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Updating the Network and Retail Exemption Guidelines – Consultation Paper

Watts Energy Pty Ltd is an accredited Embedded Network Manager (ENM) and service provider to embedded networks, operating in Queensland. Watts Energy welcomes the opportunity to provide input to the Australian Energy Regulator's (AER) Consultation Paper as part of the process to update the Network and Retail Exemption Guidelines (guidelines).

From our day-to-day operations we have experienced a number of issues with respect to the interpretation and application of the guidelines, and as such we strongly support the objectives of this review which may result in a more effective and efficient process, including changes to:

- Improve the clarity and readability of exemption requirements
- Streamline the network exemption guideline and remove redundancies
- Clarify concepts such as the issue of the ownership, control and operation of embedded networks in the network exemption guideline
- Introduce standardise statements where information requirements need to be met
- Improve consistency between the two guidelines.

1. *Owning, controlling or operating an embedded network*

Embedded networks generally have a number of parties who are involved in the ownership, controlling and day-to-day management, which historically has meant multiple parties are listed on the network exemption. Maintaining these parties' details on the registration and notifying the AER can be a cumbersome and time-consuming task as sites are regularly sold and management often changes.

Furthermore, the National Electricity Law does not determine an order or priority nor does it define what controlling or operating a network actually means, which makes assessing and ensuring compliance difficult.

In principle, Watts Energy supports the proposal for one party to be responsible for overall compliance and therefore be listed on the network exemption. This will remove any situations where there is doubt and one party assumes the other is taking responsibility for compliance.

We support the AER's proposal to amend the network guideline to clarify the parties that may control or operate the network. In our view, the operator / controller should be the registrant as

this person has the responsibility for day-to-day operations of the embedded network, has a good understanding of the tenants and has the capacity to resolve complaints. There may be multiple parties who are 'operating' the embedded network and as such the AER should take a narrow interpretation and application when defining 'operator'.

If there is no operator / controller than obviously the network owner would be the registrant. However, we don't believe the terms 'owner' and 'controller' are always interchangeable and can be quite different entities with different responsibilities and accountabilities.

However, this change will also potentially bring significant administrative costs as notifying the AER of thousands of name changes will take time. Watts Energy requests that the obligation to update Network Exemptions with just one name be grandfathered and the AER notified as sites are sold or operators are changed (eg property managers, ENM or service providers are changed).

2. Advising AER of Detail Changes

As indicated above, there are often sale of embedded network sites which involves changes in ownership as well as operators including property managers and ENMs. However, Watts Energy has identified inconsistency between the Network and Retail Guidelines with respect to the requirements to notify the AER when such changes occur.

The Network Guideline Section 4.1(8) states that:

An application for registration of an exempt network is to be made within 20 business days of acquiring a requirement to register. Applications for exemptions are personal to the applicant. They are not transferable.

This obligation is replicated in the Network Guideline section 5.2 which states:

Parties who believe a registrable exemption is applicable to their current circumstances must, within not more than 20 business days of commencing to own, operate or control an exempt network, complete the registration requirements... If any of the information provided to us for the purposes of registration changes during or after registration, we should be notified within 20 business days of the change to ensure that the registered exemption remains valid.

However, the Retail Guideline seems to have a different approach and requirements for a change of ownership. Section 6.2 states:

For a site that changes ownership or whose ABN or ACN changes, the new seller should advise us before the change takes effect...

Watts Energy seeks clarification and requests that this is an opportune time to apply a consistent approach across both Guidelines with respect to the change of ownership and notification process to the AER. In particular, we believe that the new owner / operator should be required to notify the AER and apply for the new registration within 20 business days after the transfer occurs. This time frame allows for the settlement to actually occur and ensures that the transfer of ownership happens before the AER is notified. We don't want situations happening where the AER is notified of an impending sale which may in the end not go ahead and results in confusion as to who is the actual owner of the site and who should be the correct exemption holder. However, this will require the date of ownership on the exemption to be retrospective for the purposes of billing and recovery of electricity charges.

There are situations when the old owner does not notify the AER of the transfer and we have had situations where there are multiple registrations on the AER public register for one site and it isn't clear which one is current.

3. *Embedded Network Manager requirements*

Since becoming an accredited ENM, Watts Energy has encountered a number of unusual or difficult situations that may not clearly be addressed in the Guidelines. Below are a few of these that we hope will be addressed and clarified in future guideline updates.

(a) Embedded Networks in Regional Queensland

Watts Energy agrees that there is very limited competitive market conditions in regional Queensland (where Ergon is the Distribution Network Service Provider) for embedded network customers and therefore the costs to the embedded network owner / operator of appointing an ENM far outweigh any potential benefits for customers.

We are currently an ENM for four (4) embedded network sites in the Ergon distribution network service area, however only three (3) large customers have elected to go 'on market' and have a child NMI.

As such, we support the AER's proposal to defer the appointment of ENMs in regional Queensland due to the lack of competition that is available for embedded network customers.

(b) ENM, embedded networks and compliant metering

Watts Energy has encountered some confusion as to its role as an ENM and requests that the AER takes the opportunity to clarify in future guidelines. Watts Energy, as the ENM is appointed by the network owner / operator and its role is to facilitate the assigning of a child NMI and ensuring correct details are uploaded into MSATs. However, we have experienced the confusion between market participants (tenants going on-market, financially responsible market participants and metering coordinators) as to what the role and responsibilities of the ENM and embedded network owner are, particularly with regard to metering and switchboard upgrades.

Watts Energy suggests that the AER review section 4.2 of the Network Guideline and where possible clarify concepts relating to responsibilities, improve the readability of this section and ensure alignment with the metering coordinator roles and responsibilities.

In particular, clarify that the ENM does not have a responsibility for providing advice on how or when to upgrade switchboards or metering installations or who must bear the costs for such upgrades. Nor does the ENM have a responsibility (or in some cases may be restricted) to respond to questions from the embedded network customers.

4. *Retrofit*

Watts Energy is seeing an increasing number of instances of sites being retrofitted, particularly to allow for larger premises to be reconfigured to smaller premises which are easier to lease. Not all owners are aware of the AER's guidelines as the site / address is not currently an embedded network and often the retrofit will occur or start in the ignorance of the AER's conditions.

Watts Energy supports the AER's proposals to improve on current requirements through consistency, clarification and streamlining of obligations, as it may improve compliance

standards. Improved awareness and communication campaigns of the individual exemption application requirements for retrofits may also be required.

5. *Standardised information*

Watts Energy supports the AER's proposal to standardised information, including information that is provided to embedded network customers for a retrofit situation. Standardising information or providing embedded network operators with templates reduces compliance costs and confusion amongst the market participants and customers.

We note that the AER is proposing to provide a fact sheet that describes the process for embedded network customers must follow to enter a market retail contract, similar to the fact sheet available to retailers.

Watts Energy agrees that further information would be beneficial and whilst the embedded network owners / seller can provide a link to this factsheet, the incoming retailer should also be required to provide this factsheet when the embedded network customer signs the contract to ensure a consistent message is being provided to customers.

6. *Information provision*

Watts Energy notes that Retail Guideline condition 2 (1)(b) and Network Guideline section 4.8.1 (1)(a) both require information to be provided on the 'options for metering that would allow this choice' (that is, the ability of the embedded network customer to choose their own retailer).

This particular obligation should be removed or further clarification provided as the embedded network owner and exempt seller cannot provide options or advice on the metering that the retailer of choice would require or install should the tenant elect to go 'on market'.

Another issue for clarification relates to the obligation in the Network Guideline section 4.8.1 (1)(d) which requires the unbundling of network tariffs from retail tariffs to be provided in the Information Provision. This obligation can be difficult to comply with as it is not always easy to determine which network tariff is included in a retail tariff and therefore unbundle the rates.

And further as mentioned above, any standardised template that can be provided by the AER to meet the Information Provision obligations would be beneficial to not only ensure compliance but also reduce administrative costs for exemption holders.

7. *Pricing*

The Retail Guideline Appendix A-2 condition 7 stipulates that the exemption holder must not charge the exempt customer tariffs higher than the standing offer price that would be charged by the relevant local area retailer for new connections.

One particular area we are coming across is embedded network customers requesting 'green energy' contracts, which may be charged at rates higher than the standing offer price. As such, Watts Energy questions whether the AER may wish to review this condition to allow for an exemption holder to charge tariffs higher than the standing offer price in situations whether the embedded network customer specifically requests and provides explicit informed consent to be charged higher for an energy product or service.

8. *Chilled water*

With respect to the issue of the sale of energy for chilled water, we agree that as it is very specific and for a relatively small consumption, a deemed exemption would be appropriate.

9. *Hardship assistance*

With COVID, many embedded network owners and operators are managing hardship customers who are experiencing payment difficulties. However, there are also customers who may abuse the customer protection mechanisms which are meant to protect those who are truly experiencing hardship versus those customers who don't want to pay legitimate electricity bills. Many embedded network owners are struggling to recover costs from tenants. For example, one of our clients currently has approximately 30 customers on hardship and payment plans which means that they have not been able to recover over \$8000 from unpaid electricity bills in the last twelve months and are unlikely to ever recover this amount. Whilst it may not seem like a large amount of money embedded network owners should be able to recover their reasonable costs.

10. *Network Bills for Child NMIs*

Watts Energy has encountered issues and problems when an embedded network customer elects to go 'on market'. In particular, some retailers are not correctly netting off the child NMI from the parent NMI usage which makes recovery of electricity from remaining embedded network customers difficult. The process to obtain corrected electricity charges for the Parent NMI is very time consuming and administratively burdensome and obviously results in the embedded network owner not being able to recover electricity charges from tenants and has significant flow on impacts.

Whilst this issue has previously been raised with the AER and it appears that the AER's hands are tied with limited compliance measures that can be taken, Watts Energy wishes to raise this ongoing issue with the hope of future measures implemented to address this market failure.

Regards



Donna Edwards
Owner