

Submission to the review of the AER exemptions framework for embedded networks

Introduction

This submission is made by the Body Corporate of 6 Parkland Boulevard CTS 34862.

Our submission takes the form of responding to the questions raised in the AER issues paper titled “Review of the AER exemptions framework for embedded networks dated November 2023”.

We have responded only to those question that are relevant to our situation and/or experience. There are many types of embedded networks but we can only speak for high-rise apartment buildings.

Background

We are a solely residential apartment building of 59 apartments over 13 levels located in Brisbane City. The building was certified in 2006.

The Body Corporate supplies metered electricity, metered hot water and unmetered gas for cooking to all residents. We have a current Retail Exemption Class R2 and Network Exemption Class NR2, AER reference E-2275 for both. We are a scheme member with the Electricity and Water Ombudsman, Queensland. We have on-sold electricity since 2013 and hot water and gas since 2016.

Electricity consumption in 2023 was █████ MWh. Of this, █% was supplied to residential apartments and the balance to common property. The apartment average of █████ kWh per year compares to SEQ household average of 4613 kWh pa.

The Body Corporate buys electricity monthly and on-sells to residents quarterly on a not-for-profit basis.

The Body Corporate purchases electricity at the building market gate meter as a business customer of a Retailer. The Body Corporate outsources meter reading, billing, collections, connections, disconnections, customer enquiries and complaints to a service provider acting as our agent, hereafter referred to as a billing agent.

Through our billing agent we comply with the “Retail Exempt Selling Guidelines”.

Submission summary

Our residents enjoy electricity pricing substantially below on-market prices. There have been no complaints and no residents have sought alternate supply.

Our residents are provided with the protections afforded under the AER’s Retail Exempt Selling Guideline via our billing agent which has complying policies and procedures in place.

We contend that our residents are better off in all respects than those in the external market.

Owners have full transparency of all arrangements for on-selling and participate in the management via their committee and the annual general meeting processes.

The greatest harm that can be done is for our exempt selling status to be removed. Not only would residents be denied the capacity to buy better than market, the Body Corporate would incur significant costs to reconfigure our main switchboard to facilitate a return to individual metering.

Enforcing the current regulatory framework is of no consequence as our practices are compliant.

Additional compliance requirements are undesirable as they will increase our costs. Additional regulation if introduced should ensure that:

- it allows us to maintain our exemption status;
- it ensures that other existing and future body corporates have the choice to on-sell or to engage a third party to on-sell on their behalf;
- our service providers can implement the compliance requirements;
- our direct costs should not increase and compliance costs are minimal.

Responses to the issues paper questions

1) Do stakeholders consider one factor or principle should take precedence over another? If so, what weighting should we give the various principles or factors provided by the Retail Law and set out above, to support any case for change to the exemptions framework?

Electricity is a commodity service. Assuming satisfactory reliability and quality of supply, then the primary issue is the price. In granting exemptions, the AER should give priority consideration to those factors influencing price. Of those factors listed in section 2.1 of the issues paper, we argue that the most important is the intent of the energy seller to profit.

To maximise profit in a monopoly supply situation (such as an embedded network), the seller prices to the available substitute. For a customer in an embedded network that substitute is opting out and taking an on-market offer. We have not experienced a resident opting out but we understand it is not an easy process. It requires a meter change with attendant costs and non-standard billing processes. We understand that some retailers refuse to make opt-out offers. To a consumer unfamiliar with the energy market this is a significant barrier. The seller aiming to maximise profit, will target a price closer to the regulated maximum selling price of the Direct Market Offer (DMO) relying on the inertia and ignorance of the customer. However, as shown in the table at question 9, there is a substantial difference between on-market price and the DMO. Even if the seller prices to the on-market rate, there is still a handsome margin to be had. A customer in an embedded network is at a considerable disadvantage if the seller's motive is profit maximisation.

In QLD, the legislation governing bodies corporate does not permit them to make a profit. Body corporates must follow this at cost approach. We on-sell electricity (and hot water and gas) at cost resulting in a price to our residents significantly below market.

However, it does not follow a Body Corporate can always provide the best energy outcomes for its residents. As outlined in our response to question 4, if the body corporate is a developer or a retailer seeking exemptions, then profit is invariably the intent at the long term expense of the

apartment owners. More scrutiny is needed to exemption applications where there is profit intent.

2) Is the AER's proposed approach to the exemption framework review the preferred approach? If not, what other factors or criteria should the AER consider?

We agree with the approach of the review to focus on:

- benefits to consumers,
- harms to consumers (and risk of harms)
- costs for exempt entities

3) Is our proposed review scope reasonable? If not, what other supply arrangements should be considered and why?

The focus on the residential customer experience is appropriate and we have endeavoured to include as much evidence as possible in our submission to demonstrate the substantial benefit to customers of a body corporate managed embedded network in an apartment building.

4) What factors are driving the increase in residential exemptions?

Anecdotally, we are observing the growth of inner-city apartment buildings in Brisbane. No doubt the trend to higher density living in cities is a factor.

We believe that profit motive on the part of apartment developers or their engaged third party is a factor. A substantial margin exists between a gate meter buy price and on-market sell price (see our responses to questions 7 and 9) creating an opportunity for developers / third parties. Installation of central hot water systems in apartment buildings at build, where a third party pays all, or part of the costs in return for a long-term supply contract set up by the developer acting as the body corporate, is common practice. This was the historic situation with our building where an energy services subsidiary of Energex installed the hot water infrastructure. That contract was subsequently assigned to Origin Energy. In 2015, a dispute over repairs resulted in the body corporate buying out Origin on advantageous terms. The end result was substantially lower hot water and gas costs for residents because the profit element was removed.

Our concern is that developers are applying the same business model to electricity. For new developments, the developer is the body corporate and remains in control of the body corporate until such time as its majority holding of the lots is sold down. The developer, acting as the body corporate, obtains a network and retail exemptions and assigns on-sell rights to a third party for consideration. Obtaining consent of all customers to the on-sell arrangement is not a problem as the developer owns all the lots. The consideration could be payments to offset building costs as is normal for hot water, or payment of a lump sum as is standard practice with management and letting rights. The result is that residents end up paying more over the long term as the third party seeks to recover its operating costs plus a return on its invested capital.

We understand that a typical cost to install market compliant meters in a new apartment development is \$600 per unit. For larger developments it is better for the developer to register an embedded network and then have a third party install the meters at their cost in return for a long

term retail supply contract. Apparently, even business units of the larger retailers are offering this service to developers. Of course, developers would claim that this results in a lower price for apartment buyers. But such a claim should be discounted as developers are only required to disclose body corporate levies to a potential buyer. The terms of any supply of energy, be it electricity, gas, hot or chilled water, are opaque to the buyer only becoming known post purchase. Developers are always careful in framing the quantum levies because it is a long term cost, is transparent pre-sale and it does influence buyers' decisions. Perhaps prior disclosure of contracts and costs associated with embedded networks should be a requirement of sale. Prior knowledge of excessive long term energy costs may influence a buyer's decision to buy into an embedded network.

We have also witnessed a change in business models on the part of billing agents, including our own. They have recognised the margin improvement opportunity in taking over the gate meter supply contract from the body corporate and are actively pursuing this strategy. It follows that they would actively pursue developers with this strategy.

5) Which factors are having the biggest influence?

We would contend that profit motive is the primary driver. Without a profit motive, this issue at the heart of this review would never be a problem.

6) How common is it for new residential developments to be built as embedded networks?

We understand that it is very common for developers to enter into arrangements with third parties to provide services. Almost invariably, these third parties are licenced energy retailers. Most high-rise residential buildings traditionally have centralised hot water arrangements and it is an easy transition to include electricity under an embedded network.

7) How do embedded networks result in lower energy prices for residential customers? Please provide supporting information.

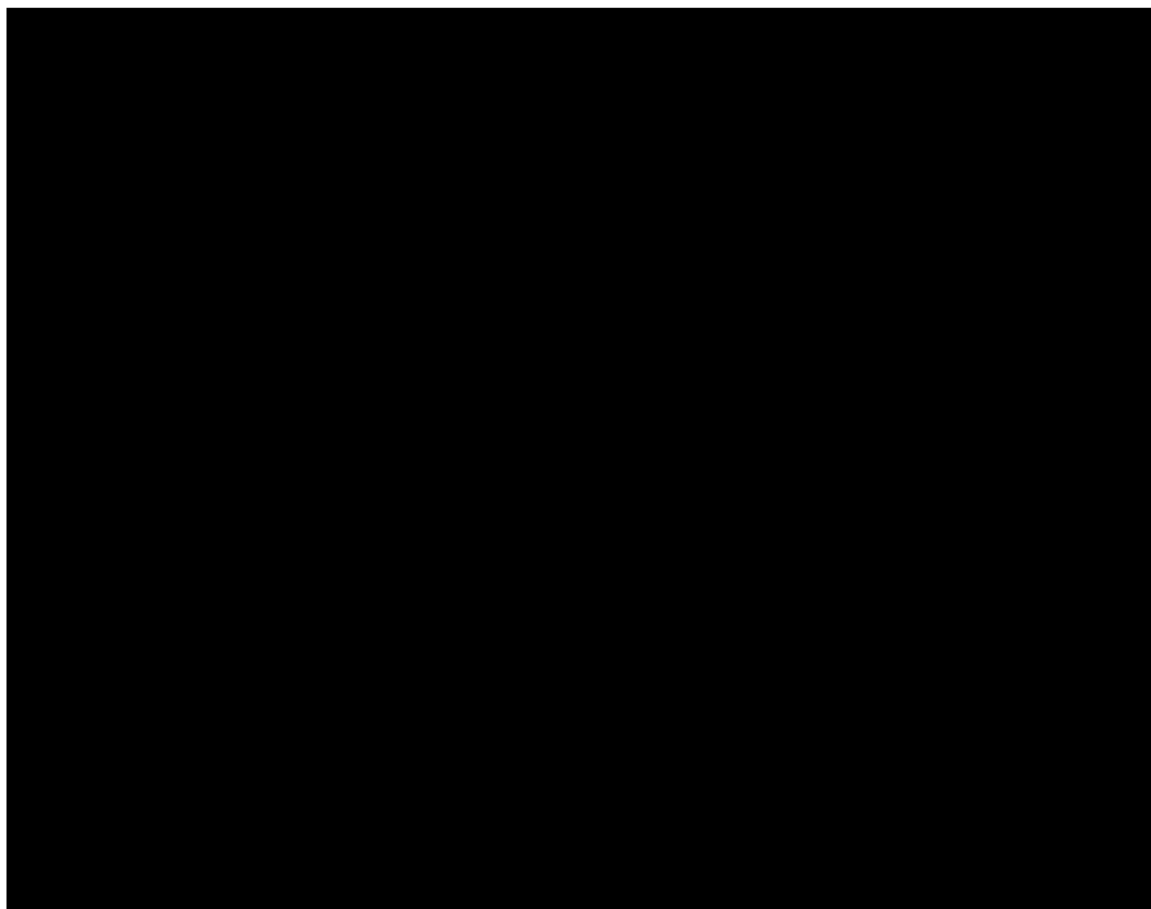
The primary reason for lower energy prices is the savings in network charges. For an embedded network, a single network charge at the gate meter is divided among all residents. For directly connected and metered customers, the network charge is applied to each resident. Other factors are:

- aggregating resident consumption and buying at commercial retail rates at the building gate meter;
- competitive outsourcing of customer interaction functions to a billing agent resulting in a lower daily service charge;
- a single daily service charge for handling and billing out multiple utilities, in our case electricity, hot water and gas; and
- no motive for profit

Detailed below are the circumstances which allow our body corporate to deliver below market prices to our residents.

Electricity is purchased at commercial time-of-use demand tariff. A typical monthly bill is shown below. The purchase price for this sample bill is █████ c/kWh, however, the average purchase

price for the 2023 year was [REDACTED] c/kWh. The difference is due to monthly variation in network, environmental and regulated charges.



Serving our residents is outsourced to a billing agent. We are entirely reliant on them to provide, meter reading, billing and collection, connection, disconnection and handle resident enquiries and complaints for electricity, hot water and gas. Our Billing Agent delivers all services in accordance with the Retail Exempt Selling Guidelines.

Billing agent cost is passed through as the daily service charge on resident bills.

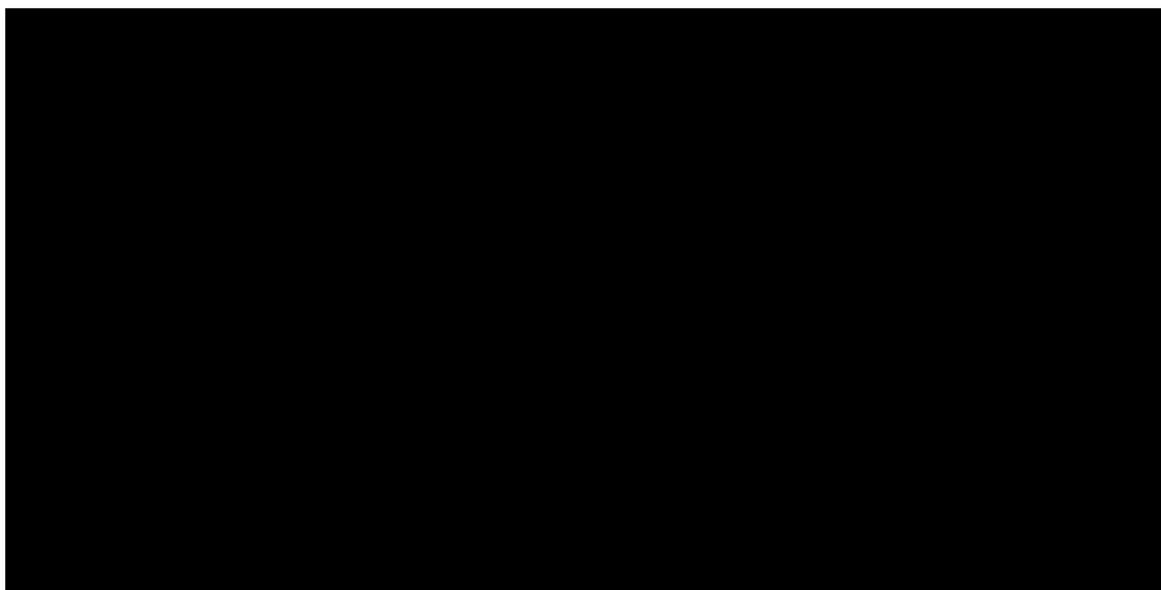
Our pricing approach is cost plus consistent with the governing QLD legislation that bodies corporate cannot make a profit. A margin over purchase cost is added to allow for direct costs such as:

- resident bad debts,
- repairs and maintenance of metering (but not depreciation)
- management costs e.g., consultants; and
- pricing base risk in that we buy TOU monthly and sell at a single fixed price quarterly.

Over recovery of direct costs (if any) is returned to the body corporate administrative fund.

Electricity sell price is a single fixed rate of [REDACTED] c/kWh billed quarterly. Time-of-use pricing is not possible because apartment meters are analogue. In setting the sell price we target a small surplus to ensure that our overall utilities position in electricity, gas and hot water does not fall into loss. In exceptional cases of unexpected costs, any deficit would be paid out of body corporate funds.

Prices paid by all residents are shown on the bill extract below.



8) How do infrastructure costs for new developments built as embedded networks compare to non-embedded networks?

There is not a lot of difference. For an embedded network there would be additional costs for the installation of the gate meter, requiring the main switchboard to be slightly larger. Embedded network retailers may contribute some costs towards this.

Other than the installation of the gate meter, all other infrastructure would be the same. The provision of the meters is no different as the retailer of choice in a non-embedded network would provide the individual meters, whereas a third party provides them within an embedded network.

9) How do higher-density complexes configured as embedded networks benefit residential buyers? Please provide supporting information.

The information disclosed in question 8 is based on the body corporate’s old four-year electricity contract which expired 31 Dec 23. The body corporate entered into a new contract commencing 01 Jan 24 which resulted in electricity prices increasing 27%. In communicating this increase, the body corporate advised the following price and market comparison tables to residents.

All rates exclude GST	Current rate	New rate from 01Jan24
Service charge, cents / day	██	██ █████
Electricity residents, cents / kWh	██	██
Electric car residents, cents / kWh	█	█
Electricity PBC, cents / kWh	█	█
Cooktop & BBQ gas, cents / day	████	██ █████
BBQ gas only	██	██ █████
Hot water (0-30L/day)	█	██ █████
Hot water (31-125L/day)	██	██ █████
Hot water (remaining L/day)	██	██ █████

Body Corporate electricity price comparison and savings calculation				
All prices exclude GST	Body Corporate from 01Jan24	Market comparisons		
		AGL (note 1)	Best available - Dodo (note 1)	SEQ DMO (note 2)
Supply charge, cents / day	■	109.11	75.15	
Electricity charge, cents / kWh	■	26.26	25.65	
SEQ DMO avg consumption, kWh/yr, (note 3)	■	4613	4613	
Total annual cost	\$ 1,088.05	\$ 1,609.79	\$ 1,457.73	\$ 1,969.00
Comparative savings		48%	34%	81%
Note 1 - rates sourced from the government electricity comparison website https://www.energymadeeasy.gov.au/ as at 30Nov23 and have been adjusted to exclude GST				
Note 2 - The South East Queensland Default Market Offer (SEQ DMO) is the regulated annual maximum total bill amount (called a reference price) energy companies can charge in SEQ for the 'standing offer' prices based on a set average usage amount. It's a reference price designed to make it easier for customers to compare energy plans across different providers.				
Note 3 - this is the set average usage amount used by the electricity market regulator to calculate the SEQ DMO				

Despite a 28% increase in gate meter price, the body corporate is still able to deliver a price 34% better price than the lowest available on-market offer at the time of comparison!

Residents also enjoy full compliance with the current AER Retail Exempt Selling Guidelines via our billing agent.

On request for a connection, new residents are provided with an information pack disclosing:

- that the Body Corporate is the supplier and prices charged;
- the right to choose an alternate supplier;
- a dispute resolution process;
- contact details for faults and emergencies;
- arrangements for life support equipment;
- concessions and rebates available;
- nil security deposit is required;
- policy for payment assistance; and
- terms and conditions of supply.

Residents also have stability in pricing. Our previous contract provided for fixed retail rates for four years. This insulated residents from the significant retail price increases in 2021 and 2022. While not protected from network and market charge increases, these were far more stable than retail rates. Our new gate meter contract is for four years with an annually reducing retail price over the term. This will provide a measure of future price stability.

Owners also enjoy full transparency. Supply contracts are managed by their committee and must be ratified by an AGM. Separate financial accounts are kept for Utilities (electricity, gas and hot water) to ensure that costs and margins are tracked. The Committee communicates directly with residents on relevant energy issues.

Our residents are clearly satisfied with the existing arrangements. To date, during the ten years of body corporate supply there has been:

- nil residents opting out for on-market supply;
- nil complaints requiring escalation beyond our billing agent to body corporate or any regulatory authority;
- nil dissatisfaction expressed directly to the body corporate by owners or lessees.

10) What kind of innovative and emissions reduction arrangements can embedded networks offer residential customers?

We have provided access to car park charging to residents with EVs. Currently there are six 7kW charging stations installed in our basement car parks.

There is potential for communal solar in our building. A study into the feasibility of this is pending.

Energy efficiency actions are ongoing such as replacing lighting with LEDs.

11) What other benefits are there for residential embedded network customers?

Resident benefits are outlined in questions 7 through 9 above. There are also savings with the billing of multiple utilities. In our case, the one daily service charge covers electricity, gas and hot water.

12) How should we consider any consequential benefits such as improved access to affordable housing in this review?

Nil response

13) What is the evidence that supports the view that embedded network customers are paying higher energy prices compared to on-market retail customers?

Our evidence demonstrates the contrary.

14) What evidence is available to understand the scale, extent or risk of harms?

Nil response

15) What other harms do embedded network customers face?

Nil response

16) How can we maximise the extent to which any changes to our Guidelines complements jurisdictional actions and minimise the risk of misalignment or duplication?

Nil response

17) What are the risks and implications for embedded network service providers, prospective exempt sellers, customers and other relevant third parties if we require current deemed exemptions to be registered? How could any risks be mitigated?

Nil response

18) How should we measure the benefits to consumers of registration?

Nil response

19) What are the risks and implications for embedded network service providers, prospective exempt sellers, customers and other relevant third parties if we revised the NR2 registrable network class exemption activity criteria to include prescribed customer benefits that must be met by NR2 registrable network class exemption holders? How could the risks be mitigated?

The body corporate relies almost entirely on our billing agent to on-sell. The responsibility to implement any prescribed benefits would be passed through to our billing agent. The risk is that this increases our costs to on-sell. These costs will be passed through to our residents.

20) If we were to prescribe a list of specific embedded network customer benefits, what could be included?

The Retail Exempt Selling Guidelines are already in place which prescribe customer benefits. We comply with them and wonder why they are called “guidelines” rather than regulations.

Any supplier who has the interests of their customers at heart should have no objection to compliance with these being a requirement of gaining or retaining an exemption.

21) What other regulatory approaches would enable the AER to ensure future embedded networks are beneficial to customers?

The core issue here is that some exempt sellers are using their monopoly power to exploit their customers. A requirement for all exempt sellers to report the sell price to customers on a periodic basis, say annually, will quickly identify exploitative behaviours. Publicly publishing this information for all embedded networks will give transparency to customers, consumer advocate groups and State and Federal regulators.

22) What are the risks to embedded network service providers, prospective exempt sellers, customers and other relevant third parties if we introduced a requirement to apply to the AER to register an NR2 network class exemption?

We do not see any risks in this requirement provided that the costs associated with this are minimal.

23) What are the implications of requiring embedded network service providers to demonstrate customer benefits before being permitted to register an NR2 network class exemption?

As the supply of electricity is an essential service and the embedded networks allow for the potential monopoly supply this should be a mandatory requirement.

24) What support is there to stop the expansion of residential embedded networks by closing the NR2 registrable network exemption class?

We do not support this proposal. Provided developers or their engaged third parties are gated out from exploiting the exemption system, bodies corporate are in a unique position to make their own decisions as to how energy is to be delivered to residents. They can choose whether residents buy on-market or become exempt on-sellers. Moreover, as a body corporate is simply a collective of the owners, that decision is one made ultimately by the consumer not a developer or a third party.

25) What would be the impacts on customers, embedded network service providers, exempt sellers, embedded network managers, and other parties if we ceased granting exemptions for embedded networks with more than 10 residential customers? Please provide information to support your views.

Refusing exemptions to future bodies corporate (not controlled by developers or their engaged network operators) denies them the opportunity to provide low cost electricity to their residents. Residents would have no alternative but to buy on-market at a higher cost.

Cancelling our exemptions would significantly penalise our residents for no benefit. Not only would residents be unable to buy at below market prices, but owners would also incur the cost of reconfiguring our main switchboard back to its original build arrangement. Configuring the switchboard for on-selling in 2013 cost approximately \$25,000 in money of the day. Reconfiguration is likely to cost considerably more. We also understand that our existing analogue meters would have to be replaced with TOU meters resulting a further cost to owners.

26) What compliance breaches should exempt sellers be required to submit to the AER, if they on-sell to residential customers?

Our intent is that we will comply with all the requirements of the Retail Exempt Selling Guidelines. We see no issue with this being the basis of compliance reporting.

27) What performance reporting indicators would best support the AER to identify consumer trends and inform regulatory reform for embedded networks.

To maintain the integrity of the embedded network exemption system we would have no objection to reporting:

- the prices charged to our residents; and
- compliance with the Retail Exempt Guidelines

28) What would be the benefits, costs and risks to exempt sellers, and other stakeholders, if the AER were to impose compliance and/or performance reporting obligations on exempt sellers, who on-sell to residential customers?

As we would outsource compliance and reporting obligations, the only issues are the willingness of our service providers to take on those obligations and the cost of doing so. Providing these are within the framework of the current Guidelines, we see little risk.

29) Should we extend any compliance reporting obligations to exempt embedded network service providers, via the Network Guideline?

We do not understand why this would be necessary. To on-sell requires both network and retail exemptions.

30) Should family violence obligations be extended to exempt sellers who on-sell to residential and small business customers?

Our billing agent already has a family violence policy in place for all its served customers.

31) What obligations would, and would not be feasible, to implement?

Nil response

32) Could some obligations be tailored to the specific circumstances of an exempt selling scenario? How, and what support might enable sellers to meet their obligations effectively? What additional obligations should the core exemption conditions include?

Nil response