



UNITED ENERGY  
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Dear Tom

**AER Draft Exempt selling guideline consultation**

United Energy and Multinet (the businesses) welcomes the opportunity to provide comments on the AER papers, Draft Exempt Selling Guideline and Notice of Draft Instrument- Exempt Selling Guideline.

United Energy has responded to the AER consultation on the electricity network service provider exemptions consultation papers. Both this submission and the electricity network service provider exemptions submission contain a number of comments on the relationships of the exempt onseller and exempt network activities.

Our detailed comments are in the attachment.

The businesses support a clear and robust exemption framework for electricity in gas, in summary:

- The businesses support the network exemption categories prevailing and the onselling categories being brought into line with those stated in the network exemption guideline;
- The businesses suggest that there needs to be better alignment of the conditions across the two frameworks to cater for the situations where the exempt person is also the onseller and where the exempt person (ie exempt network) is providing connection and supply services to an authorised retailer;
- The businesses note that in Victoria any gas embedded networks needs to be endorsed by the Governor in Council, on the recommendation of the Minister for Energy and Resources, to exempt a network operator (onseller) from the requirement to hold a relevant licence(s). Hence the AER should restrict the deemed and registrable onselling arrangements to reflect that in Victoria these arrangements are only legal where an exemption has been obtained by government<sup>1</sup>; and
- The businesses are supportive of the AER view that they will only allow a brownfield embedded network to be created where the AER are convinced that the majority of the

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<sup>1</sup> DPI Embedded Gas Networks Information Sheet

customers within the network have agreed to be serviced by the onseller rather than the current authorised retailers.

Please feel free to call me on (03) 8846 9856 if you wish to discuss any aspects of this response.

Yours sincerely

Verity Watson  
Manager Regulatory Strategy

## Attachment

### Retail Onselling categories need to align to the relevant network exemption category

The businesses support the network exemption categories prevailing and the onselling categories being brought into line with those stated in the network exemption guideline. The businesses recommend the following:

- D2 should be amended in line with ND2, where this is available to current onselling/network exemptions and those that commence onselling/network exemptions prior to 1 Jan 2015. Similarly D3 and D4 should be brought into line with ND3 and ND4.
- ND2 is a deemed exemption class available where there is less than 12 residences, D2 should be aligned with the 12 residences as opposed to 20.

The businesses consider that this approach to allowing some of the deemed and registrable categories for an interim period and any new onselling or network exemptions from 1 Jan 2015 requiring individual exemptions is a prudent and efficient way for the AER to manage the exemption classes. This approach supports the AER view that 'through the classes of exemption we have created, we have taken steps to minimise the future growth of onselling'.<sup>2</sup>

### Nature of the onselling conditions and relationship to traditional network functions

The AER note that an exempt onseller must not hinder an exempt customer from choosing an alternative retailer. A number of the onselling conditions would/should be applicable to the exempt network services.

The onselling conditions cover a range of retail sale activities, network supply activities and generally network metering activities as tabulated below for Class D2:

No.	Condition
1	Obligation to supply – sell energy
2	Information provisions
3	Billing and payment arrangements
4	Estimation as basis for bills
5	Pay by date for retail bill
6	Receipt of retail costs
7	Retail pricing
8	Payment difficulties and disconnection or cessation of supply
9	When disconnection or cessation of supply is prohibited
10	Reconnection of supply
11	Concessions and rebates
12	Choice of retailer
13	Contact details
14	Dispute resolution
15	Life support customers
16	Continuity of supply
17	Termination of energy supply agreements
18	Maintaining records

<sup>2</sup>AER, Notice of Draft Instrument - exempt selling guideline, June 2001, response to submissions, page 1

Condition 17 refers to an exempt person supply agreement with an exempt customer which terminates when the customer starts to receive energy retail services from a different retailer. This approach is more aligned to the NECF where the sale of energy to the retail customer is by an authorised retailer (and includes supply), however the connection services which include ongoing supply are between the retail customer and the licensed network. NECF establishes a triangular relationship with the retail customers for the sale and supply of energy.

It is not clear from these conditions and the draft exempt network service provider guideline how this is intended to work when the exempt customer chooses an authorised retailer.

Some of the conditions listed in the onselling guideline may be better placed (or should be replicated) in the exempt network service provider guideline. For example the exempt network should be required to maintain exempt customer name, address and meter identifier, dates of meter reads etc as this will be needed to allocate a portion of the network charges from the parent meter to the authorised retailer of a second tier child.

Presumably the exempt network service provider is managing the disconnection and reconnection of supply for all exempt customers within the embedded network. Hence these types of conditions (condition 8, 9 and 10) are applicable to the network service provider exemption, particularly where the network service provider provides these services to an authorised retailer as opposed to providing the service to itself acting as the onseller.

The businesses note that the AER does not intend to provide a condition on exempt onsellers that retail competition should be facilitated as some jurisdictions allow competition within embedded networks. However, the conditions or services that the exempt network service provider needs to be able to provide to any exempt customers and their retailer of choice needs to be clear.

The AER state that the electricity network service provider exemption guideline will deal with issue of who pays for modifications to enable access to retail competition. The businesses understand that the exempt network guideline caters for the metering arrangements, the provision of accredited metering service providers, however it does not touch on these other aspects.

The businesses suggest that there needs to be better alignment of the conditions across the two frameworks to cater for the situations where the exempt person is also the onseller and where the exempt person (ie exempt network) is providing connection and supply services to an authorised retailer.

### **Gas onselling arrangements**

The businesses appreciate the table in the Draft Exempt Selling guideline that clarifies where retailer of choice is allowed for electricity embedded networks and for gas embedded networks in each jurisdiction.

The businesses suggest that a similar table should be created where exempt networks are allowed for either gas or electricity in each jurisdiction. The businesses note that in Victoria any gas embedded networks needs to be endorsed by the Governor in Council, on the recommendation of the Minister for Energy and Resources, to exempt a network operator (onseller) from the requirement to hold a relevant licence(s). Hence the AER should restrict the deemed and registrable onselling arrangements to reflect that in Victoria these arrangements are only legal where an exemption has been obtained by government.<sup>3</sup>

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<sup>3</sup> **DPI Embedded Gas Networks Information Sheet**

In light of these arrangements, it may be best if deemed gas onselling were not applicable in Victoria. Any onselling would need to be undertaken as an individual exemption with clarification by the AER that the approval from the Victorian Government had been obtained. Generally Victorian Government exemptions for the supply and sale of gas will only be considered in relation to large or related business transactions. Victoria will not generally grant exemptions where residential and small business customers are involved.

Where the Exempt Selling Guideline tabulates the classes of exemption – deemed, registrable and individual, these imply that energy onselling/exempt networks are valid in all jurisdictions. This could be considered misleading in Victoria.

The AER should only allow gas onselling and embedded network exemptions where the Victorian Government has approved of the exemption to hold gas licence(s). This could be managed by requiring new gas onselling/embedded networks to have individual exemptions with the AER in Victoria, so that the AER can scrutinise the onselling/embedded network arrangement and impose appropriate conditions.

In a similar manner to the electricity network exemption guideline, one of the exemption processes will need to deal with the safety matters such as gas safety cases.

### **Treatment of Brownfield Sites**

The businesses are supportive of the AER view that they will only allow a brownfield embedded network to be created where the AER are convinced that the majority of the customers within the network have agreed to be serviced by the onseller rather than the current authorised retailers. The AER has advised that they do not intend to grant an individual exemption where the onseller appears to override its customers preferences for purchasing from an authorised retailer. Yet other exemption classes are available which provide no opportunity for AER consideration of the customers interests.

The onselling exemptions allow exemptions D2, D3 and D4 to be available exemptions for current and any future onselling, including any brownfields site where the metering is compliant prior to 2015. As mentioned above, in line with the electricity network exemption guideline, no new onselling or exempt networks should be in the deemed category where new sites or brown fields site commence from 2015.

### **Information Required to Accompany the Registration – Registrable Exemption (part 4)**

The applicant seeking registration or onselling may be the network owner, network operator, member of a body corporate or some specialist external provider. The AER could consider an additional question – Do you have a negotiated connection agreement with the licenced NSP at the parent or gate meter that defines the roles and responsibilities should there be a need to facilitate retail competition for an exempt customer and to manage the accuracy, completeness and timeliness of the various information requirements. This question is equally valid for individual exemption applications.

The businesses query why the questions relating to metering in the individual exemption information requirements are not also applicable for registrable exemption applications. For example questions 8 to 12, in section 5.2.2 of the paper are equally applicable to the registrable exemption categories which may need to facilitate retail competition.