

# Notice of Draft

Network Exemptions Guideline  
(Version 7)

October 2022

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# 1 About this document

## 1.1 Introduction

The Notice of Draft (Notice) accompanies the AER's draft Network Exemptions Guideline Version 7 (Guideline), formerly named the *Electricity Network Service Provider – Registration Exemption Guideline*.

We are now consulting on the draft Guideline version 7 with proposed changes that reflect the AER's draft position on issues raised in the consultation paper.<sup>1</sup> This Notice sets out our draft report<sup>2</sup> about submissions received to the consultation paper and stakeholder engagement along with our:

- conclusions, and any determinations made
- procedures followed in considering matters, and
- summary of material issues and responses.<sup>3</sup>

The draft Guideline and Notice provides stakeholders that are affected by, or have an interest in, the AER's Network Exemptions Guideline the opportunity to provide feedback on our proposed amendments. We acknowledge there are broader policy discussions relating to network exemptions that are beyond the scope of the review of the Guideline. Our proposed changes are informed within the scope of stakeholder feedback to the consultation paper.

Such proposed changes include:

- appointing a 'primary registrant' for certain network exemption conditions
- regulating exempt networks that host Small Generation Aggregators (SGAs)
- clarifying Embedded Network Manager (ENM) obligations
- clarifying explicit informed consent (EIC) requirements for retrofits, and
- introducing further consumer protections relating to disconnections.

In line with the aim of the review, we also propose amendments to:

- streamline the Guideline and improve its consistency with the Retail Exempt Selling Guideline
- clarify certain concepts in the Guideline and exemption conditions, and
- improve protections for embedded networks customers, including arrangements for continuity of supply.

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<sup>1</sup> [Updating the Network and Retail Exemption Guidelines – Consultation Paper](#), May 2021.

<sup>2</sup> NER, cl 8.9(g)(1)-(4).

<sup>3</sup> In valid written submissions received or in meetings held.

## 1.2 Role of the draft Guideline

Under the National Electricity Law (NEL)<sup>4</sup>, any person who owns, controls or operates a transmission or distribution system that forms part of the interconnected national electricity system must either be:

- a registered Network Service Provider (NSP),<sup>5</sup> or
- an 'exempt' NSP.<sup>6</sup>

Under the National Electricity Rules (NER),<sup>7</sup> the AER may exempt any person (or class of person) who must otherwise be a registered NSP according to guidelines it issues from time to time. The AER must develop and issue this Guideline according to consultation procedures<sup>8</sup> which include stakeholder engagement.<sup>9</sup>

Our proposed draft Guideline sets out:

- our approach to network exemptions and how to register or apply for an exemption, and
- the conditions imposed on parties under each exemption class.

It includes the various classes of exemption relating to activities ranging from:

- small networks within a single building (such as shopping centres) or sites (such as caravan parks), to
- large rural networks serving primary production facilities.

A key aim of the draft Guideline is to protect consumers within those networks, by imposing conditions on exempt NSPs. These mostly reflect obligations imposed on registered NSPs with AEMO under the regulatory framework – except where they are not suitable for exempt NSPs.

The draft Guideline:

- explains what network exemptions are and how they work
- provides information to help network owners, controllers or operators determine if they need an exemption
- explains what type of exemption might be appropriate
- explains how to obtain an exemption
- outlines what the AER considers when assessing individual exemption applications, and

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<sup>4</sup> NEL, s 11(2).

<sup>5</sup> With the Australian Energy Market Operator (AEMO).

<sup>6</sup> Where it is not appropriate or practical to be a registered NSP.

<sup>7</sup> NER, cl 2.5.1(d).

<sup>8</sup> NER, cl 2.5.1(e).

<sup>9</sup> This includes AEMO Registered Participants and State and Territory authorities who administer electricity legislation.

- details the conditions attached to various classes of exemption.

### 1.3 Definitions and interpretation

Unless otherwise stated, key words and phrases in this document take their meaning from:

- the glossary to the draft Guideline, or
- the NEL and NER if undefined in the glossary.

### 1.4 Background to consultation

In May 2021, the AER commenced a review of its Network Exemptions Guideline<sup>10</sup> Version 6 and Retail Exempt Selling Guideline Version 5<sup>11</sup> and published the consultation paper. The issues raised in the consultation paper were informed by stakeholder concerns and complaints and queries we received regarding the guidelines. Submissions closed on 30 June 2021 with those received published on our website.<sup>12</sup>

On 15 July 2022, the AER published its final Retail Exempt Selling Guideline Version 6 and Notice of Final Instrument,<sup>13</sup> including newly established documents:

- AER factsheet – *How to access an authorised retailer of your choice if you live in an embedded network*, and
- Exempt Seller Hardship Policy template.

At the same time, the AER released the following factsheets as part of an education strategy to accompany the release of the final Retail Exempt Selling Guideline:

- *AER factsheet – Energy exempt sellers – Your requirements and obligations regarding residential customers*
- *AER factsheet – Energy exempt sellers – Your requirements and obligations regarding small business customers*

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<sup>10</sup> <https://www.aer.gov.au/networks-pipelines/guidelines-schemes-models-reviews/network-service-provider-registration-exemption-guideline-review-2021>

<sup>11</sup> <https://www.aer.gov.au/retail-markets/guidelines-reviews/retail-exempt-selling-guideline-review-2021>

<sup>12</sup> <https://www.aer.gov.au/retail-markets/guidelines-reviews/retail-exempt-selling-guideline-review-2021/initiation#step-76740>

<sup>13</sup> <https://www.aer.gov.au/retail-markets/guidelines-reviews/retail-exempt-selling-guideline-july-2022/final-decision>

## 2 Purpose of this Notice

As part of the NER consultation procedures, the AER must invite written submissions on its draft report<sup>14</sup> about proposed changes to the Guideline. We explain these changes and their rationale in sections 3 to 10 of this Notice.

We welcome stakeholder comment on the proposed amendments to the draft Guideline and, in particular, the drafting of any varied or further exemption conditions. We welcome submissions from exempt NSPs, customers and other interested parties.

### 2.1 How to make submissions

Interested parties may make written submissions on the draft report and draft Guideline by close of business, **9 December 2022**.

Submissions should be sent electronically to [AERexemptions@aer.gov.au](mailto:AERexemptions@aer.gov.au)

Alternatively, submissions can be mailed to:

Rowena Park, General Manager – Compliance and Enforcement Branch  
Australian Energy Regulator  
GPO Box 3130  
Canberra ACT 2601

### 2.2 Publishing of submissions

The AER prefers that all submissions be publicly available to facilitate an informed and transparent consultative process. Submissions will be treated as public documents unless otherwise requested.

Parties wishing to submit confidential information are requested to:

- clearly identify the information that is the subject of the confidentiality claim; and
- provide a non-confidential version of the submission in a form suitable for publication.

All non-confidential submissions will be placed on the AER's website at [www.aer.gov.au](http://www.aer.gov.au). For further information regarding the AER's use and disclosure of information provided to it, see the [ACCC/AER Information Policy](#) available on the AER's website.

Enquiries about this paper, or about lodging submissions, should be directed to the Compliance and Enforcement branch of the AER on 1300 585 165 or [AERexemptions@aer.gov.au](mailto:AERexemptions@aer.gov.au).

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<sup>14</sup> NER, cl 8.9(g)(5).



## 3 Streamlining of Guideline

The AER has made significant changes to the structure, delivery and display of the content of the Guideline as part of its review. These are designed to improve the document for users – by making it shorter and more streamlined. In doing so, we have sought to make navigating the draft Guideline more accessible and easier to understand.

In response to the consultation paper, stakeholders noted the need to streamline the Guideline and that the Guideline could benefit from simplification as it was difficult to follow.

### 3.1 Revised title of Guideline

We have revised the title of the Guideline to *Network Exemptions Guideline (Version 7)* from *Electricity Network Service Provider – Registration Exemption Guideline (Version 6)*.

This change reflects the fact that most stakeholders are familiar with the purpose of the document and the abbreviated form ‘network guideline’ that the AER commonly uses on its website. It is also consistent with plain language principles promoted by the Australian Government Style Manual.<sup>15</sup>

### 3.2 Diagrams and flowcharts

We have inserted diagrams to accompany examples of common embedded networks to assist users determine whether they require an exemption and what class is appropriate for their activity or network type. These appear in section 2 and section 3 of the draft Guideline.

In addition, process flow diagrams have been included to clarify the steps required to obtain different exemptions and when an Embedded Network Manager must be appointed. These appear in section 6 as Figure 1 and Figure 2 of the draft Guideline.

These visual aids will help users quickly work out what steps they should follow to comply with our regulatory framework.

### 3.3 Plain language, accessible text and consistent terminology

We have sought to improve the experience for users reading the draft Guideline by rewriting various sections to conform to plain language and accessibility requirements of the Australian Government Style Manual.

In addition, we have removed the use of alternative references that have the same meaning for the purposes of the Guideline to ensure precise and consistent terminology is used throughout the draft Guideline. This is aimed at making key concepts clearer and reduce ambiguity for readers. The glossary is located in the opening of the draft Guideline and defines key terminologies. Section 9.7 of this Notice discusses the glossary in further detail.

Lastly, we have made greater use throughout the draft Guideline of bold text and boxed text for key notes to draw attention to critical points which might otherwise be overlooked.

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<sup>15</sup> <https://www.stylemanual.gov.au/writing-and-designing-content/clear-language-and-writing-style#plain-english>

### 3.4 Detailed content in appendices

We have moved detailed content related to assessing and selecting specific exemption classes (that is, specific network activity descriptions and class identifiers) along with applicable conditions into appendices to the draft Guideline.

The purpose of this is to ensure we separate information which explains key concepts, principles and processes for obtaining an exemption from the technical reference materials such as details on the specific exemptions classes and conditions. The information relating to the former is located in the first part of the draft Guideline (found in sections 1-9) and the information relating to the latter is located in the second part of the draft Guideline (found in Appendices A-1 to C).

We have also consolidated the content of various tables to reduce space and make them easier to use. These appear in Appendix A-1 of the draft Guideline (as Tables 1 to 5). Now the reader can look at a single table for a given exemption category and readily find the:

- network exemption class identifier
- related network activity description, and
- exemption conditions which apply.

Our combined actions to streamline and consolidate the draft Guideline has reduced its overall length to 70 pages, being 13 pages (or 16 percent) shorter than the current Guideline.

### 3.5 Distinction between conditions

We have sought to remove ambiguity and confusion about various conditions that apply to exemption classes due to the use of alternative terms such as 'basic exemption conditions', 'general requirements' and 'general sub-conditions'.

The draft Guideline has adopted consistent wording to distinguish **general conditions** from **detailed conditions**. We have also expressly noted the difference at section 7.1 and Appendix A-2 and included specific headings in in Tables 1 to 5 of Appendix A-1 to reinforce this point.

Further, we have added description headings to each general exemption condition to assist readers to easily identify which of the four basic requirements they relate to:

- safety
- dispute resolution
- pricing, and
- metering and access to retail competition.

This aligns with the presentation of 'core conditions' found in the current Retail Exempt Selling Guideline, which are similar to the general conditions in the draft Guideline.

### 3.6 Clarification of ‘eligibility requirements’

We have removed three conditions in the current Guideline dealing with the conversion of existing distribution systems to an embedded network (‘retrofits’) and moved them to Appendix C of the draft Guideline as eligibility requirements.

Those conditions under the current Guideline are:

- 4.9.1 Provision of retrofit information
- 4.9.2 Collecting and recording explicit informed consent, and
- 4.9.7 Approval by the AER

The purpose of doing this is to clearly distinguish between eligibility requirements to be met by a **prospective** exempt embedded network service provider (EENSP) **before** converting a site and exemptions conditions to be met after this occurs (that is, after that person obtains approval from the AER, obtains their relevant network exemption and completes the retrofit).

This also removes potential confusion between administrative and regulatory requirements for prospective, and existing, exemption holders.

We have also added boxed text in section 6.3 and Appendix A-2 (under condition 7) of the draft Guideline to reinforce the preliminary steps necessary before doing a retrofit.

## 4 Primary registrant

### 4.1 Current position

Each person who owns, controls or operates a network holding an exemption must comply with all conditions relevant to that class of exemption.

### 4.2 Consultation paper discussion

#### Question 1

Do stakeholders agree that responsibility for meeting certain network exemption conditions should be restricted to one person, for example the network owner or controller? If stakeholders agree, which person should be the sole registrant, noting this person should have the capacity to resolve customers' complaints?

#### Submissions

A majority of stakeholders agreed that a single person should hold responsibility for complying with conditions of exemptions. Submissions varied as to which of the owner, controller or operator would be most appropriate.

### 4.3 Draft policy position

Given that each person associated with a network (that is, owner, controller and operator, if they are different entities) must either be a registered NSP or exempt by the AER, we propose a model in which:

- each owner, controller and operator of an exempt network must still register an exemption, but
- they may nominate a 'primary registrant' between them to perform certain of the applicable conditions (such as being a member of an ombudsman scheme) on behalf of the other parties.

We propose an opt-in primary registrant model for persons associated with a network that would operate as follows.

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

- a) holds an exemption from the AER,<sup>16</sup> and
- b) the relevant exemption is a registrable exemption,

those persons may (but are not required to) nominate a primary registrant to the AER.

The proposed **primary registrant**:

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<sup>16</sup> Under s 11(2)(b) of the NEL and r 2.5.1(d) of the NER.

- must be a person able to comply with the condition(s) applicable to the relevant exemption
- must be nominated under the approved application<sup>17</sup> form on the AER's website
- must comply with condition(s) applicable to the relevant exemption
- may comply with certain of the conditions applicable (as specified) on behalf of the other person(s) associated with the network, and
- may be any of the owner, controller or operator of a network<sup>18</sup>.

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

We propose that the draft Guideline specify which conditions the primary registrant may perform on behalf of the other parties, by amending the condition itself.

At this stage, we intend to specify **only one condition** for this purpose. That being general condition 1.13, under which an exempt person must, if permitted, be a member of an ombudsman scheme and comply with its requirements.

The effect of this is that *all conditions* apply to *all parties* holding a registered exemption, unless expressly stated in the condition.

In practice, the nominated primary registrant will be responsible for the specified condition(s) applicable to the exemption which the Guideline says they may perform.

If a primary registrant is nominated but none of parties comply with the condition(s) applicable, they are all responsible for the failure and will be in breach of the relevant condition(s) of their exemption. At this point, the AER may exercise its discretion to revoke the exemption. If any of the parties continue to own, control or operate a network without an exemption (or registration for that activity), they will be in breach of the civil penalty provision in s 11(2) of the NEL.

## 4.4 Proposed amendments

The draft Guideline contains the below changes:

Section	Amendment	Exemption class(es) affected
5.1 (new section added)	Added new section: <ul style="list-style-type: none"> <li>• titled 'Primary Registrant – multiple parties associated with a network'</li> <li>• allow option to nominate a 'primary registrant' where more than one party owns, controls or operates a network which holds a registrable exemption.</li> </ul>	Registrable exemption classes (see section 4.2, 6.2 and Appendix A-1 of the draft Guideline)

<sup>17</sup> Exemption registration form: <https://www.aer.gov.au/forms/exemption-registration-application>

<sup>18</sup> To avoid doubt, the primary registrant must not be any person other than either an owner, controller or operator of the relevant network.

Section	Amendment	Exemption class(es) affected
Condition 1.13 in Appendix A-2	Condition renumbered and amended to specify that a nominated primary registrant may perform the obligation imposed on behalf of the other parties.	Registrable exemption classes (see section 4.2, 6.2 and Appendix A-1 of the draft Guideline)

## 5 Small Generation Aggregator schemes

### 5.1 Current position

The Small Generation Aggregator (SGA) framework<sup>19</sup> allows one or more Small Generating Units (SGUs) such as small solar or wind farms to export their energy into the National Electricity Market (NEM).

The NER allows an embedded network to be set up with child connection points and SGUs to have a dedicated connection point and NMI to engage in SGA schemes. The only parties currently able to assign NMIs are registered NSPs or ENMs appointed for connections to embedded networks.

By creating an embedded network, SGUs obtain a second connection point to access the NEM relatively easily.

However, when the current Guideline was released (March 2018), the exemptions framework did not contemplate arrangements under which an embedded network could be created solely to access and export electricity to the NEM.

Typically, embedded networks have been established to facilitate supply of electricity to customers within that private network. Indeed, until recently the NER defined a network as:

*the apparatus, equipment, plant and buildings used to convey, and control the conveyance of, electricity **to customers** ... a network owned, operated or controlled by [a] Network Service Provider.*

Based on this definition, the AER formed the view when the consultation paper was released (May 2021) that SGAs did not come within the NER's definition because SGUs generate – rather than consume – electricity in such schemes and could not be regarded as *customers*. The NER defines a customer to include: *a person who engages in the activity of purchasing electricity supplied through a ... distribution system.*

Having formed this view, we could not readily identify customers in this type of arrangement which might face potential detriment or apparent market risk which might require regulation. Further, we thought that separate fit-for-purpose regulation might better suit SGA schemes such as that being considered under the Post 2025 Electricity Market Design project by the Energy Security Board (ESB).

### 5.2 Consultation paper discussion

#### Question 4

Do stakeholders consider there is a need to regulate SGAs under the Guideline?

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<sup>19</sup> <https://www.aemc.gov.au/sites/default/files/content/4d1705f7-a55a-4767-8c21-1d81ca218f8e/Information-sheet.pdf>

## Question 5

Do stakeholders interpret SGAs as being captured under the NER?

### Submissions

Most stakeholders did not believe SGAs require regulation under the exemptions framework. Some proposed regulation through alternative and/or fit-for-purpose measures.

Several stakeholders did not agree with our view that SGA schemes fell outside the NER's definition of 'network'. Some expressed concern that excluding SGAs from the exemptions framework would effectively rewrite the existing rules.

AEMO noted that the embedded network framework did not preclude SGA schemes but that it was not designed for arrangements which involve *generation or energy storage*. They also queried our focus on SGAs, when other participant categories – such as Market Customers and Demand Response Service Providers<sup>20</sup> – can use embedded networks for the same purpose.

We consulted AEMO on their approach to regulating SGAs. They noted that relevant SGAs thought their network arrangements fell within a deemed exemption class (ND01) under the current Guideline. AEMO asked the AER to clarify this point and ensure that any outcome was applied consistently to a physical site and two-way energy flow arrangements – regardless of the market participant category that classifies the child connection points.

## 5.3 Draft policy position

We acknowledge that several stakeholders disagreed with our interpretation of the NER's definition of network and preliminary view that SGA schemes did not fall under the current Guideline.

The AER was not seeking to change current rules that clearly apply to any SGA schemes. Rather we intended to highlight an identified gap in the regulatory framework and engage with stakeholders on how to address this issue.

The AER has since altered its initial position, after considering all submissions from stakeholders and reviewing changes made to the NER after our consultation period ended (June 2021). Two AEMC final rule changes in particular influenced our position:

- Access, pricing and incentive arrangements for distributed energy resources (August 2021)<sup>21</sup>, and
- Integrating energy storage systems into the NEM (December 2021)<sup>22</sup>

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<sup>20</sup> Formerly called Market Ancillary Service Provide (MASP).

<sup>21</sup> <https://www.aemc.gov.au/rule-changes/access-pricing-and-incentive-arrangements-distributed-energy-resources>

<sup>22</sup> <https://www.aemc.gov.au/rule-changes/integrating-energy-storage-systems-nem>



The AEMC's August 2021 rule change was aimed to better facilitate the efficient integration of distributed energy resources (DER) such as SGA schemes into the NEM. Among other things, this rule deleted the term 'customers' from the NER's definition of network.

The AEMC accepted this was causing ambiguity in the NER as to whether 'distribution services' only relate to the *consumption* of energy and conveyance of electricity to customers. Omitting this term has clarified the rights of customers to export services and their regulatory status to assist DNSPs in the planning they must undertake.

These rule changes have removed previous uncertainty and directly facilitated generation and storage options within embedded networks. This has prompted the AER to reconsider SGA schemes in a broader context, by taking into account a wider range of arrangements which may potentially arise within embedded networks and require regulation under the exemptions framework.

The AER proposes changes to its existing exemption classes NDO1, NRO1 and NRO2 to regulate arrangements that include (**but are not limited to**) SGA schemes and to provide clarity regarding the appropriate exemption classes that apply. These are set out below:

NDO1<sup>23</sup> – Exempt persons operating an embedded network to which generation assets are connected for use by the customer behind their child connection point (or to export to the NEM solely by way of feed-in tariff) are entitled to the deemed exemption.

NRO1 – Exempt persons operating an embedded network to which generation units or load installations are connected for use by the customer behind their child connection point or to provide services (such as demand response or network support services) to eligible Market Participants by way of bi-lateral contract.

NRO2 – Exempt persons operating an embedded network to which generation units or load installations are connected for use by the customer behind their child connection point or to provide services to NEM wholesale energy and/or ancillary services markets can register under NRO2. The customer may appoint an SGA (or a Market Customers or Demand Response Service Provider) to provide these market services on their behalf.

Given the nature of the services that may be provided in exempt networks registered in classes NRO1 and NRO2, it is important that this registration is visible to AEMO for market settlement purposes.

We have deleted the word 'small' before 'generating units', because the aspect driving the distinction between NRO1 and NRO2 is the services being provided from within the exempt network, and not the size of the asset connected to the exempt network.

The AEMC's December 2021 rule change on integrating energy storage systems into the NEM has created a new registration category 'Integrated Resource Provider' to allow storage and hybrid systems to participate in energy and ancillary service markets. We consider the

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<sup>23</sup> This class only applies to the registration requirement in cl 2.5.1 of the NER for exempt networks with a generator or inverter connected. AEMO handles generator registration and exemptions while each jurisdiction determines safety requirements for generators and inverters. This class does not affect the requirements under any other legislation or clause of the NER.

update to NRO2, which applies to both *generation units and load installations* participating in NEM markets, should facilitate participation by this new category.

## 5.4 Proposed amendments

The draft Guideline contains the below changes:

Section	Amendment	Exemption class(es) affected
Table 2 of Appendix A-1	<p>Activity description/application revised to: 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.</p> <p>Extends to equipment used solely to provide emergency electricity supply, or renewable electricity.</p> <p>Note: This excludes generating units and/or load installations contracted to supply network support or demand management services to a Registered Participant.</p>	NDO1
Table 4 of Appendix A-1	<p>Activity description/application revised to: 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>24</sup> However, excludes small generating units classified as market generating units by a Small Generation Aggregator.</p>	NRO1
Table 4 of Appendix A-1	<p>Activity description/application revised to: 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.</p> <p>Extends to eligible customers providing wholesale demand response or ancillary market services.</p> <p>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.</p>	NRO2

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<sup>24</sup> If you have a contract or agreement to supply network support or demand management services to an NSP or 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 is 5 MW or more as measured at your connection point to the national grid, to be eligible for an exemption in this class you must confirm with AEMO that registration of performance standards is not required.

## 6 Embedded Network Manager requirements

### 6.1 Current position

An exempt person must appoint an ENM after an 'ENM trigger event' (for example, when the network is over a certain size, or a customer enters into a retail market contract) but does not specify a timeframe within which the exempt person must do so.

No position is taken on deferring the requirement to appoint an ENM in regional Queensland, or at sites where no meters are installed (as the network existed before January 2012, when the requirement began), or all customers that were on-market have reverted to off-market.

### 6.2 Consultation paper discussion

#### Question 6

What do stakeholders consider a reasonable timeframe to procure and appoint an ENM after an 'ENM trigger event'?

#### Submissions

Stakeholders recommended a wide range of timeframes to procure and appoint an ENM, ranging from 'as soon as possible' to 3 months. There was no obvious difference in recommended timeframes based on the core business or function of the stakeholder.

#### Question 7

Do stakeholders agree the appointment of ENMs should be deferred in regional Queensland and legacy unmetered sites?

#### Submissions

Ten stakeholders agreed that the appointment of an ENM should be deferred in regional Queensland, for practical reasons due to the lack of competition in this area. Four stakeholders disagreed that appointing an ENM should be deferred in regional Queensland, in order to promote customer choice wherever this is available.

#### Question 8

Do stakeholders agree that the appointment of ENMs be deferred if they are no longer required, for example when all on-market customers have reverted to off-market? Are there other situations when ENMs services are no longer required?

#### Submissions

Eleven stakeholders agreed that the requirement to appoint an ENM should be deferred if they are no longer required. These submissions typically indicated that it would if the ENM cannot perform their functions. Therefore, requiring an appointment imposes an unnecessary cost.

Five stakeholders disagreed that the requirement to appoint an ENM should be deferred, with key arguments including that the appointment of an ENM:

- helps tenants exercise their choice of retailer more effectively
- may be an important check on network management, particularly in relation to the ongoing interface with the Market Settlement and Transfer Solutions (MSATS) procedures, and
- supports the ability for customers to engage in competitive energy market if and when they wish to.

### 6.3 Draft policy position

To ensure the procurement process to appoint an ENM is conducted expediently and to minimise the risk of detriment to customers, we have nominated a period of 30 business days for this to occur, after a customer exercises their right to access a retailer of choice.

We further propose deferring the appointment of an ENM at sites:

- in regional Queensland and within legacy unmetered sites, and
- where the ENM would no longer serve a practical purpose.

The reason for this is that we do not consider there is any benefit to be served from appointing an ENM where there is a lack of retail competition (such as regional Queensland) or requiring an ENM to continue in that role when doing so would impose unnecessary costs on customers.

This deferral would be contingent upon any changes to the circumstances of the network. For example, if a customer who has reverted to off-market supply subsequently chose to accept on-market supply, an ENM would need to be appointed in order for the customer to engage in the competitive market.

### 6.4 Proposed amendments

The draft Guideline contains the below changes:

Section	Amendment	Exemption class(es) affected
Conditions 3.2 to 3.3 in Appendix A-2, Part 2 (replaces Conditions 4.4.2 to 4.4.2.1)	Condition renumbered and amended to specify that: Where an ENM trigger event has occurred for one or more of the exemption classes applicable to an embedded network, the EENSP, if the EENSP is not an accredited ENM, must appoint an accredited ENM <b>within 30 business days</b> of the occurrence of an ENM trigger event.	ND10, NR1, NR2, NR3, NR5, NR6

Section	Amendment	Exemption class(es) affected
Condition 6.1 in Appendix A-2, Part 2 (replaces Condition 4.7.1)	Condition renumbered and amended to specify that: Conditions for the appointment of an ENM do not apply to sites: <ul style="list-style-type: none"> <li>• in regional Queensland</li> <li>• where no meters are installed due to the network existing before January 2012 (when the requirement commenced), or</li> <li>• where all on-market customers have reverted to off-market customers.</li> </ul>	ND10, NR1, NR2, NR3, NR5, NR6

## 7 Explicit informed consent

### 7.1 Current position

An exempt person must not do anything to discourage or prevent eligible customers<sup>25</sup> exercising their right to purchase electricity from a retailer of their choice, including by compelling them to become part of an exempt network without their express written consent.

This aims to ensure that existing on-market customers are not made to go off-market as part of a proposed conversion (or retrofit) of an existing network distribution system to an embedded network without their explicit informed consent.

### 7.2 Consultation paper discussion

#### Question 10

Should the information [proposed] embedded network owners, controllers or operators provide prospective customers be standardised?

#### Submissions

Most stakeholders agreed that this information should be standardised. Stakeholders provided various recommendations on this point, including that:

- the information should advise customers of their right to nominate a retailer of their own choice, and of the embedded network owner/operator's obligations.
- operators should be allowed flexibility to add to the standardised statements, provided the additions are consistent with those statements.
- standardised statements should not impede the embedded network operator providing their own materials.
- embedded network owners / operators should provide this information to consumers on request or when they enquire about leaving an embedded network.
- factsheets should be easily available on the AER's website and Energy Made Easy website for consumers.
- the incoming retailer should be required to provide this factsheet when the embedded network customer signs the contract to ensure these customers are receiving a consistent message.

Stakeholders who opposed standardised information highlighted that such wording might not adequately accommodate site-specific nuances in network setup or relationships between embedded network owners, controllers or operators and their customers.

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<sup>25</sup> Eligible under State or Territory legislation to purchase energy from a retailer of their choice.

## Question 11

Should the Guideline's term 'express written consent' be replaced with 'explicit informed consent', and be provided in writing?

### Submissions

All stakeholders who responded to this question agreed that 'express written consent' should be replaced with 'explicit informed consent' (EIC), and all but one of these stakeholders (Compliance Quarter) agreed it should be provided in writing.

Compliance Quarter responded that the 'in writing' requirement should be removed from both the network and retail exempt selling guidelines to bring them in line with the National Energy Retail Law (Retail Law).

Two stakeholders raised concerns in relation to capturing electronic consent:

- Altogether Group strongly opposed the requirement to provide a 'signed consent' form without an explicit allowance for consents to be signed electronically, and
- Energy Locals proposed that the network and retail exempt selling guidelines should support obtaining EIC via digital and telephonic means.

## Question 12

Should record keeping requirements explicitly apply to all situations where consent is required under the network and retail exempt selling guidelines?

### Submissions

Stakeholders unanimously agreed that record keeping requirements should explicitly apply to all situations where consent is required. Two stakeholders made comments proposing particular record keeping requirements.

## 7.3 Draft policy position

Customers in embedded networks do not have the full range of rights and protections available to them under the Retail Law as they would have, had the network conversion (or retrofit) not taken place.

Therefore, it is important that retrofit applicants must advise potential customers about the implications of being in an embedded network. This should include information about the benefits as well as potential detriments.

EIC is an obligation that appears in the Retail Law and is included in the Retail Exempt Selling Guideline. We propose adopting the same meaning and using identical terminology within the draft Guideline for consistency. To achieve this, all references in the current Guideline to 'express written consent' have been replaced with EIC in the draft Guideline.

To ensure that a prospective customer can give EIC, we propose that **standardised information** be given to them by the proposed exempt embedded network service provider

(EENSP). This has been set out in a new Appendix C to the draft Guideline under Part 1: Eligibility requirements.

### **Provision of retrofit information**

We have taken condition 4.9.1 *Provision of retrofit information* from the current Guideline and inserted it as an eligibility requirement under Part 1 of Appendix C to the draft Guideline.

The reason is that the requirement to give information to tenants of a proposed retrofit site must occur **before** a person applies for the AER's approval to register their network exemption. Only after approval is granted and a network exemption is registered is the EENSP subject to conditions applicable to the relevant exemption class.

This eligibility requirement sets out standardised information to be provided to tenants that includes:

- their right to choose their own retailer and enter into an energy only contract with an authorised retailer
- the EENSP's obligation to provide electricity offer matching and ensure network charges are not duplicated
- a copy of the prospective EENSP's electricity supply/on-selling agreement
- contact details of the prospective EENSP's representative who will address any queries or concerns about the proposed retrofit.

### **Collecting and recording of EIC**

We have taken condition 4.9.2 *Collecting and recording explicit informed consent* from the current Guideline and inserted it as an eligibility requirement under Part 1 of Appendix C to the draft Guideline. This has been done for the same reason noted above.

We have clarified that the AER expects EIC from tenants in the form of a signed consent form (written or electronic). Further, we stipulate that verbal consent is only acceptable in instances where the consent is evidenced in such a way that it can be verified and made subject of a record.

Given the customer implications arising from an embedded network retrofit, we propose that exempt persons retain all documents relating to a retrofit for at least 7 years. The period of 7 years is consistent with record keeping requirements provided under the NER.

## **7.4 Proposed amendments**

The draft Guideline contains the below changes:



Section	Amendment	Exemption class(es) affected
Part 1 subheading 'Provision of retrofit information' (new section in new Appendix C (replaces Condition 4.9.1))	Condition replaced by an eligibility requirement and amended to: <ul style="list-style-type: none"> <li>• delete the terms 'express written consent' and insert 'explicit informed consent'</li> <li>• include record keeping requirements to evidence EIC</li> <li>• specify standardised information to be provided.</li> </ul>	All
Part 1 subheading 'Collecting and recording explicit informed consent' in Appendix A-2 (replaces Condition 4.9.2)	Condition replaced by an eligibility requirement and amended to: <ul style="list-style-type: none"> <li>• delete the terms 'express written consent' and insert 'explicit informed consent'</li> <li>• include record keeping requirements to evidence EIC for a period of 7 years</li> <li>• clarify that EIC must be given in a signed consent form (written or electronic) and verbally only if it can be evidence in a verifiable way (which is recorded).</li> </ul>	All
Condition 1.12.1(e) and (f) in Appendix A-2 (replaces Condition 4.12.1(e) and (f))	Condition renumbered and amended to: <ul style="list-style-type: none"> <li>• delete the terms 'express written consent' and insert 'explicit informed consent'.</li> </ul>	All

## **8 Disconnection protections for energy only customers**

### **8.1 Current position**

Part 6 of the National Energy Retail Rules (NERR) places a number of obligations on retailers and distributors about disconnections. Embedded network owner, controller or operators usually also on-sell electricity to their customers. Where this occurs, those customers are generally protected by on-seller obligations under the Retail Exempt Selling Guideline.

However, on-market customers in embedded networks (living in an embedded network but buying electricity from an authorised retailer) cannot currently rely on these protections.

### **8.2 Consultation paper discussion**

Our consultation paper noted that on-market customers within an embedded network must still pay a network tariff cost to the owner, controller or operator. Because of this, we consider such customers should have similar protections against disconnections if they have payment difficulties in paying the network tariffs as other customers under Part 6 of the NERR.

This would align the protections that on-market customers would receive for their network tariff costs, with the energy only costs under the Retail Exempt Selling Guideline and/or NERR.

#### **Submissions**

Four stakeholders addressed this issue and all supported the proposed amendments.

### **8.3 Draft policy position**

We propose inserting conditions to cover:

- a) a requirement to offer a payment plan when an on-market customer informs the exemption holder that they are unable to pay the network tariff due to financial difficulty
- b) when disconnection is prohibited, and procedures for permitted disconnection, and
- c) the procedure for reconnection following a permitted disconnection.

These replicate the disconnection obligations in conditions 9 to 11 of the Retail Exempt Selling Guideline.

### **8.4 Proposed amendments**

The draft Guideline contains the below changes:

Section	Amendment	Exemption class(es) affected
Condition 1.14 in Appendix A-2, Part 1	Condition added: <ul style="list-style-type: none"> <li>• titled 'Payment difficulties and disconnection or de-energisation'</li> </ul>	Various ND and NR classes (see Tables 1 to 4 in Appendix A-1 of the draft Guideline)
Condition 1.15 in Appendix A-2, Part 1	Condition added: <ul style="list-style-type: none"> <li>• titled 'When disconnection or de-energisation is prohibited'</li> </ul>	Various ND and NR classes (see Tables 1 to 4 in Appendix A-1 of the draft Guideline)
Condition 1.16 in Appendix A-2, Part 1	Condition added: <ul style="list-style-type: none"> <li>• titled 'Reconnection or re-energisation'</li> </ul>	Various ND and NR classes (see Tables 1 to 4 in Appendix A-1 of the draft Guideline)

## 9 Additional amendments

We propose a number of other amendments to remove ambiguities and improve consistency in the Guideline along with updates to reflect rule changes and penalty amounts.

### 9.1 Meaning of owning, controlling and operating

#### 9.1.1 Current position

No guidance is provided as to who is regarded as being a network owner, controller or operator.

#### 9.1.2 Consultation paper discussion

##### Question 3

Should we clarify the meaning of controlling and operating an embedded network?

##### Submissions

Most stakeholders who responded supported clarifying the meaning of controlling and operating an embedded network. Some stakeholders expressed concern that the clarification should not be too prescriptive or wide-reaching and should be restricted to dealing with who requires an exemption and which party will be responsible for each exemption condition.

#### 9.1.3 Draft policy position

We propose to note that the terms 'own', 'control' and 'operate' are not defined in the NEL and NER, and that each person's status requires a factual assessment. We recommend that persons who are potentially subject to the guideline should seek legal advice. We have, however, included some guidance as to how the AER will generally interpret these terms:

- 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 generally be anyone who arranges to provide services normally associated with a NSP. This most commonly means specialist energy companies that provide services in exempt networks. It will not usually include parties who perform more minor functions around the network, such as performing isolated repairs or maintenance.

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

#### 9.1.4 Proposed amendments

The draft Guideline contains the below changes:

Section	Amendment	Exemption class(es) affected
5.1 (new section created)	Additional guidance added about how the AER typically interprets the terms: <ul style="list-style-type: none"> <li>• owner</li> <li>• controller</li> <li>• operator</li> </ul>	All

## 9.2 Eligible communities and counter-offer provisions

### 9.2.1 Current position

#### *Eligible communities*

Allows an 'eligible community' to be formed to share the costs (such as those arising from appointing an ENM) and benefits of bulk purchasing across all community members. To date, we have had no applications to form an eligible community.

#### *Counter-offers*

The current Guideline designates exemption classes that may defer appointment of an ENM until an embedded network customer enters a contract with a market retailer and the cooling off period expires. The guideline also contemplates EENSPs making a counter-offer to any customer wishing to leave the network. If no counter-offer is made, or if a counter offer is not accepted, an ENM must be appointed once the cooling off period has expired.

### 9.2.2 Consultation paper discussion

#### **Question 9**

Do stakeholders agree to removing the 'eligible communities' and counter-offer provisions from the network exemption guideline?

#### **Submissions**

Most stakeholders supported removing the 'eligible communities' and counter-offer provisions. They broadly accepted the consultation paper's rationale – in particular, that the provisions are complicated and seem unnecessary given the requirements for a customer to enter into a market contract and meet the cooling-off expiry period.

### 9.2.3 Draft policy position

We propose to remove these conditions given that this option has not been taken up by any customers or EENSPs which may suggest a lack of interest in forming 'eligible communities'. We consider the provisions for 'eligible communities' and counter offers further complicate and potentially draw out an already complicated process.

Deferring the appointment of an ENM until after a counter-offer is *not* made or is rejected seems unnecessary given the requirements for a customer to enter into a market contract and the expiry of the cooling off period still need to be met.

### 9.2.4 Proposed amendments

The draft Guideline contains the below changes:

Section	Amendment	Exemption class(es) affected
Condition 6.1 in Appendix A-2, Part 2 (replaces Condition 4.7.1)	Condition renumbered and text revised to make simpler to read.	All
Condition 4.7.1.1	Cost recovery in an eligible community Condition deleted.	ND2, NR2, NR3, NR4
Condition 4.7.2	Non-appointment of an ENM and reversion Condition deleted.	ND2, NR2, NR3, NR4
Condition 4.7.3	Poll requirements Condition deleted.	ND2, NR2, NR3, NR4
Condition 7.1 in Appendix A-2, Part 2 (replaces Condition 4.9.3)	Offer matching for large customers Condition renumbered amended to: <ul style="list-style-type: none"> <li>Delete terms 'eligible community'</li> </ul>	NR5 and NRO4

### 9.3 Civil penalties

We have provided updated information about civil penalties for failing to comply with the NEL and the NER. These apply to conduct that occurred on or after 29 January 2021 and, for Tier 1 provisions, can include maximum penalties for a body corporate of 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.

This is relevant to the penalty for non-compliance with section 11(2) of the NEL.

A person who owns, controls or operates a network and does not hold a registration with the AEMO or exemption<sup>26</sup> from the AER may be in breach of this civil penalty provision.

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<sup>26</sup> This includes where their exemption has been revoked by the AER, which may occur in the event of non-compliance with an exemption condition.

## 9.4 Designated network assets/dedicated connection assets

The AEMC introduced a new rule change on 22 July 2021 to facilitate more efficient investment in, and use of, transmission assets built to connect generation to the ‘shared’ network.

The new arrangements replaced the former arrangements for 'large dedicated connection assets' (DCAs) to treat material additions to the transmission system (transmission lines with a total route length of 30km or more) as part of the transmission network, rather than as connection assets. Only 'small DCAs' (transmission lines with a total route length less than 30km) will continue to be treated as connection assets unless they voluntarily choose to opt into the DNA framework. The draft Guideline reflects this rule change.<sup>27</sup>

The draft Guideline contains the below changes:

Section	Amendment	Exemption class(es) affected
Condition 8 in Appendix A-2, Part 2 (replaces section 4.10)	Condition added: <ul style="list-style-type: none"><li>• titled 'Designated network asset'</li><li>• specifies that owners, controllers or operators of DNAs must comply with their access policy and NER requirements relating to negotiations, operating agreements, access policies and dispute resolution.</li></ul>	NRO8 (new exemption class in draft Guideline)

## 9.5 Removal of redundant and extraneous content

Content deemed to be outdated, no longer relevant or extraneous has been deleted. We consider these edits to consolidate the draft Guideline makes the document more readable and current.

Some examples of content removed include:

- general information about the AER's role
- references to former AEMC rule changes, and
- duplicated or repetitive references related to the AER's processes or procedures.

## 9.6 Removal of unnecessary conditions

As part of our review and update of the Guideline, we have also sought to remove conditions where requirements relating to those conditions are already covered by the NEL or NER to avoid regulatory duplication.

We have determined that a number of conditions in version 6 of the Guideline related to metering installation, operation and maintenance are effectively dealt with under specific

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<sup>27</sup> Preparatory steps for guidelines and procedures under the Amending Rule, cl 11.139.10: <https://www.aemc.gov.au/rule-changes/connection-dedicated-connection-assets>

clauses of the NER for relevant parent/child connection points. Accordingly, these do not need to be included as conditions in the Guideline.

The draft Guideline contains the below changes:

Section	Description	Amendment and reason
Condition 4.2	Metering installations and NEM requirements	Deleted. The NER covers metering requirements for connection points (including child connection points). Connection agreements are under Chapter 5 and retail customer connection under Chapter 5A.
Condition 4.2.1	Transmission networks	Deleted. The NER covers metering requirements for connection points (including child connection points). Connection agreements with the relevant TNSP would also provide for this.
Condition 4.2.2 Condition 4.2.2.1 Condition 4.2.2.2 Condition 4.2.2.3	Distribution networks Basic metering requirements Competition in metering Retail competition – access requirements	Deleted. The NER covers metering requirements for connection points (including child connection points). Connection agreements with the relevant DNSP would also provide for this.
Condition 4.2.4	Electrical vehicles and charging facilities	Deleted. Explanatory in nature only.
Condition 4.3	Metering operation and maintenance	Deleted. The NER covers metering requirements for connection points (including child connection points).
Condition 4.4.4	AEMO metrology and guideline requirements	Deleted. The NER covers metering requirements for connection points (including child connection points).
Condition 4.9.1	Provision of retrofit information	Deleted as a condition. Moved to Appendix C under Part 1 as an eligibility requirement for prospective EENPs.
Condition 4.9.2	Collecting and recording explicit informed consent	Deleted as a condition. Moved to Appendix C under Part 1 as an eligibility requirement for prospective EENPs.
Condition 4.9.7	Approval by the AER	Deleted as a condition. Moved to Appendix C introduction. Explanatory in nature only.

## 9.7 Glossary

We have updated the glossary where required to align with the formatting and style of the final *Retail Exempt Selling Guideline (Version 6)*.

In addition, we have made some other minor changes to definitions where necessary to clarify ambiguity or ensure consistency in the use of terminology throughout the Guideline.

The draft Guideline contains the below changes:

Definition	Amendment	Reason for change
<b>CCA</b>	Added.	Acronym reference added for consistency.
<b>Child connection point</b>	Added.	Definition of important term to aid understanding.



Definition	Amendment	Reason for change
<b>Connection</b>	Added.	Definition of important term to aid understanding.
<b>Dedicated Connection Asset (DCA)</b>	Edited.	Complete definition inserted for easy reference.
<b>Dedicated Network Asset (DNA)</b>	Added.	Definition of new term to reflect AEMC rule change.
<b>Distribution network connection point</b>	Added.	Definition of important term to aid understanding.
<b>Distribution Network Service Provider (DNSP)</b>	Added.	Definition of important term to aid understanding.
<b>Embedded network</b>	Edited.	Complete definition inserted for easy reference.
<b>Embedded Network Manager (ENM)</b>	Edited.	Complete definition inserted for easy reference.
<b>ENM conditions</b>	Added.	Definition of important term to aid understanding.
<b>ENM conditions trigger</b>	Added.	Definition of important term to aid understanding.
<b>Exempt embedded network service provider (EENSP)</b>	Edited.	Complete definition inserted for easy reference. Acronym reference added for consistency.
<b>Exempt network operator (ENO)</b>	Deleted.	Replaced with term EENSP for consistency.
<b>Exempt person</b>	Added.	Definition of important term to aid understanding.
<b>Exempt seller</b>	Added.	Definition of important term to aid understanding.
<b>kV</b>	Added.	Acronym reference added for consistency.
<b>Large customer</b>	Edited.	Changed term 'non-residential' to 'business' for consistency.
<b>Life support customer</b>	Added.	Definition of important term to aid understanding.
<b>Life support equipment</b>	Added.	Definition of important term to aid understanding.
<b>Metering installation</b>	Added.	Definition of important term to aid understanding.
<b>Minimum service specification</b>	Deleted.	Unnecessary.
<b>National grid</b>	Added.	Definition of important term to aid understanding.
<b>NEO</b>	Added.	Definition of important term to aid understanding.
<b>Network</b>	Added.	Definition of important term to aid understanding.
<b>Network Service Provider (NSP)</b>	Added.	Definition of important term to aid understanding.
<b>Off-market generating systems</b>	Edited.	Changed term 'generation' to 'generating system' in title for consistency.

<b>Definition</b>	<b>Amendment</b>	<b>Reason for change</b>
<b>On-market generating systems</b>	Edited.	Changed term 'generation' to 'generating system' in title for consistency.
<b>Primary registrant</b>	Added.	Definition of important term to reflect the AER's policy change.
<b>Primary TNSP</b>	Added.	Definition of important term to aid understanding.
<b>Public Register</b>	Added.	Definition of important term to aid understanding.
<b>Registered Participant</b>	Added.	Definition of important term to aid understanding.
<b>Retail customer</b>	Added.	Definition of important term to aid understanding.
<b>Retrofit</b>	Added.	Definition of important term to aid understanding.
<b>Small customer</b>	Edited.	Changed term 'non-residential' to 'business' for consistency.
<b>Small Generation Aggregator (SGA)</b>	Added.	Definition of important term to aid understanding.
<b>Supply</b>	Added.	Definition of important term to aid understanding.

## 10 Continuity of Supply

While the consultation paper did not raise the issue about ensuring continuity of supply in embedded networks, the current market conditions and recent Retailer of Last Resort (RoLR) events have underscored the need for the AER to raise this issue in the current Notice and seek stakeholder feedback.

### 10.1 The issue(s)

In scenarios where a seller (authorised retailer or exempt seller) is supplying off-market customers within an embedded network and fails, there is no ability for the AER to appoint a designated RoLR to ensure continuity of electricity supply. In the absence of the ROLR scheme applying to off-market customers, we consider these customers are exposed to potential harm if customers are unable to promptly identify, and coordinate the arrangements required for, an alternative seller to supply electricity.

In particular, the risk of off-market customers being left without supply may arise where disconnection of the parent connection point occurs, because the NEM retailer at the parent connection point is unable to recover the costs of the electricity it purchases from the NEM for the entire embedded network site from the failing seller. For example, the failing seller may default under its supply contract with the NEM retailer resulting in the NEM retailer initiating disconnection of the parent connection point and therefore disrupting supply to customers located in the embedded network.

Given the harm customers may face and current market conditions, the AER considers it appropriate to impose conditions on EENSPs under the Guideline to assist mitigate the risks of retailer-initiated disconnection of the parent connection point as a result of a failing seller scenario. We recognise that this is not a complete solution.

### 10.2 Proposed change

We propose imposing a new condition in the draft Guideline that requires the EENSP to notify customers and the AER if it becomes aware that there is, or any likely risk of, any disconnection of the parent connection point as a result of any failure of the party selling electricity within the embedded network. As part of that notification, we propose the EENSP advise the actions they will take to ensure that there is continuity of supply for customers. We note a similar condition applies to exempt sellers in the current Retail Exempt Selling Guideline.

We also propose to further include a positive obligation on the EENSP to undertake the actions it advises, including any additional or amended actions required by the AER. Such additional actions may include finding an alternative seller to take over from the failing seller's role within the embedded network (including for the purchase of electricity from the NEM Retailer and the on-selling arrangements) and notify customers and the AER of the identity of alternative sellers.

We note that this condition does not prevent off-market customers from retailer-initiated disconnections as a result of a failed seller scenario. We are unable to replicate the same kind of measures in the ROLR scheme applying to on-market customers, such as a default

ROLR to continue a customer’s energy supply, because such measures are outside the scope of this Guideline and require obligations to be placed on third parties.

Having regard to the scope of this Guideline, the AER considers that EENSPs are well placed to be able to provide prompt notice of any relevant supply risk similar to the condition imposed on exempt sellers. The AER also considers that the EENSP is well-positioned to devise an appropriate action plan to mitigate disconnection risk, having regard to the customer numbers, customer type and operational and contractual arrangements within the site. In the absence of a ROLR scheme, the AER considers that this kind of collaboration between the EENSP, the AER and customers is essential to ensuring that the risk of off-market customers experiencing loss of electricity supply is minimised.

The draft Guideline contains the below changes:

Section	Amendment	Exemption class(es) affected
Condition 1.17 in Appendix A-2, Part 1	Condition added: <ul style="list-style-type: none"> <li>• titled ‘Continuity of supply’</li> </ul>	Various ND and NR classes (see Tables 1 to 4 in Appendix A-1 of the draft Guideline)

## 11 Mapping of renumbered sections and conditions

We have prepared a table below mapping sections and conditions in the current Guideline which have been renumbered, deleted or added in the draft Guideline to facilitate navigation (and comparison).

Due to the extensive amendments made to streamline the current Guideline, it was not feasible to present them as marked-up changes in the draft Guideline.

The below table shows the mapped changes. We note that use of the symbol “-” in the table below:

- under the column ‘Revised section name’ means this section from the current Guideline has been deleted, and
- under the column ‘Current section name’ means a new section has been added in the draft Guideline as described under the columns ‘Revised section’ and ‘Revised section name’.

Current section	Current section name	Revised section	Revised section name
1	Nature and authority	-	-
1.1	The regulatory framework	-	-
1.2	Who should read this guideline	2	Are you supplying electricity?
1.3	About the AER	-	-
2	Part A – About this guideline	1	About this Guideline
2.1	Introduction	-	-
2.1.1	Basic exemption conditions	Appendix A-2, Intro	Exemption conditions
2.2	Who must register or obtain exemption?	3	Do you need an exemption
-	-	5	Who should hold the exemption
-	-	5.1	Primary Registrant – multiple parties associated with a network
2.3	What type of exemption applies to me?	4	What type of exemption applies to me?
2.4	How do I obtain an exemption?	6	How do you get an exemption?
2.4.1	Pre-registration	-	-
2.4.2	Deemed exemptions	4.1	Deemed exemptions
2.4.3	Registrable exemptions	4.2	Registrable exemptions
2.4.4	Individual exemptions	4.3	Individual exemptions
2.4.5	Public consultation process	6.3.2	Public consultation process
2.4.6	Confidentiality	6.3.1	Application process
2.4.7	Decision making process	6.3.3	Assessing an application
2.4.8	Grounds for refusal	6.3.4	Exemption refusal or revocation
2.4.9	Location and length of exemption	6.3.5	Location and length of exemption
2.4.10	Change of circumstances	6.3.6	Change of circumstances
		6.3.7	Change of ownership

Current section	Current section name	Revised section	Revised section name
3	Introduction and exemption classes	Appendix A-1	Classes of deemed and registrable exemptions
3.1	Deemed exemption classes	6.1	Deemed exemptions
3.1.1	Energy supply	Appendix A-1, Table 1	Deemed exemption classes – electricity supply
3.1.2	Deemed network specific situations	Appendix A-1, Table 2	Deemed exemption classes – other situations
3.1.3	Using deemed exemptions	6.1	Deemed exemptions
3.2	Registrable exemption classes	6.2	Registrable exemptions
		Appendix A-1, Table 3	Registrable exemption classes – electricity supply
		Appendix A-1, Table 4	Registrable exemption classes – other situations
3.3	Individual exemption	6.3	Individual exemptions
		Appendix A-1, Table 5	Individual network exemption class
4	Part B – Conditions	Appendix A-2	Exemption conditions
4.1	General requirements	Appendix A-2, Part A	General conditions
4.1.1	-	1.1	Compliant metering
4.1.2	-	1.2	Metering of paid electricity consumption
4.1.3	-	1.3	Safety and emergency requirements
4.1.4	-	1.4	Design for loss of supply
4.1.5	-	1.5	Sale of electricity
4.1.6	-	1.6	Dispute resolution
4.1.7	-	1.7	Aggregation of meter readings
4.1.8	-	1.8	Obtaining an exemption
4.1.9	-	1.9	Revocation or amendment of an exemption
4.1.10	-	1.10	Life support
4.1.11	-	1.11	Supply disconnection to a life support customer obligation
4.1.12	-	1.12	Obligation where an Embedded Network Manager is appointed
4.1.13	-	1.13	Membership to an energy ombudsman scheme obligation
-	-	1.14	Payment difficulties and disconnection or de-energisation
-	-	1.15	When disconnection or de-energisation is prohibited

Current section	Current section name	Revised section	Revised section name
-	-	1.16	Reconnection or re-energisation
-	-	1.17	Continuity of supply
-	-	Appendix A-2, Part B	Detailed conditions
4.2	Metering installations and NEM requirements	-	-
4.2.1	Transmission networks	-	-
4.2.2	Distribution networks	-	-
4.2.2.1	Basic metering requirements	-	-
4.2.2.2	Competition in metering	-	-
4.2.2.3	Retail competition – access requirements	-	-
4.2.2.4	Prohibition of measures which impede competition	2.2	Prohibition of measures which impede competition
4.2.2.5	Meter accuracy testing and billing disputes	2.3	Meter accuracy testing, billing disputes, maintenance and operation
4.2.3	Off-market and on-market energy generation	2.4	On-market generating systems
4.2.4	Electric vehicle and charging facilities	-	-
4.3	Metering operation and maintenance	-	-
4.4	AEMO requirements for access to retail competition	2.1	Retail competition – access requirement
4.4.1	Appointment of an Embedded Network Manager	3.1	Appointment of an Embedded Network Manager
4.4.2	ENM appointment trigger conditions	3.2	ENM appointment trigger conditions
4.4.2.1	Small size network threshold	3.3	Small size network threshold
4.4.3	Registration required when an ENM is appointed	3.4	Registration required when an ENM is appointed
4.4.4	AEMO metrology and guideline requirements	-	-
4.5	Distribution loss factors	4	Distribution loss factors
4.5.1	Standard loss factor approach	4.1	Standard loss factor approach
4.5.2	Large loads, generators, and site-specific loss factors	4.2	Large loads, embedded generating units, and site-specific loss factors
4.5.3	Site specific DLF using alternative methodology	4.2	Large loads, embedded generating units, and site-specific loss factors
4.5.4	Annual DLF approval requirements	4.3	Annual DLF approval requirements
4.5.4.1	Large corporate entities & large customers applying charge group C	4.3.1	Large corporate entities and large customers applying charge group C
4.5.4.2	Market settlement audit requirement	4.3.2	Market settlement audit requirement
4.6	Pricing	5	Pricing conditions for embedded networks
4.6.1	Charge groups	5.1	Summary of pricing
4.6.1.1	Group A	5.1	Summary of pricing
4.6.1.2	Group B	-	-

Current section	Current section name	Revised section	Revised section name
4.6.1.3	Group C	5.1	Summary of pricing
4.6.1.4	Group D	-	-
4.6.1.5	Group E	-	-
4.6.2	External network charges	5.2	External and internal network charges
4.6.3	Internal network charges	5.2.1	External network charges
4.6.4	Charging customers	-	-
4.6.4.1	Meter reading charges	5.3	Meter reading charges
4.6.4.2	Summary	-	-
4.7	Embedded Network Manager - Appointment and Reversion	6	Embedded Network Manager – appointment and reversion
4.7.1	Appointment and cost recovery	6.1	Cost recovery for appointment or service provision
4.7.1.1	Cost recovery in an eligible community	-	-
4.7.2	Non-appointment of an ENM and reversion	-	-
4.7.3	Poll requirements	-	-
4.8	Information provision	6.2	Information provision
4.8.1	Provision of information to exempt customers	6.2.1	Provision of information to exempt customers
4.8.2	Contact details	6.2.2	Contact details
4.8.3	Maintaining records	6.2.3	Maintaining records
4.9	Conversion of an existing site (Brownfield conversion)	7	Sites converted to an embedded network
4.9.1	Provision of retrofit information	Appendix C, Part 1	Provision of retrofit information [ <i>eligibility requirement</i> ]
4.9.2	Collecting and recording explicit informed consent	Appendix C, Part 1	Collecting and recording explicit informed consent [ <i>eligibility requirement</i> ]
4.9.3	Offer matching for large customers	7.1	Offer matching for large customers
4.9.4	Offer matching for small customers	7.2	Offer matching for small customers
4.9.5	Duplication of network charges	7.3	Duplication of network charges
4.9.6	Metering arrangements	7.4	Metering arrangements
4.9.7	Approval by the AER	Appendix C, Intro	Approval by the AER
4.10	Dedicated connection assets	8	Designated network assets
4.10.1	Large dedicated connection assets	-	-
4.10.2	Small dedicated connection assets	-	-
-	-	Appendix C	Applying for conversion of an existing site to an embedded network
5	Part C – Registration, Applications and Revocation	-	-
5.1	Pre-registration	-	-
5.2	Registrable exemption information requirements	6.2	Registrable exemptions
-	-	7	Exemption conditions and compliance



Current section	Current section name	Revised section	Revised section name
-	-	7.1	Exemption conditions
-	-	7.2	Breaches of conditions
5.3	Application for individual exemption or variation of conditions	8.1	Changes to exemptions
		Appendix B	Applying for an individual exemption or condition variation
5.4	Revocation of an exemption	8.2	Revoking an exemption
5.5	Change or amendment of ownership, control or operation of an exemption	8.3	Change or amendment of ownership, control or operation of an exemption

## Appendix A: Summary of submissions and AER response

The summary of stakeholder submissions below relates to feedback received in response to the consultation paper in relation to the current Guideline.

Stakeholder	Stakeholder response	AER response
<p><b>Question 1: Do stakeholders agree that responsibility for meeting certain network exemption conditions should be restricted to one person, for example the network owner or controller? If stakeholders agree, which person should be the sole registrant, noting this person should have the capacity to resolve customers' complaints?</b></p>		
<p>ACT Civil and Administrative Tribunal (ACAT) Active Utilities AGL Altogether Group Ausgrid Caravan &amp; Camping Industry Association NSW (CCIA NSW) Caravan Parks Association of Queensland (CPAQ) Compliance Quarter Energy Intelligence Energy Locals ENM Solutions Energy &amp; Water Ombudsman (NSW) (EWON) MTA Energy Origin Energy Public Interest Advocacy Centre (PIAC) Shopping Centre Council of Australia (SCCA)</p>	<p><b>Restricted to one person</b></p> <p>The vast majority of stakeholders who responded to this question supported the responsibility for meeting certain network exemption conditions being restricted to one person.</p> <p>SCCA noted that this approach does not reflect the legal ownership structure of many shopping centre embedded networks, which often have multiple owners and a manager operating the centre.</p> <p><b>Who sole registrant should be</b></p> <p>Responses to this part of the question varied greatly.</p> <ul style="list-style-type: none"> <li>• Three stakeholders nominated the <b>network owner</b> as the sole registrant (Energy Locals, MTA Energy and Origin Energy).</li> <li>• Two stakeholders nominated the <b>network controller</b> as the sole registrant (Ausgrid and Energy Intelligence).</li> <li>• Two stakeholders nominated the <b>network operator</b> as the sole registrant (CPAQ and Compliance Quarter).</li> <li>• Active Utilities proposed the application of two general rules to ascertain which registrant should be responsible: <ul style="list-style-type: none"> <li>○ If the embedded network owner is responsible for the site, including overall compliance, then the <b>network owner</b> should be the sole registrant.</li> </ul> </li> </ul>	<p><b><u>The AER's response and proposed position is set out in sections 4.3 and 4.4 of this Notice.</u></b></p> <p>As outlined in these sections of the Notice, the draft Guideline proposes an option where if, more than one person owns, controls or operates a network, and:</p> <p>(a) those persons are the subject of an exemption by the AER under s 11(2)(b) of the NEL and clause 2.5.1(d) of the NER, and</p> <p>(b) the relevant exemption is a registered exemption, those persons may (but are not required to) nominate a 'primary registrant' to the AER.</p> <p>The 'primary registrant' <i>may</i> comply with certain applicable conditions (as specified) on behalf of the other person or persons associated with the network and may be any of the owner, controller or operator of an exempt network.</p> <p>The persons not nominated as the 'primary registrant' will still be liable for any breach of a condition of an exemption where the primary registrant has not fulfilled its obligation as the holder of an exemption and are responsible for ensuring compliance with the other conditions of exemption.</p>

Stakeholder	Stakeholder response	AER response
Strata Community Association WINconnect [Confidential submission]	<ul style="list-style-type: none"> <li>○ If an embedded network operator is appointed and is responsible for the site, including the overall compliance, then the <b>network operator</b> should be the registrant.</li> <li>● Altogether Group nominated either the embedded <b>network owner</b> or <b>network controller</b>, where "controller" could mean a third party appointed by the embedded network owner.</li> <li>● ACAT recommended first clarifying the types of parties that may control or operate an embedded network in the network guideline.</li> <li>● AGL and CCIA NSW suggested that the parties involving in owning, operating and controlling the embedded network nominate the person best placed to be the sole registrant.</li> <li>● EWON stated that the answer would depend on how the definitions of 'controlling' and 'operating' an embedded network are clarified in the guideline.</li> <li>● PIAC concluded that the entity with ownership, control or legal responsibility for the physical embedded network asset and infrastructure (or the agent contracted to act on their behalf) should be considered the responsible entity for the purposes of dispute resolution.</li> <li>● Strata Community Association stated that responsibility for meeting network exemption conditions, specifically ombudsman membership and the administrative processes involved, should be restricted to retailers.</li> <li>● WINconnect recommended the criteria for designating responsibility include demonstrated experience to operate, and proposed responsibility should be designated to a party that has demonstrated experience and/or capability to operate under an ongoing reporting framework to the AER, in the same way licensed retailers are obliged to do.</li> </ul>	

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

ACAT Active Utilities AGL Altogether Group Ausgrid Compliance Quarter Energy Intelligence Energy Locals ENM Solutions EWON MTA Energy Origin Energy SCCA WINconnect	<p>Stakeholders provided a variety of responses to this question. Some stakeholders discussed the advantages of designating responsibility in a general sense but did not provide specific examples of where this would be beneficial.</p> <p>Ausgrid proposed that it would be helpful to have clarity regarding responsibilities for both MSATS and provision of consumer support services (particularly where there is no embedded network manager).</p> <p>ENM Solutions proposed that sole responsibility would be helpful in relation to meter upgrades and switchboard responsibilities.</p>	<p><b><u>The AER’s response and proposed position is set out in sections 4.3 and 4.4 of this Notice.</u></b></p> <p>As outlined in these sections of the Notice, the draft Guideline proposes that if the parties associated with a network (that is, the owner, controller and operator, to the extent they are different entities) nominate between them a ‘primary registrant’, that person may satisfy the condition to become a member of an ombudsman scheme of the relevant State or Territory on behalf of the other parties with a registered exemption.</p> <p>Where other conditions that may apply in future that are seen as appropriate for designating responsibility, are later identified as appropriate, there is scope for this to occur by amending the conditions set out in the Guideline in future guideline reviews.</p>
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**Question 3: Should we clarify the meaning of controlling and operating an embedded network?**

ACAT Active Utilities AGL Altogether Group Ausgrid CCIA NSW Compliance Quarter CPAQ Enel X Energy Intelligence Energy Locals	<p>Most stakeholders who responded to this question were supportive of the clarification of the meaning of controlling and operating an embedded network.</p> <p>AGL and Origin Energy noted that the clarification should not be too prescriptive or wide-reaching. Origin Energy in particular indicated that the clarification should be restricted to dealing with who needs to apply for the exemption and which party will be responsible for each exemption condition.</p> <p>Compliance Quarter noted it welcomed clarification on the terms and proposed that the distinction between ‘controlling’ and ‘operating’ a network is unnecessary.</p>	<p><b><u>The AER’s response and proposed position is set out in sections 9.1.3 and 9.1.4 of this Notice.</u></b></p> <p>As outlined in these sections of the Notice, ‘controlling’ and ‘operating’ are not defined in the NEL or NER.</p> <p>The current Guideline states:</p> <p>“The ‘operator’ or controller’ of a network is anyone who arranges to provide services normally associated with a network service provider. This most commonly means specialist energy companies that provide services in exempt networks.”</p> <p>The draft Guideline proposes to amend the wording to read:</p> <p>“The terms ‘own, control or operate’ are not defined in the NEL or the NER. The AER will make a factual assessment when considered the matter and generally apply these terms flexibly and in a broad range</p>
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Stakeholder	Stakeholder response	AER response
ENM Solutions EWON MTA Energy Origin Energy SCCA Strata Community Association Watts Energy WINconnect		<p>of circumstances. If you are unsure whether you own, control or operate a network for the purposes of the NEL or the NER, we recommend obtaining your own legal advice on your specific circumstances.</p> <p>“To help you understand whether you 'own, control or operate' a network, we will generally interpret these terms as follows:</p> <p>The 'owner' of a network will generally be anyone who has ownership rights or interests in relation to that network, either by agreement or by statute.</p> <p>The 'operator' or 'controller' of a network will generally be anyone who arranges to provide services normally associated with a network service provider. This most commonly means specialist energy companies that provide services in exempt networks. It will not usually include parties who perform more minor functions around the network, such as performing isolated repairs or maintenance.</p> <p>An operator will generally be anyone who physically manages the network, whether remotely or on site. A controller will generally be anyone who makes decisions on how the operator runs the network.”</p>

**Question 4: Do stakeholders consider there is a need to regulate Small Generation Aggregators under the network exemption guidelines?**

Active Utilities AEMO AGL Ausgrid Compliance Quarter Enel X Energy Intelligence Energy Locals ENM Solutions New Energy Ventures PIAC SCCA	<p>The majority of stakeholders who responded to this question disagreed with, or questioned the need for, regulating NSPs with embedded SGA schemes under the network guideline.</p> <p>Some stakeholders proposed regulation through alternative and/or fit-for-purpose measures such as:</p> <ul style="list-style-type: none"> <li>• separate regulation under the NER (Active Utilities).</li> <li>• an enhanced SGA framework in conjunction with ensuring all aggregators are subject to consistent retail licence obligations and equivalent consumer protections (AGL).</li> <li>• focusing on regulation of SGAs as part of the Energy Security Board's Post 2025 Electricity Market Design Project (Ausgrid).</li> </ul>	<p><b><u>The AER's response and proposed position is set out in sections 5.3 and 5.4 of this Notice.</u></b></p> <p>As outlined in these sections of the Notice, the draft Guideline proposes to amend the scope of relevant exemption classes, to clarify that NRO2 is the appropriate class.</p> <ul style="list-style-type: none"> <li>• The change to NDO1 is intended to prevent NSPs with embedded SGA schemes from using class NDO1 as this is related to off-market generation.</li> <li>• The change to NRO1 is intended to clarify that the generation system in this class is only used for network support or demand management services but does not include small generating units (SGUs).</li> </ul>
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Stakeholder	Stakeholder response	AER response
Strata Community Association WINconnect	<p>AEMO suggested that the AER consider clarifying whether these are 'networks', both physically and under the NER as focusing only on the SGA does not solve the issue because the Market Customer category can use embedded networks for the same purpose as SGAs. AEMO proposed that potentially, a Market Ancillary Service Provider will also be able to provide market ancillary services at these child connection points.</p> <p>AEMO made a submission indicating that the embedded network framework, while not precluding SGAs from participating, was not designed for arrangements involving generation or energy storage. Staff had further discussions with AEMO in addition to its submission. AEMO's position is that the current regulatory framework as it applies to SGAs presents two issues:</p> <ul style="list-style-type: none"> <li>• that the deemed exemption class was being used by some SGA operators and this resulted in generating systems not being visible to AEMO; and</li> <li>• the metering installations used by SGAs were, in some cases, incorrectly configured resulting in incorrect data being fed to the market settlement system.</li> </ul> <p>AGL disagreed with the AER's stance that SGA or market generators that are connected to an embedded network would play no direct market role in directly supplying the customers that are connected to the embedded network.</p> <p>Energy Locals recommended that, to the extent SGAs involve customers, arrangements should align with on-market customer requirements.</p>	<ul style="list-style-type: none"> <li>• The change to NRO2 clearly identifies class NRO2 as the applicable class for registration by NSPs with embedded SGAs, and any other generation sources required to be registered under Chapter 2 of the NER.</li> <li>• The changes to NRO1 and NRO2 apply to both generation units and loads that are situated in an embedded network and are being used to supply either energy or ancillary services, respectively.</li> </ul>

**Question 5: Do stakeholders interpret Small Generation Aggregators as being captured under the NER?**

Active Utilities AEMO AGL	Stakeholders that expressed a firm position on this question considered that SGAs are captured under the NER (Active	<b><u>The AER's response and proposed position is set out in sections 5.3 and 5.4 of this Notice.</u></b>
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Stakeholder	Stakeholder response	AER response
Compliance Quarter Energy Intelligence Energy Locals ENM Solutions New Energy Ventures	<p>Utilities, AGL, Compliance Quarter, Energy Intelligence and Energy Locals).</p> <p>AEMO noted that relevant SGAs have indicated their network arrangements fall within a 'deemed' exemption under the existing AER guideline and welcomed any further clarification on this point. AEMO noted that the outcome should be consistently applicable to a given physical site and energy flow arrangement, irrespective of the category of market participant that classifies the 'child' connection points.</p> <p>New Energy Ventures stated that the AER has chosen to define customers within its exemption guideline and considered the AER should be careful that by refining its guideline to exclude use of embedded networks by SGAs it is not rewriting the rules. New Energy Ventures added that if the AER is seeking to exclude SGAs from using embedded networks, they recommend they submit the issue to the AEMC for consideration.</p>	As outlined in these sections of the Notice, the draft Guideline proposes to amend the class descriptions for NDO1, NRO1 and NRO2 so that exempt networks that contain generating units or loads that participate (or intend to participate in NEM wholesale markets) will fall under a registerable exemption class.

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

ACAT Active Utilities AGL Altogether Group Ausgrid CCIA NSW CPAQ Compliance Quarter Energy Intelligence Energy Locals ENM Solutions MTA Energy Origin Energy	<p>Stakeholders recommended a wide range of timeframes to procure and appoint an Embedded Network Manager (ENM), ranging from “as soon as possible” to three months. There was no obvious difference in recommended timeframes based on the core business or function of the stakeholder.</p> <p>ENM Solutions indicated the AER should ensure embedded network customers’ right to retail competition is not unduly delayed, noting that a period of 40 business days could pose significant customer detriment in this respect.</p> <p>Origin recommended the timeframe be extendable or subject to cooperation from the developer and the owners corporation.</p> <p>AGL said the regulatory requirements for an ENM should take into account situations where an ENM’s role is excessive.</p> <p>AGL added that while an ENM may be essential for an</p>	<p><b><u>The AER’s response and proposed position is set out in sections 6.3 and 6.4 of this Notice.</u></b></p> <p>As outlined in these sections of the Notice, the draft Guideline proposes a period of 30 business days to procure and appoint and ENM after a trigger event.</p> <p>This is to ensure the process is conducted with a sufficient degree of expedience to minimise the risk of detriment to customers.</p>
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Stakeholder	Stakeholder response	AER response
PIAC SCCA WINconnect [Confidential submission]	embedded network with many customers to enable retailer competition, it is clearly not the case when one customer with an embedded generator is connected. AGL concluded that, in this case, a very limited set of ENM responsibilities should be required to be carried out by a Metering Coordinator.	

**Question 7: Do stakeholders agree the appointment of Embedded Network Managers should be deferred in regional Queensland and legacy unmetered sites?**

Stakeholder	Stakeholder response	AER response
ACAT Active Utilities Altogether Group CPAQ Compliance Quarter Energy Intelligence Energy Locals ENM Solutions MTA Energy Origin Energy SCCA Strata Community Association WINconnect [Confidential submission]	<p><b>Deferral in regional Queensland</b></p> <p>Ten stakeholders agreed that the appointment of an ENM should be deferred in regional Queensland.</p> <p>Four stakeholders disagreed that the appointment of an ENM should be deferred in regional Queensland:</p> <ul style="list-style-type: none"> <li>Active Utilities considered it important to not cause jurisdictional confusion in the wider network, and to proactively plan for changes in unmetered sites and/or deregulation in regional Queensland. It also recommended the AER consider the importance of conducting other important works in the current regulatory environment.</li> <li>Energy Intelligence stated that there needs to be a drive for economic efficient prices by opening competition to these regions that have no/limited market, and that an appointment of an ENM will also ensure that customers are appropriately served in terms of outage notifications and life support registration.</li> <li>WINconnect supported aligning regional Queensland MSATS maintenance with the rest of the NEM. WINconnect recommended that not only should ENMs be appointed, but embedded network codes should also be registered against associated parent meters as this appropriately aligns regional Queensland should retail contestability become more readily available.</li> <li>ENM Solutions proposed that regional Queensland customers have the right to a retailer of their choice,</li> </ul>	<p><b><u>The AER’s response and proposed position is set out in sections 6.3 and 6.4 of this Notice.</u></b></p> <p>As outlined in these sections of the Notice, the draft Guideline proposes deferring appointment of an ENM in regional Queensland and legacy unmetered sites.</p> <p>We do not consider there is any benefit to be served from appointing an ENM where there is a lack of retail competition such as regional Queensland.</p>



Stakeholder	Stakeholder response	AER response
	<p>regardless of whether this choice is based on price or for other reasons.</p> <p><b>Deferral in legacy unmetered sites</b></p> <p>Nine stakeholders agreed that the appointment of an ENM should be deferred in legacy unmetered sites.</p> <p>Active Utilities and Energy Intelligence disagreed for the same reasons outlined above.</p>	

**Question 8: Do stakeholders agree that the appointment of Embedded Network Managers be deferred if they are no longer required, for example when all on-market customers have reverted to off-market? Are there other situations when Embedded Network Manager services are no longer required?**

ACAT Active Utilities Ausgrid CCIA NSW CPAQ Compliance Quarter Energy Intelligence Energy Locals ENM Solutions MTA Energy Origin Energy SCCA Strata Community Association WINconnect [Confidential submission]	<p><b>Deferral of appointment</b></p> <p>Eleven stakeholders agreed that appointing an Embedded Network Manager should be deferred if they are no longer required. CCIA NSW stated that “if the ENM cannot perform their functions, requiring an appointment is pointless and imposes an unnecessary cost”.</p> <p>Five stakeholders disagreed that the appointment should be deferred, with key arguments including that the appointment of an ENM:</p> <ul style="list-style-type: none"> <li>• helps tenants exercise their choice of retailer more effectively (Energy Intelligence)</li> <li>• may be an important check on network management, particularly for the ongoing interface with MSATS (ENM Solutions), and</li> <li>• supports customers to engage in a competitive energy market if and when they wish to (SCCA).</li> </ul> <p><b>Other situations when ENM services are no longer required</b></p> <p>No stakeholders raised other situations when ENM services are no longer required.</p>	<p><b><u>The AER’s response and proposed position is set out in sections 6.3 and 6.4 and of this draft report.</u></b></p> <p>As outlined in these sections of the Notice, the draft Guideline proposes deferring appointment of an ENM at sites where it would no longer serve a practical purpose.</p> <p>This deferral would depend on any changes to the circumstances of the network. For example, if a customer later chose to accept off-market supply, an ENM would need to be appointed in order for the customer to engage in the competitive market.</p>
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**Question 9: Do stakeholders agree to removing the 'eligible communities' and counter-offer provisions from the network exemption guideline?**

Stakeholder	Stakeholder response	AER response
ACAT Active Utilities Altogether Group Ausgrid CCIA NSW Compliance Quarter Energy Intelligence Energy Locals ENM Solutions Origin Energy Strata Community Association WINconnect	<p>Most stakeholders agreed with removing the ‘eligible communities’ and counter-offer provisions. These stakeholders tended to support the reasoning in our consultation paper – in particular, that the provisions are complicated and seem unnecessary given the requirements for a customer to enter into a market contract and the expiry of the cooling off period still need to be met.</p> <p>CCIA NSW responded that they did not support removing this wording from the network guideline but did support redrafting the provisions to reduce their complexity and improve their suitability, because these provisions provide a benefit to embedded network customers who do not utilise the service of an ENM. This stakeholder added that it took issue with the statement that ‘<i>an embedded network operator must apply to the AER to be eligible</i>’. In particular, the network guideline does not expressly state an embedded network serving community-based groups registered in activity class NR4 ‘must apply to the AER’ to be considered eligible.</p>	<p><b><u>The AER’s response and proposed position is set out in sections 9.2.3 and 9.2.4 of this Notice.</u></b></p> <p>As outlined in these sections of the Notice, the AER confirms its position in the consultation paper, as supported by most stakeholders, is that no eligible communities have been formed or registered.</p> <p>These provisions have not been utilised in the years since their inclusion, therefore the draft Guideline proposes to remove them.</p> <p>The AER also confirms its position, supported by stakeholders, that the counter-offer provisions present an unnecessary barrier to customers who exercise their choice to leave a network. While it would still be possible for a counter-offer to be made, removing this provision allows an ENM to be appointed without further delay.</p>

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

ACAT Active Utilities Altogether Group Ausgrid CPAQ Compliance Quarter Energy Intelligence Energy Locals ENM Solutions EWON Energy & Water Ombudsman South Australia (EWOSA)	<p>Most stakeholders agreed that this information should be standardised. Stakeholders provided various recommendations on this point:</p> <ul style="list-style-type: none"> <li>• Active Utilities proposed standardised statements that exempt sellers could use in their marketing materials and factsheets.</li> <li>• Altogether Group proposed the information should advise customers of their right to nominate a retailer of their own choice, and of the embedded network owner/operator’s obligations. They also proposed the AER include a consumer-friendly information section on the Energy Made Easy website.</li> <li>• CPAQ considered that the information provided should be balanced.</li> </ul>	<p><b><u>The AER’s response and proposed position is set out in sections 7.3 and 7.4 of this Notice.</u></b></p> <p>As outlined in these sections of the Notice, the draft Guideline proposes that standardised information be given to prospective customers by the proposed EENSPs.</p> <p>The draft Guideline includes a new Appendix C – Applying to convert an existing site to an embedded network (retrofit). Information to be provided in seeking a customer’s explicit informed consent will include that:</p> <ul style="list-style-type: none"> <li>• [the EENSP is] proposing to retrofit the site as an embedded network, which requires metering changes and information about the pros and cons of being an embedded network customer, and</li> </ul>
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Stakeholder	Stakeholder response	AER response
MTA Energy Origin Energy PIAC SCCA Strata Community Association Watts Energy WINconnect	<ul style="list-style-type: none"> <li>Compliance Quarter recommended that, similar to the AER’s Hardship Policy Guideline, operators should be allowed flexibility to add to the standardised statements, provided the additions are consistent with those statements.</li> <li>Energy Intelligence supported the ability of this approach to provide guidance and a minimum expectation, but recommended that standardised statements should not impede the embedded network operator providing their own materials.</li> <li>Energy Locals noted it firmly believes that all network operators should adhere to the Default Market Offer rules and use Basic Plan Information Documents when producing energy pricing documentation.</li> <li>PIAC responded that embedded network owners / operators should provide this information to consumers on request or when they enquire about leaving an embedded network. PIAC added factsheets should be easily available on the AER’s website for consumers.</li> <li>Watts Energy said the incoming retailer should be required to provide this factsheet when the embedded network customer signs the contract to ensure these customers are receiving a consistent message.</li> </ul> <p>SCCA and WINconnect expressed reservations about standardising the relevant information. Both stakeholders highlighted that standardised wording might not adequately accommodate site-specific nuances in network setup or relationships between embedded network owners / operators and their customers.</p>	<ul style="list-style-type: none"> <li>customers retain the right to contract with a retailer of choice even after inclusion in the embedded network (except where this right does not exist due to jurisdictional legislation), and</li> <li>in order to exercise their right to a retailer of choice, customers may need to enter into an ‘energy only’ contract, which is offered at retailers’ discretion and may be difficult to obtain, and</li> <li>customers in embedded networks may not receive the same protections as those of an authorised retailer under the Retail Law, including access to ombudsman schemes.</li> </ul>

**Question 11: Should the network exemption guideline's term 'express written consent' be replaced with 'explicit informed consent', and be provided in writing?**

ACAT Active Utilities	All stakeholders who responded to this question agreed that 'express written consent' should be replaced with 'explicit	<b><u>The AER’s response and proposed position is set out in sections 7.3 and 7.4 of this Notice.</u></b>
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Stakeholder	Stakeholder response	AER response
Altogether Group Ausgrid CCIA NSW CPAQ Compliance Quarter Energy Intelligence Energy Locals ENM Solutions EWON MTA Energy Origin Energy SCCA Strata Community Association WINconnect	<p>informed consent', and all but one of these stakeholders (Compliance Quarter) agreed it should be provided in writing.</p> <p>Compliance Quarter responded the 'in writing' requirement should be removed from both guidelines to bring them in line with the National Energy Retail Law.</p> <p>Two stakeholders raised concerns in relation to capturing electronic consent:</p> <ul style="list-style-type: none"> <li>Altogether Group strongly opposed the requirement to provide a 'signed consent' form without an explicit allowance for consent to be signed electronically.</li> <li>Energy Locals proposed that both guidelines should support obtaining explicit informed consent via digital and telephonic means.</li> </ul>	<p>As outlined in these sections of the Notice, the draft Guideline proposes to replace the term 'express written consent' with 'explicit informed consent' (EIC).</p> <p>EIC is a term which exists in the NERL and NERR and is appropriate to be mirrored in the Guideline.</p> <p>The AER proposes to make this change in order for requirements of the NERL, the Retail Exempt Selling Guideline and Guideline to be consistent.</p>

**Question 12: Should record keeping requirements explicitly apply to all situations where consent is required under the network and retail exempt selling guidelines?**

ACAT Active Utilities Altogether Group Ausgrid CPAQ Compliance Quarter Energy Intelligence Energy Locals ENM Solutions EWON MTA Energy Origin Energy	<p>Stakeholders unanimously agreed that record keeping requirements should explicitly apply to all situations where consent is required.</p> <p>Compliance Quarter recommended that the same record keeping requirements as those under s 40 of the NERL should apply to situations where explicit informed consent is required.</p> <p>SCCA considered that the record-keeping requirement should expressly allow for electronic records</p>	<p><b><u>The AER's response and proposed position is set out in sections 7.3 and 7.4 of this Notice.</u></b></p> <p>As outlined in these sections of the Notice, the draft Guideline proposes to replicate current record keeping requirements under s 40 of the NERL for explicit informed consent.</p> <p>This is an established concept in the National Energy Laws framework.</p>
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Stakeholder	Stakeholder response	AER response
SCCA Strata Community Association WINconnect		
<b>Question 13: Do stakeholders support proposed clarifications to the retail and network exemption guidelines' retrofit requirements? If not, what are reasons for not supporting the changes?</b>		
ACAT Active Utilities Altogether Group Ausgrid Compliance Quarter Energy Intelligence Energy Locals ENM Solutions MTA Energy Origin Energy SCCA Strata Community Association WINconnect	<p>Ten stakeholders supported the proposed clarifications to the retrofit requirements. However, some of these stakeholders raised additional related issues for consideration:</p> <ul style="list-style-type: none"> <li>• Active Utilities proposed that, in addition to the proposed clarifications, the AER should consider clarifying and possibly streamlining the number of documents relating to retrofit requirements which need explicit informed consent.</li> <li>• Ausgrid requested that DNSPs not be required to approve an embedded network new parent connection until the approved exemptions are visible on the AER's website, to be confident that the relevant parties are complying with the AER's requirements.</li> <li>• Compliance Quarter submitted that the AER should develop a 'Fast Track Approval Process' to support the implementation of embedded networks in existing sites where consumers will clearly benefit from an embedded network conversion and proposed that the AER should set out the mandatory contents and format of applications for retrofits within the network guidelines.</li> <li>• Energy Locals proposed all metered points, including site offices and common areas should be counted in the percentage calculation for consent.</li> <li>• SCCA supported the removal of the requirement to provide 'an undertaking to observe' but did not support additional exemptions for one site, maintaining that this could cause confusion for customers and compliance monitoring.</li> </ul>	<p><b><u>The AER's response and proposed position is set out in sections 7.3 and 7.4 of this Notice.</u></b></p> <p>As outlined in these sections of the Notice, EIC is an obligation that appears in the Retail Law and is included in the Retail Exempt Selling Guideline. We propose adopting in the draft Guideline the same meaning and using identical terminology within the draft Guideline for consistency with the Retail Law and the final Retail Exempt Selling Guideline (that was published on 15 July 2022).</p>

Stakeholder	Stakeholder response	AER response
	<p>Two stakeholders did not support the proposed clarifications:</p> <ul style="list-style-type: none"> <li>Altogether Group stated that the AER's position does not accommodate different types of communities. It also noted that the current 85% explicit informed consent requirement is logistically problematic given both the accessibility of tenants and the time taken to gather consent. Altogether Group also proposed that where "Power of Choice" compliant metering is installed, there should be no explicit informed consent requirement to retrofit the privately-owned utility infrastructure.</li> <li>WINconnect considered that the retrofit requirements in the network guideline is sufficiently clear and do not require further clarification.</li> </ul>	

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

Active Utilities AGL Altogether Group Ausgrid Compliance Quarter Energy Intelligence Energy Locals ENM Solutions EWON MTA Energy SCCA WINconnect	<p>Stakeholders noted a number of other provisions that they consider need clarification.</p> <p>AGL stated it is considering installing 'behind the meter' generation on a customer's private network and that the current network guidelines may require multiple categories with multiple associated exemption conditions, which AGL considered would be unnecessarily complex.</p> <p>Ausgrid proposed both guidelines should clearly outline the conditions required for a retrofit conversion to be undertaken on a multi-residential complex and a multi-commercial complex. Ausgrid added these conditions should also include comparable consent requirements or percentages of participants required to complete a retrofit conversion.</p> <p>ENM Solutions noted that sites that utilise an embedded network within an embedded network are not clearly addressed within the guidelines, and that further clarification on the rights of affected customers is required.</p>	<p>All conditions relevant to a network must be complied with – whether one or more categories are applicable.</p> <p>Consent requirements are the same for multi-residential or multi-commercial sites.</p>
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Stakeholder	Stakeholder response	AER response
	<p>EWON noted emerging complaints from customers living in embedded networks who have installed rooftop solar systems, the key issues being:</p> <ul style="list-style-type: none"> <li>• metering upgrades</li> <li>• who pays for network upgrades, and</li> <li>• availability of information for embedded network customers about the rules for the installation of solar PV systems at child connection points within the embedded network.</li> </ul> <p>MTA Energy raised two main issues with larger property investment companies' compliance in the commercial and industrial embedded network environment:</p> <ul style="list-style-type: none"> <li>• Under current drafting, these embedded network owners have multiple avenues to delay requests by customers to access on-market retail competition, from slow response to correspondence through to non-existent mechanisms for timely dispute resolution</li> <li>• Many embedded networks do not have market compliant metering installations, which restricts changing of retailers.</li> </ul> <p>SCCA proposed there should be allowance for the application in Victoria of the energy retail code, which is applicable for retail, and whereby the network guideline is applicable for network issues.</p>	

**Other issues raised in stakeholder submissions**

<p>Active Utilities CCIA NSW CPAQ PIAC</p>	<p><b>Allowing unmetered supply for networks established before 2012</b></p> <p>Four stakeholders expressed their general support for the AER's proposed changes to continue to allow unmetered connections in embedded networks that existed before 2012 unless a customer requests a meter be installed.</p> <ul style="list-style-type: none"> <li>• CCIA NSW stated that should the AER proceed with this change, provision should be made for embedded networks registered under activity class NR4 to pass on the actual</li> </ul>	<p>No change proposed.</p>
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Stakeholder	Stakeholder response	AER response
	<p>cost of the meter installation to the customer if state-based legislation does not allow for this.</p> <ul style="list-style-type: none"> <li>PIAC proposed that the AER should consider creating guidance and a schedule for acceptable metering costs, and alternatives to upfront recovery of those costs. PIAC noted all consumers in these circumstances should be made aware having a meter installed is an option for them.</li> </ul>	
<p>Active Utilities CCIA NSW</p>	<p><b>Simplification of guidelines</b></p> <p>Two stakeholders proposed that the guideline review should aim to simplify the guidelines:</p> <ul style="list-style-type: none"> <li>Active Utilities welcomed the revision of the guidelines to ensure simplification and to pivot away from technical terms that make the guidelines difficult to follow.</li> <li>CCIA NSW proposed that the AER could simplify the network guideline by structuring the guideline according to class activity, rather than conditions.</li> </ul>	<p>Various conditions in the Guideline have been amended for simplification, including removing outdated background information, without changing the substance of obligations.</p>
<p>Active Utilities CCIA NSW CPAQ PIAC</p>	<p><b>Proposed changes to disconnections for energy only customers</b></p> <p>Four stakeholders supported the AER's proposed amendment to the network guideline to include the retail guideline's disconnection obligations (conditions 9-11), being all of the stakeholders who expressed a view on this issue (Active Utilities, CCIA NSW, CPAQ and PIAC).</p>	<p><b><u>The AER's response and proposed position is set out in sections 8.3 and 8.4 of this Notice.</u></b></p> <p>As outlined in these sections of the Notice, the draft Guideline includes conditions to cover:</p> <ul style="list-style-type: none"> <li>a requirement to offer a payment plan when an on-market customer informs the exemption holder that they are unable to pay the network tariff due to financial difficulty</li> <li>when disconnection is prohibited, and procedures for permitted disconnection, and</li> <li>the procedure for reconnection following a permitted disconnection.</li> </ul>
<p>CCIA NSW</p>	<p><b>Mixed parks</b></p> <p>CCIA NSW reiterated it would help if the network and retail guidelines clarified the position for mixed parks, stating that while operators must register their exemption in class R4 of</p>	<p>No change proposed. The draft Guideline and current Retail Exempt Selling Guideline both cross-reference each other. They also note that they should contact the AER with any queries or seek legal advice (if needed) about their particular circumstances.</p>



Stakeholder	Stakeholder response	AER response
	<p>the retail guideline and class NR4 of the network guideline, the conditions they must comply with should depend on their relationship with the relevant customer. Alternatively, in supplying metered or unmetered energy to residents, the network guideline should make it clear in the conditions attached to class NR4 apply to that relationship.</p>	
Compliance Quarter	<p><b>Definition of site</b></p> <p>Compliance Quarter submitted the AER could provide further clarity on the meaning of ‘site’, especially in respect of the AER’s treatment of large suburban embedded networks (private networks that cross public roads), which are increasing. Compliance Quarter proposed that the natural meaning of ‘site’ is broader than the AER’s interpretation – that is, a location tied to one address.</p>	<p>No change is proposed. Site is used consistently throughout the draft Guideline and current Retail Exempt Selling Guideline.</p> <p>We do not agree that ‘site’ requires a formal definition. We have concerns that if we were to define ‘site’ we may unduly restrict some embedded network scenarios. The norm in jurisdictions is that the boundaries of the site are defined by reference to land title. The norm is also that power networks may not cross a land title boundary without the approval of a state-in regulator or the relevant distribution network service provider. However, there are exceptions to these norms in some jurisdictions that mean the exempt network can cross many land titles.</p>
Compliance Quarter	<p><b>Pancaking</b></p> <p>Compliance Quarter asked the AER to clarify its position on ‘pancaking’ (that is, establishing an embedded network within another embedded network).</p>	<p>No change proposed. The draft Guideline intends to regulate to the extent necessary to protect consumers, but not impose unnecessary burden on parties capable of protecting their own interests. The requirements allow all tenants of an embedded network access to retail competition.</p>
Compliance Quarter	<p><b>Large customer network contracts</b></p> <p>Compliance Quarter proposed that the restriction set out in condition 4.2.2.4 of the network guideline should only apply to small customers - currently it applies to ‘consumers’ and therefore arguably prevents operators from entering into enforceable fixed-term contracts with large customers. They propose that this is a necessary and understandable protection for small embedded network customers to ensure they can access retail competition, but that it puts embedded network operators at a severe disadvantage compared with the rest of the retail market when it comes to contracting with large customers.</p>	<p>No change proposed. The AER has not been provided with evidence of EENSPs facing severe disadvantage which would justify access to retail competition being limited to ‘small customers’ only.</p>

Stakeholder	Stakeholder response	AER response
EWON	<p><b>Increase accountability for unregulated billing agents</b></p> <p>EWON proposed expanding the published information contained on the register of exemptions to include the details of any billing agent providing retail services to the embedded network.</p>	<p>A billing agent is likely to be a controller or operator of a network, and is to be notified to the AER. The public register will reflect all responsible persons for a network – and the nominated Primary Registrant.</p>
<p>EWON</p> <p>Origin Energy</p> <p>PIAC</p> <p>Watts Energy</p>	<p><b>Compliance and oversight</b></p> <p>4 stakeholders indicated that the AER should take a more active role in ensuring compliance with the retail and network guidelines.</p> <p>EWON recommended the guidelines contain stronger requirements for exempt entities to keep the information on registered exemptions up-to-date.</p> <p>Origin Energy stated it considered that existing compliance and oversight in embedded networks should be strengthened and that the exemption regime should seek to mirror the obligations under a retail licence.</p> <p>PIAC recommended a system of escalating penalties should be imposed on entities that do not comply with their obligations and that the AER’s monitoring and compliance work should include collecting and maintaining details about:</p> <ul style="list-style-type: none"> <li>• how many people are covered by network and retail exemptions</li> <li>• the types of business structures that are used, and</li> <li>• key indicators of consumer protection.</li> </ul> <p>Watts Energy proposed improved awareness and communication campaigns for retrofits.</p>	<p>The AER’s oversight of the Guideline is conducted in accordance with the <i>AER Compliance &amp; Enforcement Policy</i>, available at <a href="https://www.aer.gov.au/publications/corporate-documents/aer-compliance-enforcement-policy">https://www.aer.gov.au/publications/corporate-documents/aer-compliance-enforcement-policy</a>.</p> <p>We have clarified in the draft Guideline that we expect EENSPs to notify us if any of their contact details change.</p> <p>The penalties associated with the requirement to hold an exemption from being an registered NSP are set out under the NEL. Legislative changes are out of scope for the review of the current Guideline.</p> <p>Prospective EENSPs are required to advise us of customer numbers as part of the exemption registration, or individual exemption application process. We do not consider it appropriate to require ongoing mandatory performance reporting by EENSPs at this time due to the compliance burden this could place on small-scale operators.</p>
Watts Energy	<p><b>Advising AER of changes to details</b></p> <p>Watts Energy stated it identified inconsistency between the network and retail guidelines with respect to the requirements to notify the AER of changes to exemptions, including change of ownership. It recommended the new owner / operator</p>	<p>The draft Guideline reflects this proposed change. All changes of owner, controller or operator of a network will need to be reported to the AER within 20 business days of the change. This is consistent with the requirement in the NEL that there must always be a financially responsible market participant at a site.</p>

Stakeholder	Stakeholder response	AER response
	<p>should be required to notify the AER and apply for the new registration within 20 business days after the transfer occurs.</p>	
Origin Energy	<p><b>On market customers</b></p> <p>Origin Energy considered the same network charges should apply to 'network use of system' (NUOS) only customers as would apply to mass market customers.</p>	No change proposed.
Watts Energy	<p><b>ENM, embedded networks and compliant metering</b></p> <p>Watts Energy suggested that the AER review section 4.2 of the network guideline to ensure alignment with the metering coordinator roles and responsibilities. It recommended that, in particular, the AER should clarify that the ENM does not have a responsibility for providing advice on how or when to upgrade switchboards or metering installations, or who must bear the costs for such upgrades.</p>	<p>The draft Guideline proposes to remove current section 4.2. The AER considers this is no longer required as the NER covers metering requirements for connection points (including child connection points). Under the NER, a financially responsible Market Participant (FRMP) appoints a Metering Coordinator (MC) for each connection point. The FRMP must ensure a connection point has a metering installation and is registered with AEMO. The FRMP must appoint a MC who is responsible for provision, installation and maintenance of a metering installation.</p> <p>The NER requires a child connection point to have a compliant meter so we expect few legacy cases of non-compliant metering installations where the issue of who should pay for an upgrade arises.</p>
Watts Energy	<p><b>Information to be provided to embedded network customers</b></p> <p>The retail guideline condition 2.1(b) and network guideline condition 4.8.1.1(a) both require information to be provided on the 'options for metering that would allow this choice' (that is, for the embedded network customer to choose their own retailer).</p> <p>This particular obligation should be removed, or further clarification provided. The embedded network owner and exempt seller cannot provide options or advice on metering</p>	Condition 4.8.1.1(a) under current Guideline (renumbered as Condition 6.2.1.1 under the draft Guideline) requires the EENSP to inform customers that they have the right to not participate in the embedded network, but this may require that they arrange with the new retailer for a new meter if they exercise that right. The prospective is not required to provide more detailed information than that.

Stakeholder	Stakeholder response	AER response
	that the retailer of choice would require or install, should the tenant elect to go 'on market'.	