



Consultation Paper

AER approach to electricity network service provider exemptions

June 2011

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Amendment record

Version	Date	Pages
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Contents

1	Shortened Forms	4
2	Dictionary	5
3	Introduction	7
4	Public consultation process.....	8
5	Overview of exemptions	10
5.1	Regulatory requirements for network service providers.....	10
5.2	Purpose of the network Guideline.....	10
5.3	Objective of the AER's network Guideline	10
5.4	Distinction between the AER's retail and network guidelines	11
5.5	Change of approach to network classes of exemption.....	12
5.6	Purpose of the network guideline and issues paper	12
6	The AER's network Guideline	13
6.1	Eligible classes of exemptions	13
6.2	Imposing conditions on exempt network service providers	20
6.3	Register of Exempt Networks	21
6.4	Registrable exemption application process.....	21
6.5	Individual exemption application process	21
6.6	Revocation of an exemption	22
7	Issues for discussion	23
7.1	General Conditions	23
7.2	Metering.....	25
7.3	Distribution Loss factors.....	26
7.4	Pricing	27
Attachment 1:	Specific NSP Exemption Guideline	30
Attachment 2:	General Exemption Guideline.....	33

1 Shortened Forms

ABN	Australian Business Number
ACN	Australian Company Number
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
ACCC	Australian Competition and Consumer Commission
ASIC	Australian Securities and Investments Commission
Electricity Law	National Electricity Law
NEL	National Electricity Law
NER	National Electricity Rules
NMI	National Meter Identifier
Public Register	Public Register of Authorised Retailers and Exempt Sellers
Retail Law	National Energy Retail Law
Retail Rules	National Energy Retail Rules
RoLR	Retailer of Last Resort

2 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).

commencement date means [Date to be specified: Day Month 2011]

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 National Electricity Rules.

disconnection of premises means—

1. in the case of electricity—the opening of a connection, or
2. in the case of gas—the closing of a connection,

in order to prevent the flow of energy to the premises.

energy means electricity or gas or both.

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 customer means a person to whom an exempt person sells energy and who would be a retail customer of the seller if the seller were a retailer.

exempt person means a person who is exempted by the AER under a deemed or registered exemption from the requirement to hold a retailer authorisation.

large customer means a business customer who consumes energy at business premises at or above the upper consumption threshold of 100 megawatt hours per annum for electricity or 1 terajoule per annum for gas.

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 and on-market energy generation means either **off-market energy generation** or **on-market energy generation**

off-market energy generation means an energy generation option not required to be registered with the AEMO under clause 2.5 of the NER and applicable AEMO guidelines.

Note: The category includes - but is not limited to - small scale diesel, petrol, bio-fuel, gas (incl. coal-seam and other methane sources), fuel cells, thermal-electric, geothermal, solar (incl. 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 of the NER and applicable AEMO guidelines.

Note: The category includes - but is not limited to - small scale diesel, petrol, bio-fuel, gas (incl. coal-seam and other methane sources), fuel cells, thermal-electric, geothermal, solar (incl. 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.

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

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 of 100 megawatt hours per annum for electricity or 1 terajoule per annum for gas.

3 Introduction

The Australian Energy Regulator (AER) is responsible for the economic regulation of electricity networks in the national electricity market (NEM). The AER is an independent statutory authority that is part of the Australian Competition and Consumer Commission. It was formed under Part IIIAA of the *Trade Practices Act 1974* (renamed the *Competition and Consumer Act 2010* on 1 January 2011).

Under the National Electricity Rules (NER), any party that engages in an electricity transmission or distribution activity must either be registered with the Australian Energy Market Operator (AEMO) as a network service provider (NSP) or gain an exemption from the requirement to be a registered NSP from the AER. To assist applicants who may seek an exemption, the NER provides that the AER can issue a guideline setting out the requirements to gain an exemption. The AER inherited the guidelines for NSP exemptions from the National Electricity Code Administrator in the transfer of functions when the AER formed in 2005. The guidelines have not been updated since.

The AER's NSP Registration Exemption Guideline (network Guideline) provides eligible classes of electricity transmission or distribution activity with an exemption from the obligation to be registered as an NSP with AEMO. The types of networks that are typically covered by the network Guideline include situations where electricity supply is incidental to the main purpose of a business, such as networks within caravan parks, apartments, industrial parks and shopping centres. The granting of an exemption can relieve an affected party of the requirement to comply with the technical requirements set out in Chapter 5 of the NER, and the obligation to provide other network suppliers and other registered participants in the NEM with access to its network.

The formation of the AER in 2005, legislative developments in the regulation of electricity networks in Australia and innovation in the electricity supply industry has led to the need to update the current network Guidelines. Also, in preparation for its role in retail regulation, the AER is developing retail exemption guidelines (Exempt Selling Guideline) that allow for individual and class exemptions from the requirement to hold a retailer authorisation. To the extent possible, the AER seeks to align the classes of exemption in both guidelines.

This paper is the first step in the AER's consultation in revising the AER's network Guideline. The proposed revisions to the network Guideline reflect changes in the regulatory landscape and alignment with the AER's Exempt Selling Guideline's classes of exemption. The network Guideline is intended to provide affected parties with greater clarification and certainty in the requirements for exemption. The purpose of the network Guideline is to define the situations where an exemption is deemed, where an exemption must be registered and where an exemption application is required. This consultation is conducted in accordance with the procedures set out under clause 2.5.1(e) of the NER. When adopted, compliance with the guideline will be obligatory for all affected parties.

4 Public consultation process

How to make submissions to this issues paper

This paper and attached network Guideline have been prepared to seek feedback on a number of issues arising from the proposed network exemption arrangements and to facilitate consultation on the classes of exemption. For convenience, the main issues identified by the AER have been set out in shaded boxes.

The AER invites comments on the network Guideline and Consultation Paper. Submissions can be sent electronically to: AERInquiry@ aer.gov.au with “submission to network and retail exemption guidelines” in the subject line, or by mail to:

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

The closing date for submissions is **Friday 12 August 2011**.

As a separate process, the AER is also currently consulting on its approach to retail exemptions. The Exempt Selling Guideline outlines classes of onselling activities which will be exempt from the requirement to hold a retailer authorisation under the National Energy Retail Law. It also outlines situations where an onseller should seek an individual exemption from the AER. The draft guideline and notice can be found on the AER’s website at www.aer.gov.au. The Exempt Selling Guideline raises several issues which are also applicable to this network Guideline.

The AER requests that where a submission covers both guidelines, it is clear which guideline each comment refers to.

The AER requests that all submissions be publicly available to facilitate an informed and transparent consultative process. Submissions will therefore be treated as public documents, and will be placed on the AER’s website (www.aer.gov.au), unless otherwise requested. Parties wishing to submit confidential information are requested to:

- clearly identify the information that is subject of the confidentiality claim; and
- provide a non-confidential version of the submission, in addition to the confidential version.

The AER does not generally accept blanket claims for confidentiality over the entirety of the information provided and such claims should not be made unless all information is truly regarded as confidential. The identified information should genuinely be of a confidential nature and not otherwise publicly available. In addition to this, parties must identify the specific documents or relevant parts of those documents which contain confidential information. The AER does not accept documents or parts of documents which are redacted or ‘blacked-out’.

For further information regarding the AER's use and disclosure of information provided to us, please refer to the *ACCC–AER information policy: the collection, use and disclosure of information* on our website under 'Publications'.

Stakeholder forum 27 July 2011

A public forum will be held on 27 July 2011 in Melbourne to discuss both the Exempt Selling Guideline and network Guideline. This forum will have video conference links to Sydney, Queensland, Canberra, Hobart and Adelaide.

To register your attendance, please send an email to AERInquiry@aer.gov.au by Friday 13 July 2011, indicating the city in which you will attend. The subject of the email should state "Registration for Network and Retail Exemptions stakeholder forum: attention Pip Dodgson." Registration for the forum is essential as spaces are limited. Stakeholders are asked to nominate no more than one participant each. An agenda for the forum will be circulated after registrations have closed.

Next steps

In accordance with the consultation procedures set out under clause 2.5.1(e) of the NER, the AER anticipates issuing a draft Guideline in October 2011 and finalising the network Guideline in December 2011.

5 Overview of exemptions

5.1 Regulatory requirements for network service providers

Section 11(2) of the National Electricity Law (NEL) and clause 2.5.1(a) of the NER state that a party ‘must not own, control or operate a transmission or distribution system that forms part of the interconnected transmission and distribution system unless the person is registered as an NSP, or has gained exemption from the registration requirement.’ The NER definition of a *transmission system* and *distribution system* relates to any section of a network connected to the NEM on one side and providing electricity services to another party on the other side.

Under the NER, the AER is responsible for issuing and revoking NSP exemptions to eligible classes of NSPs in the NEM jurisdictions. Clause 2.5.1(d) of the NER provides that, in accordance with the guidelines issued by the AER, the AER may exempt any person class of persons who are required to register as an NSP from the registration requirement, or from compliance with the technical standards set out Chapter 5 of the NER, subject to conditions the AER deems appropriate.

5.2 Purpose of the network Guideline

Under the NEL and the NER anyone who owns, operates or has control over any part of an electricity network, providing electrical power to any third party irrespective of the network’s size, is an NSP. However, the NEL and NER recognise that there are many situations where there is no practical purpose served in requiring the full requirements of the NEL and NER to apply to NSPs. NSP exemptions are needed as the regulatory regime applies to all NSPs irrespective of their size.

As set out under clause 2.5.1(d) of the NER, the AER is responsible for administering NSP registration exemptions. The AER considers that it is not practical to require a blanket registration of all NSPs for exemption. This would place an undue administrative burden on small NSPs in both physically registering and understanding the registration requirements.

The purpose of this guideline is to define the situations where an exemption is deemed, where an exemption must be registered and where an exemption application is required. The NSP exemption is subject to conditions the AER considers are appropriate and consistent with the market objectives. The conditions are applicable to all exempt parties unless varied by the AER.

The AER’s network Guideline does not apply to gas transmission or distribution.

5.3 Objective of the AER’s network Guideline

Legislative developments in the regulation of electricity networks in Australia and innovation in the electricity supply industry have led to the need to revise the AER’s network Guidelines.

The network Guidelines that the AER is seeking to update are currently outlined in two documents:

- NSP Specific Exemptions Guideline (Attachment 1) and

- General Exemption Guideline (Attachment 2).

The purpose of the network Guideline is to outline the classes of deemed and registrable exemptions and associated conditions, and the process for seeking an individual exemption. The network Guideline also explains the procedure the AER follows when assessing NSP exemptions applications.

A further objective of the network Guideline is to ensure that the classes of exemption align with the Exempt Selling Guideline's classes of exemption. There are a number of likely synergies in the application of both guidelines to networks and to retail onselling where it occurs in situations such as caravan parks, apartments, shopping centres, retirement village, student accommodation and industrial parks.

5.4 Distinction between the AER's retail and network guidelines

In addition to the AER's role in regulating network exemptions, the AER is taking on a new role to regulate retail exemptions (Exempt Selling Guideline). Under the National Energy Retail Law (Retail Law) and National Energy Retail Rules (Retail Rules), the sale of energy to customers requires a person to hold a retailer authorisation, or have an exemption from the requirement. The AER is currently developing an Exempt Selling Guideline that sets out the new national framework for retail exemptions, outlining the classes of deemed and registrable exemptions and associated conditions and the application and registration processes for individual and registrable exemptions. The AER's approach to developing its Exempt Selling Guideline, and associated issues and consultation papers are available on the AER's website at, <http://www.aer.gov.au/content/index.phtml/itemId/737837>.

The AER recognises that there are a number of synergies in the application of both guidelines to networks and to retail onselling where it occurs in situations which include caravan parks, apartments, shopping centres, retirement village, student accommodation and industrial parks. Accordingly, the AER is conjointly revising the NSP registration classes of exemption and developing exempt selling classes to align both guidelines to the extent possible. The AER administers the network Guideline and the Exempt Selling Guideline under different legislative frameworks. However, the AER has developed a unified registration process for both guidelines to facilitate applicants seeking an exemption from both sets of requirements. This will also minimise the prospect of inconsistent outcomes.

A person 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 their electricity transmission/distribution network activity and their retailing activity.

A person seeking to transmit, distribute and sell **gas** within a network will need to be covered by either a deemed or registrable exemption from the AER for their gas retailing activity, and comply with any relevant gas transmission and distribution requirements in jurisdictional legislation. The AER's network Guideline does not apply to gas networks.

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

5.5 Change of approach to network classes of exemption

Network exemptions were previously categorised by defining a number of situations that occur in every day life. These situations were then nominated as a class, to which conditions were attached. This approach to categorisation of general exemptions is set out in Attachment 2.

One problem which arises with the previous approach to categorisation of network exemptions is that it did not adjust for changing circumstances. For example, retirement villages do not fit neatly into any one class listed in the general exemption guideline, but include elements of a number of classes.

The AER adopted a different approach to categorising exemptions in the Exempt Selling Guideline, focussing on the impact of onselling on stakeholders. This approach has been widely supported in consultation to date. The AER considers this approach can also be applied to network exemptions. The network Guideline maintains the same distinction as the Exempt Selling Guideline in categorising exemptions that do not require an application (deemed exemption), those that require registration (registrable exemption) and those that require an application (individual exemption). An advantage of having identical classes of exemptions in both guidelines is that it will facilitate a common approval process and will minimise the prospect of inconsistent outcomes, despite the two functions occurring under different regulatory frameworks.

Generally, where an exemption applies to a network it will also apply with respect to onselling. There are exceptions to this rule of course, and several classes are applicable to networks exemptions alone. The AER has developed some new network specific classes of exemption based on the network exemptions sought from the AER.

5.6 Purpose of the network guideline and issues paper

The network Guideline reflects the changes in the regulatory landscape, alignment with the Exempt Selling Guideline's classes of exemption and is intended to provide affected parties with greater clarification and certainty in the requirements for exemption. The network Guideline outlines the new classes of deemed and registrable exemptions and associated conditions, and explains the application and registration requirements for individual and registrable exemptions and the procedures the AER follows when assessing NSP exemptions applications.

This paper is the first step in the AER's consultation in revising the network Guideline and includes new classes of exemptions.

This paper seeks feedback from stakeholders on a range of potential issues that the AER has identified in developing a framework for network exemptions.

6 The AER's network Guideline

The key regulatory factor to consider when determining whether registration of a network is required is whether the network is providing electricity to a third party for any reason. A network comprises the physical assets by which electricity is supplied to another party. It can include a legal person, corporation, government department or statutory body of any kind. An exemption may be granted to a network that satisfies the conditions and requirements in the AER's network Guideline.

The network Guideline sets out network activities where an application for exemption is not required (deemed exemption), network activities where registration is required (registrable exemption) and network activities where an application for exemption is required (individual exemption). As is the case in the Exempt Selling Guideline, the three broad classes of exemption defined in the network Guideline are, deemed exemptions, registrable exemptions and individual exemptions.

Most exempt network activities will fall within deemed and registrable classes of exemptions. Deemed exemptions apply automatically to eligible classes of NSPs without the need to register for an exemption with the AER. Registrable network activities require no application to the AER, but certain information must be provided to the AER as part of the registration process. In developing the classes of deemed and registrable exemptions, the AER has had regard to the most common situations for which NSP exemption applications have been made since the commencement of the NEM. To be eligible for a deemed or registrable exemption, an applicant must fall within a deemed or registrable exemption class set out in the network Guideline. The conditions of exemption outlined in the network Guideline are binding on operators covered by a deemed or registrable exemption.

Where an affected party wishes to vary or be excluded from a condition, or when no class exists which covers the network activities for which the applicant seeks exemption, an individual exemption application must be made to the AER, as these activities are not covered by a defined exemption category. Applications for an individual exemption are granted by the AER on a case-by-case basis in circumstances where an applicant is unable to conform to all of the conditions applicable to a registrable exemption or when no class exists which covers the activities for which the applicant seeks exemption.

The AER's network Guideline is not applicable to network assets registered with AEMO by a registered NSP. The network Guideline also does not apply to an exempt network registered by an *intermediary* under clause 2.9.3 of the NER.¹

The revision of the NSP registration classes of exemption, associated conditions and the proposed application process are discussed in turn.

6.1 Eligible classes of exemptions

The three classes of exemption defined in the network Guideline are deemed exemptions, registrable exemptions and individual exemptions.

¹ Under clause 2.9.3 of the NER, an *intermediary* is, a person who is registered by AEMO as a *Generator* or a *Network Service Provider* instead of another person who, in the absence of an exemption under clause 2.9.3, would be required to be registered as such under the *Rules*.

A **deemed exemption** applies automatically to an NSP. No application for exemption to the AER is required, and an NSP covered by a deemed exemption does not need to register their activities with the AER. Table 1 outlines the network activities that are considered deemed exemptions and subject to the conditions detailed in Part B of the network Guideline. Typically, deemed exemptions apply to small networks within caravan parks, office buildings, flats/apartments, units, industrial parks and shopping centres.

A **registrable exemption** does not require an application to the AER, but certain information must be provided as part of the registration process. This information is set out in section 11, Part C of the network Guideline. The activities which are covered by registrable exemptions are set out in Table 2, subject to the conditions detailed in Part B of the network Guideline for a number of network activities, both during and after a transition period. Registrable exemptions are specific to the applicant and are only effective for a particular class and for a particular site from the date on which the eligible network is registered on the Register of Exempt Networks by the AER. Once this occurs the operator holds a 'registered' exemption for that site.

Registrable exemptions are not transferable. If any of the information provided to the AER for the purposes of registration changes during or after registration, an exempt network may no longer meet the requirements for a registrable exemption. Where any material information changes, the responsible person must notify the AER of the amending details within 10 business days of the change, to ensure that the registered exemption remains valid, as set out in Part C, section 11 of the network Guideline. Affected parties that no longer meet the requirements for a registrable exemption, and continue to operate an electricity network will need to apply for an individual exemption without delay. The AER proposes to implement a unified registration process for both the network Guideline and Exempt Selling Guideline to facilitate applicants seeking an exemption from both sets of requirements.

An **individual exemption** may be granted by application to the AER on a case-by-case basis for affected parties that do not meet the criteria for a deemed or registrable exemption or when no class exists which covers the activities for which the applicant seeks exemption. The conditions attached to individual exemptions are likely to be tailored to the scope and nature of the activities being undertaken. Individual exemptions are specific to the applicant and are only effective for a particular class and for a particular site from the date on which the eligible network is registered on the Register of Exempt Networks by the AER. Once this occurs the operator holds an 'individual' exemption for that site. Individual exemptions are not transferable. The AER proposes to implement a unified application process for both the network Guideline and Exempt Selling Guideline to facilitate applicants seeking an exemption from both sets of requirements.

Historically, the conditions governing network activities where an application for exemption is not required and where an application is required have been in separate documents, as set out in Attachments 1 and 2. The new network Guideline categorises classes of exemptions in one document. The Exempt Selling Guideline maintains a similar distinction in categorising exemptions. The AER aims to have a nationally consistent approach to both guidelines to the extent possible because of the synergies in their application to situations in retail onselling and networks.

Classes of exemption in the network Guideline that are labelled 'ND_' are 'network deemed' classes and are aligned to the Exempt Selling Guideline classes labelled 'D_'. Applicants should refer to Attachment 1 of the Exempt Selling Guideline to determine eligibility for a deemed exemption. The classes of exemption labelled 'NDO_' are 'network deemed other' classes, and have no equivalent class in the Exempt Selling Guideline. Applicants should refer to the network Guideline to determine eligibility for a network deemed exemption.

Similarly, classes of exemption in the network Guideline that are labelled 'NR_' are 'network registrable' classes and are aligned to the Exempt Selling Guideline classes labelled 'R_'. Applicants should refer to Attachment 2 of the Exempt Selling Guideline to determine eligibility for a registrable exemption. Classes of exemption labelled 'NRO_' are 'network registrable other' classes, and have no equivalent class in the Exempt Selling Guideline. Applicants should refer to the network Guideline to determine eligibility for a network registrable exemption. The 'NRI' exemption class represents 'network registrable individual' exemptions. This refers to individual exemptions that may be granted upon application to the AER.

The classes of exemption in both guidelines are similar, however, there are a number of exceptions that should be noted. Class D5 from the Exempt Selling Guideline is not applicable to network exemptions as this category applies only to gas onselling.

As noted earlier, the AER has recognised that a number of past network exemption applications have arisen for new activities. One example is generator related connections motivated by demand-management opportunities or greenhouse gas abatement measures. Other situations which have arisen which may lead to an occasional need for exemption relate to temporary electricity supplies on major construction sites and to electric vehicle charging stations. There are three new deemed exemptions categories specific to NSPs. These are:

- off-market energy generation (NDO1);
- temporary supply for defined purposes (NDO2); and,
- electric vehicles (NDO3).

Similarly, there are two registrable exemptions that are not found in the Exempt Selling Guideline. These are:

- off-market energy generation connected to the NEM via a private connection (NRO1);
- on-market energy generation connected to the NEM via a private connection (NRO2); and,

The difference between off-market and on-market generation is that off-market generation equipment does not need to be registered with AEMO while on-market generation equipment does. Further explanation can be found in the dictionary included in this consultation paper and on the AEMO website, www.aemo.com.au.

When drafting the classes of exemption of the network Guideline, the AER has attempted to define the various classes as clearly as possible. Nevertheless there is the

potential for overlap between classes depending on the particular circumstances of the applicant. The applicant will be required to be exempted under both classes if a variety of consumers are serviced; or the most appropriate class, if two classes can be applied to one consumer.

As an example, a caravan park may serve holiday makers, covered by the deemed exemption ND3, and permanent residents, who fall under the registrable exemption NR4. The owner/operator of the caravan park would only be required to apply for a registrable exemption with respect to the permanent residents but would need to ensure compliance with the relevant conditions for each class of exemption for the relevant customers (both permanent residents and holiday makers).

Reflecting the variety and complexity of residential arrangements, there are several classes that could potentially cover a residential situation.

- ND1 will apply where common area energy costs are recovered through body corporate fees, perhaps in an apartment building.
- ND2 will apply where metered energy is onsold by a landlord to less than 12 residencies. This might include dwellings such as units, standard apartments or flats.
- ND4 covers residential situations that do not fall under residential tenancy legislation including hostels, rooming houses and boarding houses.
- Persons operating under state or territory strata title will fall under the registrable exemption NR2.
- Retirement villages have previously not had a network exemption category; however, NR3 is a specific network registrable exemption class for retirement villages.
- Caravan parks, residential parks and manufactured home estate sites selling to residents who principally reside there will fall under the registrable exemption NR4.

Similarly, there are also several classes that can apply to a commercial tenancy.

- ND1 may apply where common area energy costs are passed on using body corporate fees.
- ND7 will be applicable to networks where a common area fee is applied to a commercial development.
- NR1 is designed to capture energy use in premises within commercial tenancies that may not fall under either ND1 or ND7.

Separate metering is a condition for exemption under the network Guideline. This is discussed in section 7.2 of the Consultation Paper. The AER does recognise, however, that Queensland has historically allowed unmetered supply of electricity to some customers. As a result, class ND6 is designed to allow for the exemption of unmetered energy supplied to small customers and will only be applicable to Queensland.

A separate class of exemption has also been developed for large customers (NR5), reflecting that the relationship between large customers and retailers is not addressed by the Customer Framework (with the exception of retailer of last resort arrangements). That is to say that the AER expects large customers to operate under negotiated commercial arrangements.

Should an affected party consider the classes in the network Guideline do not cover their specific circumstances, or require a variation to the conditions in a deemed or registrable exemption category, they may lodge an application under NRI for an exemption. This class generally operates in a similar same manner as the individual exemption class in the Exempt Selling Guideline.

On request, the AER will provide guidance on how the classes of exemption operate to parties seeking clarification of the network Guideline. However, the AER will not provide advice in regard to whether a party meets the criteria for a deemed, registrable or individual exemption. The AER recommends potential applicants obtain independent legal advice before relying upon a deemed exemption, seeking registration under a registrable exemption or applying for an individual exemption.

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

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

Table 1 – Deemed classes of exemption

Class	Activity	Deemed exemption applicable to:
<i>ND1</i>	Bodies corporate or owners' corporations that pass on the cost of unmetered energy for common areas through body corporate fees	Current and future onsellers
<i>ND2</i>	Metered energy onselling by residential landlords or lessors to less than 12 residences	Current onsellers and onsellers who commence operation prior to 1 January 2015
<i>ND3</i>	Metered energy onselling to short term residents in holiday accommodation	Current onsellers and onsellers who commence operation prior to 1 January 2015
<i>ND4</i>	Energy onselling in residential situations not covered under residential tenancy legislation	Current onsellers and onsellers who commence operation prior to 1 January 2015
<i>ND5</i>	There is no class ND5 – the equivalent retail guideline class applies only to gas onselling	Not applicable
<i>ND6</i>	Persons onselling unmetered electricity in Queensland to small customers for use within the limits of a site that they own, occupy or operate	Current onsellers and onsellers who commence operation prior to 1 January 2015
<i>ND7</i>	Landlords or lessors passing on common area energy costs to premises in commercial developments	Current and future onsellers
<i>ND8</i>	Exemption for persons engaged in the onselling of energy to a related company	Current and future onsellers
<i>NDO1</i> ²	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 not intended to supply network support or demand management services to the NEM
<i>NDO2</i>	Temporary supply for the construction and commissioning phase of building, civil, construction industrial, transport, mining or other projects	Incidental supply at cost to facilitate bona fide construction and commissioning of new facilities on the same or an adjoining site
<i>NDO3</i> ³	Electric vehicle charging station within an embedded network	Current and future onsellers subject to an agreed commercial arrangement

Note: Classes of exemption in the network Guideline are labelled 'ND_' are 'network deemed' classes and are aligned to the Exempt Selling Guideline. Applicants should refer to Attachment 1 of the Exempt Selling Guideline to determine eligibility for a deemed exemption.

Classes of exemption labelled 'NDO_' are 'network deemed other' classes, and have no equivalent class in the Exempt Selling Guideline. Applicants should refer to the network Guideline to determine eligibility for a network deemed exemption.

² This category applies only to the network to which the generator is connected. Generator registration and exemptions are handled by AEMO.

³ Note that no exemption is required if the charging facility is directly connected to a distributor.

Table 2 – Registrable classes of exemption

Class	Activity	Registrable exemption	Application for individual exemption
<i>NR1</i>	Energy onselling by commercial/ retail landlords or lessors.	Registrable for current onsellors and those who commence onselling before 1 January 2015	Required for those who commence onselling on or after 1 January 2015.
<i>NR2</i>	Persons operating under state or territory strata title (or similar) legislation and onselling metered energy.	Registrable for current onsellors and those who commence onselling before 1 January 2015	Required for those who commence onselling on or after 1 January 2015.
<i>NR3</i>	Retirement villages operating under state or territory retirement village legislation and onselling metered energy.	Registrable for onsellors commencing onselling before 1 January 2015	Required for those who commence onselling on or after 1 January 2015.
<i>NR4</i>	Metered energy onselling in caravan parks, residential parks and manufactured home estates to residents who principally reside there.	Registrable for current and future onsellors	Only where exempt seller believes conditions of exemption are not appropriate for their situation.
<i>NR5</i>	Persons engaged in onselling metered energy to large customers.	Registrable for current and future onsellors	Only where exempt seller believes conditions of exemption are not appropriate for their situation
<i>NRO1</i> ⁴	<i>Off-market energy generation</i> 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
<i>NRO2</i> ⁵	<i>On-market energy generation</i> 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	Only where exempt party believes conditions of exemption are not appropriate for their situation

Note: Classes of exemption in the network Guideline are labelled ‘NR_’ are ‘network registrable’ classes and are aligned to the Exempt Selling Guideline. Applicants should refer to Attachment 2 of the Exempt Selling Guideline to determine eligibility for a registrable exemption.

Classes of exemption labelled ‘NRO_’ are ‘network registrable other’ classes, and have no equivalent class in the Exempt Selling Guideline. Applicants should refer to the network Guideline to determine eligibility for a network registrable exemption.

⁴ This category applies only to the network to which the generator is connected. Generator registration and exemptions are administered by AEMO.

⁵ This category applies only to the network to which the generator is connected. Generator registration and exemptions are administered by AEMO.

Table 3 – Individual exemptions

Class	Activity	Registrable exemption	Application for individual exemption
<i>NRI</i>	Individual 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.

6.2 Imposing conditions on exempt network service providers

Sections 13(3) and 13(4) of the NEL and clause 2.5.1(d) of the NER provide that the AER may exempt a party from the requirement to register as an NSP subject to 'conditions as the AER considers appropriate.' A condition can require an affected party to meet an obligation that would apply to a registered NSP under the NER. An affected party must comply with all conditions imposed, and the AER may deal with a breach of a condition as if it were a breach of the NER. The AER can vary or revoke any condition it has placed on an affected party.

In developing the conditions associated with the network Guideline, the AER has taken into account a number of network issues raised during consultation of the Exempt Selling Guideline in regard to life support, metering accuracy and settlements and transfers. The AER has also consulted with AEMO on metering conditions. As a result of the issues raised in the AER's consultation on the Exempt Selling Guideline, the AER's past experience in administering network exemptions and the consultation with AEMO, the AER proposes to make conditions in relation to the areas set out in Part B of the network Guideline.

The network Guideline outlines a number of conditions to ensure that exempt networks adopt appropriate arrangements for matters including:

- maintenance of safety standards,
- metering installation and accuracy,
- compliance with necessary elements of AEMO procedures for data provision and registration of metrology,
- resolution of disputes,
- maintenance of distribution loss factors, and
- pricing of network services.

Many of the conditions that apply under the Exempt Selling Guideline do not apply under the network Guideline. Further discussion of the conditions is contained in section 7.

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

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

6.3 Register of Exempt Networks

The AER maintains and publishes a Register of Exempt Networks on its website. An exempt network that holds an individual exemption or registered network exemption will appear on the Register of Exempt Networks. The AER's website also includes the NSP's application for exemption and the exemption instrument issued by the AER.

6.4 Registrable exemption application process

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. Part C, section 11 outlines the information requirements for a registrable exemption. Registrable exemption forms can be downloaded from the AER's website and must be made in writing and be submitted electronically to the AER at AERInquiry@aer.gov.au, in accordance with information requirements set out in Part C of the network Guideline. The AER has developed a single 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 registered exemption remains valid.

The registered exemption applies to the operator 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.

6.5 Individual exemption application process

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. An application for an individual exemption must be made in accordance with the information requirements set out in Part C, section 12 of the network Guideline. An application for an individual exemption can be downloaded from the AER's website, must be made in writing and be submitted electronically to the AER at AERInquiry@aer.gov.au. The AER has developed a single 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 notified within 10 business days of the change to ensure that individual exemption remains valid.

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.

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.

6.6 Revocation of an exemption

Part C, section 13 of the network Guideline outlines the AER's approach to revocation of an exemption.

The AER can revoke any network exemption. The grounds for revocation are that the AER is 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 as matters come to our attention.

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 exemptions.

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

Q7: Do stakeholders consider the proposed process fair and reasonable?

7 Issues for discussion

The AER seeks feedback on a number of issues, particularly around relevant matters to consider under the general conditions, safety and metering elements of the network Guideline. These are discussed below.

7.1 General Conditions

General conditions are those conditions which the AER considers should apply to all exempt networks, regardless of circumstance, unless varied in writing by the AER. The conditions are intended to ensure all onsold energy is subject to appropriate metering, access to a dispute resolution process and that relevant safety standards are observed. The general conditions would only be varied where the AER is satisfied that doing so will materially reduce or eliminate customer detriment.

The peak body which oversees measurement in Australia is the National Measurement Institute.⁶ The electricity industry overall is subject to the jurisdiction of the Institute in determining metering standards. Therefore it follows that the standards that apply in an embedded network are also subject to the same requirements for metering accuracy.

The first general condition, found in Part B, section 5(1) of the network Guideline is designed to ensure metering standards are maintained throughout exempt networks. As of the commencement date of the network Guideline, all meters used in an exempt network 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. Further discussion of metering standards is found in section 7.2.

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

The second general condition ensures that all customers in an exempt network be individually metered. Special consideration may be given to accommodate variations in metering requirements across jurisdictions. The AER does not approve unmetered supplies of electricity except in unique or exceptional circumstances. This condition is outlined in Part B, section 5(2) of the network Guideline. The AER recognises that it is a general requirement that all products sold or delivered by volume in Australia are subject to strict requirements for accurate measurement.

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?

The third general condition is designed to ensure that exempt networks meet all applicable standards for safety and security of people and property in the relevant jurisdiction. Although the AER may exempt a network from some obligations under the NEL and the NER, the AER has no power to waive safety requirements. This condition is included to ensure that no misunderstanding arises because an exempt network operator has wrongly assumed exemption means no safety standards apply. Some safety standards are applied on a national basis such as the Wiring Rules. Other safety requirements are jurisdiction specific. This includes having a current or

⁶ See: <http://www.measurement.gov.au/Pages/default.aspx>

maintaining a safety management plan (or similar), be it registered or unregistered with a competent jurisdictional safety authority or regulatory agency. This condition is outlined in Part B, section 5(3) of the network Guideline.

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

The fourth general condition ensures that where onselling occurs the network operator will be either an authorised retailer, or hold a deemed, registrable or individual exemption as outlined in the Exempt Selling Guideline. The network Guideline and the Exempt Selling Guideline operate in conjunction with one another. This condition is designed to ensure that network operators understand that an exemption in one category does not simultaneously provide an exemption in the other. Separate exemptions must be validly held or granted by the AER. This condition is outlined in Part B, section 5(4).

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?

Similarly, the fifth general condition requires the exempt NSP be covered by approved dispute resolution procedures. A fundamental element of ensuring a balance exists in the relationship between a service provider and an energy consumer is access to an appropriate mechanism to air and resolve disputes, Where retail onselling is occurring under the Retail Law and a dispute resolution mechanism is available under the Retail Law, the same arrangement may apply for the resolution of disputes in network activities. In all other exempt networks the AER will require that a suitable dispute resolution mechanism must be specified in the formal agreements between the network owner and the end-user. 'A suitable dispute resolution mechanism' is considered by the AER to be a mechanism that is readily available to both parties on reasonable terms, be fair and even handed in approach, appropriate to the circumstances of both parties to the grievance and capable of achieving a timely resolution of the dispute. This condition is outlined in Part B, section 5(5) of the network Guideline.

Q12: Do stakeholders have any suggestions which would improve this condition?

Aggregation of energy readings sometimes occurs when a tenant within a network expands into other sites served by the same embedded network operator. Depending on the commercial arrangements there may be some volume purchasing discount available to the tenant. The AER does not consider the network metering arrangements should unduly inhibit access to such arrangements. The sixth general condition described in Part B, section 5(6) of the network Guideline, states that where there is a common supply arrangement and suitable metering is installed, meter readings for that customer may be aggregated for corresponding time periods. This will apply where the energy is being delivered to adjoining premises or multiple exempt premises within a jurisdiction. This condition allows the practice of aggregation to occur but does not require that it occur. Whether it does or not is a commercial matter for the network energy supplier to determine with their customers.

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

The seventh general condition described in Part B, section 5(7) of the network Guideline relates to the exemption applicant. With the growth in embedded networks and innovative energy solutions the AER considers it important to ensure that embedded network operators remain accountable. In a rapidly changing commercial world ownership of a network may change hands several times over the lifetime of the network. By requiring that each new owner register their details upon acquiring a network the AER will be better placed to ensure the orderly conduct of embedded network operators. Applications for exemption are considered specific to the applicant and do not apply to the site regardless of ownership. An exemption is therefore not transferable. This condition is designed to ensure that operators understand the conditions under which they may operate an exempt network.

Q14: Do stakeholders consider the proposed registration arrangements are clear and the information requirements to be sufficient?

The final general condition described in Part B, section 5(8) of the network Guideline outlines the fact that the AER reserves the right to revoke the exemption at any time or vary the conditions which apply to that exemption.

7.2 Metering

There are a number of general and specific conditions that relate to metering in the network Guideline under Part B in sections 6, 7 and 8.

The AER's conditions with regard to metering aim to ensure exempt networks are consistent with the metering requirements in the NER for NSPs and comply with the requirements of the National Measurement Institute.

Under the general conditions of the network Guideline, the AER considers that

- all customers must be individually metered except where the AER has determined an unmetered supply is permitted (Part B, section 5(2))
- all meters used for the measurement of electrical energy 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 (Part B, section 5(1)) and adhere to the accuracy classes stipulated in schedule 7.2 of the NER, unless exempt by the National Measurement Institute (Part B, section 6).

Unmetered supply has occurred in the past in many embedded networks. It is not a practice that the AER supports in new installations. Accordingly, the AER's preferred position is that all onselling be subject to appropriate metering. Parties wishing to deviate from the requirement may make an application for individual exemption to the AER in accordance with the requirements set out in section 12 of the network Guideline.

Part B, section 6 of the network Guideline outlines conditions in regard to metering installations and reconfigurations of an existing network. NSPs must ensure that all

metering installations used in embedded or exempt networks are compliant with the requirements of the National Measurement Institute. This condition does not require pre-existing metering installations to be upgraded.

In relation to meter reading, the conditions in the guideline state that meters be installed in a reasonably accessible location with suitable access to facilitate meter reading or 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, sections 6(2) and 6(3)).

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

Part B, section 6 of the network Guideline note that all *off-market and on-market energy generation* installations, must be metered in accordance with the applicable requirements for direct connection to the NEM distribution or, where applicable, transmission network. This requirement mirrors the conditions which a registered NEM NSP would impose through a connection agreement were the embedded generator a party to that agreement. As the embedded network is an interposed body, the condition ensures that inappropriate metering arrangements are not introduced for market connected generators.

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

The emergence of electric vehicles is likely to see demand for battery charging stations. This is a fledgling industry and the mode of connection is uncertain. Battery charging facilities directly connected to the NEM are considered an ordinary load and will be metered as such. However, if charging facilities are connected within an existing network which is not already an embedded network, the charging facility will cause the existing network to become an embedded network if the battery charging facility is owned or operated by a third party. In Part B, section 6 of the network Guideline, the AER proposes this class be implemented, to support the development of this technology. Note that the supply of electricity from batteries for transport use is a value-added service to the transport sector, which is not regulated by the AER.

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

7.3 Distribution Loss factors

The settlement of the energy market relies on accurate accounting for energy losses. These are estimated by the annual calculation of distribution loss factors under clause 3.6.3 of the NER. The AER regulates the approval of distribution loss factors. The AER takes the view that distribution loss factor requirements should avoid placing an undue regulatory burden on exempt networks. In general the network losses within small exempt network are not expected to be significant enough to warrant close examination. However, for larger networks and generators there are situations where losses may be significant. This will require calculation of distribution loss factors. A question arises as to what is small and what is large. The AER

considers the classifications employed in the NER already deal with this distinction and so the same classifications and process should also apply to embedded networks.

The definition of a small load under clause 3.6.3 of the NER is any load, or collection of loads which, in total, is less than 10MW peak demand or 40 GWh per annum. Any exempt network consuming a small load, as defined by clause 3.6.3 of the NER, is to utilise the distribution loss factor at the metered point of connection to the wider network for all loads within that network. This distribution loss factor is to be applied to all meters within the exempt network.

A network or generator that exceeds this definition of a small load, will generally be required to either utilise a site specific distribution loss factor, which would need to be calculated in accordance with the distribution loss factor methodology published by the local distribution network service provider. Where that methodology is not considered suitable the network operator and the connecting party may jointly approach the AER to seek approval for an alternative methodology.

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

7.4 Pricing

In designing the pricing framework for exempt networks the AER has sought to cover all foreseeable scenarios. Charges for exempt networks fall into two significant groups: either external network charges or internal 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. These charges reflect the energy consumed in a network. Consequently, it is appropriate that every customer of an embedded network should bear their fair share of the charges. This is generally referred to as a 'causer pays' principle. 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.

Internal network charges are those charges which relate to a direct return on the investment in assets to provide a network to service customers. This is the role performed by a registered NSP. The NEM framework spells out the requirements a party seeking to earn such income must fulfil in order to claim revenue for a network. A key aspect of the exemptions framework is that it is intended to apply to circumstances where the supply of energy is not the core business of the applicant or where imposing the requirement for registration as an NSP can be demonstrated to be contrary to the long-term interests of affected consumers.

Where an exempt network exists within a building or residential, commercial or industrial development, the AER expects the network costs to have been capitalised as part of the overall construction cost and included in the total lease-payments, fit-out charges, strata fees or the like. The AER expects the network cost to be treated as an included item in the corresponding fee and not an additional cost item. In all other

circumstances a determination of the AER is required before a valid network charge can be levied. The formal determination of network charges by the AER is a complex and involved process, the costs of which will usually be disproportionate to the scale of an embedded network. An internal network service charge is unlikely to be approved by the AER for an exempt NSP, except in rare and unusual circumstances. Approval may be subject to the application of a public benefit test.

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

The network Guideline outlines a framework for determining pricing by exempt networks. The pricing framework outlined in Table 3 can also be found in the network Guideline.

Table 3 – Network charges – applicable charge groupings

Charge Group	Description	Applicable situations
A	Bundled energy and external network tariff	All retail onselling
B	No additional network charge	Unrestricted
C	Value added services	Registered exempt networks only. Greater than 160MWh per annum usage. Charging mechanism specified in a commercial agreement.
D	Separate charge for embedded network facilities	Registered exempt networks only. Pricing determined by the AER.
E	Rebated for exported energy	Unrestricted

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 onsellers 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.

The AER believes that most other exempt networks will fall into Charge Group B - no separate charge for network access. This category would permit the pro-rata application of external network charges but the internal network is treated as part of the baseline building or development service provision. A separate energy-only charge may apply. The agreed cost for the establishment or upgrade of a network to meet customer requirements in accordance with a bona fide lease or ancillary agreement between the network owner, operator or controller and the network customer would be recovered under a separate agreement. Such capital charges may be subject to normal commercial financing arrangements

Charge Group C applies only in the case where a registrable network owner, operator, or controller provides value-added services to customers, such as on-site fault repairs. The group is intended to apply to large commercial, industrial and mining situations

with metered loads greater than 160 MWh per annum or on-site generation exporting to the NEM.

In rural and remote areas, an exempt network may transverse long distances, sometimes crossing hundreds of kilometres of public and private land, most notably when serving remote mining developments. The network may have been granted exemption by the AER; however, the AER considers the provision of a network service to isolated communities, individual land holdings and to support a range of essential and community services should still be encouraged. So, where it can be demonstrated that access to the NEM would not otherwise be available except at significant cost to the affected customers, an exempt network may provide services to support infrastructure, isolated communities, community and emergency services, farms and pastoral holdings and unrelated loads or generators on reasonable commercial terms.

The AER considers that charging under Charge Group D will only be permitted in exceptional circumstances. Parties wishing to earn a commercial return on their network assets will generally be required to register as an NSP. Pricing in Charge Group D is likely to require lengthy engagement with the AER to determine an asset value, a revenue entitlement and an appropriate pricing structure generally in accordance with chapter 6 or 6A of the NER. It is expected that the compliance costs involved with this mechanism will generally outweigh the benefits for small networks and will follow essentially the same process as a registered network service provider.

Charge Group E is in place to ensure that generators within an exempt network that earn credits for energy exported to the NEM receive the full value of those credits. A situation can arise when an embedded generator is initially smaller in output than the native load of the network in which it is embedded. If the load reduces or ceases altogether, the generator will then export to the NEM. The AER does not consider it appropriate for the NSP to retain the benefit of credits earned by the 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.

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

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

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

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

Attachment 1: Specific NSP Exemption Guideline

Guidelines for exemption from the requirement to register as a network service provider (Issued July 1998)

Introduction

1. Section 9(1) of the National Electricity Law and clause 2.5 of the National Electricity Code require all network service providers (NSPs) to register with NEMMCO.
2. Clause 2.5 Registration of NSPs is designed to ensure that they are subject to the relevant provisions of the Code in relation to:
 - 2.1. **system security.** Chapter 4 of the Code prescribes facilities and actions required of NSPs to ensure system security is maintained. This is supported by parts of chapter 5;
 - 2.2. **network standards.** The standards for the network are defined in chapters 5 and 7. These standards ensure that end users and market participants can rely on the network to provide the appropriate quality of supply;
 - 2.3. **pricing.** The mechanisms for pricing of the network service are defined in chapter 6; and
 - 2.4. **dispute resolution.** The Code ensures that participants and intending participants have access to appropriate alternative dispute resolution processes, through chapter 8.
3. The National Electricity Code Administrator (NECA) may, in accordance with guidelines issued by it from time to time, exempt any person or class of persons otherwise required to register with the National Electricity Market Management Company (NEMMCO) as a network service provider (NSP) from:
 - 3.1. the requirement to register as an NSP; or
 - 3.2. the operation of chapter 5 of the National Electricity Code and the requirement under chapter 5 to provide an access undertaking to the ACCC subject to such conditions as NECA deems appropriate where in NECA's opinion an exemption is not inconsistent with the market objectives or the Code objectives.
4. These guidelines are issued to assist parties seeking exemptions under clause 2.5 of the Code. NECA may vary these guidelines from time to time, subject to clause 2.5(e) of the Code.
5. The granting of any exemption under clause 2.5 of the Code does not reduce any obligation placed on an NSP under any other statutory or other provisions.

Principles

6. The following principles will be applied to assess each application:
 - 6.1. the relevant network should be wholly contained within premises owned or controlled by the applicant;
 - 6.2. the provision of the network (and any supply of electricity to other parties) must be incidental to the business of the applicant;
 - 6.3. standards or other regulatory controls should be in place in respect of the relevant network;
 - 6.4. the granting of the exemption should not unduly limit access of parties to the national electricity market contrary to the market objectives (clause 1.3 of the National Electricity Code);
 - 6.5. the proposed charging regimes(s) governing the NSP's network should balance the needs of the network provider and the end user;
 - 6.6. an appropriate mechanism must exist for the setting of energy charges if users of the network cannot access retailers. Jurisdictional licence conditions or regulations govern the on-selling of energy;
 - 6.7. end users should have appropriate recourse in the event of disputes, for example to the dispute resolution arrangements contained in chapter 8 of the Code; and
 - 6.8. the applicant should have obtained, or have applied for exemption from relevant jurisdictional requirements (eg under licensing or other regulations).
7. Where an applicant satisfies NECA that principles 6.1 to 6.4 have been met, exemption from the requirements of chapter 5 will generally be granted. If all principles are met to the satisfaction of NECA, full exemption will generally be allowed.
8. Applications from NSPs which meet some but not all of the principles will be assessed and, if the application is consistent with the intent of clause 2.5 of the Code, NECA may grant full or partial exemption.

General exemptions

9. Consistent with these principles, NECA has granted a series of general exemptions from the requirement to register as an NSP.

Applications for specific exemptions

10. NSPs which fall within one of the general exemptions issued by NECA are not required formally to seek specific exemption. NSPs that do not fall within those general exemptions but that wish to seek a specific exemption from the requirements of the Code must apply to NECA in writing. Applicants may submit their application in parallel to other applications where similar exemptions are being sought (e.g. from the requirement to have supply or other licenses from jurisdictional regulators).
11. Applicants seeking exemption must state:
 - 11.1 whether they are seeking (or have received) exemptions from other codes or regulations governing the ownership or operation of networks, including details of those exemptions or applications for exemptions;
 - 11.2 whether they are seeking exemption from the requirement to register as an NSP or just from the application of chapter 5 (and the requirement to provide an access undertaking);
 - 11.3 the precise network to be subject to the exemption, including circuit diagrams if necessary;
 - 11.4 what discussions have taken place between the applicant and the NSP to which the relevant network will be connected;
 - 11.5 what arrangements are proposed for setting network charges for parties using the network; and
 - 11.6 what arrangements are proposed for energy charges (e.g. fixed percentage of total costs or direct access to retailers by tenants)
12. NECA may request additional information from applicants prior to processing an application for exemption. NECA will normally advise applicants of any additional information required for the processing of their application within 10 working days of the application being received.
13. Decisions by NECA under clause 2.5 of the National Electricity Code are reviewable by the National Electricity Tribunal.

Conditions

14. NECA may, pursuant to clause 2.5 of the Code, place conditions on any exemptions granted.

Revocation of exemptions

15. NECA may revoke an exemption, or vary the conditions imposed, if it forms a reasonable opinion that the NSP no longer meets some or all of principles required for exemption.

**National Electricity Code Administrator
July 1998**

Attachment 2: General Exemption Guideline

General exemptions from the requirement to register as a network service provider (issued August 2000)

NECA has granted the following general exemptions from the requirement to register as a network service provider. Organisations that fall within one of these general exemptions do not need to make an application for a specific exemption.

Class of network owner or operator	Description	Conditions
Caravan parks	Mobile home parks, caravan parks, Areas where space is rented for a mobile or semimobile dwelling, where the provision of power is part of the contract of rental.	A mechanism establishing the maximum price for on-selling of energy must be in place.
Office buildings	Large complexes where floors or individual offices are rented or leased on a short or long term basis, and electricity is supplied as part of the building infrastructure and either separately metered or charged on a basis agreed at the time of the lease.	A mechanism establishing the maximum price for on-selling of energy must be in place.
Flats / apartments /	Groups of individual dwellings sharing common walls where electricity is reticulated as part of the building infrastructure.	Where the network is supplied at no cost or a nominal fee and either: <ol style="list-style-type: none">1. access to retailers is available to occupiers; or2. electricity is made available on terms negotiated as part of the purchase or hiring arrangement and a mechanism exists for setting the maximum price.
Units	Groups of individual dwellings on a common or shared title.	Where the network is supplied at no cost or a nominal fee and either: <ol style="list-style-type: none">1. access to retailers is available to occupiers; or2. electricity is made available on terms negotiated as part of the purchase or hiring arrangement and a mechanism exists for setting the maximum price.

Industrial parks	Large areas where land and buildings are leased.	<p>Where:</p> <ol style="list-style-type: none"> 1. the network is supplied at no cost or a nominal fee and access to retailers is available to tenants; and 2. standards for the network are agreed with the local network service provider
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Shopping centres	Groups of shops and offices owned by a single entity or sharing a title where electricity is reticulated as part of the building infrastructure	<p>Where the network is supplied at no cost or a nominal fee and either:</p> <ol style="list-style-type: none"> 1. access to retailers is available to tenants; or 2. electricity is made available on terms negotiated as part of the hiring arrangement and a mechanism exists for setting the maximum price.

National Electricity Code Administrator
August 2000