



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

16 December 2011

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## Who does this guideline apply to?

Read on if you are involved in allowing anyone else to use electricity by connecting to wiring in a:

- farm
- hotel
- factory
- car-park
- public land
- shopping centre
- industrial estate
- private property
- retirement village
- industrial complex
- strata-title property
- office development
- mining development
- residential development
- tram, train or rail network or
- anywhere else!

If so, you may be operating a private electricity network — which is illegal unless it is registered with the Australian Energy Market Operator (AEMO) or exempted from registration by the Australian Energy Regulator (AER).

To avoid the risk of serious penalties you might only need to make some small adjustments. You might not have to do anything at all. Maybe, you need to register your details with the AER. Or, you may need to register with AEMO or apply to the AER for an individual exemption.

This guideline will help you decide what you must do.

**Warning:** All private networks are subject to conditions. Even if your network is in a ‘deemed’ category, if you fail to observe the relevant conditions your exemption may be invalid. This may expose you to a civil penalty under the National Electricity Law.

In this Guideline the terms ‘private network’, ‘embedded network’ and ‘exempt network’ are generally interchangeable. The terms all refer to the physical assets that deliver electricity to another person or party. They include any unregistered privately owned wires, switches, meters, transformers or other electrical equipment owned, operated or controlled by the applicant. In some jurisdictions one or other term is used, or some of the terms have narrow meanings when used by the local electricity distribution company or referred to in legislation or regulations. However, for the purposes of the National Electricity Law all private networks must be registered with AEMO or exempted by the AER.

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## Shortened Forms

<b>ABN</b>	Australian Business Number
<b>ACN</b>	Australian Company Number
<b>AEMO</b>	Australian Energy Market Operator
<b>AER</b>	Australian Energy Regulator
<b>ACCC</b>	Australian Competition and Consumer Commission
<b>DLF</b>	Distribution Loss Factor
<b>Electricity Law</b>	National Electricity Law
<b>NEL</b>	National Electricity Law
<b>NER</b>	National Electricity Rules
<b>NMI</b>	National Meter Identifier
<b>NSP</b>	Network Service Provider
<b>Public Register</b>	Public Register of Authorised Retailers and Exempt Sellers
<b>Retail Law</b>	National Energy Retail Law
<b>Retail Rules</b>	National Energy Retail Rules

# Dictionary

**body corporate** means a controlling body of a scheme constituted under state or territory strata titles legislation, the members of which are lot owners (or their representatives), and includes an owners corporation but is not a body corporate for the purposes of the *Corporations Act 2001* (Cwlth).

**customer** means a consumer of electricity for primary industry, domestic, commercial or industrial use but does not include a wholesale market customer who is registered by AEMO as a Customer under Chapter 2 of the NER.

**disconnect, disconnection** of premises means in the case of electricity, the opening of a connection in order to prevent the flow of energy to the premises.

**embedded network** see private network.

**energy** means electricity.

**energy Ombudsman scheme** means a scheme associated with the energy Ombudsman for the relevant state or territory as prescribed in the National Energy Retail Regulations.

**exempt network** see private network.

**large customer** means a business customer who consumes energy at business premises at or above the upper consumption threshold, as defined by the relevant jurisdiction. If no threshold is defined, 100 megawatt hours per annum for electricity.

**meter** means any device (compliant with metrology requirements and Australian standards) that measures the quantity of energy passing through it or records the consumption of energy at the customer's premises.

**off-market energy generation** means an energy generation option not required to be registered with AEMO under clause 2.5.2 of the NER and applicable AEMO guidelines.

*Note: The category includes — but is not limited to — small scale diesel, petrol, bio-fuel, gas (including coal-seam and other methane sources), fuel cells, an electric vehicle inverter, thermal-electric, geothermal, solar (including photovoltaic), wind or hydro generation and cogeneration and tri-generation installations.*

**on-market energy generation** means an energy generation option required to be registered with the AEMO under clause 2.5.2 of the NER and applicable AEMO guidelines. This category includes the four AEMO registration categories of scheduled generation, non-scheduled generation, market generation and non-market generation.

*Note: The category includes — but is not limited to — small scale diesel, petrol, bio-fuel, gas (including coal-seam and other methane sources), fuel cells, an electric vehicle inverter, thermal-electric, geothermal, solar (including photovoltaic), wind or hydro generation and cogeneration and tri-generation installations.*

**onselling** means an arrangement where a person acquires energy from a retailer following which the person acquiring the energy or a person acting on their behalf sells energy for use within the limits of premises owned, occupied or operated by the person.

**private network** means any network connected to the NEM or an islanded network subject to regulation under the NER, supplying electrical energy to a third party, but not a transmission or distribution network registered with AEMO.

**residential customer** means a customer who purchases energy principally for personal, household or domestic use at premises.

**Responsible Person** has the meaning specified in clause 7.2.1(a) of the NER

**retailer** means a person who is the holder of a retailer authorisation for the purposes of section 88 of the Retail Law.

**small customer** means a customer—

1. who is a residential customer, or
2. who is a business customer who consumes energy at business premises below the upper consumption threshold, as defined by the relevant jurisdiction. If no threshold is defined, 100 megawatt hours per annum for electricity.

# Part A – Introduction and exemption classes

## 1. Introduction

This Guideline relates to a privately owned embedded or exempt network ('private network'). A private network means any network for the supply of electrical energy to a third party, but not a transmission or distribution network registered with the Australian Energy Market Operator (AEMO). Persons involved in the onselling of electricity may, depending on their circumstances, need to conform both to this Guideline and the Australian Energy Regulator's (AER) guideline for retail exemptions, the Exempt Selling Guideline.

The Electricity Network Service Provider Registration Exemption Guideline (network Guideline) replaces two network exemption guidelines first issued by the then National Electricity Code Administrator. These guidelines were inherited by the AER in the transfer of functions when the AER formed in 2005. This network Guideline applies to all private networks in operation on or after 1 January 2012.

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

Under the National Electricity Law (NEL) and the National Electricity Rules (NER) a party that engages in an electricity distribution activity must either be registered with AEMO as an electricity distributor or gain an exemption from the requirement to be a registered network service provider from the AER. The granting of an exemption can also potentially relieve a network owner/operator or controller of the requirement to comply with the technical requirements set out in Chapter 5 of the NER and/or the obligation to provide other network suppliers and other registered participants in the NEM with access to its network and other obligations which exist under the NER, but not safety and related requirements.

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

The AER's requirements governing exemptions from retail onselling registration are set out in the AER's Exempt Selling Guideline, which should be read in close conjunction with this Guideline in any situation where the onselling of electricity to another party arises. The term onselling has very broad connotations. It may include all manner of situations including residential boarding houses, flats, apartments, retirement villages, caravan parks, retail centres, strata title, industrial parks, office building, mining facilities, joint venture arrangements, quasi-retail or distribution arrangements and third-party connections to generators to name but a few examples. Where onselling takes place both the party onselling electricity and the network owner and its agents must be registered or exempt under these two guidelines.



To align the process for 'registrable' exemptions as closely as possible with the equivalent provisions in the Retail Law the AER has expanded the range of predefined classes to encompass both 'deemed' and 'registrable' exemptions. These terms are explained in detail later in this guideline. The AER will accept both 'deemed' and 'registrable' exemptions as compliant, subject to the network owner/operator/controller fulfilling the requirements set out in this Guideline.

The third category of exemption is 'individual' exemption. Applications for individual exemption, which includes applications for a variation of the conditions attached to a deemed or registrable exemption, will be subject to a formal determination by the AER. The AER will review, and if necessary, modify this approach on the basis of the observed market outcomes.

This Guideline is issued in accordance with clause 2.5.1 of the NER. The two previous AER network exemption guidelines have been revoked as of 1 January 2012. Existing individual exemptions as published on the AER website remain in place and are unaffected by the issue of the Guideline.<sup>1</sup> All other pre-existing exemptions must comply with this guideline including, where required, registration of the network in the 'registrable' exemption category as provided for in this Guideline.

In particular, the network Guideline is concerned with conditions for exempting a party from registration as a network service provider and/or the operation of chapter 5 of the NER. The network Guideline is not applicable to network assets registered with AEMO by a network service provider. Nor does this Guideline apply to an exempt network which is registered by an intermediary under clause 2.9.3 of the NER.<sup>2</sup>

Historically, in some jurisdictions a distinction may exist between networks exempted by the AER and published as such ('exempt networks') and networks determined by the activity undertaken within the network to be 'embedded' networks. This latter category included caravan parks, strata title premises, shopping centres, office buildings and the like.

In this network Guideline the AER has adopted a modified approach closely aligned to the Exempt Selling Guideline approach to classification. The key regulatory factor is whether the network is providing electricity to a third party for any reason. As is the case in the Exempt Selling Guideline, two broad exemption categories are defined — deemed exemptions and registrable exemptions. Within these two categories a number of classes are described for a range of activities. The third category is individual exemptions.

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

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<sup>1</sup> If your network is not registered by name in the list of individual exemptions published on the AER website you do not hold an individual exemption: see <http://www.aer.gov.au>

<sup>2</sup> An *intermediary* is, in this Guideline as per the NER, a registered network service provider.

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

The intention of the AER is to align the deemed and registrable exemption classes herein with the equivalent classes set out in the AER's Exempt Selling Guideline. Should any inconsistency in interpretation arise between the two guidelines the AER will have regard to the Exempt Selling Guideline in resolving the inconsistency. This means that if a change is made to the activity description or eligibility criteria of an exemption class in the Exempt Selling Guideline, the AER will apply the same description or criteria to amend the equivalent network Guideline class. All deemed and registrable exemptions are exempt from the operation of chapter 5 of the NEL.

The National Electricity Rules also provide for individual exemptions which are a single category described in Table 5. Applications for individual exemptions which involve a variation of conditions will be subject to rigorous scrutiny and will only be granted in exceptional circumstances. They will also be subject to a careful examination of public benefits and any detriments to customers. They are registrable and will be published as such.

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

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

The National Electricity Law requires everyone associated with a private network to register or be exempt. This includes the network owner and may also include a lease holder or the joint owners' legal representative if they have rights over the physical assets that comprise the private electricity network. If no other person or firm is involved the network owner(s) have whole responsibility for the registration and operation of the network.

Where the network owner has made an agency arrangement with another entity to be the 'operator' or 'controller' of the network, registration or exemption of the agent is also required. The 'operator' or 'controller' of a network is anyone who arranges to provide services normally associated with a network service provider. Examples include, but are not limited to: fault response; metering and meter reading; switching (fuse removal); access management to meters and meter panels; interfacing to a NEM registered distributor re these matters, etc.<sup>3</sup> The terms 'operator' and 'controller' are largely interchangeable when applied to a private network.

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<sup>3</sup> The 'agent' operating or having control of the private network may, for example, be a property manager or a specialist energy services company engaged to arrange or provide energy services to customers. This role is generally distinct from the role of people or firms engaged by the owner or the agent to design, install or service a network such as architects, engineers and tradesmen. These latter activities do not normally require exemption.

## 2. Deemed Exemption Classes

Subject to compliance with the activity description set out in Tables 1 and 2, and the relevant conditions, no application is required for a deemed exemption to apply. Failure to comply with the conditions is an offence. These requirements apply to the network owner, network operator and any party or agent of the owner or operator who has control of the private network.

### Energy Onselling

The conditions set out in sections 5, 6, 7, 9(1) and 10 of Part B of the Guideline apply to deemed exemption classes ND1 through ND8. Note that where the customers within an embedded network seek access to full retail competition and the metering installation permits such access the exemption will be registrable, not deemed. The applicable class of exemption is class NRO5 in table 4.

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

<b>Class</b>	<b>Activity</b>	<b>Deemed exemption applicable to:</b>
ND1	Bodies corporate or owners' corporations that pass on the cost of (metered or unmetered) energy for common areas through body corporate fees	Current and future onsellers
ND2	Metered energy onselling by residential landlords or lessors operating under jurisdictional residential tenancy to less than 20 residences	Current onsellers and onsellers who commence operation prior to 1 January 2015
ND3	Metered energy onselling to short term residents in holiday accommodation	Current onsellers and onsellers who commence operation prior to 1 January 2015
ND4	Metered energy onselling in residential situations not covered under jurisdictional residential tenancy legislation	Current onsellers and onsellers who commence operation prior to 1 January 2015
ND5	There is no class ND5 – the equivalent retail guideline class applies only to gas onselling	Not applicable
ND6	Unmetered electricity onselling in Queensland to small customers.	Current onsellers and onsellers who commence operation prior to 1 January 2015
ND7	Landlords or lessors passing on common area energy costs to premises in commercial developments	Current and future onsellers
ND8	Exemption for persons engaged in the onselling of energy to a related company	Current and future onsellers

Notes: Classes of exemption labelled 'ND\_' are 'network deemed' classes. Classes ND1 through ND8 are aligned to the Exempt Selling Guideline. The activity description and application criteria in this table are indicative only. Applicants should refer to Attachment 1 of the Exempt Selling Guideline to determine eligibility for a deemed exemption.

### Network specific situations

The conditions set out in sections 5, 6, 7, 9(1) and 10 of Part B of the Guideline apply to deemed exemption classes NDO1 and NDO2.

For class NDO3 the conditions in sections 5(3), 5(4) (if relevant) and 6 apply.

For classes NDO4 and NDO5 the condition set out in section 5(3) applies.

Special Note for Generators: Simply owning a generator does not automatically mean exemption of your network is required. Exemption of the network is required only where a third party is involved. For example, a shopping centre will have tenants: therefore the network, including any generation sources must be exempted.

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

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

<b>Class</b>	<b>Activity</b>	<b>Deemed exemption applicable to:</b>
NDO1 <sup>4</sup>	Off-market energy generation by equipment owned, operated or controlled by a third-party and connected to the NEM via a private electricity connection or equipment intended solely to provide emergency energy supply	Energy generation installations not intended to supply network support or demand management services to the NEM and not otherwise required to be registered with AEMO <sup>5</sup>
NDO2	Sites broadcasting television or radio signals and/or mobile communications	Current and future facilities
NDO3 <sup>6</sup>	Electric vehicle charging station within a private network	Current and future facilities
NDO4	Temporary supply for the construction and commissioning phase of building, civil, construction industrial, transport, mining or other projects	Incidental supply to facilitate bona fide construction and commissioning of new facilities on the same or an adjoining site
NDO5	Electric traction systems supplying passenger or freight vehicles (i.e. rail networks)	Current and future facilities

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

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

<sup>4</sup> This class applies only to the network to which the generator is connected. Generator registration and exemptions are handled by AEMO. Safety requirements are determined by each jurisdiction.

<sup>5</sup> If you have a contract or agreement to supply network support or demand management services to anyone at all you must register under the appropriate class of Table 4.

<sup>6</sup> Note that no exemption is required if the charging facility is directly connected to a distributor.

### 3. Registrable Exemption Classes

Tables 3 and 4 set out the classes of registrable exemption. Parties who believe a registrable exemption is applicable to their current circumstances must, within not more than 10 business days of commencing to own, operate or control a private network, complete the registration requirements set out in section 11 in Part C of this Guideline. Multiple classes may apply to some private networks.

The conditions set out in sections 5, 6, 7, 8, 9 and 10 of Part B of the Guideline apply to all registrable exemptions unless specifically varied by a decision of the AER in response to an individual exemption application made in accordance with section 12.

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

<b>Class</b>	<b>Activity</b>	<b>Registrable exemption</b>	<b>Application for individual exemption</b>
NR1	Metered energy onselling by commercial/ retail landlords or lessors to small customers.	Registrable for current onsellers and those who commence onselling before 1 January 2015	Required for those who commence onselling on or after 1 January 2015
NR2	Metered energy onselling to residents where the relationship with the person is governed by state or territory body corporate legislation.	Registrable for current onsellers and those who commence onselling before 1 January 2015	Required for those who commence onselling on or after 1 January 2015
NR3	Retirement villages operating under state or territory retirement village legislation and onselling metered energy.	Registrable for onsellers commencing onselling before 1 January 2015	Required for those who commence onselling on or after 1 January 2015
NR4	Metered energy onselling in caravan parks, residential parks and manufactured home estates to residents who principally reside there.	Registrable for current and future onsellers	Only where exempt seller believes conditions of exemption are not appropriate for their situation
NR5	Metered energy onselling to large customers.	Registrable for current and future onsellers	Only where exempt seller believes conditions of exemption are not appropriate for their situation

Note: Classes of exemption labelled 'NR\_' are 'network registrable' classes. Classes NR1 to NR5 are aligned to the Exempt Selling Guideline. The activity description and application criteria in this table are indicative only. Applicants should refer to Attachment 2 of the Exempt Selling Guideline to determine eligibility for a registrable exemption.

As discussed in section 4, the AER does not anticipate the conditions associated with network exemption categories NR1, NR2 and NR3 will necessarily be amended from 1 January 2015. The application and approval process is, however, subject to change to maintain consistency with the retail onselling exemption guideline requirements.

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

<b>Class</b>	<b>Activity</b>	<b>Registrable exemption</b>	<b>Application for individual exemption</b>
NRO1 <sup>7</sup>	Off-market energy generation by equipment owned, operated or controlled by a third-party and connected to the NEM via a private electricity connection	Energy generation installations intended to supply network support or demand management services to the NEM	Only where exempt party believes conditions of exemption are not appropriate for their situation
NRO2 <sup>8</sup>	On-market energy generation by equipment owned, operated or controlled by a third-party and connected to the NEM via a private electricity connection	Energy generation installations required to be registered with AEMO under clause 2.5.2 of the NER	Only where exempt party believes conditions of exemption are not appropriate for their situation
NRO3	Ongoing supply to a mining or primary production facility and associated residential, commercial, industrial, processing and ancillary support facilities <sup>9</sup> in areas with restricted access to NEM supply	All bona fide installations, subject to demonstrable circumstances of remoteness from existing NEM supply infrastructure	Only where exempt party believes conditions of exemption are not appropriate for their situation
NRO4	Industrial, commercial and 'mixed-use' facilities but not including energy generation activity and any activity listed in table 3.	All installations	Only where exempt party believes conditions of exemption are not appropriate for their situation
NRO5	Metered energy onselling to customers in networks with metering infrastructure enabling access to full retail competition in a jurisdiction <sup>10</sup>	All installations	Only where exempt party believes conditions of exemption are not appropriate for their situation

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

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

<sup>7</sup> This class applies only to the network to which the generator is connected. Generator registration and exemptions are administered by AEMO. Safety requirements are determined by each jurisdiction.

<sup>8</sup> This class applies only to the network to which the generator is connected. Generator registration and exemptions are administered by AEMO. Safety requirements are determined by each jurisdiction.

<sup>9</sup> The term 'ancillary support facilities' is intended to be interpreted broadly to encompass a wide range of sundry activities including, but not limited to, incidental supply to local residents, local tourism, communication, health, public safety and emergency services.

<sup>10</sup> This class applies only to private networks where customers have access to full retail competition via 'child' metering registered in accordance with applicable AEMO requirements. It does not apply where a customer arranges direct connection to a NEM registered network service provider or where customers within a network do not require access to full retail competition. In all other circumstances, table 1 or table 3 applies.

## 4. Individual Exemption

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

The conditions set out in sections 5, 6, 7, 8, 9 and 10 of Part B of the Guideline apply to all individual network exemptions unless specifically varied by a decision of the AER. Where an application for an individual network exemption or for a variation of conditions is required, it must be made in the form set out in section 12 in Part C of this Guideline.

Parties who assume control of a private network subject to an individual exemption must, within not more than 10 business days of commencing to own, operate or control that private network, make an application for exemption in the form set out in section 12 in Part C of this Guideline

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

**Table 5 – Individual network exemption class**

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

Note: Exemption class 'NRI' is 'network registrable individual' exemption and has no equivalent in the Exempt Selling Guidelines. It applies to exemptions to individuals made in accordance with clause 2.5.1 of the NER.

Post 1 January-2015 the AER will move to individual exemptions for retail on-selling. The AER will, prior to the planned 2015 transition date, review the conditions set out in section 2 applicable to table 1 and in section 3 applicable to tables 3 and 4 to determine whether those conditions should continue to apply post-2015 in their current or a modified form to the network component of retail on-selling activities.

The AER's intention will be to predefine the network element of the conditions to apply to each class of retail on-selling activity post 1 January-2015. The AER does not propose requiring a detailed application for individual exemption as set out in Part C for network activities linked to retail on-selling post-2015, except where a variation of conditions is sought.

## Part B – Conditions

### 5. General requirements

The following conditions are applicable to all private networks unless varied in writing by the AER. These conditions will only be varied in response to a written application (see section 12) demonstrating that exceptional circumstances apply such that a material detriment to customers will be significantly reduced or eliminated by varying these conditions.

1. All meters used for the measurement of electrical energy whether delivered to, or exported by, a customer must comply with the requirements of the National Measurement Act and regulations made under that Act for electricity meters and sub-meters and with the requirements set out in schedule 7.2 of the NER.
2. All customers must be individually metered except where the AER has determined an unmetered supply is permitted.<sup>11</sup>
3. All private networks must, at all times, be installed, operated and maintained in accordance with all applicable requirements within the jurisdiction in which the network is located for the safety of persons and property, including where relevant an industry Code or Guideline otherwise applicable to a network service provider providing similar services. This includes, where applicable, an obligation to have current, and/or maintain, a safety management plan or similar, whether registered or unregistered with a competent safety authority or regulatory agency within that jurisdiction.
4. Any generation source located within a private network must be designed in the event of a loss of supply from the local network service provider's network either to shutdown entirely or must disconnect from that other network (i.e. 'island') and not reconnect except in accordance with arrangements approved by the relevant NEM registered network service provider.
5. All onselling conducted within a private network must be undertaken by:
  - a. a registered market retailer; or
  - b. by the holder of a valid retail exemption registered with the AER; or
  - c. by a party or parties entitled to a deemed retail onselling exemption in accordance with the current AER Exempt Selling Guideline.
6. A private network must have in place approved dispute resolution procedures which customers can access at no cost or on a fee for service basis. Where retail onselling is occurring under the Retail Law and a dispute resolution mechanism is available under that Law, the same arrangement may apply for the resolution of disputes. In all other circumstances a suitable dispute resolution mechanism must be specified in the formal

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<sup>11</sup> The AER does not approve unmetered supplies except in unique or exceptional circumstances. Existing unmetered supplies in accordance with class ND6 are permitted. The AER will have regard to the need for transitional arrangements in NEM Jurisdictions where unmetered supply has previously been allowed.



agreements between the network owner (or its appointed agent) and the end-use customer.<sup>12,13</sup>

7. Where a single customer has energy delivered to adjoining sites (not necessarily adjacent sites) or to multiple exempt sites within a jurisdiction and the sites are subject to a common supply arrangement and suitable metering is installed, meter readings for that customer may be aggregated for corresponding time periods.<sup>14</sup>
8. Applications for exemption are personal to the applicant. They are not transferable. No application is required for a deemed exemption. Registrable exemptions require minimal effort for a new proprietor of an existing registered exempt network to obtain and therefore an application for registration is to be made within 10 business days of acquiring a requirement to register.
9. The AER may revoke or amend an exemption at any time or may vary the conditions from time-to-time. If the AER does so it will notify a registered applicant using the registered contact details or otherwise, in accordance with the procedures set out in the NER.
10. Where notified by a customer ('life support customer') of the existence of a requirement to maintain supply for life support equipment, the private network operator must, without undue delay, promptly notify the local DNSP of the existence of a life support requirement in accordance with the reasonable requirements of the local DNSP.
11. A private network operator must not disconnect supply to a life support customer without making arrangements for the safety of a life support customer.

## 6. Metering Installation

The following requirements relate to all new installations and to any reconfiguration of a metering installation within an existing private network.

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

Network owners and operators must ensure that all metering installations used in private networks are fit for purpose and compliant with the requirements of the National Measurement Act, which is administered by the National Measurement Institute and the regulations in force under that Act. The AER does not require an existing metering installation to be upgraded; however, in the event of a billing dispute it will be incumbent on the network operator to demonstrate that the metering installation is accurate.

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<sup>12</sup> A suitable dispute resolution mechanism does not require express approval by the AER, but must be of a type ordinarily applicable to disputes of the kind, be reasonably accessible, timely, binding on the parties to the dispute and not subject to excessive or unnecessary costs nor to costs disproportionate to the amount in dispute.

<sup>13</sup> Where a network owner or operator appoints an agent, the principal remains responsible for ensuring this condition is satisfied.

<sup>14</sup> 'Suitable metering' means meters that record energy to the same accuracy class and equivalent time intervals, but not necessarily meters of identical design. 'Exempt sites' refers to private networks. This condition does not require that meter readings must be aggregated: it only permits them to be aggregated if a commercial agreement exists to do so. Note also that this condition does not require any NEM service provider or AEMO to modify its systems or procedures to facilitate aggregation.

Transmission networks:

1. Regardless of whether a network is registered with AEMO or exempted from registration by the AER, all metering in electricity transmission networks must be installed in accordance with all reasonable requirements of AEMO and additionally, in accordance with the requirements specified in a connection agreement with a network service provider.<sup>15</sup>

Distribution networks:

In all distribution situations meters must either:

2. be installed in a reasonably accessible location with safe, convenient and unhindered access to facilitate meter reading, testing and meter maintenance; or
3. in private networks serving only private network customers, meters 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.<sup>16</sup>

The metrology procedure and technical standards applicable to a metering installation remain subject to the laws of the jurisdiction in which the installation resides.

#### **4. Off-market and on-market energy generation**

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.

*A word of caution: Generator installations within private networks do not necessarily enjoy full access to government incentive schemes. A generator not directly connected to the NEM may have no access, or restricted access, to government or industry incentive programs that otherwise apply to other similar installations connected to a NEM registered service provider. In particular, access to premium feed-in tariffs may be problematic for such generators.*

It is not intended that small generator installations within private networks should be exposed to unduly onerous metering requirements. For generator installations less than 1MW and with a peak kilowatt capacity less than the average energy demand of the private network (or as otherwise varied by agreement with the local distributor) adequate metering may be determined in consultation with the relevant NEM registered service provider. For small installations this may involve a bidirectional meter installed at the connection point to the local distribution network.

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<sup>15</sup> A transmission network as defined in the National Electricity Rules is nominally one which operates at voltages of 220 kV and above or, subject to a determination by the AER, at lower voltages in parallel with and providing support to the main transmission network.

<sup>16</sup> Note: Where a meter is provided for use by a registered retailer, clauses 6(2) & (3) do not apply. Instead, the terms of an AEMO metrology procedure or AEMO Guideline may apply.

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

## **5. Electric vehicle charging facilities**

This classification only applies to a private network with a vehicle charging facility owned by another party connected to it. An exemption is required by the private network owner/operator if the private network sits between the DNSP and the charging facility. On the other hand, if the vehicle charging facility is directly connected to the NEM it will be directly metered by the local DNSP. Wherever there is a direct one-to-one relationship between the DNSP and the charging facility no network exemption is required.

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

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

Where the facility operates only as a load, metering and charging arrangements within the private network may be determined by agreement between the network owner/operator and the proprietor of the charging facility. If no agreement is reached then the conditions set out in sections 5, 7, 9 and 10 are to apply. A facility which includes a capacity to export electricity into the local distribution network must also comply with the metering requirements in clause 6(4) for energy generation sources.

## **7. Metering Accuracy**

Meters used within private networks must be pattern approved, consistent with the requirements of the National Measurement Act and regulations made under that Act, in accordance with the equivalent requirements for NEM electricity meters and to accuracy classes as stipulated in schedule 7.2 of the NER, unless otherwise exempted by the National Measurement Institute.<sup>17</sup>

## **8. AEMO & NEM requirements**

Billing and settlement of meters in an embedded (i.e. private) network is a complex area. In networks where none of the customers obtain supply from a NEM registered retailer there is not an immediate need to apply the unique metering identifiers issued by the local DNSP and record these in the market settlement system operated by AEMO. However, where a customer within a private network obtains supply from a NEM registered retailer there is an immediate need for the 'child' meter for that customer to be recorded in the metering and settlements system. The following conditions apply to a private network in jurisdictions where customers of private networks have access to full retail competition and where a customer has elected to obtain supply from a NEM registered retailer:

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<sup>17</sup> The Institute expects the requirement for pattern approval will commence from 1 July 2012.

1. Metering arrangements for customers obtaining supply from a NEM registered retailer must comply with all applicable AEMO requirements for, the installation and maintenance of a metering installation, the registration of meters, provision of metering data and, where necessary, the transfer of the customer to another retailer. This includes the requirements published by AEMO in a metrology procedure or in a Guideline applicable to a private network. A private network operator is required to permit reasonable access to an accredited metering service provider or a registered NEM participant or an agent, as appropriate, appointed by the 'Responsible Person' for the provision, installation, registration, reading and maintenance of the metering installation.<sup>18,19</sup>
2. All owners and operators of private networks must comply with the reasonable requests of a local Distribution Network Service Provider (DNSP) for demand forecasting data, relevant details of the physical network infrastructure and assets and any other data relevant to the control, operation or maintenance of the network.
3. Electrical networks may be subject to mandatory load shedding requirements in emergency situations, in accordance with the NER. This requirement will generally be specified by the local DNSP in the connection agreement for the connection to the NEM system.

## 9. Distribution Loss Factors

Distribution loss factors (DLFs) are governed by clause 3.6.3 of the NER. Under clause 3.6.3(b)(2)(i)(B) a 'small load' is any load or a collection of loads which, in total, is less than 10MW peak demand or 40 GWh per annum.

In private networks which in aggregate constitute a 'small load' and which serve a number of smaller loads ('children') the AER considers that network losses within the network will generally not be of sufficient magnitude to warrant adopting a DLF within the network that is different to the DLF that would be applied by the local DNSP at the metered point of connection, where practicable, or the DLF otherwise applicable to the connection of the embedded network to the local distribution network — i.e. at the 'parent' meter. However, although the children may each be small loads, the combined loading may result in an embedded network becoming a significant load, in which case clause 9(2) or 9(3) will apply.

1. For small loads the appropriate DLF applicable to the 'child' meters within the installation is the DLF as would be determined by the local DNSP. This approach will relieve the operator of a private network of the requirement to calculate and seek annual approval of a DLF for the child meters within that network.

For larger loads, generators and site specific loss factors:

2. Clause 3.6.3(b)(2)(i) of the NER applies to the calculation of a DLF for large loads and generators connected to a network. In private networks involving loads or generators otherwise described in clause 3.6.3(b)(2)(i) a site specific DLF for those loads or

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<sup>18</sup> AEMO issued an Embedded Network Guideline in November 2009. AEMO intends revising that Guideline following the issue of the AER's guidelines on network exemptions and onselling,

<sup>19</sup> The 'Responsible Person' is as specified in chapter 7 of the NER and in AEMO metrology procedures the NEM participant with financial responsibility for the energy used by a retail customer. Typically, this is the NEM registered Retailer.

generators must be calculated in accordance with clause 3.6.3(b)(2)(i) using the methodology published for this purpose by the local DNSP.<sup>20</sup>

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

Note that DLFs, including site specific DLFs, must be approved annually by the AER in accordance with the NER, clause 3.6.3(i).

## 10. Pricing

The following paragraphs describe predefined pricing arrangements accepted by the AER for network charges in private networks. Acceptance by the AER of a network charging mechanism is predicated on a requirement that there must not be a sustained over-recovery of any network charge. Where an over-recovery occurs, it is required to be rebated to customers at intervals of not more than annually. Note that the energy component of any charge is subject to the Exempt Selling Guideline.

### External network charges

External network charges may be levied by a registered NEM network service provider and charged to the parent meter of a private network. These charges are known variously as 'transmission use of system charges' (TUOS), 'distribution use of system charges' (DUOS) and 'network use of system' (NUOS) charges depending on the State in which the network is located. Such charges may be apportioned to each customer in a private network on a 'causer pays' basis in proportion to the metered energy consumption of each customer over the equivalent period no matter which charge group or groups apply (see Table 6).<sup>21</sup> Alternatively, the charges borne by each customer may be determined on a 'shadow price' basis. In this context a 'shadow price' is charging each customer a tariff no greater than the tariff that would have applied had that customer obtained supply directly from the local NEM registered distribution or, where appropriate, transmission company.

### Internal network charges

The AER does not encourage separate network charges for private networks. Few, if any, situations currently exist where such charges are warranted. The formal determination of

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<sup>20</sup> The NER specifies that the methodology for the calculation of distribution loss factors is either the methodology published by the local DNSP or as published by the AER. The AER has reviewed the methodologies of all DNSPs and concluded they are fit for purpose. Moreover, the AER currently considers publishing a single national methodology would result in significant disruption in a number of jurisdictions to existing pricing arrangements and unduly impact consumers.

<sup>21</sup> The AER recognises these charges may be difficult to apportion on a precise basis, especially where time variable charges apply. The shadow price approach may be simpler to implement in those situations or in situations where bulk supply is obtained at a different voltage level.

networks charges by the AER is a complex and involved process, the costs of which will usually be disproportionate to the scale of a private network.

**Table 6 – Network charges – applicable charge groupings**

<b>Charge Group</b>	<b>Description</b>	<b>Applicable situations</b>
A	Bundled energy and external network tariff	All retail onselling
B	No additional network charge	Unrestricted
C	Value added services	Eligible private networks only. Restricted application (see text).  Charging mechanism for network charges is specified in a commercial agreement.
D	Separate charge for private network facilities	Registered & individually exempted networks.  Pricing determined by the AER.
E	Rebate for exported energy	Unrestricted

### **Group A**

May apply to any retail onselling situation where customers are charged an energy only charge or all-inclusive tariff which includes external network charges. Many energy consumers are ultimately concerned with the overall expense of their energy consumption. The critical point of comparison in this situation is the bundled price of energy and network charges. The AER considers that bundled tariffs which include all network charges are unlikely to be contrary to the long term interests of consumers.<sup>22</sup>

### **Group B**

No charge is made for the private network assets. May apply in any private network situation.

Where an embedded network exists within a commercial building, shopping centre, retirement village or the like the AER considers the network development costs to have been met in the initial establishment of the facility. Such costs are capital in nature and are normally recoverable through lease payments, fit-out charges or the like. A charge for network services is not appropriate as it may result in the customer being charged twice for the same facility. Accordingly, no charge is permitted for energy network services.

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

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<sup>22</sup> This charge implicitly is a form of 'shadow price'. A customer is able compare this price with other retail offers and thus can make an informed selection.

### **Group C**

Applicable to network charges for exempt network classes NDO1, NDO2, NDO3, NDO4, NDO5, NR5, NRO1, NRO2, NRO3 and NRO4 and individual exemptions approved by the AER in accordance with section 12 of this Guideline. The network proprietor provides additional services to customers of the network such as on-site fault repair services. This group is intended to apply to commercial, industrial and mining situations and private networks serving large customers or on-site generation exporting to the NEM.<sup>23</sup>

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

### **Group D**

Exemptions in this category will only be contemplated in exceptional circumstances and require individual approval by the AER in accordance with section 12 of this Guideline. Parties wishing to earn a commercial return on network assets should generally be registered as a network service provider and be subject to the operation of chapter 6 or chapter 6A of the NER. Applicants in this charge group would need to demonstrate that NEM registration and compliance costs would be disproportionate to the size of the community to be served by the network and that compelling grounds exist for an exemption to be considered.

### **Group E**

Where a generator within a private network earns credits for energy exported to the NEM all credits remain the property of the embedded generator. All credits must be rebated to the embedded generator or, if more than one, to each embedded generator in proportion to the credits earned. This requirement does not prevent the embedded generator from entering into an agreement with another party to reallocate those credits.<sup>24</sup>

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<sup>23</sup> The general principle which applies here is that commercial arrangements between parties with similar bargaining power should not be regulated. Energy onselling to customers is permitted within this charge group in accordance with the relevant provisions of the AER's Exempt Selling Guideline.

<sup>24</sup> For example, a retirement village may develop a community scheme whereby each resident with a PV system surrenders their rights to the credits earned on appropriate terms.

## Part C – Registration, Applications and Revocation

### 11. Registrable exemption information requirements

Registrable exemptions do not require an application to the AER, but cover network activities that must be registered with the AER to receive the benefit of an exemption.

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

- the name of the party for whom exemption is sought;
- authorised representative contact details, including physical address, email address, and telephone contact numbers;
- whether registering as owner or as the controller/operator of a network
- location of the embedded or exempt network;
- the name of the NEM registered service provider to whom the network connects;
- nature of the activities conducted which require exemption;
- applicable class or classes of exemption;
- date activities commenced (may be ongoing);
- applicable dispute resolution mechanism;
- applicable enhanced safety management obligations;
- charging group or groups;
- distribution loss factor category; and
- if relevant, the name(s) of any NEM metering service provider(s).

Application forms can be downloaded from the AER's website. Applications to register or amend a registration may be made in writing or submitted electronically to the AER at [AERInquiry@aer.gov.au](mailto:AERInquiry@ aer.gov.au), in accordance with information requirements set out above. The AER will develop a unified registration process for both the network Guideline and Exempt Selling Guideline to facilitate applicants seeking an exemption from both sets of requirements.

The AER will acknowledge all registrations with a reply email and provide details of a contact person within the AER who will respond to any inquiries regarding the registration. If any of the information provided to 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 the registered exemption remains valid.

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

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



## 12. Application for individual exemption or variation of conditions

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

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

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

An application for an individual exemption must be made in writing and may be submitted electronically to the AER at [AERInquiry@ aer.gov.au](mailto:AERInquiry@ aer.gov.au). The AER will develop a unified application process for both the network Guideline and Exempt Selling Guideline to facilitate applicants seeking an exemption from both sets of requirements.

The AER will acknowledge all individual exemption applications with a reply email and provide details of a contact person within the AER who will respond to any inquiries regarding the

application. If any of the information provided to the AER for changes during or after the individual exemption application is made, the AER should be promptly notified of the change.

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

The AER is empowered to consult affected stakeholders on any application for exemption. This consultation may affect only a small number of parties if a small private network is involved or, where an application has potential to affect larger groups of customers, may involve a formal public process. In accordance with clause 2.5.1 of the NER, the AER will decide the scope of consultation on a case-by-case basis.

Applications may contain confidential information. If so, a redacted version of each submission is required in a form suitable for publication electronically should the AER elect to consult widely on a particular application.

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

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

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

### 13. Revocation of an exemption

The AER can revoke any network exemption granted including an exemption for a network operating under a deemed exemption or a registered exemption. The grounds for revocation are that the AER is satisfied that there has been a failure by the exempt party to meet the conditions imposed on them. We will consider what constitutes a 'failure' on a case by case basis as matters come to our attention. In general, the AER will conclude there to have been a failure by an exempt party where there is:

1. an unacceptable impact on a connected network; or
2. an unacceptable impact on national electricity market operations as a result of the operation of the network; or
3. the exempt party has not complied with conditions imposed on them as part of their exemption and as a result, there has been a significant or widespread impact on their customers.

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

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

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

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

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

## **14. Transfer, amendment or cessation of an exemption**

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

The notice must detail the change of circumstances and should be submitted at the earliest opportunity whenever an exempt private network is to be subject to a transfer of ownership, change of registration details or a change or restructure of accountabilities. If a notice is incomplete or missing necessary detail the AER may require further detail be provided before the notice is accepted and acted upon.

Note that the party acquiring an existing exempt private network is required to submit a registration application in accordance with Section 11 or Section 12, as appropriate. The conditions for the operation of an existing exempt network continue to apply until the AER determines otherwise in response to the new application.

Where a registered private network is to cease operation, the authorised representative(s) should notify the AER of the planned or actual date for the network to cease operation. The AER will deregister the network from the date specified in a notice.

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

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