



ENERGY & WATER
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Ms Libby Darwin
Acting General Manager, Compliance and Enforcement
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

Submitted by email: AERexemptions@aer.gov.au

30 June 2021

Dear Ms Darwin,

Submission to the AER Updating the Network and Retail Exemption Guidelines Consultation Paper (“AER Exemption Guidelines Consultation”)

The Energy and Water Ombudsman (SA) Limited (“the Scheme” or “Energy & Water Ombudsman SA”) welcomes the opportunity to comment on the AER Exemption Guidelines Consultation.

Energy & Water Ombudsman SA is the independent energy and water ombudsman scheme in South Australia. It receives, investigates and facilitates the resolution of complaints from customers of energy and water providers about (*inter alia*) the connection, supply or sale of electricity, gas or water.

Background

The Scheme has prepared a submission on embedded networks for the South Australian Parliamentary Inquiry into Embedded Networks. That submission includes information about our Embedded Networks Members, cases received and case studies. It is attached as an Appendix to this submission.

Consultation Questions

The Consultation questions to which the Scheme will respond are considered below:

Question 10 Should the information embedded network owners/operators provide prospective customers be standardised?

We support standardising the information embedded network owners or operators must provide prospective customers. We agree with the AER that standardised statements will provide essential information to customers about proposed changes to their supply arrangements and how this will affect them, including advantages and disadvantages.

Question 16 Do stakeholders have a preference – for a broader set of hardship assistance conditions or an exempt seller hardship plan?

We believe an exempt seller hardship plan is appropriate and that this should offer the same level of protections as provided for customers of authorised retailers.

Question 17 What key protections should be included in a hardship policy template for exempt sellers?

See response to question 16.

Question 18 What additional obligations should the core exemption conditions include?

We support customers in embedded networks having equivalent protections to those of customers of authorised retailers in relation to payment difficulties in general, not just hardship provisions.

Question 19 Are there other measures that would facilitate exemption holders' taking up membership of ombudsman schemes?

We believe the AER is best placed to ensure exemption holders take up membership of ombudsman schemes through its compliance and enforcement powers.

Thank you for consideration of this submission. Should you require further information or have any enquiries in relation to this submission, please contact [REDACTED]

Yours sincerely


[REDACTED]

Jo De Silva
Policy and Communications Lead
Energy and Water Ombudsman SA

Appendix A: Energy & Water Ombudsman SA Submission to SA Parliamentary Inquiry on Embedded Networks



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Mr Adam Marafioti
Parliamentary Officer
Economics and Finance Committee
House of Assembly
Parliament of South Australia

[Submitted by email: EFC.Assembly@parliament.sa.gov.au](mailto:EFC.Assembly@parliament.sa.gov.au)

7 May 2021

Dear Mr Marafioti,

Submission to the Economics and Finance Committee's ("the Committee") Inquiry into Embedded Networks in South Australia ("the Inquiry")

The Energy and Water Ombudsman (SA) Limited ("the Scheme" or "Energy & Water Ombudsman SA") welcomes the opportunity to comment on the Committee's Inquiry into Embedded Networks in South Australia.

Energy & Water Ombudsman SA is the independent energy and water ombudsman scheme in South Australia. It receives, investigates and facilitates the resolution of complaints from customers of energy and water providers about (*inter alia*) the connection, supply or sale of electricity, gas or water.

Terms of Reference

The Committee has reported its terms of reference as follows:

- 1) Establish the current state of regulation of embedded networks in South Australia and interstate;
- 2) Establish the positive and negative experiences of those in embedded networks in South Australia;
- 3) Establish the steps being considered to reform embedded networks by COAG Energy Council, including consideration of the Australian Energy Market Commission's Updating the Regulatory Frameworks for Embedded Networks Review; and
- 4) Any other related matters.

This submission addresses 1 - 3 of the Committee's terms of reference.

Current State of Regulation

SOUTH AUSTRALIA

To date, embedded networks and on-sellers of energy have generally been exempt from holding the same obligations as National Electricity Market (“NEM”) retailers. This two-tiered system was intended to reduce regulatory burden and cost. Victoria, which is not part of the NEM, has its own regulatory framework for embedded networks.

Access to independent dispute resolution is available for some embedded network customers, where their embedded network is a Member of an energy ombudsman scheme. Energy & Water Ombudsman SA has 45 energy embedded network Members as of 30 April 2021. This represents 51% of all AER registrable exemption holders who should be ombudsman members. The Scheme continues to actively work with the Australian Energy Regulator (“AER”) to facilitate additional embedded network Members. A list of the Scheme’s embedded network Members is provided at Appendix A.

The Scheme has received a total of 19 embedded network cases since 1 January 2019, when we began accepting embedded network Members. Changes to our governance model, funding arrangements and internal processes enabled embedded network membership of the Scheme, following the updating of the AER’s Network Exemption Guideline and Retail Exemption Guideline to accommodate independent dispute resolution.

There are several potential barriers to a customer bringing a case before the Scheme for resolution. The embedded network service provider or on-seller first must have registered an exemption with the AER and be a Member of the Scheme. Other barriers to access include:

- the landlord/tenant relationship which means that the customer may be reluctant to bring an energy complaint against the party which is also their landlord
- the customer having brought a case to the Scheme before embedded networks were within jurisdiction, and therefore assumes they are still outside jurisdiction
- a lack of effective information to customers about their ability to access independent dispute resolution.¹

Billing issues are the most common case issue that the Scheme receives from embedded network customers.

Positive and Negative Experiences – South Australia

The table below provides a list of case types by primary issue and sub-issues, of the cases received by the Scheme since we started accepting embedded network cases. The highest tier 2 sub-issue is fees and charges, followed by high bills and tariff billing.

Case type	Primary issue	Tier 2 sub-issue	Tier 3 sub-issue
Refer to Higher Level	Billing	Account	Account Details
Conciliation	Billing	Billing Process	Delayed Bill
Conciliation	Billing	Fees and Charges	Supply Charge
Refer to Customer Service	Billing	Fees and Charges	Supply Charge
Refer to Higher Level	Billing	Fees and Charges	Supply Charge
Refer to Customer Service	Billing	Fees and Charges	Supply Charge
Refer to Higher Level	Billing	High	Unexplained Usage

¹ Energy and Water Ombudsman Victoria (“EWOV”) (2021) Submission to Embedded Networks Review

Conciliation	Billing	High	Unexplained Usage
Refer to Higher Level	Billing	High	Unexplained Usage
Refer to Higher Level	Billing	Payment	Refunds
Enquiry	Billing	Tariff billing	Information / Conditions
Refer to Customer Service	Billing	Tariff billing	Incorrect Tariff
Enquiry	Billing	Tariff billing	Rate Increase
Enquiry	Land	Network Infrastructure	Maintenance
Refer to Higher Level	Credit Management	Credit Action Disputed Liability	Current Address
Out of Jurisdiction	General Enquiry	Out of Jurisdiction	Other OOJ
Out of Jurisdiction	General Enquiry	Out of Jurisdiction	Pricing Enquiry
Out of Jurisdiction	Billing	Fees and Charges	Supply Charge
Out of Jurisdiction	Billing	Fees and Charges	Supply Charge

The majority of cases were resolved by referring the customer back to the embedded network - Refer to Customer Service (3 cases) or Refer to Higher Level (6 cases). Only 3 cases proceeded to the stage of the Scheme's dispute resolution process known as Conciliation. Prior to investigating a case, we may facilitate a resolution between the customers and the energy or water service supplier for straightforward matters. The customer is provided with written details of the outcome of a conciliated case. The following case studies are of two of these embedded network conciliated cases.

Case study – Fees and charges

Issues: Billing – Fees and Charges

Utility: Electricity

Customer type: Residential

Case type: Conciliation

The issue:

The customer – a former caravan park resident – contacted the Scheme in early July 2019 to dispute the fairness of the supply charge on his final bill.

He stated that the electricity supply was unsafe, that he reported this to the caravan park staff but his concern was not addressed, and that he therefore stopped using power.

The customer stated he did not use the power for most of the quarter but was still charged a full quarter's supply charge. He also stated that he was only provided 14 days to pay his final bill.

Our review

The supplier advised that a qualified electrical contractor inspected the power supply and confirmed it was safe. The supplier also advised that the customer's agreement provided for the payment of electricity use and a daily supply charge.

Resolution:

The supplier offered to waive the usage charges and offered three months to pay the supply charges. The customer confirmed with us that this resolved his complaint.

Case study – Estimated bill

Issues: Billing – High

Utility: Electricity

Customer type: Residential

Case type: Conciliation

The issue:

The customer – an apartment resident – contacted the scheme in early March 2021 regarding a high final bill.

He stated that he believed a misread of the meter caused the high bill but that his supplier explained it was based on actual usage.

He stated that he was dissatisfied with his supplier's handling of his complaint because his calls were not returned and his supplier refused to provide details of his actual use.

Our review:

We found that the January 2021 bill was underestimated, and the unbilled use was recovered on the final bill issued in March 2021. We found that the supplier billed the actual recorded use overall.

Resolution:

The supplier offered to waive the late fees totaling \$25, provide an additional 5% discount off the final bill, and an extended payment arrangement. The customer was satisfied with the outcome.

Reform Considerations

The Australian Energy Market Commission ("AEMC") has explored reform considerations in its Updating the Regulatory Frameworks for Embedded Networks Review ("the Review"). In the Final Report for the Review, the AEMC explores whether it is appropriate to maintain two tiers of consumer protections for energy customers – a tier for those in embedded networks (fewer protections) and a tier for those served by registered networks and authorised retailers (the Report can be accessed [here](#)). As the Australian Energy Market Commission ("AEMC") made clear in the Review, the AEMC believes this question revolves around which needs are prioritised – the consumer protections of the customers or the business needs of the suppliers.

Having considered the range of issues which consumers in embedded networks present with, it is difficult to determine the reasons for maintenance of a differential system of protections. Reasons for harmonising the available consumer protections include:

- customers in embedded networks present with the same needs that the Scheme explores with customer of registered networks and authorised retailers
- customers in embedded networks may also be vulnerable (e.g. some of those in caravan parks and residential villages), and therefore in need of appropriate consumer protections
- the embedded network sector is growing
- many customers who enter embedded networks do not enter with full knowledge of the implications of their decision.

The AEMC has made the case for “the registration of ENSPs [Embedded Network Service Providers] and the authorisation of on-selling retailers so that customers could be provided the same protections, access to retail market competition and regulatory oversight as standard supply customers.”² In making this case, the AEMC has considered the importance of not placing undue costs on owners and operators of embedded networks. In doing so, the AEMC has come up with a package of reforms which it says seeks to strike a balance between legacy embedded networks and the need for a broader suite of consumer protections. Based on our experience and the reasons above, the Scheme supports consideration by the Inquiry of the recommendations of the AEMC’s Review.

Thank you for consideration of this submission. Should you require further information or have any enquiries in relation to this submission, please contact me on 08 8216 1866.

Yours sincerely



Sandy Canale
Energy and Water Ombudsman SA

² AEMC (2019) Updating the Regulatory Frameworks for Embedded Networks – Final Report at <https://www.aemc.gov.au/market-reviews-advice/updating-regulatory-frameworks-embedded-networks> p.vii

Appendix A: Energy & Water Ombudsman SA Embedded Network Members (Energy)

Electricity Member
GCP (SA) Pty Ltd ATF The Mullaby Family Trust
Boandik Lodge Inc.
Ashbrook Apartments RV Pty Ltd
Coastal Parks Port Willunga Pty Ltd
Voysey Holdings Pty Ltd
James Brown Memorial Trust
Pandora Lifestyle Villages
McLaren Vale Pty Ltd
The Trustee for The Sturt River Park Trust
B A Calvert & G G Calvert
Community Corporation No. 40515, Incorporated
Community Corporation No. 41210, Incorporated
Caravan Park Op Co Pty Ltd
Edwards Hotels Pty Ltd
Community Corporation 26052 Inc
Australian Tourist Park Management Pty Ltd
K Browney & R.W Browney
Community Corporation 41346 Inc
Port Clinton Progress Association Inc
Befficient by GSI Pty Ltd
Pine Country Caravan Park
Woodcroft Park Pty Ltd
Ardrossan Progress Association Inc.
Edithburgh Progress Association Inc.
Highway 1 Caravan & Tourist Park
Sustainable Savings Pty Ltd
Discovery Holiday Parks Pty Ltd
Riverglen Services Pty Ltd
Nuriootpa Centennial Park Authority
Sheryl Pietsch
Burton Lifestyle Villages Pty Ltd
Leabrook Place Pty Ltd
Glenbrook Apartments Pty Ltd
CPE Tonsley Pty Ltd
AKM Syndicate Pty Ltd
Gawler South Tourist Park Pty Ltd ATF The Trustee for Faast Family Trust

Strata Plan No 12753 Inc
Mojo Power Pty Ltd
Cowell Electric Supply Pty Ltd
PowerHub Pty Ltd
The Trustee for Lenneth & Zeuner Trust
Across Australia Parks & Resorts Pty Ltd
U City Energy
Uniting SA Ltd
Gas Member
CPE Tonsley Pty Ltd