



9 December 2022

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

Lodged electronically: [AERexemptions@aer.gov.au](mailto:AERexemptions@aer.gov.au)

Dear Ms Park,

**RE: Submission to AER Network service provider registration exemption guideline review 2021–22, Draft Decision**

Origin Energy (Origin) appreciates the opportunity to provide a submission in response to the Australian Energy Regulator's (AER) Network service provider registration exemption guideline review 2021–22, Draft Decision.

The network and retail exemption guidelines (the Guidelines) set out the processes for registering and applying for exemptions, and outline the various exemption classes, their eligibility criteria and exemption conditions.

With the recent acquisition of WINconnect, Origin has a significant and growing presence in the embedded networks market. We are supportive of measures aimed at strengthening existing compliance and oversight to ensure that embedded networks are operating as intended and providing consumer protections consistent with that provided to mass market customers. More broadly, Origin supports the AER proposal to streamline the Guideline, improve its consistency with the Retail Exempt Selling Guideline and improve readability and use of the Guideline.

We do not support the AER's proposal to remove the exception from an individual retail exemption for commercial retrofit sites where 100% consent has been achieved. We consider there are significant customer benefits associated with the 100% consent process, particularly with regard to the timeliness of conversion to an embedded network. We advocate retention of the 100% consent process with the AER strengthening the associated verification process to ensure that the process is operating as intended.

Origin's response to specific issues identified in the draft decision are set out below.

**Primary registrant**

Under the existing Guideline, each person who owns, controls or operates a network holding an exemption must comply with all conditions relevant to that class of exemption.

Origin previously agreed with the AER that a single person should hold responsibility for complying with conditions of exemptions and nominated the Owners Corporation (or the owner of the common property in a building/estate) as the correct party to apply for the exemption (as the owner of the wiring and network).

The AER 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 elements of the applicable conditions (such as being a member of an ombudsman scheme) on behalf of the other parties.

Origin endorses the proposed approach and notes that it largely reflects the approach currently employed by Origin. That is, Origin nominates the Owners Corporation or site owner (if no Owners Corporation) as the first or primary registrant and “Owner” of the network and ourselves as the second registrant as a “controller/operator” of part of the network. Notwithstanding, we seek clarification from the AER regarding which party the AER expects to apply for the exemption.

In relation to the ombudsman scheme, Origin registers for the scheme as part of its retail licence requirements. We consider that only one membership to the ombudsman scheme should be required by the retailer. However, to the extent ombudsman membership for the network is considered necessary, this should also be the responsibility of the Owners Corporation.

### **Small Generation Aggregator schemes**

No comment.

### **Embedded Network Manager requirements**

Under current arrangements, an exempt person must appoint an embedded network manager (ENM) after an ‘ENM trigger event’ but no timeframe is provided. The draft decision proposes a period of 30 business days to procure and appoint an ENM after a trigger event.

Origin considers 30 business days is a reasonable timeframe as Origin accredit all sites regardless of the size of the network in any event.

### **Deferral of ENMs**

The AER propose deferring the appointment of an ENM at sites:

- In regional Queensland.
- Where no meters are installed due to the network existing before January 2012 (when the requirement commenced).
- Where the ENM would no longer serve a practical purpose (e.g. when all on-market customers have reverted to off-market).

Origin is supportive of the proposal and agrees with the AER that there is no benefit in 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.

We agree that deferral would be contingent upon any changes to the circumstances of the network.

### **Removal of 'eligible communities' and counter-offer provisions**

The AER notes that no eligible communities have been formed or registered and proposes to remove the provisions from the guidelines. The AER also notes that the counter-offer provisions present an unnecessary barrier to customers who exercise their choice to leave a network and proposes to remove the provision.

Origin supports the removal of these provisions.

### **Standardisation of information provided to prospective customers**

The AER proposes that standardised information be given to prospective customers by the proposed exempt embedded network service providers (EENSPs). The draft Guideline (Version 7) includes a new Appendix C setting out the information requirements.

Origin supports the standardisation of information. With the acquisition of WINconnect, Origin is now involved in the conversion of commercial sites to embedded networks. We consider that the standardisation of information will be helpful for communications with the associated commercial tenants.

In relation to information provision, we note that the customer factsheet for tenants living in an embedded network (referred to in footnote 87 of the draft Guideline (Version 7)) is addressed to residential tenants. We note that many of the consumer protections referred to in the factsheet apply equally to commercial customers, for example, not paying twice for network charges, right to choose retailer etc). We consider it would be useful for the AER to develop either a separate information factsheet for commercial customers in an embedded network or a section in the existing factsheet to clarify that the nominated protections also apply to commercial customers.

### **Explicit informed consent**

The AER proposes to replace the term 'express written consent' with 'explicit informed consent' (EIC) in order to make requirements of the National Electricity Retail Law (NERL), the Retail Exempt Selling Guideline and Guideline to be consistent. The AER propose adopting the same meaning and using identical terminology for EIC within the draft Guideline as used in the Retail Law and the final Retail Exempt Selling Guideline.

We consider this to be a pragmatic proposal.

### **Registering an exemption**

Generally, a person wanting to retrofit a site must apply to the AER for an individual retail exemption to on-sell electricity and to be eligible to register a network exemption.

The only exception is where the person has the consent of all of the prospective customers and the site is a commercial site, in which case the person can simply register the exemptions. The AER proposes to remove the exception for sites where 100% consent has been achieved.

Origin strongly advocates the retention of the exception for sites where 100% consent has been achieved. Doing so expedites the development of embedded networks in commercial settings. The application process for an Individual exemption to the AER adds around 6 to 9 months to the process of converting a site to operate as an embedded network as opposed to the ability to registering an exemption as soon as 100% consent has been achieved.

To the extent the AER considers there are deficiencies in the 100% consent process (e.g. explicit consent is not captured from the correct party), we recommend that the AER address compliance rather than remove the 100% consent process. For example, the AER could include a verification check or attestation of the individual consents obtained. This would ensure that consents have been obtain, in a compliant manner, whilst retaining the customer benefits associated with a timely conversion.

### **Record keeping requirements**

The AER proposes to replicate current record keeping requirements under s 40 of the NERL for explicit informed consent, arguing that this is an established concept in the National Energy Laws framework.

Origin is supportive of recording keeping requirements.

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

Currently, on-market customers in embedded networks are not protected by on-seller obligations under the Retail Exempt Selling Guideline. Consistent with the disconnection obligations set out in the Retail Exempt Selling Guideline, the AER propose inserting conditions to cover:

- 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.
- When disconnection is prohibited, and procedures for permitted disconnection.
- The procedure for reconnection following a permitted disconnection.

Origin supports the extension of existing on-seller protections provided under the Retail Exempt Selling Guideline to on-market customers in embedded networks.

### **Meaning of owning, controlling and operating**

In the absence of current guidance, the AER proposes to provide the following guidance regarding owning, controlling and operating an embedded network, the AER propose the following:

- 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.

Origin supports the provision of such guidance, noting that this is provided as guidance only rather than firm definitions.

### **Updating civil penalties**

Origin supports the proposed updated civil penalties applying to conduct that occurred on or after 29 January 2021.

### **Continuity of supply (RoLR events)**

The AER notes there is no ability for the AER to appoint a designated retailer of last resort (RoLR) to ensure continuity of supply for off-market customers within an embedded network in the event of a seller failing. Accordingly, the AER proposes imposing new conditions on the exempt embedded network service provider (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.
- advise the actions they will take to ensure that there is continuity of supply for customers.

Origin supports the adoption of RoLR provisions for customers in embedded networks noting this will provide protection for customers in embedded networks consistent with that afforded to mass market customers.

If you have any questions regarding this submission, please contact Gary Davies in the first instance at

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Yours sincerely

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Sean Greenup  
Group Manager Regulatory Policy

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