clause 2.5. I (d) of the National Electricity Rules (Rules) provides that the AER may, in accordance with the guidelines issued from time to time by the AER, exempt any person or class of persons who is or are required to register as a Network Service Provider subject to such conditions as the AER deems appropriate where (in the AER's opinion) an exemption is not inconsistent with the national electricity objective. Clause 2.5. I (e) of the Rules provides that the AER must develop and issue guidelines or the exemptions described in clause 2.5.1 (d) pursuant to the Rules consultation procedures and in accordance with those procedures consult with Registered Participants and authorities responsible for administering the jurisdictional electricity legislation.

However, it is not reasonable or justifiable to state that because the Guidelines are developed under the Rules, everything in that Guideline satisfies the requirements or intent of the Rules. In the case where an inconsistency in interpretation arises between the two guidelines, the AER should adopt the interpretation consistent with their applicable jurisdictional regulatory requirements, being in the case of the Network Exemption Guideline, the national electricity objective under the National Electricity Law and the National Electricity Rules. Accordingly, Endeavour Energy considers that it is neither necessary nor desirable for the AER to treat the development of these guidelines jointly and that their exemption classes be aligned. Endeavour Energy incidentally observes that in a note to the AER's proposed "Table 1 – Deemed classes of exemption", an applicant does not know whether their network is eligible for a deemed exemption without referring to the Exempt Selling guideline.

VicUrban supports the principle. However, it is not clear how the NDO1 category (deemed exemption for off-market generation connected to the NEM via a private connection) relates to the Exempt Selling Guideline in terms of on-selling to customers within a precinct-wide embedded network. There does not appear to be a deemed or registrable exemption class for the on-selling of electricity to customers where multiple buildings are connected to an embedded network at a district level.

Network Energy Services: Aligning the classes of exemption makes perfect sense in that the application for retail and network exemptions can occur and be considered in concert. We support that approach.

WINenergy: Yes. There is no reason for them to be different.

UED and Multinet Gas support the identical classes of exemption in both the onselling and exempt NSP so that it will facilitate a common approval process. A party seeking to transmit, distribute and sell electricity within a network will need to be covered by either a deemed or registrable exemption from the AER for both the transmission/distribution activity and the onselling activity. Whilst the consultation paper does not cover gas, any party transmitting or distributing gas will need to comply with a Victorian government network exemption and an AER onselling exemption.

UE support the network exemption categories prevailing and the onselling categories being brought into line with those stated in the network exemption guideline. UE recommend the following:

- D2 should be amended in line with ND2, where this is available to current onselling/network exemptions and those that commence onselling/network exemptions prior to 1 Jan 2015. Similarly D3 and D4 should be bought into line with ND3 and ND4.
- ND2 is a deemed exemption class available where there is less than 12 residences, D2 should be bought into line with the 12 residences as opposed to 20.

UE consider that this approach allowing some of the deemed and registrable categories for an interim period and any new onselling or network exemptions from 1 Jan 2015 requiring individual exemptions is a prudent and efficient way for the AER to manage the exemption classes. This approach supports the AER view that 'through the classes of exemption we have created, we have taken steps to minimise the future growth of onselling'.

Shopping Centre Council of Australia: Support the alignment of the retail/on-selling and network service provider exemption classes.

Eligible classes of exemption

Q2. Are the classes of exemption clear and easily interpreted?

Active Utilities: Yes, however we believe that there should be a clear reference to the ability of an Agent such as Active Utilities holding a relationship with the exemption holder i.e. that we are entitled to the same rights under the exemption or similar.

Yes, in general **Ausgrid** considers that they are clear.

SP AusNet:

NDO1 Definition Uncertainty—
The assumption in Section 16 of this submission [Small Generation Embedded Networks] is that like the charging station in NDO3, the generator covered by class NDO1 is part of an embedded network. However the wording does not make this clear and it is unclear to us what the concept of "via a private electricity connection" is meant to entail. What types of installations are covered by this class? All off-market generation must have an authorised retailer at the point where the generated energy enters the DNSP's network and hence the market. The AER needs to clarify what this class is.

United Energy:

The consultation paper proposes three exemption categories:

- Deemed exemption where no registration or listing with the AER is required;
- Registrable exemptions where there is a requirement to list the site, applicant with the AER. These registrable exemptions are only effective for a particular class and a particular site from the date the exempt NSP is listed with AER. The exemption is not transferrable; and
- Individual exemptions which are specific to an applicant for a particular class and for a particular site from the date the exempt NSP is registered with the AER. Individual exemptions are not transferrable.

It would be useful to clarify if the applicant is the network owner, the network operator or either. For example a building owner could employ a network operator or building manager. The exempt NSP obligations need to be met by the applicant, if the network operator changed, the exemption would not be transferrable to a new network operator or the building owner. The Exempt Selling Guideline also refers to the exempt party possibly being a specialist external providers who onsells energy services as a core business function (not the embedded network owner or operator) or even a body corporate. Further the Exempt Selling Guideline notes there may be minimal conditions for exempt onselling in remote areas as the onseller operates for the benefit of the community as it is the only reliable energy provider. UE would be concerned if these minimal conditions relating to any type of network services resulted in a lower level of safety for exempt customers or the community in general. The consultation paper notes three new deemed exemption categories:

- ND01, Off-market generation;
- ND02, Temporary supply for defined purposes; and
- ND03, Electric vehicles.

The ND01, deemed exemption for off market generation notes that generation registration and exemptions are handled by AEMO. It would be useful to clarify whether this off market generation is intended to include solar panels, small wind turbines, co-generation (such as hot water and electricity generation units etc) which may be installed at child supply points within the embedded network.

The ND03, electric vehicle charging station within an embedded network may have both load and generation at the child supply point. The AER should consider whether the same footnote relating to AEMO generation registration and exemptions should apply. Table 1, ND03 refers to the exemption only applying if there is an agreed commercial arrangement. It would be useful to clarify who is a party to the commercial arrangement and how it may get established. For example, from a distributor point of view it would be useful that charging only occurred if there were a time of use network tariff at the parent, e.g. to avoid battery charging at smeared flat network tariffs during peak periods. Similarly any generation at the parent would need to cease where the UE network is off supply to ensure that our electrical workers and the community were safe.

UE considers that it is good practice to know the types of generation equipment connected to the licensed NSP's network, including size and location etc so that the licensed NSP is able to plan for two way flow of electricity on its infrastructure. The exempt NSP or parent needs to ensure that any generation which may flow to the licensed NSP is subject to certain safety and technical requirements to ensure the safety on the UE network. Even if the exempt NSP is exempt from AEMO generation registration requirements, there should be an obligation to advise the licensed NSP, regardless of whether the exempt NSP is in the deemed or registrable category.

The guideline is meant to clarify the relevant obligations for the exempt NSP. It would be useful to clarify the AEMO registration requirements for any type of generation for both off market and on market child supply points and any technical or safety requirements. UE notes that the general exemption conditions require the exempt NSP to meet the same obligations as the licensed NSP, for load or generation connections for safety or technical matters, however it is not clear that all these obligations will remain in (all) jurisdictional instruments. Individual exemptions, NRI refer to individual exemptions of a network not otherwise described in Table 3. However, our understanding is that an ND2, metered onselling by residential landlords is only applicable if the onselling commenced prior to 1 Jan 2015. Any new occurrences of this type of network after 2014 also would not fit into NR1-3, as these registrable categories also cease after 2014, and hence would need to be NRI. NRI would be better described as any network exemption where there is a need to have a variation of

conditions or there is any new exempt network established from 2015 which may have been classed in the deemed or registrable categories which are closed to new applicants.

CitiPower/Powercor:

The Businesses consider that the classes of exemption could be made clearer and more easily interpreted. To reiterate comments from question 1, the way in which the tables currently describe activities may lead applicants to incorrectly assume that a network exemption automatically qualifies them for a retail exemption. Providing clearer, more precise descriptions of the activities eligible for exemption would minimise any misinterpretation and confusion. In addition, the descriptions contain some terms that have not been defined in either the Guidelines or the Consultation Paper. The Businesses consider that it would be helpful if terms or concepts that have been adopted from other legislation were expressly stated, or defined in greater detail. For example, it would assist the Businesses if the following amendments to definitions were made:

- The meaning of "short term" under classification ND3 was defined in greater detail.
- The reference to "energy onselling in residential situations not covered under residential tenancy legislation" under Classification ND4 was defined in a narrower sense. The Businesses are concerned that situations falling outside Victorian residential tenancy legislation may potentially conflict with other classes listed in Table 2.
- The activity under class ND8 was clarified with respect to the NSP's role. The Businesses are unclear as to whether this activity, as currently, drafted relates to the NSP.
- Classification NDO1 was removed to reduce complexity of the deemed classes. The Businesses consider that the activities under NDO1 would be adequately addressed under classification NRO1. Classification NRI was available to accommodate situations where the applicant does not believe NRO1 is applicable.

These examples are not exhaustive, and the Businesses consider that Tables 1 and 2 should be reviewed to ensure classifications are clearly defined and do not overlap.

VicUrban: it is not clear whether the class NDO1 includes the potential for a precinct-scale private network or whether this only relates to embedded generation within an individual building.

Network Energy Services: From the perspective of retirement villages it may have been good if all retirement villages were covered by the same class however in practice while the majority of villages fall within Class NR3 there are a number of villages that fall under NR2 and that situation results in a shade of difference for the NR2 villages which are in all other cultural, community and operational senses the same as NR3 villages. Despite the above quirk which cannot readily be overcome the classes of exemption proposed are clear and easily interpreted and we cannot see the need for any further exemption categories.

WINenergy: Yes – we believe that the categorisation is comprehensive.

Shopping Centre Council of Australia:

We note at page 14 that a deemed exemption applies automatically to a network service provider (NSP), and that "typically, deemed exemptions apply to small networks within...shopping centres". However the proposed ND7 does not seem to reflect this stated position, in that the proposed exemption would not be applicable to the whole aspect of the network, just the common areas, (We appreciate that ND7 is aligned with the retail exemption D7), We believe that there should be a deemed exemption to reflect the AER's stated position, which applies to the whole network. We would welcome clarification on this matter.

…a central concern is that given the multiple classes, and that one shopping centre may require more than one Registrable exemption, there is some uncertainty if one class is approved and another is not, As an example, one shopping centre may have a deemed exemption under ND7, and then require an NR1 and NRS (for large customers) exemption and an NRO2 exemption where a cogeneration system is in place. We would welcome clarification on the AER's proposed approach on this issue. We would also welcome clarification on the specific meaning by 'off-market' and 'on-market' energy generation (NR01 and NR02) and how it applies to our members when they have cogeneration or tri-generation systems installed. We would welcome the deemed exemption classes covering the issue of emergency energy supply.

Q3. Are there any other network situations that stakeholders consider would warrant a separate exemption category?

AGL: While there are a large number of classes of exemption, which could potentially lead to confusion, AGL nevertheless considers the actual classes to be sufficient at this stage. However, the classes should be periodically reviewed to ensure that they are keeping pace with market developments.

Active Utilities: Have the AER considered if they would treat a High Voltage network any differently to a Low Voltage? As long as the process allows for application on a case by case, the AER may need to be flexible in their classification in the future as some sites may not exactly fit into a category.

Ausgrid queries whether the situation of selling into the market by an embedded generator whilst the network connection is disconnected is covered? Or in other words how does the AER exemption framework intend to deal with an islanded generator selling into the NEM even though there is no physical connection? This is a form of demand or peak price response that market participants are likely to explore even more in the future and should be considered as part of this consultation.

Broadcast Australia:

Supply of electricity is a necessary part of broadcasting as an input to operate the system but the broadcast industry does not regard the supply of power as a business in itself and treats the provision of power to their sites as essentially a cost recover exercise. BA strenuously objects to the broadcasting and communications industry being subjected to the proposed electricity licensing regime as it believes that there would be significant and unnecessary compliance costs, given that all industry participants involve in site sharing at their sites would have to either:

- Become a licenced retailer of electricity (in circumstances where selling electricity is not a core business activity of the industry participants); or
- Change the long standing industry structure to one where customers would have to mange the procurement of electricity for each site they occupy, resulting in the need for individual retail negotiation (which will more than likely result in higher electricity rates0, individual standard retail metering and reporting commitments.

BA strongly believes that there should be a class exemption for the broadcast and communications industry from the obligations of becoming a licensed retailer of electricity, in circumstances where it is involved in 'site sharing'. The proposed licensing regime will otherwise result in enormous and unnecessary compliance costs for the industry, without bring any benefits to site sharing customers or consumers.

Seed Advisory:

We are pleased that the AER has publicly stated that its intention with relation to co-generation, tri-generation and sustainability initiatives is not to discourage them. We understand that, at this early stage, it may be difficult to develop a class exemption that will anticipate the characteristics that these developments will have in the longer term. However, we would encourage the AER to consider developing a registrable exemption category in both the network Guideline and the Exempt Selling Guideline because, in our view, the proposed individual exemption category raises a number of issues that, if not resolved, are likely to result in high transaction costs for both exemption holders and the AER.

We are particularly concerned about the complexity and risk associated with the individual exemption process in the event of a sale of the operation to which the exemption applies.

- We are concerned about the practicality of the prohibition on transfers of individual exemptions. For example, if a private company is the recipient of the individual exemption, is the AER's intention that, on a change of control of the company, the exemption would expire? And, if so, how does the AER propose to monitor changes in corporate control?
- If we consider the sale of a private company by its owner to another owner, if the individual registration is held by the company and the entity does not change, although ownership of the

entity does, does the exemption transfer? If the exemption transfers in these circumstances, but not in the case where, for example, the assets that are the basis for the exemption are sold, is it the AER's intention to treat these cases differently?

- Other issues also arise in considering the sale of the entity holding the exemption or the assets underlying the exemption. When does the exemption expire? Will the AER entertain discussions with potential buyers prior to the change of ownership with a view to seamlessly replacing one individual exemption with another on the change of ownership or is the AER anticipating some grace period during which the original exemption continues, during which period the new owner seeks to obtain an individual exemption in its own right? And, if so, given the AER currently specifies only a minimum timeline for consultations in the case of an individual exemption, how long should this period be? Finally, what happens to the customers after a change of ownership, assuming the individual exemption lapses immediately or after the grace period?
- The situation where the AER is undertaking consultations with prospective buyers in advance of a sale relating to the potential for an individual exemption raises wider issues about the AER's discretion in the individual exemption process. As currently described, the AER's discretion in this area is wide. Its internal views on the appropriateness of particular types of development may change over time and the current process would allow those changes in the AER's view to be reflected in, for example, a refusal to grant an individual exemption relating to a particular development in the event of a change of control, notwithstanding the previous individual exemption for the same development. If this possibility — that policy may change over time without consultation — is the AER's intention, then the AER runs the risk of discouraging developments that its current intention is not to discourage.

A registrable exemption applying to the class of developments meeting the characteristics of a project offering decentralised energy would minimise the need to deal with the issues outlined above and could be drafted in such a way as to capture the essential features of proposed projects.

SP AusNet:

Gas Embedded Networks—
There appears to be some fundamental disconnects between the Onselling Guideline, the exempt network service Consultation Paper (CP) and Guideline. The CP states that there is no concept of a gas embedded network, whereas in the Onselling Guideline the AER example of a high rise with distributed gas for limited gas cook-top usage is a prime example of an embedded network where the distribution pipes need to be subject to regulation but which the associated DNSP does not have a role.

The Victorian Department of Primary Industries (DPI) information paper regarding gas embedded networks issued to "property developers" appears to rule out this approach as it expects that no license exemptions will be issued for a network service provider or an onseller in this circumstance. Whilst SP AusNet have some concerns with the clarity and practicality of the DPI approach, it appears to go further than the approach in the Onselling Guideline table in Section 2.1.2 which embedded networks are "endorsed" but retailer of choice is not required (i.e. same as our understanding of the situation in ACT and Queensland with respect to electricity embedded networks). AER should ensure clarity of this situation.

Small Generation Embedded Networks—
In discussion it would appear that the type of generation situation envisage by AER for which NDO1 or NDO3 would apply are commercial customer based embedded networks with a solar generation installation or an EV charging facility as an internal connection point on the embedded network.

However there is now evidence that a potential prevalent model may be of a customer at domestic or small commercial level contracting for the generation output (and switching) of their small generator with a different authorised retailer than the authorised retailer from which the customer is purchasing normal light and power energy. Without the creation of a second connection to the DNSP's network, which is impractical and expensive relative to the energy involved, this arrangement will require a second NMI and the creation of an embedded network. The customer's general light and power load will appear in the market as the difference between their original meter (now parent meter) and the generator meter.

In this circumstance the house holder then becomes the exempt network service provider. They would be responsible for all the obligations which fall to the exempt network service provider including data to market systems, etc. Presumably there is no exempt onseller for this embedded network as there is no customer without an authorised retailer? Is this the arrangement which the AER are recognising and to an extent endorsing with this class of exemption?

UED and Multinet Gas:

The consultation paper proposes three exemption categories:

- Deemed exemption where no registration or listing with the AER is required;
- Registrable exemptions where there is a requirement to list the site, applicant with the AER. These registrable exemptions are only effective for a particular class and a particular site from the date the exempt NSP is listed with AER. The exemption is not transferrable; and
- Individual exemptions which are specific to an applicant for a particular class and for a particular site from the date the exempt NSP is registered with the AER. Individual exemptions are not transferrable.

It would be useful to clarify if the applicant is the network owner, the network operator or either. For example a building owner could employ a network operator or building manager. The exempt NSP obligations need to be met by the applicant, if the network operator changed, the exemption would not be transferrable to a new network operator or the building owner. The Exempt Selling Guideline also refers to the exempt party possibly being a specialist external providers who onsells energy services as a core business function (not the embedded network owner or operator)3 or even a body corporate. Further the Exempt Selling Guideline notes there may be minimal conditions for exempt onselling in remote areas as the onseller operates for the benefit of the community as it is the only reliable energy provider. UE would be concerned if these minimal conditions relating to any type of network services resulted in a lower level of safety for exempt customers or the community in general.

The consultation paper notes three new deemed exemption categories:

- ND01, Off-market generation;
- ND02, Temporary supply for defined purposes; and
- ND03, Electric vehicles.

The ND01, deemed exemption for off market generation notes that generation registration and exemptions are handled by AEMO. It would be useful to clarify whether this off market generation is intended to include solar panels, small wind turbines, co-generation (such as hot water and electricity generation units etc) which may be installed at child supply points within the embedded network.

The ND03, electric vehicle charging station within an embedded network may have both load and generation at the child supply point. The AER should consider whether the same footnote relating to AEMO generation registration and exemptions should apply. Table 1, ND03 refers to the exemption only applying if there is an agreed commercial arrangement. It would be useful to clarify who is a party to the commercial arrangement and how it may get established. For example, from a distributor point of view it would be useful that charging only occurred if there were a time of use network tariff at the parent, e.g. to avoid battery charging at smeared flat network tariffs during peak periods. Similarly any generation at the parent would need to cease where the UE network is off supply to ensure that our electrical workers and the community were safe.

UE considers that it is good practice to know the types of generation equipment connected to the licensed NSP's network, including size and location etc so that the licenced NSP is able to plan for two way flow of electricity on its infrastructure. The exempt NSP or parent needs to ensure that any generation which may flow to the licensed NSP is subject to certain safety and technical requirements to ensure the safety on the UE network. Even if the exempt NSP is exempt from AEMO generation registration requirements, there should be an obligation to advise the licensed NSP, regardless of whether the exempt NSP is in the deemed or registrable category.

The guideline is meant to clarify the relevant obligations for the exempt NSP. It would be useful to clarify the AEMO registration requirements for any type of generation for both off market and on market child supply points and any technical or safety requirements. UE notes that the general exemption conditions require the exempt NSP to meet the same obligations as the licensed NSP, for

load or generation connections for safety or technical matters, however it is not clear that all these obligations will remain in (all) jurisdictional instruments. Individual exemptions, NRI refer to individual exemptions of a network not otherwise described in Table 3. However, our understanding is that an ND2, metered onselling by residential landlords is only applicable if the onselling commenced prior to 1 Jan 2015. Any new occurrences of this type of network after 2014 also would not fit into NR1-3, as these registrable categories also cease after 2014, and hence would need to be NRI. NRI would be better described as any network exemption where there is a need to have a variation of conditions or there is any new exempt network established from 2015 which may have been classed in the deemed or registrable categories which are closed to new applicants.

General conditions to be imposed on exempt networks

Q4. Do stakeholders agree that the general conditions are appropriate for exempt networks?

EWON believes that the general conditions proposed for exempt networks are appropriate.

Ausgrid: See detailed comments on Metering and Safety conditions.

SP AusNet:

Impacts of Different Parties as Exempt Network Service Provider and Exempt On-Seller—
The concept across the two Guidelines that the exempt network service provider and the exempt onseller may be different parties, introduces a range of service obligations interfaces between these parties within the embedded network.
For example:

i) the exempt onseller may be "notified" by the customer of a life support situation at their premises. The exempt onseller needs within their exemption conditions an obligation to notify the parent retailer, and they through their broader obligation must inform the DNSP. However given that it is the exempt network service provider that would be arranging embedded network outages e.g. for maintenance, and providing disconnection services, it must also be notified by the exempt onseller.
ii) the exempt seller notionally will have the prime customer contact re their energy supply. The exempt network service provider will have the prime role for fault notification handling and fault recovery. The customer contract with the exempt seller must therefore provide for a fault reporting process.

To not have these type of obligations in place could leave the customer in limbo for the various situations where, in the broader network, the relationships between the customer's retailer and their distributor are defined to the extent necessary to ensure a satisfactory customer service regime. These interfacing obligations between the potentially two embedded network exempt parties should be captured in their exemption conditions.

AEMO: …agrees that the general conditions…are appropriate for exempt network, as long as they are maintained to be consistent with the NEM metrology framework described in the NER…and specified in the definition or required arrangements.

United Energy:

As drafted the general conditions in Section 5 of the Guideline apply to all categories of exempt NSP, deemed, registrable and individual exemption classes, with the exception of ND02 and ND03. ND02 allows deemed exemptions for temporary supply for building construction. ND02 only needs to comply with safety or technical requirements that would be applicable to a licensed NSP. This appears reasonable given the temporary nature of a supply. ND03 relates to an electric vehicle charging station within an embedded network. In this case any deemed network exemption for this particular class only needs to comply with safety or technical requirements that would be applicable to a licensed NSP. An electric vehicle charging station has both a load and possibly a

generation data stream. There may also be a need for the metering point to be second tier and on the market. All general exemption conditions should apply to an exempt network of the type ND03. Deemed exempt networks do not need to comply with AEMO and NEM requirements, condition 8. UE does not support this approach, condition 8 covering AEMO and NEM requirements is applicable to all exemption classes:

- Even customers in a small embedded network can have access to retailer of choice in some jurisdictions, there may be a need to appoint accredited metering service providers, need to provide and maintain NMI standing data etc to facilitate the exempt customers choice;
- Embedded networks with embedded generation would still need to provide details of the generation to the licensed NSP for planning purposes; and
- Even deemed exempt networks will be subject to load shedding and will need to manage the exempt NSP services appropriately.

Children within a deemed exempt network may choose to be second tier and hence need to have metering arrangements which comply with NER Chapter 7 and must have an accredited metering provider and an accredited metering data provider. In order to be registered as second tier in the CATS system, there must be a responsible person selected in accordance with NER Clauses 7.2.2 and 7.2.3.

In addition, this condition 8 needs to clarify either the requirement for the exempt NSP to meet the LNSP role requirements in Chapter 7 e.g. the provision of NMI standing data in CATS or the obligation to provide this data to the licensed NSP. The exempt NSP being the source of this data is best placed to provide this data into CATS and ensure it is accurate. Condition 8, point 4 needs to be extended to cover the establishment of life support and also the need to remove the life support flag in a timely manner so that accurate records are maintained.

CitiPower/Powercor:

The Businesses consider that the general conditions listed in Section 5 of Part B of the Guideline are appropriate. However, the Businesses note that the AER appears to use the terms “embedded networks” and “exempt networks” interchangeably in its commentary in Part A of the Guideline. The Businesses consider that these terms are not interchangeable and that the use of the term “embedded networks” is misleading. All embedded networks must be either registered under the NER, or exempt under the AER Guideline. The use of the term “embedded network” in Parts B and C of the Guideline implies that there may be embedded networks which are not exempt. The Businesses request that, to avoid confusion, the AER refer to all networks subject to the conditions under Parts B and C as “exempt networks”.

WINenergy: Yes

UED and Multinet Gas:

As drafted the general conditions in Section 5 of the Guideline apply to all categories of exempt NSP, deemed, registrable and individual exemption classes, with the exception of ND02 and ND03. ND02 allows deemed exemptions for temporary supply for building construction. ND02 only needs to comply with safety or technical requirements that would be applicable to a licensed NSP. This appears reasonable given the temporary nature of a supply. ND03 relates to an electric vehicle charging station within an embedded network. In this case any deemed network exemption for this particular class only needs to comply with safety or technical requirements that would be applicable to a licensed NSP. An electric vehicle charging station has both a load and possibly a generation data stream. There may also be a need for the metering point to be second tier and on the market. All general exemption conditions should apply to an exempt network of the type, ND03.

Deemed exempt networks do not need to comply with AEMO and NEM requirements, condition 8. UE do not support this approach, condition 8 covering AEMO and NEM requirements is applicable to all exemption classes;

- Even customers in a small embedded network can have access to retailer of choice in some jurisdictions, there may be a need to appoint accredited metering service providers, need to provide and maintain NMI standing data etc to facilitate the exempt customers choice;
- Embedded networks with embedded generation would still need to provide details of the generation to the licensed NSP for planning purposes; and

- Even deemed exempt networks will be subject to load shedding and will need to manage the exempt NSP services appropriately.

Children within a deemed exempt network may choose to be second tier and hence need to have metering arrangements which comply with NER Chapter 7 and must have an accredited metering provider and an accredited metering data provider. In order to be registered as second tier in the CATS system, there must be a responsible person selected in accordance with NER Clauses 7.2.2 and 7.2.3.

In addition, this condition 8 needs to clarify either the requirement for the exempt NSP to meet the LNSP role requirements in Chapter 7 e.g. the provision of NMI standing data in CATS or the obligation to provide this data to the licensed NSP. The exempt NSP being the source of this data is best placed to provide this data into CATS and ensure it is accurate. Condition 8, point 4 needs to be extended to cover the establishment of life support and also the need to remove the life support flag in a timely manner so that accurate records are maintained.

Q5. Do stakeholders consider any further conditions be included in the general conditions for exempt networks?

Active Utilities: No

Ausgrid: See detailed comments on Metering and Safety conditions.

SP AusNet:

Exempt Network Services—
The Guideline conditions do not recognise the full range and level of services which must be provided by the exempt network service provider to support the customers on the embedded network. We have identified below a number of the key services and operational matters which must be considered in the exempt distributor regime, and for which the regime must include clear obligations on the exempt network service provider. It is noted that a number of these matters will also impact the exempt retailer's relationship with their customers. A number of these also have related requirements for interfacing with the DNSP as detailed in Section 9 of this submission:

- fault response: including 24 response requirements and contact details
- voltage levels: maintenance of voltage levels within the embedded network
- new connections: role in the establishment of NMIs for customers commencing on the network as second tier. Relationship establishment between the exempt network service provider and the DNSP including establishing of metering and energisation of the customers connection
- recognition of life support customers: including:
    - responsibilities for notification of the DNSP and the parent authorised retailer;
    - responsibilities for special protection during outages etc
- meter reading access arrangements, read cycles, etc: for meter reading, maintenance, testing by the DNSP of authorised retailer customers
- smart meter services: arrangements for potential remote switching of customer by the local distributor at the request of an authorised retailer. Is this allowed? What of the costs of action on behalf of the exempt distributor?

The AER should ensure that these obligations are included in the conditions of exempt network service provider.

DNSP Interfacing Details—
The exempt network service provider conditions should also include a range of aspects of interfacing with the LNSP for the support of the broader embedded network and the embedded network customers. These include:

- fault response: contact details for in hours and out of hours faults interfacing
- new connections: interfacing contacts for establishment of NMIs for customers commencing on the network as second tier. Relationship establishment between the exempt network service provider and the DNSP with respect to metering changeover, customer switching by the exempt network service provider de-energisation and re-energisation) etc

- CATS/MSATS updates: support of obligations for customer details to be recorded in MSATS including status of the connection. It is currently the DNSP's role to maintain the correct status of all market NMI in MSATS. This status must be updated within 2 business days of a change of status. The obligation on the exempt network service provider to notify the DNSP of the status change must
- therefore within hours of the change to allow the DNSP to fulfil their MSATS obligation (sic). Contact details and arrangements for this exchange of details must be part of the conditions of the exemption.
- recognition of life support customers: responsibilities for notification of the DNSP within hours of the establishment of a life support customer on the network. Contact details and arrangements for this exchange of details must be part of the conditions of the exemption.
- meter reading access: for meter reading, maintenance, testing by the DNSP of authorised retailer customers meters, etc.. Contact details and arrangements for this access must be part of the conditions of the exemption.
- switching arrangements: for access to meters short notification switching must be available. Contact details and arrangements for this access must be part of the conditions of the exemption.
- bad debt disconnection of the parent/ENO: processes for the handling of issues associated with disconnection of the parent NMI and impacts on the exempt retailers customers and any customers of authorised retailers
- notification of small scale generation with the network and arrangements for safety testing, etc
- smart meter services: arrangements for potential remote switching of customer by the local distributor at the request of an authorised retailer. Is this allowed? What of the costs of action on behalf of the exempt distributor?

Whereas the Guideline Section 8 (2) recognises that "data relevant to the control, operation or maintenance of the network" must be provided on the "reasonable requests of the DNSP", SP AusNet consider that this is not a strong enough obligation to ensure that the DNSP always has a full set of up to date information re the control, operation or maintenance of the network as identified above. SP AusNet consider that this obligation which requires action from the DNSP to obtain the data should be "reversed", and the Guideline, or a subsidiary document should provide a list of the details which the embedded network exempt network service provider (and/or the exempt onseller) must provide the DNSP with and keep current by "pushing" changes to the DNSP. SP AusNet preference would be for these details to be included in the public register of embedded network details, but we understand that the AER do not see this as the role of the public register (refer SP AusNet comments in Section 10 of this submission).

General Conditions Compliance—
As SP AusNet has argued above there are a number of market obligations and DNSP interfacing obligations which must be met to enable the embedded network to operate comfortably in the market and its customers receive network services. Compliance by the exempt network service provider with these obligations must be considered as an essential General Condition.

United Energy:

In relation to dispute resolution procedures, general condition 5, footnote 8, states that where a network owner or operator appoints an agent, the principal remains responsible for ensuring the condition is satisfied. UE considers that this principal that the network owner/onseller remains responsible regardless of the agent arrangements or specialist providers appointed is an important point that is valid for all conditions, particularly safety and supply arrangements. UE suggest that this point be made in relation to the application process and the party seeking the exemption, either a network exemption or an onselling exemption.

CitiPower/Powercor: …consider that, in addition to the general conditions outlined in Section 5 Part B of the Guideline, the following conditions should be included:
- Exempt networks must be responsible for connection and
- disconnection of the child customers once the embedded network is established; and
- Exempt networks must make provisions for customer hardship.

WINenergy: Invoicing should be via industry standard electricity bills – not line items on rental statements. Customers should be offered a range of payment options.

UED and Multinet Gas:

In relation to dispute resolution procedures, general condition 5, footnote 8, states that where a network owner or operator appoints an agent, the principal remains responsible for ensuring the condition is satisfied. UE considers that this principal that the network owner/onseller remains responsible regardless of the agent arrangements or specialist providers appointed is an important point that is valid for all conditions, particularly safety and supply arrangements. UE suggest that this point be made in relation to the application process and the party seeking the exemption, either a network exemption or an onselling exemption.

Process matters:

- **Register of exempt networks**
- **Registrable exemption application process**
- **Individual exemption application process**
- **Revocation of an exemption**

Q6. Do stakeholders consider the criteria for revocation are appropriate for exempt networks?

Active Utilities: Yes

Yes, **Ausgrid** considers that they are appropriate.

AEMO: The guideline should include guidance on how the customers would be treated after revocation, and who responsibility for them would transfer to.

CitiPower/Powercor:

The Businesses consider the criteria for revocation are appropriate for exempt networks; however, note that there does not appear to be any provision for the transfer of customers and network assets in the event of revocation. The Businesses consider that a process should be developed to ensure the streamlined transfer of customers and network assets to a third party or to a distribution services provider (DNSP), albeit that DNSPs should have discretion as to whether they accept the network. In the case where a DNSP agrees to the accept responsibility for the network, the process should provide for:

- The DNSP to undertake an inspection of the network to ensure that it meets the relevant safety and technical standards and thereby provides a safe and reliable electricity supply to all of its customers. This will assist in ensuring that there are not adverse consequences on the DNSP's service target performance incentive scheme;
- Appropriate funding where the assets do not meet the relevant safety and technical standards and need to be replaced and/or upgraded; and
- Appropriate treatment of the assets in the DNSP's regulatory asset base (at zero value where these assets are 'gifted') and an allowance for the ongoing maintenance.

The Businesses note the grounds for revocation are based on the AER being satisfied that there has been a material failure by the exempt party to meet the conditions imposed on them. The AER will consider what constitutes a material failure on a case-by-case basis. The Businesses seek clarification on how a material failure would be brought to the attention of the AER. The Businesses are concerned that there may be difficulties if the AER exercises its compliance and enforcement powers under the NERL to identify exempt networks in breach of the conditions under the Guideline.

Network Energy Services: We consider the criteria for revocation of exemption to be appropriate and the process to be fair and reasonable.

WINenergy: The revocation needs to be with cause.

Q7. Do stakeholders consider the proposed process (for revocation) fair and reasonable?

AGL

AGL onsiders that the criteria for revocation are appropriate, however, we are unclear how the AER intends to monitor exempt networks for compliance on an ongoing, practical basis. (W)e repeat our disappointment with the fact that the AER does not support a public register for all exempt sellers. AGL considers that universal registration would lead to a greater level of transparency within the market and we do not believe that it would represent an excessive cost for exempt sellers.

One issue which AGL considers ought to be addressed as part of this consultation relates to revocation of the exempt network's status by the AER. It is not clear to AGL what will happen to the customers of the revoked exempt network – for example, AGL is not aware of there being an equivalent Retailer of Last Resort scheme which will ensure that the customer continues to receive distribution services.

Origin Energy: The proposed grounds for revocation involve the AER being satisfied that there has been a "material failure" by the exempt party to meet conditions imposed on them. While the AER has the right to determine what a "material failure" is on a case by case basis perhaps it would be more manageable and enforceable for this criterion to be amended to simply a "failure" as determined by the AER.

Active Utilities: Yes, we would only be concerned about the application process for approval of exemption applications. The AER would need to make defined commitments on response timeframes.

Yes, **Ausgrid** considers that the process is fair and reasonable.

SP AusNet:

Exemption Revocation—
The process of revocation of an authorised retailer's authorisation would lead to a RoLR event and the transfer of impacted customers to a designated RoLR to maintain their access to energy. This ensures that revocation is a "realistic" ultimate penalty for a retailer non conformity. However unless the AER defines a process for how supply is maintained to customers within an embedded network, then the threat of a revocation of the exempt network service provider's exemption will be treated as an empty one. Relying on the DNSP to take on distributor duties may not be a viable option because the embedded network hardware and installations may not be capable of easy and immediate transition to the distributor's operation and maintenance regime, and for an embedded network with internal generation the DNSP network in the immediate area may not have the capability to take on the full supply capacity requirements of the embedded network's customers. The AER can only use revocation as a realistic penalty if the AER defines the alternative network role which will fill the void.

United Energy: If an exemption is revoked, particularly for health or safety reasons, it may be difficult to find parties who are willing to take on the liability for poor safety or technical standards in the network. Revoking an exemption does not resolve the issues or the need to find a party willing to pay to resolve the safety or technical issues. Where an exempt network operator/onseller is in receivership, the receiver will struggle to pay the debts owing, let alone be able to fund resolution of safety or technical issues. It is more likely that the business will be sold for less with the new owner having to resolve the issues.

VicUrban: there needs to be some consideration for step in rights in order to maintain supply to customers in the event that an exemption is revoked and operation of the embedded network ceases.

UED and Multinet Gas: If an exemption is revoked, particularly for health or safety reasons, it may be difficult to find parties who are willing to take on the liability for poor safety or technical standards

in the network. Revoking an exemption does not resolve the issues or the need to find a party willing to pay to resolve the safety or technical issues. Where an exempt network operator/onseller is in receivership, the receiver will struggle to pay the debts owing, let alone be able to fund resolution of safety or technical issues. It is more likely that the business will be sold for less with the new owner having to resolve the issues.

General conditions

Q8. The AER considers common standards for the accuracy of metering will benefit consumers. Do stakeholders agree with this approach?

AGL supports the AER's proposed approach.

Origin supports common metering standards for the accuracy of metering.

EWON believes that the conditions requiring meters to comply with the requirements of the National Measurement Institute in both pattern approval and accuracy classes will considerably improve consumer protection.

Active Utilities: Yes we agree with this point. We believe however that having a registered meter provider be the only way for an exempt operator to install metering may be cost prohibitive. Although our current procedure is to follow this practice where possible we do not believe that this may be feasible in such environments as retirement villages or environments where the point of creating an exempt network is to save end users money. If this condition is imposed we believe this extra cost will ultimately be passed on to the end user.

Yes, **Ausgrid** agrees with this approach. It is up to the manufacturers to ensure that they have pattern approval. It will be illegal for an ENO to use a non-pattern approved meter in these situations.

Network Energy Services: We support common standards for the accuracy of metering and the metering of all onsold electricity. It is important that options remain for the method of collecting data by NSP so that manual data collection (as opposed to AMR) can occur where appropriate for the circumstances of the embedded network. NMIs should not be required for exempt customers in embedded networks because they would serve no purpose in the Classes N2, N3 and N4 where almost 100% of consumers choose to be exempt customers. In cases where consumers choose to purchase from a licensed retailer then a NMI can be created within MSATS for that consumer. To require NMI for exempt customers would be the tip of the tail wagging the whole dog with perhaps less than a percent of consumers likely to be affected and most exempt customers enjoying conditions that retailers would be unlikely to want to match, remembering also that the exempt customers enjoy price protection under the exempt selling guidelines.

WINenergy believes that all meters in an embedded network should be type 4 or type 5 interval meters.

UED and Multinet Gas support common standards of metering (condition 5, point 1) for all children in an exempt network whether they are load or generation data streams and regardless of whether the child is first or second tier.

Q9. The AER considers that electricity should not be treated to any other service or product with regard to metering. Do stakeholders agree with this approach?

Active Utilities: Yes

Energy Response: Yes, except where the customer is the same party as that at the boundary meter, in which case the boundary meter should suffice.

Ausgrid agrees that individual metering is appropriate.

Yes. **WINenergy** insists on individual metering including metering of common area.

UED and Multinet Gas supports the AER view that all supply points are metered except in unique or exceptional circumstances.

Q10. The observance of safety standards is essential to have confidence in exempt networks. Do stakeholders consider the AER's condition will achieve this objective?

EWON (…) endorses the strong emphasis on exempt network registration requiring that safety standards be met. For many small exempt networks such as residential parks the process of registering will provide an opportunity for the owner to ensure that the network meets the proper safety standard.

Active Utilities: We feel that the AER condition will not enforce a safety structure for exempt networks. We believe that this is an unnecessary procedure as all electrical installations should meet state/federal rules around the safety of the installation. We believe that this section should refer to already existing codes and guidelines rather than creating another administration complexity to the process.

Ausgrid:

Intention and effect of proposed condition—
Ausgrid submits that there is a need for further clarity as to the intention and effect of this proposed condition, when considered in light of existing NSW regulation.

For example:

(a) Query whether the reference to "otherwise applicable to a network service provider providing similar services" is intended to qualify "industry Code or Guideline" only, or whether it was also intended to qualify "applicable requirements within the jurisdiction"? In other words: Is the condition only intended to impose additional requirements on embedded network operators (which would not otherwise apply) if the requirements are contained in an industry Code or Guideline? Or is the condition also intended to apply to embedded network operators jurisdictional requirements that are not contained in industry Codes or Guidelines? (If this is intended, how should "applicable" requirements be interpreted?)
(b) Similarly, query whether the reference to "where applicable" in relation to a safety management plan only means where this is otherwise provided for by legislation, or whether it is intended to add a new requirement?
(c) The wording should be clarified regarding to the extent to which this condition is intended to impose obligations in addition to existing legal requirements.

The AER should also be aware of any gaps in existing legal requirements.

Electricity Supply (Safety and Network Management Regulation) 2008—
Currently, under clause 8 of the Electricity Supply (Safety and Network Management) Regulation 2008 (NSW), the Director-General of the Department of Industry and Investment (now the Department of Trade and Investment, Regional Infrastructure and Services) may require a network operator to lodge a network management plan, covering:

(a) network safety and reliability
(b) customer installation safety
(c) public electrical safety awareness
(d) bush fire risk management.

The Director-General; in exercising its discretions, is to have regard to various factors, including the size, nature and complexity of the network operator's transmission or distribution system (clause 8(5)).

Ausgrid understands that the Director-General only currently requires these plans from TransGrid, Ausgrid, Endeavour Energy and Essential Energy.

A number of issues arise here:

(a) Does the Director-General have the discretion to direct embedded network operators in this regard?
(b) If the Director-General does not have this discretion or does have this discretion but chooses not to exercise it, will the AER impose additional requirements?
(c) Who will be responsible for enforcement, auditing etc? Will the AER have a separate role?

Does the Director-General have the discretion to direct embedded network operators?
As to the first question of whether the Director-General's discretion extends to directing embedded network operators in this regard, under the Electricity Supply Act 1995 (NSW) (ESA) (under which this regulation is made), a "network operator" (whom the Director-General has this discretion to direct) is "a transmission operator or a distribution network service provider".

A "transmission operator" is a person who owns or controls a "transmission system". Only those poles and wires declared to be so under a section 93 Ministerial Order constitute a transmission system. In other words, this is on a case by case basis. (Note that there is no licensing regime in NSW for transmission.)

Therefore it would appear that the Director-General does not have the power to require network management plans from embedded network operators whose networks might be regarded as transmission networks in the NEM unless the network is first the subject of a section 93 order.

The definition of "distribution network service provider", on the other hand, is wide and general. It is "a person who owns or controls a distribution system" (note: not just those who are licensed under the Act). Therefore the Director-General's discretion here is wide, and not just limited to DNSPs licensed under the ESA, but only to the extent that the relevant embedded network comes within the ESA's definition of "distribution system".

Note that the definitions of transmission and distribution systems under the NERs (on the one hand) and under the ESA (on the other) differ.

Under the ESA, there has traditionally been a distinction between "distribution system" (on the one hand) and "electrical installation" (on the other). In general, the latter is intended to cover electrical wires within premises, as opposed to wires to premises.

However, these definitions appear to be premised on the assumption that a distribution system will always connect to an electrical installation, not to an embedded network.

If, for example, Ausgrid's distribution system connects to an embedded network, and electricity is supplied by a retailer at that connection point, then on the ESA's definitions the embedded network would appear to be an "electrical installation" (because it is beyond the "point of supply").

The ESA does not appear to contemplate a distribution system connecting to an embedded network (being itself technically another distribution system) which in turn connects to an electrical installation.

On this basis, it appears that the Director-General would not have a clear discretion to require a network management plan from an embedded network owner.

Electricity (Consumer Safety) Act 2004—
The Electricity (Consumer Safety) Act 2004 (NSW) is generally intended to cover "electrical installations", whereas the Electricity Supply Act 1995 (NSW) is generally intended to cover transmission and distribution networks.

NSW Fair Trading administers the Electricity (Consumer Safety) Act 2004 (NSW) and oversees the regulation of electrical installations.

As indicated above, we query whether an embedded network (as defined by the AER) should be regarded as a network or an electrical installation. This will then have consequences for what is the appropriate form of regulation and who should be the relevant regulator.

Most importantly, it will be necessary to ensure that an embedded network does not fall between the cracks altogether, not being regarded as either a distribution system or an electrical installation.

"Electrical installation" is defined as follows under the Electricity (Consumer Safety) Act 2004 (NSW):
"electrical installation means any fixed appliance, wires, fittings, apparatus or other electrical equipment used for (or for purposes incidental to) the conveyance, control and use of electricity in a particular place, but does not include any of the following:

(a) subject to any regulation made under subsection (4)–any electrical equipment used, or intended for use, in the generation, transmission or distribution of electricity that is:
    (i) owned or used by an electricity supply authority, or
    (ii) located in a place that is owned or occupied by such an authority,
(b) any electrical article connected to, and extending or situated beyond, any electrical outlet socket,
(c) any electrical equipment in or about a mine,
(d) any electrical equipment operating at not more than 50 volts alternating current or 120 volts
(a) ripple-free direct current,
(e) any other electrical equipment, or class of electrical equipment, prescribed by the regulations."

"Electricity supply authority" (as defined to in paragraph (a) of the above definition), on the other hand, is defined as follows:
electricity supply authority means a person or body engaged in the distribution of electricity to the public or in the generation of electricity for supply, directly or indirectly, to the public whether by statute, franchise agreement or otherwise and includes:

(a) an energy services corporation within the meaning of the Energy Services Corporations Act 1995, and
(b) the Country Rail Infrastructure Authority constituted by the Transport Administration Act 1988, and
(b1) Rail Corporation New South Wales, and
(c) the Water Administration Ministerial Corporation constituted by the Water Management Act-2000."

While an embedded network operator would not fall within (a) to (c), it may still fall within the general description of "a person or body engaged in the distribution of electricity to the public".

If this is the case, then an embedded network is not an "electrical installation".

This being the case, it is possible that an embedded network could fall between the cracks of both pieces of legislation.

Refusal to connect, or disconnection, due to safety issues—
Ausgrid also notes that a DNSP's right to refuse to connect, or disconnect, due to safety issues relates to an "electrical installation" (as defined).

Section 15 of the ESA (under which a DNSP is obliged to connect customers in its distribution district) is subject to any rights to refuse to connect, or to disconnect, specified in the regulations (section 15(3)). For this purpose, clause 5(1) of the Electricity Supply (Safety and Network Management) Regulation 2008 (NSW provides that:
"For the purposes of section 15 (3) of the Act, a distribution network service provider may disconnect premises from, or refuse to connect premises to, its distribution system if the provider reasonably considers that the electrical installation on the premises is, or is likely to become unsafe if the premises are, or continue to be, connected to the distribution system."

This refers to the refusal to connect, or the disconnection of, an "electrical installation". For this purpose, "electrical installation" has its own definition under the ESA (different from the definition under the Electricity (Consumer Safety Act 2004 (NSW)), as follows:

"electrical installation means the electrical wiring and associated equipment that are used to convey and control the conveyance of electricity within premises to which electricity is supplied from a distribution

system, but does not include anything connected to and extending or situated beyond an electrical outlet socket."

While an embedded network is more likely to fall within this definition than the corresponding definition under the Electricity (Consumer Safety Act 2004 (NSW, Ausgrid submits that all of these definitions should be reconsidered and amended to ensure that they properly accommodate embedded networks.

Industry Codes and Guidelines—
In terms of applicable industry Codes and Guidelines, Ausgrid notes that there is a significant number of relevant instruments to which it currently adheres in the design, installation, operation and maintenance of its network. (See, for example, page 60 of Ausgrid's Network Management Plan at http://www.ausgrid.com.au)

However, most of the current NSW Government codes of practice are specific to the existing State owned corporations and rely on robust and well developed Network Management Plans. Private electrical installations are currently only required to comply with the NSW Service and Installation Rules and the Electricity (Consumer Safety) Act 2004 (NSW).

Therefore, if the electrical safety of embedded networks were to be covered largely by reference to Codes or Guidelines, this would require, in NSW, a new Code or Guideline that does not exist at present. Furthermore, it is not clear which Government department would be responsible for setting the required Code or Guideline.

Enforcement—
If the safety of embedded networks is ultimately to be governed at the jurisdictional level (e.g. through safety management plans provided to the Director-General), how will the AER ensure that there is appropriate communication of information and reporting (from the Director-General or from the embedded network operator) to monitor whether or not the condition is being complied with?

If it is the AER's intention to impose additional requirements not otherwise provided for by the legislation, how will the AER enforce these requirements? Does the AER have the resources and expertise to do so? Will it be proactive (for example, conducting audits)?

The AER's sanctions in this regard would appear to be limited. While the AER has a specific power under clause 2.5.1 (d) of the NERs to grant exemptions from registration as an NSP, and impose conditions on those exemptions, there is no clear framework for the enforcement of those conditions.

For example, there is no specific requirement on embedded network operators to comply with the Conditions, and therefore non-compliance would not appear to be a breach of the NERs or the NEL.

The only sanction available to the AER would appear to be revocation of the exemption. This may be insufficient for adequate practical enforcement.

Inspection of electrical installations—
Currently in practice, DNSPs in NSW provide a service of inspecting private electrical installations based on their Network Management Plan. As a "standard control service, the cost of this service is covered through NUOS charges.

It is unclear whether the exempt network operator would have responsibilities, such as auditing contractor's work, to ensure separately metered portions within their network comply with all technical and safety requirements.

It appears that questions as to responsibilities and accountabilities for electrical safety and compliance throughout embedded networks have not yet been adequately addressed.

Safety: conclusions—
Therefore, similarly to the issues raised above in the context of metering, the appropriate resolution of these issues lies not with the AER alone but with the legislation itself. Clearly it will be necessary to

engage the NSW Department of Trade and Investment, Regional Infrastructure and Services on these issues to ensure adequate regulation.

In the meantime, Ausgrid submits that the AER should be aware of the relevant gaps and limitations. The AER should not assume that clause 3 of the Guidelines adequately deals with the issues.

AEMO: … agrees with this principle but believes the guideline needs to contain more details relating to identifying appropriate safety standard, monitoring of safety and consequences if an unsafe installation is found.

United Energy:

The consultation paper states that the AER may exempt a network operator from some obligations under the NEL and the NER. It would be useful to clarify if the exemption for a NSP was an exemption from complying with the NER except for a specific list of clauses e.g. Schedule 7.2 and other listed clauses. UE agree that it is important for safety and technical standards to apply. However in this specific condition, 5 point 3, the AER refer to a reliance on current jurisdictional regulations. It is not yet clear whether these will remain and apply to any exempt networks and any embedded generation within exempt networks. UE welcome the AER working with the jurisdictions to ensure that a clear and robust framework remains for embedded networks in relation to safety and technical matters.

UE support exempt NSP adhering to the various wiring rules and safety arrangements – AS 3000 wiring rules, the Victorian service and installation rules and maintaining a safety management plan. Where an exempt NSP is in the deemed category, it is unclear how a safety authority would be able to manage these safety arrangements.

CitiPower/Powercor:

The Businesses agree that safety standards are essential for consumers to have confidence in an exempt network. The Businesses consider that the technical requirements under the Distribution Code are important in ensuring energy can be supplied to customers safely.

The Businesses note that provisions of the Distribution Code are currently being reviewed by the Department of Primary Industries (DPI) for inclusion in jurisdictional transitional legislation to the National Energy Customer Framework. The Businesses have been advised by DPI that provisions relating to network safety and technical requirements are likely to be included in transitional legislation; however, the Businesses have not been advised on the form and detail that these regulations will take.

The Businesses would welcome working with the AER to ensure that a clear and robust framework remains for embedded networks in relation to safety and technical matters.

Network Energy Services: We endorse the AER conditions in respect to safety standards.

WINenergy: Yes

UED and Multinet Gas:

The consultation paper states that the AER may exempt a network operator from some obligations under the NEL and the NER. It would be useful to clarify if the exemption for a NSP was an exemption from complying with the NER except for a specific list of clauses eg Schedule 7.2 and other listed clauses. UE agree that it is important for safety and technical standards to apply. However in this specific condition, 5 point 3, the AER refer to a reliance on current jurisdictional regulations. It is not yet clear whether these will remain and apply to any exempt networks and any embedded generation within exempt networks. UE welcome the AER working with the jurisdictions to ensure that a clear and robust framework remains for embedded networks in relation to safety and technical matters.

UE support exempt NSP adhering to the various wiring rules and safety arrangements – AS 3000 wiring rules, the Victorian service and installation rules and maintaining a safety management plan.

Where an exempt NSP is in the deemed category, it is unclear how a safety authority would be able to manage these safety arrangements.

Q11. As regulatory gaps can arise when related activities are authorised under different legislation, the AER considers that this cross-over condition will minimise the prospect of a gap arising in the retail onselling framework. Do stakeholders consider the AER's condition will be sufficient for this purpose?

Active Utilities: Yes

Ausgrid: Yes

CitiPower/Powercor: The Businesses agree that a network exemption does not necessarily mean a retail exemption, and vice versa. However, the Businesses refer to comments made in response to questions 1 and 2 regarding the drafting of Tables 1 and 2. The Businesses reiterate that the AER should provide clearer descriptions of the activities eligible for exemption to avoid confusion.

United Energy: support that onselling cannot occur within an embedded network unless it is by a licensed retailer or an onseller who meets one of the AER exempt onselling classes.

Network Energy Services: We agree that the cross-over condition will align the retail and network exemption and minimize the prospect of gaps arising in the on-selling framework.

WINenergy: The AER conditions are appropriate.

UED and Multinet Gas support that onselling cannot occur within an embedded network unless it is by a licensed retailer or an onseller who meets one of the AER exempt onselling classes.

Q12. Do stakeholders have any suggestions which would improve this condition? (approved dispute resolution procedures)

AGL strongly supports the proposed condition that the exempt network be covered by approved dispute resolution procedures. We do, however, question how the AER intends to monitor compliance with this condition. Further, and as we have argued in relation to exempt sellers in the context of dispute resolution schemes, there should be no cross-subsidisation by the rest of the industry to cover the costs of these disputes.

The other issue which remains of concern to AGL relates to dispute resolution and the fact that there is very little in the Exempt Selling Guideline to suggest that customers of exempt sellers will be able to have their disputes resolved to the same standards as those customers purchasing energy from authorised retailers. It does not seem particularly satisfactory that all the exempt seller need do is make reasonable endeavours to resolve the dispute and advise the customer if an applicable dispute resolution scheme exists. AGL considers that there needs to be greater consideration given by the AER and the jurisdictions as to how best to ensure that vulnerable customers, in particular, have access to independent, no cost dispute resolution (which is ultimately not paid for by authorised retailers and distributors).

Origin Energy: The provision of a "suitable dispute resolution mechanism" is appropriate as this is also mandatory for authorised networks and retailers. As embedded networks will often be competing with authorised parties and to avoid cross subsidies in the market it should be reinforced that the suitable dispute resolution service should be fully funded by exempt networks.

Active Utilities: We are comfortable with majority of the points [on general conditions] however would like to provide some commentary on the following:
Clause 5 (5): While our business currently offers a dispute resolution procedure for our Clients, which ultimately may end up in VCAT we believe that the AER may need to specific (sic) a minimum

standard. End customers within an embedded network do not have access to Ombudsmen like customers of licensed retailers so if a guideline is published by the AER this will help exempt operators direct customers to a published document for reference.

Ausgrid: This condition appears reasonable.

Jemena: The consultation paper does not discuss or provide any guidance on how an embedded network service provider can go about "having in place approved dispute resolution procedures". It is not clear which body will be responsible for approving the procedures. Assuming the AER means "approved dispute resolution scheme", then there is no guidance on have an embedded network service provider can practically have in place or participate in a dispute resolution scheme. If the AER expects an embedded network service provider to be a member of a relevant state or territory energy ombudsman scheme – similar to the licence condition placed on licensed distributors and retailers – then there are a number of issues the AER needs to consider.

For example, not all embedded network owners have the ability to pay their share of the costs of operating an ombudsman scheme. The energy and water ombudsman of Victoria (EWOV) is funded by licensed distributors and retailers. EWOV has no authority to resolve disputes from customers in embedded networks. Even if EWOV is directed to change their operating charter to extend its jurisdiction to customers in embedded networks, they is an issue of enforcement of conciliated resolutions or binding decisions on exempt bodies. It is suggested an alternative approach maybe that exempt bodies be required to notify their customers of the dispute resolution options available to them including the contact details of the relevant dispute resolution bodies – for example, in Victoria customers within embedded networks in Victoria currently take their disputes to the Victorian Civil and Administrative Tribunal (VCAT) for resolution. Other bodies that may assist with dispute resolutions are Legal Aid and customer advocacy organisations. JEN considers a suitable dispute resolution mechanism is required for all exempt networks. However, it does not believe condition 5 (5) – as drafted in the guideline – can be practically implemented. JEN suggests condition 5 (5) requires more work. If it not suitably amended, it may lead to many instances of non compliance.

CitiPower/Powercor: The Businesses consider that General Condition 5 should expressly state in the body of the text that the dispute resolution mechanism is required to be approved by the AER.

VicUrban: further guidance may be required to explain what an appropriate process entails, or the tandard required in order to gain approval by the AER. The Energy and Water Ombudsman (Victoria) (EWOV), which resolves disputes between customers and industry member could provide a default mechanism for this process in the event that access or membership was extended to exempt parties.

Network Energy Services: It is important that dispute resolution process apply to both retail and network activities and in this regard we have provided our submission to the DPI for jurisdictional consideration.

WINenergy: Exempt on-sellers should be bought under the purview of ombudsman schemes

UED and Multinet Gas supports customers within an embedded network being afforded similar protections as customers which are directly connected to the UE network. UE have responded to the Department of Primary Industry on the possible extension of the Energy and Water Ombudsman (Victoria) scheme in Victoria to cover exempt onsellers and exempt NSP's.

Q13. Do stakeholders consider aggregation should be permitted in exempt networks? If so, why? Or why not?

Origin's systems and processes mimic the market arrangements where individual connection points are considered as unique loads. Retailers can aggregate loads for multi-site customers and procure energy volumes to facilitate the total energy volume required whether a private network connection or a direct connection to the LNSP's network. Embedded private networks should be constrained in their on-selling arrangements from acting as a licensed Retailer across multiple embedded network sites irrespective of metering arrangements. However, within a specific single embedded network, there is

no reason why an on seller should be precluded from aggregating the loads of a particular entity within the same site.

Active Utilities: We have no issue with the ability to aggregate supply, we do however believe that it should be allowable not enforceable.

Ausgrid has no objections to permitting aggregation in exempt networks. However, provision should also be made for disaggregation.

AEMO: clarification required for the meaning of the concept of aggregation of energy for "multiple exempt premises within a jurisdiction".

United Energy:

UE is supportive of flexible arrangements for a child customer in relation to aggregated retail billing. The condition refers to several types of arrangements:

- Aggregation of meter reads where a tenant expands into other sites served by the same network operator e.g. adjoining premises within the same embedded network; or
- Aggregation of meter reads for a tenant across several exempt premises (i.e. across multiple exempt networks/locations) within the same jurisdiction.

UE is supportive of the NMI and metering arrangements remaining simple. A NMI refers to a metering point(s) at a location, not across several locations. UE is supportive of simple arrangements in this respect to ensure the integrity of settlement data. Aggregation of multiple NMI's or exempt network locations should be managed by retailers or onsellers.

UE recommend that this condition be removed from the Network Service provider Guideline. This is a matter for the exempt customer and onseller.

CitiPower/Powercor: The Businesses question whether such a condition is necessary on the basis that removing it would still allow exempt networks to aggregate bills. The Businesses consider that this is a matter for the exempt customer and onseller.

Network Energy Services: It is necessary for aggregation to occur in certain situations within embedded networks for reasons of practicality and benefit to the exempt customer. An example may be a situation where an exempt customer may have hundreds of individual meters within an embedded network all charged to them (say a hotel within an EN complex) and by arrangement only requires a single summary invoice combining the usage of the many individually metered rooms. There should be no barriers to a common sense approach to such a situation therefore aggregation is supported.

WINenergy: It is reasonable to aggregate consumption within an embedded network. Aggregation across networks is probably not feasible.

UED and Multinet Gas is supportive of flexible arrangements for a child customer in relation to aggregated retail billing. The condition refers to several types of arrangements:

- Aggregation of meter reads where a tenant expands into other sites served by the same network operator eg adjoining premises within the same embedded network; or
- Aggregation of meter reads for a tenant across several exempt premises (ie across multiple exempt networks/locations) within the same jurisdiction.

UE is supportive of the NMI and metering arrangements remaining simple. A NMI refers to a metering point(s) at a location, not across several locations. UE is supportive of simple arrangements in this respect to ensure the integrity of settlement data. Aggregation of multiple NMI's or exempt network locations should be managed by retailers or onsellers. UE recommend that this condition be removed from the Network Service provider Guideline. This is a matter for the exempt customer and onseller.

Q14. Do stakeholders consider the proposed registration arrangements are clear and the information requirements are sufficient?

AGL is not convinced that the proposed registration requirements will prevent situations in which ownership of the exempt network is changed without the knowledge of the AER. In such situations, the new owner may not have a clear understanding of the conditions associated with their exemption class and if they have failed to register with the AER, then it may be some time before the AER becomes aware of any non-compliances (in the event they occur).

(W)e repeat our disappointment with the fact that the AER does not support a public register for all exempt sellers. AGL considers that universal registration would lead to a greater level of transparency within the market and we do not believe that it would represent an excessive cost for exempt sellers.

Ergon Energy:

Ergon Energy recognises that the inclusion of all exempt sellers on the Publci Register would be administratively onerous but does recognise that the Public Register would be a useful took to capture sufficient information about the magnitude of on-selling activity in the market. Currently the market does not have full transparency of the type or number of customers. This information would be useful as it could be used to inform the market about issues such as customer protection, hardship policy and access to dispute mechanisms.

Ergon Energy supports the inclusion of sufficient information on the Public Register of Authorised Retailers and Exempt Sellers (Public Register) to provide greater transparency and monitoring of the growth in the on-seller market.

In relation to Registrable Exemptions, clause 4.1.1 of the Guideline requires the following information required to accompany the registration application submitted to the AER:

- Legal Name;
- Trading name if different to your legal name;
- Australia Business Number or Australian Company Number;
- Address if the physical site and brief description of site and its current and intended future use/s (summary);
- Date from which commencement of selling is intended;
- Number of premises at the site for which registration is sought, with breakdown between residential, small business and large business customers; and
- Addresses of any other sites where you are seeking or currently hold a registered or individual exemption.

However, Ergon Energy notes that for individual exemptions, clause 5.2.1 of the Guideline does not contain any indications of what particulars will be published in the Public Register. Ergon Energy suggests that the information published in the Public Register should be the same for both registrable and individual exemption classes.

In relation to the information contained on the Public Register, Ergon Energy suggests that the general conditions for class exemptions should also be published in the Register to inform exempt customers as to their rights and obligations required under on-selling arrangements. Without ready access to finormation about the conditions imposed on exempt sellers, exempt customers would be unlikely to be able to make complaints or inform the AER of non-compliance. Further, the AER is unlikely to become aware of any material failure on exempt sellers in not meeting exemption conditions.

Origin Energy: While it is understood that each new owner of an embedded network has an obligation to register their details with the AER and that the exemption is personal to the applicant it is difficult to appreciate how the AER will ever know if an ownership has changed. Origin is of the view that, at a minimum, each registered exempt network should be required to submit an annual or biannual statement reconfirming the ownership and the embedded network arrangement. This will give the AER some confidence that their register is current and that each owner is aware of their ongoing responsibilities.

Origin supports the alignment of the different classes of exemption in the Network Guideline and the Exempt Selling Guideline. However Origin reiterates its comments made to the Exempt Selling Issues paper whereby we believe that all exempt networks (deemed, registered and individual application) and on sellers should be recorded in a register. See response from the issues paper below:

Origin supports the concept of a register of exempt sellers and associated sites, as it will ensure that exempt sellers are not lost once they have received an exemption – which is the case currently in some jurisdictions. However, Origin also sees merit in all exempt selling parent meters being tagged as an embedded network in Australian Energy Market Operator's Market Settlement and Transfer System (MSATS). Once the parent meters were tagged in MSATS it would trigger the establishment of an embedded network code on the 'Embedded Network Identifier Codes list' of MSATS as well. This list provides a good repository for much of the information proposed for the exempt seller's public register. While it is understood that this information is not publicly available it would be a very relevant resource for industry participants. The tagging of parent meters related to exempt seller installations also provides the following benefits:

- *The magnitude of electricity load being supplied by exempt sellers can be monitored on an on-going basis; and*
- *After a RoLR event exempt selling parent meters could help to identify affected customers of exempt sellers.*

Origin believes that the exemption categorisation is appropriate at this stage but as the market develops it may need to be amended in order to provide the optimum levels of customer protection. As mentioned in previous submissions, developing a suitable framework for the management of exempt selling of energy in conjunction with providing exemptions for network service providers is complicated and Origin acknowledges the efforts taken by the AER and generally supports the approach outlined in these consultation documents. In particular we agree with the attempt to align the categorisation for exempt selling with exempt networks as this will go some way to improving the understanding of this across the energy industry and the community.

It is noted that registrable exemptions are only required to provide information and changes to this information. Whereas there are no information provisions imposed on deemed exemptions. Origin is concerned that this may not entice suitable compliance by these exempt networks and it is difficult to understand how the AER will monitor compliance. Origin suggests that some form of sampling audits or spot checks will be required so that both these categories of exempt networks remain visible to the market. Alternatively customer complaints will be the only manner of managing compliance of exempt networks which is unsatisfactory as these customers are often unaware of their rights or the responsibilities of their respective exempt network.

Active Utilities: Yes, we would encourage an online registration process that would allow a user to easily update information (preferably via web portal). This would decrease administration for all parties.

Energy Response: Yes, but we request an opportunity to review the downloadable registrable exemption form, and the individual exemption application form as referred to in Part C of the Guideline.

Ausgrid:

Clause 5(7) of the Guidelines states that:
"Applications for exemption are personal to the applicant. They are not transferable." As a practical matter, Ausgrid queries whether the relevant parties will, on sale of relevant premises or in other appropriate circumstances, think to make provision for the incoming embedded network owner to obtain the relevant exemption from the AER. Even to the extent that the parties do address this, there may be some time gap before the exemption is processed and the relevant obligations are taken on by the new party. While this issue will not arise in all contexts (such as where the embedded network operator is the owners corporation for a strata plan, which has a necessary degree of permanency), it is bound to arise in others (such as where the embedded network operator is a building owner as landlord). Perhaps it would be preferable for there to be some transfer of obligations to the new owner by default, at least for an interim period? Similar issues may arise upon winding up of the embedded network operator. Perhaps some thought should be given to whether there should be some concept of a "network of last resort (which might include, for the purposes of metering, a default Responsible Person)?

SP AusNet:

Exemption Class Table – Need For Exemptions to be Registered—
SP AusNet have some concerns with respect to the Exemption Class Tables which appear to allow:

- deemed non registrable exemptions for certain classes ongoing with no date for new situations to be registered.
- deemed non registrable exemptions for many classes established before 1 January 2015 to exist in perpetuity

Many parties put the point in the earlier rounds of consultation on the onseller exemption Guideline that all embedded networks should be registered and argued that the AER's concern with respect to what the AER considered the arduous nature of the registration process was misplaced, and that a self registration process through a internet based facility would be relatively simple to set up and to use and would provide visibility of the whole range of embedded networks.

SP AusNet is concerned with respect to the statement in the exempt onselling Guideline notice document: The AER does not agree that universal registration for all exempt sellers will necessarily lead to greater transparency in the exempt selling area. We maintain our view that such a requirement would be burdensome for small exempt sellers, who may have limited resources to dedicate to regulatory compliance. The value of the information gained from universal registration would not outweigh the consequential costs for these types of onsellers.

SP AusNet considers that small exempt sellers which have "limited resources to dedicate to regulatory compliance" are the very parties which, without some level of visibility and hence potential surveillance, will take regulatory shortcuts. It is these networks that will not provide proper notification of the opportunity of access to retailer of choice and other customer protections; are those that will not ensure rigorous and timely notification to the parent retailer of life support customers; nor fulfil the other industry notifications which enable full and proper handling of the embedded network by the DNSP.

Whilst the AER appear to have limited the number of classes where deemed network service provider exemptions which will possible for new situations after 1 January 2015 compared to the broader range of classes of onseller exemption where for new situations deemed exemptions will continue to be allow without any cut-off, SP AusNet consider that most classes allocated as deemed network service provider exemptions should also be subject to registration, and that all existing embedded networks in classes allowed deemed exemption in the shorter term, must as soon as possible be registered.

The AER should review the approach and requirements regarding registration.

Concerns Regarding Transitional Period—
Further to the comments in Section 5 SP AusNet likewise cannot understand why such a long transition period has been proposed. What are these two and half years extension of non registration meant to protect the potential embedded network providers against? Whilst SP AusNet can, to some extent, understand a grandfathering period being applied with respect to the provision of metering where none currently exists (as proposed in the onseller Guideline), it is not clear why for a simple registration that the obligation cannot apply immediately to newly created embedded networks (or as SP AusNet argue in Section 5, existing embedded networks).

Registration Information Requirements—
The details that the embedded network owner must provide with respect to registration as the exempt service provider are significantly less than that require for registration as an exempt onseller. Given that the regime envisaged by AER would have different parties as the exempt onseller (likely in many cases to be the ESP) compared with the ENO as the exempt network service provider, it is unclear why there is this differential.

It is SP AusNet view that the details which the exempt onseller must provide should also be provided by the exempt network service provider. It cannot be assumed they will be the same party. Whilst SP AusNet understand the concept of a "unified registration approach" and the streamlining that this gives when the exempt network service provider and the exempt onseller are the same party, the registration

process cannot assume that these two roles are carried out by the same party. Matters such as number of customers is a critical parameter of the embedded network which must be committed to by both the involved exempt parties.

SP AusNet consider therefore that the range of details provided as the basis of network service provider exemption should more closely align with those which must be provided under the exempt onseller Guideline.

Changes to Registration Information—
The Guideline is unclear as to what would constitute a "material information change" which would require notification to the AER of a change of registration information. SP AusNet do not have a firm view as to what the criteria would be but for example we would consider that an embedded network with say 20 odd customers at registration has changed significantly if the embedded network grows to one hundred plus customers. The approach and service provision commitments, metering and billing requirements, etc change markedly at some point in this change of scale of the embedded network.

SP AusNet's view is that an obligation to keep the registration information correct is an important mechanism for ensuring that the regulator and industry understanding of the scale and details of the embedded network, and hence of the potential customer and operational impacts, is very important.

AER needs to establish a better definition of what constitutes a material change for which updated information is required.

AEMO: agrees that an exemption should not be transferrable to another party, but believes the drafting in the Guideline is ambiguous.

United Energy: said

However the AER go on to suggest that if the embedded network owner changes, then the new owner needs to register. This allows the AER to ensure the orderly conduct of the embedded network operator.

The AER consider that an exemption is specific to an applicant and does not apply to the site regardless of ownership. This would seem to indicate that the owner of the exempt network is the applicant and is accountable for compliance.

The AER drafting in this area appears contradictory. Where the exempt network is in the deemed class, the party accountable for compliance and safety may not be clear. The AER may like to clarify whether they wish the embedded network owner to register and be held accountable for the exemption. The current drafting of condition 5 point 7 makes it unclear whether the network owner or operator is the applicant and registered party for the exemption.

CitiPower/Powercor:

The Businesses consider that the proposed registration arrangements could be made more clear and comprehensive. For example, the requirement for a 'deemed' exempt operator to register details with the AER is not explicitly outlined. The AER should emphasise that it is incumbent on embedded networks to determine and specify whether they are 'deemed' or 'registrable' exempt networks, and then make an application to the AER on that basis, noting the class(es) of exemption.

In addition, the Businesses agree that exemptions should not be transferable as outlined in general condition 5(7). However, this condition should specify who is responsible for re-applying for the exemption, the network owner or the network operator.

Other conditions:

Requirement to maintain life support equipment

Jemena proposes condition 8 (4) be expanded to cover additional matters relating to customers with life support equipment. The National Energy Retail Rules – rules 90 and 125 – imposes requirements

on a distributor relating to life support equipment. Similar relevant requirements should also be imposed on an embedded network service provider. These include requirements to promptly notify exempt customers who have life support equipment of a planned interruption when the exempt network operator receives such notice from the local DNSP; and to provide general advice and information to assist the customer to prepare a plan of action in case of an unplanned interruption.

The proposed guideline does not apply condition 8 (4) to deemed exemption classes. JEN submits that condition 8 (4) should also apply to deemed exemption classes of exempt networks. It may be more appropriate to locate these under section '5 General requirements'.

Network Energy Services: We agree that the registration arrangements should be ENO specific to ensure that any new ENO is fully aware of their obligations. Whether this process will only involve registration of the new ENO details rather than complete re-registration of the site has not been detailed at this time however we are assuming that the process would not be onerous in cases where site and process and procedural conditions are maintained and that only the ENO entity has changed.

WINenergy: Yes

UED and Multinet Gas:

The AER consider it is important that embedded network operators remain accountable. However the AER go on to suggest that if the embedded network owner changes, then the new owner needs to register. This allows the AER to ensure the orderly conduct of the embedded network operator The AER consider that an exemption is specific to an applicant and does not apply to the site regardless of ownership. This would seem to indicate that the owner of the exempt network is the applicant and is accountable for compliance. The AER drafting in this area appears contradictory. Where the exempt network is in the deemed class, the party accountable for compliance and safety may not be clear. The AER may like to clarify whether they wish the embedded network owner to register and be held accountable for the exemption. The current drafting of condition 5 point 7 makes it unclear whether the network owner or operator is the applicant and registered party for the exemption.

Metering

Q15. Do stakeholders agree with the AER's metering conditions for exempt networks?

Origin supports the proposed metering conditions. Customers of a private network should not be connected to inferior metering and avoid the requirements of the National Measurement Institute. This requirement will facilitate the choice of Retailer by individual customers connected to a private network if they choose to exit the on selling arrangement.

Active Utilities: Yes

Energy Response: Yes, except where the customer is the same party as that at the boundary meter, in which case the boundary meter should suffice.

Ausgrid:

Comply with National Measurement Institute requirements and schedule 7.2 of the NER (Part B clause 5(1))—
The AER's proposed condition is that:
"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 Institute for electricity meters and sub-meters and with the requirements set out in schedule 7.2 of the NER." This condition appears intended to apply to all meters within embedded networks (both NEM and non-NEM).

Ausgrid submits that:

(a) It should refer to "metering installations" rather than just "meters". It should refer to requirements under the National Measurement Act 1960 (Cth), rather than the requirements of the National Measurement Institute. In general, Ausgrid considers that the conditions should not refer generally to requirements of various statutory bodies, but should instead refer to requirements under relevant legislation. This is to ensure that the conditions do not inadvertently provide the relevant statutory body with a jurisdiction in relation to the subject matter that it would not otherwise have by law.
(b) It should be stated in the active rather than the passive tense so that it is clear who is obliged to do what (bearing in mind that the exempt party is the only person on whom the AER has any jurisdiction to impose any obligations).
(c) To the extent that it is intended to impose an obligation to comply with schedule 7.2 of the NERs where such an obligation would not otherwise exist (such as for non-NEM meters, or NEM meters in circumstances where there is no clear provision for a Responsible Person - see paragraph 3.1 3 above), it should clearly say so (for example, by saying something along the lines of "as if those requirements were requirements imposed directly on the exempt person in relation to all such metering installations under the NERs"). The AER should also consider how these provisions should apply to the extent that they refer to AEMO or a Responsible Person, in context (such as non-NEM metering) where there are no such roles.
(d) To the extent that it is intended to impose an obligation to comply with schedule 7.2 of the NERs where such an obligation would not otherwise exist, the AER should carefully consider whether this should also extend to any other corresponding provisions of the NERs (such as requirement under clause 7.3.1).

Individual metering for all customers (Part B clause 5(2))—
The AER's proposed condition is that:
"All customers must be individually metered except where the AER has determined an unmetered supply is permitted."
Ausgrid agrees with this condition.

Transmission networks: AEMO or NSP requirements (Part B clause 6(1))—
The AER's proposed condition is that:
"Metering in electricity transmission networks must be installed in accordance with all reasonable requirements of AEMO and otherwise, in accordance with the requirements specified in a connection agreement with a network service provider, whether that network service provider is registered with AEMO or exempted by the AER from registration."

Ausgrid submits that:
(a) The term "network service provider" should not be used to mean either a registered or an exempt person. This is inconsistent with its definition under the NERs (to mean only a registered NSP) - see paragraph 3.8(a) above).
(b) To the extent that this condition was intended to apply to require metering installations that are directly connected to an LNSP's (TNSP's) transmission network to comply with the requirements set out in the TNSP's connection agreement, Ausgrid has no issue.
(c) To the extent that this condition was intended to apply to require metering installations that are indirectly connected to an LNSP's (TNSP's) transmission network (i.e. where the metering installation is directly connected to an embedded network which in turn connects to an LNSP's transmission network) to comply with the requirements set out in the TNSP's connection agreement, Ausgrid submits that the TNSP would not ordinarily impose requirements in relation to such metering installations, as they are not the TNSP's responsibility. The TNSP is not responsible for metering installations beyond the parent meter.
(d) To the extent that this condition was intended to apply to require metering installations that are directly connected to an embedded network which in turn connects to an LNSP's (TNSP's) transmission network (as in the example above) to comply with the requirements set out in the embedded network operator's connection agreement, Ausgrid has no issue with this. However, Ausgrid submits that if these conditions are intended to impose obligations on the embedded network operator (as the AER has no power to impose them on anyone else), it is not clear who is required to do what under this condition.

(e) To the extent that this condition refers to reasonable requirements of AEMO (presumably intended to apply to the extent that the metering is NEM metering), Ausgrid submits that:
   (i) the conditions should not refer generally to requirements of various statutory bodies (such as AEMO), but should instead refer to requirements under relevant legislation and regulatory instruments (such as the NERs). This is to ensure that the conditions do not inadvertently provide the relevant statutory body with a jurisdiction in relation to the subject matter that it would not otherwise have by law;
   (ii) the AER should be aware of the limitations of the application of the NERs in this context; and
   (iii) the conditions should not refer to "and otherwise" in this context, as complying with AEMO requirements should not be instead of compliance with a connection agreement.

Distribution networks (Part B clause 6(2) and (3))—
The AER's proposed condition is that, for metering other than in transmission networks, meters must either:

(a) reasonable access for metering reading: "be installed in a reasonably accessible location with suitable access to facilitate meter reading, whether for billing purposes or customer information" (Part B clause 6(2)); or
(b) facilities for remote reading: "have remote facilities to permit access to current metering data either by a readout device or by electronic means including via a web portal or other equivalent facility" (Part B clause 6(3)).

Ausgrid is not sure why compliance with a connection agreement is included for transmission networks but not for distribution networks.

Generators (Part B clause 6)—
The AER's proposed condition is that:
"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 direct connection to the NEM distribution or, where applicable, transmission network. Further details are available from the local electricity distribution or transmission network service provider. Additional requirements of AEMO may also apply."

Ausgrid submits that this condition assumes that the LNSP will have responsibility for metering at generation installations in embedded networks. However, the LNSP is not responsible for metering at generation installations unless they are directly connected to the LNSP's network.

Full retail competition: AEMO requirements; metering provider (Part B clause 8(1))—
The AER's proposed condition is that:
"In jurisdictions where customers of embedded or exempt networks have access to full retail competition all metering arrangements 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. An exempt or embedded network operator may be required to appoint an accredited metering service provider or other registered NEM participant, as appropriate, to act as its agent for the provision, installation, registration and maintenance of the metering installation."

Ausgrid submits that:

(a) This condition assumes that the NERs adequately make provision for NEM metering, and that the provisions regarding metering service providers etc will apply in this context as a matter of law. However, as indicated in the above analysis, this is not the case. AER should be aware of the limitations of the NERs in this regard.
(b) However, in practice, if a NEM metering installation is to be installed then it MUST (not may) be installed by an appropriately registered and AEMO-accredited MPB.
(c) This condition should not refer to "In jurisdictions where customers of embedded or exempt networks have access to full retail competition", but rather to the circumstance in which an embedded network customer actually takes supply from a registered retailer (rather than where it merely has the right to do so).
(d) For reasons discussed above, this condition should not refer to "all applicable AEMO requirements".

Metering: conclusion—
It should therefore be clear that there are significant gaps in current regulatory arrangements in relation to metering.

The AER should be mindful of these gaps when drafting its conditions of exemption, and hence the extent to which its proposed exemption conditions may or may not work to achieve the desired outcome. Ausgrid also seek the AER's co-operation in liaising with other regulatory bodies for this purpose (such as in seeking Rule changes).

SP AusNet:

Metering Conditions—
SP AusNet considers that having metering which provides an accurate basis for energy sales to exempt customers on the embedded network is a vital condition for the exempt network service provider. However our understanding is that electricity metering is still subject to an exemption from the National Measurement Act (NMA). The National Measurement Institute (NMI) has relatively recently sought stakeholder input into lifting this exemption, but we know of no timetable for this to be done. Further use of NMI pattern approval as a mechanism for compliance with the Rules Chapter 7 is not an essential component of Rules metering compliancy. Hence whilst SP AusNet consider that a requirement for embedded network metering to be market compliant is a worthwhile condition, until the exemption is lifted, NMI/NMA compliance is not a condition of this market compliancy. Further the AER's broad statement that their proposed Guideline metering condition does not require pre-existing metering to be upgraded is unlikely to be consistent with the NMI/NMA requirement once the NMA exemption is lifted, as we understand that any existing electricity metering will need to be consistent with the grandfathering arrangements associated with the lifting of the exemption.

Compliance With Meter Installation Standards—
Victorian "market" metering installations must be installed in compliance with the Victorian joint distributors' Service and Installation Rules (the SIRs). These SIRs ensure the safety and accessibility of the metering installation and its components. It is these SIRs which set specific and practical conditions for installations which ensure that appropriate safety measures and testing is in place, and that the meters can be readily accessed for reading and maintenance. This requirement of the installation is important as it is the obligations and rules in the SIRs that allow a replacement market meter to be installed if a exempt customer moves to an authorised retailer [*] without the significant costs of a meter panel replacement or relocation.

The AER suggest that the requirement for accessible location may be relaxed if remote reading is installed, however this is not the case as the meter must be accessible for maintenance and testing, but more importantly must be in a suitable location (as defined in the SIRs) for installation and reading of another service provider's meter if the customer moves to an authorised retailer. Compliance with the SIRs or other Jurisdictional equivalents must be a clear condition of an exemption.

It should be noted that having a market compliant meter on an exempt customer does not mean that the meter will not need to be replaced if the customer moves to an authorised retailer. The meter may be only type 6 (and accumulation meter), may not be compatible with the new service providers reading system, or may only be readable with a customer remote reading system.

Metering Provision for Authorised Retailer Customers—
Section 8 (1) of the Guideline appear to be inconsistent with the AEMO Embedded Network Guideline. This AEMO Guideline in Section 6.2 clearly states that "the responsible person for the child metering installations is also determined in accordance with the Rules". These Rules for type 4 meters (remotely read) make the FRMP (the authorised retailer) the responsible person (RP7), whilst for type 5 and 6 (interval and consumption type manual read meters) the DNSP is the RP8.

The AER's Guideline states that the exempt network service provider "may be required to appoint an accredited service provider.....to act as its agent for the provision, installation, registration and maintenance of the metering installation".
This Section must be revised to ensure alignment with the AEMO Guideline and the accepted benchmark practice.

Generation Metering—
There must be a requirement on the exempt network service provider to make arrangements for the parent metering to be upgraded to allow generation energy flows if a small generator is installed on an embedded network whether on an exempt customer or an authorised retailer customers installation.

AEMO: supports the principle but believes the drafting related to metering for reconfiguration of existing exempt networks is ambiguous. Is the intention for metering in the reconfigures section only of the existing exempt network to comply with current NEM metering requirements or is this considered the trigger to upgrade all metering within the exempt network?

United Energy:

UE support the AER's aim to ensure that metering requirements are consistent with the NER and the NMA. UE note that metering arrangements for supply points on a licensed network are managed by the responsible person in accordance with the NER Chapter 7. The responsible person for a NMI may be the registered retailer or the licensed NSP depending on the meter type required/consumption threshold.

UE support metering within an exempt network being managed consistent with the metering arrangements in NER Chapter 7 and suggest that where customers are second tier in the exempt network, then NER clauses 7.2.2 and 7.2.3 would apply for the selection of the responsible person. Any off market customers whilst there is a need to have consistent metering arrangements, will not necessarily need a responsible person where they are not registered in the CATS system.

UE support that metering installations be managed in accordance with NER Schedule 7.2. UE consider that in order to manage metering installation accuracy then the testing arrangements in schedule 7.3 should also apply – a test plan should be available on request and testing should be managed in line with the periods outlined.

The Condition – Metering Installation refers to a term Commencement date which is defined as a date. It would be useful to clarify what is the Commencement date. Is it the date that the National Measurement Institute lift the electricity meter exemption or is it the date that this AER Guideline becomes effective? The guideline could be drafted without the need to define the term e.g. all metering installations need to meet the requirements of the National Measurement Act (NMA), any metering installations within an embedded network which are installed prior to the lifting of the electricity metering exemption under the NMA will need to have a grandfathering or deeming arrangement in place. In section 6, point 2 should refer to convenient and unhindered access to the metering installations and both the exempt NSP and child customer must provide safe access to the metering equipment. This safe and unhindered access is required to maintain and test the metering installation, it is required regardless of whether the meter is remotely read or not. Points 2 and 3 should not be drafted as an 'either' 'or' situation. Points 2 and 3 should be replaced by the following:
'All metering installations must be installed in an accessible location with safe,convenient and unhindered access to facilitate meter reading, testing and meter maintenance.

Metering installations may have remote facilities to permit access to current metering data either by a readout device or by electronic means including via a web portal or other equivalent facility.' Footnote 11 states that points 2 and 3 may not apply where a meter is provided for use by a registered retailer. If the metering data is used by a registered retailer, the meter data is likely to be required for settlement purposes. Metering would therefore be managed in line with the NER by any registered metering service providers and access to the meter is required. UE welcome further explanation of this point.

CitiPower/Powercor:

The Businesses agree that all metering within exempt networks should comply with requirements set out in schedule 7.2 of the NER. However, this requirement must be extended to all networks. The Businesses do not agree that these requirements are limited to new installations. This will ensure consistency and fairness across all customers in terms of understanding their consumption. In addition, the Businesses consider that the following provisions should be included for all exempt networks

- All child meters must be interval meters. The Businesses consider that given the AMI smart meter rollout, it is necessary for child meters to be interval meters in order for energy costs to be apportioned across child meters within an exempt network.

All exempt network operators must advise the local DNSP of the existence of a life support requirement when notified by a customer. The Businesses have no way of identifying when a child customer is on life support.

Endeavour Energy supports the AER position that all onselling be subject to appropriate metering. Accordingly, Endeavour Energy submits that a condition of an exemption to register as a Network Service Provider is that an exempt Network Service Provider must ensure that all metering. installations used in embedded or exempt networks are provided by the FRMP or, where the FRMP elects otherwise, the exempt Network Service Provider. This would also support supply arrangements between a Retailer and an end use customer, whereby energy is delivered over the embedded network to the customer.

Network Energy Services: The AER metering conditions can perhaps be more explicit for exempt networks. Firstly we endorse the opinion expressed in the forum that SIRS do not represent a jurisdictional requirement and as such certain requirements of SIRS should not apply to NSP because the requirement may have more to do with convenience for the Distributors business than for the safety or operation of the embedded network. Other truly jurisdictional requirements are endorsed.

The "reasonable accessible location" of meters condition is considered soft although we understand the challenge of being specific across jurisdictions in this matter when there are jurisdictional variations in respect to right of choice of retailer. Our view is that there should be free access for meter readers so that in the event that a consumer exercises their right of choice of retailer that the meter can be read by the Distributor and the consumers rights are not compromised. It is noted that not all jurisdictions have the same approach to right of choice however jurisdictions that currently do not strongly support ROC may in future change their approach and it may be better to take a position now that will stem the installation of inaccessible meters rather than continue to exacerbate a potential problem. The option to have AMR facilities does not help in these situations because if free access to the meter is not available then the consumers rights may be compromised and the consumer will be inconvenienced either because if they wish to exercise right of choice of retailer then there will be extra costs involved for the consumer to make changes so that the meter can be accessed or if the AMR system fails or is no longer available then inconvenience or loss of benefit to the consumer can result.

WINenergy: Yes. In some installations of building management systems, meters are installed assuming that they can also feed a billing operation. These projects are run out of the Sustainability office without consideration of the needs of billing quality meters. We agreed that all meters and sub-meters used for billing should comply with the National Measurement Institute.

UED and Multinet Gas:

UE support the AER's aim to ensure that metering requirements are consistent with the NER and the MA. UE note that metering arrangements for supply points on a licensed network are managed by the responsible person in accordance with the NER Chapter 7. The responsible person for a NMI may be the registered retailer or the licensed NSP depending on the meter type required/consumption threshold. UE support metering within an exempt network being managed consistent with the metering arrangements in NER Chapter 7 and suggest that where customers are second tier in the exempt network, then NER clauses 7.2.2 and 7.2.3 would apply for the selection of the responsible person. Any off market customers whilst there is a need to have consistent metering arrangements, will not necessarily need a responsible person where they are not registered in the CATS system. UE support that metering installations be managed in accordance with NER Schedule 7.2. UE consider that in order to manage metering installation accuracy then the testing arrangements in schedule 7.3 should also apply – a test plan should be available on request and testing should be managed in line with the periods outlined. The Condition – Metering Installation refers to a term Commencement date which is is defined as a date. It would be useful to clarify what is the Commencement date. Is it the date that the National Measurement Institute lift the electricity meter exemption or is it the date that this AER Guideline becomes effective? The guideline could be drafted without the need to define the term eg all metering installations need to meet the requirements of the National Measurement Act (NMA), any metering installations within an embedded network which are installed prior to the lifting of the

electricity metering exemption under the NMA will need to have a grandfathering or deeming arrangement in place. In section 6, point 2 should refer to convenient and unhindered access to the metering installations and both the exempt NSP and child customer must provide safe access to the metering equipment. This safe and unhindered access is required to maintain and test the metering installation, it is required regardless of whether the meter is remotely read or not. Points 2 and 3 should not be drafted as an 'either' 'or' situation. Points 2 and 3 should be replaced by the following:'All metering installations must be installed in an accessible location with safe, convenient and unhindered access to facilitate meter reading, testing and meter maintenance.

Metering installations may have remote facilities to permit access to current metering data either by a readout device or by electronic means including via a web portal or other equivalent facility.' Footnote 11 states that points 2 and 3 may not apply where a meter is provided for use by a registered retailer. If the metering data is used by a registered retailer, the meter data is likely to be required for settlement purposes. Metering would therefore be managed in line with the NER by any registered metering service providers and access to the meter is required. UE welcome further explanation of this point.

Shopping Centre Council of Australia: We support that embedded networks should have metered supply. We do not believe, however, that meter data agents are necessary as per General Condition 8. This could easily double or triple the costs to operate an embedded network, We believe the AER's objectives can be achieved in other ways. We support having the same meters and billing arrangements. We note at General Condition 6 that while the AER will not require pre-existing metering installations to be removed, "meters installed prior to the commencement date may be subject to the terms of an exemption issued by the National Measurement Institute as amended from time to time" (page 9 of Guideline), We do not believe that our members should be required to change their existing meters once the new framework commences, or the NMI issues an exemption "from time to time". This current proposal provides significant uncertainty.

Energy Division: The Network Exemption Guideline requires all customers to be individually metered except where the AER has determined an unmetered supply is permitted. A comparable requirement does not currently exist in South Australia. Accordingly, a large number of inset network operators may not be able to meet the requirement from the commencement date. South Australia therefore suggests that the AER will need to take a practical approach when considering existing inset networks and their transition to NECF and consequently to the AER's guidelines.

Q16. Do stakeholders consider the conditions that are applicable to energy generation appropriate?

Origin Energy: Any generator that is connected to the distribution network either directly or indirectly via an embedded network must satisfy the requirements of the local Distribution Network Service Provider (DNSP). This arrangement protects the integrity of the supply network and ensures appropriate measurement of generated energy.

Active Utilities: Yes

Energy Response: We do not agree that off-market energy generation "must be metered in accordance with the applicable requirements for direct connection to the NEM distribution or, where applicable, transmission network."
Off-market energy generation is typically installed as a backup supply in the event of mains supply failure, and they are usually owned and operated by the exempt network owner/operator. Any off-market energy generation from these sources can be identified easily by the corresponding drop in energy consumption as captured by the boundary meter on these exempt networks. If the AER's intention is to capture the off-market energy generation being exported to the NEM, upgrading the exempt network's boundary meter to Type 4 metering installation with four-quadrant meters should suffice. The boundary meters can be swapped easily without an extended supply disruption to the site, and it avoids disruptive and costly metal bashing on the existing generator switchboard to retrofit the new generator metering installation.

While this condition does not affect Energy Response directly, we're concerned the AER might be imposing unnecessary costs on many building owners.

Ausgrid: No. See detailed comments on Metering conditions.

AEMO: Off market and on marketing energy generation for children within the embedded network needs to be metered in accordance with chapter 7 of the NER, i.e. a bi-directional meter in accordance with NER clauses 7.3.1(a) (7) and 7.3.1 (i) and be an interval meter where the generation/child customer wishes to be second tier in accordance with the NEM Metrology Procedure. The guideline could provide the relevant provisions in the NER and the National Metrology Procedure which need to be adhered to for any generation. This would assist with clarity for an exempt NSP.

United Energy:

Off market and on marketing energy generation for children within the embedded network need to be metered in accordance with chapter 7 of the NER, i.e. a bi-directional meter in accordance with NER clauses 7.3.1(a) (7) and 7.3.1 (i) and be an interval meter where the generation/child customer wishes to be second tier in accordance with the National Metrology Procedure.

The guideline could provide the relevant provisions in the NER and the National Metrology Procedure which need to be adhered to for any generation. This would assist with clarity for an exempt NSP.

Network Energy Services:

The proposed condition for metering in accordance with the applicable requirements for direct connection to the NEM in situations where there is energy generation is patently unfair and inappropriate. Currently the PFIT is not paid by the government to exempt customers whilst the PFIT is paid by the government to retailers customers. That means that a commercially unsustainable PFIT (say 60 cents/kWh) cannot be paid by the exempt seller to exempt customers who have PV panels because it is completely unviable to do so. Therefore there be no compulsion for metering of exempt customers to be the same as for direct NEM connected customers if the feed in tariffs available to retailer customers is not available to exempt customers. In Class NR3 (and similar) the residents themselves are the NSP and exempt seller and the residents choose to either not receive payment for the electricity exported from their house or may receive only the equivalent value of the imported electricity to the embedded network. The residents recognize that they use less imported electricity in their houses because of the PV electricity that they generate and they also realize that any surplus electricity also benefits them by reducing the amount of electricity that must be imported for common area use, which residents pay for anyway via their village fees. In these situations to regulate that residents (or NSP which comprises the residents anyway) install meters with solar registers is unfair and can penalize the exempt customer. The exempt customer should have the right to either retain a traditional Type 6 meter where the disc can spin backwards thereby providing the consumer with a one for one credit for exported electricity, or if the consumer has an electronic meter that does not reverse when there is exported electricity then the consumer can decide whether the consumer wishes to pay for a new meter with a register to record exported electricity. If the village does not pay a feed in tariff or if the pay back period for installing a new meter is unattractive then the customer should be able to choose whether or not to purchase a meter with a solar register. Classes NR3 and NR2 have been very proactive in the installation of solar panels with as many as 90% of residents in some villages installing PV. Many NSP could not afford to retrospectively abide by the proposed AER condition unless the government PFIT was extended to include exempt customers. If the payment of the PFIT was extended to exempt customers then it would be worthwhile for the residents themselves to pay for the meters to comply with any regulated requirement however while the current situation regarding non payment of PFIT to exempt customers remains then the proposed metering requirement could not apply retrospectively.

New embedded networks could be required to install meters with registers to record exported electricity (either gross or net as per jurisdictional requirements) however the proposed AER condition should also not compel NSP to install meters such as AIMRO smart meters in situations where on-site generation occurs, whether PV or other generation, when there may be better and more appropriate meters and metering systems available for the embedded network. It seems absurd to require the NSP to seek details from the local distribution network for metering specifications for check meters in

situations where generation may occur within the embedded network when better, more innovative and more appropriate compliant meters may be available for the NSP and the exempt consumers.

WINenergy: Embedded energy generation by wind, photo voltaic solar or gas turbine is a challenging area. WINenergy believes that this generation should be able to be sold within the building on an exempt basis, but it should be subject to the same conditions as "purchased" energy. The provisions for exporting back to the NEM are reasonable but subject to a host of considerations by the DNSP's, some of whom are reluctant to accommodate exports.

UED and Multinet Gas: Off market and on marketing energy generation for children within the embedded network need to be metered in accordance with chapter 7 of the NER, ie a bi-directional meter in accordance with NER clauses 7.3.1(a) (7) and 7.3.1 (i) and be an interval meter where the generation/child customer wishes to be second tier in accordance with the National Metrology Procedure. The guideline could provide the relevant provisions in the NER and the National Metrology Procedure which need to be adhered to for any generation. This would assist with clarity for an exempt NSP.

Q17. Do stakeholders have any comments on electric vehicles or electric charging stations, and the conditions to be applied to them?

AGL agrees that electric vehicles is a fledgling industry and, as such, it would be preferable to have a separate consultation on this issue. At this early stage, AGL is not convinced that it would be appropriate to have electric vehicle charging stations connected within an existing network, captured as part of the exempt network regime.

Origin agrees that battery charging is a commercial process requiring energy (AC supply) from an electrical connection, directly or indirectly fed from the Local Network Service Provider (LNSP) supply grid. The service of recharging batteries (DC supplies) is not a function of the National Electricity Market and therefore should not be covered in this guideline.

It is noted in the Guideline on page 10 that "the supply of electricity from a battery charging facility for transport use is a value-added service……" Origin assumes that the term value added service used here should not be confused with the reference to value added service under Category C in Table 3 on page 12 as this would seem to conflict with our understanding that battery charging is not in the scope of this guideline.

Ausgrid queries how this would work and whether a separate category for electric vehicles is warranted. Surely they should be treated as any other load connected to an embedded network?

AEMO: AER's proposed approach appears satisfactory for EV installations where there is a single retailer involved for light and power, and EV charging. A separate framework would be required where there are different retailers for light and power, and EV charging. This would introduce many complexities relating to identification of the Responsible Person and service provision.
The AER should also consider the situation and consequential metrology and electrical safety etc arrangements where the EV's battery may generate supply back to the NSP.

United Energy:

UE is supportive of a sub metering arrangement that does not necessarily comply with the NER for an electric charging station where the exempt network owner, operator and user of the energy are all the one consumer with a relationship with a single retailer. However if there were a need for a different customer and retailer at the parent as opposed to the child charging station then the metering requirements, selection of responsible person etc should apply.

In addition where the battery could generate supply back to the licensed NSP then both the parent and child metering arrangements must comply with the NER clause 7.3.1 metering arrangements for embedded generation in addition to NER schedule 7.2. It is unclear what is trying to be achieved in this exemption category, is it single residential customer embedded networks?

CitiPower/Powercor:

The Businesses consider that electric vehicle charging stations that have downstream metering should be treated in the same manner as child metering installations within embedded networks. There are no compelling reasons for electric charging stations to be treated differently to embedded networks. Standardisation with respect to metering will assist in facilitating retailer choice for child meters. The AER must exercise care in determining different standards or rules for electric vehicle charging stations because it may inevitably favour one business model over another.

Network Energy Services: Despite Classes NR3 and NR2 having high incidence of electric vehicles there does not seem to be a need for a specific exemption class for this purpose as the NSP can cater for that need by a variety of means within the embedded network.

WINenergy: We do not have a position on electronic vehicles.

UE is supportive of a sub metering arrangement that does not necessarily comply with the NER for an electric charging station where the exempt network owner, operator and user of the energy are all the one consumer with a relationship with a single retailer. However if there were a need for a different customer and retailer at the parent as opposed to the child charging station then the metering requirements, selection of responsible person etc should apply. In addition where the battery could generate supply back to the licensed NSP then both the parent and child metering arrangements must comply with the NER clause 7.3.1 metering arrangements for embedded generation in addition to NER schedule 7.2. It is unclear what is trying to be achieved in this exemption category, is it single residential customer embedded networks?

Distribution Loss Factors

Q18. Do stakeholders consider the AER's approach to the application of distribution loss factors to exempt networks to be appropriate?

Origin considers the AER's proposal as acceptable where the connection voltage is the same as the distribution voltage of the private network. It is assumed that where voltage reduction is implemented via transformation within the private network that an appropriate loss factor be applied to large customer loads simulating the LNSP's methodology.

Active Utilities: Yes

Energy Response: Yes, we support the AER's approach in aligning the definition of a small load with clause 3.6.3 of the NER. And for these small loads, the use of the distribution loss factor at the exempt network's metered point of connection for all meters within the exempt network. The last paragraph of section 7.3 is potentially ambiguous, so we would appreciate confirmation that we've understood the AER's intent correctly: that generators of less than 10MW peak output connected within an embedded network with less than 10MW peak load should not require a site-specific DLF.

Ausgrid: The intention of clause 9(1) of the draft conditions is to apply the distribution loss factor applying at the parent metering installation to losses within the embedded network in most cases, thus relieving the embedded network operator from the responsibility to calculate and seek annual approval of a separate distribution loss factor for the embedded network at the child meters within that network.

While a sensible approach, Ausgrid queries whether this approach can be accommodated within the current drafting of clause 3.6.3 of the NERs. For example, this clause refers to the responsibility of "Distribution Network Service Providers". Unlike the definitions of "Network Service Provider" and "Local Network Service Provider", the definition of "Distribution Network Service Provider" under the NERs does not refer to a registered NSP, but it is simply "A person who engages in the activity of owning, controlling or operating a distribution system". This would appear to extend to an exempt

embedded network operator, and hence that entity would have a direct responsibility under clause 3.6.3.

To the extent that there will be site-specific loss factors within embedded networks, Ausgrid notes that its methodology for allocating distribution loss factors is based on tariff classes. Issues may arise in circumstances where the parent is a different tariff class from the children.

SP AusNet:

Distribution Loss Factors—
The AER's proposed DLF rules are not consistent with the structure of the DLFs in SP AusNet (nor other Victorian networks).
There are two DLFs assigned to customer taking supply at low voltage.

- DLF- D is the distribution loss factor to be applied to a second tier customer or market customer connected to the lower voltage terminals of a distribution transformer at 240/415 V
- DLF- E is the distribution loss factor to be applied to a second tier customer or market customer connected to a low voltage line at 240/415 V.

Within an embedded network the parent NMI (and potential other loads in close proximity to the embedded network "primary" metering panel) may be assigned DLF D but the remainder of the NMIs within the embedded network assigned DLF E. AER Guideline must take this into account.

Jemena: Distribution loss factors may become significant – in which case conditions 9(2) and 9(3) would apply. JEN proposes that 9 (3) be extended to require the network operator to meet the reasonable costs incurred by the DNSP in assisting with the calculation of the distribution loss factors.

United Energy:

UE support the AER approach that where loads are small that the exempt NSP adopt the DLF's calculated by the licensed NSP applicable to the parent and apply these to the children. This approach relieves the exempt NSP of any requirement to calculate and seek annual approval of DLFs for child meters within that network.
For larger loads, generators and site specific DLF's need to be calculated in accordance with the methodology published by the licensed NSP or by a method approved by the AER. The guideline should clarify who is responsible for the development of these site specific DLFs for children within the exempt network and who is accountable for the annual approval.

Network Energy Services: We agree with the AER approach to distribution loss factors.

WINenergy: It is essential to apply the network distribution loss factor to energy delivered to the gate meter. We assume that there is no loss factor within the embedded network. This assumption may require revision for a large (broad acre) embedded network but it is likely to be an exceptional case. Sites that have their own transformers and are feed with high voltage supply need a different mechanism for applying distribution loss factors.

UED and Multinet Gas support the AER approach that where loads are small that the exempt NSP adopt the DLF's calculated by the licensed NSP applicable to the parent and apply these to the children. This approach relieves the exempt NSP of any requirement to calculate and seek annual approval of DLFs for child meters within that network. For larger loads, generators and site specific DLF's need to be calculated in accordance with the methodology published by the licensed NSP or by a method approved by the AER. The guideline should clarify who is responsible for the development of these site specific DLFs for children within the exempt network and who is accountable for the annual approval.

Pricing

Q19. Do stakeholders have any comments in relation to the AER's approach to external and internal network charges?

Active Utilities: We have concern that the AER does not quite understand the processes undertaken in exempt networks currently with regards to the recovery of network charges. Only allowing the ability to "cost recover" network charges within the network will affect the financial outcome for many network operators. The ability to charge network charges at a margin (based on NSP published tariffs) means that when a customer invokes their retailer of choice rights the exempt operator has a justifiable income to cover any costs in billing or recovering this cost from the tenant. If they can only cost recover this component then the exempt operator will be billing that customer at a loss. We suggest that exempt sellers be able to shadow the NSP pricing models.

We would like the AER to consider the requirement of a Tier 2 customer's retailers to provide consumption data to the exempt network owner. Currently it can provide (sic) difficult to obtain (for large customers anyway) demand consumption data to assist in the calculation of recoverable network charges. Perhaps the AER could consider a formal procedure for this to occur to ensure retailers or Meter Data Agent provide this information to the exempt seller on a regular basis.

An amendment to Charge Group B as per the above is … required.

Ausgrid: The AER's approach appears to be reasonable.

United Energy:

The AER considers that external network charges should be apportioned by an exempt network operator to each customer in an exempt network in proportion to their metered energy consumption over the equivalent period. UE support this arrangement where children in the embedded network benefit from the aggregated load of the exempt NSP or parent in relation to network charges. This approach would best be served by separate billing of network and energy charges to children where the apportioned network charges did not exceed the total network charge at the parent.

Colonial First State:

The prime point of concern we have with the proposed exemption guidelines pertain to the pricing guidelines related to network charges (linked to Questions 19, 20 and 21 of the paper). The AER suggests that external network charges incurred by an exempt network operator (ENO) can be recovered through *apportioning* the cost across customers within that network. CFSGAM believes that this methodology is not only inappropriate but will almost be impossible to admininster.

Network tariffs within a distribution area are based on several factors relating to the type of customer, their annual consumption and their peak demand. Every NMI in the NEM has a network tariff assigned by the local network service provider (LNSP) based on these criteria. Large energy users in the NEM typically have demand based network tariffs whilst small energy users typically have tariffs based on usage only. Similarly, network tariffs for large energy users in some LNSP zones have a Should Time of Use period whilst smaller energy users within the same LNSP area do not.

In order for an ENO to correctly apportion external network charges, it must be able to record or obtain the same type of information from ever meter within its embedded network. This is not always possible as it does not always control metering within its embedded networks. For example, Tier 2 Child metering is owned and controlled by the LNSP. If this meter is not programmed to record exactly the same TOU and demand tariff information as at the parent meter, the correct apportionment of external network charges becomes very difficult if not impossible.

A much more practical and uncomplicated approach would be the application of network tariffs based on the same criteria as used by the LNSP. Indeed if we consider a Tier 2 Child within an embedded network that has a market NMI. This NMI will have a network tariff code assigned by the LNSP which is registered in MSATS. It thus makes logical sense that an ENO would recover any applicable network charges levied to the customer based on this registered network tariff. Whilst Tier 1 (off market) customers do not have registered network coddes, exempt network service providers can apply exactly the same criteria as an LNSP does in determining what network charges it will levy.

Network Energy Services:

The approach proposed by AER to internal network charges cannot be supported by this submission on the grounds that it is unfair to the NSP and is unworkable on the basis of apportioning the external charges among exempt customers. The proposal is unfair because it does not consider the cost to the NSP of maintaining the embedded network reticulation system. A single incident of physical failure within the embedded network can results in huge costs to the NSP the payment for which should be recovered by past and ongoing recovery from any difference between the external transmission and distribution costs and the internal distribution recoveries. The analogy of distribution business charging network charges to cover among other things their maintenance costs is no different to what occurs within the embedded network. The proposal is also unfair because it does not reward the NSP for efficiencies and innovation introduced within the embedded network that can benefit the environment, the grid and the exempt consumer. An objective of an NSP is to lower the external costs so that exempt consumers can benefit. As mentioned because the NSP in classes NR3 and NR2 is frequently the residents themselves a community approach to reducing external network costs occurs and residents are proud of their efforts and should not be denied the opportunity for such self help. The proposed AER approach is also unworkable. An example is where the external transmission and distribution charges apply to a HV supply however the supply of electricity to exempt customers is at LV and the customer profiles are very diverse. Firstly the NSP has higher costs because they must cater for the maintenance and operation of HV facilities as well as the LV reticulation and provision for those costs has to be accommodated within the difference between the external costs and the internal revenue. Equally impractical is the notion of apportioning the external cost when one customer may be a very large warehouse with lighting of a huge area comprising the majority of consumption whilst another customer has a very large forklift fleet which is the most prominent feature of their usage. One customer has large usage in kWh and very low demand in kVA whilst the other customer has very high demand for comparatively low usage. In such a situation how would external costs be proportioned, by kWh is unfair for one customer and by demand in kVA is unfair to the other customer. Our suggested approach is “shadow pricing” whereby the applicable jurisdiction network tariff that would apply to the respective exempt customers is charged. Such an approach is transparent and reflects what the consumer would be charged for network costs were they a customer of a licensed retailer. It also addresses the issues raised above in that it caters for the usage profiles of different types of consumer and also contributes in proportion to the maintenance fund required for the NSP to provide for repairs and maintenance of the system. The NSP should charge no more than the applicable jurisdiction network tariff which means that the exempt customer is not disadvantaged.

Of course Charge Group A is straightforward where the retail selling price is no more than the Standing Offer Bundled Price, which means in effect that shadow pricing occurs for the network component of the price and we support that approach.

WINenergy:

“The AER considers therefore that external charges should be apportioned by an exempt network operator to each customer in an exempt network in proportion to their metered energy consumption over the equivalent period” WINenergy challenges the sentence and in particular the word apportionment. The treatment of network charges within an embedded network must accommodate the fact that they may be children meters of the NEM within the network. The existing best practice is to charge small customers a bundled bill as described in Charge Group A table 3. Bundled tariffs are calibrated by reference to the standing tariffs of local retailers. It is not feasible to strip out these tariffs to apply “apportioned” network charges. In the case of larger customers (above 160 MWh p.a.) the embedded network operator has the option of offering an unbundled tariff, and the best practise is to base the network component of this on whatever is the most favourable tariff that the consumer could attain in the market place. In cases where a child is large customer (eg: a supermarket) they want consistent NUoS tariff charges; apportionment will lead to variations which such customers cannot accommodate in their bill review systems. Similarly, licensed Retailers with whom WINenergy has use of system agreements depend on published DNSP NUoS tariffs to reimburse us for network charges of child customers. Apportionment is not workable such situations. WINenergy subscribes to the intent of the AER retail on-selling guidelines that pricing within and embedded network should not disadvantage the consumer. It is our practice to offer at least 10% off the standing tariffs. Those guidelines discuss the reasonableness of recovering administrative costs and deriving a profit from the

bundled tariff to the consumer. With respect to “internal network charges”, an embedded network should not charge for use of the infrastructure within the building or complex. WINenergy agrees with the position of the AER.

UED and Multinet Gas: The AER considers that external network charges should be apportioned by an exempt network operator to each customer in an exempt network in proportion to their metered energy consumption over the equivalent period. UE support this arrangement where children in the embedded network benefit from the aggregated load of the exempt NSP or parent in relation to network charges. This approach would best be served by separate billing of network and energy charges to children where the apportioned network charges did not exceed the total network charge at the parent.

Shopping Centre Council of Australia: We are concerned with the AER's position that external charges be "apportioned by an exempt network operator to each customer in an exempt network in proportion to their metered energy consumption over the equivalent period". This will make cost recovery marginal and therefore impact the viability of embedded networks, and is contrary to the standard practice of charging exempt customers a bundled bill (as described at Table 3, Charge Group A at page 28). In terms of the recovery of external charges, operators of embedded networks should be able to charge shadow prices for external charges, rather than these charges being apportioned.

Q20. Do stakeholders have any comments in relation to the AER’s approach to Charge Groups outlined in the network Guideline?

Origin Energy: The drafting of this section on pricing is not clear. It has assumed that any capital costs associated with the energy supply are a component of the rental agreement from the owner. The embedded network owner will recover the energy charges (energy and network charges levied at the gate meter) by a proportional charge to each customer of the private network by metered consumption at each load connection. This needs to be understood and suitably reflected in the Guideline.

Ausgrid queries the appropriateness of Charge Group E. Parties should be free to enter into alternative commercial arrangements.

CitiPower/Powercor: The Businesses note that the AER does not encourage separate network charges for exempt networks. However, bundled energy and external network tariffs may invariably include internal network charges and the Businesses query how the AER will monitor these charges to ensure that they do not include fees for internal network charges. The Businesses also note that internal network charges are only permitted in exceptional circumstances. However, where internal network charges are permitted, the Businesses consider that the AER should consult affected parties on why internal network charges are necessary.

VicUrban: It is likely that Charge Group A would apply in most cases, i.e. a bundled rate would be offered to customers, which would incorporate any network charges as part of the tariff. Charge Group E appears to provide a mechanism for customers within an embedded network to install generation and gain credits for electricity exported to the grid. Further clarity may be required in relation to whether this rebate would also allow for access to feed-in-tariffs for small scale embedded generation such as solar panels installed at households.

Network Energy Services: Other situations such as unbundled billing for large or specialized customers require shadow pricing to ensure that both the customer and the NSP are treated fairly and so that the customer can compare pricing within the embedded network to other pricing from licensed retailers. It is natural for the customer to expect that the regulated portion of their price will be at worst the same in each case and more than likely cheaper in the case of the embedded network where the exempt seller may not charge for items that Distributors and Licensed Retailers will charge for, such as metering and data collection. It then means that the customer can get a clear picture of the difference in the energy price between the exempt seller and licensed retailers. Such an approach is fair to both the NSP and the consumer. Comments related to Charge Group E are not supported where the AER states that it is not appropriate for the NSP to retain the benefit of credits earned by the generator in this case houses with PV. The assumption is made here that the statement refers to the broader definition of exported energy rather than referring to RECS. We agree that RECS should belong to the generator.

In the case of houses in a retirement village the net excess generation can offset the cost of imported energy and hence reduce the cost of common area electricity. When that occurs the village as a whole benefits (because residents pay for the cost of their common area electricity via their monthly village service fees). As mentioned residents are themselves often the NSP and they view this use of credits (exported electricity) as being a community activity and they would not necessarily want those credits to be rebated to the houses to the detriment of the community.

We can understand that situations would exist where NSP should not "rip off" generators within the embedded networks but there must be the flexibility within an embedded network for community minded strategies to exist.

WINenergy:

"Charge Group A covers bundled energy and network tariffs. Most energy users are ultimately concerned with the overall expense of their energy consumption. The AER expects a large proportion of on-sellers will offer a bundled price inclusive of all external network charges. The critical point of comparison for the consumer is the bundled price of energy and network charges to alternative energy supply options." WINenergy agrees with the above statement and consider that it needs to be reconciled to the commentary pertaining to question 19 on network charge recovery.

Q21. Should any other charge groups be permitted by the AER? If so, why?

No submissions were made on this question.

Q22. Do stakeholders have any comments in relation to the requirements for registration or application for an individual exemption?

Active Utilities: Further clarity on the role/authority of an Agent within the process

SP AusNet:

Lack of Clarity in the Requirement for Individual Exemption—
There appears to be a disconnect between the wording in the body of the CP and the proposed Exemption Class Table. Whereas the words suggest that "most exempt network activities will fall within deemed and registrable classes of exemptions" the exemption class tables suggest something different with many classes rightly requiring registration based exemption for new embedded networks after 1 January 2015.

Hence for example our understanding of the Table 1 and Table 2 class tables currently has the following approach:

For a residential unit block

If less than 12 residences
- ND2 Deemed exemption if established before 1 January 2015. This would exist in perpetuity.
- NR2 Individual exemption if established after 1 January 2015

If greater than 12 residences
- NR2 Registrable exemption if established before 1 January 2015. This would exist in perpetuity
- NR2 Individual exemption if established after 1 January 2015

This leaves the AER approach with respect to when Individual Exemption will be required as somewhat unclear. The Exempt Onseller Guideline clearly expects Individual Exemption for many classes of embedded networks after a transitional period which ends at the end of 2014.

SP AusNet concur with the AER's proposal that Individual Exemptions is the approach for a number of classes of embedded networks from the end of 2014. However because registration per se enables the AER the greatest ability to scrutinise and influence the individual characteristics of proposed embedded networks, it is SP AusNet's view that it is the registration of the embedded network which offers the greatest step forward from the current jurisdictional license exemption regimes in the visibility, management, and regulation of embedded networks. Whether these embedded networks are subject to registrable or individual exemption is generally of a lesser concern.

However if it is determined that the requirements for Individual Exemptions is relaxed, it should be recognised that whereas Registrable Exemptions may be satisfactory for many embedded networks Individual Exemption with its higher level of scrutiny is required for same situations. These situations should be subject to a wider definition which would make it clear to the party seeking exemption.

SP AusNet consider that individual registration must be applied where there are special circumstances which could put customers of the embedded network at additional risk. For SP AusNet this additional risk should include circumstances such as:

- Load provided by embedded generators such that supply from the registered network does not meet the full load of the customers
- Other supply arrangements which make customer vulnerable to supply condition changes (e.g. use of commercially sourced supply facilities or easements)

There are likely other retailing risks could also be defined which make Individual Exemption a must.

CitiPower/Powercor:

The Businesses question whether there will be a requirement for the DNSP to sight exemption documentation prior to the establishment of an embedded network. This may be an important mechanism for the AER to ensure its public register is accurate and up to date, and to ensure that embedded networks understand their obligations as an operator.

The Businesses consider that the requirement placed on registered and individual exemptions to notify the AER of any changes to their circumstances should apply to deemed exemptions also. The Businesses note that with respect to registered exemptions, 'if any of the information provided to the AER for the purposes of registration changes during or after registration, the AER should be notified within 10 business days of the change to ensure that registered exemption remains valid.' Similarly, for individual exemptions, 'if any of the information provided to the AER for changes during or after the individual exemption application is made, the AER should be promptly notified of the change.'

The Businesses consider that a similar requirement should be placed on deemed exemptions as the embedded network operator may be in breach of the exemption, with the AER unaware of the circumstances. For example, a deemed exemption under Class D2 or ND2 may exceed the threshold for the number of residences for metered energy onselling. Unless the requirement is placed on the operator to notify the AER of changes (in this case, to the number of allowable residences) the AER may never be aware of the breach of the deemed exemption.

Q23. Are there any other matters the AER has not considered in this draft network Guideline which stakeholders believe should be addressed?

Ausgrid:

Solar Bonus Scheme and embedded generator connections—
The NSW Solar Bonus Scheme has highlighted issues with child metered installations wishing to become small scale embedded generators.

It is clearly the intent of this Guideline to facilitate such connections but how would the generated output be controlled? What involvement would the DNSP have in setting limits or controlling the type of generation installed? Would a conversion of a "brown fields" site to an embedded network make

existing Solar Bonus Scheme sites non-compliant, as they would no longer be connected to the DNSP's network?

This will require the DNSPs to prepare their own guidelines as well as those by the jurisdictional regulator.

What constitutes a "network" in the first place—
In paragraph 1 of the Guideline the AER states as follows:

"In this Guideline the terms 'embedded network' and 'exempt network and 'embedded or exempt network' are interchangeable. The terms refer to the physical assets that deliver electricity to another person or party and include for example any wires, switches, meters, transformers or other electrical equipment owned, operated or controlled by the applicant. Anyone, no matter how small the network, who supplies electricity to another person over an embedded network of any kind, is providing an electricity distribution service. An exemption may be required for any network by which electricity is supplied to another party, be that party a legal person, corporation, government department or statutory body of any kind."

We understand that the AER takes the view that if the electrical infrastructure (e.g. poles and wires) is owned or operated by a different person from the end-use customer or generator, then the infrastructure will be classified as a "network" and hence the owner or operator of the network will need either to register or obtain an exemption. If, however, the infrastructure is owned or operated by the end-use customer or generator, it will not be classified as a "network", but instead as either an electrical installation (in the case of customers) or part of the generator's facility (in the case of generators).

While this would appear to be a sensible approach to take, it does not appear to be entirely borne out through the relevant definitions under the NERs (such as through the definition of "network", "connection assets" and related terms). For example, the definition would appear to capture a generator's connecting line even if owned by the generator. Furthermore, how would a direct line from a power station to a customer located in the power station grounds be regarded?

These issues should also be addressed through Rule changes for clarity. Furthermore, there is some need for consistency in approach and terminology between the NERs and jurisdictional electricity legislation.

Legal status and enforcement—
Although the AER has formal authority under the NERs to develop and implement the Guideline, Ausgrid queries:

(a) the extent to which exemption conditions are enforceable (noting that the only remedy for breach of condition may be revocation of the exemption); and hence
(b) the appropriateness of exemption conditions as a means of regulating some of these aspects being covered (as opposed to being specifically regulated under NERs or jurisdictional legislation, or in some other way).

Timing of implementation—
Ausgrid understands that the AER intends to implement these Guidelines at the same time as its Exempt Selling Guidelines, and to have these both commence at the commencement of the National Energy Customer Framework (proposed to be 1 July 2012). However, Ausgrid queries what would happen if certain aspects of the National Energy Customer Framework are delayed in any particular jurisdiction (noting that, for example, it is not proposed to commence many of the retail aspects of the National Energy Customer Framework in NSW until 1 July 2013).

SP AusNet:

Network Exemptions and Jurisdictional License Exemptions—
The Guideline needs to clarify the relative roles of the AER Exemption and the Jurisdictional Network License Exemption going forward.

It is clear that there will be only one process for retailers, such that the AER will provide authorisation which will enable a party to operate as a seller of energy and also to trade in the AEMO market

(providing additional requirements regarding financial rules are met). However under NECF it would appear for networks there will still remain two regulatory processes.

For distribution activities a party must register with AEMO or gain an exemption from the requirement from AER. However to carry out network activities in a Jurisdiction under NECF will the party still need to have a License in the Jurisdiction or presumably still gain a license exemption?

Until recently the proposed activity of the applicant was certified by the ESC as being consistent with the scope of Clause 5 of the General exemption Order under the EIA Section 17, and an order in council was then gazetted for a Victorian license exemption.

Once NECF and the new Network Exemption Guideline are in place what then is the process for a party seeking to carry out network functions on an embedded network? Do they still require a Victorian exemption? Or is the AER regime to replace any jurisdictional exemption? Or is the AER process going to automatically provide a Victorian license exemption? Does this require a Victorian EIA revision as part of the establishment of the Victorian specific adjuncts and support "rules" to the NECF?

AER clarity of the full regime is required.

Limit of Embedded Network Premises Unclear—
In the Consultation Paper definitions, onselling is defined as "where a person acquires energy from a retailer" and then sells energy "within the limits of premises owned, occupied or operated by the person".

This does not clearly limit onselling to a single premise or site, and is likely to lead to perverse outcomes where the embedded network extends to a number of properties and involves reticulation along and across public roads, or across "private easements". SP AusNet consider that these type of scenarios are outside the accepted scope of an embedded network and present a number of supply risks.

The definition needs to have additional clarification.

Embedded Network Connection Agreements—
SP AusNet consider that the operating arrangements and DNSP / "customer" arrangement for an embedded network are markedly different to those applicable to a "normal" customer connection point that a distinct connection agreement over and above the deemed connection agreement is required to manage this arrangement. Although SP AusNet has not put in place a definitive view of our NECF customer contract structure, we would envisage that this need for a separate connection contract for embedded network customer will remain a feature of the SP AusNet contract suite. This is also more than likely the approach across other DNSPs.

SP AusNet hence would consider that the Guideline should strongly emphasise that whilst the AER Guideline governs the authorisation requirements, that the connection of an embedded network to an DNSP is more than likely to be subject to requirements that the embedded network customer enter into a "special" connection agreement with the DNSP. It should be clear that this obligation to notify the DNSP of an embedded network and enter into the DNSP's embedded network connection agreement may apply even though the AER do not require registration but rather have only a deemed exemption for the relevant class of embedded network concerned.

The AER's regime should provide strong recognition of the DNSP contractual obligations which can exist under the NECF contractual framework. The exempt network service provider condition should include formal contact with the DNSP and the obligation to have agreed with a connection agreement where one is required.

Generation Embedded Networks—
Embedded networks which involve generation plant, whether because solar generation is a feature of the embedded network or through the embedded network supporting electric vehicle (EV) charging station which may allow drawing on the EV battery as a source of energy under particular circumstances, can cause particular network problems, either localised or potentially broader depending on the scale of such generation.

Generation plant can cause safety issues for network personnel or other customers under system outage conditions, or voltage issues in areas where there are concentrations of generation. These issues are already impacting networks and will be a growing impact and concern especially if these generation capabilities are not known to the DNSP as the customer involved have not got the applicable specific connection agreement with the DNSP.

These issues will arise irrespective as the whether the generator is a separate installation/customer or part of a customer installation, and is applicable irrespective as to whether the customer is an exempt customer or a customer of an authorised retailer.

Within SP AusNet (and other networks) there is a requirement for all smart generation units to be tested to ensure that under loss of mains supply condition they are not going to continue to generate into the grid. This is an important safety issue and the Guideline must ensure that the exempt network service provider makes generation installations visible to the DNSP so that this tested can be carried out and the necessary owner commitments for ongoing testing established.

SP AusNet strongly advise therefore that these types of embedded networks with generation should be subject to a mandated registration so that they are visible and that the condition of that registration (or of their deemed authorisation if the AER persevere with these only requiring deemed exemption) is having a suitable connection agreement in place with the DNSP.

Embedded network roles and the concept of the Specialist external provider—
The AER states that the person who forms the contract with the parent NMI authorised retailer (the parent retailer) must be the person holding the retailer exemption. This could either be the party who is the embedded network owner (ENO) or the network operator (the person who "controls" the embedded network), or could be another party with no other relationship with the embedded network other than to provide a retailing function on the embedded network including the contracting of supply through their contract with the parent NMI authorised retailer.

AER are proposing that such a person is termed a Specialist external provider (SEP). Hence where an entrepreneurial supplier of embedded network services carries out all the onselling functions and has the customer relationship with respect to energy sales they still are not, and cannot be, the exempt onseller unless they are specifically the contracted party with the parent's authorised retailer. Conversely a party, whether the network controller or any other third party with no interest in the embedded network, can be the exempt retailer even if they outsource all retailer duties, providing it is them that hold the contract with the parent's authorised retailer.

This does raise some concerns with respect to the various roles and parties and their relationships with customers. There has been some perception in the past that an exempt seller has a relationship with customers on the embedded network by virtue of the other service arrangements between the parties e.g. rent, common services, etc.

The concept of the SEP removes all this. In fact there is no requirement for the SEP to even have a contract with the customer; this relationship could be established indirectly as part of the ENO's relationship with the customer and the SEP. This raises concerns regarding the SEP being assigned roles which require a relationship with the customer, in particular life support details obligations, which would appear to better rest under these circumstances with the exempt network.

Any significant uptake of this model where the third party provider of billing services becomes the exempt onseller by virtue of a contract with the parent's authorised retailer will break the nexus between the title and identification of the network and the identification of the exempt onseller. That is: whilst ABC Retirement Village might be the exempt network the exempt onseller might be XYZ Metering.

The AER must recognise these issues and clarify these roles so that there is no potential misunderstanding going forward.

Seed Advisory:

We think the AER should include some discussion on its interpretation of the phrase *owned, operated or controlled* in the network Guideline.
The AER's interpretation of the phrase *owned, operated or controlled* is likely to be important in the circumstances described above, where elements of the operation supplying services to customers are owned by different parties, in:

- determining which entity is required to register for an exemption or seek an individual exemption in the case of the network covered by the AER's framework
- determining the requirement to reapply for an exemption in the case of a sale of one or more of the assets.

If the AER's interpretation is that control of the network lies with the organisation selling the energy and other services, then ownership of individual assets could change without triggering a requirement for a further application for registration or exemption. Alternatively, in an analogous way to the current relationship between the retail and network businesses, the exemptions relating to a single site could be held by different parties – the network owner or operator and the organisation managing the sales of electricity and gas – maintaining the alignment the AER is seeking, but recognising the different economic interests and responsibilities of the parties involved.

CitiPower/Powercor: As noted above, the terms exempt networks and embedded networks have different meanings and therefore should not be used interchangeably.

VicUrban: In the case of a district-scale network, there may be situations where a single entity has ownership of a precinct, which is subsequently sub-divided and sold to individual land owners. It is not clear from the current guideline what entity is eligible to be the exempt party when considering this type of embedded network. Clarity may be required to outline eligibility requirements, for example, whether the exemption relates to the operator of the embedded network at the site, or whether it relates to the owner or occupier of the site. In this scenario, clarity is required in relation to whether an owners' corporation or equivalent needs to be established to oversee the governance arrangements of the infrastructure. Clarity is also required regarding whether the AER has considered a scale or size of network at which eligibility for exemption no longer applies. In the event that customers within an embedded network invoke their right to choice of retailer, the process for the embedded network operator to negotiate a use of system charge with the retailer is not clear.

WINenergy:

DNSP recognition of embedded networks

The metering records in MSATS are very important in maintaining the integrity of the NEM. The manner in which this is achieved is different with every DNSP. This is particularly problematic when an existing building is converted into an embedded network and existing metering records have to change. Some DNSP's state that "they make the rules", and they attempt to deny property owners the ability to install an embedded network. They claim that embedded network guidelines of AEMO are not rules and can be ignored by DNSP's. It is essential that the proposed AER guidelines are enforceable. One DNSP is on the record as saying that embedded networks don't exist. Other DNSP's complain that their position as a Responsible Person in EN sites is burdensome and uneconomic. All the services they actually provide are:

1. Register the parent meter with an EN code on MSATS
2. organize metering and meter reading for Child customers in the embedded network
3. Register Child NMIs as EN customers & assign them to the parent meter EN code

A far better solution would be for the parent meter FRMP to assume responsibility as the RP for Child meters within the EN. This will ensure that DNSPs have no more responsibility past the connection point and can treat an EN just like any other market customer.

Special Embedded Network Tariffs

We refer to the conversation on network charges:
"External network charges are those charges which may be levied by a registered NEM NSP and charged to the parent meter of an exempt network. These charges are known variously as 'transmission

use of system charges' (TUOS), 'distribution use of system charges' (DUOS) and 'network use of system charges' (NUOS) charges depending on the jurisdiction in which the network is located."

Network charges are of course set by the AER following length submissions of the DNSP's and DNSP's have varying tariffs depending on load and demand. What we believe unjustifiable is that they can charge different tariffs to premises with identical load characterises just because one building hosts an embedded network. Some DNSPs have created EN network tariffs, which are generally about 8% higher than non-EN tariffs for a similar load connection. DNSPs apply these tariffs across all EN sites, irrespective of whether there are any CHD customers in the EN.

Shopping Centre Council of Australia: there needs to be a mechanism for transferring property ownership, which occurs due to merger and acquisition activity. A transfer of ownership (e.g. taking a half share in a shopping centre) should not require a fresh application, which could risk the asset becoming redundant or require rectification. A mechanism where the AER is merely advised of the change of ownership details would enable simpler administration of the scheme.

Where there are child meters, there needs to be clarification around who installs and manages the data from these meters, as well as the costs of change-over and ongoing maintenance, To facilitate a streamlined national approach to this matter, there needs to be consistency between jurisdictions and greater efforts on the part of traditional energy retailers and DNSP's to provide processes and technology to facilitate retailer of choice.

Envestra recommends that a precondition be established that in order to secure a gas retail exemption an ENO must also secure a gas distribution network exemption.