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30 June 2021

By email: AERexemptions@aer.gov.au

General Manager, Compliance and Enforcement
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

Dear Madam, Sir

Request for submissions - Updating the Network and Retail Exemption Guidelines, Consultation Paper May 2021

Energy Local welcomes the opportunity to comment on the Consultation Paper regarding the updates to the Network and Retail Exemption Guidelines dated May 2021.

Energy Locals is an electricity retailer across the NEM [REDACTED]
[REDACTED]
[REDACTED]

Energy Locals' overall position can be summarised as follows:

- We treat our embedded network customers the same as on-market customers and believe that this is the fairest thing for customers.
- Currently the guidelines leave a range of issues open to interpretation. A simplification of the guidelines to align with rules applying to on-market customers would benefit both customers and industry.
- One significant issue to be resolved relates to ownership and management of infrastructure when an embedded customer chooses to churn.
- We believe that any new regulations should provide a grandfathering provision for existing sites to avoid major disruptions to the industry.

Please feel free to contact me directly should you require any clarifications relating to our submission.

Yours sincerely



Adrian Merrick
CEO Energy Locals and Energy Trade

Article I. Updating the Retail and Network and Exemption Guidelines – Consultation Paper 2021 – Questions for feedback

Number	Question	Energy Locals' Position
Question 1	<p>Do stakeholders agree that responsibility for meeting certain network exemption conditions should be restricted to one person, for example the network owner or controller?</p> <p>If stakeholders agree, which person should be the sole registrant, noting this person should have the capacity to resolve customers' complaints?</p>	<p>Rules should be changed to ensure that customers are afforded the same protections as on market customers, and as such we believe that a single person should be responsible for meeting market rules.</p> <p>We believe that the network owner is the right party to take responsibility, as they are able to control the liabilities associated with this activity. Additionally, this will ensure continuity in the ombudsman membership in case of a change in billing agent or embedded network operator.</p>
Question 2	<p>Ombudsman membership is an example where designating responsibility is likely to be helpful.</p> <p>Are there other examples?</p>	<p>We support the assignment of clear responsibility to one party for addressing customer complaints as this will provide clarity to customers.</p>
Question 3	<p>Should we clarify the meaning of controlling and operating an embedded network?</p>	<p>Yes, network owners and operators would benefit from a clarification of the definitions of controlling and operating an embedded network. This will also assist customers who sometimes seek clarity of how embedded networks are structured.</p>
Question 4	<p>Do stakeholders consider there is a need to regulate small generator aggregators under the network exemption guidelines?</p>	<p>We agree with the statement "There are no customers in this type of arrangement and therefore no potential customer detriment requiring regulation."</p> <p>To the extent SGAs involve customers, arrangements should align with on-market customer requirements.</p>
Question 5	<p>Do stakeholders interpret small generator aggregators as being captured under the NER?</p>	<p>Yes, SGAs that supply energy to the wholesale market should be captured by the NER consistent with embedded generators, VPPs and other comparable assets.</p>

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Question 6	What do stakeholders consider a reasonable timeframe to procure and appoint an Embedded Network Manager?	<p>An Embedded Network Manager should only be required to be appointed once a customer decides to go on-market.</p> <p>An appropriate timeframe would be within 10 business days from the date a customer notifies the network operator that they wish to go on-market.</p> <p>Our position is that the ENM provides little value while adding to the cost base that needs to be recovered from customers.</p>
Question 7	Do stakeholders agree the appointment of Embedded Network Managers should be deferred in regional Queensland and legacy unmetered sites?	ET believes that this approach is reasonable.
Question 8	Do stakeholders agree that the appointment of Embedded Network Managers be deferred if they are no longer required, for example when all on-market customers have reverted to off-market? Are there other situations when Embedded Network Manager services are no longer required?	Yes, ENMs should only be required where on-market customers exist.
Question 9	Do stakeholders agree to removing the 'eligible communities' and counteroffer provisions from the network exemption guideline?	Yes, given that the provision has not been used in the past, it appears to add limited value and should be removed to simplify the guidelines.
Question 10	Should the information embedded network owners/operators provide prospective customers be standardised?	<p>We support the introduction of reasonable standardised information to prospective customers.</p> <p>The required information should be determined after industry consultation to ensure the needs of both consumers and the industry are met. However, we firmly believe that all network operators should adhere to the Default Market Offer rules and use BPIDs when</p>

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		producing energy pricing documentation.						
Question 11	Should the network exemption guidelines term 'express written consent' be replaced with 'explicit informed consent', and be provided in writing?	<p>Yes, this would align requirements with on-market customer requirements.</p> <p>We don't believe that this needs to be in writing given that very few customers provide this to any organisation in writing nowadays. Digital and phone EIC capture should be supported by the guidelines.</p>						
Question 12	Should record keeping requirements explicitly apply to all situations where consent is required under the network and retail guidelines?	Yes, this would align with on-market customer requirements.						
Question 13	<p>Do stakeholders support proposed clarifications to the retail and network exemption guidelines' retrofit requirements?</p> <p>If not, what are reasons for not supporting the changes?</p>	<p>Yes, we believe that the proposed clarifications increase efficiencies due to improved clarity.</p> <p>We believe that vacant lots should not be included in the percentage calculation for consent.</p> <p>We believe that all metered points, including site offices and common areas should be counted in the percentage calculation for consent, if occupied.</p> <p>Please refer to example below for clarity:</p> <table data-bbox="1093 1061 1366 1157"> <tr> <td>Occupied lots</td> <td>100</td> </tr> <tr> <td>Vacant lots</td> <td>10</td> </tr> <tr> <td>Total lots</td> <td>110</td> </tr> </table> <p>In this example, 85 positive responses would be required to achieve 85% consent levels.</p>	Occupied lots	100	Vacant lots	10	Total lots	110
Occupied lots	100							
Vacant lots	10							
Total lots	110							
Question 14	Are there any other provisions or requirements that need to be clarified in either the retail or network exemptions guidelines?	The provisions would benefit from clarifying the ownership of the network assets, being the meter and interconnected wiring.						

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Question 15	Is there any other information exempt sellers should provide embedded network customers to help them access retail competition?	<p>The exempt seller should be required to observe the same rules as on-market retailers.</p> <p>Any additional information provided by exempt sellers should not exceed requirements of on-market retailers. As such, we do not believe that this should extend to providing instructions on how to choose an alternative retailer.</p> <p>We recommend that on-market retailers clarify whether they take on embedded network customers to avoid the poor experience customers face when signing up to an offer that is later withdrawn by the on-market retailer.</p>
Question 16	Do stakeholders have a preference – for a broader set of hardship assistance conditions or an exempt seller hardship plan?	<p>We support an alignment between embedded networks and on-market requirements. It makes no sense to require embedded network operators to have different hardship standards than on-market retailers.</p>
Question 17	What key protections should be included in a hardship policy template for exempt sellers?	<p>Key protections should align with on-market requirement, given that embedded network customers will experience the same difficulties as on-market customers. It is therefore reasonable that they will be offered the same protections.</p>
Question 18	What additional obligations should the core exemption conditions include?	<p>Obligations should be aligned to the market rules.</p>
Question 19	Are there other measures that would facilitate exemption holders' taking up membership of ombudsman schemes?	<p>We support the requirement to prove that a membership of an ombudsman scheme has been taken up, i.e. provide the EWON membership number.</p>
Question 20	Do stakeholders support regulation of the sale of energy to chill water?	<p>We do not support additional regulation in this area due to the complex nature of the product and the resulting increase in compliance cost for small providers.</p> <p>The billing of air conditioning is a small and relatively uncommon part of a customer's bill. Adding regulatory oversight will increase the burden on retailers and exempt sellers for a minor component of the overall costs. The same applies for bulk hot water, where</p>

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		<p>network operators often invest substantial capital in sophisticated centralised hot water systems and maintain those systems 24/7 on behalf of customers. For both this and centralised air conditioning, cost comparisons we have seen from one stakeholder fail to account for the cost of the capital, installation and ongoing operations & maintenance. These costs cannot be avoided if customers choose instead to install their own systems and are therefore relevant in order to compare like-for-like.</p>
Question 21	<p>What are the main issues for this type of energy sale and what sorts of conditions should apply?</p>	<p>There would be a significant increase in compliance costs. Including this type of energy sale under the regulations could lead sellers to bill air conditioning based on air flow or some other measure, rather than electricity use, and we believe such a move would lead to customer confusion. The points made in the response immediately above are also highly relevant to this question.</p>