

# Network Exemptions Guideline

Version 7

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# Glossary

This Guideline applies the following definitions.

Term	Definition
<b>ABN</b>	Australian Business Number
<b>ACCC</b>	Australian Competition and Consumer Commission
<b>ACN</b>	Australian Company Number
<b>AEMO</b>	Australian Energy Market Operator
<b>AER</b>	Australian Energy Regulator
<b>ASIC</b>	Australian Securities and Investments Commission
<b>Body Corporate</b>	Means a controlling body of a scheme constituted under State or Territory strata titles legislation, the members of which are lot owners (or their representatives), and includes an owners corporation but is not a body corporate for the purposes of the <i>Corporations Act 2001</i> (Cth).
<b>Business customer</b>	Means a customer who purchases energy principally for business use at industrial, commercial or retail premises.
<b>CCA</b>	<i>Competition and Consumer Act 2010</i> (Cth)
<b>Child connection point</b>	The agreed point of supply between an embedded network and an electrical installation, generating unit or other network connected to that embedded network, for which a Market Participant is, or proposes to be, financially responsible.
<b>Connect</b>	To form a physical link to or through a transmission network (including to a network connection asset or through a dedicated connection asset that is physically linked to that transmission network) or distribution network. <b>Note:</b> In the context of Chapter 5A, the above definition has been displaced by a definition specifically applicable to that Chapter. See clause 5A.A.1.
<b>Connection point</b>	In relation to a declared shared network and a distribution network (other than an embedded network), the agreed point of supply established between Network Service Provider(s) and another Registered Participant, Non-Registered Customer or franchise customer and includes a parent connection point.  In relation to other transmission networks, the point at which power flows to or from a person connected to the transmission network can be isolated from the transmission network. If there is more than one such point, the Network Service Provider and that person will agree which point is the connection point in their connection agreement.  In relation to an embedded network, the child connection point, unless otherwise specified.
<b>Customer</b>	Means a consumer of electricity for primary industry, domestic, commercial or industrial use but does not include a Market Customer who is registered by AEMO under Chapter 2 of the NER.
<b>Dedicated Connection Asset (DCA)</b>	The apparatus, equipment, plant and buildings that: <ul style="list-style-type: none"> <li>a. are used for the purpose of connecting a person at a connection point to a transmission network and are used exclusively by that person;</li> <li>b. include power lines less than 30 kilometres in route length;</li> <li>c. can be electrically isolated from the transmission network without affecting the provision of shared transmission services to other persons; and</li> <li>d. are not: <ul style="list-style-type: none"> <li>i. network connection assets</li> <li>ii. part of a generating system</li> <li>iii. part of a distribution system</li> <li>iv. part of a transmission system for which a Market Network Service Provider is registered under Chapter 2 of the NER</li> <li>v. part of Transmission Customer's facility that utilises electrical energy</li> </ul> </li> </ul>

Term	Definition
	<ul style="list-style-type: none"> <li>vi. part of the declared transmission system of an adoptive jurisdiction, or</li> <li>vii. designated network assets.</li> </ul> <p>Note: At any time a person who owns, controls or operates a dedicated connection asset may elect for that dedicated connection asset to be a designated network asset under clause 11.139.4 of the NER.</p>
<b>Designated Network Asset (DNA)</b>	<p>The apparatus, equipment, plant and buildings that:</p> <ul style="list-style-type: none"> <li>a. are used from the boundary point to convey, and control the conveyance of, electricity, for an identified user group</li> <li>b. are for the exclusive use of the identified user group and may be owned by different persons within that identified user group</li> <li>c. include power lines that have a route length of: <ul style="list-style-type: none"> <li>i. 30 kilometres or more, or</li> <li>ii. less than 30 kilometres where the owner of those assets has entered into a network operating agreement in respect of those assets, and</li> </ul> </li> <li>d. do not: <ul style="list-style-type: none"> <li>i. provide prescribed transmission services</li> <li>ii. form part of a network loop</li> <li>iii. form part of a transmission system for which a Market Network Service Provider is registered under Chapter 2, or</li> <li>iv. form part of a declared transmission system of an adoptive jurisdiction.</li> </ul> </li> </ul>
<b>Disconnection or de-energisation of premises</b>	Means the opening of a connection in order to prevent the flow of electricity to the premises.
<b>Distribution network connection point</b>	A connection point on a distribution network.
<b>Distribution Network Service Provider (DNSP)</b>	A person who engages in the activity of owning, controlling, or operating a distribution system.
<b>Embedded network</b>	<p>Has the meaning specified in chapter 10 of the NER. A type of exempt network. A distribution system, connected at a parent connection point to either a distribution system or transmission system that forms part of the national grid, and which is owned, controlled or operated by a person who is not a Network Service Provider.</p> <p>Note: an embedded network is a sub-set type of an exempt network.</p>
<b>Embedded Network Manager (ENM)</b>	<p>A person:</p> <ul style="list-style-type: none"> <li>a. who meets the requirements listed in schedule 7.7 and has been accredited and registered by AEMO as an Embedded Network Manager, and</li> <li>b. who has not been deregistered by AEMO as an Embedded Network Manager under clause 7.4.4(d).</li> </ul>
<b>Energy</b>	Means electricity.
<b>ENM conditions</b>	<p>An Exempt Embedded Network Service Provider must:</p> <ul style="list-style-type: none"> <li>a. act as the Embedded Network Manager for the relevant embedded network, or</li> <li>b. engage an Embedded Network Manager to provide embedded network management services for the relevant embedded network, and</li> <li>c. enter into an agreement with an Embedded Network Manager for the provision of embedded network management services where that person has engaged an Embedded Network Manager under paragraph b.</li> </ul>
<b>ENM conditions trigger</b>	<p>In relation to a small customer, when the small customer enters a market retail contract for the sale of energy at the relevant child connection point and the cooling off period in relation to that contract has expired.</p> <p>In relation to a large customer, when the large customer has entered a contract for the sale of energy at the relevant child connection point.</p>
<b>Exempt embedded network service provider (EENSP)</b>	A person who engages in the activity of owning, controlling or operating an embedded network under an exemption granted or deemed to be granted by the AER under section 13 of the NEL and clause 2.5.1(d).

Term	Definition
	An EENSP is a sub-set of an exempt person and specifically relates to a person exempt for an embedded network (only includes distribution systems, not transmission).
<b>Exempt network</b>	<p>A network owned, controlled or operated by a person required to be subject to a network exemption in accordance with clause 11(2) of the NEL.</p> <p>Exempt networks are:</p> <ol style="list-style-type: none"> <li>connected (either directly or indirectly) to the national grid</li> <li>are not a DNSP's or TNSP's network</li> <li>supply electricity to a third party.</li> </ol> <p>It also refers to the physical assets that deliver electricity from one person to another person including any privately owned wires, switches, transformers or other electrical equipment owned, operated or controlled by the prospective exempt person.</p>
<b>Exempt person</b>	<p>A person engaged in the activity of owning, controlling or operating an exempt network who is exempt by the AER in accordance with this Guideline.</p> <p>Note: For the avoidance of doubt, an EENSP is also an exempt person.</p>
<b>Exempt seller</b>	A person who is exempt by the AER under a deemed, registrable or individual exemption from the requirement to hold a retailer authorisation.
<b>Explicit informed consent</b>	<p>Consent given by a customer to a person where the person has clearly, fully and adequately disclosed all matters relevant to the consent of the customer, including each specific purpose or use of the consent; and the customer gives the consent to the transaction:</p> <ul style="list-style-type: none"> <li>in writing signed by the customer (written or electronic) or</li> <li>verbally, so long as the verbal consent is evidenced in such a way that it can be verified and recorded.</li> </ul>
<b>GWh</b>	Gigawatt hour
<b>kV</b>	Kilovolt
<b>Large customer</b>	Means a business customer who consumes energy at a business premises at or above the upper consumption threshold, as defined by the relevant jurisdiction. If no threshold is defined, 100 megawatt hours per annum for electricity.
<b>Large corporate entity</b>	A 'large proprietary company' as defined under subsection 45A(3) of the <i>Corporations Act 2001</i> or, if not a reporting entity under that Act, includes a public company as defined in section 9 of the Act, or an unlisted company, trust, or other legal entity which otherwise fulfils any two of the financial and/or staffing criteria specified in subsection 45A(3) of that Act.
<b>Life support customer</b>	Means a customer with a person residing at their premises who requires life support equipment.
<b>Life support equipment</b>	<p>Means any of the following:</p> <ol style="list-style-type: none"> <li>an oxygen concentrator</li> <li>an intermittent peritoneal dialysis machine</li> <li>a kidney dialysis machine</li> <li>a chronic positive airways pressure respirator</li> <li>crigler najjar syndrome phototherapy equipment</li> <li>a ventilator for life support</li> <li>in relation to a particular customer, any other equipment that a registered medical practitioner certifies is required for a person residing at the customer's premises for life support</li> </ol>
<b>Meter</b>	A device complying with Australian Standards which measures and records the production or consumption of electrical energy
<b>Metering coordinator</b>	A person who is registered by AEMO as a Metering Coordinator under Chapter 2.
<b>Metering installation</b>	The assembly of components including the instrument transformer, if any, measurement element(s) and processes, if any, recording and display equipment, communications interface, if any, that are controlled for the purpose of metrology



Term	Definition
	and which lie between the metering point(s) and the point at or near the metering point(s) where the energy data is made available for collection.
<b>MW</b>	Megawatt
<b>MWh</b>	Megawatt hour
<b>National grid</b>	The sum of all connected transmission systems and distribution systems within the participating jurisdictions.
<b>NBN</b>	National Broadband Network
<b>NEL</b>	National Electricity Law
<b>NEO</b>	National Electricity Objective
<b>NER</b>	National Electricity Rules
<b>Network</b>	The apparatus, equipment, plant and buildings used to convey, and control the conveyance of, electricity excluding any connection assets. In relation to a Network Service Provider, a network owned, operated or controlled by that Network Service Provider.
<b>Network Service Provider (NSP)</b>	A person who engages in the activity of owning, controlling or operating a transmission system or distribution system and who is registered by AEMO as a Network Service Provider under Chapter 2.
<b>Off-market generating systems</b>	Means a generating system (includes generating units) where the owner, controller or operator is exempted from being registered by AEMO under clause Rule 2.2 of the NER. AEMO's exemption requirements are in <a href="#">AEMO's Guide to Generator Exemptions and Classification of Generating Units</a> .
<b>On-market generating systems</b>	Means a generating system where the owner, controller or operator is required to be registered with the AEMO under clause 2.2 of the NER. The NER requires generating units in a generating system to be classified as a scheduled generating unit, semi-scheduled generating unit, non-scheduled generating unit, market generating unit and non-market generating unit.
<b>On-selling, selling</b>	An arrangement where a person acquires electricity from another person, and they, or a person acting on their behalf, sells electricity for use within the limits of a site.
<b>Parent connection point</b>	The connection point between an embedded network and a Network Service Provider's network.
<b>Primary registrant</b>	A person nominated as such under section 5.1 of this Guideline.
<b>Primary TNSP</b>	The Transmission Network Service Provider who operates the largest transmission network in each participating jurisdiction but does not include a Transmission Network Service Provider for a declared transmission system.
<b>Public Register</b>	Means the AER's public register of network exemptions
<b>Registered Participant</b>	Has the meaning specified in chapter 10 of the NER.
<b>Residential customer</b>	Means a customer who purchases energy principally for personal, household or domestic use at premises.
<b>Retail Customer</b>	Means a person who is a customer of a retailer as defined by the NERR.
<b>Retail Law</b>	National Energy Retail Law
<b>Retailer</b>	Means a person who is the holder of a retailer authorisation for the purposes of section 88 of the Retail Law.
<b>Retrofit</b>	Conversion of an existing network distribution system into an embedded network.
<b>Sell</b>	The provision of electricity in exchange for money.
<b>Small customer</b>	Means a customer: <ul style="list-style-type: none"> <li>• who is a residential customer, or</li> <li>• who is a business customer who consumes energy at business premises below the upper consumption threshold, as defined by the relevant jurisdiction. If no threshold is defined, 100 megawatt hours per annum for electricity.</li> </ul>

Term	Definition
<b>Small Generation Aggregator (SGA)</b>	Has the meaning specified in chapter 10 of the NER.
<b>Supply</b>	Means the delivery of electricity.

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# 1 About this Guideline

The National Electricity Law (NEL) and National Electricity Rules (NER) requires a person who engages or proposes to engage in the activity of owning, controlling or operating a transmission or distribution system connected to the national grid to register with the Australian Energy Market Operator (AEMO).<sup>1</sup>

In accordance with this Guideline, the NEL and NER allow us to exempt a person or class of persons from the requirement to register as a network service provider (NSP) or from the operation of technical requirements in Chapter 5 of the NER.

If you are supplying electricity to a person or customer through a transmission or distribution system, including in an embedded network, this Guideline will help you understand:

1. whether you are eligible for a network exemption
2. what type of exemption you need – deemed, registrable or individual (section 4)
3. who should hold the exemption (section 5)
4. how to get an exemption (section 6)
5. how we assess individual exemption applications (section 6.3)
6. the conditions exempt persons must comply with (**Appendix A-2**).

The Guideline's appendices provide relevant detailed information to help you understand whether you are eligible for an exemption, the relevant conditions of an exemption and what you need to provide to apply for an individual exemption or variation of conditions.

If you have read this Guideline and are still unsure whether you need an exemption, please contact us. We can help you understand how to apply this Guideline but recommend you obtain independent legal advice on your particular circumstances. If you have a question, you can email us at [AERexemptions@aer.gov.au](mailto:AERexemptions@aer.gov.au) or phone the AER Information line in 1300 585 165.

This Guideline deals with electricity network exemptions under the NEL and NER.

## Note

If you are selling electricity to a person for premises, you must either hold a retailer authorisation or a retail exemption from the AER. Please see the *Retail Exempt Selling Guideline* which deals with retail exemptions under the National Energy Retail Law (Retail Law) and National Energy Retail Rules (Retail Rules).

Regardless of whether a person who owns, controls or operates a network is registered with AEMO or exempt by us, they will be subject to additional requirements governing matters including price controls, construction standards and electrical safety under the laws of the State or Territory in which the network is located.

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<sup>1</sup> NEL section 11(2) and NER clause 2.5.1.

Where State or Territory laws conflict with the conditions in this Guideline, those State or Territory laws take precedence over the Guideline's conditions.<sup>2</sup>

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<sup>2</sup> For example, charging restrictions which exist under State or Territory laws in a number of jurisdictions and which may apply to caravan parks, retirement villages, manufactured home estates or like situations.

## 2 Are you supplying electricity?

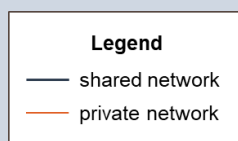
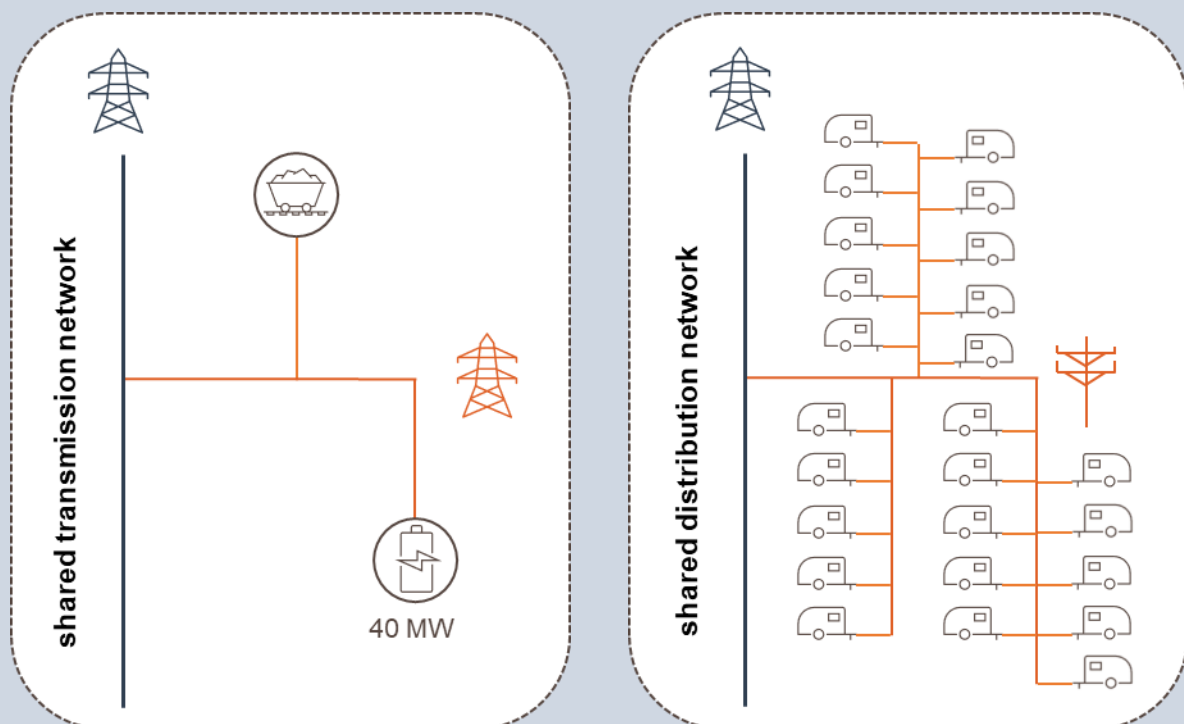
If you own, control or operate a network that supplies electricity to another person it is likely that you are supplying electricity under the NEL and NER.

Chapter 10 of the NER defines a network as:

The apparatus, equipment, *plant* and buildings used to convey, and control the conveyance of, electricity excluding any *connection assets*. In relation to a *Network Service Provider*, a *network* owned, operated or controlled by that *Network Service Provider*.

Some examples of supplying electricity to another person which are covered by this Guideline include to customers of:

- caravan parks
- apartments
- shopping centres
- airports
- farms
- mining sites



### 3 Do you need a network exemption?

This Guideline relates to networks:

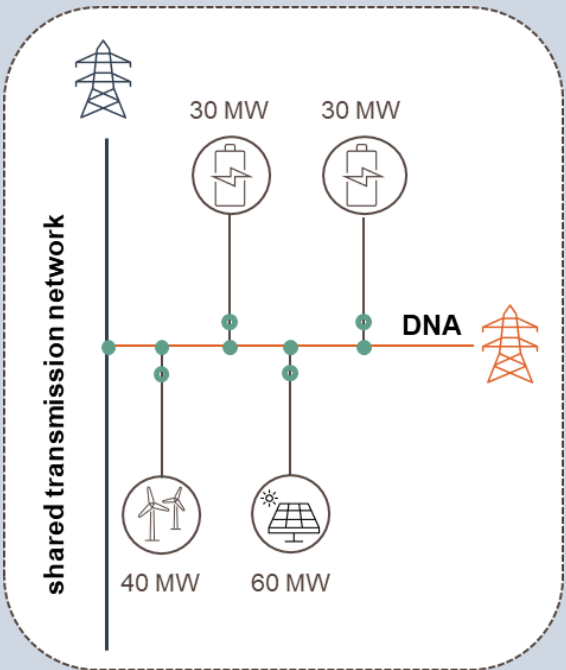
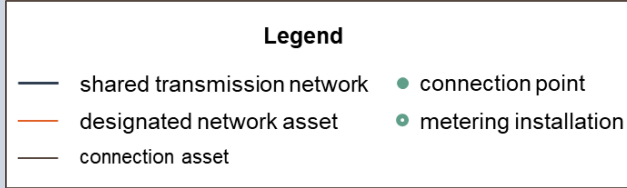
1. that are connected to the national grid<sup>3</sup>
2. where the person who owns, controls or operates a network is not registered as a network service provider (NSP) by AEMO, and
3. used to supply electricity to a third person.

Where these criteria are met, the person who owns, controls or operates a network must be exempted from the requirement to register as an NSP for that network by the AER under this Guideline. An exempt person must operate its network in accordance with the conditions specified for each exemption class which are set out in **Appendix A-1** of this Guideline. Wherever the term exempt network is used in this Guideline, this refers to a transmission network, distribution network and an embedded network.

#### Example 1 – Designated Network Asset (DNA)

Company A intends to own a DNA connecting to the national grid in New South Wales (NSW) with the Primary TNSP operating and controlling the DNA under a network operating agreement (NOA). The DNA connects four generating systems, each with individual nameplate ratings of 30 MW or more, and these are independently owned, controlled and operated by Company B, Company C, Company D and Company E.

It is appropriate for Company A to register under exemption class NRO8.

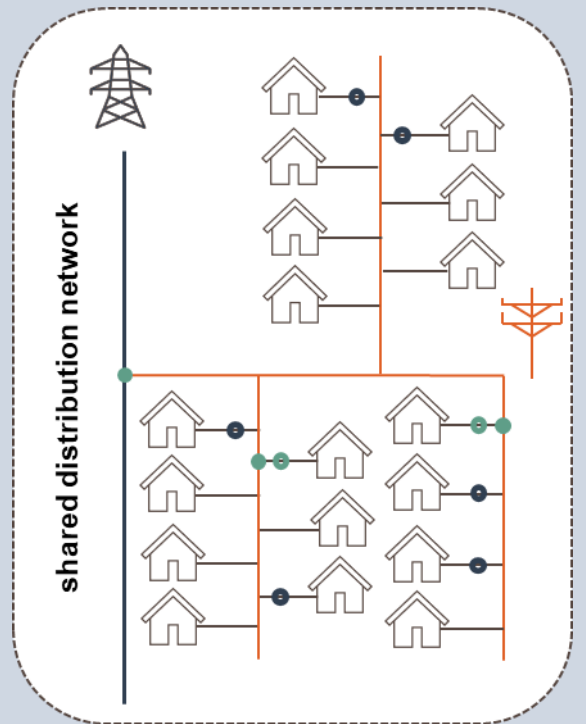
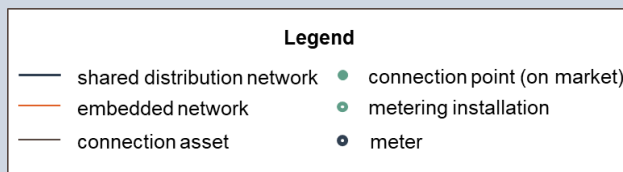


<sup>3</sup> Microgrids or stand-alone power systems (SAPS) typically have networks, however they do not connect to the national grid and therefore are not covered by this guideline.

### Example 2 – embedded network

Company A supplies electricity to more than 20 unmetered residential customers and 10 metered residential customers in a retirement village.

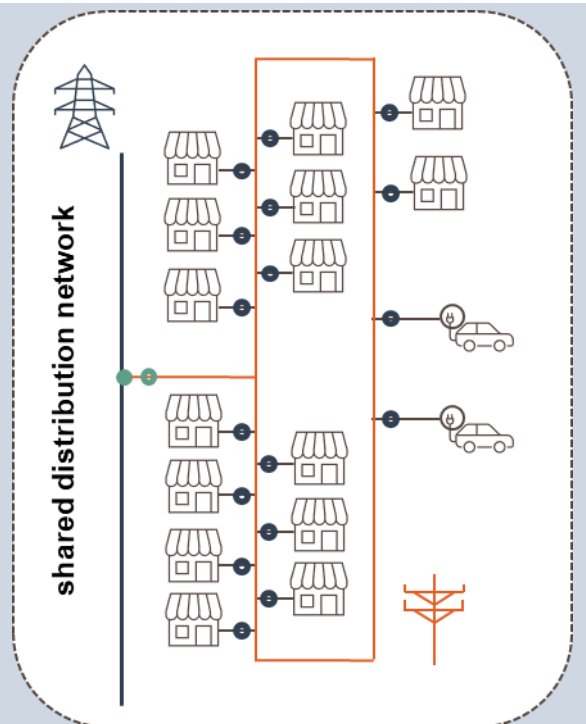
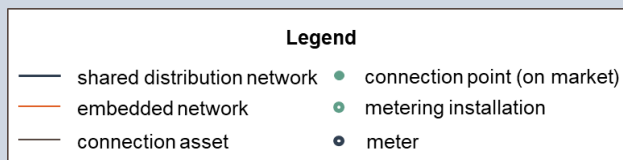
It is appropriate for Company A to register under exemption class NR3.



### Example 3 – electric vehicle charging station in an embedded network

Company A owns electric vehicle charging stations located within a shopping centre which has an embedded network.<sup>4</sup> Company A supplies electricity to customers of the charging station.

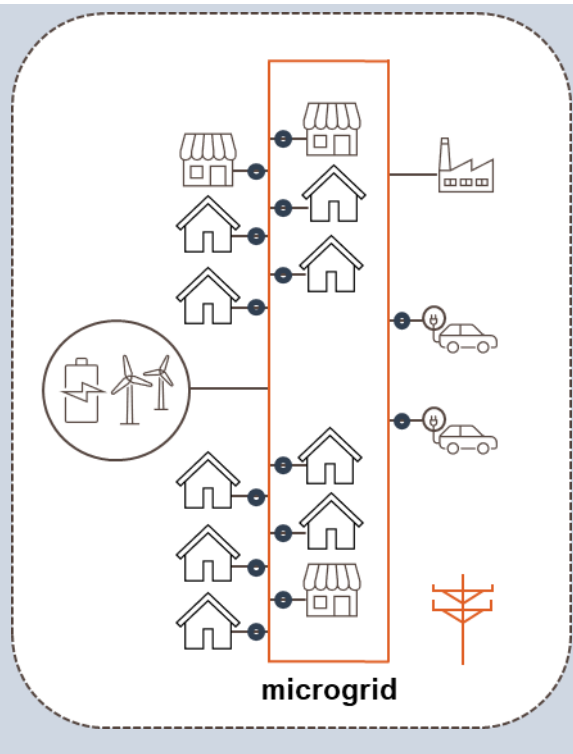
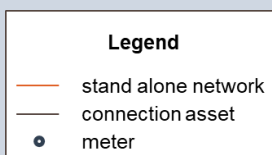
It is appropriate for Company A to assess this as a deemed exemption under exemption class NDO3.



<sup>4</sup> The activity of owning the shopping centre which supplies electricity to more than 10 tenants (small business customers) via the embedded network is covered by a separate exemption. It is appropriate to assess this activity as a registrable exemption under exemption class NR1.

### Example 4 – microgrid or stand-alone power system

There is no requirement to seek an exemption as a microgrid or stand-alone power system is not connected to the national grid.<sup>5</sup>



<sup>5</sup> Except if a State or Territory has determined otherwise.



## 4 What type of exemption applies to me?

The AER has the power under the NER to grant an exemption to a person with respect to an individual or classes of transmission or distribution systems.<sup>6</sup> There are three categories of exemptions: **deemed**, **registrable** and **individual**.

The type of exemption you need will depend on who you are supplying electricity to and the nature of your network activity.

Deemed and registrable exemptions apply to certain groups (or classes) of people who supply electricity to a third party. These people or businesses typically supply electricity incidentally (it is not their primary business and they only do so to support another more significant relationship with their customers, such as landlord and tenant).

Individual exemptions apply to people with specific circumstances which do not fall within a deemed or registrable exemption class. This may be because their network activities are unique and/or because they cannot comply with certain conditions of those classes. In such cases, the AER may provide an individual exemption to a person attaching specific conditions for their unique situation.

Each person must assess the exemption class(es) applicable to their situation in accordance with this Guideline. All deemed, registrable and individual exemption classes have conditions. These conditions maintain important consumer protection measures while exempting a person from technical requirements in Chapter 5 of the NER that apply to network owners, controllers or operators. The conditions are made up of general conditions and detailed conditions.

Where relevant, we have aligned classes for deemed and registrable network exemptions with the equivalent classes in the *Retail Exempt Selling Guideline*.<sup>7</sup> However, this Guideline covers more exemption classes than that guideline as it covers a broader range of activities than those captured under the Retail Law.

### 4.1 Deemed exemptions

Deemed exemption classes are usually for small-scale supply arrangements. These classes for electricity suppliers are considered to apply automatically without the need for an exempt network registration process with us – except for where an Embedded Network Manager (ENM) is appointed.

The deemed exemption classes begin with ND, (for example, ND1, ND2 and NDO1). Deemed exemptions apply to a range of electricity supply activities, including:

1. caravan parks or holiday parks that supply electricity to people for short-term accommodation
2. businesses that supply electricity to a related business

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<sup>6</sup> Clause 2.5.1(d) of the NER.

<sup>7</sup> [https://www.aer.gov.au/system/files/AER - Final Retail Exempt Selling Guideline \(version 6\).pdf](https://www.aer.gov.au/system/files/AER - Final Retail Exempt Selling Guideline (version 6).pdf)

3. persons who supply metered or unmetered electricity to fewer than ten small businesses or residents
4. activities ancillary to, or facilitating the provision of, telecommunications and data centre services, (for example, internet, telephone, television or other communications technologies).

A complete list of deemed exemption classes determined by the AER is set out in **Appendix A-1 (Tables 1 and 2)**.

No registration with the AER is required for a deemed exemption except where an ENM is appointed. How you obtain a deemed exemption is described in section 6.1. You can use Table 1 and Table 2 to assess your applicable deemed activity and exemption class.

#### **Note**

Deemed exemption classes are subject to conditions set out in **Appendix A-2**. Conditions apply to each deemed exemption class in this Guideline as issued from time-to-time.

## **4.2 Registrable exemptions**

Under a registrable exemption, each person is required to assess the exemption class(es) applicable to their electricity supply arrangement and then register with us by completing an online registration form on the AER website.<sup>8</sup> These activity classes begin with NR, (for example, NR1, NR2 and NRO1). Depending on your unique situation it is possible that more than one class may apply.

Registrable exemptions apply to a range of electricity supply activities, including:

1. persons supplying metered or unmetered electricity to more than 10 small business customers on a single site they own, control or operate
2. persons supplying metered or unmetered electricity to more than 10 residential customers on a single site they own, control or operate
3. retirement villages supplying metered or unmetered electricity to residential customers within the single site the person owns, controls or operates
4. persons supplying metered or unmetered electricity in caravan and holiday parks, residential land lease parks and manufactured home estates who principally reside there
5. off-market electricity generating systems connected to the national grid and that are owned, controlled or operated by a third-party via a parent connection point
6. ongoing supply to a mining or primary production facility and associated residential, commercial, industrial, processing and ancillary support facilities in areas of restricted access to national electricity market (NEM) supply.

A complete list of registrable exemption classes determined by the AER is set out in **Appendix A-1 (Tables 3 and 4)**.

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<sup>8</sup> <https://www.aer.gov.au/forms/exemption-registration-application>

How you obtain a registrable exemption is described in section 6.2. You can use Table 3 and Table 4 to assess your applicable registrable activity and exemption class.

#### **Note**

Registrable exemption classes are subject to conditions set out in **Appendix A-2** that must be complied with. Conditions apply to each registrable exemption class in this Guideline as issued from time-to-time.

### **4.3 Individual exemptions**

The AER may grant an individual exemption to a particular person for a network.<sup>9</sup> A person must apply to the AER for approval of an individual exemption. Section 6.3 explains how you get an individual exemption.

Individual exemptions are intended for new or novel activities or arrangements for which no activity class exists or where a variation of the conditions is needed. This approach allows us to consider the conditions appropriate for your exemption application.

We will require a sound reason before varying our standard conditions that protect customers around access to retail competition, safety, metering, dispute resolution and pricing. Where an individual exemption is granted, the conditions imposed will aim to balance the needs and rights of customers with the compliance costs placed on the exemption holder.

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<sup>9</sup> Division 1 section 13 of the NEL and clause 2.5.1(d) of the NER.

## 5 Who should hold the exemption?

The key factor determining if you should hold the exemption is whether you own, control or operate a network within a specific site<sup>10</sup> that supplies electricity to a third party. You must be registered with AEMO or be exempted by us if your network supplies electricity to a third party for each specific site, unless otherwise specified by us.

Only legal persons may hold an exemption.<sup>11</sup> A legal person includes an individual or a corporation. Unlike corporations, which are separate legal entities, trusts are not capable of holding an exemption. However, the trustees of such trusts may apply for and hold an exemption.

The exempt person is responsible for ensuring compliance with all relevant exemption conditions.

If you have a registered or individual exemption, you should advise us if the contact details for your authorised representative change.

### 5.1 Primary Registrant – multiple parties associated with a network

In many cases one person will own, control and operate a network. In this circumstance, that individual person has responsibility for the registration and operation of the network, and compliance with any exemption conditions.

Where the network owner arranges with another person to ‘control’ or ‘operate’ the network, the other person(s) must also register with AEMO or be exempted by us.

The terms ‘own, control or operate’ are not defined in the NEL or NER. Where a question arises, we will review and consider on a case-by-case basis. A factual assessment would need to be considered as to whether a person will be regarded as ‘owning, controlling or operating’ an exempt network.

To help you understand whether you ‘own, control or operate’ a network, we typically interpret these terms as:<sup>12</sup>

- the ‘owner’ of a network will be anyone who has ownership rights or interests in relation to that network, either by agreement or by statute.
- the ‘controller’ or ‘operator’ of a network will be anyone who arranges to provide services normally associated with an NSP. This typically means specialist energy companies that provide services to exempt networks. It will not usually include parties who perform more minor functions around the network, such as performing isolated repairs or maintenance.

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<sup>10</sup> State and Territory laws generally prohibit private wiring from crossing a site boundary or public land without additional approvals. Normally, only a DNSP is authorised to provide this service.

<sup>11</sup> The NEL section 11(2) and NER clause 2.5.1 refer to the exemption of a person engaged in the activity of owning, controlling or operating a network.

<sup>12</sup> These interpretations serve only as guidance and should not be construed as definitive interpretations of such terms. Users of this Guideline should obtain their own legal advice if they are unsure whether these terms apply to them.

An 'operator' will be anyone who physically manages the network, whether remotely or on site. A 'controller' will typically be anyone who makes decisions on how the 'operator' runs the network.

If more than one person owns, controls or operates a network and:

1. those persons are, or are of a class of persons who are, the subject of an exemption by the AER under section 11(2)(b) of the NEL and clause 2.5.1(d) of the NER, and
2. the relevant exemption is a registrable exemption, those persons may (but are not required to) nominate to the AER a 'primary registrant'.

The proposed 'primary registrant':

- may be any person who is the owner, controller or operator of a network
- must be a person able to comply with the condition(s) applicable to the relevant exemption
- must be nominated by the other relevant parties under the approved exemption registration form on our website
- must comply with the condition(s) applicable to the relevant exemption, and
- may comply with certain of the conditions applicable (as specified) on behalf of the other person(s) associated with the network.

The other person(s) must still register an exemption for that network with us, whether in the same form or otherwise, and comply with each of the conditions applicable to the exemption, unless the nominated primary registrant is allowed to perform specified obligations and does so.

#### **Membership of ombudsman scheme<sup>13</sup>**

Condition 1.13 requires an exempt person, if permitted, to be a member of an ombudsman scheme and comply with the requirements of that scheme. This condition provides that the obligation imposed on an exempt person under this condition 1.13 may be discharged by the primary registrant nominated under section 5.1 of this Guideline. If the primary registrant complies with this condition by being a member of an ombudsman scheme and complying with the requirements of that scheme, the other person or persons associated with the network are not required to comply with this condition.

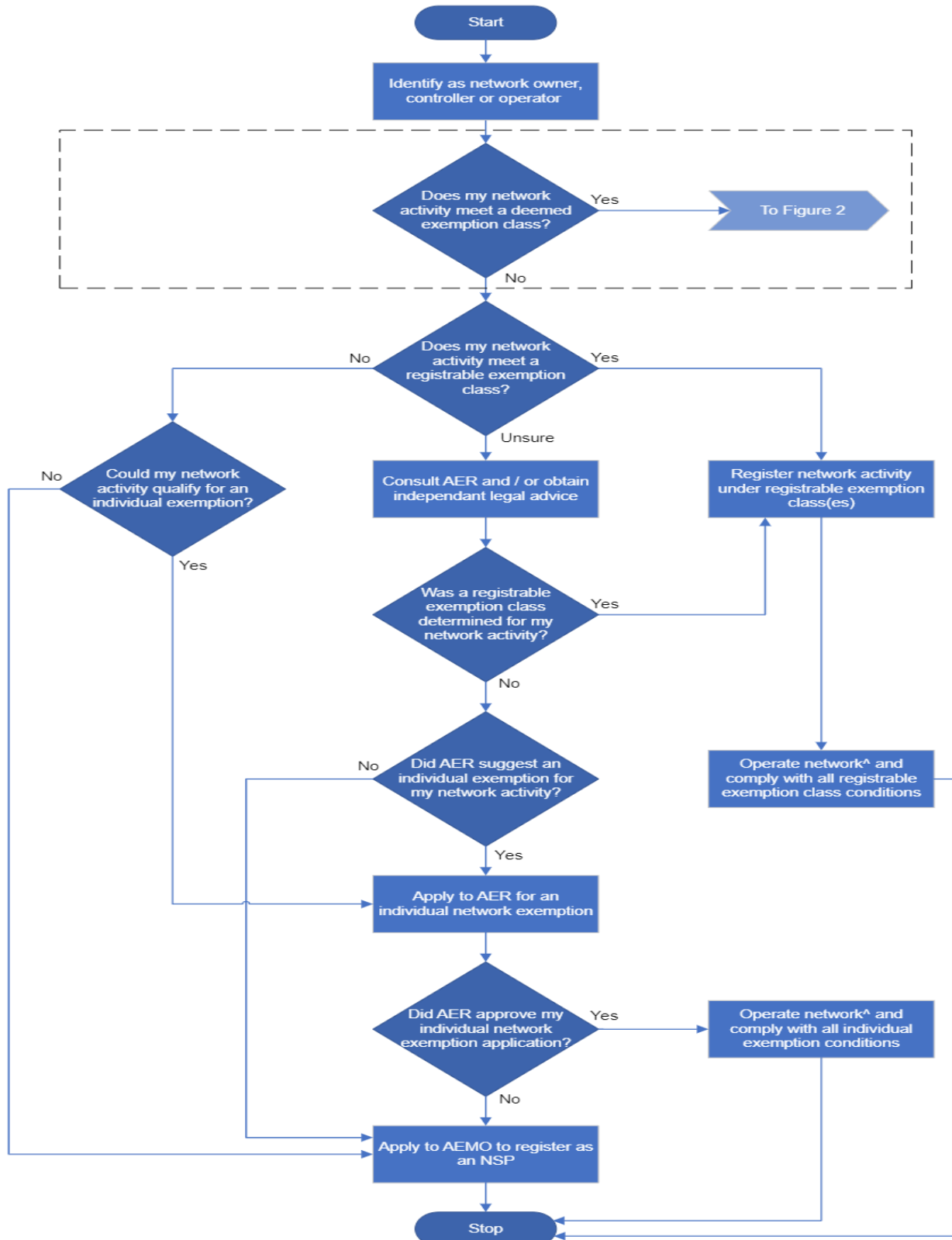
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<sup>13</sup> This is currently the only condition for which a primary registrant may be nominated. See Condition 1.13 in Appendix A-2.

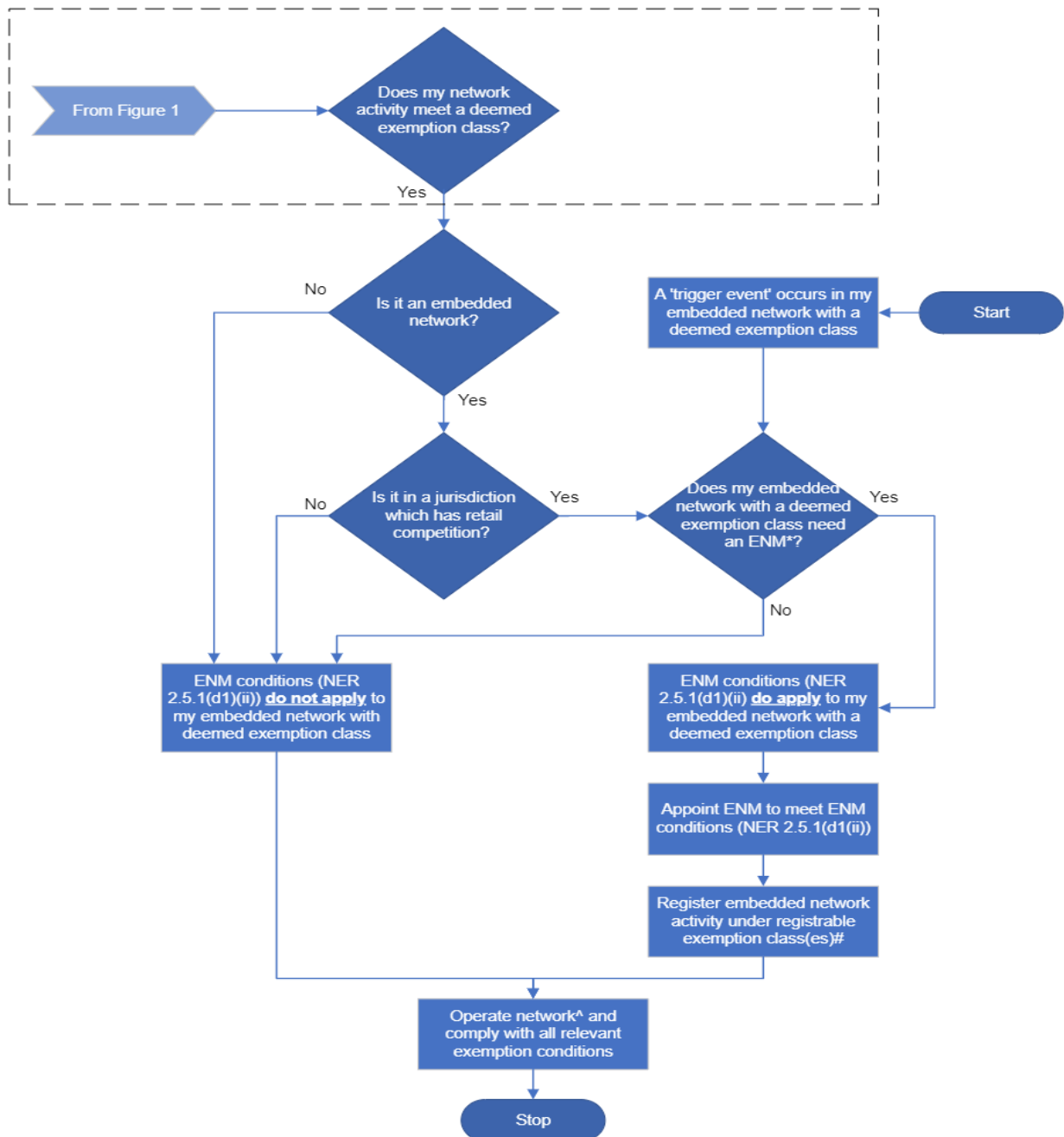
## 6 How do you get an exemption?

The process flows shown in Figures 1 and 2 below will help you to determine if you need a deemed, registrable or individual exemption, and the steps you need to take to get them.

**Figure 1: What type of exemption do I need?**



**Figure 2: When I need a deemed exemption**



\* The AER online assessment tool<sup>14</sup> can be found on our website.

^ Conditions are set out in this Guideline as revised and issued from time-to-time.

# Condition 3.4 requires a deemed exemption holder to obtain a registrable exemption once an ENM is appointed.

Part 1 of the process flow (**Figure 1**) shows when to obtain a registrable or individual exemption after you assess that a deemed exemption does not apply. Part 2 of the process

<sup>14</sup> This interactive tool helps exemption holders assess if an Embedded Network Manager (ENM) must be appointed: <https://www.aer.gov.au/networks-pipelines/network-exemptions/embedded-network-managers/do-i-require-an-embedded-network-manager-enm#wizardNetworkManager:1>

flow (**Figure 2**) shows what to do when a deemed exemption applies – and when you should update to a registrable exemption, including when it is required by an ENM trigger event.<sup>15</sup>

Sections 6.1 to 6.3 provide details on how you get an exemption.

## 6.1 Deemed exemptions

Deemed exemptions **are automatic**, provided you meet the criteria of the deemed class. This means you do not need to apply for or register an exemption with us, but rather are 'deemed' to be exempt. If you meet a deemed exemption class and are required to appoint an ENM, **you must register** your network as a registrable exemption.

To determine if a deemed exemption applies:

1. review the activity description and deemed exemption class(es) in **Appendix A-1, Tables 1 and 2** (whichever applies) and match it to your situation. Note the deemed exemption class(es) applicable
2. using **Appendix A-1, Tables 1 and 2** (whichever applies) identify which of the general and detailed exemption conditions apply to your network activity and are relevant
3. read the general exemption conditions that apply to the exemption class identified (these are in **Appendix A-2** and numbered conditions 1.1 to 1.16)
4. read the detailed conditions that apply to the exemption class identified (these are conditions 2 through to 8 in **Appendix A-2**).

Conditions apply to all deemed exemptions. You must comply with relevant conditions (see **Appendix A-2**). Conditions apply to each deemed exemption class set out in this Guideline as issued from time-to-time.

## 6.2 Registrable exemptions

Registrable exemptions **are not automatic** and you must assess the applicable registration class(es) and conditions. You can register an exemption by completing the online registration form on our website.<sup>16</sup>

To determine if a registrable exemption applies:

1. review the activity description and registrable exemption class(es) in **Appendix A-1, Tables 3 and 4** (whichever applies) and match it to your situation. Note the registrable class(es) applicable
2. using **Appendix A-1, Tables 3 and 4** (whichever applies) identify which of the general exemption conditions apply to your network activity and are relevant
3. read the general exemption conditions that apply to the exemption class identified (these are in **Appendix A-2** and numbered conditions 1.1 to 1.16)
4. read the detailed conditions that apply to the exemption class identified (these are conditions 2 through to 8 in **Appendix A-2**).

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<sup>15</sup> 'ENM trigger event' is noted under condition 3.3 and defined in the Glossary.

<sup>16</sup> The online exemption registration form can be found here: <https://www.aer.gov.au/forms/exemption-registration-application>



Conditions apply to all registrable exemptions. You must comply with relevant conditions (see **Appendix A-2**). Conditions apply to each registrable exemption class set out in this Guideline as issued from time-to-time.

To register a network exemption, you need to complete Parts A, B and C of the online registration form<sup>17</sup>. Where more than one registrable class applies you should select all classes that apply **in the same form**. A separate form should be completed for **each site** where you own, control or operate a network which requires one or more registrable exemption.

Relevant parties who consider a registrable exemption is applicable must complete the registration requirements within 20 business days of owning, controlling or operating an exempt network.

You must provide all the information requested in the form, including:

1. the legal name (and trading name) of the business or person seeking the exemption, and their Australian Business Number (ABN) (preferred) or Australian Company Number (ACN)
2. the site address that the exemption applies to, the number of customers at that site and the class of exemption (for example, class NR1), and a brief description of the normal business activities undertaken at that site<sup>18</sup>
3. contact details of the authorised representative for the applicant, and
4. existing exemptions applicable for the network activity.<sup>19</sup>

Details of multiple registrants for a specific site can be completed in the same online registration form. This may include any other person (such as agents or energy service operators) requiring a registrable exemption for their network activity.<sup>20</sup>

Complete the online registration form on our website.<sup>21</sup> If there is any change in the information provided to us during or after registration, you should **notify us within 20 business days of the change** to ensure that the registered exemption remains valid.

The registration process involves an AER check for completeness. We will process your registration and publish details of your exemption on our public register of network exemptions, after completing our online registration form. Your registration comes into effect on the date it is published by us. Once the exemption is published on the AER's register, it becomes a 'registered exemption'.

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<sup>17</sup> A retail registrable exemption may be required if you also plan to sell electricity (which you can obtain using the same online form).

<sup>18</sup> For example, retail shopping centre, residential apartment building, and caravan park or retirement village.

<sup>19</sup> The AER's public register of network exemptions can be found here: <https://www.aer.gov.au/networks-pipelines/network-exemptions/public-register-of-network-exemptions>

<sup>20</sup> Also refer to section 5.1 on whether a 'primary registrant' is relevant for your unique circumstance.

<sup>21</sup> The AER's exemption registration form can be found here: <https://www.aer.gov.au/forms/exemption-registration-application>.

There is no approval process for registrable exemptions **except to convert an existing site to an embedded network** (known as a retrofit).

#### Note

A person planning to retrofit an existing site should not complete the online registration form for a registrable network exemption without prior approval from the AER.

Appendix C of this Guideline outlines the eligibility requirements and information you will need to provide in your retrofit application. You must not convert a site until the AER approves your application.

Once approval is granted the relevant network exemption class(es) can be registered.

Conditions apply to all registrable exemptions. You must comply with these conditions (see **Appendix A-2**). Conditions apply to each registrable exemption class as set out in this Guideline as issued from time-to-time.

If a person seeks to vary any conditions associated with a registrable exemption, they no longer meet the requirements for a registrable exemption and may need to apply for an individual exemption.

You must advise us if your details change. For instance, if you cease to be an owner, operator or controller of an exempt network for a site or amend the nature of your electricity supply activities (such as supplying electricity to large customers instead of small business customers, if not covered by your current registered exemption class(es)). Please send updates about your exemption by email to [AERexemptions@aer.gov.au](mailto:AERexemptions@aer.gov.au).

You should also advise us if the contact details for your authorised representative change<sup>22</sup>.

If you purchase a site from an owner who has a registered network exemption, the existing exemption will continue to apply to the site after the change of ownership has taken effect. In this instance, you do not need to register for a new exemption. However, if you intend to rely upon the existing exemption in respect of the site, you must notify us within 20 business days of the change in ownership taking effect by sending an email to:

[AERexemptions@aer.gov.au](mailto:AERexemptions@aer.gov.au). You should provide the ABN, legal name and contact details for both the old and the new owner and confirm the registrable exemption classes applicable to the site.

You should also notify the relevant energy ombudsman of the change of ownership if the site includes residential customers.

## 6.3 Individual exemptions

Where you seek an exemption and have assessed that you do not meet the deemed or registrable exemption requirements you can apply for an individual exemption. Individual exemptions should not be necessary for common activities as these will mostly be covered

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<sup>22</sup> An authorised representative will be the point of contact should the AER seek further information on the exempt network/site.

by a deemed or registrable exemption. We reserve this category for new and novel situations or where a variation of conditions is considered necessary and desirable.

We recommend that you contact us before applying for an individual exemption or if you are planning a development that would rely on an individual exemption. This will help you identify and provide the relevant information needed and obtain guidance relevant to your individual circumstances for the application process.

Applicants should be aware that an individual exemption may be subject to a public consultation process in accordance with section 6.3.2 to ensure affected parties are notified and have an opportunity to make a submission for our consideration when deciding on any application.

### 6.3.1 Application process

**Appendix B** sets out the information that you must provide when applying for an individual exemption.

Providing false or misleading information (or omitting relevant information) in an application for the grant or variation of an individual exemption is a serious offence under the *Criminal Code Act 1995* (Cth).

If your application includes confidential information, you should:

1. clearly identify anything you consider confidential
2. give reasons for each confidentiality claim
3. advise us of any potential disadvantage that disclosing the information might cause you, and
4. also submit a public version of your application.

The public version of your application should include sufficient detail to allow members of the public to comment on if they wish – you should only remove genuinely sensitive information from your application.

A confidentiality claim, by itself, is not always enough to prevent disclosure. Under the NEL and the *Competition and Consumer Act 2010* (Cth), we may disclose confidential information in certain circumstances, for example, where disclosure is for the purposes of civil or criminal proceedings, or where the AER is of the opinion that disclosure would not cause detriment, or the public benefit in disclosing the information outweighs that detriment. For further information on the AER's policy on the collection, use and disclosure of information see the ACCC/AER information policy.<sup>23</sup>

If we are considering disclosing this information, we will endeavour to notify and consult with you about the proposed release of that information consistent with the ACCC/AER information policy.

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<sup>23</sup> <https://www.accc.gov.au/system/files/ACCC-AER%20Information%20Policy.pdf>

You can submit your completed application to: [AERexemptions@aer.gov.au](mailto:AERexemptions@aer.gov.au) with ‘*Application for individual exemption*’ in the subject line. We will review your application and contact you if there is incomplete or missing information. If you do not provide this information or resubmit a revised application within 12 months of receiving our feedback, we will consider your application to be withdrawn.

An application for an individual network exemption may be lodged together with an application for an individual retail exemption.

### 6.3.2 Public consultation process

Individual network exemptions may be subject to consultation with affected stakeholders before a determination is made. This consultation may affect only a small number of parties if a small exempt network is involved or, where an application has potential to affect larger groups of customers, it may involve a formal public process. The AER will decide the scope of consultation on a case-by-case basis.

Once we have received and accepted an application for an individual exemption, we will consider whether the application raises matters which should be publicly consulted on. If we decide to consult publicly the steps are:

1. we will publish a notice on our website stating that the application has been received, and
2. we will seek written submissions on the application from interested stakeholders.

The consultation period will normally run for 10 to 20 business days.

### 6.3.3 Assessing an application

When considering applications for individual exemptions, we will be guided by the National Electricity Objective (NEO), which is:

to promote efficient investment in, and efficient operation and use of, energy services for the long term interests of consumers of energy with respect to price, quality, safety, reliability and security of supply of energy.

We will advise you, in writing, of our decision. If your individual exemption application is approved, we will also advise you of the conditions attached to the individual exemption. You will need to formally accept those conditions before your individual exemption takes effect.

### 6.3.4 Exemption refusal or revocation

We may refuse an application for an individual exemption, or we may revoke an exemption (including a deemed or registrable exemption) if, for example:

1. we believe that granting a new (or continuing an existing) exemption may not contribute to the achievement of the NEO<sup>24</sup>
2. there is any breach of our exemption conditions (**Appendix A-2**), or
3. you have provided us with false or misleading information.

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<sup>24</sup> This may apply if we consider the network is of a kind which ordinarily would be registered with AEMO as a distribution network.

### **6.3.5 Location and length of exemption**

Most individual exemptions will be issued for a specific site or area and will limit the supply of electricity to a certain activity class or classes of customers. Typically, we will not issue individual exemptions for multiple sites (but we may issue an individual exemption that covers a class of sites). We will only issue them where we consider that doing so is consistent with the NER and contributes to the NEO.

We may impose a time limit on the grant or variation of an individual exemption. This will be determined by us on a case-by-case basis. If an expiry date is unstated as a condition of exemption, the grant or variation of the individual exemption will continue indefinitely, unless it is revoked or retired.

### **6.3.6 Change of circumstances**

Your exemption will specify the conditions of the exemption. You will need to apply for a new or separate individual exemption to vary the conditions specified.

If your details change in any other way, for example if there is a change in contact details, you must contact us promptly so that we can vary your exemption.

### **6.3.7 Change of ownership**

If you purchase a site from an owner who was granted an individual exemption, you may need to submit a new individual exemption application for that site as set out in section 8.3. The site may continue to operate on the same basis as the old exemption (but to maintain services, the new owner, controller or operator will be deemed to replace the previous owner, controller or operator in the interim) until the new exemption is published.

We will assess whether an individual or registrable network exemption is appropriate for your circumstances. You should contact us as soon as practicable to discuss. **Appendix B** sets out the information you must provide when you apply for an individual exemption.

You should also notify the relevant energy ombudsman of the change of ownership if the site includes residential customers.

## 7 Exemption conditions and compliance

### 7.1 Exemption conditions

The AER has the power under the NEL and NER to impose conditions in relation to the exemption of a class or classes of persons supplying electricity to a third party.<sup>25</sup> All exemptions – registrable, deemed, and individual – have conditions you must meet.

Compliance with all the relevant conditions set out in this Guideline is a **mandatory requirement** for an exemption to be valid. Non-compliance may result in revocation of the exemption and civil penalties in accordance with the provisions of section 11 of the NEL.

Broadly, there are four basic requirements for exempt networks. An exempt person must:

1. ensure that their network is safe
2. have a dispute resolution mechanism
3. ensure that network pricing is in accordance with this Guideline
4. ensure that electricity meters:
  - a) comply with *National Measurement Act 1960* (Cth) requirements for electricity meters installed from 1 January 2013<sup>26</sup> and other applicable Australian standards, and
  - b) provide ready access to retail competition where it is available in a jurisdiction.

These requirements are provided by way of **general conditions**<sup>27</sup> and **detailed conditions**<sup>28</sup> set out in **Appendix A-2**.

The detailed conditions explain certain requirements in further detail (as applied to specific scenarios) and cover obligations relating to access to retail competition, distribution loss factors, pricing, appointment and reversion of an ENM, information provision and conversion (retrofitting) of an existing site. The general conditions (Part 1 of Appendix A-2) and detailed conditions (Part 2 of Appendix A-2) apply to all exempt networks unless modified by Table 1 to Table 4 in **Appendix A-1**.

Conditions are designed to ensure relevant NER conditions apply and protect customers in exempt networks without unreasonably burdening persons owning, controlling or operating an exempt network.

You should also familiarise yourself with the relevant State and Territory obligations. Where State or Territory laws conflict with the conditions in this Guideline, those State or Territory laws take precedence over this Guideline's conditions.

#### Note

All deemed and registered exemptions in force from the date of this document must comply with this Guideline as issued from time-to-time.

<sup>25</sup> Section 12(6) of the NEL and clause 2.5.1(d1) of the NER.

<sup>26</sup> For further information, see [www.measurement.gov.au](http://www.measurement.gov.au).

<sup>27</sup> Also referred to as general requirements.

<sup>28</sup> Also referred to as specific requirements.

Conditions apply to each deemed and registerable exemption class in this Guideline as issued from time-to-time. If a person must register an exemption or amend the registration details of an exempt network because of any changes to this Guideline, they must do so in accordance with this Guideline

Individual exemptions are subject to the relevant conditions specified in the formal Instrument of Exemption granted by the AER on a given date and based on the version of this Guideline in force at that time.

## 7.2 Breaches of conditions

The AER has the power to revoke a network exemption in limited circumstances set out in section 8.2 of this Guideline. This includes cases where there has been a material failure by a person to comply with applicable conditions of their exemption class(es).

A person whose exemption is revoked by the AER cannot continue to own, control or operate a network without holding a relevant exemption for that activity or being registered as a NSP by AEMO. Doing so is a breach of section 11(2)(b) of the NEL which may attract civil penalties.

If a person who owns, controls or operates a network is a corporation, it may be held responsible for any actions of its officers and employees that result in a breach of certain provisions of the NEL or the NER. Additionally, if a corporation is found to have contravened a civil penalty provision, each officer who knowingly authorised or permitted the contravention is taken to have contravened the provision. Depending on the facts and circumstances, a person who owns, controls or operates an exempt network may also be held responsible for the actions of their agents.

For conduct that occurred on or after 29 January 2021 and involves Tier 1 civil penalty provisions, the maximum penalties for a body corporate can include the greater of:

- \$10,000,000, or
- if the Court can determine the value of any benefit reasonably attributable to the breach of the civil penalty provision that the body corporate has obtained, directly or indirectly – 3 times the value of that benefit, or
- if the Court cannot determine the value of the benefit – 10% of the annual turnover of the body corporate during the 12-month period ending at the end of the month in which the body corporate breached, or began breaching, the civil penalty provision.

Possible AER enforcement responses to breaches of the NEL or NER may involve:

1. an administrative resolution (an agreement between the parties which does not rely on any particular provision of the NEL or NER), or
2. a statutory enforcement action (including issuing infringement notices of \$6,790 for a natural person or \$67,800 for a body corporate, enforceable undertakings and court proceedings, or a combination of these options).

For further information on our approach to breaches see the *AER Compliance and Enforcement policy*.<sup>29</sup> In addition to complying with your obligations under the NEL and NER and this Guideline, you must comply with relevant legislation, including the competition provisions of the *Competition and Consumer Act 2010* (Cth).

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<sup>29</sup> <https://www.aer.gov.au/publications/corporate-documents/aer-compliance-enforcement-policy>



## 8 Changes to exemptions

### 8.1 Condition variation

The NEL and NER permit us to apply terms and conditions to an exemption.<sup>30</sup> If you hold an individual exemption you will be subject to conditions. We consider a variation of a condition is a variation of the exemption itself. If circumstances change and you need to request a variation of conditions you will need to apply to us in writing and demonstrate that exceptional circumstances apply. We consider exceptional circumstances should mean that a material detriment to customers will be significantly reduced or eliminated by varying these conditions.

**Appendix B** provides the information you will need to provide in your application for a condition variation as these follow the same process as required for an individual exemption (see section 6.3 for requirements).

We will inform an applicant of our decision regarding the application for variation of an individual exemption. The individual exemption applies to an exempt person for a particular site from the time stated in a notice issued by the AER and entered on the [Public register of network exemptions](#).

### 8.2 Revoking an exemption

We may decide to revoke your exemption if we are satisfied that there has been a material failure by you to meet the conditions imposed on you under your exemption or that the operation of the exempt network is not consistent with the NEO.

We will consider what constitutes a material failure on a case-by-case basis and as they arise. Typically, we will conclude there has been a material failure by a person where:

1. an unacceptable impact on a connected network occurs
2. an unacceptable impact on NEM operations as a result of the operation of the network
3. the network is, or is proposed to be, operated in manner which we consider does not serve the long term interests of consumers within that network or is of a scale or kind which we consider should be registered with AEMO, or
4. the exempt person has not complied with conditions imposed on them as part of their exemption and as a result, there has been a significant or widespread impact on one or more of their customers.

Subject to there being no immediate threat to the health or safety of any person who is supplied electricity by an exempt network and there is no adverse impact on a connected network or on market operations, we will align the process for revocation of a network exemption to the equivalent process imposed in section 120 of the Retail Law for retail matters. This process has two steps:

- we will give the exempt person a notice that we intend to revoke the exemption and the reasons why we consider grounds for revocation exist

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<sup>30</sup> NEL clause 13(4) NER clause 2.5.1(d1)(2).

- the exempt person must respond in writing and by the time specified in the notice. The person must demonstrate why the exemption should not be revoked and propose an action plan that the exempt person will take to rectify the problem.

If we are not satisfied with the exempt person's response, we may fix a time for the revocation to take effect and inform the exempt person of any conditions they must comply with. Where an exemption for an exempt party operating under a class exemption is revoked, the exempt party is no longer eligible to operate under that class. If they continue to operate the network, they will be in breach of section 11(2)(b) of the NEL, which prohibits the operation of a network without registration or exemption or an approved derogation.

Following revocation of an exemption, in order to continue to receive a retail supply customers of the exempt network will either need to:

- obtain their electricity supply from a Distribution Network Service Provider (DNSP), or
- in rare circumstances involving high voltage (HV) supply, a Transmission Network Service Provider (TNSP), or
- must otherwise find a new EENSP who can satisfy the conditions necessary to qualify for a new deemed, registrable or individual exemption.

In situations where revocation may place undue hardship on customers in an embedded network, to the extent practical, we will seek to minimise hardship on those customers while compliance action is taken. This may involve the granting of a limited individual exemption to operate the network under restricted conditions. We will assess this on a case-by-case basis.

### 8.3 Change or amendment of ownership, control or operation or cessation of an exemption

Where the network ownership, accountabilities or registration details change for a person with a registrable or individual exemption the responsible person must provide notice to us.<sup>31</sup>

The notice must detail the change of circumstances and should be submitted at the earliest opportunity whenever an exempt network is to be subject to a transfer of ownership, change of registration details or a change or restructure of accountabilities. If a notice is incomplete or missing necessary detail, we may require further detail be provided before the notice is accepted and acted on.

Our administrative process **does not involve the transfer of a registration**. We deactivate (or 'retire') the existing registration and make this historical.

If a person acquires an existing exempt network, they must:

- submit details of the change of ownership for a registrable exemption, or
- submit an application for an individual exemption.

in accordance with sections 6.2 or 6.3, as relevant. If this results in a transition period, the conditions for the operation of an existing exempt network continues to apply until we determine otherwise in response to a new online registration form or application.

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<sup>31</sup> A notice is not required for a deemed exempt network.

Where a person with an exempt network is to cease or ceases operation of that network, the authorised representative(s) should notify us of the planned or actual date for the network to cease operation. We will deactivate the registration of the network from the date specified in a notice.

If we receive advice from any other party that a person with an exempt network has ceased operation, we will attempt to contact the registered responsible person via email or phone to confirm the status of the network. If no response is received within 20 business days, we may **deactivate the registration** of that network without further notice.

We may later determine to reactivate the registration, at our discretion, on the same or amended conditions. Alternatively, we may require that person to:

- complete a new online form for a registrable exemption, or
- submit an application for an individual exemption.

## 9 Retail exempt selling

Where the sale of electricity takes place, the party selling the electricity must be an authorised retailer or exempt under our *Retail Exempt Selling Guideline*, wherever the Retail Law is in effect, or under the local jurisdictional requirements elsewhere.

The test for selling or on-selling electricity is about an action or activity that normally involves an exchange of money. In contrast, the test for a network exemption is about the supply of electricity over physical assets such as wires or busbars and the associated technical issues. In this Guideline some deemed and registrable exemption classes refer to the supply of electricity, rather than selling to reflect this distinction.

In most cases, if you are eligible for a deemed or registrable network exemption and sell electricity to a customer you will also need a retail exemption or retailer authorisation. Some, but not all, individually exempt persons will also need a retail exemption or retailer authorisation.

We administer both the network and retail exemption processes and the retail authorisation process. Although the exemptions are separate, you can register either or both a retail exemption and network exemption in the one online registration form.<sup>32</sup> If you have already been granted an individual network exemption you will need to register your retail exemption or seek a retail authorisation separately. The *Retail Exempt Selling Guideline* sets out further information on retail exemptions or retailer authorisations, including classes of exemption and how to apply for a retailer exemption.

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<sup>32</sup> <https://www.aer.gov.au/forms/exemption-registration-application>

## Appendix A-1: Classes of deemed and registrable exemptions

No application to the AER is required for a deemed exemption except where an ENM is appointed. How you obtain a deemed exemption is described in section 6.1 and uses Table 1 and Table 2 to assess your applicable activity and exemption class.

**Table 1: Deemed exemption classes – electricity supply**

Class	Activity	General and detailed exemption conditions																		
		1.1	1.2	1.3	1.4	1.5	1.6	1.7	1.8	1.9	1.10	1.11	1.12	1.13	1.14	1.15	1.16	1.17	2 to 8	
ND1	Persons supplying metered or unmetered electricity to fewer than ten small business customers within the limits of a site via a network that they own, control or operate. Not applicable if an ENM is appointed (see exemption class NR1).	✓	✓	✓	✓	✓	✓	✓	n/a	✓	✓	✓	✓	n/a	✓	✓	✓	✓	✓	✓
ND2	Persons supplying metered or unmetered electricity to fewer than ten residential customers within the limits of a site via a network that they own, control or operate. Not applicable if an ENM is appointed (see exemption class NR2). <sup>33</sup>	✓	✓	✓	✓	✓	✓	✓	n/a	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
ND3	Persons supplying metered or unmetered electricity to occupants of accommodation on a short-term basis <sup>34</sup> within the limits of a site via a network that they own, control or operate.	✓	✓	✓	✓	✓	n/a	✓	n/a	✓	✓	✓	✓	n/a	✓	✓	✓	✓	✓	All, except 3.3

<sup>33</sup> This category applies to casual and annual renewal occupants of caravan parks and like accommodation but does not include occupants who primarily reside there - see class NR4.

<sup>34</sup> Applies to casual and annual renewal occupants of caravan parks and like accommodation but excludes occupants who primarily reside there – see activity class NR4.

Class	Activity	General and detailed exemption conditions																	
		1.1	1.2	1.3	1.4	1.5	1.6	1.7	1.8	1.9	1.10	1.11	1.12	1.13	1.14	1.15	1.16	1.17	2 to 8
ND4	Metering installations (includes metering panels and associated sundry equipment but not including incoming sub-mains or outgoing service wiring).	n/a	n/a	✓	n/a	n/a	n/a	n/a	n/a	✓	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	All, except 3.3
ND5	All supply of electricity via plug-in or rack mounted equipment in any premises. Includes NBN equipment in any premises with an input current rating not exceeding 3 amps AC.	n/a	n/a	✓	n/a	n/a	n/a	n/a	n/a	✓	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	All, except 3.3
ND6	Persons supplying unmetered electricity to residential customers in Queensland where premises are not separately metered and the relationship with the customer is covered by the <i>Residential Tenancies and Rooming Accommodation Act 2008</i> (Qld).	n/a	n/a	✓	✓	✓	✓	✓	n/a	✓	✓	✓	✓	✓	n/a	n/a	n/a	n/a	All, except 3.3
ND7	Deleted.	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
ND8	Persons supplying metered or unmetered electricity to a related company.	✓	✓	✓	✓	✓	n/a	✓	n/a	✓	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	All, except 3.3
ND9	Any supply of electricity in conjunction with, or ancillary to, or to facilitate the provision of telecommunications/data centre services. Includes internet, telephone, mobile phone, fibre optic, hybrid fibre cable, television, radio, Wi-Fi or other communications technology.	n/a	n/a	✓	✓	n/a	✓	✓	n/a	✓	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	All, except 3.3

Class	Activity	General and detailed exemption conditions																	
		1.1	1.2	1.3	1.4	1.5	1.6	1.7	1.8	1.9	1.10	1.11	1.12	1.13	1.14	1.15	1.16	1.17	2 to 8
ND10	Government and similar agencies, including their sub-contractors but not including housing authorities or student accommodation, supplying metered or unmetered electricity to non-residential customers. Includes all educational institutions.	✓	✓	✓	✓	✓	✓	✓	n/a	✓	n/a	n/a	✓	n/a	n/a	n/a	n/a	n/a	✓

Notes: Classes of exemption labelled 'ND\_' are 'network deemed' classes. For all classes: the AER does not support the supply of unmetered electricity to small customers, except we do permit this within camping and caravan parks and similar sites. State and Territory laws also apply and may impose additional requirements in some jurisdictions that must be observed. Conditions are set out in **Appendix A-2**.

**Table 2: Deemed exemption classes – other situations**

Class	Activity	General and detailed exemption conditions																		
		1.1	1.2	1.3	1.4	1.5	1.6	1.7	1.8	1.9	1.10	1.11	1.12	1.13	1.14	1.15	1.16	1.17	2 to 8	
NDO1 <sup>35</sup>	Off-market generating systems (including inverter) owned, controlled or operated by a third-party and connected to the national grid via an exempt network's connection point. Includes any consumption at that site.  Extends to equipment used solely to provide emergency electricity supply, or to provide renewable electricity supply.  Note: This excludes generating units and/or load installations contracted to supply network support or demand management services to a Registered Participant. <sup>36</sup>	✓	✓	✓	✓	✓	✓	✓	n/a	✓	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	2.3, 4.1, 4.2, 4.3, 5.1, 5.2, 5.3, only
NDO2	Sites broadcasting television and radio signals.	n/a	n/a	✓	n/a	n/a	✓	n/a	n/a	✓	n/a	n/a	✓	n/a	n/a	n/a	n/a	n/a	n/a	4.1, 4.2, 4.3, only

<sup>35</sup> Only applies to the registration requirement in cl 2.5.1 of the NER for the exempt network to which a generating system is connected. Generating system registration and exemptions are handled by the AEMO. Safety requirements for generating systems are determined by each jurisdiction. This class does not affect any other requirement under any other legislation or rule of the NER.

<sup>36</sup> If you have a contract or agreement to supply network support or demand management services to an NSP or the AEMO based on a generating system you must register the exempt network under class NRO1 of Table 4. If the aggregate nameplate rating of a generating system or inverter-based plant as measured at your connection point to the national grid is 5 MW or more, to be eligible for an exemption in this class you must confirm with the AEMO that registration of performance standards is not required.



Class	Activity	General and detailed exemption conditions																	
		1.1	1.2	1.3	1.4	1.5	1.6	1.7	1.8	1.9	1.10	1.11	1.12	1.13	1.14	1.15	1.16	1.17	2 to 8
NDO3 <sup>37</sup>	Electric vehicle charging stations within an exempt network (for example, a privately owned charging station located in a public area, hotel, shopping centre, university).	✓	✓	✓	✓	✓	✓	✓	n/a	✓	n/a	n/a	✓	n/a	n/a	n/a	n/a	n/a	2.3, 3.1, 3.2, 3.3, 3.4, 4.1, 4.2, 4.3, 5.1, 5.2, 5.3, 6.1, 6.2 only
NDO4	Temporary supply for the construction and commissioning phase of building, civil, construction industrial, transport, mining or other projects.  Note: This is applicable to incidental supply to bona fide construction and commissioning of new facilities on the same or an adjoining site.	n/a	n/a	✓	n/a	n/a	n/a	n/a	n/a	✓	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	2.3, 3.1, 3.2, 3.3, 3.4, 4.1, 4.2, 4.3, 5.1, 5.2, 5.3, 6.1, 6.2 only
NDO5	Electric traction systems supplying passenger or freight vehicles and associated infrastructure (that is, rail networks) but not including commercial and/or retail activities.	n/a	n/a	✓	n/a	n/a	✓	n/a	n/a	✓	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
NDO6	Large corporate entities. <sup>38</sup>	✓	✓	✓	n/a	n/a	n/a	n/a	n/a	✓	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	2.3, 3.1, 3.2, 3.3, 3.4, 4.1, 4.2, 4.3, 5.1, 5.2, 5.3, 6.1, 6.2 only

<sup>37</sup> No exemption is required if the charging facility is directly connected to an NSP.

<sup>38</sup> Refer glossary definition. The terms and arrangements for supply between two or more large corporate entities are not regulated. However, at the point of connection to the national grid the supply arrangements must conform to the reasonable requirements of the AEMO and the local NSP for connection to the national grid.

Class	Activity	General and detailed exemption conditions																		
		1.1	1.2	1.3	1.4	1.5	1.6	1.7	1.8	1.9	1.10	1.11	1.12	1.13	1.14	1.15	1.16	1.17	2 to 8	
NDO7	Residential, commercial and industrial sites where off-market demand-side participation equipment and facilities are installed <sup>39</sup> , including the owners, controllers and operators of the equipment and facilities.  Note: This excludes commercial and industrial sites where on-market wholesale demand response equipment and facilities are installed.	✓	✓	✓	✓	✓	✓	✓	n/a	✓	n/a	n/a	✓	n/a	n/a	n/a	n/a	n/a	n/a	2.3, 4.1, 4.2, 4.3, 5.1, 5.2, 5.3, only
NDO8	Wiring in buildings with multiple tenants/residents that connects those customers directly to a DNSP.	n/a	n/a	✓	n/a	n/a	n/a	n/a	n/a	✓	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

Note: Conditions are set out in **Appendix A-2**. Classes of exemption labelled 'NDO\_' are 'network deemed other' classes. The supply of network services in accordance with a commercial agreement between private parties is permitted for each category listed in Table 2.

Completion of an online form on the AER website is required for a registrable exemption. How you obtain a registrable exemption is described in section 6.2 and uses Table 3 and Table 4 to assess your applicable activity and exemption class.

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<sup>39</sup> Demand-side participation equipment is intended as a broad term which includes any form of customer load management capability (including solar, renewable energy, energy storage, load-control or other equipment) intended to assist a consumer manage their load impact on the national grid.

**Table 3 Registrable exemption classes – electricity supply**

Class	Activity	General and detailed exemption conditions																	
		1.1	1.2	1.3	1.4	1.5	1.6	1.7	1.8	1.9	1.10	1.11	1.12	1.13	1.14	1.15	1.16	1.17	2 to 8
NR1	Persons supplying metered or unmetered electricity to ten or more small business customers within the limits of a site via a network that they own, control or operate. Additionally, persons that have appointed an ENM who would otherwise meet the ND1 class activity description.	✓	✓	✓	✓	✓	✓	✓	✓	✓	n/a	n/a	✓	n/a	✓	✓	✓	✓	All, except 2.4
NR2	Persons supplying metered or unmetered electricity to ten or more residential customers within the limits of a site via a network that they own, control or operate. Additionally, persons that have appointed an ENM who would otherwise meet the ND2 class activity description.	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	All, except 2.4
NR3	Retirement villages supplying metered or unmetered electricity to residential customers within the limits of a site via a network that they own, control or operate.	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	All, except 2.4
NR4	Persons supplying metered or unmetered electricity in caravan parks, residential parks and manufactured home estates (also known as residential land lease communities) to residents (homeowners and tenants) who principally reside there within the limits of a site via a network that they own, control of operate.	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	All, except 2.4

Class	Activity	General and detailed exemption conditions																	
		1.1	1.2	1.3	1.4	1.5	1.6	1.7	1.8	1.9	1.10	1.11	1.12	1.13	1.14	1.15	1.16	1.17	2 to 8
NR5	Persons supplying metered electricity to large customers within the limits of a site via a network that they own, control of operate.	✓	✓	✓	✓	✓	n/a	✓	✓	✓	✓	✓	✓	n/a	n/a	n/a	n/a	n/a	All, except 2.4
NR6	Persons supplying metered or unmetered electricity to small customers at a site or premises adjacent <sup>40</sup> to a site via a network that they own, control or operate.	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	n/a	✓	✓	✓	✓	All, except 2.4
NR7 <sup>41</sup>	Persons supplying unmetered electricity to small business customers at a site via a network that they own, control or operate. <b>Closed to new registrants as this is a legacy class.</b>	n/a	n/a	✓	✓	✓	✓	✓	✓	✓	n/a	n/a	✓	n/a	n/a	n/a	n/a	n/a	n/a

Note: Conditions are set out in **Appendix A-2**. Classes of exemption labelled 'NR\_' are 'network registrable' exemption classes.

<sup>40</sup> Adjacent sites include sites divided by an access way, easement, laneway or minor road.

<sup>41</sup> Class NR7 excludes networks in Queensland that are deemed exempt under class ND6 in Table 1.

**Table 4 Registrable exemption classes – other situations**

Class	Activity	General and detailed exemption conditions																	
		1.1	1.2	1.3	1.4	1.5	1.6	1.7	1.8	1.9	1.10	1.11	1.12	1.13	1.14	1.15	1.16	1.17	2 to 8
NRO1	<p>Off-market generating systems owned, controlled or operated by a third-party and connected to the national grid via an exempt network’s connection point. Includes any consumption at that site.</p> <p>Note: This includes generating units and/or load installations that are contracted to supply network support or demand management services to a Registered Participant.<sup>42</sup> However, excludes small generating units classified as market generating units by a Small Generation Aggregator.<sup>43</sup></p>	✓	✓	✓	✓	✓	✓	✓	✓	✓	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	All, except 2.4, 3.3

<sup>42</sup> If you have a contract or agreement to supply network support or demand management services to an NSP or the AEMO based on a generating system you must register the exempt network under class NRO1 of Table 4. If the aggregate nameplate rating of a generating system or inverter-based plant as measured at your connection point to the national grid is 5 MW or more, to be eligible for an exemption in this class you must confirm with the AEMO that registration of performance standards is not required.

<sup>43</sup> A Small Generation Aggregator classifies small generating units at a market connection point.

Class	Activity	General and detailed exemption conditions																	
		1.1	1.2	1.3	1.4	1.5	1.6	1.7	1.8	1.9	1.10	1.11	1.12	1.13	1.14	1.15	1.16	1.17	2 to 8
NRO2 <sup>44</sup>	On-market generating systems owned, controlled or operated by a third-party and connected to the national grid via an exempt network's connection point. Extends to eligible customers providing wholesale demand response or ancillary market services. Note: This includes generating units and/or load installations that are (or are required to be) classified by a Market Participant under Chapter 2 of the NER.	✓	✓	✓	✓	✓	✓	✓	✓	✓	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	All, except 2.4, 3.3
NRO3	Ongoing supply to a mining or primary production facility and associated residential, commercial, industrial, processing and ancillary support facilities <sup>45</sup> in areas with restricted access to NEM supply. Note: This applies to all bona fide plant that can demonstrate these are remote from existing NEM infrastructure.	✓	✓	✓	✓	✓	✓	✓	✓	✓	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	All, except 2.4, 3.3

<sup>44</sup> This class applies only to the network to which the generating system is connected. Generating system registration and exemptions are administered by the AEMO. Safety requirements are determined by each jurisdiction. If the aggregate nameplate rating of a generating system or inverter-based plant as measured at your connection point to the national grid is 5 MW or more, to be eligible for an exemption in this class you must confirm with the AEMO that registration of performance standards is not required.

<sup>45</sup> The term 'ancillary support facilities' is intended to be interpreted broadly to cover a wide range of sundry activities including, but not limited to, incidental supply to local residents, local tourism, communication, health, public safety and emergency services. Supply to such loads is permitted where the cost of supply by a local DNSP would be uneconomic.

Class	Activity	General and detailed exemption conditions																	
		1.1	1.2	1.3	1.4	1.5	1.6	1.7	1.8	1.9	1.10	1.11	1.12	1.13	1.14	1.15	1.16	1.17	2 to 8
NRO4	Industrial, commercial and 'mixed-use' facilities but not including residential or electricity generation activity. Includes the metered or unmetered supply of electricity under an agreed commercial scheme negotiated with large customers.	✓	n/a	✓	✓	✓	✓	✓	✓	✓	n/a	n/a	✓	n/a	n/a	n/a	n/a	n/a	All, except 2.4, 3.3
NRO5	Metered electricity selling to customers in networks with metering infrastructure enabling access to full retail competition in a jurisdiction. <sup>46</sup> <b>Closed to new registrants as this is a legacy class.</b>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	n/a	✓	✓	✓	✓	All, except 2.4, 3.3
NRO6	Large Dedicated Connection Assets (30 km in length or more). <b>Closed to new registrants as this is a legacy class.</b>	✓	✓	✓	n/a	✓	✓	✓	✓	✓	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	All, except 2.4, 3.3
NRO7	Small (under 30 km in length) Dedicated Connection Assets (see definition in Glossary). <b>Closed to new registrants as this is a legacy class.</b>	✓	✓	✓	n/a	✓	✓	✓	✓	✓	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	All, except 2.4, 3.3
NRO8	Other than a Primary TNSP, a Designated Network Asset (DNA) owner, controller or operator.	✓	✓	✓	n/a	✓	✓	✓	✓	✓	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	All, except 2.4, 3.3

<sup>46</sup> Activity class NRO5 formerly applied only to embedded networks where customers had access to full retail competition via 'child' metering registered under the AEMO applicable requirements. It did not apply where a customer arranged direct connection to a national grid NSP or where customers within a network did not have access to full retail competition. It is now closed and Table 1 or Table 3 applies.

Note: Conditions are set out in **Appendix A-2**. Classes of exemption labelled 'NRO\_' are 'network registrable other' classes.

To be eligible to register for exemption classes NRO1 and NRO2 you will need to confirm with AEMO that registration as the owner, controller or operator of the generating system is not required to ensure performance standards. This will apply if the nameplate rating of the generating system is 5 MW or more and is being connected to the national grid.

Except for class NRO5 the supply of network services in accordance with a mutually agreed commercial agreement between private parties is permitted for each class listed in Table 4 – see charge group C in condition 5.

**Note**

The AER does not support the supply of unmetered electricity to small customers for all exemption classes. We may consider an individual exemption application to do so in exceptional circumstances made in accordance with section 6.3 and Appendix B of this Guideline.

**Table 5: Individual network exemption class**

Class	Activity	General and detailed exemption conditions																	
		1.1	1.2	1.3	1.4	1.5	1.6	1.7	1.8	1.9	1.10	1.11	1.12	1.13	1.14	1.15	1.16	1.17	2 to 8
NRI	Case-by-case basis.	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	TBA

Note: Conditions are set out in **Appendix A-2**.



## Appendix A-2: Exemption conditions

This section details the conditions which must be met for each exemption class. These conditions are to apply to exemptions granted by the AER under clause 2.5.1(d) of the NER.

This section outlines:

- conditions 1.1 to 1.16 – general exemption conditions
- conditions 2 to 8 – detailed exemption conditions

Conditions apply for each exemption class and **Appendix A-1, Tables 1 to 5** identify the conditions that apply to each exemption class.

### Part 1: General conditions

#### Condition 1.1 Compliant metering

All meters used to measure a customer's electricity must comply with the requirements of the *National Measurement Act 1960* (Cth) and regulations made under that Act for electricity meters and sub-meters and with the requirements set out in schedule 7.4 of the NER.

*This condition applies to all metered electricity situations. It does not apply if an unmetered supply is permitted by the AER.*

#### Condition 1.2 Paid electricity supply must be metered

All paid electricity supply provided by an EENSP must be metered except where the AER has determined an unmetered supply is permitted.

*The AER does not approve unmetered supplies except in unique or exceptional circumstances. Metering is not required if no charge is levied for electricity supply costs (or if the charge is to recover costs for unrelated services) to a tenant or co-tenant.*

#### Condition 1.3 Safety and emergency requirements

All exempt networks must, at all times, be installed, operated and maintained by EENSPs in accordance with all applicable State or Territory requirements for the safety of persons and property. This includes, where relevant, an industry Code or Guideline otherwise applicable to a network service provider providing similar services.

In some jurisdictions large networks may also have an obligation to establish a safety management plan or similar, and a requirement to maintain that plan with a safety authority or regulatory agency within that jurisdiction. EENSPs must obey all relevant local safety requirements.

EENSPs must comply with the reasonable requests of a local DNSP for demand forecasting data, relevant details of the physical network infrastructure and assets, and any other data relevant to the control, operation or maintenance of the network.

Networks may be subject to mandatory load shedding requirements in emergency situations, in accordance with the jurisdictional load shedding procedures under the NER.<sup>47</sup> This requirement will generally be specified by the local DNSP in the connection agreement for the connection to the national grid.

## Condition 1.4 Design for loss of supply

In the event of a loss of supply, EENSPs must ensure that any generating system or inverter-based technology connected or located within their exempt network must be designed to:

- a) shutdown entirely, or
- b) disconnect from the local DNSP's network (that is, 'islanded') and not reconnect except in accordance with arrangements approved by the relevant NSP.<sup>48</sup>

## Condition 1.5 Sale of electricity

The sale of electricity within an exempt network must only be conducted by a person authorised to do so in accordance with:

- a) the Retail Law, if applicable, or otherwise
- b) the regulations in force in that jurisdiction.

## Condition 1.6 Dispute resolution

Where charges are to apply for services provided by, or in connection with, an exempt network, the following dispute resolution conditions apply:<sup>49</sup>

1. an EENSP must develop and make a set of procedures detailing their procedures for handling complaints and disputes, and those procedures must be provided to customers in accordance with condition 6.5.1.2(a), and
2. the procedures must be consistent with the Australian Standards as amended and updated from time to time

*See AS/NZS 10002:2022 Guidelines for complaint management in organizations as amended and updated from time to time.*

3. in the event of a complaint or dispute concerning the supply of electricity to a customer, and in the absence of a determination of the relevant tenancy tribunal if the customer is a tenant, the EENSP must:
  - a) deal with the complaint or dispute in accordance with the EENSP's procedures for handling complaints and disputes
  - b) make reasonable endeavours to resolve the dispute, and
  - c) advise the customer:
    - i) of any right the customer has to access an energy ombudsman (if applicable), including to lodge a complaint or for free independent information and advice,

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<sup>47</sup> Clause 4.3.2(h) of the NER requires AEMO to develop and maintain load shedding guidelines for each jurisdiction.

<sup>48</sup> Applies whenever an exempt network contains a generating system or inverter-based technology of any kind.

<sup>49</sup> We note that in many States or Territories there is additional legislation regulating charges for electricity in one or more residential, commercial, caravan and holiday park or residential land lease situations – check the legislation applicable in your State or Territory.

or any other external dispute resolution body in the State or Territory where the customer is located, and

- ii) of the telephone number and other contact details of the energy ombudsman (if applicable).

*Note: A dispute resolution mechanism does not require approval by the AER. However, it must be of a type ordinarily applicable to disputes of the kind, be reasonably accessible, timely, and binding on the parties. Further, any costs incurred should not be excessive, unnecessary or disproportionate to the amount in dispute.*

## **Condition 1.7 Aggregation of meter readings**

An EENSP may aggregate meter readings for corresponding time periods where a single customer has electricity supplied to adjoining sites or multiple exempt networks within a jurisdiction that are subject to a common supply arrangement.

*Note: An EENSP or customer of one or more exempt networks may negotiate a bulk pricing arrangement with a willing retailer. Aggregated meter readings are not required, but are permitted if a commercial agreement exists to do so. This condition does not require any Market Participant or AEMO to modify its systems or procedures to facilitate aggregation.*

## **Condition 1.8 An exemption is not transferrable**

An exemption is specific to the holder and applies to the activities for which it was granted or registered. An exemption held by a person cannot be extended or transferred to a related business or subsidiary (that is, to an entity with another ACN or ABN), unless there is a change in ownership of the site to which a registered exemption relates.<sup>50</sup>

## **Condition 1.9 Revocation or amendment of an exemption**

The AER may revoke or amend an exemption at any time or may vary the conditions applicable to an exemption from time to time.

## **Condition 1.10 Life support customers**

1. Where a customer provides an EENSP with confirmation from a registered medical practitioner that a person residing at their premises requires life support equipment, the EENSP must advise the life support customer's:
  - a) retailer (who is the financially responsible Market Participant) for the parent connection point that a person residing at the premises requires life support equipment, and
  - b) retailer for the child connection point (if the identity is known), that a person residing at the premises requires life support equipment.

The same process and obligations apply in relation to notification of deregistration of a life support customer.

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<sup>50</sup> An exemption will continue to apply where a company has changed its trading name or ownership structure, as long as the legal entity remains the same.

*Applies whenever electricity is provided across an exempt network to an eligible retail customer.*

## **Condition 1.11 Supply disconnection to a life support customer obligation**

An EENSP must not disconnect supply to a life support customer without making arrangements for the safety of a life support customer.

*Applies whenever electricity is provided across an exempt network to an eligible retail customer.*

## **Condition 1.12 Obligation where an Embedded Network Manager is appointed**

Where an EENSP must appoint an Embedded Network Manager to comply with condition 2.1, the appointment must also comply with condition 6.

1. Where a customer is eligible under State or Territory legislation to purchase electricity from a retailer of their choice, the EENSP must not do anything to discourage or prevent them from exercising this choice, whether by:
  - a) requiring the customer to waive their ability to choose a retailer
  - b) unreasonably hindering their efforts to find another retailer
  - c) imposing a requirement for compensation for lost capital, income or profit by a customer exercising the right to access a market retail offer<sup>51</sup>, or
  - d) allowing, causing or permitting any other person to do any of the things mentioned in (a), (b) or (c) aboveand, except where the requirements of Appendix C have been met:
  - e) an EENSP or agent must not alter the electrical supply arrangement to a customer or tenant in an exempt network directly connected to a registered distributor without the explicit informed consent of that customer, resident or tenant, freely given, and<sup>52</sup>
  - f) a customer, resident or tenant of commercial, industrial or residential premises must not be compelled to become part of an exempt network or subject to an exempt selling regime without the explicit informed consent of that customer, resident or tenant
2. Where condition 1.12.1 does not apply, an EENSP must not prevent or unreasonably impede a customer, resident or tenant within the exempt network from obtaining, at their own cost, a direct connection to the local DNSP.

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<sup>51</sup> This requirement does not apply to works necessary to modify an installation to accept an on-market metering installation.

<sup>52</sup> This requirement only applies to works which would alter the metering arrangements for a customer that result in that customer ceasing to have a direct connection to a distributor or which adversely affect access by that customer to their retailer of choice. General works to maintain or enhance supply are permitted.

## Condition 1.13 Membership of energy ombudsman scheme obligation

1. An EENSP must, if permitted by an energy ombudsman scheme:<sup>53</sup>
  - a) be a member of, or subject to, an energy ombudsman scheme in the State or Territory where the exempt network is located, and
  - b) comply with the requirements of that scheme.

The obligation imposed on an EENSP by this condition 1.13 may be discharged by the **primary registrant** nominated under section 5.1 of this Guideline.

## Condition 1.14 Payment difficulties and disconnection or de-energisation

This condition applies where an EENSP bills its customers with a child connection point<sup>54</sup> for network costs separately to the sale of electricity. This does not apply when the EENSP is also the exempt seller<sup>55</sup> to the customer.

1. Where a customer informs the EENSP that they are unable to pay network tariff bills due to financial difficulty, the EENSP must:
  - a) offer the customer a payment plan, and
  - b) direct the customer to the Australian government energy efficiency website or another information resource with energy efficiency advice
  - c) give the customer information about relevant government or non-government energy rebates, concessions and relief schemes
  - d) not charge the customer a late payment fee, and
  - e) not charge the customer a security deposit.
2. Subject to condition 1.15, an EENSP must not proceed with disconnection or cessation of electricity supply to a customer unless the following requirements have been met:
  - a) the customer has requested disconnection, or
  - b) continuity of supply to the premises would be unsafe, or
  - c) the customer's tenancy/residency/agreement has ended and the customer is vacating the premises or
  - d) the customer has not paid a bill by the pay-by date, and has not agreed to a payment plan, or having agreed to a payment plan has failed to adhere to the plan and:
    - i) following non-payment by the pay-by date, the EENSP has given the 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 customers, has offered the 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

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<sup>53</sup> Consult '[Dispute resolution in exempt networks](#)' on the AER website for more information on specific schemes.

<sup>54</sup> A child connection point is by definition 'on-market'.

<sup>55</sup> Refer to glossary definition. See condition 9.1 of the *Retail Exempt Selling Guideline*.

- 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 EENSP has given the customer a disconnection warning notice informing the 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
  - iii) the EENSP 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 customer has, by the date specified in the disconnection warning notice, refused or failed to take any reasonable action towards settling the debt.
3. A reminder warning issued pursuant to condition 1.14.2(d)(i) must:
    - a) state the date of its issue
    - b) state the date on which the reminder notice period ends, and
    - c) include details of the EENSP's telephone number for complaints and disputes.
  4. A disconnection warning notice issued pursuant to condition 1.14.1(d)(ii) must:
    - a) state the date of its issue
    - b) state the date on which the disconnection warning period ends
    - c) inform the customer of applicable re-connection procedures and (if applicable) that a charge will be imposed for reconnection
    - d) include details (where applicable) of the existence and operation of the energy ombudsman, including contact details, and
    - e) include contact details for the EENSP.
  5. Where a customer is disconnected in accordance with paragraph 1.14.2(b) of this condition, the EENSP must use its best endeavours to notify the customer in person or by telephone prior to the disconnection, and must arrange for reconnection of the premises as soon as practical.
  6. This condition does not apply where State or Territory legislation sets out the process and requirements for the disconnection or cessation of electricity supply by the EENSP on the basis that they are a landlord, body corporate or similar.

## **Condition 1.15 When disconnection or de-energisation is prohibited**

1. An EENSP must not disconnect or cease electricity supply to a customer's premises where:
  - a) a person residing at the customer's premises requires life support equipment that depends on electricity for its operation
  - b) an application has been made by or on behalf of the customer for assistance to an organisation responsible for a rebate, concession or relief available under any government or non-government funded energy charge rebate, concession or relief scheme and a decision on the application has not been made
  - c) the customer has made a complaint directly related to the proposed reason for disconnection or de-energisation to the EENSP, 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 8 am or after 3 pm
  - ii) a Friday or the day before a public holiday
  - iii) a weekend or a public holiday, or
  - iv) the days between 20 December and 31 December (inclusive) in any year.
2. For electricity, the EENSP must contact its distributor to ask whether disconnection of a retail customer in the relevant jurisdiction would be prohibited on that day due to extreme weather conditions. Where the DNSP confirms that the disconnection of a retail customer would be prohibited on that day, the EENSP must not disconnect the customer's premises.
  3. This condition does not apply where the customer has requested disconnection.
  4. This condition does not apply where continuity of supply to the premises would be unsafe.
  5. This condition does not apply where the electricity supply agreement between the EENSP and customer has been terminated.

## Condition 1.16 Reconnection or re-energisation

This condition applies where an EENSP bills customers with a child connection point<sup>56</sup> for network costs separately to the sale of electricity. This does not apply when the EENSP is also the exempt seller<sup>57</sup> to the customer.

1. Where a customer is disconnected in accordance with conditions 1.14 and 1.15 and the customer makes a request for reconnection, the EENSP must reconnect the premises as soon as practical after a request for reconnection is made. A customer request for reconnection may be made 10 business days after disconnection, or as soon as the matter that led to the disconnection is rectified, and
  - a) any charges for reconnection are paid and
  - b) if the customer still has outstanding amounts owed under the customer's electricity account, the customer agrees to enter into a payment plan with the EENSP.
2. Subject to condition 1.16.1, the EENSP must reconnect the premises (or, where required, arrange with the DNSP to reconnect the premises) as soon as practical, and no later than two business days from when the request was made.
3. Subject to condition 1.16.1, the EENSP cannot refuse to supply a customer on the grounds that they owe outstanding amounts on their electricity account.

## Condition 1.17 Continuity of supply

This condition applies where an EENSP becomes aware of an actual, or likely risk of, disconnection at the parent connection point due to a failure of a party (the **failing seller**) selling electricity to customers of an embedded network.<sup>58</sup> In that event, the EENSP must:

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<sup>56</sup> A child connection point is by definition 'on-market'.

<sup>57</sup> Refer glossary definition. See condition 9.1 of the *Retail Exempt Selling Guideline*.

<sup>58</sup> For example, this risk of disconnection may arise where an authorised retailer or exempt seller (the failing seller) who sells electricity to off-market customers within the embedded network, also has a supply contract at the parent connection point with a financially responsible market participant (FRMP) for the purchase of electricity from the National Electricity Market for the whole site. A risk of disconnection may arise where the FRMP has a right to de-energise the parent connection point under that supply contract due to payment default by that failing seller.

1. immediately notify all embedded network customers and the AER of the actual, or likely risk of, disconnection and the actions it is taking to ensure continuity of electricity supply
2. take such actions as set out in condition 1.17.1 as soon as practicable, including such further or revised actions reasonably required by the AER by written notice which may include:
  - a) taking reasonable steps, where appropriate<sup>59</sup>, to identify an alternative authorised retailer/exempt seller to replace the failing seller in the purchase and sale of electricity to ensure continuity of electrical supply to customers of the embedded network, and
  - b) giving notice to customers and the AER of such alternative authorised retailer/exempt seller, and
  - c) giving details of all customers who have provided their written consent to do so to the alternative retailer/seller.

## **Part 2: Detailed conditions**

### **2 Access to retail competition conditions**

#### **Condition 2.1 Retail competition – access requirement**

Where a retailer accesses an existing embedded network child meter (off market) the retailer or the customer (as the case may be) may purchase or lease the existing meter from the owner of the meter or replace the meter at their own cost.

If a decision is made to purchase or lease the meter then the cost of this, and the arrangements to access meter data, are to be determined at the discretion of the retailer or customer. In the event of a meter replacement, no compensation is payable to the EENSP for the unrecovered cost of the replaced meter.

In all relevant States and Territories an EENSP must provide access on reasonable terms to all necessary facilities to allow the metering of a customer obtaining supply from a retailer. Where access to retail competition by parent and child metering is not available in a State or Territory, an EENSP must not unreasonably prevent an embedded network customer from arranging a direct connection to a local DNSP at their own cost.

#### **Condition 2.2 Prohibition of measures which impede competition**

The AER does not permit an EENSP to impose any measures on a customer either directly or indirectly, which would impede or penalise a customer seeking access to retail competition. The prohibited measures may be either physical, financial or contractual.

An EENSP is not entitled to receive and must not impose a requirement for compensation on a person, Owners Corporation, body corporate, strata corporation, landlord, resident, tenant

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<sup>59</sup> The AER may consider it appropriate that the EENSP assist customers in identifying an alternative seller to assume obligations to purchase electricity at the parent connection point from the FRMP for the exempt network and on-sell that electricity to customers if the existing seller within the embedded network is, for example, insolvent, being wound up or ceasing to operate.



or trust for the loss of capital, income or profits however it arises resulting from the exercise of a customer of the right to access an alternative retail market electricity price offer.

A supply contract must not include any charge for early termination of the supply agreement or any condition which unreasonably restricts the ability of a consumer to access an alternative retail market offer or that requires the EENSP to be the sole supplier of any metering related service.

Also, an EENSP must not seek an advance fee or a rebate from any other person:

1. in connection with the provision of ENM services; or
2. to secure a right to provide services to an exempt network.

## **Condition 2.3 Meter accuracy testing, billing disputes, maintenance and operation**

In the event of a billing dispute, an EENSP must inform a customer of the right to request a meter test. A copy of the notice must be retained by the EENSP and be available for inspection on our request. If requested in writing by a customer to perform a metering test, the EENSP must demonstrate that the metering installation is accurate to the applicable standard specified in schedule 7.4 of the NER. If the customer does not request testing or waives the right to testing, the meter is deemed to be accurate.

An offer to conduct a metering test must be in writing, declare any cost to be incurred by the customer if the meter is found to be accurate, and state the customer bears no cost if the metering installation is found to be deficient in any material respect.

For the purposes of this condition, a metering installation is deficient if:

- the metering installation is not installed or maintained to the appropriate standard,
- the metering installation is not accurate to the applicable standard in schedule 7.4 of the NER, or
- a defect exists in the metering installation that affects the accuracy or timeliness of metering data obtained from the metering installation.

If the metering installation is deficient, costs for repair or replacement are to be covered by the EENSP.

The reasonable cost of testing may be recovered from a customer if:

1. the meter is tested and found to be accurate
2. the metering installation has been installed to an appropriate standard
3. the metering installation has been maintained to current NER standards up until the time of testing
4. there is no evidence of a material defect as stipulated above, and
5. the customer requested in writing that the meter be tested.

Testing may require that the EENSP arrange for a specialised electrical contractor to install a calibrated 'check meter' for a period to compare the readings of your metering with the check meter.

Wherever a meter is required to be installed, an EENSP must operate and maintain a metering installation which they own, control or operate in accordance with the requirements of schedule 7.4 of the NER.

For the purposes of this condition, the EENSP is deemed to be, and must undertake the role of, the 'Metering Coordinator' where mentioned in schedule 7.4. This requirement does not apply to market metering installations owned, controlled or operated by another party.

## **Condition 2.4 On-market generating systems**

Where a person seeks to register for a generating system or inverter-based plant with an aggregate nameplate rating 5 MW or more as measured at the connection point to the national grid<sup>60</sup>, AEMO may apply additional requirements.

For exemption activity class NRO2, a person who intends to register such systems must request review by AEMO and provide evidence of advice sought from AEMO on whether performance standards will apply to a relevant system connected in an exempt network. This ensures that all necessary performance standards will apply and is unlikely to pose undue risk to power system security or reliability when connected to an exempt network.

If AEMO has not reviewed and indicated its acceptance, an exemption under NRO2 is invalid and has no effect.

If the nameplate capacity of a generating system increases to 5 MW or more and this is covered by deemed or registered activity class NRO2, a further review by AEMO must be sought. The person must hold evidence of AEMO's review and make this available to the AER upon request.

## **3 Access to retail competition in embedded networks conditions**

These conditions apply only in jurisdictions that mandate competition for customers (or persons proposed to be) connected to an embedded network.<sup>61</sup> This condition includes any embedded network that would otherwise be deemed exempt.

### **Condition 3.1 Appointment of an Embedded Network Manager**

The EENSP of an embedded network site must appoint an Embedded Network Manager (ENM) as specified in condition 3.2, subject to the further requirements in condition 6.

### **Condition 3.2 ENM appointment trigger conditions**

An EENSP of an embedded network site with 30 or more customers in a relevant activity class must appoint an ENM. This condition applies to each individual embedded network

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<sup>60</sup> This refers to the total nameplate capacity of all generating units in a generating system.

<sup>61</sup> It does not apply in any region of a State or Territory where access to retail competition is not mandated by that State or Territory.

site. The relevant exemption activity classes<sup>62</sup> which require early appointment of an ENM are those involving:

- small and large residential customers, and
- commercial and industrial customers.

For relevant exemption activity classes, and as set out in clause 2.5.1(d2) of the NER, if an ENM trigger condition arises, the EENSP must appoint an accredited ENM. To avoid doubt, if an embedded network contains an on-market customer then the EENSP must appoint an ENM.

If an EENSP is not an accredited ENM, it must appoint an accredited ENM for a relevant exemption activity class in an embedded network.

### Condition 3.3 Small size network threshold<sup>63</sup>

An ENM does not need to be appointed where less than 30 small residential customers<sup>64</sup> or small business customers<sup>65</sup> propose to be or are connected to an embedded network. However, if an ENM trigger event occurs, the EENSP must appoint an ENM.

An **ENM trigger event**<sup>66</sup> occurs when a small customer or a retailer notifies the EENSP they have entered a market retail contract for the sale of electricity at the relevant child connection point and the cooling off period for that market contract has expired.

If the exempt network is registered with the AER, the notice may be addressed to the address recorded in the public register of network exemptions. The notice may be in writing or delivered electronically by email or SMS.

An EENSP must appoint an ENM **within 30 business days** of an ENM trigger event occurring.

As the timeframe for actions required to appoint an ENM is limited, all parties should communicate electronically, either by email or SMS communication or other similar means, wherever possible.

*This condition does not prevent an EENSP voluntarily appointing an ENM to an embedded network with less than 30 small customers if desired.*

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<sup>62</sup> These include activity classes ND10, NR1, NR2, NR3, NR5 and NR6. For other activity classes not listed here, we have determined that the costs will outweigh the benefits of early appointment of an ENM.

<sup>63</sup> We have determined under clause 2.5.1(d2) of the NER to exempt some activity classes from early appointment of an ENM based on size due to transaction costs in smaller networks (with less than 30 customers) making it less viable.

<sup>64</sup> In activity classes ND2, NR2, NR3 and NR4.

<sup>65</sup> In activity classes ND1, ND10, NR1 and NR6.

<sup>66</sup> In this condition the term 'ENM trigger event' is used for convenience. It should not be mistaken for the similar term defined in the NER: *ENM conditions trigger*.

## Condition 3.4 Registration required when an ENM is appointed

When an ENM is appointed to an embedded network site, the EENSP must ensure that they are registered in the relevant exemption class(es). An existing deemed activity class (ND<sup>67</sup>) must be updated to a relevant registrable activity class (NR<sup>68</sup>). An existing registered activity class may also need to be amended to reflect changes to activities.<sup>69</sup> The EENSP must lodge an amendment with the AER within 20 business days of the appointment of the ENM.<sup>70</sup>

## 4 Distribution loss factor conditions

These conditions relate to the determination and application of distribution loss factors (DLFs) in embedded networks. The NER requires DNSPs to calculate DLFs<sup>71</sup> for their distribution network connection points. In an embedded network the DNSP does not directly supply electricity to the child connection points, the EENSP does. This section sets out conditions for DLFs in embedded networks to ensure the application of DLFs is clear.

### Condition 4.1 Standard loss factor approach

If the load or combined load as calculated at the parent connection within an embedded network results in a small load<sup>72</sup>, this condition applies.

The DLF for each child connection point in a small embedded network at a site will be:

1. the published DLF<sup>73</sup> that would be applied by the local DNSP at the connection point if the DNSP were supplying electricity to the customer directly, or
2. if the published DLF is unavailable under 4.1.1, the DLF that is determined by the DNSP for the relevant parent connection point for the small embedded network.

### Condition 4.2 Large loads, embedded generating units and site-specific loss factors

This condition applies if the load or combined load as calculated at the parent connection point within an embedded network results in a large load<sup>74</sup>, or if the embedded network contains a large generating unit.<sup>75</sup>

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<sup>67</sup> See deemed exemption classes ND1 and ND2 in Table 1 of Appendix A-1.

<sup>68</sup> See registrable exemption classes NR1 and NR2 in Table 1 of Appendix A-1.

<sup>69</sup> Such as changes in the number and/or type of customers for the relevant registrable exemption class(es).

<sup>70</sup> See Figure 2 in section 6 of this Guideline.

<sup>71</sup> Determined under clause 3.6.3 of the NER.

<sup>72</sup> Under clause 3.6.3(b)(2)(i)(B) of the NER, a 'small load' is any load or a collection of loads which, in total, is less than 10 MW peak demand or 40 GWh annually.

<sup>73</sup> See <https://www.aer.gov.au/networks-pipelines/compliance-reporting>, select the category 'Distribution loss factors' and the most recent year.

<sup>74</sup> Under clause 3.6.3(b)(2)(i)(B) of the NER, a 'large load' is any load or a collection of loads which, in total, is more than 10 MW peak demand or 40 GWh annually.

<sup>75</sup> Under clause 3.6.3(b)(2)(i)(A) of the NER, a 'large embedded generating unit' is one with actual generation of more than 10 MW annually.

An EENSP may calculate a site-specific DLF in accordance with clause 3.6.3(b)(2)(i) of the NER and using the methodology published by the relevant DNSP if:

1. the load (or combined load) is more than 40 GWh annually, or
2. the sent out generation of embedded generating units (or combined generating units) is more than 10 MW annually.

Where the DNSP's DLF methodology is not suitable for this purpose, the EENSP and connecting party may jointly approach the AER to approve an alternative methodology to determine how electrical losses will be allocated between the parties.<sup>76</sup> Approval is subject to the AER's discretion, and we will consider if there is a material impact on the rights of another party that would result under the proposed alternative methodology.

## Condition 4.3 Annual DLF approval requirements

DLFs calculated in accordance with condition 4.2 must be approved annually by the AER under clause 3.6.3(i) of the NER. DLFs submitted to the AER for approval to be used for NEM settlement<sup>77</sup> must be audited by an independent third-party specialist advisor. Our audit requirements vary for private settlement and market settlement as set out in this section.

### Condition 4.3.1 Large corporate entities and large customers applying charge group C

This provision applies where a large corporate entity or large customer applying charge group C under condition 5.1 has connected to an embedded network. The parties may have in place private commercial agreements that set a static DLF or a dynamic DLF (that is, varies over time, including annually) calculated in accordance with a methodology agreed between these parties.

1. Annual approval of the DLF applicable to the metering installation is required under clause 3.6.3(i) of the NER and is subject to publication by the AER and AEMO.
2. AER approval of the privately agreed DLF methodology **is not** required.
3. An audit is not necessary if settlement is handled privately. Annual DLF reporting is required for:
  - a) a dynamically calculated DLF value
  - b) a static agreed DLF value.

### Condition 4.3.2 Market settlement audit requirement

Where there are small customers and condition 4.1 does not apply, or a DLF is needed for NEM settlement,<sup>78</sup> the DLF calculated by an EENSP is subject to the AER's annual audit requirements which are:

1. annual approval of the DLF applicable to the metering installation under clause 3.6.3(i) of the NER and publication by the AER and AEMO

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<sup>76</sup> This may occur where the size of a generating system is very close to the load served. This is because under the mathematical formulae sometimes used in these calculations a problem of division by a small number can arise. This can cause an unrealistic value for the loss factor to be calculated.

<sup>77</sup> AEMO is responsible for NEM settlement.

<sup>78</sup> AEMO is responsible for NEM settlement.

2. AER approval of the privately agreed DLF methodology (or where a methodology is later amended), and
3. an independent audit.

DLFs submitted to the AER for approval must include the data used and calculations made which have been checked and certified as accurate by a third-party specialist adviser (such as accountant or engineer). The auditor's report must accompany the annual submission which must be received by the us by 15 March each year or other date we advise in writing.

## 5 Pricing conditions for embedded networks

The AER has applied pricing criteria as a condition of exemption for embedded networks to ensure small customers have an appropriate level of consumer protections. We consider this is achieved without imposing onerous regulatory obligations on EENSPs. These conditions do not relate to the price of electricity (kWh), they relate to the services of supplying and metering electricity. Energy pricing is considered in the AER's *Retail Exempt Selling Guideline*.

It is a requirement to assess which situation is most applicable to the customers in the network and identify that pricing methodology (Charge Group) during the registrable or individual exemption process.

### Condition 5.1 Summary of pricing

The following table summarises the pricing conditions for exempt embedded networks and the typical pricing methodologies (Charge Groups). A small customer must be offered an arrangement that aligns with Charge Group A.

**Table 6: Summary of exempt network pricing methodologies**

Customer	Electricity	Network	Metering	Other	Group
Small	As per offer from EENSP or their agent	DNISP cost pass through, or less.	DNISP read costs with limited read frequency  Actual cost of tenant requested metering changes or service capacity upgrades.	No EENSP costs.  Costs under residential lease, tenancy agreement or similar, if permitted under relevant jurisdictional legislation	A
Large or corporate	Agreed commercially between the parties	Agreed commercially between the parties	Agreed commercially between the parties	Agreed services under a commercial agreement	C
Individual Exemptions	As approved by the AER	As approved by the AER	As approved by the AER		D

Off-market customers in an embedded network are supplied with electricity by the EENSP or their agent through a process known as on-selling. Small customers are afforded protections under the pricing conditions to ensure that they are not subject to inappropriate charging. For

completeness, reference to large customers and corporate entities are included in Table 6. However, the conditions focus on the circumstance of small customers whom they seek to protect.

## Condition 5.2 External and internal network charges

An EENSP must:

1. only charge a customer for external network charges on a cost pass through basis as described in condition 5.2.1.
2. rebate any over recovery of network charges to customers no less than annually
3. provide notice to the customer in the embedded network of any change in the customer's network tariff as soon as practical, and no later than the customer's next bill
4. limit any fee charged to a customer for late payment to a recovery of reasonably incurred costs by the EENSP resulting from the customer's late payment.
5. An EENSP may not impose additional network charges, including the following:
  - a) EENSP charges, including the cost of appointing an ENM
  - b) internal network services
  - c) services which would not be charged by the DNSP to a customer in the same circumstances subject to a standard connection contract.

### Condition 5.2.1 External network charges

An EENSP may impose external network charges such as transmission use of system charges (TUOS), distribution use of system charges (DUOS) and network use of system charges (NUOS) on network users at the exempt network's connection point to the national grid.

The following methodologies are acceptable for EENSPs to recover external network charges from customers within an embedded network:

1. directly attributable network charges
2. apportioned on a 'causer pays' basis in proportion to each customer's metered electricity consumption over the relevant period, or
3. applying a tariff no greater than the tariff that would have applied had that customer obtained supply directly from the relevant DNSP or TNSP (shadow pricing).

An EENSP may impose an agreed cost to establish or upgrade a network to meet customer requirements. This may be passed through to the customer in accordance with a bona fide lease or ancillary agreement between the EENSP and network customer. This cost may be subject to normal commercial financing arrangements.

#### Note

Few situations currently exist where separate network charges for embedded networks are warranted. Formal determination of network charges by the AER is a complex and involved process, with the costs usually disproportionate to the scale of an embedded network.

Where an embedded network exists within a commercial building, shopping centre, airport, residential apartment building, retirement village or the like, the AER considers the network

development costs to have been met in the initial establishment of the facility. These are typically capital costs and are normally recoverable through lease payments, fit-out charges or the like. A charge for network services is not appropriate as it may result in the customer being charged twice for the same facility.

### **Condition 5.3 Meter reading charges**

An EENSP may only levy a meter reading charge at most once per billing cycle and not more than once per month. A more frequent meter reading cycle is permitted:

1. if the extra meter reads do not attract a fee, or
2. in response to a customer's request to allow more flexible payment arrangements but only if, and for as long as, the customer consents to more frequent meter read fees.

A manual meter reading charge may only be charged by the EENSP for a type 5 or 6 metering installation which was compliant with this Guideline at the date of commissioning or first use of the metering installation.

For advanced technology meters, a manually read meter charge is only permitted when a customer requests a physical read of the meter and it is subsequently performed by physical inspection of the meter.

## **6 Embedded Network Manager – appointment and reversion**

An EENSP is deemed to be subject to ENM conditions unless a customer is in a jurisdiction where retail competition is not mandated, or the AER determines that the ENM conditions should not apply.

The AER has determined that appointment of an ENM is deferred<sup>79</sup> in regional Queensland.

The ENM conditions require that an EENSP must:

- a) act as the ENM for the relevant embedded network, or
- b) engage an ENM to provide embedded network management services for the relevant embedded network, and
- c) enter into an agreement with an ENM for the provision of embedded network management services where that person has engaged an ENM under paragraph (b).

The NER allows the AER to determine to exempt a person or class of person from the ENM conditions if we consider the likely costs of complying with the ENM conditions outweigh the likely benefits. The NER also allows that if an ENM conditions trigger occurs any exemption may become invalid.

An exemption granted by the AER has under clause 2.5.1(d) of the NER may also be subject to conditions we deem necessary. The conditions in this section are to ensure that customers in embedded networks are provided with adequate consumer protections and to avoid

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<sup>79</sup> Due to the inability of customers in that area to access retail competition.



customers potentially paying non-competitive costs associated with electricity being supplied through an embedded network.

## **Condition 6.1 Cost recovery for appointment or service provision**

The EENSP's appointment of an ENM must comply with the following:

1. any cost resulting from the accreditation of any person as an ENM or from the appointment or provision of services by an ENM must be borne entirely by the EENSP
2. an ENM must not pay an advance fee or a rebate to a property owner, developer or EENSP or any other person in connection with the provision of ENM services or to secure a right to provide services to an embedded network, and
3. an ENM may make a bona fide offer of a sliding scale of charges based on volume of work.

This condition does not apply to ENM sites:

- a) in regional Queensland
- b) where no meters are installed due to the network existing prior to January 2012, which is when the requirement commenced, or
- c) where all on-market customers have reverted to off-market customers.

## **Condition 6.2 Information provision**

This condition requires an EENSP to provide information to customers on request, maintain a contact point and keep records.

### **Condition 6.2.1 Provision of information to customers**

1. The EENSP must advise a customer in writing at the start of their tenancy or electricity sale agreement of:
  - a) any right of the customer, under State or Territory laws, to elect to purchase electricity from a retailer of their choice and information on the options for metering that would allow this choice
  - b) the customer's rights regarding dispute resolution including:
    - i) any right that the customer has to access the energy ombudsman scheme (if applicable), including to lodge a complaint or for free independent information and advice, or any other relevant external dispute resolution body in the State or Territory in which the customer is located, and
    - ii) the EENSP's procedures for handling complaints and disputes.
  - c) the customer's right to obtain a copy of, or link to, the conditions applicable to the EENSP's exemption that it is operating under and a printed copy upon the customer's request
  - d) the unbundled details of applicable network tariffs and all associated fees and charges that will apply to the customer in relation to the sale of electricity, and
  - e) contact numbers in the event of an electricity fault or emergency, including the number for a 24-hour emergency contact line.
2. At any time and on the customer's or the AER's request, the EENSP must provide the information in paragraph 1 to the customer or the AER.

3. If an ENM has been appointed to the embedded network, the EENSP must display the name of the ENM entity on the customer's bill and must also disclose it on request to:
  - a) the customer, or
  - b) the customer's retailer.

#### **Condition 6.2.2 Contact details**

The EENSP must provide its customers with a contact for account inquiries and complaints that can be readily accessed. Where a contact telephone number is provided the charge for this call must be no more than the cost of a local call.

#### **Condition 6.2.3 Maintaining records**

The EENSP must maintain the following records for each of its customers:

1. name of the customer
2. address of the customer's premises
3. national meter identifier (NMI) for the customer's premises (if applicable)
4. date the customer's account was created
5. copies of any bills issued for the previous 12 months
6. date of the most recent meter read for the customer (if applicable), and
7. the basis for determining any estimates of consumption and sent out generation for the purpose of billing where a meter read could not be obtained.

## **7 Sites converted to an embedded network**

These conditions relate to EENSPs who have already converted an existing site to an embedded network.

### **Note**

A prospective EENSP must obtain approval from the AER before doing a retrofit. This process is set out in Part 1 of **Appendix C**.

### **Condition 7.1 Offer matching for large customers**

This condition only applies if the large customer was a tenant when the embedded network was created.

1. If a tenant who is a large customer does not consent to become a part of the embedded network, the EENSP must:
  - a) facilitate, within the embedded network, the continuation of the tenant's electricity contract with their current retailer, or
  - b) facilitate the tenant's direct connection to a DNSP, or

- c) if (a) or (b) do not apply, fulfil a request made by the tenant that the EENSP match any genuine electricity offer that would be available to the particular tenant if they were still directly connected to the local distribution network.<sup>80</sup>
2. The EENSP must fulfil any subsequent request made by a tenant to match an electricity offer if the request is made 12 months or more after a previous request.
3. In the absence of a subsequent request to match an electricity offer, the EENSP need only apply the matched offer for a period of 12 months.
4. The EENSP's or their representative's obligation to match an electricity offer expires on termination or renewal of the large customer's tenancy or lease agreement.

## Condition 7.2 Offer matching for small customers

This condition only applies if the small customer was a tenant<sup>81</sup> when the embedded network was created. The following requirements apply:

1. if a tenant who is a small customer does not consent to become a part of the exempt network, the EENSP must:
  - a) facilitate within the embedded network the continuation of the tenant's electricity contract with their current retailer,<sup>82</sup> or
  - b) fulfil a request made by the tenant that the EENSP match any genuine electricity offer that would be available to the particular tenant if they were still directly connected to the local DNSP.
2. the EENSP must fulfil any subsequent request by a tenant to match an electricity offer if the request is made 12 months or more after a previous request.
3. in the absence of a subsequent request to match an electricity offer, the EENSP need only apply the matched offer for a period of 12 months.
4. the EENSP's or their representative's obligation to match an electricity offer expires on termination or renewal of the small customer's tenancy or lease agreement.

## Condition 7.3 Duplication of network charges

This condition only applies only if the customer was a tenant<sup>83</sup> when the embedded network was created. The EENSP must:

1. take steps to remedy any duplication of network charges experienced by tenants/residents who have entered into an energy supply contract with an authorised retailer.
2. not charge a connection charge to any tenant who enters into an energy supply contract with an authorised retailer as provided for in condition 2.9.1.

## Condition 7.4 Metering arrangements

This condition requires the EENSP to:

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<sup>80</sup> Condition 7.3.1(c) applies by mutual consent. The EENSP may offer to price match or may negotiate an alternative pricing arrangement with a customer determine conditions 7.3.1(a) or (b) are not feasible or too costly.

<sup>81</sup> Any reference to tenant in this condition also includes a resident.

<sup>82</sup> An EENSP is not prohibited from arranging a direct connection to a registered distributor for a small customer if that is a viable option.

<sup>83</sup> Any reference to tenant in this condition also includes a resident.

1. bear the costs of any changes to metering and other network alterations undertaken to retrofit the embedded network, and
2. ensure that metering arrangements within the embedded network allow customers in the embedded network to access retail competition.

## 8 Designated network assets

This condition requires an owner, controller or operator of a designated network asset (DNA)<sup>84</sup>, other than a Primary TNSP, to:

1. comply with the access policy and negotiating principles in clause 5.2A.6(c) of the NER
2. comply with the network operating agreement obligation in clause 5.2A.7 of the NER
3. comply with the obligation to submit an access policy to the AER for approval in clause 5.2A.8 of the NER, and
4. comply with the dispute resolution requirement for DNA services in rule 5.5 of the NER.

The DNA owner, controller or operator must also have an access policy and make it available to customers and to the AER upon request.

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<sup>84</sup> Refer glossary definition and exemption class NRO8 in Table 4 of Appendix A-1.

## Appendix B: Applying for an individual exemption or condition variation

Please provide the following information in your application for an individual exemption:

1. the name of every party for whom exemption is sought
2. the nature of the normal business activities of the applicant
3. if the application is made by an authorised agent, proof of authority for the agent to act on behalf of each named applicant
4. the precise network to be subject to the exemption, including circuit diagrams if necessary (in most circumstances less complex single-line diagrams will be sufficient)
5. a description of the parties connected to, or likely to connect to, or otherwise obtain services from the network
6. if an industrial or commercial situation, whether the proposed on-supply is subject to agreed commercial terms between consenting parties with appropriate recourse to professional advice
7. whether the applicants are seeking (or have received) exemptions from any other codes or regulations governing the ownership or operation of networks or metering requirements applicable within the relevant jurisdiction, including details of those exemptions or applications for exemptions
8. whether they are seeking exemption from the requirement to register as an NSP or from the application of chapter 5 of the NER or if they are seeking to vary the conditions otherwise applicable to a defined exemption class (if so, which conditions and why a variation is justified)
9. details of the registered NSP to whom the network is, or will be, connected
10. details of any preliminary discussions which have taken place between the applicant and the NSP and if relevant, AEMO.
11. the arrangements proposed for setting network charges for parties using the network
12. mailing details for all stakeholders affected by the grant of an individual exemption
13. the arrangements proposed for electricity charges (for example, fixed percentage of total costs or direct access to retailers by tenants), and
14. detailed supporting argument why exemption will serve the long-term interests of electricity consumers connected to the network and more generally, across the NEM.

An application for an individual exemption must be made in writing and may be submitted to [AERexemptions@aer.gov.au](mailto:AERexemptions@aer.gov.au).

A variation of conditions application must explain why the pre-defined conditions will result in an excessive regulatory burden and demonstrate how relief from the conditions will better serve customers. We may request additional information from applicants prior to processing an application for exemption.

We are empowered to consult affected stakeholders on any application for exemption. As stated in section 6 we may seek written submissions on the application from interested stakeholders via a notice on our website. Applications may contain confidential information. If

so, a redacted version of each submission is required in a form suitable for publication electronically should the AER elect to consult widely on a particular application.

We will inform the applicant of our decision regarding the application for the grant or variation of the individual exemption. The individual exemption applies to a person for a particular site from the time stated in a notice issued by the AER and entered on the [Public Register of Exempt Networks](#).

An individual exemption is personal to the applicant and does not apply to any other person that owns, controls or operates the network at the time of the decision or in the future. An individual exemption is not transferrable; however, we accept the need for transitional arrangements.

Where an application for individual exemption is for a network previously registered with us and we have not revoked that registration, the terms of the pre-existing arrangement will continue to apply to the new applicant until the effective date of a new exemption notified by us in response to the application.

# Appendix C: Applying to convert an existing site to an embedded network (retrofit)

## AER approval

We assess and approve retrofit applications on a case-by-case basis. You must meet eligibility requirements, conduct a marketing campaign and follow our application process.

If you can demonstrate that **at least 85 percent of tenants consent** to the proposed retrofit after running the marketing campaign, you may apply to the AER for approval.<sup>85</sup>

**We will require details of the marketing campaign conducted and a report which summarises information collected under Part 1 below.**

Your application must include:

- the total number of tenancies (both occupied and vacant) and those who do/do not consent to the retrofit
- the views of tenants who do/do not consent to the retrofit, and
- the steps taken to mitigate tenants' concerns and an undertaking to meet conditions 7.1 to 7.4 of this Guideline.

### Note

A tenant is someone who holds land, a house, or the like, from the owner for a period of time, as a lessee or occupant for rent. There must be a lease agreement and/or occupancy of the premises for rent.

You should exclude the following from the consent calculation:

vacant tenancies and common areas – as the owner of a vacant premises does not reside at the premises, they are not considered a tenant for the purposes of the consent calculation

owners of vacant premises – as they do not hold a lease or occupy the premises for rent

building managers – as they are not tenants and do not occupy or hold a lease over the common areas of the site. As common areas are spaces shared by customers and tenants, the building managers, they are not considered a tenant for the purposes of the consent calculation.

If the application is assessed to be deficient, we may

- a) require that you rectify any defect
- b) publicly consult on the application, or
- c) do both.

We may also require that:

- the marketing campaign be modified or extended
- the application (or any supporting material) provided to tenants or the AER be revised, or

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<sup>85</sup> If the AER determines special circumstances apply, we may apply a lower or higher threshold to a specific application.

- an undertaking be amended.

If we are satisfied with your application, we will issue a notice of eligibility to register or hold an exemption which may specify an effective date. **The network must not be converted until the effective date specified in the notice issued by the AER.**

## Part 1: Eligibility requirements

The eligibility requirements outlined in this section (Part 1) forms the marketing campaign we require you to conduct and report on as part of your retrofit application to the AER.

### Note

Before lodging an application to the AER for approval to retrofit a site, you must inform the relevant DNSP in writing of the proposed retrofit.

## Providing retrofit information

1. You must provide written notice to all tenants<sup>86</sup> of the proposed retrofit with the following information:
  - a) a written notice which provides the tenant with:
    - i) the tenant's right to choose their own retailer, even within an embedded network
    - ii) the tenant's ability to enter into an energy only contract with an authorised electricity retailer
    - iii) the obligations about electricity offer matching in conditions 7.1 and 7.4 of this Guideline, and
    - iv) the obligations about duplication of network fees in condition 7.3 of this Guideline.
  - b) a copy of your electricity supply agreement which details all your fees and tariffs, and
  - c) contact details of a representative from your company to answer any queries or concerns about the proposed retrofit.
2. You must ensure that information about the retrofit is clearly, fully and adequately disclosed and has regard to a person's capacity to provide explicit informed consent.
3. You must also provide tenants with a copy of the AER's customer factsheet How to access an authorised retailer of your choice if you live in an embedded network<sup>87</sup> published on our website as in force from time to time.

## Collecting and recording explicit informed consent

4. You must provide each tenant with retrofit information before seeking their explicit informed consent.
5. You must agree to retain accessible records of the consent obtained which:
  - a) include copies of the information provided to tenants

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<sup>86</sup> Any reference to tenant in this condition also includes a resident.

<sup>87</sup> <https://www.aer.gov.au/consumers/information-for-electricity-consumers-in-embedded-networks>



- b) include records of consultations and meetings held with tenants
  - c) identify and record which tenants have not consented and their reasons
  - d) record the outcome of any negotiation and dispute resolution with tenants
  - e) are kept for at least 7 years from the date we approve your application, and
  - f) be provided to the AER on request.
6. You must engage with tenants who do not consent and seek to mitigate their concerns.
  7. You must obtain each tenant's consent for the retrofit in a separate document to the one that acknowledges the customer is selecting you as their electricity supplier.

The tenant's explicit informed consent must be given by way of a **signed consent form (written or electronic)**. Verbal consent is only acceptable in instances where can be verified and made subject of a record.

## Retail contestability

To address any potential tenant detriment due to a loss of retail contestability, you must:

8. seek advice from the DNSP about whether tenants who do not consent can be wired out of the embedded network<sup>88</sup>, and
9. take steps to ensure tenants who wish to remain with their retailer, but cannot be wired out, will not be financially disadvantaged by the retrofit. Measures to reduce financial detriment will likely include price matching for affected tenants and taking financial responsibility for any double billing of network charges.

## Customer dispute resolution services

10. You must advise tenants of your dispute resolution process and the available options for external dispute resolution, such as ombudsman schemes.

## Part 2: General application details

Where a third party is submitting the application on your behalf, a statement or letter verifying that the third party has the authority to act on your behalf must be provided in addition to the required information below.

1. Your legal name.<sup>89</sup> If you are a body corporate or community corporation, please indicate this.
2. Your trading name, if different to your legal name.
3. Your Australian Business Number (ABN) or Australian Company Number (ACN). You can check if your ABN or ACN matches the legal name you have provided via the [ABN Lookup](#) or [ASIC Connect website](#) respectively.
4. Your registered postal address. We may verify this information with the Australian Securities and Investments Commission or another relevant agency.
5. A nominated contact person, including their position in the organisation and contact details.

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<sup>88</sup> We will require evidence of this and details of any available 'wiring out' options.

<sup>89</sup> The applicant must be a legal person, for example an individual, company, corporation or body corporate. A trust is not a legal person and cannot hold an exemption. If you are seeking an exemption for a trust, a trustee must apply.

6. Whether you will be owner, controller or operator of the proposed embedded network. If more than one entity will perform these roles, please specify them, and provide relevant details for each entity as requested in paragraphs 1. to 5. above.
7. Why you are seeking to convert (retrofit) an existing site to an embedded network, and why you consider it is appropriate to your circumstances.
8. The site address of the proposed embedded network where you intend to supply electricity, including a map of the site and a brief description of this site and its current and future intended use(s).
9. The primary activity of your business (for example, managing a shopping centre or managing residential accommodation).
10. State whether the relevant network is directly or indirectly connected to the main grid or is (or will be) an off-grid network.
11. The date from which you intend to start the retrofit or supplying electricity.
12. Mailing addresses for premises at the site (where applicable). We may use this information to ensure that potential customers are able to participate in our consultation process if we are not satisfied with the application in any respect and at our discretion.
13. Details of your (or your agent's) electricity supply experience, for example:
  - date(s) and location(s) of previous operations
  - scale of operations (the number, size and type of customers), and
  - an explanation of which activities will be conducted in-house and which will be contracted out to third parties.
14. Whether you currently hold; or have previously held; or been refused an electricity supplying exemption in any state or territory. If so, please provide details (including any relevant AER reference number/s).
15. Details of your plan for the embedded network if your entity (or other parties performing the role of owner, controller or operator) fail.
16. Details of arrangements you have to satisfy condition 1.17 of this Guideline in the event that a third-party on-selling electricity to customers of the embedded network fails

## Part 3: Details of proposed operations

To determine whether it is appropriate to allow you to convert (retrofit) an existing site to an embedded network, we need information on the nature and scope of the proposed operations.

1. Will your prospective customers also be your tenants<sup>90</sup>? If so, are they residential or business tenants?
2. Will you be providing other services aside from electricity to persons on the site (for example, accommodation/leasing of property) or will your only commercial relationship to persons on the site be the supply of electricity? If yes, specify these services, and the contractual or leasing arrangements under which you are providing them.
3. What is the total number of customers at the site? Please provide a breakdown between residential and business customers (include whether they are small or large, as defined for the jurisdiction in which you intend to operate).

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<sup>90</sup> Any reference to tenant in this Appendix C also includes a resident.

4. Will any customers be 'wired out' of the embedded network (that is, because they did not consent to the conversion)? If so, please provide the number of such customers, broken down between residential and business customers (include whether they are small or large, as defined in the jurisdiction in which you intend to operate).
5. Will you be supplying electricity purchased from an authorised retailer or purchased directly from the wholesale market?
6. What is the estimated annual aggregate amount of electricity you are likely to supply (kilowatt hours or megawatt hours) and the average expected consumption of customers for each type of customer you service (that is, residential or business customers)?
7. Will your customers be wholly contained within the site of the proposed embedded network owned, controlled or operated by you (for the purposes of this question, a body corporate may be taken to 'operate' an embedded network)?
8. Will each premises/dwelling be separately metered? If not, please explain why not and how you intend to determine electricity charges?
9. Will meters allow your customers to change retailers (that is, not source their electricity from you) as required by this Guideline? Please specify the types of meters to be installed at the site.
10. In what form, and how often, will you bill your customers? Will you be issuing bills yourself or through a billing agent?
11. What dispute resolution procedures do you intend to put in place to deal with electricity-related complaints and issues? Confirm that your dispute resolution policy consistent with the Australian Standards, as amended from time to time. Please provide a copy of the relevant policy.
12. Are you a member of a recognised energy industry ombudsman scheme in the jurisdiction(s) in which you intend to supply electricity to residential customers (if permitted to be a member? If not, have you taken steps to become a member? Please provide supporting evidence or explain steps taken to obtain membership. Supporting evidence should include an ombudsman membership application reference number if attainable in your relevant jurisdiction.
13. Do you have any further information that would assist us to assess your application?