

Via Email to: AERexemptions@acr.gov.au



30th June 2021

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

Dear Sir/Madam,

**RE: Updating the Network and Retail Exemption Guidelines Consultation Paper May 2021
Response**

Please find enclosed our response to the Updating the Network and Retailer Exemption Guidelines Consultation Paper May 2021.

If you have any questions regarding our response, feel free to contact me by email at

[REDACTED]

Kind Regards,

[REDACTED]

**Gareth J Mann
Managing Director
MTA Energy Pty Ltd**



MTA Energy

Updating the Network and Retail Exemption Guidelines

Response to Consultation Paper May 2021

Submission - 30 June 2021

MTA Energy Pty Ltd ACN: 622 895 274
Suite 103, 349 Pacific Highway North Sydney, NSW 2060
Phone: +61 2 8363 1310 | Email: energyinfo@mtaenergy.com

TABLE OF CONTENTS

1. INTRODUCTION	2
1.1 About MTA Energy	
1.2 Nature and Scope of Submission	
2. RESPONSE TO QUESTIONS	3

1. INTRODUCTION

1.1 About MTA Energy

MTA Energy Pty Ltd ("MTA") is an authorised Electricity Retailer in the National Energy Market providing an Integrated Electricity Supply solution to Commercial and Industrial customers. Our mission is to develop and deliver innovative solutions and services that reduce the overall energy consumption and emissions costs for our customers over the long-term and provide our customers with greater visibility, certainty and control of those costs on an ongoing basis.

1.2 Nature and Scope of the Submission

MTA is an integrated energy services and energy supply company, focussed on the medium sized Commercial/Industrial sector. MTA is able to provide to clients a single integrated service which combines Energy Efficiency Technologies (including load control, monitoring and reporting via IoT devices), with Distributed Energy Resource Technologies (Solar PV & Storage) coupled with real time access to wholesale electricity pricing. These bespoke electricity supply solutions then couple with real time carbon emissions calculations enabling clients to target NetZero emissions at verifiable lowest cost.

This "wrapping" of multiple elements into a single service delivery model enables customers to manage their costs and Co2 emissions compliance obligations at both an individual site level and a consolidated portfolio level.

Many multi-site MTA customers have a mix of sites (e.g. stores) between free standing sites and embedded (shopping centre) sites.

MTA's comments are based on our experience in dealing with Embedded Networks Owners when requested by Customers to either;

- a) Take an existing embedded network customer load, "on-market" or,
- b) Maintain an existing customer "on-market" because of a conversion into an embedded network.

2. Response to Questions

Question 1	Do stakeholders agree that responsibility for meeting certain network exemption conditions should be restricted to one person, for example the network owner or controller? If stakeholders agree, which person should be the sole registrant, noting this person should have the capacity to resolve customers' complaints?
Response	<p>Agree, the network owner should be the sole registrant and ultimate responsible party for compliance and obligation to resolve customer complaints.</p> <p>However, we strongly believe an independent authority needs to be engaged as the neutral arbitrator in the inevitable event the network owner and customer cannot agree on an acceptable resolution. If this independent authority is to be the ombudsman scheme in each state this avenue needs to be strengthened.</p>
Question 2	Ombudsman membership is an example where designating responsibility is likely to be helpful. Are there other examples?
Response	Ombudsman membership should be obligated for large, embedded networks such as shopping centres. Currently the ombudsman authorities have little real power to control or resolve disputes for customers in embedded networks which are generally owned or controlled by large corporations. In Queensland the EWOQ currently dis-avows any responsibility for embedded networks.
Question 3	Should we clarify the meaning of controlling and operating an embedded network?
Response	If the network owner is the individual responsible, then clarification isn't required.
Question 4	Do stakeholders consider there is a need to regulate small generator aggregators under the network exemption guidelines?
Response	No Response.
Question 5	Do stakeholders interpret small generator aggregators as being captured under the NER?
Response	No Response.
Question 6	What do stakeholders consider a reasonable timeframe to procure and appoint an Embedded Network Manager?
Response	<p>In our experience the timeframe for appointment of an Embedded Network Manager is not a relevant question since no other timed performance obligations sit with any other embedded network entity.</p> <p>For example the embedded network owner can simply choose not to respond in a timely manner to a request by a customer for their load to go "on-market" with no ramifications. The longer the delay the less likely a retail customer will pursue the issue.</p>

All other Market Participants in the NEM generally have obligated response and performance obligations as a condition of the market participation.

Furthermore, the role of Embedded Network Manager, implies more responsibility and decision capability than generally commercially and practically exists. In our experience the ENM generally can operate in MSATS and create the new NMI, but beyond this, no other actions are possible, since they defer singularly to the Network Owner.

For example if there is a need for modifications to a metering installation to be compliant with the Network Exemption Guideline, then an ENM will defer to the Network Owner's interpretation.

In the event of a dispute between the Customer and the Embedded Network Owner in regard to interpretation of the Exemption Guidelines or Network Exemption Approval the only recourse for a Customer is legal proceedings. Neither the AER nor state ombudsman schemes are able to assist with interpretation (e.g. a network exemption compliance date versus the actual installation date).

Question 7 Do stakeholders agree the appointment of Embedded Network Managers should be deferred in regional Queensland and legacy unmetered sites?

Response See comments above. The ENM is not realistically a role to assist customer with accessing retail competition.

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?

Response See above.

Question 9 Do stakeholders agree to removing the 'eligible communities' and counter offer provisions from the network exemption guideline?

Response No Response.

Question 10 Should the information embedded network owners/operators provide prospective customers be standardised?

Response Strongly Agree. Information on Customer choices in terms of both content and detail is extremely variable between embedded networks. That being said the common theme from most embedded network owners or retro-fitting owners (and their agents) is to impress on Customer the seriousness and magnitude of possible negative consequences should they not agree or comply. This appears as a concerted effort to "sell" a signup position.

Question 11 Should the network exemption guideline's term 'express written consent' be replaced with 'explicit informed consent', and be provided in writing?

Response Yes

Question 12 Should record keeping requirements explicitly apply to all situations where consent is required under the network and retail guidelines?

Response Yes

Question 13 Do stakeholders support proposed clarifications to the retail and network exemption guidelines' retrofit requirements? If not, what are reasons for not supporting the changes?

Response Yes

Question 14 Are there any other provisions or requirements that need to be clarified in either the retail or network exemptions guidelines?

Response The Commercial and Industrial embedded network environment has a significant number of larger property investment companies who view the embedded network as an additional revenue source generating improved returns on an asset. The quality of these returns is enhanced by the captive nature of embedded network customers, regardless of the current status of regulation. It is not in the best interests of these companies to comply with loosely drafted, good intention obligations to facilitate retail customer competition and they generally have the financial capability to resist any customer proceedings.

Against this background there are two main issues which we feel need to be addressed.

a) **Response Timeframes:** Under current drafting, embedded network owners have multiple avenues to delay requests by customers to access on-market retail competition. These avenues range from simply slow response to correspondence through to non-existent mechanisms to bring disputes to timely conclusions. All other Market Participants in the electricity sector have response timeframes and dispute resolution mechanisms.

We can point to several examples where the process of gaining on-market status for a customer has exceeded one year even though the embedded network owner did not dispute their obligation to assist with this request.

b) **Technical Interpretation Guidelines:** In order for customers to gain access to on-market retail competition they must have a market compliant meter installed. Many embedded networks do not have market compliant metering installations, which restricts changing of retailers. The embedded network owners are highly resistant to incurring costs which will also result in them losing customers and in our experience have employed significant resources to avoid facilitating retail competition.

Apart from anti-competitive commercial statements such as "ALL costs associated with modifications to metering will be borne by the tenant", the biggest technical issue is the definition of when an installation should be a compliant embedded network.

Case study: A customer is in an embedded network in Queensland which was constructed in 2011. The Embedded Network Owner applied for Network Exemption status in 2012 and granted approval by the AER June 2012.

Individual customer metering was installed in 2012.

The network owner claims the installation was compliant to 2011 standards and therefore there is no need to upgrade the metering

installation to be compliant with the AER 2012 approval obligations. Despite a technical report which defines the non-compliance components of the original 2011 installation AND the 2012 installation. Clear definition of a compliance date (e.g. Exempt Network Approval) is needed and what compliance covers in regards to metering standards and linked obligations (e.g. AEMO metrology procedures and jurisdictional obligations).

Question 15 Is there any other information exempt sellers should provide embedded network customers to help them access retail competition?

Response As detailed above the biggest impediment to customers accessing retail competition is not information but cost. The information and process requirements can generally be found, although clarity and standardisation would help. However, the cost of switching retailers for most embedded network customers is high in comparison to the savings. This is because the exempt network guidelines are not clear on what elements of a metering installation need to be compliant to facilitate on-market metering. Most parties assume it is simply the physical meter, which is a minor cost component, but in fact often the installation (cabinets, CT chambers, testing blocks etc) need upgrading, because they were originally installed non-AEMO compliant. This upgrade cost eclipses any replacement meter cost and hence becomes the barrier to competition.

The technical interpretation of whether the metering installation should have been compliant at installation is generally clear amongst the AER Network Exemption Guidelines, the National Electricity Rules and the AEMO Metrology Procedures, but this path is convoluted and generally beyond the resources of the average embedded network customer.

It is also open to disputed interpretation from the embedded network owners and associated exempt sellers.

Question 16 Do stakeholders have a preference – for a broader set of hardship assistance conditions or an exempt seller hardship plan?

Response No Response.

Question 17 What key protections should be included in a hardship policy template for exempt sellers?

Response No Response.

Question 18 What additional obligations should the core exemption conditions include?

Response No Response.

Question 19 Are there other measures that would facilitate exemption holders' taking up membership of ombudsman schemes?

Response All large commercial embedded network owners should be members of the requisite ombudsman scheme. It should be a condition of the exempt network approval and be demonstrated in minimum annual compliance reviews. Other Market Participants have reporting and compliance obligations to the AER, exempt network owners should be no different in view of the large part of the market they occupy.

Question 20 Do stakeholders support regulation of the sale of energy to chill water?

Response No Response.

Question 21 What are the main issues for this type of energy sale and what sorts of conditions should apply?

Response No response.

End Submission