

Exempt Selling Guideline – consultation on version 4

Minutes of the stakeholder forum held on consultation amendments	From	AER	20 October 2015
Date and time of Meeting	20 October 2015 10:00am		
Location	Sydney, via VCU with Melbourne, Brisbane, Adelaide, Canberra		

Chair

James Cox, AER Board member, introduced the forum and chaired the meeting.

1. Retrofitting of embedded networks

1.1 There was broad support to ensure consumers in embedded networks are not disadvantaged, it was noted that:

- There is a disparity in consumer protections for consumers in embedded networks and market customers, particularly in relation to:
 - ability to raise a complaint/dispute with an independent dispute resolution body;
 - choice of retailer (no, or limited access to retailer of choice). Further, many retailers are not interested in providing “energy only” contracts even where network charges can be separated out; and
 - access to key protections such as hardship support.
- Customers may not fully understand what being in an embedded network means – question whether consent is fully informed.
- Given differences between customer types, regulatory obligations should be targeted to the customers who most need protection. As per Retail Law, stronger protections are afforded to residential customers, with few obligations on sellers to large business/industrial customers.
- The potential savings to customers of embedded networks was noted, including a suggestion that customers don’t necessarily need choice if they are getting a good price. One participant also queried whether there was any evidence that customers were worse off as a result of a network conversion.
- Other participants disagreed, arguing that they can negotiate cheaper offers with retailers. It was noted there are also potentially some non-price disadvantages, such as the added complexity that is involved in being in an embedded network, including having a separate child NMI, reconciling double bills and not having access to own substation.

There was discussion around the provision of consent, including:

- Whether it is unfair that a tenant can withhold consent even after an onseller has undertaken to ensure customers will not be commercially worse off.
- Concern that if the rules on consent are relaxed, customers could be forced into joining an embedded network, even though it might not be to their advantage.

1.2 Other comments

- In Queensland, there is no cost effective way to exclude customers who do not provide consent – it is necessary to rewire the network, which “could cost thousands”.
- Individual distributors have their own policies – at least one requires either all units to be wired and connected to the embedded network or none at all.
- The AEMC noted its work on embedded networks and metering: there was agreement that the work being undertaken by the AER and the AEMC needed to be aligned.
- The issue of double billing in embedded networks was discussed. It was noted that the draft rule change on embedded networks will go some way to addressing this issue.
- There was also a question about whether further guidance should be given on the criteria the AER uses to assess exemption applications to help stakeholders make more useful submissions to consultations.
- In Queensland, body corporate legislation prevents bodies corporate from profiting from ‘domestic services’ which includes the sale of electricity. Bodies corporate are only allowed to charge for these services by agreement and only to the extent necessary for reimbursing the body corporate for supplying the services. Participants noted that this means bodies corporate may only pass on the costs of energy charged by their retailers.
- The condition in the Guideline requiring customers to be notified of price changes was considered burdensome by some participants, as the price charged by the retailer varies frequently.
- The question was asked that, given some embedded network operators are selling more energy than small retailers, should they be authorised rather than be exempted?
- From a customer’s perspective, the question about whether the sale of energy is incidental to a seller’s core business is not important: a sale might be incidental to a seller but a significant cost to the customer.

2. Concessions/rebates

2.1. There was broad agreement with the AER’s proposed position in the draft guideline, including:

- The need to ensure consumers are aware of, and have access to, the relevant rebates and concessions. There were mixed views about whose responsibility it is to provide this information, although a large number of participants felt that sellers were best placed to do this and that they should be required to inform customers of their entitlements, just as authorised retailers are under the NERL.
- Queensland participants expressed concern over the complexity of the claims process, in particular the number of parties involved in making a claim. They suggested a more streamlined process is likely to cut costs. Several suggested it would be preferable for exempt sellers/billing agents to directly deal with the agency that administers the concessions.
- Some participants noted the AER’s proposed amendments to the guideline would not affect them as they already claimed rebates on customers’ behalf.

- Concerns were also expressed about the time lag between claims being made and customers receiving their benefits as it was not deducted from their bills as it is with market customers (typically 3-6 months).
- Any reforms need to ensure the process is transparent, and that customers, however they claim their rebate/concession, are not exposed to other additional fees and charges.
- If the AER's proposed position is not adopted and it removes the current obligation to use 'best endeavours' there is a risk that exempt sellers will see this as an opportunity to not claim rebates/concessions at all and many may stop altogether.

3. Innovative energy selling

3.1 No specific issues were raised with the AER's proposed approach to regulating alternative energy sellers. However, there was a broader discussion on retail market fairness and meeting the needs of both the supply and demand side of the market.

Other issues raised include:

- To ensure network system security, should alternative energy providers be required to inform the FRMP as to what is going on "behind the meter". Data collection on this issue is a key concern for AEMO.
- Full customer protections should be available irrespective of the model under which energy is being sold.
- Participants recognised that consumer protections did not need to be provided solely by energy regulation given other consumer protections such as the Australian Consumer Law.
- Community energy and off-grid energy are likely to be key developments in coming years. The AER noted that our proposed approach sought to provide a technology-neutral, principle-based framework which would allow us to regulate effectively while ensuring consumer protections were met.
- Concern about customers' ability to exit or transfer was expressed in relation to the proposed registrable exemption class for the sale of energy through PPAs to residential customers. It was suggested that 10 years is too long.

3.2 There was broad agreement that consumer protections need to be reviewed to ensure protections are proportionate, but maintained.

Other issues

- The appropriateness of the standing offer price cap was raised and the question posed whether a better option was available.