

AER Approach to Retail Exemptions

June 2010

Submission from



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Preface

EMU Solutions would like to thank the AER for the opportunity to comment on the AER Approach to Retail Exemptions Paper. We believe the AER's objectives in this review should be to:

- encourage retail competition,
- promote the availability and continued expansion of benefits to customers at multi customer sites, and
- protect the interests of participants,

in the National Energy Market.

Embedded Networks are potentially an important element in achieving these objectives. Competition is best encouraged by appropriate regulation. It is important to establish an appropriate regulatory regime for embedded networks, including:

- recognition for an Exemption and/or appropriate licensing regime,
- ongoing exemptions, and appropriate definitions, for embedded network arrangements,
- introduction of Registration for organizations whose core business includes embedded networks and
- the existing licensing regime for full service Licensed Retailers and Licensed Distributors.

The increase in the number of Embedded Networks should not be a cause of concern as it is a sign that competition is occurring in supply and sale of electricity and gas in the Energy Market. It also meets an existing need in the market where this innovative solution is providing cost effective and suitable benefits for energy customers. The challenge has been to answer questions or make comment where:

- the outcome of earlier questions is still unresolved or unclear,
- the benefits of the activities of exempt retailers have not been recognised
- the benefits of increased competition and reduced costs due to exemptions has not been discussed,
- the options for Authorized Retailers to compete into embedded networks does appear to have been examined or understood and
- Issues such as the identification of "incidental" supply have been raised and potential solutions appear to have been adopted without adequate discussion.

The Paper presents many questions for consideration. Our responses have been included as:

- Responses to questions and as
- Comments on the content of the body of discussion.

EMU Solutions provides independent consultancy services on Efficiently Managing Utilities, including embedded networks. This Submission has been compiled from our experience with customers, the input of market participants and observation of the situation for existing and proposed embedded networks. EMU Solutions would like to thank all those who participated, shared and contributed to this Submission.

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1 Introduction

EMU Solutions appreciates the opportunity to comment on the AER Approach to Retail Exemptions Issues Paper of June 2010.

In our experience of numerous embedded networks in Victoria, NSW, Queensland and South Australia, Exempt Customers have generally enjoyed buying power for their premises at a discount to what they would otherwise have to pay to an Authorised Retailer; and do so in a “community” environment. Exempt Retailers are an aspect of competition that is similar to what occurred during the introduction of competition and deregulation such as in the Telecommunications and other industries. This is healthy and beneficial and provides a competitive option for exempt customers to choose rather than just established authorized retailers and distributors.

An embedded network can also consolidate a number of small customers into one large customer for purposes of dealing with an authorised retailer and other market participants as necessary. So, not only is it a less expensive approach to delivery of services at prices that reflect costs, it also gives a community of those small customers better negotiation and dispute resolution options than as individuals against an Authorised Retailer.

Further, Authorized Retailers do not recognize nor pass back “on premises” costs that are provided by developers or continually met by owners. These costs are typified in an embedded network as Embedded Network Use Of System (ENUOS) costs. These ENUOS costs represent millions of dollars per annum in establishment and ongoing costs which otherwise would be wrongly included as part of the infrastructure provided by retailers and distributors. Further, the premises owners usually undertake maintenance of onside infrastructure however these costs are not recoverable from authorized market participants. If not incorporated in an embedded network, how else would the costs of hardware, maintenance, and other infrastructure components be recovered from authorized retailers?

EMU Solutions believes a key driver for the proliferation of embedded networks is the current practice of network providers in providing all metering at a central location and requiring the developer/builder (therefore ultimately the owner/occupier) to provide necessary reticulation within the site with no recognition in the their charging of these imposed costs. In this situation the only incremental cost to establish an exempt retailer is to pay for meter installation and establish a billing capability. This approach often also has the benefit of avoiding delays in waiting for the distributor to install/coordinate meter installation.

Our comments and answers are set out in the following pages and adhere to the same structure as the Issues Paper.

2 Public consultation process

3 Overview of exemptions

3.1 The AER's role under the proposed Retail Law and Retail Rules

Q1: Do stakeholders agree with the AER's interpretation of what constitutes the sale of energy?

Answer: Yes

3.1.3 Exempt seller and customer related factors

Comment: The customer related factors do not specifically identify and require consideration of the benefits that become available under an exempt seller arrangement. Our experience is that there is a significant economic benefit provided to exempt customers, with ready availability of extremely competitive prices, with pricing greater than 10% discount against Standing Offers or Default Prices. These discounts can be as high as 20% and in some instances all profits are returned to exempt customers. Other benefits such as ease of arranging connection and timely delivery of connection are also made available.

3.1.4 AER exempt selling functions

Comment: EMU Solutions considers that for many embedded networks there are benefits of the seller operating under an exemption which exceed the costs of the seller having an exemption rather than a retailer authorisation as requiring a retailer authorisation would provide a barrier to competition for exempt customers within the embedded network. We content that access to these benefits should be a specific customer related factor and that it should be included specifically with the other customer related factor in the granting of an exemption.

As Exempt Sellers are themselves customers of second tier retailers, it is inappropriate for exempt sellers to be required to satisfy the same requirements as entities that:

- Specialise in the purchase and selling of energy,
- Operate as market participants,
- Operate and settle in the market and
- Have system requirements to service significantly greater numbers of diverse customers where no other relationship exists.

These Exempt Retailers are far too small to warranty the impact of full regulation appropriate to an Authorised Retailer. Indeed we know of no exempt retailers who commented on the proposed Retailer Authorisation Guideline as it is outside their scope of considerations. At best a "Small Scale Licence" approach might be appropriate.

Imposing conditions on exempt sellers

Comment: There are potentially many requirements that apply to an Authorised Retailer that are not appropriate to the situation of an exempt retailer, who is often the Body Corporate selling to its own community. However, some conditions such as those outlined in Conditions in Attachment 1 might be appropriate.

Developing Exempt Selling Guidelines

Q2: Are there any other matters that should be included in the Exempt Selling Guidelines?

Answer: EMU Solutions recommends that overall benefits to tenants be identified separately as a specific consideration as part of the criteria in the guidelines.

Maintaining and publishing a Public Register

Comment: The public register of persons with exemptions will be extensive given the significant activity in this area, and the provision of the level of detail required will generate an unprecedented administrative burden for persons with an exemption.

Q3: Are there other particulars and information relating to exempt sellers that should be included in the public register?

Answer: We consider that the particulars and information listed prior to question 3 is already extensive and should be reduced.

4 Issues for discussion

4.1 Apparent growth in onselling

Comment: There are many reasons for onselling, in particular where distributors will only provide group metering, i.e. all meters in one location which is easily accessible for the distributor but which imposes significant additional costs and space requirements on developers and owners.

AER: A further factor may be that in large residential developments, developers are keen to minimise the space allocated to individual customer metering, thereby restricting customers' access to full retail competition that would otherwise be available to them in many jurisdictions.

Comment: the meaning of this statement is not clear. If an approved meter has been provided then access to full retail competition is possible by treatment of that meter as a child meter.

AER: The cost of including individual metering in developments may have also contributed to an increase in onselling of unmetered energy, especially gas where it is only being used for cooking. Unmetered onselling is discussed further in section 4.3.7.

Comment: there are situations where the cost of metering and recovery of the gas usage far exceeds the value of the gas, and would disadvantage the tenant.

AER: The AER is concerned about the growth in onselling because a range of protections that apply to customers of retailers will not automatically apply to customers of onsellers. For example, there are no rules governing what would happen

if an onseller becomes insolvent or is unable to pay their energy procurement costs.

Comment: Where the Body Corporate is the exempt retailer there are significant protections in place and the exempt retailer will not become insolvent.

Comment: Retailer of Last Resort (RoLR) functions can be provided by the ROLR for the Local Network Service Provider, as they would if the Authorised Retailer for the gate/parent meter was unable to fulfil their role.

Q4: Is the apparent growth in onselling problematic, and if so, why?

Answer: We consider the growth in onselling recognizes and satisfies a market need and so should be regarded as beneficial rather than problematic. We regard the phrasing of this question to be relatively negative, with no balancing aspect of the benefits that flow to tenants.

4.2 Policy principles

4.2.1 Regulatory arrangements for exempt sellers

Q5: Is it appropriate for the AER to impose no conditions on large customers of exempt sellers (as is the case for large customers of authorised retailers), or should they be provided with basic customer protections where the existing arrangements prevent them from choosing their own retailer

Answer: As in other parts of the market, it is considered that large customers of exempt sellers do not need specific protection. In Victoria, access to competition is a requirement in the operation of an embedded network. However there are some procedures that are to be clarified in this respect so the Authorised Retailers recognise their role in managing child meters (i.e those customers in an embedded network buying from an Authorised retailer.)

Q6: Should the AER impose a condition on onsellors selling to large customers to ensure that they do not hinder or prevent the customer from choosing their own retailer?

Answer: A large customer should be able to access competition, and a range of solutions to enable this is available, not necessarily requiring rewiring. See also answer for question 5.

4.2.2 Access to retailer of choice

AER: For grid-connected customers in the competitive energy market, the ability to choose their own retailer depends on network configuration and the type of meter (if any) in place at their premises. These factors are usually determined at the time a building is constructed.

Comment: EMU Solutions considers that this AER statement potentially overlooks the procedures for managing a Child Meter.

AER: Within a particular building, each meter may have been assigned a unique identifier for wholesale market purposes. If this is the case, customers within that building will be able to choose their own retailer. The AER considers that it will generally not be appropriate to grant a retail exemption (and particularly a deemed or registrable exemption) to an onseller where all customers have access to a retailer of choice. Onselling in these circumstances is unnecessary and deprives customers of some protections under the Retail Law and Rules.

Comment: To adopt this view would be anti-competitive and potentially deprives the customers of an opportunity to purchase less expensive electricity from an exempt retailer on a consolidated site basis. This greater economic benefit alone can be balanced with the protections that may or may not still be available to those customers under Retail Law and Rules. Procedures exist to abolish the meter numbers of meters that are no longer required to be “settled in the market”.

AER: The AER will consider how it may use its exempt selling role to discourage future developments that do not afford customers the right to retailer of choice.

Comment: EMU Solutions considers that the significant barrier to access to competition is the Authorised Retailers’ lack of procedures and capability for managing Child Meters, partly due to system limitations. If these requirements were strengthened then Competition could be introduced through data based solutions, and the need for re wiring would be removed.

AER: In the short term, it may be appropriate to allow an exemption where the metering arrangements are not able to facilitate customer choice of retailer, provided that the metering allows customers to be charged according to metered (rather than non-metered) consumption.

Comment: EMU Solutions agrees with a approved meter approach to charging of customers within an embedded network.

Q7: How important is it for customers in onselling situations to have access to choice of retailer?

Answer: For many customers in onselling situations, particularly where the embedded network provides lower prices than the competitive market of retailers, access to choice of retailer is likely to have little significance. Furthermore, for smaller customers the overall financial advantage might be minimal. Hence the choice of retailer should be balanced with the overall benefits of the embedded network.

Answer: For customers who wish to make a non price related choice of retailer, there is no economic benefit and access to choice of retailer would be of some importance.

Q8: Once network configuration/metering issues are addressed, are there any other impediments to exempt customers having access to choice of retailer for electricity?

Answer: The comments preceding Question 8 only appear to consider physical solutions to enabling access to choice of retailer. It is incorrect to overlook the

potential for use of data solutions to facilitate the choice of retailer. This entails payment by the customer to the retailer of choice for their usage; and deduction of that usage from the usage registered at the master/gate meter. Procedures to take account of the demand component of child meter usage have not been formalised, however are also possible through data management.

Answer: It appears to be an authorized retailer's choice not to support supply of electricity to a customer in an embedded networks. One difficulty the Authorised retailer would face is the requirement to provide a passthrough payment to the embedded network for use of the embedded network system as well as underlying Network (Distribution and Transmission) use of system charges. If this is supported then network charges would still be collected by the embedded network operator and subsequently paid to the local network provider of part of their network fees. Alternatively, there are other approaches that can be implemented to support the choice of retailer.

Q 9: Where gas is only used for limited purposes, how important is it for customers in onselling situations to have access to choice of retailer for gas?

Answer: Where gas is only used for limited purposes it is likely to be supplied as part of facilities or rent as it is of low value; and therefore it is unlikely that the cost of installing a meter will be warranted to obtain the choice of retailer for gas i.e. it is not important.

4.2.3 Customer protections

Comment: The requirements, such as "to provide receipts" should be considered in terms of cost and practicality. Any requirement should not exceed the requirement imposed on an Authorised Retailer.

Q 10: What core customer protections should exempt sellers be required to provide for their small customers?

Answer: The core customer protections listed above question 10 are considered appropriate, as long as not exceed the requirements imposed on an Authorised Retailer

Q 11: Are the core protections proposed in the draft categories of deemed and registrable exemptions attached to this paper appropriate?

Answer: It is noted that some onselling activities will potentially be a combination of classes (e.g. class 6 and class 7) and specific comments have been included under the appropriate locations in the draft categories.

Q12: Do stakeholders agree with the requirement for exempt sellers to notify the AER, and their customers, of the possibility of disconnection?

Answer: It is difficult to identify any benefits to be derived by the requirement for exempt sellers to notify the AER, and their customers, of the possibility of disconnection. Indeed it is the responsibility of the exempt person, quite possibly the Body Corporate to resolve this issue. Indeed a Body Corporate has far more at stake with their tenants than any Authorised Retailer would have.

Q13: Are there any conditions which the AER could impose which might help to mitigate the risk of an exempt seller failing and leaving its customers without supply? Would it be appropriate for the AER to do this?

Answer: It is difficult to predict and therefore mitigate the risk of an exempt seller failing. As in question 12, it is difficult to identify the AER's role in ensuring supply.

Q14: To what extent can the protections found in hardship policies be applied to customers of exempt sellers operating under deemed and registrable exemptions?

Answer: We agree with the AER in its assessment that hardship policies might not be applicable under these conditions. Given that lower prices are usually available to exempt customers of an embedded network and that rent and other considerations will also be potentially involved in the relationship between the exempt seller and the exempt customer.

Q15: In jurisdictions where the Ombudsman or dispute resolution schemes do not extend to exempt sellers, what dispute resolution processes should the exempt seller provide to its customers?

Answer: As addressed throughout the issues paper, there are potentially other links between an exempt seller, such as a Body Corporate and the exempt customer. Any dispute resolution procedures should be considered in the context of these other relationships and the unintended consequence of a procedure specified by the AER could be inconsistent with these other requirements. Never the less, clear dispute resolution procedures should be available and notified to the exempt customers.

Q16: Should exempt sellers operating under an individual exemption be required to base their dispute resolution processes on *Australian Standard AS ISO 10002-2006*, as amended and updated from time to time?

Answers: Yes, we agree with this approach and it should be included in the guideline.

Q17: Should this requirement be extended to exempt sellers operating under a deemed or registrable class exemption, or to all exempt sellers selling to more than a certain number of customers? Why or why not?

Answers: The potential broader relationship between the exempt seller and the exempt customer in a deemed or registrable class exemption should be considered in framing any required dispute resolution process.

4.3 Exempt seller related factors

4.3.1 Exempt seller ‘incidental’ requirement

Q18: What sort of tests should the AER use to determine whether the sale of energy is incidental to a business?

Answer: We believe exemptions should be applicable for situations where exempt retailers are providing benefits to exempt customer that would not otherwise be available, such as significantly lower prices. Just because a Body Corporate provides cheaper services to its tenants by sourcing those services in the most economic way does not mean it is “in that business”. We believe the approach to the incidental nature of an exemption should be reconsidered.

Answer: In particular the discussion of whether onselling is avoidable does not consider any alternatives, as it imposes a barrier on the choices for the Body Corporate in servicing its customers through economies of scale.

Answer: The question of whether a profit is derived is also an arbitrary consideration, as the Body Corporate passes that profit through to owners and occupiers, or provides other services at no cost to the tenants, i.e. the customers of the embedded network. As the pricing rule requires the customers pay less than the standing offer, exempt retailers are obliged to set their own tariffs, so this cannot be regarded as an indication of whether the activity is incidental.

Answer: Outsourcing of energy purchasing to a broker is a common business practice and is undertaken by many small medium and large customers, so is not an indication of whether energy onselling is a core part of an exempt seller or anyone else’s business. If it was core business it would be more likely to be undertaken “in house”

Answer: The proposed examination of the proposed onselling as being avoidable is not an appropriate test either as the introduction of many embedded network is fostered by the service installation rules and practices of distributors in adhering to group metering practices to reduce their costs.

Q19: Is the approach taken to the ‘incidental’ requirement in the categories of deemed and registrable exemptions appropriate?

Answer: we are not comfortable with the incidental requirement of the categories of deemed and registrable exemptions would appear to be irrelevant.

4.3.2 Exempt seller's circumstances

Q20: Are there any additional circumstances to those identified above (and in other parts of this issues paper) that would warrant the AER issuing an exemption rather than a Retailer Authorisation?

Answer: Although not clearly stated in the paper, it would appear that obtaining a retailer authorization will be far more onerous than obtaining an exemption. Where there is an overall benefit to the exempt customers within the embedded network, we recommend that an exemption approach be taken. For example, if tenants are receiving prices that are equal to or less than those that could be obtained from the market the embedded network should be able to operate under an exemption rather than an authorization. This should be irrespective of whether the embedded network operator derives a profit, whether it is incidental to the capital ENO's core business or any other considerations.

4.3.3 Profit intention of the exempt seller

Q21: How should the AER judge an exempt seller's profit intentions?

Answer: We recommend that the AER should not judge an exempt sellers profit intentions, as it is the tenant benefit and competition that is important. We are aware of embedded networks where a profit is derived in the interim, however is ultimately distributed to owners and tenants.

Q22: Will the proposed pricing protections adequately protect exempt supply customers?

Answer: EMU Solutions considers that access to competition of retail offers and pricing rules that prohibit charging more than the tenant would have otherwise paid are sufficient pricing protections.

4.3.4 The 'significance' of the exempt seller's activities

Q23: What additional information might the AER have regard to when considering the significance of the energy likely to be sold by an exempt seller?

Answer: We consider that the significance of the energy likely to be sold by an exempt seller is not an appropriate consideration for licensing or exemption purposes. Indeed the larger the customers within an embedded network the greater their own protections would be.

4.3.5 Whether an exemption would provide appropriate governance of the exempt seller

Q24: Will the obligations imposed through proposed exemption conditions (see attached) and existing state/territory tenancy legislation be sufficient to avoid requiring the exempt seller to obtain a retailer authorisation?

Answer: Yes, however adequate capability to enforce exemption conditions needs to be provided.

Q25: Are there any instances where state/territory tenancy and related legislation comprehensively addresses onselling, such that the conditions proposed in the attached draft determinations of deemed and registrable exemptions should not be applied?

Answer: The exemptions and requirements in Victoria, and the proposed Small Scale Licensing, provide sufficient conditions.

4.3.6 The cost of obtaining a retailer authorisation compared to the benefits to the exempt seller's customers

Q26: What methods might the AER adopt to determine the costs of obtaining a retailer authorisation compared to the benefits to customers of being serviced by a retailer rather than an exempt seller?

Answer: In embedded networks where it is the owners and or occupiers who undertake or outsource the ENO's functions, it is considered unlikely that the ENO being a Authorised Retailer rather than an exempt seller will provide any additional benefit or protection to customers of the embedded network.

4.3.7 Any other relevant exempt seller related matter

Treatment of unmetered supply

Q27: Should the AER create a class of deemed exemption for persons engaged in the sale of unmetered energy where that is not prohibited by jurisdictional legislation? If yes, what conditions should be attached to that exemption? Should it be limited to existing dwellings and those that are currently in the planning stages?

Answer: We support user pays principles so consider an exemption for unmetered onselling only appropriate where tenants use approximately the same amount of energy. Despite this, there appears to be little benefit in removing those charges from bundled charges such as rent.

Q28: Are there situations where it may be appropriate for the AER to grant an individual exemption to a new development that does not allow for individual electricity metering of dwellings?

Answer: We cannot identify any such situations.

Q29: In what situations would it be appropriate for the AER to grant an individual exemption to a new development that does not allow for individual gas metering of dwellings?

Answer: The viability of metering individual gas usage of dwellings depends on the uses and value of the gas being consumed. Where gas is not metered, we see little value in unbundling it from rent, so an individual exemption would not be required.

Q30: Are there concerns about situations where there is no meter, and the consumer is not billed separately for electricity/gas? Although the consumer 'pays' for the energy indirectly (most likely through higher rent or body corporate fees), are stakeholders aware of particular concerns regarding vulnerable consumers?

Answer: We advocate the individual tenant metering of electricity due to the value of the electricity used. Our primary concern regarding vulnerable consumers is that unless the premises are metered they have no capability of reducing their bills by turning off electrical appliances. Indeed in the unmetered situation it is possible the vulnerable consumers are subsidizing more affluent and higher consumption consumers.

Q31: Are stakeholders aware of situations where there is no meter, but customers pay an itemised charge for electricity/gas on terms negotiated as part of the purchase or leasing arrangement?

Answer: We believe that some commercial lease agreements have charges for electricity consumed in air conditioning however we do not consider this as onselling activity.

Q32: Would electricity metering that is not compliant with national metrology procedures suffice in situations where it would be expensive to retrofit an existing dwelling?

Answer: This Depends on whether the non compliance is associated with accuracy of metering (which has an impact on the consumer), or whether the non compliance is related with service installation rules which might be a distributor requirement but have no practical impact on the consumer, their charges or their safety.

Treatment of off-grid supply arrangements

Q33: Is it appropriate for the AER to require energy suppliers in off-grid networks to seek individual exemptions?

Answer: Yes, unless standardized situations can be identified.

Q34: Are pricing protections necessary for off-grid customers? If so, what conditions could the AER impose on off-grid suppliers to limit energy prices?

Answer: The pricing considerations used to determine Customer Contributions for remote customers might provide some guidance for conditions imposed by offgrid suppliers.

Q35: What other seller related factors might the AER consider in addition to those outlined in the Law?

Answer: No comment.

4.4 Customer related factors

4.4.1 Characteristics of the exempt customers

Q36: What specific customer characteristics or circumstances make it appropriate for them to be served under an exemption rather than a Retailer Authorisation?

Answer: Our experience with embedded networks is that it is usually owners or occupiers who are involved with the ongoing operations of the embedded network and as such, these embedded networks represent communities of customers joining together in a buying group to derive economic benefit from energy and infrastructure savings. These circumstances or characteristics should be sufficient to warrant an exemption.

4.4.2 Whether an exemption would provide appropriate protections to exempt customers

4.4.3 Any other relevant customer related matter

Q37: What other customer related factors might the AER consider in addition to those outlined in the Law and those discussed in section 4.2.3?

Answer: The key customer related factors the AER might consider are whether the embedded network provides customer with benefits not otherwise available, such as:

- A cheaper, more affordable service that still conforms with appropriate standards.
- Better service, with regard to tariff and cost enquiries, information provision, negotiation and even dispute resolution.
- Ease of connection and
- For the site operator, recovery of maintenance costs.

5 Proposed Exemptions

5.1 Deemed class exemptions and Registrable class exemptions

Comment: We would recommend the AER seek to find out more about the extent of embedded networks first and then to decide on registration and the deemed and registrable class exemptions. This would avoid potentially unnecessary legislation. As a start the respondents to this paper could provide valuable information.

Q38: Do stakeholders agree with the AER's registration threshold of 25 premises with a single site? Why or why not?

Answer: We do not support the contention that the number of premises being served is an appropriate distinction between deemed and registrable exemptions. Further, we content that 25 premises does not represent a significant onselling operation, as 25 apartments using 100kWh/Month would be approximately \$7500 revenue to cover all costs of energy, network, administration and invoicing. This is insignificant both in terms of the turnover of most Bodies Corporate and would be below the threshold for any account held by an Authorized Retailer to be under individual management.

5.2 Class exemption categories

5.2.1 Classes of deemed exemptions

Class 1 Exemptions

Q39: Do stakeholders agree with the AER's proposed Class 1 deemed exemption? Why or why not?

Answer: We agree that Class 1 exemptions should be attached to the site rather than the entity that is the onseller.

Answer: We strongly disagree that Class 1 exemptions only be available at an individual site with 25 or less separately metered small customer premises.

Answer: Further, the requirement that access to retailer of choice at those premises not be available is incorrect and detracts from the potential for competition. We wonder how the AER has come to its consideration that sites where access to retailer of choice is possible should not be covered by a deemed exemption because the customers of those sites should generally be supplied by an authorised retailer. We contend that an exempt retailer should be able to compete with Authorized Retailers for customers of an embedded network, particularly where they can provide a better cheaper service than the authorized retailer. The exempt customers should have the right of competition and be able to choose the exempt retailer or the Authorised Retailer, otherwise arbitrary barriers to competition are being created.

Q40: Do stakeholders agree with the conditions outlined in the attached draft determination that will apply to this class of deemed exemption? Why or why not?

Answer: In general we agree with the conditions.

Class 2 exemptions

Q41: Do stakeholders support the AER providing a blanket exemption (the Class 2 deemed exemption) to cover situations where energy is passed through without a separate charge? Why or why not?

Answer: The Class 2 Exemption seems to address situations where energy is used as part of the provision of services including accommodation, and as there is no separate itemized charge for energy this would appear to not be onselling of energy, hence no onselling occurs and no exemption would be required.

Q42: Do stakeholders agree with the AER's proposal for this exemption to be issued without conditions?

Answer: No comment.

Class 3 exemptions

Q43: Do stakeholders agree with the AER's proposed Class 3 deemed exemption? Why or why not?

Answer: Yes, we agree with the class 3 proposal.

Class 4 and 5 exemptions

Q44: Do stakeholders agree with the AER's proposed Classes 4 and 5 deemed exemptions? Why or why not?

Answer: We believe the class 4 exemption is appropriate for persons engaged in onselling of metered energy to small customers within the limits of the site they own, occupy or operate.

Q45: Do stakeholders agree with the conditions outlined in the attached draft determination that will apply to small customers under the Class 4 deemed exemption? Why or why not?

Answer: We do not agree with the AER's contention in sub point 3 that "the sale of energy is to a separately metered small customer that does not have access to a retailer of choice because their metered has not been assigned a meter identifiers for wholesaler market purposes." There is no need for the meters in an embedded network to have a meter identifier assigned if they are buying energy from the exempt retailer, as that meter will not be settled in the whole sale market. However, if a separately metered small customer wishes to purchase energy from an authorized retailer a meter identifier can be assigned at that time. The authorized retailer might require a meter changeover and this is part of the child meter management guidelines.

EMU Solutions does not agree that the Class 4 exemption should be revoked on the 30th of June, 2013 as we believe a deemed exemption is more appropriate for the

majority of embedded networks of this type than a registrable exemption.

5.2.2 Classes of registrable exemptions

Q46: Do stakeholders agree with the AER's proposed classes of registrable exemptions? Why or why not?

Answer: We believe the Class 6 registrable is appropriate for onselling to small customers within the limits of the site they own occupy or operate.

Answer: We believe the Class 7 registrable is appropriate for onselling to large customers within the limits of the site they own occupy or operate.

Answer: We do not agree with the AER's contention in sub point 3 that "the sale of energy is to a separately metered small customer that does not have access to a retailer of choice because their metered has not been assigned a meter identifiers for wholesaler market purposes." There is no need for the meters in an embedded network to have a meter identifier assigned if they are buying energy from the exempt retailer, as that meter will not be settled in the whole sale market. However, if a separately metered small customer wishes to purchase energy from an authorized retailer a meter identifier can be assigned at that time. The authorized retailer might require a meter changeover and this is part of the child meter management guidelines.

EMU Solutions does not agree that the class 4 exemption should be revoked on the 30th of June, 2013 as we believe a deemed exemption is more appropriate for the majority of embedded networks of this type than a registrable exemption.

Q47: Is the approach of allowing a transitional deemed exemption that will be replaced by a registrable exemption appropriate? Will the proposed expiry date allow sufficient time for the relevant exempt sellers to register?

Answer: It is not appropriate to consider transition to registrable exemptions until the conditions that surround the operation of embedded networks and exempt retailers is fully understood by the AER. Until that is achieved, it is premature to talk about the proposed expiry date

5.3 Individual exemptions

Q48: Should individual exemptions be time-limited?

Answer: Individual exemptions should not be time limited, however there should be a requirement for ongoing compliance to ensure the individual exemption is still valid.