

General Manager
Network Operations and Development Branch
Australian Energy Regulator
Sent via Email AERInquiry@aer.gov.au

10-08-2011

RE: SUBMISSION TO NETWORK AND RETAIL EXEMPTION GUIDELINES

Dear Sir/Madam,

I am writing in response primarily to the AER's paper *AER approach to electricity network service provider exemptions dated June 2011*. I have also provided further comment on the *Electricity Network Service Provider Registration Exemption Guideline dated June 2011*.

For background, Active Utilities is an embedded network service provider operating mainly with customers located up the east coast of Australia. Our electricity embedded network business comprises of consulting to Developers, Owners Corporations and Owner/ Occupiers of Buildings for the setup and ongoing management of embedded network services. As part of this service we often provide a billing agency service to these entities to ensure that their end customers receive a similar service offering to normal network conditions. At all times we act as Agent for these entities rather than operate an exempt network ourselves outright.

Response to the AER approach to electricity network service provider exemptions (NETWORK):

1. Do stakeholders support the AER's decision to align the classes of exemption in the network Guideline with the Exempt Selling Guideline?

We are comfortable in the decision to adopt the same classes; historically there has been inconsistency between regulatory guidelines so this will hopefully stop this from happening.

2. Are the classes of exemption clear and easily interpreted?

Yes, however we believe that there should be a clear reference to the ability of an Agent such as Active Utilities holding a relationship with the exemption holder i.e. that we are entitled to the same rights under the exemption or similar.

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3. Are there any other network situations that stakeholders consider would warrant a separate exemption category?

Have the AER considered if they would treat a High Voltage network any differently to a Low Voltage? As long as the process allows for application on a case by case, the AER may need to be flexible in their classification in the future as some sites may not exactly fit into a category.

4. Do stakeholders agree that the general conditions are appropriate for exempt networks?

We are comfortable with majority of the points however would like to provide some commentary on the following:

Clause 5 (5): While our business currently offers a dispute resolution procedure for our Clients, which ultimately may end up in VCAT we believe that the AER may need to specify a minimum standard. End customers within an embedded network do not have access to Ombudsmen like customers of licensed retailers so if a guideline is published by the AER this will help exempt operators direct customers to a published document for reference.

5. Do the stakeholders consider any further conditions be included in the general conditions for exempt networks?

No

6. Do stakeholders consider the criteria for revocation are appropriate for exempt networks?

Yes

7. Do stakeholders consider the proposed process fair and reasonable?

Yes, we would only be concerned about the application process for approval of exemption applications. The AER would need to make defined commitments on response timeframes.

8. The AER considers common standards for the accuracy of metering will benefit consumers. Do stakeholders agree with this approach?

Yes we agree with this point. We believe however that having a registered meter provider be the only way for an exempt operator to install metering may be cost prohibitive. Although our current procedure is to follow this practice where possible we do not believe that this may be feasible in such environments as retirement villages or environments where the point of creating an exempt network is to save end users money. If this condition is imposed we believe this extra cost will ultimately be passed on to the end user.

9. The AER considers that electricity should not be treated to any other service or product with regard to metering. Do stakeholders agree with this approach?

Yes

10. The observance of safety standards is essential for consumers to have confidence in exempt networks. Do stakeholders consider the AER's condition will achieve this objective?

We feel that the AER condition will not enforce a safety structure for exempt networks. We believe that this is an unnecessary procedure as all electrical installations should meet state/federal rules around the safety of the installation. We believe that this section should refer to already existing codes and guidelines rather than creating another administration complexity to the process.

11. As regulatory gaps can arise when related activities are authorised under different legislation the AER considers that this cross over condition will minimize the prospect of a gap arising in the retail on selling framework. Do stakeholders consider the AER's condition will be sufficient for this purpose?

Yes

12. Do stake holders have any suggestions which would improve this condition?

None other than to review a minimum standard or guidelines previously discussed.

13. Do stakeholders consider aggregation should be permitted in exempt networks? If so, why? Or why not?

We have no issue with the ability to aggregate supply, we do however believe that it should be allowable not enforceable.

14. Do stakeholders consider the proposed registration arrangements are clear and the information requirements to be sufficient?

Yes, we would encourage an online registration process that would allow a user to easily update information (preferably via web portal). This would decrease administration for all parties.

15. Do stakeholders agree with the AER's metering conditions for exempt networks?

Yes

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16. Do stakeholders consider the conditions that are applicable to energy generation appropriate?

Yes

17. Do stakeholders have any comments on electric vehicles or electric charging stations, and the conditions to be applied to them?

No

18. Do stakeholders consider the AER's approach to the application of distribution loss factors to exempt networks to be appropriate?

Yes

19. Do stakeholders have any comments in the relation to the AER's approach to external and internal network charges?

We have concern that the AER does not quite understand the processes undertaken in exempt networks currently with regards to the recovery of network charges. Only allowing the ability to "cost recover" network charges within the network will affect the financial outcome for many network operators. The ability to charge network charges at a margin (based on NSP published tariffs) means that when a customer invokes their retailer of choice rights the exempt operator has a justifiable income to cover any costs in billing or recovering this cost from the tenant. If they can only cost recover this component then the exempt operator will be billing that customer at a loss. We suggest that exempt sellers be able to shadow the NSP pricing models.

We would like the AER to consider the requirement of a Tier 2 customer's retailers to provide consumption data to the exempt network owner. Currently it can provide difficult to obtain (for large customers anyway) demand consumption data to assist in the calculation of recoverable network charges. Perhaps the AER could consider a formal procedure for this to occur to ensure retailers or Meter Data Agent provide this information to the exempt seller on a regular basis.

20. Do stakeholders have any comments in relation to the AER's approach to Charge Groups outlined in the network Guideline?

Comments relate as per the above

21. Should any other charge groups be permitted by the AER? If so, why?

No, an amendment to charged group B as per the above is however required.

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22. So stakeholders have any comments in relation to the requirements of the registration for an individual exemption?

Further clarity on the role/authority of an Agent within the process

23. Are there any other matter the AER has not considered in the draft network Guideline which stakeholders believe should be addressed?

No

Response on the Exempt Selling Guideline (RETAIL)

While consultation was submitted for this Guideline earlier this year we would like to make further comments/seek clarification on the following:

- **2.2.4- amount of energy likely to be sold:** Can the AER please identify exactly what quantity of energy is to be considered a large enough volume to push an exempt seller above the comparison to a smaller retailer operating with the NEM?
- **2.2.6- Costs and benefits of obtaining a retailer authorisation-** We would like to understand the potential review process for a “large exempt seller” who has been directed to go down the retailer authorisation path. Will the AER halt all on selling activities until the exempt seller has either passed or failed the entry criteria? Does the AER believe that this process will not tie up resources internally as the majority of exempt sellers do not meet any of the three main criteria to obtain authorisation.
- **2.3.3- Other relevant customer related matters-** We would like the AER to further consider the role of Government concessions within an exempt network. Currently end users within a network must apply directly to the relevant government body to obtain these concessions. Should this practise remain the same or should exempt sellers have the ability to “recharge” their users within the network?
- **3.1 Proposed classes of exemption:**
 - The Class D4 exemption specifically refers to landlords, lessors or property managers (or **similar entities**). There is uncertainty as to what this will encompass and whether an embedded network provider operating on behalf of any of these parties will fall within this exception. More to the point, it is not entirely clear whether the exemption is intended to cover circumstances such as the supply of electricity to owner / occupiers, can you please clarify:
 - whether the exemption is intended to exempt the sale of electricity to owner / occupiers within a residential building (to the exclusion of any residents affected by retail tenancy legislation),

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- if and to what extent an operator is permitted to act on behalf of landlords, lessors or property manager,
 - what is the meaning of 'similar entities'; and
 - if the exemption is intended to apply to the supply of supply of electricity to owner / occupiers only, is that supply permitted under the exemption at a site where other lots in the building may be occupied by tenants (even though no supply will be made to them). In other words, does the exemption contemplate a supply to part(s), but not all, of a building?
- o We are concerned with the registrable exemption under Class R2. Could you please offer some guidance as to how the AER contemplates this exemption will work in practice. In particular, focusing on the circumstances in which this exemption may be relied upon.

Additionally, we refer to page 9 of the Guidelines in which the AER acknowledges that there has been "particular growth in on selling within high density residential developments such as apartment buildings". The paragraph goes on to say that the AER does "not want on selling to be a motivating factor for developers in deciding how these developments are structured" and in some circumstances, it may be more appropriate to require the on seller to seek a retailer authorisation.

In relation to this, to what extent will the above statements affect the granting of exemptions particularly under Class R2, acknowledging that most, if not all, high density residential developments will be affected by bodies corporate? Is it contemplated that operators of embedded networks in such developments will qualify for an exemption, assuming that all necessary conditions are met?

Should you wish to discuss any of the above in more detail please feel free to contact our office.

Kind Regards,



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