10 October 2016

Mr Chris Pattas
General Manager, Networks
Australian Energy Regulator

By email to AERInquiry@aer.gov.au

Dear Mr Pattas

Draft Network Service Provider Registration Exemption Guideline

We refer to the AER's email dated 25 August 2016, and thank you for the opportunity to make a submission in relation to the AER's draft Network Service Provider Registration Exemption Guideline (Network Guidelines).

As you may be aware, **nbn** recently announced the expansion of its FTTdp (fibre to the distribution point) network rollout, a key feature of which is that **nbn**'s FTTdp services nodes (called FTTdp "distribution point units" or **DPUs)** installed to provide telco services to its end user telco customers, will be "reverse powered" with electricity supplied from the customer's premises. More specifically, this means that:

- **nbn**'s telco service DPU (connecting directly to **nbn**'s fibre optic network) is installed at or near to the end user telco customer's premises. The DPU is then connected to the premises via existing copper lead-in wiring for the provision of telco services.
- The electricity required to power the DPU, is supplied by the end user back to **nbn**'s DPU, from a reverse power unit (**RPU**) plugged into a power outlet socket at the end user's premises. The end user's RPU draws electricity from the end user's outlet socket and supplies it back to **nbn**'s DPU via the same copper lead in wiring at the user's premises.
- The supply of electricity back to the **nbn** DPU is provided by the end user to **nbn** at no cost, so there is no sale of electricity. Accordingly, **nbn** is not an electricity "**customer**" of the end user for the purposes of the National Electricity Law and its Rules (the **NEL** and **NER**) or the National Energy Retail Law and its Rules (the **NERL** and the **NERR**). Nor is the end user an electricity customer of **nbn** as the supply is from the end user to **nbn**, not the other way.

nbn is very keen to ensure that any potential regulatory risks to end users, arising from the use of this technology, are proactively addressed.

We note in passing that it seems to **nbn** that because it will at no stage be an electricity customer of the end user (ie the end user will be supplying electricity to **nbn** at no cost via the end user's existing copper lead in wiring) that

Level 11, 100 Arthur Street, North Sydney NSW 2060
Phone (02) 9926 1900
Fax (02) 9926 1901
Email info@nbn.com.au
Web nbn.com.au

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the end user should not be considered as operating a 'distribution system" that requires the end user to either be registered or exempted from registration as a network service provider under the NEL and NER.

Nevertheless we gratefully acknowledge the advice provided to date by the AER's Mr Paul Dunn in his email of 8 July 2016 that exemption ND5 under the Network Guidelines should apply to the reverse powering of **nbn**'s FTTdp equipment. We also note that the new draft Network Guidelines introduces a further exemption, ND9, which would apply to telecommunications networks broadly.

We have now reviewed the draft Network Guidelines and offer the following comments:

- The new ND9 exemption is made subject to additional conditions beyond those that currently apply to ND5. The ND9 conditions are 3, 4, 6, 7 and 9 of section 4.1, as well as any applicable conditions in sections 4.2 to 4.9. Many, if not all, of these conditions are clearly intended to apply to or are intended to protect the interests of "customers" of the exempt network service provider, ie those who are being charged by the network service provider for electricity usage or network usage or both.

- End users who are reverse powering **nbn**'s DPUs (as described above) are not selling electricity to **nbn** or anyone else and have no "customers". So we submit that these conditions should not apply to end user consumers of telco services, merely because they are "supplying" electricity through their own premises wiring, to a large telco service provide (such as **nbn**) at no cost, purely so that the telco service provider can power the equipment it needs to provide them with telco services. This would impose an unreasonable and unnecessary regulatory compliance burden on end users, introducing regulatory compliance issues and administrative complexity for them and potentially prejudicing the cost effective and efficient role out of FTTdp services to large sections of the community.

- For clarity, it is not **nbn** that is proposing to supply any electricity or electricity related services to end users under the above arrangements. Hence, **nbn** is not seeking the benefit of an exemption for itself (as **nbn** will at no time be an electricity network service provide providing any electricity related services). It seems to us that ND9 is drafted broadly with the intention of capturing (among others) telco service providers who do engage in the supply of electricity in conjunction with their telco related services. **nbn** accepts that, if a telco service provider does engage in the supply of energy then the conditions attached to the ND9 exemption may well be appropriate in some circumstances.

- However, there remains a need for an exemption that clearly covers end users for their reverse powering of telco service provider equipment, where no charge is being made for that electricity supply and the telco service provider is not itself providing supplying electricity or electricity network services. To that end we suggest an additional deemed exemption along the following lines, that is subject only to conditions 3 and 9 of section 4.1 of the Network guidelines:

  > "the supply of energy by the owner or occupier of premises, via plug in reverse powering equipment located at the premises, to a telecommunications service provider (at no cost) to enable the telecommunications service provider to power equipment by which it provides telecommunications services to the premises."

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In our view this would satisfactorily cover end users for the reverse powering scenario described above. It would not cover a telco service provider if it was also providing supply of electricity to the end user. If a telco service provider is supplying electricity, then it would need to be covered by ND9 and comply with the conditions attached to it if it is charging for that supply.

Thank you once again for the opportunity to provide this submission. If you have any queries in relation to the above, please contact Kurt Kreltszheim (kurtkreltszheim@nbnco.com.au).

Yours sincerely

Scott Harvey
National Manager Power Program

Level 11, 100 Arthur Street, North Sydney NSW 2060
Phone (02) 9926 1900
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Web nbn.com.au

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