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07 April 2022

By email: AERexemptions@aer.gov.au

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

Dear AER team,

Request for Participation - Open for submissions - draft Retail Exempt Selling Guidelines (v6) ("guidelines")- Paper for June 2022.

Energy Locals welcomes the opportunity to participate in the consultation process for the revised guidelines. We acknowledge that the new amendments to the guidelines involve modifications to support exempt sellers to understand their compliance obligations and ensure protections are accorded to customers.

Please find our response below for some of the questions that we had submitted in June 2021 but which don't appear to be clarified in the new draft guidelines.

Energy Locals' overall position can be summarised as follows:

- We believe that any new regulations should provide a grandfathering provision for existing sites to avoid major disruptions to customers and industry.
- One significant issue to be resolved relates to ownership and management of infrastructure when an embedded customer chooses to churn.

Our submission

Should we clarify the meaning of controlling and operating an embedded network?

The draft provides clarity on a number of matters in relation to responsibility for the Ombudsman Schemes, appointing an Embedded Network Manager and Hardship Policy management. However, terms for controlling and Operating Embedded Network should be clearly defined. especially if one party will have additional responsibilities. The definition may include specific tasks that each party is responsible for. This will also assist customers who sometimes seek clarity on how embedded networks are structured.

Do stakeholders interpret small generator aggregators (SGA) as being captured under the NER?

We acknowledge that the Network Exemption Guidelines have been delayed. We stand by our original position that SGAs should align with on-market customer requirements.

What do stakeholders consider a reasonable timeframe to procure and appoint an Embedded Network Manager?

We maintain our previous position related to the appointment of the Embedded Network Manager's timeframe of 10 business days from the date a customer notifies the network operator that they wish to go on-market.

An Embedded Network Manager should only be required to be appointed once a customer decides to go on-market. Our position is that the ENM provides little value while adding to the cost base that needs to be recovered from customers.

Do stakeholders agree the appointment of Embedded Network Managers should be deferred in regional Queensland and legacy unmetered sites?

Energy Locals believes that this approach is reasonable.

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, we believe Embedded Network Manager should only be required where on-market customers exist.

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 adds limited value and should be removed to simplify the guidelines.

Should the information embedded network owners/operators provide prospective customers be standardised?

The new draft encourages retailers to provide any additional information they believe should be provided to exempt customers. However, new guidelines do not provide clarity about whether all Network Operators should adhere to the Default Market Offer rules and use of BPIDs. The required information should ensure that 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.

We support the introduction of reasonable standardised information to prospective customers.

Do stakeholders support proposed clarifications to the retail and network exemption guidelines retrofit requirements? If not, what are the reasons for not supporting the changes?

We believe that the draft provides clarification around explicit informed consent to be obtained by all affected customers but does not provide clarity on what percentage will be acceptable for calculation for consent.

We believe that vacant lots should not be included in the percentage calculation for consent. We believe that all metered points, including site offices and common areas should be counted in the percentage calculation for consent if occupied. Please refer to example below for clarity:

| | |
|---------------|-----|
| Occupied lots | 100 |
| Vacant lots | 10 |
| Total lots | 110 |

In this example, 85 positive responses would be required to achieve an 85% consent level.

Are there any other provisions or requirements that need to be clarified in either the retail or network exemptions guidelines?

We believe the draft does not clarify the ownership of the network assets. The provisions would benefit from clarifying the ownership of the network assets, being the meter and interconnected wiring. Revisions should be made to the network guideline to ensure that network owner/operators are required to assign an Embedded Network Manager.

Is there any other information exempt sellers should provide embedded network customers to help them access retail competition?

We acknowledge that the AER does not currently require authorised retailers to provide information to the AER as to whether they offer 'energy only' contracts to embedded network customers and consider this issue out of the scope of this guideline.

We believe exempt sellers should be required to observe the same rules as on-market retailers. We recommend that on-market retailers should clarify whether they take on embedded network customers to avoid the poor experience customers face when signing up for an offer that is later withdrawn by the on-market retailer.

Any additional information provided by exempt sellers should not exceed the 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. We have provided our comments on the Factsheet below.

Factsheet feedback

We reviewed the Factsheet and found a few statements to be ambiguous or discouraging to the customers to be on an off-market offer. Please see the snippet below along with our comments and recommendations. We have also added our comments on the Factsheet.

1. *" Most people that sell electricity in embedded networks are known as 'exempt sellers' because they are not required to become energy retailers authorised by the AER."*

We believe this statement is correct but not to be issued to customers as it may send mixed messages as to whether they are buying from an authorised seller. In Energy Locals' case, we operate under a retail licence and therefore, we are an authorised seller.

2. *"It can be difficult and costly to exit the electricity supply arrangements in place and access offers from other energy retailers."*

We believe this statement is open to interpretation as to who bears the exit cost. The customers will have more clarity if we provide the information about the cost. E.g., The cost is borne by off-market retailers and incoming on-market retailers.

3. *"If you can, and decide to, buy from an authorised retailer instead of your site's exempt seller, you will also need to make sure you don't pay twice for network charges."*

We believe this whole situation could be avoided and create a better customer experience if the AER require on-market retailers to pay the network charges invoices by the Embedded Network Operator.

- 4 *"An Embedded Network Manager creates a record of your meter in the national market, which means authorised retailers can identify your meter and sell you electricity."*

Energy Locals recommends that guidelines should have a provision where an ENM is able to clarify with on-market retailers 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.

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

Yours Sincerely,

A handwritten signature in purple ink, appearing to read 'Adrian Merrick', written in a cursive style.

Adrian Merrick
Founder & CEO

Failure to comply with the AER Performance Reporting Procedures and Guidelines is a breach of the Retail Law, and may attract civil penalties. If a corporation contravenes this obligation to comply, each officer of the corporation is to be taken to have contravened this obligation if the officer knowingly authorised or permitted the contravention or breach. An officer of a corporation may be proceeded against whether or not proceedings have been taken against the corporation itself. The Criminal Code Act 1995 (Cth) makes it a serious offence to give false or misleading information to the AER knowing it to be false or misleading or omitting any matter or thing without which the information is misleading.