

Our Ref: #12,793,452
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Exemption Holder: Couran Point Services Pty Ltd
Name of site: Couran Point Housing Estate
Address: South Stradbroke Island, QLD 4216

By email: juliemikes@bigpond.com

15 October 2021

Dear Sir/Madam,

Couran Point Services Pty Ltd — Couran Point Housing Estate — variation of individual retail exemption

In our letter dated 1 July 2021, we informed you of our intention to vary Couran Point Services Pty Ltd's (Couran Point) individual exemption granted on 18 November 2016 for Couran Point Housing Estate, South Stradbroke Island, QLD 4216.

We advised that the AER is varying the individual exemption to include a requirement to join the energy ombudsman scheme for each jurisdiction where Couran Point sells energy to exempt customers.

This letter confirms that the individual exemption variation came into effect on 12 October 2021.

What you need to do by COB 12 November 2021

1. Confirm in writing to the AER at AERexemptions@er.gov.au that you accept the varied conditions set out in the Instrument of Exemption at Schedule 1 to this letter.
2. Visit the [Energy and Water Ombudsman Queensland](http://www.energyandwaterombudsman.qld.gov.au) (EWOQ) website to find out about the scheme and apply for your membership once permitted to do so.

Background

In May 2020, the *Mineral and Energy Resources and Other Legislation Amendment Act 2020* was passed through the Queensland Parliament. This legislation allows for EWOQ's jurisdiction to cover exempt persons under regulations, which are yet to be drafted.

Once the relevant regulations are drafted and enacted, EWOQ will be able to resolve disputes between exempt persons and their exempt customers.

In anticipation of this new requirement, the AER is adding the relevant ombudsman scheme condition provided in the Instrument of Exemption at Schedule 1 to this letter to apply to Couran Point's individual exemption.

Couran Point will be responsible for seeking EWOQ membership once the Queensland Government has enacted these regulations.

Why should my business join an energy ombudsman scheme?

Energy ombudsman schemes play an important role in resolving disputes that exempt entities and their embedded network customers have not been able to resolve themselves. The requirement to join an energy ombudsman scheme brings consumer protections for customers of embedded networks in line with the protections for customers of authorised retailers and distributors.

What happens if my business does not join an energy ombudsman scheme?

- Section 112(2) of the National Energy Retail Law (Retail Law) requires exempt persons to comply with the conditions attached to their individual exemptions. Failing to adhere to these conditions is considered a breach of the Retail Law and may attract civil penalties of:
 - Up to \$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, and any body corporate related to the body corporate, has obtained, directly or indirectly—3 times the value of that benefit.
 - 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.

If you have any further queries, or would like to discuss this further, please contact Sarah Pinchuck at sarah.pinchuck@ aer.gov.au or 07 3835 4661.

Yours sincerely



Rowena Park
General Manager, Compliance and Enforcement Branch
Australian Energy Regulator

Schedule 1: Instrument of exemption

VARIATION OF CONDITIONS OF INDIVIDUAL RETAIL EXEMPTION

The Australian Energy Regulator, on 12 October 2021, decided pursuant to rule 158 of the National Energy Retail Rules, to vary the exemption conditions of the individual exemption granted to Couran Point Services Pty Ltd (ABN 85 089 110 672) (the exempt seller) on 18 November 2016. The conditions applying to Couran Point Services Pty Ltd are as follows:

Retrofitting of an embedded network

Condition 1 – Obligation to supply

- 1 The exempt person cannot refuse to sell electricity to a small customer who is within the geographical area as described by Appendix A to this exemption, except in accordance with relevant disconnection provisions.
- 2 Subject to condition 10, the exempt person can refuse to sell electricity to an exempt customer where:
 - a. the exempt customer owes outstanding amounts under a previous electricity account (with the exception of where a customer has been identified as being in financial difficulty)
 - b. the exempt customer's premises have been disconnected by the exempt person due to an act or omission of the exempt customer, other than the failure to pay a bill, and the exempt customer has not within 10 business days of disconnection rectified the matter that gave rise to the disconnection. The exempt person must reconnect the premises and offer to sell electricity once the matter is rectified.
- 3 The exempt person is not obligated to sell electricity, or provide or facilitate new connections, to customers outside of the geographical area as described by Appendix A.

Condition 2 - Information provision

- 1 The exempt person must advise exempt customers, in writing, at the start of their tenancy/residency/agreement of the following:
 - a. that the exempt person is not subject to all the obligations of an authorised retailer, and the exempt customer will not receive the same protections as it would if it were purchasing from an authorised retailer
 - b. the exempt customer's rights in relation to dispute resolution including:
 - i. the exempt person's procedures for handling disputes and complaints, and
 - ii. any right that the exempt customer has to access the electricity Ombudsman scheme or any other relevant external dispute resolution body in the state or territory in which the exempt customer is located
 - c. the conditions applicable to the exemption that the exempt person is operating under

- d. the availability of relevant government or non-government electricity rebates, concessions and relief schemes
 - e. the forms of assistance available if the exempt customer is unable to pay electricity bills due to financial difficulty, as well as the process the exempt customer should follow to seek these forms of assistance
 - f. the electricity tariffs and all associated fees and charges that will apply to the exempt customer in relation to the sale of electricity
 - g. the flexible payment options that are available to the exempt customer in relation to the sale of electricity, such as arrangements for payment by periodic instalments (bill smoothing)
 - h. contact numbers in the event of an electricity fault or emergency.
- 2 The information set out in paragraph 1 of this condition must also be provided by the exempt person at any time on request by the exempt customer.

Condition 3 - Billing and payment arrangements

- 1 The exempt person must ensure that bills are issued to each exempt customer at least once every three months. Bills may be estimated in accordance with condition 4.
- 2 The exempt person must offer at least two payment methods to an exempt customer. However, if the exempt person offers direct debit as one payment method, they must also offer at least two other payment methods to an exempt customer (that is, at least three methods in total). In each case, at least one of the payment methods offered must be able to be effected without internet access. For example:
- a. in person;
 - b. by telephone;
 - c. by mail;
 - d. by direct deposit into a bank account.
- 3 The exempt person must offer flexible electricity payment options to an exempt customer who is identified, either by the exempt person or exempt customer, as being in financial difficulty. Flexible payment options may include arrangements for payment by periodic instalments having regard to:
- a. the customer's capacity to pay,
 - b. any arrears owing by the customer, and
 - c. the customer's expected electricity consumption needs over the following 12 month period, or the duration of their tenancy/residency/agreement if the tenancy/residency/agreement is less than 12 months.
- 4 The requirements in paragraph 3 do not apply where the exempt customer has:
- a. had two flexible payment arrangements cancelled by the exempt person in the previous 12 months due to non-payment, or
 - b. been convicted of an offence involving illegal use of electricity in the previous two years.

- 5 The exempt person must include the following particulars in a bill for an exempt customer:
 - a. the name of the exempt customer
 - b. the address of the exempt customer's premises
 - c. date that the account was issued
 - d. the identifier of the meter for the exempt customer's premises
 - e. the pay-by date for the bill
 - f. date of the current meter reading or estimate, as applicable
 - g. the dates to which the meter reading or estimate applies (billing period)
 - h. current meter reading or estimate in kilowatt hours. Where the amount is an estimate, this must be clearly stated on the bill
 - i. previous meter reading or estimate in kilowatt hours. Where the amount is an estimate, this must be clearly stated on the bill
 - j. the amount of electricity consumed, or estimated to be consumed, in the meter reading period, shown in kilowatt hours
 - k. tariffs, fees and charges applicable to the exempt customer
 - l. the basis on which tariffs, fees and charges are calculated
 - m. any amount deducted, credited or received under a government or non-government funded electricity charge rebate, concession or relief scheme or under a payment arrangement
 - n. details of the available payment methods
 - o. a telephone number for account inquiries and complaints.

Condition 4 - Estimation as basis for bills

- 1 The exempt person must use best endeavours to ensure that the meter for each exempt customer is read and used as the basis, or apportioned, for any bill issued.
- 2 The exempt person may base an exempt customer's bill on an estimation of the exempt customer's consumption of electricity where the exempt person is not able to reasonably or reliably base the bill on an actual meter reading.
- 3 Where an estimation is used as the basis for an exempt customer's bill, the estimation must be based on:
 - a. historical metering data for the exempt customer reasonably available to the exempt person, or
 - b. where this is not available, the average usage of electricity by a comparable customer over the corresponding period.
- 4 If a customer's bill is based on an estimation, this must be clearly stated on the exempt customer's bill.

- 5 Where an exempt customer has prevented access to a meter for the purpose of reading that meter, and subsequently requests the exempt seller to replace an estimated bill with a bill based on an actual meter reading, the exempt seller must comply with that request but may pass through to the exempt customer any costs it incurs in doing so.

Condition 5 - Pay-by date

The pay-by date for a bill must not be less than 13 business days from the date on which the exempt person issues the bill.

Condition 6 - Receipts

- 1 The exempt person must provide each exempt customer with a receipt for any amount paid for electricity, except where payment has been made by:
 - a. direct debit, or
 - b. credit card over the phone and the exempt customer is provided with a receipt number.
- 2 The exempt person must provide the exempt customer with a separate receipt if a payment for electricity was made together with a rent payment but has not been separately identified on the rent receipt.

Condition 7 – Charges for late and dishonoured payments

- 1 The exempt person must limit any fee charged to an exempt customer for late payment to a recovery of reasonably incurred costs by the exempt person as a result of the exempt customer's late payment. (Customers who are identified as experiencing financial difficulties must not be charged a late payment fee).¹
- 2 The exempt person must not charge fees for the sending of payment reminder or disconnection notices.

Condition 8 – Undercharging and overcharging

- 1 Where an exempt customer has been undercharged, the exempt person can recover the amount undercharged subject to the following:
 - a. where the undercharging was not the result of the exempt customer's fault or unlawful act or omission, the exempt person is limited to recovering the amount undercharged in the 9 months before the date on which the exempt customer is notified of the undercharging
 - b. the exempt person cannot charge interest on the undercharged amount
 - c. the exempt person must offer the exempt customer time to pay the undercharged amount by instalments, over a period nominated by the customer (up to 12 months, but no longer than the period of the undercharging).
- 2 Where an exempt customer has been overcharged, the exempt person must inform the customer within 10 business days after becoming aware of the overcharging and repay the amount overcharged subject to the following:

¹ For clarification, a late payment fee can only be charged where it has not been excluded by jurisdictional legislation

- a. where the amount overcharged is \$25 or more, the exempt person must refund the amount to the exempt customer if requested, or if no such request is made, credit the amount to the exempt customer's next bill. Where the exempt customer no longer purchases electricity from the exempt person, the exempt person must use best endeavours to refund the amount within 10 business day
- b. where the amount overcharged is less than \$25, the exempt person must credit that amount to the exempt customer's next bill
- c. no interest is payable on the overcharged amount
- d. where the overcharging was the result of the exempt customer's fault or unlawful act or omission, the exempt person is limited to repaying the amount overcharged in the 12 months before the date on which the error was discovered.

Condition 9 - Payment difficulties and de-energisation

- 1 Where an exempt customer is identified, either by the exempt person or the exempt customer, as being unable to pay electricity bills due to financial difficulty, the exempt person must:
 - a. direct the exempt customer to the Australian government electricity efficiency website or another information resource with electricity efficiency advice, and
 - b. ensure that the exempt customer is aware of relevant government or non-government electricity rebates, concessions and relief schemes, and
 - c. not charge the exempt customer a late payment fee, and
 - d. not charge the exempt customer a security deposit.
- 2 Subject to Condition 10, the exempt person must not proceed with disconnection or cessation of electricity supply to an exempt customer unless the following requirements have been met:
 - a. the exempt customer has requested disconnection, or
 - b. continuity of supply to the premises would be unsafe, or
 - c. the exempt customer's tenancy/residency/agreement has ended and the exempt customer is vacating the premises, or
 - d. the exempt customer has not paid a bill by the pay-by date or has not adhered to the terms of a payment plan, and:
 - i. following non-payment by the pay-by date, the exempt person has given the exempt customer a reminder notice requesting payment by a date at least 6 business days from the date of issue of the reminder notice, and, in the case of residential exempt customers, has offered the exempt customer more flexible payment terms to pay any amount outstanding and has restated the forms of assistance available if the non-payment is due to financial difficulty, and
 - ii. following non-payment by the date specified in the reminder notice, or, in the case of residential customers, the establishment of more flexible payment terms, the exempt person has given the exempt customer a disconnection warning notice informing the exempt customer that disconnection may occur if payment

of the outstanding bill is not made by a date at least 6 business days from the date of issue of the warning notice, and

- iii. the exempt person has, after issuing the disconnection warning notice, used its best endeavours to contact the customer in person or by telephone in connection with the failure to pay, and
 - iv. the exempt customer has, by the date specified in the disconnection warning notice, refused or failed to take any reasonable action towards settling the debt.
- 3 Where an exempt customer is disconnected in accordance with paragraph 2(b) of this condition, the exempt person must use its best endeavours to notify the exempt customer in person or by telephone prior to the disconnection, and must arrange for reconnection of the premises as soon as practicable.
 - 4 This condition does not apply where state or territory tenancy legislation sets out the process and requirements for the disconnection or cessation of electricity supply by the exempt person on the basis that they are a landlord.

Condition 10 - When disconnection or de-energisation is prohibited

- 1 The exempt person must not disconnect or cease electricity supply to an exempt customer's premises where:
 - a. a person residing at the exempt customer's premises requires life support equipment that depends on electricity for its operation, or
 - b. an application has been made by or on behalf of the exempt customer for assistance to an organisation responsible for a rebate, concession or relief available under any government or non-government funded electricity charge rebate, concession or relief scheme and a decision on the application has not been made, or
 - c. the exempt customer has made a complaint directly related to the proposed reason for disconnection or de-energisation, to the exempt person, the energy Ombudsman or another relevant external dispute resolution body and the complaint remains unresolved, or
 - d. the disconnection or de-energisation would occur on:
 - i. a business day before 8am or after 3pm, or
 - ii. a Friday or the day before a public holiday, or
 - iii. a weekend or a public holiday, or
 - iv. the days between 20 December and 31 December (inclusive) in any year.
- 2 This condition does not apply where the exempt customer has requested disconnection.
- 3 This condition does not apply where continuity of supply to the exempt customer's premises would be unsafe.
- 4 This condition does not apply where there is a planned or unplanned interruption to supply.
- 5 This condition does not apply where the electricity supply agreement between the exempt person and exempt customer has been terminated.

Condition 11 - Reconnection or re-energisation

- 1 Where the exempt person has arranged for the disconnection of an exempt customer's premises and the exempt customer has:
 - a. if relevant, rectified the matter that led to the disconnection, and
 - b. made a request for reconnection, and
 - c. paid any charge for reconnection,the exempt person must reconnect the premises (or, where required, arrange with the network operator to reconnect the premises) as soon as practicable, and no later than two days from when the request was made.

Condition 12 – Planned interruption to supply

1. In the case of a planned interruption, an exempt seller must notify each affected exempt customer by any appropriate means of the interruption at least 4 business days before the date of the interruption.
2. The notification must:
 - a. specify the expected date, time and duration of the interruption
 - b. include a telephone number for enquiries
 - c. include a statement that any enquiries regarding planned interruptions are to be directed to the exempt seller.
3. The exempt seller must use its best endeavours to restore the exempt customer's supply as soon as possible.

Condition 13 – Unplanned interruptions to supply

1. In the case of an unplanned interruption, the exempt seller must:
 - a. as soon as practicable, make available, by way of a 24 hour telephone service, information on the nature of the interruption and an estimate of the time when supply will be restored or when reliable information on restoration of supply will be available; and
 - b. use its best endeavours to restore supply to affected exempt customers as soon as possible.

Condition 14 - Contact details

- 1 The exempt person must provide a means of contact for account inquiries and complaints that can be readily accessed by exempt customers.
- 2 The exempt person must provide a 24 hour emergency telephone contact number.²

Condition 15 - Dispute resolution

- 1 In the event of a dispute concerning the sale of electricity to an exempt customer, and in the absence of a determination of the relevant tenancy tribunal if the customer is a tenant, the exempt person must:

² For clarity, reference to the provision of an emergency telephone contact number will be satisfied by the provision of a manned mobile telephone service.

- a. make reasonable endeavours to resolve the dispute, and
- b. advise the exempt customer of any right that the exempt customer has to access the electricity Ombudsman scheme or any other relevant external dispute resolution body in the state or territory in which the exempt customer is located, if applicable.

Condition 16 - Life support customers

- 1 The exempt person must maintain records of any exempt customers who have provided them with confirmation from a registered medical practitioner that a person residing at the exempt customer's premises requires life support equipment that depends on electricity for its operation on their premises.
- 2 The exempt person must, at the time of registering the premises as having life support, provide the exempt customer with:
 - a. general advice that there may be a planned or unplanned interruption to the supply at the address
 - b. information to assist the exempt customer to prepare a plan of action in case of an unplanned interruption
 - c. an emergency telephone contact number.

Condition 17 - Continuity of supply

- 1 The exempt person must notify the exempt customers immediately if there is any likelihood that they will be unable to continue selling electricity.
- 2 If the exempt person is unable to continue selling electricity, and it is necessary for another person to take over the exempt person's electricity selling operations, the exempt person must participate in the development and implementation of arrangements to facilitate this.

Condition 18 – Termination of electricity supply agreement

- 1 An electricity supply agreement between the exempt person and an exempt customer will terminate:
 - a. on a date agreed by the exempt person and exempt customer, or
 - b. five business days (or a different time agreed by the exempt person and exempt customer) from the date when the exempt customer gives the exempt person a termination notice, or
 - c. at the conclusion of the exempt customer's lease for, or occupancy of, the premises to which the electricity is supplied, or
 - d. when the exempt customer starts receiving electricity retail services from a different retailer or exempt person, or
 - e. when a different exempt customer starts receiving customer retail services for the premises, or

- f. at the end of a period of 10 business days commencing on the day the exempt customer's premises are disconnected, where the conditions for reconnection have not been met.
- 2 Termination of an arrangement to supply electricity does not affect any rights or obligations that have already accrued under the agreement.

Condition 19 - Maintaining records

- 1 The exempt person must maintain records of the following for each of its exempt customers:
 - a. the name of the exempt customer
 - b. the address of the exempt customer's premises
 - c. the identifier of the meter for the exempt customer's premises (if applicable)
 - d. the date that the customer account was created
 - e. copies of any bills issued for the previous 12 months
 - f. the date of the most recent meter read for the customer (if applicable)
 - g. the basis for determining any estimates of consumption for the purpose of billing where a meter read could not be obtained.

Condition 20 – Member of energy ombudsman scheme

1. An exempt person must, if permitted by an energy ombudsman scheme:
 - a) be a member of, or subject to, an energy ombudsman scheme for each jurisdiction where it sells energy to exempt customers and
 - b) comply with the requirements of that scheme.