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**Libby Darwin**  
**A/g General Manager – Compliance and Enforcement**  
**Australian Energy Regulator**  
**GPO Box 520**  
**Melbourne VIC 3001**

By email: [AERexemptions@aer.gov.au](mailto:AERexemptions@aer.gov.au)

02 July 2021

Dear Libby,

RE: Retail and network exemption guidelines review – consultation paper (AER212323)

AGL appreciates the opportunity to comment on the AER's Network Service Provider Registration Exemption Guideline Review 2021 (Consultation)

AGL is a leading integrated essential service provider. We deliver 4.2 million gas, electricity, and telecommunications services to our residential, small, and large business, and wholesale customers across Australia. We operate Australia's largest electricity generation portfolio, with an operated generation capacity of 11,208 MW, which accounts for approximately 20% of the total generation capacity within Australia's National Electricity Market.

In general, AGL supports the AER's review on the exemption guidelines. The review is timely as the energy industry is undergoing significant changes. The customers are seeking cost efficient energy solutions as well as improving supply reliability. Changes in technology and set up cost have opened viable alternatives for energy suppliers to consider distributed energy supply (DER) options on customer sites.

We believe that all DER service providers should be subject to a consistent consumer protections and retail authorisation framework. Accordingly, while we support the development of an enhanced SGA framework to enable competing aggregators to service different connection points at one site, there is a need to implement the recommendation of the AEMC in its 2019 Consumer Protections review and ensure all aggregators are subject to consistent retail license obligations and equivalent consumer protections. We see material risks in an approach where the AER provides exemptions from retailer authorisation for particular use cases, such as the sale of electricity for EV charging. Accordingly, we do not consider it appropriate that SGAs should be contemplated within the AER's network exemption guidelines.

If you require additional information, [REDACTED]

Yours sincerely,

[REDACTED]

Kong Min Yep  
Wholesale Compliance Manager



AGL Energy Limited

## Appendix

**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?**

Yes. AGL prefers that one party takes responsibility for the compliance of all Exemption conditions.

Multiple stakeholders should be required to identify as the owner, operator, and controller with respect to the exemption as a Network Service Provider. It is preferable that the stakeholders would decide to nominate a party to be responsible for meeting the exemption conditions.

This approach would allow all stakeholders involved to determine who would be best placed to be the exemption holder and, hence the head applicant of the exemption. This would depend on the specific site, legal, commercial, and technical arrangements. The stakeholders who are not the applicants should be exempt from being the holder of the network exemptions.

However, it should be clear in the guidelines that the exempted holders of network are still liable for breaches on the exemption conditions that apply to their market roles. This will ensure the holder to have the ability to enforce compliance through to the exempted holders based on commercial agreements negotiated between all parties involved.

One example that could benefit from this arrangement is for projects with generation installed on site. The owner and operator may not want or have the capacity to administer the network exemptions and meet the network exemption conditions. Electricity supply and compliance with energy regulations are not their primary business. Their preference would be to nominate an experienced third-party to control the exempted network and take responsibility for meeting the network exemption conditions.

AGL considers this by far the most effective and efficient compliance enforcement of exemption conditions. This approach would provide the necessary flexibility for all parties to determine the appropriate compliance structure, governance of exemption and allocation of risks, cost, and liability of the associated exemption conditions.

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

Ombudsman membership is a good example of a clear line of responsibility when there are multiple parties involved in network exemptions. If the membership is uniquely associated with one responsible party, it would have a single channel of communication, a single party that would be answerable to any queries and any assessments. It would provide the responsible party the flexibility in negotiating a back-to-back agreements with other parties who will play their parts in ensuring all parties coordinate across the relevant areas of enquiries.

Further to the comments above, when the owner, operator and controller share these responsibilities, some may not have the skills or capacity or the desire to undertake the administration, correspondence with the regulators. This also includes having good understanding in nominating the correct exemption category or establishing customer complaints processes not to mention other possible regulatory requirements that require specialist skills.



### **Question 3: Should we clarify the meaning of controlling and operating an embedded network?**

AGL considers clarification of control and operating an embedded network would be helpful but it should not be prescriptive. There are many variations in how the stakeholders may structure the commercial and operation roles. A clearer meaning should recognise these potential variations in practice that will allow the parties the discretion to adapt depending on their specific commercial and technical relationships. The definitions should allow the parties to have flexibility to nominate which party shall be responsible for meeting the exemption conditions of each role.

### **Question 4: Do stakeholders consider there is a need to regulate SGAs under the network exemption guidelines?**

We believe that all DER service providers should be subject to a consistent consumer protections and retail authorisation framework. While we support the development of an enhanced SGA framework to enable competing aggregators to service different connection points at one site, there is a need to implement the recommendation of the AEMC in its 2019 Consumer Protections review and ensure all aggregators are subject to consistent retail license obligations and equivalent consumer protections. AGL notes that we provided the similar observation in our response to the ESB's Post 2025 Market Design Options Paper<sup>1</sup>,

We see material risks in an approach where the AER provides exemptions from retailer authorisation for particular use cases, such as the sale of electricity for EV charging. Accordingly, we do not consider it appropriate that SGAs should be contemplated within the network exemption guidelines.

AGL does not agree with the AER that SGA or market generators that are connected to an embedded network would play no direct market role in directly supplying the customers that are connected to the embedded network. Having the multiple trading relationships is highly complex from an operational perspective, may not provide customers with sufficient visibility and risk potential misalignments between the customers' expected value of orchestration and the benefits being realised by the aggregator. While the SGA may be motivated to sell excess consumption to the grid during a high-price interval, this could impact a customer's own ability to self-optimize generation to reduce cost. It could also impact retailers' ability to predict customers' consumption patterns and their ability to manage cost through hedging.

As we highlighted in our formal response to the AEMC's 2019 Issues Paper on Consumer protections in an evolving market,<sup>2</sup> irrespective of the energy service or product provider, customers should be provided with a level of consistency on fundamentals and an acknowledgement that new energy brings with it not just the service of supply and access, but also a value creation from the customer.

Regardless of the consumer applications in question, be it an EV, battery, or hot water system, we consider that electricity should be treated as an essential service and consumers should benefit from equivalent consumer protections to mitigate impact to their retail energy bills. From a customer-centric perspective, the source of energy is immaterial. Customers expect to have the same rights in terms of supply and service. In the new energy context, the expectation may be greater (eg. guarantee of participation/ value creation) but the same basic protections should apply as a matter of equivalence (ie. guiding principles on customer

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<sup>1</sup> See further AGL submission on the Energy Security Board's Post 2025 Market Design Options Paper (10 June 2021), Available at <https://thehub.agl.com.au/articles/2021/06/agls-submission-on-the-energy-security-boards-post-2025-market-design-options-paper>.

<sup>2</sup> See AGL submission in response to the AEMC Issues paper on consumer protections in an evolving market (11 February 2020), Available at [agl\\_submission\\_-\\_aemc\\_consumer\\_protections\\_submission\\_-\\_13\\_feb\\_public\\_version\\_redacted.pdf](#).



service outcomes). We see material risks in an approach where the AER provides exemptions from retailer authorisation for particular use cases, such as the sale of electricity for EV charging.

**Question 5: Do stakeholder interpret SGAs as being captured under the NER?**

Yes. SGA is a registration category covered by NER and the AEMO guidelines sanctioned by NER. It has been successfully operating under NER and within the AEMO market system. Under the NER, it has the potential to allow cost efficient connection of many small generators across the entire NEM. As the consultation paper pointed out, there are other streams of regulatory consultation that will improve the scope under which SGA can be applied. AER's approach to SGA as outlined in this consultation would assist with increasing customer interest and choices in sourcing alternative supply locally or on premise. AGL supports this AER initiative.

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

The regulatory requirements for Embedded Network Manager should consider the option where a full scope of Embedded Network Manager's role is excessive. A common example is where a generator may be installed behind the meter to supply one customer and the NEM. While an ENM may be essential for an embedded network with many customers to enable retailer competition, it is clearly not the case when one customer with an embedded generator is connected. In this case, a very limited set of ENM responsibilities should be permitted to be carried out by a Metering Coordinator for example, to minimise the cost of regulatory compliance.

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

AGL is currently considering installing behind the meter generation on a customer's private network. AGL considers the current network exemption guidelines may require multiple categories with multiple associated exemption conditions which seems overly prescriptive and unnecessarily complex.

As an example, on one site AGL may need to nominate three different categories to apply to a single generation unit to be installed on a customer's site (1 deemed and 2 registered).

AGL, the network owner, and the network operator (all different parties on this site) will have to equally share the obligations of understanding, administering, and complying with all the obligations of all three categories.

AGL would support any AER's initiative to streamline the compliance obligations and exemption categories. Such a configuration in embedded network could provide the options for customer in sourcing the best priced supply either from the generator or the grid through multiple energy providers.