



# **Electricity Network Service Provider Registration Exemption Guideline**

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## **Shortened Forms**

<b>ABN</b>	Australian Business Number
<b>ACN</b>	Australian Company Number
<b>AEMO</b>	Australian Energy Market Operator
<b>AER</b>	Australian Energy Regulator
<b>ACCC</b>	Australian Competition and Consumer Commission
<b>ASIC</b>	Australian Securities and Investments Commission
<b>Electricity Law</b>	National Electricity Law
<b>NEL</b>	National Electricity Law
<b>NER</b>	National Electricity Rules
<b>NMI</b>	National Meter Identifier
<b>Public Register</b>	Public Register of Authorised Retailers and Exempt Sellers
<b>Retail Law</b>	National Energy Retail Law
<b>Retail Rules</b>	National Energy Retail Rules
<b>RoLR</b>	Retailer of Last Resort

## Dictionary

**body corporate** 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 *Corporations Act 2001* (Cwlth).

**commencement date** means [Date to be specified: Day Month 2011]

**customer** means a consumer of electricity for primary industry, domestic, commercial or industrial use but does not include a wholesale market customer who is registered by AEMO as a Customer under Chapter 2 of the National Electricity Rules.

**disconnection** of premises means in the case of electricity, the opening of a connection in order to prevent the flow of energy to the premises.

**energy** means electricity.

**energy Ombudsman scheme** means a scheme associated with the energy Ombudsman for the relevant state or territory as prescribed in the National Energy Retail Regulations.

**exempt customer** means a person to whom an exempt person sells energy and who would be a retail customer of the seller if the seller were a retailer.

**exempt person** means a person who is exempted by the AER under a deemed or registered exemption from the requirement to hold a retailer authorisation.

**large customer** means a business customer who consumes energy at business premises at or above the upper consumption threshold of 100 megawatt hours per annum for electricity or 1 terajoule per annum for gas.

**meter** means any device (compliant with metrology requirements and Australian standards) that measures the quantity of energy passing through it or records the consumption of energy at the customer's premises.

**off-market and on-market energy generation** means either **off-market energy generation** or **on-market energy generation**

**off-market energy generation** means an energy generation option not required to be registered with the AEMO under clause 2.5 of the NER and applicable AEMO guidelines.

*Note: The category includes - but is not limited to - small scale diesel, petrol, bio-fuel, gas (incl. coal-seam and other methane sources), fuel cells, thermal-electric, geothermal, solar (incl. photovoltaic), wind or hydro generation and cogeneration and tri-generation installations.*

**on-market energy generation** means an energy generation option required to be registered with the AEMO under clause 2.5 of the NER and applicable AEMO guidelines.

*Note: The category includes - but is not limited to - small scale diesel, petrol, bio-fuel, gas (incl. coal-seam and other methane sources), fuel cells, thermal-electric, geothermal, solar (incl. photovoltaic), wind or hydro generation and cogeneration and tri-generation installations.*

**onselling** means an arrangement where a person acquires energy from a retailer following which the person acquiring the energy or a person acting on their behalf sells energy for use within the limits of premises owned, occupied or operated by the person.

**residential customer** means a customer who purchases energy principally for personal, household or domestic use at premises.

**retailer** means a person who is the holder of a retailer authorisation for the purposes of section 88 of the Retail Law.

**small customer** means a customer—

1. who is a residential customer, or
2. who is a business customer who consumes energy at business premises below the upper consumption threshold of 100 megawatt hours per annum for electricity or 1 terajoule per annum for gas.

## **Part A – Introduction and exemption classes**

### ***1. Introduction***

This Guideline relates to an embedded or exempt network. An embedded or exempt network means any network for the supply of electrical energy to a third party, but not a transmission or distribution network registered with the Australian Energy Market Operator (AEMO). Persons involved in the onselling of electricity may, depending on their circumstances, need to conform both to this Guideline and the Australian Energy Regulator's (AER) guideline for retail exemptions, the Exempt Selling Guideline.

The Network Service Provider Registration Exemption Guideline (network Guideline) replaces the two network exemption guidelines issued by the National Electricity Code Administrator. These guidelines were inherited by the AER in the transfer of functions when the AER formed in 2005. They have remained unchanged since.

In this Guideline the terms 'embedded network' and 'exempt network' and 'embedded or exempt network' are interchangeable. The terms refer to the physical assets that deliver electricity to another person or party and include for example any wires, switches, meters, transformers or other electrical equipment owned, operated or controlled by the applicant. Anyone, no matter how small the network, who supplies electricity to another person over an embedded network of any kind is providing an electricity distribution service. An exemption may be required for any network by which electricity is supplied to another party, be that party a legal person, corporation, government department or statutory body of any kind.

Under the National Electricity Law (NEL) and the National Electricity Rules (NER) a party that engages in an electricity distribution activity must either be registered with AEMO as an electricity distributor or gain an exemption from the requirement to be a registered network service provider from the AER. The granting of an exemption can also potentially relieve a network owner/operator or controller of the requirement to comply with the technical requirements set out in Chapter 5 of the NER and/or the obligation to provide other network suppliers and other registered participants in the NEM with access to its network and other obligations which exist under the NER, but not safety and related requirements.

Most small network owners/operators will want to avoid the onerous and costly requirements to register with AEMO as a distributor. The AER's Guideline sets out for eligible classes of distribution activity the requirements which must be met for an exemption to apply.

Note that unlike an exemption obtained under the Retail Law, an exemption under the NEL must, in accordance with this Guideline, be granted by the AER. To align this process as closely as possible with the equivalent provisions in the Retail Law the AER will accept deemed and registrable exemptions as compliant, subject to fulfilling the requirements set out in this Guideline. Only applications for individual exemption, which includes applications for a variation, will be subject to a formal determination by the AER. The AER will review, and if necessary, modify this approach on the basis of the observed market outcomes.

The AER's requirements governing exemptions from retail onselling registration are set out in the AER's Exempt Selling Guideline, which should be read in close conjunction with this Guideline in any situation where the onselling of electricity to another party arises. In this context the term 'onselling' has very broad connotations. It may include all manner of situations including residential boarding houses, flats, apartments, retirement villages, caravan parks, retail centres, strata title, industrial parks, office building, mining facilities, joint venture arrangements, quasi-retail or distribution arrangements and third-party connections to generators to name but a few examples.

This Guideline is issued in accordance with clause 2.5.1 of the NER. In particular, the Guideline is concerned with conditions for exempting a party from registration as a network service provider and/or the operation of chapter 5 of the NER. All previous AER network exemption guidelines have been revoked, however, all existing individual exemptions made by the AER remain in place and are unaffected by the issue of the Guideline. Pre-existing deemed exemptions must comply with this guideline including, where required, registration of the network with the AER as provided for in this Guideline.

Note that the Guideline is not applicable to network assets registered with AEMO by a registered network service provider. Nor does this Guideline apply to an exempt network which is registered by an *intermediary* under clause 2.9.3 of the NER.<sup>1</sup>

Historically, in some jurisdictions a distinction may exist between networks exempted by the AER and published as such ('exempt networks') and networks determined by the activity undertaken within the network to be 'embedded' networks. This latter category included caravan parks, strata title premises, shopping centres, office buildings and the like.

In this Guideline the AER has adopted a modified approach closely aligned to the Exempt Selling Guideline approach to categorisation. The key regulatory factor is whether the network is providing electricity to a third party for any reason. As is the case in the Exempt Selling Guideline, two broad exemption categories are defined – deemed exemptions and registrable exemptions. Within these two categories a number of classes are described for a range of activities.

Deemed exemptions are described in Table 1 for a number of network activities, along with details of the parties to whom the exemption applies, subject to strict observance of the conditions detailed in Part B of the Guideline. Deemed exemptions have restricted application. Penalties may apply to any party who wrongly claims to be eligible for a deemed exemption.

Registrable exemptions are described in

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<sup>1</sup> An *intermediary* is, as per the NER, a registered network service provider.



Table 2 for a number of network activities, along with details of the parties to whom the exemption applies both during and after a transition period, and subject to strict observance of the conditions detailed in Part B of the Guideline.

Compliance with all the relevant conditions set out in the Guideline is a mandatory requirement for a network service provider exemption issued by the AER to be valid. Non-compliance may result in penalties in accordance with the provisions of section 11 of the NEL.

The intention of the AER is to align the deemed and registrable exemption classes herein with the equivalent classes set out in the AER's Exempt Selling Guideline. Should any inconsistency in interpretation arise between the two guidelines the AER will have regard to the Exempt Selling Guideline in resolving the inconsistency.

The NEL also provides for individual exemptions which are a single category described in Table 3. Applications for individual exemptions and for variations of conditions will be subject to rigorous scrutiny and will only be granted in exceptional circumstances. They will also be subject to a careful examination of public benefits and any detriments to customers. They are registrable and will be published as such.

## ***2. Deemed Exemption Classes***

Subject to compliance with the activity description set out in Table 1 and the relevant conditions, no application is required for a deemed exemption to apply.

The conditions set out in sections 5, 6, 7, 9(1) and 10 of Part B of the Guideline apply to all deemed exemptions except classes NDO2 and NDO3. For classes NDO2 and NDO3 section 5(3) applies.

**Table 1 – Deemed classes of exemption**

<b>Class</b>	<b>Activity</b>	<b>Deemed exemption applicable to:</b>
<i>ND1</i>	Bodies corporate or owners' corporations that pass on the cost of unmetered energy for common areas through body corporate fees	Current and future onsellers
<i>ND2</i>	Metered energy onselling by residential landlords or lessors to less than 12 residences	Current onsellers and onsellers who commence operation prior to 1 January 2015
<i>ND3</i>	Metered energy onselling to short term residents in holiday accommodation	Current onsellers and onsellers who commence operation prior to 1 January 2015
<i>ND4</i>	Energy onselling in residential situations not covered under residential tenancy legislation	Current onsellers and onsellers who commence operation prior to 1 January 2015
<i>ND5</i>	There is no class ND5 – the equivalent retail guideline class applies only to gas onselling	Not applicable
<i>ND6</i>	Persons onselling unmetered electricity in Queensland to small customers for use within the limits of a site that they own, occupy or operate	Current onsellers and onsellers who commence operation prior to 1 January 2015
<i>ND7</i>	Landlords or lessors passing on common area energy costs to premises in commercial developments	Current and future onsellers
<i>ND8</i>	Exemption for persons engaged in the onselling of energy to a related company	Current and future onsellers
<i>NDO1</i> <sup>2</sup>	Off-market energy generation by equipment owned, operated or controlled by a third-party and connected to the NEM via a private electricity connection	Energy generation installations not intended to supply network support or demand management services to the NEM
<i>NDO2</i>	Temporary supply for the construction and commissioning phase of building, civil, construction industrial, transport, mining or other projects	Incidental supply at cost to facilitate bona fide construction and commissioning of new facilities on the same or an adjoining site
<i>NDO3</i> <sup>3</sup>	Electric vehicle charging station within an embedded network	Current and future onsellers subject to an agreed commercial arrangement

Note: Classes of exemption in the network Guideline are labelled 'ND\_' are 'network deemed' classes and are aligned to the Exempt Selling Guideline. Applicants should refer to Attachment 1 of the Exempt Selling Guideline to determine eligibility for a deemed exemption.

Classes of exemption labelled 'NDO\_' are 'network deemed other' classes, and have no equivalent class in the Exempt Selling Guideline. Applicants should refer to the network Guideline to determine eligibility for a network deemed exemption.

<sup>2</sup> This category applies only to the network to which the generator is connected. Generator registration and exemptions are handled by AEMO.

<sup>3</sup> Note that no exemption is required if the charging facility is directly connected to a distributor.

### ***3. Registrable Exemption Classes***

Table 2 sets out the classes of registrable exemption. Parties who believe a registrable exemption is applicable to their current circumstances must, without undue delay, complete the registration requirements set out in section 11 in Part C of this Guideline.

The conditions set out in sections 5, 6, 7, 8, 9 and 10 of Part B of the Guideline apply to all registrable exemptions unless specifically varied by a decision of the AER.

### ***4. Individual Exemption***

Class NRI in Table 3 refers to exemptions specific to the circumstances of the applicant. This will apply in circumstances where an applicant is unable to conform to all of the conditions applicable to any relevant class of registrable exemption or where no class exists which covers the activities for which the applicant seeks exemption.

The conditions set out in sections 5, 6, 7, 8, 9 and 10 of Part B of the Guideline apply to all individual exemptions unless specifically varied by a decision of the AER. Where an application for individual exemption or for a variation of conditions is required, it must be made in the form set out in section 12 in Part C of this Guideline.

Individual exemptions are subject to consultation with affected stakeholders before a determination is made. This consultation may affect only a small number of parties if a small private network is involved or, where an application has potential to affect larger groups of customers, may involve a formal public process. In accordance with clause 2.5.1 of the NER the AER will decide the scope of consultation on a case by case basis.

**Table 2 – Registrable classes of exemption**

<b>Class</b>	<b>Activity</b>	<b>Registrable exemption</b>	<b>Application for individual exemption</b>
<i>NR1</i>	Energy onselling by commercial/ retail landlords or lessors.	Registrable for current onsellers and those who commence onselling before 1 January 2015	Required for those who commence onselling on or after 1 January 2015.
<i>NR2</i>	Persons operating under state or territory strata title (or similar) legislation and onselling metered energy.	Registrable for current onsellers and those who commence onselling before 1 January 2015	Required for those who commence onselling on or after 1 January 2015.
<i>NR3</i>	Retirement villages operating under state or territory retirement village legislation and onselling metered energy.	Registrable for onsellers commencing onselling before 1 January 2015	Required for those who commence onselling on or after 1 January 2015.
<i>NR4</i>	Metered energy onselling in caravan parks, residential parks and manufactured home estates to residents who principally reside there.	Registrable for current and future onsellers	Only where exempt seller believes conditions of exemption are not appropriate for their situation.
<i>NR5</i>	Persons engaged in onselling metered energy to large customers.	Registrable for current and future onsellers	Only where exempt seller believes conditions of exemption are not appropriate for their situation
<i>NRO1<sup>4</sup></i>	<i>Off-market energy generation</i> by equipment owned, operated or controlled by a third-party and connected to the NEM via a private electricity connection	Energy generation installations intended to supply network support or demand management services to the NEM	Only where exempt party believes conditions of exemption are not appropriate for their situation
<i>NRO2<sup>5</sup></i>	<i>On-market energy generation</i> by equipment owned, operated or controlled by a third-party and connected to the NEM via a private electricity connection	Energy generation installations required to be registered with AEMO	Only where exempt party believes conditions of exemption are not appropriate for their situation

Note: Classes of exemption in the network Guideline are labelled ‘NR\_’ are ‘network registrable’ classes and are aligned to the Exempt Selling Guideline. Applicants should refer to Attachment 2 of the Exempt Selling Guideline to determine eligibility for a registrable exemption.

Classes of exemption labelled ‘NRO\_’ are ‘network registrable other’ classes, and have no equivalent class in the Exempt Selling Guideline. Applicants should refer to the network Guideline to determine eligibility for a network registrable exemption.

<sup>4</sup> This category applies only to the network to which the generator is connected. Generator registration and exemptions are administered by AEMO.

<sup>5</sup> This category applies only to the network to which the generator is connected. Generator registration and exemptions are administered by AEMO.

**Table 3 –Individual exemption class**

<b>Class</b>	<b>Activity</b>	<b>Registrable exemption</b>	<b>Application for individual exemption</b>
<i>NRI</i>	Specific exemption of a network not otherwise described	All approved applications	Detailed application required

Note: Exemption class 'NRI' is 'network registrable individual' exemption and has no equivalent in the Exempt Selling Guidelines. It applies to exemptions to individuals made in accordance with clause 2.5.1 of the NER.

## Part B - Conditions

### 5. General requirements

The following conditions are applicable from the *commencement date* to all exempt or embedded networks unless varied in writing by the AER. These conditions will only be varied in response to a written application (see section 12) demonstrating that exceptional circumstances apply such that a material detriment to customers will be significantly reduced or eliminated by varying these conditions.

- 1) All meters used for the measurement of electrical energy whether delivered to, or exported by, a customer must comply with the requirements of the National Measurement Institute for electricity meters and sub-meters and with the requirements set out in schedule 7.2 of the NER.
- 2) All customers must be individually metered except where the AER has determined an unmetered supply is permitted.<sup>6</sup>
- 3) All embedded or exempt networks must, at all times, be installed, operated and maintained in accordance with all applicable requirements within the jurisdiction in which the network is located for the safety of persons and property, including where relevant an industry Code or Guideline otherwise applicable to a network service provider providing similar services. This includes, where applicable, an obligation to have current, and/or maintain, a safety management plan or similar, whether registered or unregistered with a competent safety authority or regulatory agency within that jurisdiction.
- 4) All onselling conducted within the exempt network must be undertaken by:
  - a) a registered market retailer; or
  - b) by the holder of a valid retail exemption registered with the AER; or
  - c) by a party or parties entitled to a deemed retail onselling exemption in accordance with the current AER Exempt Selling Guideline.
- 5) An embedded or exempt network must have in place approved dispute resolution procedures. Where retail onselling is occurring under the Retail Law and a dispute resolution mechanism is available under that Law, the same arrangement may apply for the resolution of disputes. In all other circumstances a suitable dispute resolution mechanism must be specified in the formal agreements between the network owner (or its appointed agent) and the end-use customer.<sup>7,8</sup>
- 6) Where a single customer has energy delivered to adjoining sites (not necessarily adjacent sites) or to multiple exempt sites within a jurisdiction and the sites are

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<sup>6</sup> The AER does not approve unmetered supplies except in unique or exceptional circumstances. Existing unmetered supplies in accordance with class ND7 are permitted.

<sup>7</sup> For acceptance by the AER, a dispute resolution mechanism must be of a type ordinarily applicable to disputes of the kind, be reasonably accessible, timely, binding on the parties to the dispute and not subject to excessive or unnecessary costs nor to costs disproportionate to the amount in dispute.

<sup>8</sup> Where a network owner or operator appoints an agent, the principal remains responsible for ensuring this condition is satisfied.

subject to a common supply arrangement and suitable metering is installed, meter readings for that customer may be aggregated for corresponding time periods.<sup>9</sup>

- 7) Applications for exemption are personal to the applicant. They are not transferable.
- 8) The AER may revoke an exemption at any time or may vary the conditions from time-to-time. If the AER does so it will notify a registered applicant using the registered contact details or otherwise, in accordance with the procedures set out in the NER.

## **6. Metering Installation**

The following requirements relate to all new installations and to any reconfiguration of an existing network on or after the *commencement date*. Note that although the AER does not require pre-existing metering installations to be upgraded, network owners and operators must ensure that all metering installations used in embedded or exempt networks are compliant with the requirements of the National Measurement Institute.

Meters installed prior to the *commencement date* may be subject to the terms of an exemption issued by the National Measurement Institute as amended from time-to-time. Operation of a metering installation other than in accordance with a valid exemption or approval issued by the National Measurement Institute may expose the network owner or operator, or both, to penalties or financial liability.

Transmission networks:

- 1) Metering in electricity transmission networks must be installed in accordance with all reasonable requirements of AEMO and otherwise, in accordance with the requirements specified in a connection agreement with a network service provider, whether that network service provider is registered with AEMO or exempted by the AER from registration.<sup>10</sup>

In all other situations meters must either:

- 2) be installed in a reasonably accessible location with suitable access to facilitate meter reading, whether for billing purposes or customer information or
- 3) have remote facilities to permit access to current metering data either by a readout device or by electronic means including via a web portal or other equivalent facility.<sup>11</sup>

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<sup>9</sup> 'Suitable metering' means meters that record energy to the same accuracy class and equivalent time intervals, but not necessarily meters of identical design. 'Exempt sites' refers to exempt networks. This condition does not require that meter readings must be aggregated: it only permits them to be aggregated if a commercial agreement exists to do so.

<sup>10</sup> A transmission network as defined in the National Electricity Rules is nominally one which operates at voltages of 220 kV and above or, subject to a determination by the AER, at lower voltages in parallel with and providing support to the main transmission network.

<sup>11</sup> Note: Where a meter is provided for use by a registered retailer, clauses 6(2) & (3) may not apply.

**Off-market and on-market energy generation:**

All *off-market and on-market energy generation* installations, whether connected directly or indirectly to a NEM distribution network, must be metered in accordance with the applicable requirements for direct connection to the NEM distribution or, where applicable, transmission network. Further details are available from the local electricity distribution or transmission network service provider. Additional requirements of AEMO may also apply.

**Electric vehicle charging facilities:**

This section only applies to a battery charging facility connected within an embedded network. Battery charging facilities directly connected to the NEM are considered a load and will be metered as such. The supply of electricity from a battery charging facility for transport use is a value-added service to the transport sector, which service is not regulated by the AER. The AER notes that the metering of energy supplied for this purpose will be subject to the general requirements for accuracy applicable to commercial, industrial or retail trade supplies under other legislation.

**7. Metering Accuracy**

Meters used within exempt and embedded networks must be pattern approved, consistent with the requirements of the National Measurement Institute, in accordance with the equivalent requirements for NEM electricity meters and to accuracy classes as stipulated in schedule 7.2 of the NER, unless otherwise exempted by the National Measurement Institute.

**8. AEMO & NEM requirements**

- 1) In jurisdictions where customers of embedded or exempt networks have access to full retail competition all metering arrangements must comply with all applicable AEMO requirements for, the installation and maintenance of a metering installation, the registration of meters, provision of metering data and, where necessary, the transfer of the customer to another retailer. An exempt or embedded network operator may be required to appoint an accredited metering service provider or other registered NEM participant, as appropriate, to act as its agent for the provision, installation, registration and maintenance of the metering installation.
- 2) All operators of embedded or exempt networks must comply with the reasonable requests of a local Distribution Network Service Provider (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.
- 3) Electrical networks may be subject to mandatory load shedding requirements in emergency situations, in accordance with the NER. This requirement will generally be specified by the local DNSP in the connection agreement for the connection to the NEM system.



- 4) Where notified by a customer of the existence of a requirement to maintain supply for life support equipment, the embedded or exempt network operator must, without undue delay, promptly notify the local DNSP of the existence of a life support requirement in accordance with the reasonable requirements of the local DNSP.

## ***9. Distribution Loss Factors***

Distribution loss factors are governed by clause 3.6.3 of the NER. Under clause 3.6.3(b)(2)(i)(B) a ‘small load’ is any load or a collection of loads which, in total, is less than 10MW peak demand or 40 GWh per annum.

In exempt and embedded networks which in aggregate constitute a ‘small load’ and which serve a number of smaller loads (‘children’) the AER considers that network losses within the network will generally not be of sufficient magnitude to warrant adopting a loss factor within the network that is different to the loss factor that applies at the metered point of connection of the embedded network to the local distribution network – i.e. at the ‘parent’ meter. However, although the children may each be small loads, the combined loading may result in an embedded network becoming a significant load, in which case clause 9(2) or 9(3) will apply.

- 1) For small loads the loss factor applicable to the ‘parent’ meter can apply to all the ‘child’ meters within the installation (i.e. the distribution loss factor determined by the local DNSP in accordance with clause 3.6.3(b)(2)(ii) of the NER). This approach will relieve the operator of an embedded or exempt network of any requirement to calculate and seek annual approval of a distribution loss factor for the child meters within that network.

For larger loads, generators and site specific loss factors:

- 2) Clause 3.6.3(b)(2)(i) of the NER applies to the calculation of a loss factor for large loads and generators connected to a network. In exempt and embedded networks involving loads or generators otherwise described in clause 3.6.3(b)(2)(i) a site specific loss factor for those loads or generators must be calculated in accordance with clause 3.6.3(b)(2)(i) using the methodology published for this purpose by the local DNSP.<sup>12</sup>
- 3) Where the methodology of the local DNSP is not suitable for the calculation of a site specific loss factor for any reason, the network operator and the connecting party may jointly approach the AER and seek approval of an alternative methodology for determining the applicable allocation of electrical losses between the parties. Approval by the AER will be subject to there being no material impact on the rights of another party as a consequence of the alternative mechanism.

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<sup>12</sup> The NER specifies that the methodology for the calculation of distribution loss factors is either the methodology published by the local DNSP or as published by the AER. The AER has reviewed the methodologies of all DNSPs and concluded they are fit for purpose. Moreover, the AER currently considers publishing a single national methodology would result in significant disruption in a number of jurisdictions to existing pricing arrangements and unduly impact consumers.

Note that distribution loss factors, including site specific distribution loss factors, must be approved annually by the AER in accordance with the NER, clause 3.6.3(i).

## **10.Pricing**

The following paragraphs describe predefined pricing arrangements accepted by the AER for network charges in embedded and exempt networks. Acceptance by the AER of a network charging mechanism is predicated on a requirement that there must not be a sustained over-recovery of any network charge. Where an over-recovery occurs, it is required to be rebated to customers at intervals of not more than annually. Note that the energy component of any charge is subject to the Exempt Selling Guideline.

### **External network charges**

External network charges may be levied by a registered NEM network service provider and charged to the parent meter in an embedded or exempt network. These charges are known variously as ‘transmission use of system charges’ (TUOS), ‘distribution use of system charges’ (DUOS) and ‘network use of system’ (NUOS) charges depending on the State in which the network is located. Such charges may be apportioned to each customer in an embedded network on a ‘causer pays’ basis in proportion to the metered energy consumption of each customer over the equivalent period no matter which charge group or groups apply (see Table 3).

### **Internal network charges**

The AER does not encourage separate network charges for embedded or exempt networks. Few, if any, situations currently exist where such charges are warranted. The formal determination of networks charges by the AER is a complex and involved process, the costs of which will usually be disproportionate to the scale of an embedded network.

**Table 3 – Network charges – applicable charge groupings**

<b>Charge Group</b>	<b>Description</b>	<b>Applicable situations</b>
A	Bundled energy and external network tariff	All retail onselling
B	No additional network charge	Unrestricted
C	Value added services	Registered exempt networks only. Greater than 160MWh p.a. usage. Charging mechanism specified in a commercial agreement.
D	Separate charge for embedded network facilities	Registered exempt networks only. Pricing determined by the AER.
E	Rebate for exported energy	Unrestricted

## **Group A**

May apply to any retail onselling situation where customers are charged an energy only charge or all-inclusive tariff which includes external network charges. Many energy consumers are ultimately concerned with the overall expense of their energy consumption. The critical point of comparison in this situation is the bundled price of energy and network charges. The AER considers that bundled tariffs which include all network charges are unlikely to be contrary to the long term interests of consumers.

## **Group B**

No charge is made for the embedded network. May apply in any embedded or exempt network situation.

Where an embedded network exists within a commercial building, shopping centre, retirement village or the like the AER considers the network development costs to have been met in the initial establishment of the facility. Such costs are capital in nature 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. Accordingly, no charge is permitted for energy network services.

Note that the agreed cost for the establishment or upgrade of a network to meet customer requirements may still occur in accordance with a bona fide lease or ancillary agreement between the network owner, operator or controller (as appropriate) and the network customer. Such charges may be subject to normal commercial financing arrangements.

## **Group C**

Applicable to registered exempt networks and individual approval by the AER in accordance with section 12 of this Guideline. The network proprietor provides additional services to customers of the network such as on-site fault repair services. This group is intended to apply to large commercial, industrial and mining situations with metered loads greater than 160 MWh per annum or on-site generation exporting to the NEM.

Where it can be demonstrated that access to the NEM would not otherwise be available except at significant cost to the affected customers, the network may service supporting infrastructure, isolated communities, emergency services, farms and pastoral holdings and unrelated loads or generators on reasonable commercial terms.

## **Group D**

Exemptions in this category will only be contemplated in exceptional circumstances and require individual approval by the AER in accordance with section 12 of this Guideline. Parties wishing to earn a commercial return on network assets should generally register as a network service provider. Service providers would need to demonstrate NEM registration and compliance costs would be disproportionate to the size of the community to be served by the network and that compelling grounds exist for an exemption to be considered.

## **Group E**

Where a generator within an embedded or exempt network earns credits for energy exported to the NEM all credits remain the property of the embedded generator. All credits must be rebated to the embedded generator or, if more than one, to each embedded generator in proportion to the credits earned.

## **Part C – Registration, Applications and Revocation**

### ***11. Registrable exemption information requirements***

Registrable exemptions do not require an application to the AER, but cover network activities that must be registered with the AER to receive the benefit of an exemption.

Applicants must submit the following information to register a registrable exemption:

- responsible person contact details, including physical address, email address, and telephone contact numbers;
- location of the embedded or exempt network;
- the name of the NEM registered service provider to whom the network connects;
- nature of the activities conducted which require exemption;
- applicable class of exemption;
- date activities commenced (may be ongoing);
- applicable dispute resolution mechanism;
- applicable enhanced safety management obligations;
- charging group;
- distribution loss factor category; and
- if relevant, the name(s) of any NEM metering service provider(s).

Registrable exemption forms can be downloaded from the AER's website and must be made in writing and be submitted electronically to the AER at [AERInquiry@ aer.gov.au](mailto:AERInquiry@ aer.gov.au), in accordance with information requirements set out above. The AER has developed a single registration process for both the network Guideline and Exempt Selling Guideline to facilitate applicants seeking an exemption from both sets of requirements.

The AER will acknowledge all registrations with a reply email and provide details of a contact person within the AER who will respond to any inquiries regarding the registration. If any of the information provided to the AER for the purposes of registration changes during or after registration, the AER should be notified within 10 business days of the change to ensure that registered exemption remains valid.

The registered exemption applies to the operator for a particular site from the time they are entered on the Register of Exempt Networks.

Should an affected party seek to vary any conditions associated with a registrable exemption, they no longer meet the requirements for a registrable exemption and would need to apply for an individual exemption.

## ***12. Application for individual exemption or variation of conditions***

Individual exemptions are granted by application to the AER on a case-by-case basis for network activities that do not meet the criteria for a deemed or registrable exemption.

Applicants must submit the following information to apply for an individual exemption:

- the name of every party for whom exemption is sought;
- the nature of the normal business activities of the applicant;
- if the application is made by an authorised agent, proof of authority for the agent to act on behalf of each named applicant;
- 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);
- a description of the parties connected to, or likely to connect to, or otherwise obtain services from the network;
- 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;
- whether the applicants is seeking (or has 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;
- whether they are seeking exemption from the requirement to register as an NSP or from the application of chapter 5 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);
- details of the registered NSP to whom the network is, or will be, connected;
- details of any preliminary discussions which have taken place between the applicant and the NSP;
- the arrangements proposed for setting network charges for parties using the network;
- mailing details for all stakeholders affected by the grant of an individual exemption;
- the arrangements proposed for energy charges (e.g. fixed percentage of total costs or direct access to retailers by tenants); and
- 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 can be downloaded from the AER's website, must be made in writing and be submitted electronically to the AER at [AERInquiry@ aer.gov.au](mailto:AERInquiry@ aer.gov.au). The AER has developed a single application process for

both the network Guideline and Exempt Selling Guideline to facilitate applicants seeking an exemption from both sets of requirements.

The AER will acknowledge all individual exemption applications with a reply email and provide details of a contact person within the AER who will respond to any inquiries regarding the application. If any of the information provided to the AER for changes during or after the individual exemption application is made, the AER should be promptly notified of the change.

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

The AER is empowered to consult affected stakeholders on any application for exemption. This consultation may affect only a small number of parties if a small private network is involved or, where an application has potential to affect larger groups of customers, may involve a formal public process. In accordance with clause 2.5.1 of the NER, the AER will decide the scope of consultation on a case-by-case basis.

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.

The individual exemption applies to an operator for a particular site from the time they are entered on the Register of Exempt Networks. The AER will inform the applicant of the AER's decision regarding the application for the grant or variation of the individual exemption.

### ***13. Revocation of an exemption***

The AER can revoke any network exemption granted including an exemption for a network operating under a deemed exemption or a registered exemption. The grounds for revocation are that the AER is satisfied that there has been a material failure by the exempt party to meet the conditions imposed on them. We will consider what constitutes a 'material failure' on a case by case basis as matters come to our attention. In general, the AER will conclude there to have been a material failure by an exempt party where there is:

1. an unacceptable impact on a connected network or
2. on unacceptable impact on national electricity market operations as a result of the operation of the network or
3. the exempt party 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 their customers.

Subject always to there being no immediate threat to the health or safety of any party served by an exempt network and there being no adverse impact on a connected network or on market operations, the AER will align its process for revocation of a network exemption to the equivalent process imposed in Section 120 of the Retail Law for retail matters. This process includes the following steps:

1. the AER will first give the exempt seller a notice that it intends to revoke the exemption, and the reasons why the AER considers that grounds for revocation exist.
2. the exempt seller must respond to the notice in writing during the time specified by the AER, showing why the exemption should not be revoked and proposing actions the exempt seller will take to rectify the problem.

If we are not satisfied with the exempt party's response, we may fix a time for the revocation to take effect and inform the exempt party of any conditions with which they must comply. 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 National Electricity Law, which prohibits the operation of a network without registration or exemption or a derogation.