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Dear Ms Park

**Re: Draft Network Exemptions Guideline Version 7**

Thank you for the opportunity to comment on the Australian Energy Regulator's (AER's) Draft Network Exemptions Guideline Version 7 (the Guideline).

**Background to EWOQ**

The Energy and Water Ombudsman Queensland (EWOQ) provides a free, fair and independent dispute resolution service for small electricity and gas customers across Queensland and water customers in South East Queensland who are unable to resolve a dispute with their supplier.

The comments set out in this letter reflect the views of EWOQ.

We have reviewed the Guideline and the accompanying Notice of Draft (the Notice) and provide overall support for the proposed changes which not only introduce additional protections for embedded network consumers, but also improves the accessibility of the Guideline for users.

We acknowledge the importance of the Guideline in setting out the AER's approach to network exemptions and provide the comments below targeted on key aspects of the Guideline detailed in the Notice.

**Section 3 - Streamlining of Guideline**

We commend the work of the AER in considering accessibility in its review of the Guideline and support the changes to its title, structure and content to make it more fluid and easier to understand.

We agree with the approach adopted to simplify and streamline the Guideline by the use of plain language, consistent terminology and accessible text and graphics, such as bold and boxed text and headings, along with diagrams and flowcharts.

To further support consumers in this space, we recommend, as part of the communications campaign following the publication of the new Guideline, the AER:

- Offer a webinar or workshop on network exemptions for exempt entities
- Development of a factsheet on network exemptions similar to those published for the Exempt Seller Guideline.

The Energy Exempt Seller factsheets have been a welcomed resource for our Embedded Networks team and are regularly referenced and issued to embedded network providers and consumers who contact our office.

#### **Section 4 – Primary registrant**

We support the introduction of a voluntary primary registrant model where exemption holders can nominate one party to comply with condition 1.13 being membership of an ombudsman scheme and compliance with its requirements.

We provide the follow information on our current onboarding process:

Current process:

- EWOQ currently onboard exempt sellers by ABN as opposed to site location.
- In many instances, the body corporate for a site will provide authorisation for the billing agent or other recorded network registrant to act on their behalf.

Challenges arising with the current process:

- We experience difficulty during the current onboarding process where there are multiple network registrants.
- We have received feedback from body corporates and third parties, who are confused about who has to become an EWOQ member for the network registration.
- We have also received some feedback about sites were the network registrants listed on the AER site are incorrect, which leads to difficulty trying to locate the exempt sellers for to join our scheme.
- We currently experience difficulty locating the contact details for exempt sellers.

Adopting a primary registrants model should address some of the current administrative challenges as outlined below but there are a few concerns that still need addressing.

Benefits of Proposed Primary Registrant Model(PRM):

- It will minimise confusion about who is responsible for applying for EWOQ membership.
- It will also minimise the administrative tasks we need to complete
- Limit the number of parties involved in the complaint resolution process.

Possible concerns of the Primary Registrant Model:

- Will there be a public record on the AER website recording the primary registrant?
- Will the PRM be applied retrospectively?
- If there is a change of primary network registrant, will this be updated with the AER and then the Ombudsman Schemes?
- Need to ensure primary registrant has the appropriate authority and capacity to resolve customer complaints.

## Potential scenario/example of Primary Registrant Model (PRM)

- Assume two entities/parties\* require a network registrable exemption for a given site: Party A (network owner e.g. Body Corporate) and Party B (network operator e.g. ENsRUs). Parties A and B agree between themselves under the optional PRM that Party B will comply with the condition requiring membership of a relevant ombudsman scheme (i.e EWOQ). Party B duly signs up as a member of EWOQ. Sometime later, a customer at the site seeks to raise a complaint about conduct which Party A has engaged in contrary to a condition of their exemption. While Party A and Party B have agreed for the latter to become a member of EWOQ under the PRM, do you foresee practical and/or legal impediments under EWOQ's Charter/Constitution in:
  - 1. the customer raising a complaint against Party A who is not an EWOQ member; or
  - 2. EWOQ being able to investigate Party A and make an order against Party B (for Party A's conduct); or
  - 3. EWOQ being able to make an order against Party A, based on Party B's EWOQ membership, who was nominated when lodging their AER registrable network exemption?
- *\* To avoid doubt, both parties are required to hold registrable network exemptions and are subject to relevant applicable conditions under our Network Exemptions Guideline.*

The PRM needs to consider more closely the legal and financial obligations that may arise. If any agreement is made between Party A and Party B, it should clearly state ongoing liability in relation to the Energy and Water Ombudsman charges and findings. This agreement should be acknowledged and recorded with the AER and available to be accessed by interested parties.

### **Section 7 – Explicit informed consent – retrofit requirements**

The adoption of Explicit Informed Consent (EIC) terminology in the Guideline is welcomed, as is the requirements for appropriate collection and record keeping. Like most stakeholders, we concur EIC should preferably be in writing but acknowledge it can be given verbally, if supported with sufficient evidence.

We agree prospective consumers require relevant information to make an informed decision and provide EIC and support the inclusion of standardised information requirements for proposed exempt embedded network service provider (EENSPs). In our view, the package of information and resources listed in Appendix C of the Guideline is appropriate. We, in particular, support the inclusion of the AER factsheet and information on external dispute resolution and Ombudsman schemes.

### **Section 8 – Disconnection protection for energy only customers**

We applaud the AER for recognising and addressing the absence of certain consumer protections for on-market customers living in embedded networks and for proposing additional protections in the Guideline to cover:

- a. a requirement for the exemption holder to offer a payment plan for an on-market customer unable to pay the network tariff due to financial difficulty
- b. when disconnection is prohibited, and procedures for permitted disconnection, and
- c. the procedure for reconnection following a permitted disconnection.

This will ensure on-market customers receive the same consumer protections against disconnections if they have payment difficulties paying the network tariffs.

### **Section 9.3 - Civil Penalties**

We note the updated civil penalties highlighted under section 9.3 of the Notice for failing to comply with section 11(2) of the National Electricity Law (NEL) and more broadly, the NEL and the National Electricity Rules (NER).

### **Section 10 – Continuity of supply**

In the current climate, ensuring appropriate arrangements exist for continuity of supply for embedded network customers is paramount. We agree EENSPs are well placed to be able to provide prompt notice of any pending supply risks and take relevant actions, and support the proposed new conditions in the Guideline that require EENSPs 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 of the actions they will take to ensure that there is continuity of supply for customers.

If you require any further information on our submission, please contact Mr Jeremy Inglis, Principal Policy Officer on 07 3087 9423.

Yours sincerely

A handwritten signature in black ink, appearing to be 'EBray', written in a cursive style.

Eleanor Bray

Acting Energy and Water Ombudsman