AER Exempt Selling Guideline

QCOSS Submission

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QCOSS
queensland council of social service inc
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Response to AER draft Exempt Selling Guideline

Queensland Council of Social Service (QCOSS) is the peak body for over 600 welfare and community sector organisations in Queensland. For over 50 years QCOSS has worked to promote social justice and exists to provide a voice for Queenslanders affected by poverty and inequality. We act as a State-wide Council that leads on issues of significance to the social, community and health sectors. We work for a Fair Queensland and develop and advocate socially, economically and environmentally responsible public policy and action by community, government and business.

QCOSS has been funded by the Department of Employment, Economic Development and Innovation for an energy consumer advocacy project in Queensland. The purpose of this project is to advocate on behalf of Queensland consumers and particularly vulnerable and low income households in relation to energy.

QCOSS welcomes the opportunity to comment on the draft Exempt Selling Guideline. Although this submission focuses on the draft Exempt Selling Guideline, some of our comments, where indicated, also apply to the proposed classes of electricity network service provider exemptions.

QCOSS believes that the draft Exempt Selling Guideline will vastly improve the consumer protection framework for exempt customers in Queensland. We support the AER's overall approach to retail exemptions. However, we are concerned that some aspects of the draft guideline do not achieve the AER's stated intention of ensuring that exempt customers have access to appropriate protections, or the policy principle that exempt customers should not, as far as practicable, be denied customer protections that apply to retail customers. These concerns are detailed below.

Trading off customer protections for a lower price

In its response to the issues raised in submissions, the AER has suggested that customers who pay a lower price for energy received from an on-seller should understand that they are trading off some customer protections, such as access to hardship policies. The concept of 'trading off' implies a choice and QCOSS believes that in practice many residential customers have little choice about receiving energy from an exempt seller. We are also not convinced that lower prices are the norm. The AER has provided no evidence that a significant number of exempt customers receive energy at a cheaper price than retail customers, nor is there any indication in the draft Exempt Selling Guideline that the AER intends to gather information about the prices charged by exempt sellers in the future.

As the AER has previously noted, not all jurisdictions allow customers supplied by embedded networks access to full retail competition. There are a range of circumstances customers may experience that limit the range of suitable accommodation available for them, including low income, disability, access to transport, and the need to be close to services, support networks or family members. It is not always practical for residential consumers to choose accommodation where energy is supplied by authorised retailers. In determining the conditions that apply to exemptions, QCOSS believes that the AER should not assume that customers have made an explicit or informed choice to receive energy from an exempt seller, or that they receive the benefit of lower prices for energy.

Furthermore, many of the customer protections provided for by the Retail Law and Rules apply to both market and standard retail contracts. If certain customer protections are considered so essential that they cannot be traded for cheaper prices under a market contract, it is not appropriate to consider that they may be traded off for cheaper energy from an exempt seller.

Flexible payment options including payment plans

QCOSS maintains the view that exempt sellers should be required to offer flexible payment options including payment plans to customers experiencing payment difficulties, and strongly recommends that the AER reassess its position on this issue.

While QCOSS accepts that it is not feasible to require smaller exempt sellers to have hardship policies offering a range of assistance measures, we believe that the AER's reasons for not requiring exempt sellers to offer flexible payment options are unsound. The AER argues that payment plans will not assist customers experiencing payment difficulties unless there are also payment plans available for their accommodation charges. This assumes that any customer who experiences difficulty paying an energy bill must also be in arrears with their accommodation charges. While some customers may have both energy and accommodation debts, there is no basis for believing that this is always the case. There are a wide range of circumstances in which customers may be unable to pay a bill by the due date. For example, a customer at any income level may have unexpected and unavoidable expenses resulting in a need to move the date for payment of some bills into their next pay cycle. Many low income customers are able to budget extremely effectively to meet essential costs such as rent and utility payments, but do not have the resources to maintain a safety net in the event of an unusually high bill. Some customers in chronic hardship may prioritise their accommodation charges over other payments, and experience difficulties paying a quarterly energy bill yet not have rental arrears prior to receiving the bill. Therefore it does not necessarily follow that a customer who needs to make alternative payment arrangements for their energy bill must also be unable to meet their accommodation charges.

The AER further suggests that payment plans for energy costs would not be useful for exempt customers since energy costs are relatively small compared to housing costs. This assumption can also be challenged as it compares annual costs without considering the nature and regularity of accommodation and energy charges. Rental costs are fixed, regular, and frequent payments. Consequently they are highly predictable and easy to plan for when managing a limited budget. In contrast, quarterly energy bills vary depending on changes in price and consumption. It is difficult for customers to track their consumption, and there will be no requirement for exempt sellers to notify customers in advance of price changes. While there is a requirement to issue bills at least once every three months, the actual date of issue is not likely to be known in advance. Quarterly energy bills are therefore relatively unpredictable, and being able to make regular, small payments towards energy costs is an important tool for managing the impact of this variability. Furthermore, when energy costs are only charged quarterly, it is likely that the amount owed on an energy bill will be comparable to or even more than a customer's weekly or fortnightly accommodation payment.

QCOSS also questions whether the AER's concern with rental arrears is relevant. Retail customers are not required to demonstrate that they do not have other debts in order to qualify for payment plans for their energy bills. We note that the AER is concerned that any conditions imposed on exempt sellers requiring them to offer flexible payment options may clash with jurisdictional tenancy laws. However, in other areas where there may be inconsistencies between the conditions applying to class exemptions and state or territory legislation, the AER has dealt with this issue by either using words that limit application of the condition to those jurisdictions where it is permitted under the existing arrangements, or not applying the condition where state or territory legislation contradicts it. For example, clauses have been inserted in conditions relating to disconnection stating that they do not apply in jurisdictions where tenancy legislation sets out the process for disconnection. QCOSS sees no reason why it would not be possible to develop a condition for class exemptions that required exempt sellers to offer alternative payment arrangements while making allowances for situations where a conflict with jurisdictional arrangements arose.

Condition 7 (Pricing) applying to class exemptions requires exempt sellers to offer customers time to pay by instalments where they are recovering an amount that has been undercharged. QCOSS supports this condition, but notes that there is inconsistency between the AER's approach where customers experience payment difficulties due to previous undercharging, and where payment difficulties occur for other reasons. This suggests that residential tenancy legislation is not in fact a significant barrier to requiring exempt sellers to offer alternative payment options to customers experiencing payment difficulties.

The AER has treated hardship policies and flexible payment options as a single issue in its determination of the conditions applying to class exemptions. In its response to submissions, the AER argues that a requirement to develop and maintain hardship policies may be overly onerous for many on-sellers. However, it does not appear to have separately considered whether a requirement to offer flexible payment options would be burdensome. The fact that the AER has included a requirement to offer payment by instalments in Condition 7, and that many on-sellers already receive energy payments more frequently than quarterly, suggests that such a requirement would not be overly onerous. Furthermore, the decision to on-sell energy will necessarily involve taking on some administrative costs. The ability for customers to negotiate alternative payment arrangements in order to avoid disconnection is such a fundamental customer protection that it should be considered part of the normal administrative requirements of exempt selling.

QCOSS recommends that the conditions applying to class exemptions covering on-selling to residential customers include a requirement to offer alternative payment arrangements to customers experiencing payment difficulties, including payment by instalments and an extension of time to pay. The only exceptions should be where the customer has a debt for accommodation charges to the exempt seller and requiring a payment plan for energy charges in this circumstance would result in a conflict with jurisdictional legislation. Unless both criteria are satisfied, we do not believe there is any justification for denying exempt customers this crucial consumer protection.

Hardship policies

As stated above, QCOSS agrees that it is not practical to require all exempt sellers to offer hardship policies, offering additional assistance beyond alternative payment options. However, it should be noted that the nature of the sites operated by some exempt sellers means that their customer base is likely to include a very high proportion of vulnerable individuals. Examples would include retirement villages, with a large number of pensioners and elderly customers, and boarding houses, providing accommodation to people who are experiencing or at risk of homelessness. In such cases the higher risk of customers experiencing payment difficulties is a factor that the exempt seller could reasonably be expected to have anticipated and taken into consideration when they decided to on-sell energy. We consider that where it is clear to the exempt seller that they will be selling energy to a highly vulnerable population, it is reasonable to expect that they have policies in place for dealing with customers who are unable to pay their energy charges, and be prepared to offer additional assistance.

Effect of removing payment plans and hardship policies from the customer protection framework

The ability of retail customers to access alternative payment arrangements and hardship programs is a key element of the consumer protection framework, which underpins customer protection in a range of circumstances. Removing these elements from the framework for exempt customers results in other conditions being rendered less effective, even when they are identical to the Retail Rules. Consequently, simply applying the same provisions that exist in the Retail Law and Rules to exempt sellers does not provide an appropriate level of protection to exempt customers.

An example of this effect occurs in relation to price increases during a billing cycle. Clause 2 of Condition 7 requires an exempt seller to notify a customer of any price changes as soon as practicable, and no later than the next bill. This is consistent with Rule 46(4) of the Retail Rules. However, if a retailer does not notify their customer of a price increase until their next bill, and the unexpected increase causes hardship, the retailer would be required to offer their customer a payment plan. The retail customer is therefore able to avoid being disconnected as a result of an unanticipated price increase. In contrast, if an exempt customer experiences hardship as a result of not having been notified in advance of a price increase, it is at the discretion of the exempt seller whether to agree to alternative payment arrangements. A refusal to allow payment by instalments could result in the exempt customer being disconnected. With regulated and standing offer prices frequently increasing by well over 10% each year, the impact of price increases on quarterly bills can be substantial. Therefore to provide exempt customers with an equivalent level of protection to that enjoyed by retail customers in relation to price increases, it is necessary to require exempt sellers to either provide prior notice of price changes, or offer alternative payment arrangements.

Similarly, there are a range of circumstances not addressed by the Retail Rules where disconnection may pose a threat to the health or safety of a customer, or have disproportionately severe impacts compared to other customers. Examples include where a

customer uses medication that requires refrigeration, has medical cooling or heating needs or is vulnerable to extremes of temperature due to their age or health status, or uses equipment that supports independent living but is not classed as life support equipment. Retail customers in these situations who are unable to pay their energy bill are afforded a degree of protection from disconnection by the availability of payment plans and hardship programs. This protection is not available to exempt customers. In the absence of an obligation on exempt sellers to offer payment plans, providing exempt customers who are particularly likely to experience adverse impacts from disconnection with a comparable level of protection to retail customers would require additional restrictions on disconnection that are not included in the Retail Rules.

The preference of QCOSS would be that all exempt sellers on-selling to residential customers were required to offer alternative payment arrangements, as recommended above. However, in the absence of any such requirement, we recommend that the following conditions be applied to class exemptions:

- A requirement to provide at least 10 business days prior notice of price changes
- Prohibition on disconnection where it would pose a risk to the health or safety of the exempt customer, or have an extreme impact on their ability to carry out normal activities, with an accompanying obligation to maintain a register of such customers
- Prohibition on disconnection during extreme weather, regardless of whether the jurisdiction in which the exempt seller operates has applied the extreme weather events restriction in Rule 116(i)
- A requirement to reconnect premises within the time frames that apply to distributors under distributor service standards, or no later than 2 business days after the conditions for reconnection are met, with a prohibition on disconnection if this time frame cannot be met.

Imposing these conditions would result in a divergence from the regulatory arrangements applying to retailers, contrary to the policy principle set out in section 114(1)(a) of the Retail Law. However, QCOSS submits that where there is conflict between the policy principles and customer related factors set out in the Retail Law to guide the AER's considerations on exempt sellers, ensuring that exempt customers have access to appropriate rights and protections and are not unnecessarily denied the protections enjoyed by retail customers should take precedence. In this case, divergence is necessary to ensure exempt customers receive an appropriate level of protection where they do not have access to flexible payment options and hardship policies.

Disconnection process

QCOSS welcomes changes to the conditions preventing disconnection where a customer is in the process of seeking assistance from a non-government organisation. However, we believe some of the other provisions are unclear and could cause confusion amongst exempt sellers and customers.

Paragraph 1(c)(i) of Condition 8 requires that reminder notices given to exempt customers advise that the exempt person may offer more flexible payment terms to pay any amount outstanding. Our understanding, based on the information given at the stakeholder forum on

27 July, is that the AER intends that exempt sellers be required to include this information only if they are prepared to offer flexible payment terms. However, the wording of Condition 8 suggests that reminder notices given by all exempt sellers should include a statement that flexible payment options may be available. This could lead to confusion among exempt customers about their rights in relation to payment difficulties and disconnection. While QCOSS would prefer that all exempt sellers were required to offer flexible payment arrangements, in the absence of any such condition, we suggest that Condition 8 be amended to clarify when reminder notices should include information about the availability of flexible payment terms.

Paragraph 1(c)(ii) of Condition 8 requires that a disconnection warning notice be given "following non-payment by the date specified in the reminder notice, or the establishment of more flexible payment terms". It is not clear what the AER's intention is in referring to flexible payment terms in this paragraph. The wording implies either that an exempt seller may proceed with disconnection even if they have agreed to flexible payment terms since the reminder notice was given, or alternatively that where a customer has not adhered to the terms of a payment plan, the exempt seller may skip the reminder notice and immediately issue a disconnection warning notice. Neither case is consistent with the Retail Rules, and it would undermine or even negate the benefit of offering flexible payment terms if exempt sellers who did so were then permitted to shorten the disconnection process or continue it after flexible payment terms were established. Since paragraph 1(c) permits the disconnection process to be initiated where a customer has not adhered to the terms of a payment plan, there is no need to refer specifically to this situation in relation to the issuing of disconnection warning notices. QCOSS recommends that the words 'or the establishment of more flexible payment terms' be deleted from paragraph 1(c)(ii) to avoid confusion.

QCOSS is also concerned that a number of situations in which retailers are prohibited from arranging disconnection under Rule 116 have been omitted from Condition 9. These include where a customer is adhering to a payment plan, where a complaint has been made to the retailer directly related to the reason for disconnection which remains unresolved, and where the debt is less than a threshold amount approved by the AER. Although these circumstances relate to other conditions that the AER has either not applied to class exemptions or has modified, there is no apparent reason why prohibitions on disconnection could not be included in Condition 9 in some form. For example, although the AER has not required exempt sellers to offer payment plans, it has recognised that some may choose to offer flexible payment options. A clause in Condition 9 prohibiting disconnection where the customer is adhering to the terms of a payment plan would have no effect on exempt sellers who did not offer payment plans, but would mean that those customers who were able to negotiate payment plans were not unnecessarily denied protections afforded to retail customers. Similarly, although exempt sellers will have minimal obligations regarding dispute resolution procedures, it is still appropriate to prohibit disconnection where there is an unresolved dispute between the exempt seller and customer related to billing or payments. This is especially the case since Condition 9 prohibits disconnection once a complaint has been made to an external dispute resolution body. Allowing an exempt seller to disconnect a customer while the reason for disconnection was under dispute would mean that it was in the customer's interests to complain to an external body as early as possible, rather than first attempting to resolve the matter with the exempt person.

Termination of energy supply agreement 10 business days after disconnection

Condition 10 (Reconnection of supply) only provides for reconnection of an exempt customer's premises if the conditions for reconnection have been met within 10 business days, while Condition 17 (Termination of energy supply agreement) provides for termination of the energy supply agreement in this situation. This is in conflict with Condition 1, which provides for an obligation to supply. QCOSS supports the inclusion of an obligation to supply in the conditions for class exemptions, but suggests that in this case the 10 business day time frame to rectify the reason for disconnection is irrelevant. This is particularly so where the customer does not have the option to purchase energy from an authorised retailer or other exempt person. If there was no obligation to reconnect, the customer would effectively be forced to move out of the premises to regain access to an energy supply. We therefore recommend that the 10 business day time frame be removed from Condition 10. Paragraph 1(f) in Condition 17 should also be deleted.

Timeframe for exempt sellers to reconnect supply

In its response to submissions, the AER suggests that Condition 10 (Reconnection of supply) provides greater protection to exempt customers than that available to retail customers as the Retail Rules do not set a time limit for reconnection of a customer by an authorised retailer. QCOSS disagrees with this assessment. Rule 122 requires that distributors re-energise a customer's premises in accordance with distributor service standards. In at least some jurisdictions, distributor service standards will include time limits on reconnection. In Queensland, the guaranteed service levels scheme applying to distributors requires that reconnection be carried out on the same or next business day depending on location and the time of the request, or within 10 business days in remote or excluded locations. It also sets a time frame for retailers to initiate requests for reconnection after receiving a customer's request. We would argue that where distributor service standards set time limits on reconnection, Condition 10 provides a lower level of protection to exempt customers than that enjoyed by retail customers. To ensure exempt customers receive an appropriate level of protection, the time frames for reconnection set out in distributor service standards should apply to either exempt sellers or exempt network service providers.

In addition, Rule 121 requires retailers to initiate a request for reconnection where the customer has made arrangements to address the reason for disconnection to the retailer's satisfaction. This means that where a retail customer has been disconnected for non-payment, they may be able to have supply restored before the debt is paid in full if a payment plan is agreed or the customer enters the retailer's hardship program. Not only are exempt sellers not required to offer payment plans or hardship policies, the obligation to reconnect if satisfactory arrangements have been made to rectify the reason for disconnection has also been omitted from Condition 10. Compared to an exempt customer therefore, retail customers are likely to be reconnected sooner. Imposing a time limit on reconnection in Condition 10 would prevent further delays where an exempt customer has already been without supply for a longer period as a result of their inability to make alternative payment arrangements. It would also reduce the risk of exempt sellers delaying

reconnection for malicious reasons, such as encouraging customers to leave the premises, on the grounds that it is not 'practicable' to arrange reconnection promptly.

Billing requirements and estimated bills

QCOSS reiterates the view that there should be a limit on the number of consecutive estimated bills an exempt seller is permitted to issue. While there may be times when it is not possible to reliably base a bill on metering data, it is reasonable to expect that the exempt seller will act promptly to address the situation. Exempt sellers should not be permitted to delay having a meter repaired for an extended period. Rule 20(2), requiring retailers to ensure that meter reads are carried out in any event at least once every 12 months, effectively limits the number of consecutive estimated bills a retailer may issue to three. We do not see why it would not be practicable to apply the same requirement to exempt sellers.

In QCOSS's work with community sector workers assisting clients who have difficulties paying energy bills, estimation of bills has frequently been identified as a cause of hardship. Although there are provisions for undercharged amounts to be paid by instalments, this still comprises an additional, usually unexpected impost on customers' budgets. There is also the potential for an exempt seller to profit by repeatedly overestimating bills, particularly where a customer is likely to move on before the amount overcharged has been established. QCOSS therefore recommends that the conditions applying to on-selling to long term residential customers limit the number of consecutive estimated bills that can be issued and those applying to on-selling in short term holiday accommodation limit the length of time during which estimated bills can be issued.

The conditions relating to billing do not provide for circumstances when an exempt customer moves out of the premises. The Retail Rules require that when a customer under a standard retail contract gives notice that they intend to vacate the premises, the retailer prepares a final bill based on a meter reading obtained at a date and time agreed with the customer. QCOSS suggests that similar provisions should be included in the conditions applying to class exemptions. It clearly would not be appropriate for the next occupant to bear the cost of energy used by the previous tenant if the exempt seller had either not issued a final bill or estimated the previous tenant's consumption.

Price variations

Section 23(5) of the Retail Law prevents variation of standing offer prices less than 6 months after the last price change. Again, there is no similar provision in the conditions applying to class exemptions. If, as the AER has suggested, some exempt sellers provide prices lower than the standing offer prices, it may be possible for them to increase prices more than once within a 6 month period, as long as the increase did not take the exempt seller's price to greater than the applicable standing offer price. Although it is unlikely that the prices paid by exempt sellers under bulk contracts would change so frequently, there is a possibility that exempt sellers could increase the prices they charge for energy to recover other costs. Therefore this loophole should be closed. Considering choice of retailer will be unavailable

or difficult for many exempt customers, QCOSS believes it would be appropriate for the conditions applying to class exemptions to similarly limit the frequency of price increases.

Dispute Resolution

QCOSS reiterates our view that simply requiring an exempt seller to make 'reasonable endeavours' to resolve a dispute, without also providing some parameters around timeframes and processes, is inadequate. It is likely that exempt sellers and customers will have different views of what is reasonable, depending on the degree of importance each party places on the issue. Different expectations may lead to higher costs for either party if an issue regarded as a low priority by the on-seller becomes the subject of a complaint to an external dispute resolution body by the customer. The conditions applying to class exemptions need to provide some guidance to exempt sellers and customers as to what constitutes 'reasonable endeavours' to resolve a dispute, including timeframes for providing an initial response, and where necessary for following up the complaint. Where the dispute relates to billing or payment issues, the conditions should also prohibit disconnection while the dispute remains unresolved.

QCOSS notes further that the draft Electricity Network Service Provider Registration Exemption Guideline requires operators of embedded or exempt networks to have in place approved dispute resolution procedures. In this case, the Exempt Selling Guideline should make it clear that on-sellers who are also exempt network providers must apply these procedures to disputes relating to their retail activities.

Brownfield sites

The draft Exempt Selling Guideline allows deemed exemption classes to cover on-sellers that have retrofitted sites where customers previously purchased energy from a retailer until 1 January 2015. QCOSS believes that this is inconsistent with the AER's overall approach to on-selling, and its recognition that on-selling is not always in the long term interests of consumers. During the period that classes D2, D3 and D4 are open to brownfield sites, the AER cannot be confident that consumers at sites that have been retrofitted prefer to be supplied by an on-seller or that they will benefit from the arrangement, since the AER will have no record of exempt sellers covered by deemed exemptions. It is of particular concern that on-selling at brownfield sites could be permitted under class D2 and D4 exemptions, since these classes will include customers with insecure tenure over their accommodation, who have little power to refuse an on-selling arrangement. While it may be appropriate for the AER to consider the timing of the plan to retrofit a site when considering whether to grant an exemption, QCOSS believes that all persons wishing to on-sell at brownfield sites should be required to seek an individual exemption.

Unmetered on-selling in Queensland

In the current draft of the Exempt Selling Guideline, the AER has created a deemed exemption class D6 for unmetered on-selling of electricity in Queensland, which is open to

new entrants until 1 January 2015. However, QCOSS notes that electricity sub-metering has been required in new multi-unit residential and office buildings in Queensland since 1 January 2010. We therefore believe that it is inappropriate to leave class D6 open to new entrants, and recommend that it be restricted to persons already engaged in unmetered on-selling at the time the National Energy Customer Framework commences in Queensland.

Similarly, the revised Electricity Network Service Provider Registration Exemption Guideline proposes a class ND6 applying to persons on-selling unmetered electricity in Queensland, applicable until 1 January 2015. This class should also be restricted to unmetered on-selling that commenced prior to the implementation of the NECF.

Broad application of deemed exemption classes to vulnerable customers

Although it is not clear how actively the AER will monitor compliance by holders of registrable and individual exemptions, customers who fall under deemed exemption classes are arguably more vulnerable to breaches of their rights, as there will be no record of on-sellers operating under deemed exemptions. QCOSS is therefore concerned about the number of low income and marginalised customers who are likely to come under class D2 and D4 exemptions.

Class D4 appears to have been created as a type of miscellaneous category covering forms of accommodation that do not fit within other exemption categories and are not covered by residential tenancy legislation. As noted in our previous submission, class D4 covers a broad range of accommodation providers ranging in size from very small to very large. Many of their customers, such as residents of hostels, rooming houses and boarding houses, are likely to have very low incomes and either have recently been homeless or be at risk of becoming homeless. The range of issues experienced by such customers means that they may be more vulnerable to abuse, less able to advocate on their own behalf, and have needs that necessarily take precedence over dealing with energy issues. While it may not be practical to require small accommodation providers to register or seek individual exemptions, QCOSS does not believe it is appropriate to permit larger operators to on-sell to customers in these circumstances without any possibility of scrutiny. We reiterate our previous recommendation that class D4 be limited to sites where rooms are provided for less than 12 customers. Larger providers should be required to register or apply for individual exemptions.

QCOSS notes also that the maximum number of premises at sites eligible for a class D2 exemption has been increased from 12 to 20 in the current draft guideline. Class D2 applies to landlords, lessors and property managers whose relationship with their tenants is governed by residential tenancy legislation. While the application of such legislation is likely to provide greater protection to customers covered by class D2 than is enjoyed by those living in boarding houses and hostels, there is still a large proportion of low income and vulnerable customers in this group. Lack of access to home ownership and the need to keep rental costs low means that these customers have relatively insecure housing tenure. This also leaves them more vulnerable to abuses of their rights by exempt sellers. Again, we recognise that it may not be practical to require landlords who own and manage a very small number of properties to register or apply for individual exemptions. However, the difference

in treatment between landlords and bodies corporate is notable. The registrable exemption class R2 covers bodies corporate regardless of size and will include sites where there are fewer premises than the limit for a D2 exemption. Class R2 will be closed to new entrants from 1 January 2015, requiring all bodies corporate that wish to on-sell energy to apply for an individual exemption after this date, whereas there is no time limit on the availability of class D2. Given that many of the customers of class R2 exempt sellers will be property owners and members of the body corporate, they will already enjoy greater protection by virtue of their secure housing tenure. However, the AER sees grounds to monitor the prevalence and discourage growth in on-selling among this group by requiring first registration and then application for individual exemptions. While QCOSS agrees with this approach, we do not see why a similar level of protection should not be extended to tenants of larger property owners or managers. Furthermore, in many cases rental properties covered by a D2 exemption will in practice be managed by real estate agents who can be expected to stay informed of changes in the regulations applying to on-selling of energy to tenants.

QCOSS further notes that in the consultation paper and guideline on electricity network service provider exemptions currently open for consultation, the AER proposes a class ND2 applying to residential landlords or lessors supplying energy to less than 12 residences until 1 January 2015. This class is intended to align with the exempt selling class D2. QCOSS would support this approach, whereby a time limit is placed on the deemed exemption classes covering residential customers, being applied to exempt selling. At a minimum, however, we recommend that the number of premises allowed at a site in order to be eligible for a class D2 exemption be reduced to less than 12, consistent with the exempt network service provider guideline.