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4 September 2023

Mr Daniel Wilson
Manager Energy – Mines and Refineries
Rio Tinto
123 Albert Street
BRISBANE QLD 4000

By email: [REDACTED]

Dear Mr Watson,

Variation of conditions for RTA Weipa Pty Ltd's individual exemption for Weipa Township

On 5 May 2023, we wrote to advise you of the AER's intention to vary RTA Weipa Ltd's (**RTAW**) individual exemption, to include 2 new conditions relating to payment plans and hardship provisions for residential customers. The new conditions have been designed to increase protections for consumers living in embedded networks.

Pursuant to the delegation given to me by the AER, I have decided under rules 157 and 158 of the National Energy Retail Rules (**Retail Rules**) to vary the exemption conditions of the individual retail exemption granted RTAW on 3 June 2016, as contained in *Schedule 1*, attached to this letter.

The AER may amend the conditions of any exemptions it has granted. Under the Retail Rules, amending a condition is taken to be changing the exemption itself and there is a process that we must follow. This process includes publishing and consulting on the proposed variation(s) for a minimum of 20 business days, considering any submissions made, and making (and publishing) a formal decision. We can confirm that no submissions were received during the public consultation period.

Variation of exemption conditions

The AER has decided to vary the exemption conditions due to revised conditions introduced in an updated version of the [Retail Exempt Selling Guideline \(version 6\)](#), published in July 2022. The AER considers it appropriate to vary the conditions attached to RTAW's individual retail exemption to accord customers the additional consumer protections included in the updated guideline.

Relevantly, the additional conditions included in the variation are as follows:

- *Payment Plan* – this condition requires exempt sellers to offer flexible energy payment options, including a payment plan, to residential customers who have identified themselves as being in financial difficulty.
- *Hardship Policy* – this condition requires exempt sellers to have a hardship policy and provide customers a hardcopy or electronic link to the policy. The condition is designed to ensure residential customers in embedded networks who experience payment difficulties due to hardship can have access to adequate support to better manage their energy bills.

What you need to do by 8 March 2024

1. Develop and implement an exempt seller hardship policy, that contains at a minimum, the standardised statements provided in the AER's *Exempt Seller hardship policy template*, which can be found under 'Key Documents' on our website [here](#).

What happens if my business does not adhere to the varied conditions?

Section 112(2) of the National Energy Retail Law (**Retail Law**) requires exempt persons to comply with the conditions attached to their individual exemptions. Failing to adhere to these conditions is considered a breach of the Retail Law and may attract civil penalties.

Next steps

We will publish the variation on our website in due course. Please advise us by **30 September 2023** if you have any concerns regarding the variation.

If you have any further queries, or would like to discuss this further, please contact Sarah Pinchuck at [AERexemptions@aer.gov.au](mailto:AERexemptions@ aer.gov.au) or 07 3835 4661.

Yours sincerely,



Rowena Park
General Manager, Compliance and Enforcement Branch

Australian Energy Regulator **Schedule 1: Instrument of Exemption**

VARIATION OF CONDITIONS OF INDIVIDUAL RETAIL EXEMPTION

DATE OF APPROVAL: 3 June 2016

DATE OF VARIATION: 4 September 2023

FORM OF ENERGY: **Electricity**

This individual retail exemption applies to RTA Weipa Pty Ltd / ABN 54 137 266 285 for the sale of electricity to premises at Weipa Township, Weipa QLD 4874.

Condition 1 – Obligation to supply

1. The exempt person cannot refuse to sell electricity to a small customer who is within the geographical area as described by Appendix A to this exemption, except in accordance with relevant disconnection provisions.
2. The exempt person cannot refuse to sell electricity to a large customer who:
 - a) is within the geographical area as described by Appendix A to this exemption, and
 - b) was purchasing electricity from the exempt person as of 1 July 2016, and
 - c) has not significantly altered their annual electricity load since 1 July 2016, except in accordance with relevant disconnection provisions.
3. Subject to condition 10, the exempt person can refuse to sell electricity to an exempt customer where:
 - a) the exempt customer owes outstanding amounts under a previous electricity account (with the exception of where a customer has been identified as being in financial difficulty)
 - b) the exempt customer's premises have been disconnected by the exempt person due to an act or omission of the exempt customer, other than the failure to pay a bill, and the exempt customer has not within 10 business days of disconnection rectified the matter that gave rise to the disconnection. The exempt person must reconnect the premises and offer to sell electricity once the matter is rectified.
4. The exempt person is not obligated to sell electricity, or provide or facilitate new connections, to customers outside of the geographical area as described by Appendix A.

Condition 2 – Information provision

1. The exempt person must advise exempt customers, in writing, at the start of their tenancy/residency/agreement of the following:
 - a) that the exempt person is not subject to all the obligations of an authorised retailer, and the exempt customer will not receive the same protections as it would if it were purchasing from an authorised retailer
 - b) the exempt customer's rights in relation to dispute resolution including:
 - i) the exempt person's procedures for handling disputes and complaints, and
 - ii) any right that the exempt customer has to access the electricity Ombudsman scheme or any other relevant external dispute resolution body in the state or territory in which the exempt customer is located

- c) the conditions applicable to the exemption that the exempt person is operating under
 - d) the availability of relevant government or non-government electricity rebates, concessions and relief schemes
 - e) the forms of assistance available if the exempt customer is unable to pay electricity bills due to financial difficulty, as well as the process the exempt customer should follow to seek these forms of assistance
 - f) the electricity tariffs and all associated fees and charges that will apply to the exempt customer in relation to the sale of electricity
 - g) the flexible payment options that are available to the exempt customer in relation to the sale of electricity, such as arrangements for payment by periodic instalments (bill smoothing)
 - h) contact numbers in the event of an electricity fault or emergency.
2. Within one month of the grant of this exemption, the exempt person must provide all exempt customers with the information set out in paragraph 1 by publishing a notice in a newspaper circulating generally in the township of Weipa.
 3. The information set out in paragraph 1 of this condition must also be provided by the exempt person at any time on request by the exempt customer.

Condition 3 – Billing and payment arrangements

1. The exempt person must ensure that bills are issued to each exempt customer at least once every three months. Bills may be estimated in accordance with condition 4.
2. The exempt person must offer at least two payment methods to an exempt customer. However, if the exempt person offers direct debit as one payment method, they must also offer at least two other payment methods to an exempt customer (that is, at least three methods in total). In each case, at least one of the payment methods offered must be able to be effected without internet access. For example:
 - a) in person;
 - b) by telephone;
 - c) by mail;
 - d) by direct deposit into a bank account.
3. The exempt person must offer flexible electricity payment options to an exempt customer who is identified as being in financial difficulty. Flexible payment options may include arrangements for payment by periodic instalments having regard to:
 - a) the customer's capacity to pay,
 - b) any arrears owing by the customer, and
 - c) the customer's expected electricity consumption needs over the following 12-month period, or the duration of their tenancy/residency/agreement if the tenancy/residency/agreement is less than 12 months.
4. The requirements in paragraph 3 do not apply where the exempt customer has:
 - a) had two flexible payment arrangements cancelled by the exempt person in the previous 12 months due to non-payment, or
 - b) been convicted of an offence involving illegal use of electricity in the previous two years.

5. The exempt person must include the following particulars in a bill for an exempt customer:
 - a) the name of the exempt customer
 - b) the address of the exempt customer's premises
 - c) date that the account was issued
 - d) the identifier of the meter for the exempt customer's premises
 - e) the pay-by date for the bill
 - f) date of the current meter reading or estimate, as applicable
 - g) the dates to which the meter reading or estimate applies (billing period)
 - h) current meter reading or estimate in kilowatt hours. Where the amount is an estimate, this must be clearly stated on the bill
 - i) previous meter reading or estimate in kilowatt hours. Where the amount is an estimate, this must be clearly stated on the bill
 - j) the amount of electricity consumed, or estimated to be consumed, in the meter reading period, shown in kilowatt hours
 - k) tariffs, fees, and charges applicable to the exempt customer
 - l) the basis on which tariffs, fees, and charges are calculated
 - m) any amount deducted, credited, or received under a government or non-government funded electricity charge rebate, concession, or relief scheme or under a payment arrangement
 - n) details of the available payment methods
 - o) a telephone number for account inquiries and complaints.

Condition 4 – Estimation as basis for bills

1. The exempt person must use best endeavours to ensure that the meter for each exempt customer is read and used as the basis, or apportioned, for any bill issued.
2. The exempt person may base an exempt customer's bill on an estimation of the exempt customer's consumption of electricity where the exempt person is not able to reasonably or reliably base the bill on an actual meter reading.
3. Where an estimation is used as the basis for an exempt customer's bill, the estimation must be based on:
 - a) historical metering data for the exempt customer reasonably available to the exempt person, or
 - b) where this is not available, the average usage of electricity by a comparable customer over the corresponding period.
4. If a customer's bill is based on an estimation, this must be clearly stated on the exempt customer's bill.
5. Where an exempt customer has prevented access to a meter for the purpose of reading that meter, and subsequently requests the exempt seller to replace an estimated bill with a bill based on an actual meter reading, the exempt seller must comply with that request but may pass through to the exempt customer any costs it incurs in doing so.

Condition 5 – Pay-by date

1. The pay-by date for a bill must not be less than 13 business days from the date on which the exempt person issues the bill.

Condition 6 – Receipts

1. The exempt person must provide each exempt customer with a receipt for any amount paid for electricity, except where payment has been made by:
 - a) direct debit, or
 - b) credit card over the phone and the exempt customer is provided with a receipt number.
2. The exempt person must provide the exempt customer with a separate receipt if a payment for electricity was made together with a rent payment but has not been separately identified on the rent receipt.

Condition 7 – Charges for late and dishonoured payments

1. The exempt person must limit any fee charged to an exempt customer for late payment to a recovery of reasonably incurred costs by the exempt person as a result of the exempt customer's late payment. (Customers who are identified as experiencing financial difficulties must not be charged a late payment fee).¹
2. The exempt person must not charge fees for the sending of payment reminder or disconnection notices.

Condition 8 – Undercharging and overcharging

1. Where an exempt customer has been undercharged, the exempt person can recover the amount undercharged subject to the following:
 - a) where the undercharging was not the result of the exempt customer's fault or unlawful act or omission, the exempt person is limited to recovering the amount undercharged in the 9 months before the date on which the exempt customer is notified of the undercharging
 - b) the exempt person cannot charge interest on the undercharged amount
 - c) the exempt person must offer the exempt customer time to pay the undercharged amount by instalments, over a period nominated by the customer (up to 12 months, but no longer than the period of the undercharging).
2. Where an exempt customer has been overcharged, the exempt person must inform the customer within 10 business days after becoming aware of the overcharging and repay the amount overcharged subject to the following:
 - a) where the amount overcharged is \$25 or more, the exempt person must refund the amount to the exempt customer if requested, or if no such request is made, credit the amount to the exempt customer's next bill. Where the exempt customer no longer purchases electricity from the exempt person, the exempt person must use best endeavours to refund the amount within 10 business days
 - b) where the amount overcharged is less than \$25, the exempt person must credit that amount to the exempt customer's next bill

¹ For clarification, a late payment fee can only be charged where it has not been excluded by jurisdictional legislation

- c) no interest is payable on the overcharged amount
- d) where the overcharging was the result of the exempt customer's fault or unlawful act or omission, the exempt person is limited to repaying the amount overcharged in the 12 months before the date on which the error was discovered.

Condition 9 – Payment difficulties and de-energisation

1. Where an exempt customer is identified as being unable to pay electricity bills due to financial difficulty, the exempt person must:
 - a) direct the exempt customer to the Australian government electricity efficiency website or another information resource with electricity efficiency advice, and
 - b) ensure that the exempt customer is aware of relevant government or non-government electricity rebates, concessions, and relief schemes, and
 - c) not charge the exempt customer a late payment fee, and
 - d) not charge the exempt customer a security deposit.
2. Subject to Condition 10, the exempt person must not proceed with disconnection or cessation of electricity supply to an exempt customer unless the following requirements have been met:
 - a) the exempt customer has requested disconnection, or
 - b) continuity of supply to the premises would be unsafe, or
 - c) the exempt customer's tenancy/residency/agreement has ended and the exempt customer is vacating the premises, or
 - d) the exempt customer has not paid a bill by the pay-by date or has not adhered to the terms of a payment plan, and:
 - i) following non-payment by the pay-by date, the exempt person has given the exempt customer a reminder notice requesting payment by a date at least 6 business days from the date of issue of the reminder notice, and, in the case of residential exempt customers, has offered the exempt customer more flexible payment terms to pay any amount outstanding and has restated the forms of assistance available if the non-payment is due to financial difficulty, and
 - ii) following non-payment by the date specified in the reminder notice, or, in the case of residential customers, the establishment of more flexible payment terms, the exempt person has given the exempt customer a disconnection warning notice informing the exempt customer that disconnection may occur if payment of the outstanding bill is not made by a date at least 6 business days from the date of issue of the warning notice, and
 - iii) the exempt person has, after issuing the disconnection warning notice, used its best endeavours to contact the customer in person or by telephone in connection with the failure to pay, and
 - iv) the exempt customer has, by the date specified in the disconnection warning notice, refused or failed to take any reasonable action towards settling the debt.
3. Where an exempt customer is disconnected in accordance with paragraph 2(b) of this condition, the exempt person must use its best endeavours to notify the exempt customer in person or by telephone prior to the disconnection and must arrange for reconnection of the premises as soon as practicable.

4. This condition does not apply where state or territory tenancy legislation sets out the process and requirements for the disconnection or cessation of electricity supply by the exempt person on the basis that they are a landlord.

Condition 10 – When disconnection or de-energisation is prohibited

1. The exempt person must not disconnect or cease electricity supply to an exempt customer's premises where:
 - a) a person residing at the exempt customer's premises requires life support equipment that depends on electricity for its operation, or
 - b) an application has been made by or on behalf of the exempt customer for assistance to an organisation responsible for a rebate, concession or relief available under any government or non-government funded electricity charge rebate, concession or relief scheme and a decision on the application has not been made, or
 - c) the exempt customer has made a complaint directly related to the proposed reason for disconnection or de-energisation, to the exempt person, the energy Ombudsman or another relevant external dispute resolution body and the complaint remains unresolved, or
 - d) the disconnection or de-energisation would occur on:
 - i) a business day before 8am or after 3pm, or
 - ii) a Friday or the day before a public holiday, or
 - iii) a weekend or a public holiday, or
 - iv) the days between 20 December and 31 December (inclusive) in any year.
2. This condition does not apply where the exempt customer has requested disconnection.
3. This condition does not apply where continuity of supply to the exempt customer's premises would be unsafe.
4. This condition does not apply where there is a planned or unplanned interruption to supply.
5. This condition does not apply where the electricity supply agreement between the exempt person and exempt customer has been terminated.

Condition 11 – Reconnection or re-energisation

1. Where the exempt person has arranged for the disconnection of an exempt customer's premises and the exempt customer has within 10 business days of the disconnection:
 - a) if relevant, rectified the matter that led to the disconnection, and
 - b) made a request for reconnection, and
 - c) paid any charge for reconnection,

the exempt person must reconnect the premises (or, where required, arrange with the network operator to reconnect the premises) as soon as practicable, and no later than 2 days from the when the request was made.

Condition 12 – Planned interruption to supply

1. In the case of a planned interruption, an exempt seller must notify each affected exempt customer by any appropriate means of the interruption at least 4 business days before the date of the interruption.

2. The notification must:
 - a) specify the expected date, time, and duration of the interruption
 - b) include a telephone number for enquiries (the charge for which is no more than the cost of a local call)
 - c) include a statement that any enquiries regarding planned interruptions are to be directed to the exempt seller.
3. The exempt seller must use its best endeavours to restore the exempt customer's supply as soon as possible.

Condition 13 – Unplanned interruptions to supply

1. In the case of an unplanned interruption, the exempt seller must:
 - a) as soon as practicable, make available, by way of a 24-hour telephone service (the charge for which is no more than the cost of a local call), information on the nature of the interruption and an estimate of the time when supply will be restored or when reliable information on restoration of supply will be available; and
 - b) use its best endeavours to restore supply to affected exempt customers as soon as possible.

Condition 14 – Contact details

1. The exempt person must provide a means of contact for account inquiries and complaints that can be readily accessed by exempt customers. Where a telephone number is provided, the charge for this call must be no more than the cost of a local call.
2. The exempt person must provide a 24-hour emergency telephone contact number.²

Condition 15 – Dispute resolution

1. In the event of a dispute concerning the sale of electricity to an exempt customer, and in the absence of a determination of the relevant tenancy tribunal if the customer is a tenant, the exempt person must:
 - a) make reasonable endeavours to resolve the dispute, and
 - b) advise the exempt customer of any right that the exempt customer has to access the electricity Ombudsman scheme or any other relevant external dispute resolution body in the state or territory in which the exempt customer is located, if applicable.

Condition 16 – Life support customers

1. The exempt person must maintain records of any exempt customers who have provided them with confirmation from a registered medical practitioner that a person residing at the exempt customer's premises requires life support equipment that depends on electricity for its operation on their premises.
2. The exempt person must, at the time of registering the premises as having life support, provide the exempt customer with:
 - a) general advice that there may be a planned or unplanned interruption to the supply at the address

² For clarity, reference to the provision of an emergency telephone contact number will be satisfied by the provision of a manned mobile telephone service.

- b) information to assist the exempt customer to prepare a plan of action in case of an unplanned interruption
- c) an emergency telephone contact number (the charge of which is no more than the cost of a local call).

Condition 17 – Continuity of supply

- 1. The exempt person must notify the exempt customers immediately if there is any likelihood that they will be unable to continue selling electricity.
- 2. If the exempt person is unable to continue selling electricity, and it is necessary for another person to take over the exempt person's electricity selling operations, the exempt person must participate in the development and implementation of arrangements to facilitate this.

Condition 18 – Termination of electricity supply agreement

- 1. An electricity supply agreement between the exempt person and an exempt customer will terminate:
 - a) on a date agreed by the exempt person and exempt customer, or
 - b) five business days (or a different time agreed by the exempt person and exempt customer) from the date when the exempt customer gives the exempt person a termination notice,
 - c) or at the conclusion of the exempt customer's lease for, or occupancy of, the premises to which the electricity is supplied, or
 - d) when the exempt customer starts receiving electricity retail services from a different retailer or exempt person, or
 - e) when a different exempt customer starts receiving customer retail services for the premises, or
 - f) at the end of a period of 10 business days commencing on the day the exempt customer's premises are disconnected, where the conditions for reconnection have not been met.
- 2. Termination of an arrangement to supply electricity does not affect any rights or obligations that have already accrued under the agreement.

Condition 19 – Maintaining records

- 1. The exempt person must maintain records of the following for each of its exempt customers:
 - a) the name of the exempt customer
 - b) the address of the exempt customer's premises
 - c) the identifier of the meter for the exempt customer's premises (if applicable)
 - d) the date that the customer account was created
 - e) copies of any bills issued for the previous 12 months
 - f) the date of the most recent meter read for the customer (if applicable)
 - g) the basis for determining any estimates of consumption for the purpose of billing where a meter read could not be obtained.

Condition 20 – Member of energy ombudsman scheme

1. An exempt person must, if permitted by an energy ombudsman scheme:
 - a) be a member of, or subject to, an energy ombudsman scheme for each jurisdiction where it sells energy to exempt customers and
 - b) comply with the requirements of that scheme.

Condition 21 – Payment plan

1. An exempt seller must offer flexible energy payment options, including a payment plan, to an exempt customer who has identified themselves as being in financial difficulty.
2. In establishing a payment plan the exempt seller must have regard to:
 - a) the exempt customer's capacity to pay, and
 - b) any outstanding amounts owed by the exempt customer, and
 - c) the exempt customer's expected energy consumption needs over the following 12-month period or the duration of their tenancy/residency/agreement if the tenancy/residency/agreement is less than 12 months.
3. An exempt seller who offers a payment plan to an exempt customer under this condition must inform the exempt customer of:
 - a) the duration of the plan, and
 - b) the amount of each instalment payable under the plan, the frequency of instalments and the date by which each instalment must be paid.
4. This condition does not apply where the exempt customer has:
 - a) had two payment plans cancelled by the exempt seller in the previous 12 months due to non-payment, or
 - b) been convicted of an offence involving illegal use of energy in the previous two years.
5. An exempt seller must not make changes to an exempt customer's payment plan without their agreement.
6. This condition applies to residential customers only.

Condition 22 – Hardship policy

1. An exempt seller must develop, implement, maintain, and comply with, a plain English hardship policy for their residential exempt customers that contains at a minimum, the standardised statements provided in the AER's *Exempt seller hardship policy template* published on the AER's website and as in force from time to time.
2. An exempt seller's hardship policy must be implemented no later than 3 months from the exemption registration/approval date to which this condition applies.
3. An exempt seller's residential exempt customer hardship policy must include:
 - a) processes for the early response by the exempt seller in the case of residential exempt customers identifying themselves as experiencing payment difficulties due to hardship,
 - b) flexible payment options (including payment plans) for the payment of energy bills by residential exempt customers experiencing hardship,
 - c) processes for notifying residential exempt customers experiencing hardship of appropriate government concession programs and appropriate financial counselling services, and

- d) processes to assist residential exempt customers with strategies to improve their energy efficiency.
4. An exempt seller's hardship policy must not include unreasonable conditions that a residential exempt customer has to meet before being eligible for hardship support, including that the exempt customer must:
 - a) attend financial counselling
 - b) be represented by a third party such as a financial counsellor
 - c) submit to an energy audit
 - d) make a one-off payment or make a certain number of instalments towards their debt
 - e) pay their bills on time.
 5. An exempt seller's customer hardship policy must specify that the exempt seller:
 - a) will take into account all of the circumstances of the residential exempt customer, and having regard to those circumstances, act fairly and reasonably, and
 - b) will provide a customer who is entitled to receive assistance under the exempt seller's customer hardship policy with that assistance, in a timely manner.
 6. An exempt seller must provide an exempt customer who is also a residential customer, a hardcopy or electronic link to its hardship policy at the start of their tenancy / residency / agreement or when an exempt customer informs the exempt seller that they are experiencing payment difficulties.
 7. If an exempt seller deems a residential exempt customer to be ineligible for hardship assistance, the exempt seller must:
 - a) Provide the residential exempt customer the reasons why, and
 - b) Advise the residential exempt customer of their right to contact the energy ombudsman scheme within their state.

Maps of the geographical area covered by the exemption



