



30 June 2021

General Manager, Compliance and Enforcement
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001
Via Email: AERexemptions@aer.gov.au

Dear Madam/Sir,

AER Consultation Paper - Updating the Network and Retail Exemption Guidelines

WINconnect Pty Ltd (**WINconnect**) welcomes the opportunity to provide comments in response to the Australian Energy Regulator (**AER**) *Consultation Paper – Updating the Network and Retail Exemption Guidelines*. WINconnect addresses each of the 21 questions posed in the consultation paper

About WINconnect

WINconnect, formerly known as WINenergy, is a privately-owned company with its corporate headquarters in Melbourne supported by offices in Sydney, Brisbane and Adelaide. Since 2005, WINconnect has specialised in the establishment and operation of private embedded networks for electricity. In this role we act as an agent of either the property owner or the owners' corporation as applicable. Built on this decade-long heritage of embedded electricity services, WINconnect now provides a full portfolio of utility services.

WINconnect, trading as WINauspower, holds electricity retail authorisations in both Victoria and under the National Energy Customer Framework (NECF) and has recently been granted a retail gas authorisation under NECF. We have market participant status with AEMO and the ASX and we hold an Australian Financial Securities Licence.

In addition to its retail electricity experience, WINconnect's embedded network management business (trading as WINenergy) includes managing the sale and supply of other essential services, including hot water, air-conditioning, unmetered gas for gas cooktops (in NECF jurisdictions), internet and telephony services.

WINconnect manages and operates over 500 embedded network sites across Victoria, NSW, Queensland, South Australia and Western Australia. Our clients include large funds and property trusts who own shopping centres as well as property developers who either build and manage properties or hand them over to owners' corporations on completion.

Kind Regards,



James Norton
Executive General Manager Energy Markets
WINconnect Pty Ltd

WINconnect's answers to AER's questions

Question 1 - Do stakeholders agree that responsibility for meeting certain network exemption conditions should be restricted to one person, for example the network owner or controller? If stakeholders agree, which person should be the sole registrant, noting this person should have the capacity to resolve customers' complaints?

WINconnect welcomes The AER providing clarity to the question of what party can be registered as the exempt person. We note that currently, there may be a lack of understanding around the question of what it means to own, control or operate a site. As such, there may be parties registered as exempt who do not fully grasp the compliance and operational requirements associated with managing an electricity network.

WINconnect supports the notion of a sole registrant. We note that, under that model, there may still be circumstances where a registered exempt person is relying on third party service providers for managing disputes. The extent to which that service provision covers the compliance liability for the exempt person should be a contractual matter between the parties.

WINconnect believes that where exempt persons are registered across multiple sites, it is important for the ombudsman fee structures and memberships arrangements to be fair and appropriate so that the fee structures do not act as a deterrent for engagement. Where service providers manage exempt network disputes at scale across multiple sites (like a retailer or an LNSP would), then the membership arrangements with various ombudsman services should reflect that broader membership – rather than charging membership fees on a site by site basis.

Once clarity is provided to the question of who can and should be registered as exempt, and enough time is allowed for parties to resolve legacy registrations, the AER should consider a rigorous enforcement and compliance regime to exemption appointments and ombudsman memberships.

Question 2 - Ombudsman membership is an example where designating responsibility is likely to be helpful. Are there other examples?

Other criteria for designating responsibility for sole registration include demonstrated experience to operate:

- hardship programs,
- payment plans,
- life support equipment registration, and
- notifications processes.

In addition, WINconnect is of the view that responsibility should be designated to a party that has demonstrated experience and/or capability to operate under an ongoing reporting framework to the AER, in the same way licensed retailers are obliged to do.

Question 3 - Should we clarify the meaning of controlling and operating an embedded network?

WINconnect supports the AER providing clarity to the definitions of controlling and operating for the purposes of the exemption registration.

Question 4 - Do stakeholders consider there is a need to regulate small generator aggregators under the network exemption guidelines?

WINconnect does not believe that there is a need to regulate SGAs under the network exemption guidelines.

Question 5 - Do stakeholders interpret small generator aggregators as being captured under the NER?

WINconnect does not have a view on this question.

Question 6 - What do stakeholders consider a reasonable timeframe to procure and appoint an Embedded Network Manager?

10 business days.

Question 7 - Do stakeholders agree the appointment of Embedded Network Managers should be deferred in regional Queensland and legacy unmetered sites?

WINconnect supports aligning regional Queensland MSATS maintenance in line with the rest of the NEM. Not only should ENMs be appointed, but EN codes should also be registered against associated parent meters. This appropriately aligns regional Queensland should retail contestability become more readily available.

Question 8 - Do stakeholders agree that the appointment of Embedded Network Managers be deferred if they are no longer required, for example when all on-market customers have reverted to off-market? Are there other situations when Embedded Network Manager services are no longer required?

WINconnect is of the view that there always should be an ENM appointed. In AER's example of all customers having reverted to off-market, these customers should still have the choice to become on-market again. There is a great deal of confusion from consumers about time frames and turn-arounds on the allocation of child NMs. Ensuring that an ENM is always appointed and in place makes for a more fluent process of churning once customers elects to do so.

Question 9 - Do stakeholders agree to removing the 'eligible communities' and counter offer provisions from the network exemption guideline?

WINconnect supports the removal of “eligible communities” and “counter-offer provisions” from the network exemption guideline in the interest of further streamlining of the regulations. WIN strongly supports a singular regulatory framework for all embedded networks.

Question 10 - Should the information embedded network owners/operators provide prospective customers be standardised?

WINconnect is of the view that different embedded network sites have different nuances. Information about site specific nuances might not get adequately brought out when utilising a standardised template. It should also be noted, that it is WINconnect's experience that it is often not the lack of information that makes it difficult for embedded network customers to switch retailers. There are a number broader technical issues involved in the churn process such as settlement of network bills, metering infrastructure compliance and roles and responsibilities in MSATS. (See also comments regarding question 15 below).

If the AER decides to standardise the information to be provided to prospective customers, then AER should ensure that the standardised terms reflect what can be realistically delivered within the current design of the market and the roles and responsibilities of ENOs and market retailers.

Question 11 - Should the network exemption guideline's term 'express written consent' be replaced with 'explicit informed consent', and be provided in writing?

WINconnect is of the view that “explicit informed consent” is a sensible benchmark to be used for both exemption categories. The collection and recording to EIC should be to the same standard commonly required under the NER. As such, this shouldn't be restricted to being exclusively limited to being in writing. Should an ENO (or their service provider) demonstrate systems and procedures to capture and record EIC verbally then they should be authorised to operate that method.

Restricting the collection of EIC to writing may prove to be time-consuming and burdensome to customers in many circumstances.

Question 12 - Should record keeping requirements explicitly apply to all situations where consent is required under the network and retail guidelines?

Yes

Question 13 - Do stakeholders support proposed clarifications to the retail and network exemption guidelines' retrofit requirements? If not, what are reasons for not supporting the changes?

WINconnect is of the view that the exemption guidelines in regards to retrofit requirements are sufficiently clear and do not require further clarification. WINconnect operates around 500 embedded network sites,

several of them retrofits and did not experience problems resulting from ambiguity of the exemption guidelines.

Requiring a large level of detail and nuanced information has the potential to lead to increased confusion for customers and operators as well as unintended non-compliance with the guidelines without providing additional benefits to customers.

Question 14 - Are there any other provisions or requirements that need to be clarified in either the retail or network exemptions guidelines?

WINconnect does not believe that there are provisions or requirements in the exemption guidelines that require further clarification.

Question 15 - Is there any other information exempt sellers should provide embedded network customers to help them access retail competition?

It is WINconnect's experience that impediments to EN customers' access to retail competition are less related to a lack of information and more related to broader technical issues relating to engagement from the retail market. Whilst there are obligations on the ENO (and the ENM) to allocated NMs, there are commonly constraints relating to issues such as metering and clarifying settlement of network charges. Further to this, in preparing standardised information the AER needs to ensure they are not misleading any consumers who may be located within sites that are grandfathered from the requirement to meet wiring and metering compliance.

Whilst WINconnect supports providing clear information to consumers, we believe that the AER should be clear to frame customer expectations around access to retail completion. The reforms required in this area are broad. The AEMC has completed the final review of *Updating the regulatory framework for embedded networks, June 2019*, which currently sits with the Council of Energy Ministers (formerly COAG) for approval. Any requirement for additional information should be mindful of the prospect of changes that could result from the approval of AEMC's review.

Question 16 - Do stakeholders have a preference – for a broader set of hardship assistance conditions or an exempt seller hardship plan?

EN customers should be able to access the same hardship programs as on-market customers. It should be left to individual exemption holders how the requirements are met. An internally developed hardship program seems to be better placed than a one-size-fits all hardship template, provided the program is operated by competent and experienced service providers.

Question 17 - What key protections should be included in a hardship policy template for exempt sellers?

Hardship policies for embedded network customers should contain the same protections afforded to customers served under a retail licence.

Question 18 - What additional obligations should the core exemption conditions include?

WINconnect is of the view that the core exemption holder should fulfil the same obligations a licensed retailer needs to fulfil, such as:

- Payment difficulty procedures
- Life support protection
- Family violence protection
- Dispute resolution processes
- Ombudsman scheme membership

Question 19 - Are there other measures that would facilitate exemption holders' taking up membership of ombudsman schemes?

WINconnect believes that it would be helpful to clarify that once an exemption holder has joined an ombudsman scheme there should be no expectation for individual sites controlled by the exemption holder to join the scheme as members as well. Any dispute should be covered under the exemption holder's membership and should only attract case fees.

Also, EWOQ and EWOWA should be allowed to accept membership from exemption holders to assist EN customers (both are currently not able to accept disputes from EN customers. The QLD government has passed law enabling EWOQ to accept membership from exemption holders, however the law has not yet been enacted).

Question 20 - Do stakeholders support regulation of the sale of energy to chill water?

WINconnect supports regulation of the sale of energy to chill water, provided the sale/billing occurs in kWh rather than litres.

Question 21 - What are the main issues for this type of energy sale and what sorts of conditions should apply?

WINconnect is of the view that similar conditions as the sale of gas for cooking appliances should apply.