

Submissions delivered electronically to AERpolicy@aer.gov.au

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Retailer authorisation and exemption review: issues paper

To Mark,

Thank you for providing stakeholders the opportunity to review and respond to the proposed changes to the Retailer authorisation and exemption review.

About Energy Intelligence

Energy Intelligence is an energy consultancy providing advisory services to clients within the embedded sector. We offer complete embedded network solutions specifically designed for our clients whom own/operate embedded sites mainly within the commercial, industrial, retail and sectors often supplied by traditional and renewable-based generation across the eastern sea board. We pride ourselves on the service we provide to both our clients and customers with our collaborative, transparent and honest approach. Our compliance principle is to pursue best practice regardless of the minimum requirements of the jurisdiction. We work cooperatively with the AEMC, AER, AEMO, EWON, DEWLP, ESC and EWOV.

As a service provider within the embedded network sector, our responses will be focused as such however we do agree that as new energy services and products emerges, energy consumers continue to be adequately informed and protected.

Consultation questions and response

1. Do you agree with the approach of using use cases/business models to identify the harms and risks of new energy services and products? Generally, yes.

2. Do you consider the use cases/business models appropriate to assess the harms and risk of new energy services and products? In particular:

a. What, if any, changes should be made to the use cases/business models set out in this issues paper?

b. Are there any other use cases/business models we should consider? Please provide examples. Within the Embedded networks and microgrids, a secondary scenario of commercial complex i.e. office or retail complex might be worth considering as this will vary greatly from a residential scenario.

3. Do you consider any of the use cases/business models outlined to be essential in the same way as the traditional supply of energy arrangement is? If so, what is the appropriate level of consumer protections that should be applied to these products and services? Please explain. EV charging provided at the premise of the end customer as this may involve considerable investment to the end customer making switching harder. Although it may unlikely be essential as there are other modes of travel available, however this may be the primary travel mode for the end customer.

Embedded networks and microgrids – consumers in these set ups meets the concept of *essentiality*.

7. Are the current authorisation and exemption frameworks fit for purpose?

We do not believe it is fit for purpose. We believe that some vital changes are required including

- *limited competition*
- *standard consumer protection*
- *concession*
- *compliance enforcement*

a. What risks do you see with the current frameworks?

The *lack of retail competition* will not be resolved if retailers' current stance is not addressed. The POC regime had reduced limitations for tenants to access choice however the biggest hurdle is still that most retailers are not willing. The majority of embedded network operators are equipped to bill on-market customers, however there are limited retailers offering 'energy only' contracts. By providing fact sheets to consumers to assist them in obtaining choice will only frustrate consumers as offers are not available. A pointless exercise leaving consumers frustrated.

b. What consumer protections do you think are missing from the frameworks?

Consumers in Victorian Embedded Networks are offered similar protections as a traditional energy consumer as access to the ombudsman scheme was made available in 2018. This includes EIC, life support obligations, financial hardship, customer dispute, family violence. We see merits in expanding ombudsman schemes to small business in addition to residential tenants. This will develop trust and confidence with consumers.

Consumer protection could be further extended through better transparency of statements and offering. A standard expectation or sets of statements that will allow consumers to make a more informed choice.

Enhancing the ESC and AER's ability to enforce *compliance* would see the phasing out of unqualified embedded network operators and instil confidence in consumers. Embedded network operators and/or agents are not held accountable for the mismanagement of the network or consumers.

Billing content guideline – a consistent approach to what information is required on bills would boost consumer confidence and transparency such as rates displayed should be inclusive of GST (VIC requirement).

Access to concession – allowing embedded network operators the ability to give their customers access to their concession and rebates seamlessly would be a giant step-forward.

Education and awareness to exempt owners. We see the extent of non-compliance in embedded networks as we are often engaged to audit sites managed by other agents as exempt owners are provided wrong advice and guidance. Our general findings are that exempt owners are misled to believe that the agent they've appointed are managing their networks proactively and compliantly by staying on top of regulations.

8. Is the point-in-time assessment for retailer authorisations and individual exemptions fit for purpose? Why/why not?

We do not believe the current point-in-time assessment for retailer authorisations is fit for purpose. We are seeing an emergence of authorised retailers being purchased by another entity with limited experience in the industry to accelerate its entrants into the market.

Authorised retailers tend to provide energy services across multiple sites unlike an individual exemption where it is site specific. Similar to the accreditation of an ENM, authorised retailers should be subjected to routine desk-top audits.

9. How can we limit the risk of consumer harm when retailers or exempt sellers significantly expand/change business activities and capabilities after authorisation or exemption?

Enhancement of AER's ability to enforce compliance through firmer compliance monitoring, auditing and reporting with obligations to provide protections would in time remove unqualified embedded network operators and as a result shift public sentiment. The routine audit would be similar to those of the AEMO ENM audit.

10. How can the AER better address serious misconduct of authorised retailers and exempt sellers?

As above.

17. Do you consider the potential reform options outlined in section 6.2 will go some way to addressing current gaps in the frameworks in relation to future applications?

We agree to a certain extent. Compliance is no doubt required in networks however we are also concerned excessive regulatory and operational governance could be detrimental and outweigh the benefits to consumers and may affect the service to the embedded network harming consumers experience. The trigger for reapplication could be measured by the significance of change to site or original business model however sufficient time will need to be considered as reapplying and assessment may be lengthy. Maybe a checklist is more appropriate to ensure compliance is met and obligations are understood.

An individual exemption application can take in excess of 9 months from application, review to approval stage.

This example is based on a query raised previously in a regulatory forum by a residential owner/operator. A retirement village is self-managed by the residential owners. The residences are concerned that the introduction of changes will be cost prohibitive as many of the residents were on pension payments and as owner/operators within their embedded network, they would be liable for the cost. The regulatory burden and physical change would in this case outweigh the benefits to the residents.

18. Would it be helpful to introduce limited authorisations and exemptions to apply to particular business models/business activities?

Yes. Authorised retailers should be subjected to limited authorisation. Registrable exemptions are not approved however customer categories are provided. Individual exemptions are assessed for their appropriateness to the customers at that site. I.e., a residential individual exemption will be assessed for their ability to provide customer hardship and other services such as domestic violence and life support policies.

a. Are there any risks to this approach?

Ongoing monitoring will be required.

19. Would it be preferable to tailor retailer obligations to the specific set of proposed retailer activities? For example: a. Should there be a core set of obligations on all retailers?

Yes, a core set of obligations is necessary however imposing tailored obligations may be difficult to monitor.

20. Should the AER be able to impose ongoing obligations on authorised retailers to require them to undertake, or limit them from undertaking, particular activities?

Yes.

21. Should retailers be required to apply for a variation if changing their business model or customer type from what was approved?

Yes.

22. Should the AER audit retailer activities and organisational capacity against arrangements set out in retailer authorisation applications, and if so, what should be the trigger and/or frequency?

Yes. Similar to the AEMO ENM accreditation, auditing would be a feasible option. This could be conducted routinely or when an incident has occurred.

23. As authorisation and individual exemptions are currently a point-in-time assessment, should retailers and exempt sellers be required to provide ongoing certification of their suitability to maintain their authorisation or exemption?

Yes.

a. How can the AER provide ongoing certification of retailer and exempt seller suitability to maintain their authorisation or exemption?

Self-audit reporting between the routine audits conducted by an independent reviewer appointed by the AER.

b. What should this involve – for example audit, reapply under criteria, certificate of compliance? As above.

24. If applying additional and/or ongoing obligations on authorised retailers, how can we limit the additional regulatory cost?

Desk-top audits and self-audits may assist in limiting the regulatory cost.

25. What, if any, regulatory approvals should be required if there is a change in control of an authorised retailer?

We would support additional regulatory approval for changes in control of an authorised retailer to ensure suitability and confidence in continuity of service and consumer protection however not to the extent of a full application.

26. If there are changes to the framework that applies to new retailers or exempt sellers, what changes should be made to existing retailers or exempt sellers?

Standard consumer protection including financial hardship, life support obligations, connection and disconnection protection.

28. How can we ensure the authorisation and exemption frameworks achieve effective regulation and balance the need for innovation and an appropriate level of protections for energy consumers?

a. How can we effectively regulate new business models?

A self-portal allowing exempt entities to update the services and products could assist in keeping on top of the change. This could assist with notifying exempt entities of their obligations and changes/introduction in relevant regulations when it occurs as well as allowing AER the ability to segment areas for audit.

29. If changes are made to the authorisation and exemption frameworks, what (if any) changes should be made to apply to existing retailers and exempt sellers/embedded networks? Should there be a trigger for changes to existing authorisations and exemptions and, if so, what should they be?

A staged approach would be fair and reasonable where new registrations should adhere to the changes, and to an extent existing registrations. Pending the type of changes, some may be more challenging for existing embedded networks whereas others can be adopted relatively quickly - such as ombudsman schemes. We believe that the AER can develop simplified pro forma arrangements that can be low cost, fair and easy to implement in legacy exempt seller arrangements whilst ensuring crucial customer protection is provided.

We felt that some responses were relatable to multiple questions in the context of embedded networks and microgrids.

If you have any further queries or would like to discuss our submission in greater detail, please feel free to contact myself or Mussen. We look forward to reviewing the draft network exemption guidelines when this is available.

Yours sincerely,



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Managing Director



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