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### **AER approach to retail exemptions**

United Energy Distribution and Multinet (the businesses) appreciate the opportunity to provide comments on the Australian Energy Regulator (AER) Issues Paper - AER approach to retail exemption.

The businesses have provided responses to selective questions from the Issues Paper.

### **Exemption framework needs to cover both retail and distribution exemptions**

The Issues Paper states that:

*'Under Part 5 of the proposed Retail Law, a person wishing to sell energy must either hold a retailer authorisation or have an exemption from that requirement. The AER will be responsible for issuing exemptions.*

*As part of its retail exemptions role, the AER will be required to develop a guideline to provide information about exemptions. The guideline will address a number of matters including the procedure for applying for an individual exemption, and the categories of sellers who qualify for class exemptions.<sup>1</sup>*

The Issues Paper also states that a person seeking an exemption from holding a retail exemption will often be distributing energy within the small local network and selling to persons in the network. The businesses note that the AER also intends consulting on the exempt network framework in late 2010 or early 2011. However in reviewing the proposed retail exemption framework, it is difficult to provide comment on only one side of the framework.

The National Electricity Code Administrator (NECA) electricity exemption framework considers system security, network standards, dispute arrangements and pricing. It is unclear how these same issues will be considered when assessing the application of this framework to gas exemptions.

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<sup>1</sup> Issues paper, AER approach to retail exemptions , June 2010

## Develop Exempt Selling Guidelines

The AER can grant three types of exemptions:

- **Individual exemptions**, which are granted on application on a case-by-case basis;
- **Deemed exemptions**, which apply automatically to a class of sellers determined by the AER; and
- **Registrable exemptions**, which apply to a class of sellers determined by the AER, but are only effective from the date on which a person registers with the AER as belonging to that class (and thereby becomes a 'registered' exemption).

The AER is able to impose any conditions on an exempt seller or class of exempt sellers. The AER will develop exempt selling guidelines which can include requirements relating to registrable exemptions conditions that apply to deemed and registrable categories etc.

### **Q2: Are there any other matters that should be included in the Exempt Selling Guidelines?**

The provisions proposed in the Issues Paper which must be included in the guideline appear reasonable at the high level. There is a level of detail related to energy calculations, metering, access, provision of standing data etc which may need to be addressed in the detail.

## Maintaining and Publishing a Public Register

The National Energy Customer Framework (NECF) requires the AER to maintain a register of authorised retailers and exempt sellers. This register will contain the names and business address of exempt sellers with either an individual exemption or registrable exemption. The register will only contain classes of persons in respect of whether a deemed exemption is in force.

The Issues Paper lists a number of items that the exempt seller must provide to the AER relating to the site – name, address, contact details, number of life support customers, energy, whether any customers have elected to purchase energy from another retailer etc.

The AER proposes that the exempt sellers provide this information and any changes to the information to the AER.

### **Q3: Are there other particulars and information relating to exempt sellers that should be included in the public register?**

The AER proposes that any changes to the information provided to the AER, whether on the public register or not, should be updated as changes occur. There is no timeframe specified for these updates eg an annual update of changes or within 2 business days of the change.

If the number of premises increased, is there an obligation on the deemed exempt seller to then seek registration?

### **Q4: Is the apparent growth in onselling problematic, and if so, why?**

The Issues Paper highlights a number of issues with onselling relating to metering, meter access and location, increase in unmetered, customer's ease of access to retail competition etc.

A range of network configuration and ownership models can occur in exempt networks. In addition, the necessary market roles and responsibilities is often unclear and makes access to retailer of choice problematic.

**Q5: Is it appropriate for the AER to impose no conditions on large customers of exempt sellers (as is the case for large customers of authorised retailers), or should they be provided with basic customer protections where the existing arrangements prevent them from choosing their own retailer?**

**Q6: Should the AER impose a condition on on-sellers selling to large customers to ensure that they do not hinder or prevent the customer from choosing their own retailer?**

It is important for large customers to have accurate metering arrangements and consistent energy calculations to ensure that their bills are accurate. If all customers should have access to retail competition, metering locations need to be appropriate and allow safe, unhindered access for any third party provider selected by the competitive retailer as opposed to the on-seller. Suitable metering locations are often overlooked by developers.

**Q7: How important is it for customers in on-selling situations to have access to choice of retailer?**

**Q8: Once network configuration/metering issues are addressed, are there any other impediments to exempt customers having access to choice of retailer for electricity?**

The Issues Paper recognises the difficulties that the AER faces in relation to the AER's powers to require developers to provide certain network configuration and metering requirements so that they facilitate retailer of choice as opposed to hindering customer's choice.

The paper suggests that it may be appropriate to allow an exemption where the metering arrangements are not able to facilitate customer choice of retailer, provided that metering allows customers to be charged on metered values.

In relation to electricity, wholesale prices are expected to rise significantly over the next decade. Retail tariffs are likely to become more complex and cost reflective over time so that customers who consume more in peak periods pay more than customers who use energy more conservatively. It may be more difficult under time of use or demand tariff arrangements to ensure that customers in the on selling arrangement are not paying more than they should. Customer's should be able to easily shop around for a retailer and access retailer competition.

From a licensed network point of view our relationship ends with the parent customer. The network charges are based on the total consumption at the parent meter. We have no responsibility or contractual arrangement with any customer in the embedded network. It is a matter for the parent customer to work out how the network charges are divided across the various customers or between the off market customers and any licensed retailers who are second tier in the embedded network. This will be important for the second tier retailer to understand whether they are quoting the customer an energy only or an energy and supply contract. These arrangements could vary for each embedded network and may be different between electricity and gas.

The Australian Energy Market Operator (AEMO) embedded network guideline covers electricity only. There is no equivalent for gas. In addition, there is no recognition of parent and children arrangements in our gas network systems or the market systems to cater for retailer of choice.

For customers to have access to retailer of choice, they need to be registered on the market system with metering and standing data records created and maintained. The NECA exemptions provided a range of exemptions from the National Electricity Rules (NER) and expected that a customer would have access to retailer of choice, yet the framework established does not provide for this. Neither the parent retailer or the licensed distributor who only have a relationship with the parent customer manage any of the information regarding the children within the network.

The electricity market systems and procedures operate on the basis that each national metering identifier (NMI), has various parties assigned to the roles-financially responsible retailer, local network service provider (LNSP), meter provider and metering data provider. Under the procedures each of these roles has obligations to provide and maintain data. Where a child customer wishes to have access to retailer of choice, these roles and obligations need to be managed by other parties not privy to the information. This is often problematic and clumsy, information is not forthcoming in a timely manner for the stop gap provider to provide the necessary market administration role.

The licensed retailer at the parent does have a market contract with the parent customer (embedded network owner or manager) for the energy consumed within the embedded network and is best placed to manage any further market information that is required for children who wish to access retail competition.

**Q9: Where gas is only used for limited purposes, how important is it for customers in onselling situations to have access to choice of retailer for gas?**

We recognise that gas cooktops in a tenancy, high rise arrangement may have a very small gas flow and may be uneconomical in terms of providing a gas service at all, not just the metering component.

It may be more cost effective for the customers to have a parent meter and no submetering. If a child sub meter needed to be provided for the customer to have access to a retailer of choice then there are wholesale and retail market issues, metering location, access and charging issues, and also network safety issues.

Where developments have catered for individual gas cooktops and bulk hot water and the building is not configured to cater for other gas appliances or metering, it may not be cost effective to provide the customer with separate metering to enable retailer of choice.

**Q10: What core customer protections should exempt sellers be required to provide for their small customers?**

**Q11: Are the core protections proposed in the draft categories of deemed and registrable exemptions attached to this paper appropriate?**

The protection mechanisms proposed in the Issues Paper are reasonable.

It should be noted that the meter reading for gas consumption is not in gigajoules as suggested in condition 2 of the deemed exemptions. Gas measurement is volume based, ie cubic metres. The volume of gas consumed is multiplied by the relevant heating value to gain the customers consumed energy.

The AER may like to consider the calculation of energy for gas consumption where this is not included as part of overall rental/tenancy charges. Are the exempt sellers obliged to use the heating value provided by the licensed retailer at the parent when billing the children or can they use some other number?

The Issues Paper also appears to assume that operation is only within a national framework. The National Energy Retail Law (NERL) specifically provides for a co-regulatory framework where there will continue to be some arrangements that apply within the jurisdictions, NERL 103. At least initially for Victoria this would include jurisdictional customer protections relating to smart metering which may need to be recognised. Retailer and distributor obligations relating to safety are likely to remain as jurisdictional safety requirements in the short term.

The Essential Services Commission (ESC) is currently reviewing smart metering protections. In future smart meters may be utilised in the exempt networks and the same customer protections may need to be considered eg choking supply where customers have not paid bills.

Smart meters will also result in more cost reflective tariffs. It is relatively easy for a customer to compare a tariff offering from the onseller to ensure that they are not paying higher than a flat rate standing offer. As flat rate tariffs disappear, this will become more complex.

Condition 15 regarding maintenance of life support records should require the exempt person to advise the distributor, and the retailer, of any life support customers within a certain timeframe, this includes any changes to the life support status which the distributor maintains at the parent NMI.

**Q12: Do stakeholders agree with the requirement for exempt sellers to notify the AER, and their customers, of the possibility of disconnection?**

**Q13: Are there any conditions which the AER could impose which might help to mitigate the risk of an exempt seller failing and leaving its customers without supply? Would it be appropriate for the AER to do this?**

The Issues Paper notes that the exempt seller could experience financial difficulty and may go into liquidation. Given that exempt selling occurs on an exempt network, the exempt onseller has an asset to sell should they experience difficulty and will seek to maximise the value. It may be prudent for the exempt seller to notify the AER if they receive a disconnection warning, however the exempt seller should be left to manage their business and its possible sale.

**Q26: What methods might the AER adopt to determine the costs of obtaining a retailer authorisation compared to the benefits to customers of being serviced by a retailer rather than an exempt seller?**

The Issues Paper suggests that it is likely that the cost associated with the onseller obtaining a retailer authorisation rather than an exemption would be passed on to its customers. Given the apparent growth in onselling, the cost differential could also be kept by the onseller rather than passed on to its customers.

The paper fails to realise that retailers and distributors also assist to support this exemption framework (through more complex connections, embedded network management, more complex child metering arrangements and administration of data provision to MSATS etc) and their costs are ultimately born by all the other customers.

Any consideration of the costs of providing the exemption need to consider the full end to end costs and the complexity it creates vs the retailer authorisation and utilisation of the normal industry/regulatory framework.

**Q27: Should the AER create a class of deemed exemption for persons engaged in the sale of unmetered energy where that is not prohibited by jurisdictional**

**legislation? If yes, what conditions should be attached to that exemption?  
Should it be limited to existing dwellings and those that are currently in the  
planning stages?**

**Q28: Are there situations where it may be appropriate for the AER to grant an  
individual exemption to a new development that does not allow for individual  
electricity metering of dwellings?**

**Q29: In what situations would it be appropriate for the AER to grant an  
individual exemption to a new development that does not allow for individual gas  
metering of dwellings?**

**Q30: Are there concerns about situations where there is no meter, and the  
consumer is not billed separately for electricity/gas? Although the consumer  
'pays' for the energy indirectly (most likely through higher rent or body  
corporate fees), are stakeholders aware of particular concerns regarding  
vulnerable consumers?**

**Q31: Are stakeholders aware of situations where there is no meter, but  
customers pay an itemised charge for electricity/gas on terms negotiated as part  
of the purchase or leasing arrangement?**

**Q32: Would electricity metering that is not compliant with national metrology  
procedures suffice in situations where it would be expensive to retrofit an  
existing dwelling?**

The businesses are supportive of the AER approach that customers should have adequate protection arrangements and also receive appropriate price signals for their energy usage, particularly electricity. Gas and electricity prices will increase significantly as a result of supply/demand, globalisation of gas prices and a carbon constrained economy.

Ideally energy usage should be metered to send these price signals appropriately and equitably to customers. However, we acknowledge that for limited gas use and due to technical/safety issues, metering of gas may not be justifiable. Given the technical, safety and economic issues for gas, it may be prudent to allow existing and any new developments with limited gas consumption to continue to be unmetered.

The Victorian Government has a policy to roll out advanced metering and to ultimately use the smart meters as a tool for customers to better manage their consumption and bills in response to increasing energy prices. In view of this policy it may not be appropriate to encourage unmetered electricity supply via the exemption framework.

If the regulatory arrangements for metering, meter accuracy, meter testing and replacement programs, meter fault management, are deemed to be cost effective and warranted for the accuracy of the wholesale markets and the financial transactions between distributors, retailers and customers then ideally they should apply for the benefit of all customers. If metering accuracy or compliance is relaxed, then this should be limited to off market sub metering situations. This also means that these non market meters would need to be replaced should the customers wish to access retailer of choice.

If the national rules or metrology is not used to manage the accuracy of the customer's metering and hence billing, would there be any protection for the customer in relation to meter accuracy or management?

## Exemption Classes

The AER is proposing the following class categories for the deemed exemption arrangements. All classes have a deemed exemption initially, class 4 and 5 are required to register by 30 June 2013.

Class	Description	Number of premises	Conditions	Access to retailer of choice	Registration type beyond June 2013
1	Owners, occupiers and operators of a site – hostels, boarding houses, caravan parks, residential parks, body corporates, shopping centres, industrial parks Separately metered small customer premises	25 small customer premises or less	Conditions apply	No	Deemed
2	Cost of energy in rental or service charge eg body corporate common lighting	N/A	No conditions	No	Deemed
3	Onselling to related company	N/A	No conditions	No	Deemed
4	Own, occupy or operate with more than 25 small customers	More than 25 small customer premises	Conditions apply	No	Registrable exemption
5	Any onselling to large customer within the limits of a site they own, occupy or operate	1 or more	No conditions	No	Registrable exemption

The conditions of the deemed exemption for class 1, outlined in the Draft Determination, requires the onseller to advise the customer whether retailer of choice is allowed in their jurisdiction and the options for metering that would allow this choice. There appears to be some inconsistency between the body of the Issues Paper, section 5.2.1, and the Draft Determination outlined in the Attachment which would be useful to clarify.

It may be useful to develop this table by fuel type and jurisdiction so that the requirements for retailer of choice are clear.

In the Attachment, where there is a large customer in the onselling class 5 category, the onseller and site would need to be registered. It would be useful to clarify if the site is a shopping centre or industrial park, if one customer were considered large, does the whole site become registrable, even if there are less than 25 customers.

Should you have any questions in relation to this submission please do not hesitate to contact me on (03) 8540 7819.

Yours sincerely

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# Manager Regulatory Strategy