

2 July 2015

Australian Energy Market Commission
 PO Box A2449
 Sydney South NSW 1235

Thank you for the opportunity to comment on the *AMEC Rule Change – National Electricity Amendment (Embedded Networks) Rule 2015*.

The Energy & Water Ombudsman NSW (EWON) investigates and resolves complaints from customers of electricity and gas providers in NSW, and some water providers.

EWON's jurisdiction over exempt retailers

Unlike all other jurisdictional energy ombudsman schemes, EWON has jurisdiction to investigate complaints against exempt sellers by virtue of:

<i>NSW Electricity Supply Act 1995</i>	
96B	Topics an energy ombudsman scheme is to deal with include "disputes and complaints between small customers and exempt sellers ... in relation to the supply of electricity or gas"
<i>NSW Electricity Supply (General) Regulation 2014</i>	
11	People who may apply to an energy ombudsman for a review of a decision include "a small customer in respect of a matter arising between the customer and an exempt person concerning a contract for the supply of electricity or gas (including charges for electricity or gas) or any other matter relating to the supply of electricity or gas by the exempt person to the customer"
18	The exempt person is bound by, and must comply with, any decision of the energy ombudsman in relation to a complaint or dispute relating to the provision of connection services.

EWON has investigated complaints from customers of embedded networks in four network categories:

- NR1 – commercial or retail tenancies
- NR2 – residential apartment blocks
- NR3 – retirement villages
- NR4 – residential parks

Historically EWON has received relatively few complaints from customers of embedded networks, generally from 70-100 per year. Complaints from customers living in Residential Parks with embedded networks have made up by far the majority of the cases we have investigated.



These complaints largely relate to billing – queries about the accuracy, format and frequency of the bills, as well as payment issues. EWON investigate these complaints to ascertain whether they comply with the AER's *Exempt Selling Guidelines* – and where relevant, provides information to the park operators to assist them.

We have very rarely received complaints relating to access to retail competition from these customers. In such cases we can provide information about:

- Condition 13 of the AER's *Exempt Selling Guideline* which provides that "the exempt person must not do anything to discourage or prevent them from exercising this choice"
- Condition 10 of the AER's *Electricity Network Service Provider Registration Exemption Guideline* which provides that "a private network operator must not impede a customer's access to retail competition where it is available in a jurisdiction."

In practice, the costs of arranging for the change in metering, which would be at the expense of the resident seeking access to retail competition, has effectively discouraged this.

General comments

Rather than reply specifically to the 9 questions contained in the Consultation Paper, we will confine our response to making some general comments, only addressing specifically those which are most relevant to our work at EWON.

Clarification of roles and procedures within MSATS

In general we support all the procedural changes proposed to clarify the transfer of customers of embedded networks in the market.

EWON's experience of complaints from customers in embedded networks suggests that so far it is only those customers of embedded networks in shopping centres that have successfully accessed the competitive retail market. When these customers have contacted EWON, it has been in relation to billing issues – the actual transfer to an authorised retailer appears to have worked effectively.

We have had relatively few complaints from customers of embedded networks in apartment blocks, and again these complaints have related to billing issues rather than access to the competitive market. As we are aware of several large new housing developments in Sydney that will have embedded networks, the number of contacts from customers of embedded networks to EWON is expected to increase in the future.

The requirement to appoint an Embedded Network Manager

In NSW there are currently 102 Residential Parks on the AER's Public Register of Retail Exemptions (R4). Many of these are relatively small businesses, operating quite old networks. We query whether the proposed requirement for them to appoint an embedded network manager (ENM) is fair or reasonable. It is possible that the compliance costs would place a financial burden on these small businesses significantly out of proportion to the potential benefit of access to retail competition to the customers. On the contrary, these additional operational costs would ultimately be reflected in increased rental rates for all the residents.

We consider that the current obligation on these small network operators to not impede any customer's access, for example providing details of the parent metering configuration without undue delay, should be the limit of their obligations.

For relatively recently constructed large developments such as apartment blocks and shopping centres, the requirement to appoint an ERM may be more reasonable. However, we highly recommend that the category R4 is not included in the proposal.

Testing and Inspection of off-market child meters

In principle EWON supports the proposal that the AER should require the same routine testing and inspection of off-market child meters as for those customers directly connected to a registered NSP's network. This is in line with the policy principle expressed in s.114(1)(c) of the *National Energy Retail Law*: *'exempt customers should, as far as practicable, not be denied customer protections afforded to retail customers under this Law and the Rules.'*

There are clear obligations for customers of authorised retailers to arrange for a meter test by the DNSP if requested by the customer. There are set fees for this service, with a requirement that the fee must be refunded if the meter is found to be faulty. The same consumer protection is not currently available to customers of exempt networks.

However, as previously identified, R4 classified Residential Parks require additional consideration. EWON's investigation of complaints from customers in some of the older residential parks identified several examples of unorthodox meters – eg purchased by the park owner in a second-hand auction sale, or operated by tokens. The lack of a clear inspection and testing regime resulted in the customer having to source a private contractor to carry out the testing at their own expense.

There are many aspects of this proposal that are yet to be clarified, for example who carries out the testing, and at whose expense. We suggest this proposal should be subject to wider consultation among the parties most immediately affected by any change, and EWON would welcome the opportunity to contribute to such a consultation.



Consistent protections for customers requiring Life Support

There are currently provisions in both the AER's retail and network guidelines¹ which apply to operators of embedded networks in NSW on notification that they have a customer requiring life support equipment. These provisions place general obligations on the embedded network operator to promptly notify both the local DNSP and the authorised retailer of the existence of that customer.

It is a matter of concern that these Guidelines are not consistent, particularly as Condition 11 in the Network Guideline states:

A private network operator must not disconnect supply to a life support customer without making arrangements for the safety of a life support customer.

Rules 116 and 120 of the *National Energy Retail Law* totally prohibits de-energisation of any premises registered as having life support equipment.

To be consistent with the principle expressed in s 114 (1) c) of the *National Energy Retail Law* (quoted above) it would be preferable if there were a similar prohibition for disconnection of life support customers in embedded networks. If the disconnection is to be part of a planned interruption, we suggest the obligations in Rule 125 of the *National Energy Retail Rules* could be more closely reflected in the Guideline.

The proposal to require the inclusion of the parent connection point in the notification to the financially responsible market participant (FRMP) makes this obligation more specific.

EWON supports any proposal that contributes to the increased safety of energy consumers.

If you would like to discuss this submission further, please contact me or Emma Keene, General Manager Policy and Community Engagement on 02 8218 5250.

Yours sincerely

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¹ *Exempt Selling Guideline* : Condition 16

Electricity Network Service Provider Registration Exemption Guideline: Conditions 10 and 11