

2 August 2010

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General Manager
Markets Branch
Australian Energy regulator
GPO Box 520
Melbourne Vic 3001



Dear Sir

Re: AER Approach to Retail Exemptions – Issues Paper, June 2010

Envestra, a licensed gas distributor in South Australia, Victoria, Queensland and New South Wales, has noted the issues raised in the issues paper and submits the following comments.

The main area of concern for Gas Distributors is the concept that Retail activities and Distribution activities can be separated in the “legal world” when in the physical world these are so inter-related. Any exemption for Retail will inevitably, but not always, be dependent on parallel exemption for Distribution. In Victoria DPI are considering their policy position for embedded gas networks. Consistent approaches should be adopted by AER and the jurisdictions for Retail and Distribution exemptions respectively. To achieve a reasonable level of consistency greater uniformity between the jurisdictions on distribution exemptions may be required.

The notion that a gas customer of exempt sellers can be afforded the same rights to *choice of retailer* and *customer protections* is an ideal that is not always practical. For gas where there is a choice of retailer, there would be no reason for an exemption, and condition 12 on page 44 would not be necessary. The exemption framework and proposed conditions seem to assume that these rights can be achieved with little or no cost to consumers. The prime reason for exemptions would be for cases where the costs to consumers outweigh the benefits conferred from these rights. Where a consumer can enjoy the benefits of unmetered gas for say \$60 p.a. but choice of retailer would require network configuration changes and metering to be installed, resulting in costs of say \$300 p.a., then an exemption (without conditions) would clearly be in the best interest of such consumers.

The proposed structure of the Retail exemptions into *Individual*, *Deemed* and *Registrable* exemptions appears practical. However we believe for gas this is mismatched with the conditions outlined in Attachment 1. A better alignment is proposed below.

Deemed - Where the cost of compliance outweighs the overall net benefit to consumers then exemption should effectively be without conditions. A more general requirement to co-operate with AER's overall objectives, and where specific customer issues are identified then undertake corrective actions and directives from AER to address such specific issue. Deemed exemptions should generally be provided for circumstances involving a small number of small consumers – ie less than 25.

Registrable – where there may be net benefits to consumers and the AER needs to monitor consumer concerns in particular circumstances, then these need to be registered without conditions, with the future possibility of identifying areas requiring individual exemptions in the future. Registrable exemption should cover those circumstances where a significant number of small customers are affected, ie greater than 25.

Individual – Where there is material net benefit to consumers in complying with a limited number of Retail Rule obligations but not the full set of obligation then the exemption should be with conditions. A single set of conditions applying to all circumstances would be unnecessarily onerous. The conditions detailed in Attachment 1 should form the basis of an AER Guideline for exempt sellers. In this way specific conditions can be matched to the particular configuration and customer issue or concern. Conditions should be selected in response to material issues arising with specific customers, rather than applying to all customers of that type. Again care needs to be taken when the application of these conditions requires network configuration changes; especially for existing embedded networks.

This proposed alignment between exemption type and conditions may also assist in managing the transitional issues for existing networks.

In addition to the exemption conditions proposed in Attachment 1, there may be additional information requirements, such as:

- Gas leak and emergency information and contact numbers (which are provided by non-exempt Retailers)
- significant changes to the number of consumers or load (eg triggers set at say more than 10-20% change).

Once an exemption has been granted, revocation of the exemption may not be a practical sanction, especially where this would impact network configuration (ie gas pipework to a property, pipework within the property, meters and sub-meters). We believe alternative sanctions (eg enforcement orders or PINs to rectify specific customer issues) needs to be considered in lieu of revoking an exemption.

We look forward to contributing to the development of a workable framework for Retail exemptions. Should you like to discuss any of the issues above further please contact Ian Stewart on (03) 9463 8450.

Yours faithfully

Ralph Mignone
Manager Engineering and Technical Regulation