



Guidelines for exemption from the requirement to register as a network service provider

Introduction

1. Section 9(1) of the National Electricity Law and clause 2.5 of the National Electricity Code require all network service providers (NSPs) to register with NEMMCO.
2. Clause 2.5 Registration of NSPs is designed to ensure that they are subject to the relevant provisions of the Code in relation to:
 - 2.1. **system security.** Chapter 4 of the Code prescribes facilities and actions required of NSPs to ensure system security is maintained. This is supported by parts of chapter 5;
 - 2.2. **network standards.** The standards for the network are defined in chapters 5 and 7. These standards ensure that end users and market participants can rely on the network to provide the appropriate quality of supply;
 - 2.3. **pricing.** The mechanisms for pricing of the network service are defined in chapter 6; and
 - 2.4. **dispute resolution.** The Code ensures that participants and intending participants have access to appropriate alternative dispute resolution processes, through chapter 8.
3. The National Electricity Code Administrator (NECA) may, in accordance with guidelines issued by it from time to time, exempt any person or class of persons otherwise required to register with the National Electricity Market Management Company (NEMMCO) as a network service provider (NSP) from:
 - 3.1. the requirement to register as an NSP; or
 - 3.2. the operation of chapter 5 of the National Electricity Code and the requirement under chapter 5 to provide an access undertaking to the ACCCsubject to such conditions as NECA deems appropriate where in NECA's opinion an exemption is not inconsistent with the market objectives or the Code objectives.

4. These guidelines are issued to assist parties seeking exemptions under clause 2.5 of the Code. NECA may vary these guidelines from time to time, subject to clause 2.5(e) of the Code.
5. The granting of any exemption under clause 2.5 of the Code does not reduce any obligation placed on an NSP under any other statutory or other provisions.

Principles

6. The following principles will be applied to assess each application:
 - 6.1. the relevant network should be wholly contained within premises owned or controlled by the applicant;
 - 6.2. the provision of the network (and any supply of electricity to other parties) must be incidental to the business of the applicant;
 - 6.3. standards or other regulatory controls should be in place in respect of the relevant network;
 - 6.4. the granting of the exemption should not unduly limit access of parties to the national electricity market contrary to the market objectives (clause 1.3 of the National Electricity Code);
 - 6.5. the proposed charging regimes(s) governing the NSP's network should balance the needs of the network provider and the end user;
 - 6.6. an appropriate mechanism must exist for the setting of energy charges if users of the network cannot access retailers. Jurisdictional licence conditions or regulations govern the on-selling of energy;
 - 6.7. end users should have appropriate recourse in the event of disputes, for example to the dispute resolution arrangements contained in chapter 8 of the Code; and
 - 6.8. the applicant should have obtained, or have applied for exemption from relevant jurisdictional requirements (eg under licencing or other regulations).
7. Where an applicant satisfies NECA that principles 6.1 to 6.4 have been met, exemption from the requirements of chapter 5 will generally be granted. If all principles are met to the satisfaction of NECA, full exemption will generally be allowed.
8. Applications from NSPs which meet some but not all of the principles will be assessed and, if the application is consistent with the intent of clause 2.5 of the Code, NECA may grant full or partial exemption.

General exemptions

9. Consistent with these principles, NECA has granted a series of general exemptions from the requirement to register as an NSP.

Applications for specific exemptions

10. NSPs which fall within one of the general exemptions issued by NECA are not required formally to seek specific exemption. NSPs that do not fall within those general exemptions but that wish to seek a specific exemption from the requirements of the Code must apply to NECA in writing. Applicants may submit their application in parallel to other applications where similar exemptions are being sought (e.g. from the requirement to have supply or other licenses from jurisdictional regulators).
11. Applicants seeking exemption must state:
 - 11.1 whether they are seeking (or have received) exemptions from other codes or regulations governing the ownership or operation of networks, including details of those exemptions or applications for exemptions;
 - 11.2 whether they are seeking exemption from the requirement to register as an NSP or just from the application of chapter 5 (and the requirement to provide an access undertaking);
 - 11.3 the precise network to be subject to the exemption, including circuit diagrams if necessary;
 - 11.4 what discussions have taken place between the applicant and the NSP to which the relevant network will be connected;
 - 11.5 what arrangements are proposed for setting network charges for parties using the network; and
 - 11.6 what arrangements are proposed for energy charges (e.g. fixed percentage of total costs or direct access to retailers by tenants)
12. NECA may request additional information from applicants prior to processing an application for exemption. NECA will normally advise applicants of any additional information required for the processing of their application within 10 working days of the application being received.
13. Decisions by NECA under clause 2.5 of the National Electricity Code are reviewable by the National Electricity Tribunal.

Conditions

14. NECA may, pursuant to clause 2.5 of the Code, place conditions on any exemptions granted.

Revocation of exemptions

15. NECA may revoke an exemption, or vary the conditions imposed, if it forms a reasonable opinion that the NSP no longer meets some or all of principles required for exemption.