

12 October 2023

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Dear Exempt Seller

Overcharging customers in embedded networks

The purpose of this letter is to:

- draw your attention to recent enforcement action taken by the AER against an exempt seller who admitted to overcharging their customers for energy; and
- remind you of your obligations around selling energy and where you can find this information.

Recent enforcement outcome

Between December 2019 and January 2023, approximately 110 consumers at an embedded network holiday and residential cabins complex on the Sunshine Coast were charged electricity tariffs higher than the standing offer price that would have been charged by the relevant local area retailer. This conduct was brought to the AER's attention by a resident in the embedded network.

Following our investigation, the AER found that by overcharging customers, the exempt seller failed to comply with Condition 7 (Pricing) of the AER's [Retail Exempt Selling Guideline](#) (**Guideline**), and was therefore in breach of section 112(2) of the National Energy Retail Law (the **Retail Law**).

The AER has accepted a [court enforceable undertaking](#) (**undertaking**) from the exempt seller after it admitted to overcharging by approximately \$34,000.

As part of the undertaking, the exempt seller has committed to:

- contacting the overcharged customers and refunding them within the next 12 months;
- ensuring it no longer overcharges its customers; and
- improving its compliance systems and processes regarding energy pricing.

Exempt seller pricing obligations

All exempt sellers, large or small, must comply with the obligations set out in the AER's Guideline.

In relation to the prices you charge, Condition 7 of the Guideline provides that you cannot charge your customers tariffs higher than the standing offer price that would be charged by the relevant local area retailer for new connections, if the local area retailer were to supply that quantity, or estimated quantity, of energy directly to the premises of the exempt customer.

The standing offer price includes the supply price and the usage price. You must ensure that the price you charge for each does not exceed the corresponding price charged under the standing offer.

Condition 7 also states you must provide your exempt customers notice of any change in their tariffs as soon as practicable and no later than the exempt customer's next bill.

Further, you must not impose any charge on an exempt customer that is not charged by the relevant local area retailer for new connections under a standard retail contract.

- A 'charge' includes, but is not limited to, account establishment fees, late payment fees, debt collection fees, disconnection and reconnection charges and security deposits. The fees and charges allowable under a standard retail contract are governed by Division 6 of the National Energy Retail Rules (which sets out the requirements for charging a security deposit under a standard retail contract) and may also be governed by jurisdictional legislation.
- The amount of any allowable charge must not be greater than that charged under the relevant local area retailer's standard retail contract.

Where do I find the relevant pricing information?

Firstly, you can check who the local area retailer is for your embedded network location by reviewing the AER's [website](#).

You can then access the relevant pricing information (based on your location and how you currently charge your customers for usage) by either:

- calling your local area retailer and asking for the relevant standing offer; or
- searching your local area retailer's website for the relevant standing offer.

It is your responsibility to have processes in place to ensure you are not overcharging your customers. You should also be reviewing your tariffs and charges periodically as your local area retailer may vary these throughout the year.

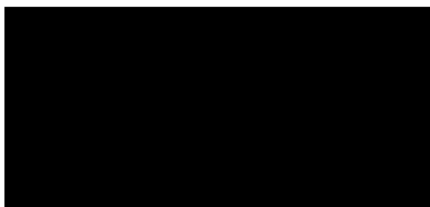
If you become aware you have overcharged your customers, you should stop, inform your customers and update your pricing. You then need to either refund or credit the customer's next bill, in line with your obligations under Condition 8(2) of the Guideline (as applicable).

You should also familiarise yourself with your relevant State or Territory obligations, which may impose additional obligations on exempt sellers.

The AER will continue to monitor exempt sellers' compliance with their pricing obligations and will consider taking further action where warranted.

Should you wish to discuss any of the above or have concerns about your compliance, please contact AER Retail Compliance at aerretailcompliance@aer.gov.au.

Yours sincerely



Rowena Park
General Manager – Compliance and Enforcement
Australian Energy Regulator