Australian Energy Market Commission
PO Box A2449
SYDNEY SOUTH NSW 1235

Active Utilities Pty Ltd
ABN 43 818 767 917

40 English Street, Essendon Fields
Victoria, Australia 3041
Telephone: 1300 587 624
info@activeutilities.com.au
www.activeutilities.com.au

Submitted via AEMC website "Submission Form"

16 May 2016

To Whom It May Concern,

Re: Review of regulatory arrangements for embedded networks, Consultation Paper – May 2017

Active Utilities wishes to respond on behalf of our embedded network site owners and operators in reference to the Australian Energy Market Commission (AEMC) recent consultation paper. We would like to commend the AEMC on the views taken here, we feel that this paper is working towards improved regulatory frame work within the embedded network industry. Below we have provided further comment on the questions raised in your paper that we believe will continue to strengthen the AEMC and other relevant regulatory bodies approach to exempt on selling.

For background, Active Utilities is an embedded network service provider operating mainly with customers located on the east coast of Australia. Our utilities business comprises of consulting to Developers, Strata Managers and owners/ managers of buildings for the setup and ongoing management of embedded networks. As part of this service we sometimes provide a billing agency service to these entities to ensure that their end customers receive a similar service offering to normal network conditions and meet relevant legislative requirements of operating these networks.

Question 1 - Does the two-tiered framework of requiring either registration/authorisation or exemption remain fit for purpose?

In the context of the growing number, scale and diversity of exemptions:

(a) What issues does the two-tiered regulatory framework of requiring either registration as an NSP/authorisation as a retailer, or exemption give rise to?

We feel the current arrangement is in the main fit for purpose.

(b) Are there alternative regulatory arrangements, not based on a binary system of registration/authorisation or exemption, that would be more appropriate?

We feel the current arrangement is in the main fit for purpose.

Active Utilities Pty Ltd
ABN 43 818 767 917

40 English Street, Essendon Fields
Victoria, Australia 3041
Telephone: 1300 587 624
info@activeutilities.com.au
www.activeutilities.com.au

Question 2 - Does the exemption framework remain fit for purpose?

(a) Does the exemption framework promote efficient investment and allocation of risks and costs. Specifically, does the exemption framework:

i. incentivise efficient investment in infrastructure and energy services within embedded networks?

Yes, we believe so. Two example stand out:

1. Prior to programs such as the AMI metering roll out in Victoria, many Embedded Networks had made provision for "smart metering" giving customers access to real time usage in attempt affect their usage habits in addition to assisting in compliance with such building energy rating tools like Greenstar and NABERS.
2. With the increase in energy prices, many EN's have turned to Solar to assist in reducing wholesale risk.

The exemption frame work allows for a focus on a specific customer type – i.e. multi-tenant. The ability to focus on this core group means that innovation can be developed in a sheltered subsection of the market.

ii. appropriately allocate risks between exempt sellers and exempt network service providers and embedded network customers.

We do not believe that the exemption framework assists in the allocation of risks – an embedded network is less risky by its design/intention. Under exemption, embedded networks are not faced with wholesale energy spot risk. As energy contracts are obtained via Licenced retailers EN sellers and customers have the ability to spread this risk over a 3-5 year period, rather than follow a volatile market place.

(b) Does an exemption framework continue to be necessary for some categories of embedded networks? If so:

i. what should the objectives of a network and retail exemption framework be?

The aim of the exemption process should be to register the site and identify the key stakeholders associated with the on selling activities. This process should be designed primarily to ensure protection of customer's rights and safe/compliant operation of the network.

ii. what types of embedded networks and on-selling arrangements should be eligible for exemption?

In simple terms, any network that can provide a clear benefit to the owner, operator or occupant of a multi tenanted site.

Active Utilities Pty Ltd
ABN 43 818 767 917

40 English Street, Essendon Fields
Victoria, Australia 3041
Telephone: 1300 587 624
info@activeutilities.com.au
www.activeutilities.com.au

iii. Do the three categories of deemed, registrable and individual exemptions remain appropriate? If not, what changes should be made to the exemption framework?

We believe that the exemption process should be simplified – we feel that the activity on the site is less relevant, rather the parties that conduct the on selling should be the focus. While we feel a site should still be registered (or allocated to a party instead) perhaps a similar accreditation process like that of the embedded network manager role currently under review via the Power of Choice reform might be more appropriate. This change would mean a significant reduction in administration for all parties involved.

(c) Has the AER been provided the appropriate powers and functions in relation to exemptions under the NEL and the NERL?

Yes. There are sufficient powers under the NEL/NERL however if further reform is undertaken on the initial exemption registration process then the reduction in administration will provide the AER with further resourcing to focus on the operation and compliance of the networks in general rather than on a site by site basis.

(d) Are the current reporting, compliance and enforcement arrangements under the exemption framework appropriate? If not, what changes should be made to the current compliance framework for exemption.

We have no further comment for this question.

Question 3 - How do jurisdictional legal instruments affect the regulatory framework for embedded networks?

(a) Are there any relevant jurisdictional legal instruments or policy positions that affect the regulatory framework for embedded networks that were not identified in the Embedded networks final rule determination?

We have no further comment for this question.

(b) Have any of the jurisdictional legal instruments or policy positions been reviewed or amended since the Embedded networks rule was made in December 2015.

We have no further comment for this question.

Question 4 - Can access to retail competition be improved?

(a) What barriers exist for small and large customers in embedded networks going on market?

Under the Power of Choice reform we believe that the AER has addressed a number of the barriers to entry for an off market participant wishing to churn.

Active Utilities Pty Ltd
ABN 43 818 767 917

40 English Street, Essendon Fields
Victoria, Australia 3041
Telephone: 1300 587 624
info@activeutilities.com.au
www.activeutilities.com.au

(b) Are retailers currently providing or planning to provide competitive market offers to embedded network customers? What barriers will remain to providing these offers after 1 December 2017 with the commencement of the Embedded networks rule?

Many Retailers (in jurisdictions that allow this) currently provide competitive market offers to embedded network customers. The December changes will mainly smooth out some of the operational idiosyncrasies (on both sides) that a transfer from off market to on market entail.

(c) Are there examples or cases of small and large embedded network customers going on-market? What were the circumstances that made going on-market desirable and possible for these customers?

To date majority of on market participation from embedded network customers is not based on issues with competitive market offers. The key drivers for these changes has been based on administrative reasons, being that many large customers form part of a large purchasing group. For ease, keeping their procurement portfolio together drives their choice.

(d) What is the level of competition to provide electricity to embedded network operators at the parent meter?

All Tier 1 & many Tier 2 Retailers are willing to provide offers for energy at the parent meter. Those who do not have back end billing and processing issues that prevent them from providing offers to EN's.

(e) Is there an imbalance in negotiating power between embedded network customers and embedded network operators in negotiating terms and conditions, including price, due to barriers to accessing retail market offers?

We have no further comment for this question.

Question 5 - Issues for embedded network customers that are on- market or wishing to go on-market

(a) Are there any other issues in addition to those set out in Appendix B that we need to consider?

We have no further comment for this question.

Active Utilities Pty Ltd
ABN 43 818 767 917

40 English Street, Essendon Fields
Victoria, Australia 3041
Telephone: 1300 587 624
info@activeutilities.com.au
www.activeutilities.com.au

(b) Where an on-market embedded network customer (being supplied by an authorised retailer under a market offer) has limited access to other retail market offers are there any additional consumer protections than those provided in the NERR that should apply?

We have no further comment for this question.

Question 6 - What consumer protections, in relation to the sale of energy, are appropriate for off-market embedded network customers?

(a) Is the objective of providing comparable consumer protections to exempt customers and customers of authorised retailers being achieved in practice?

i. What gaps or issues exist?

The biggest gap under the exemption framework is lack of or ease of access to Concessions and Ombudsman schemes for consumers.

ii. Do stakeholders consider the ACL and tenancy legislation to provide suitable complementary protection for embedded network customers alongside the energy specific consumer protections included the exemption conditions?

Yes, as many of the exemption holders already operate under these frameworks they are keen to ensure that consistency applies into any on selling activities.

(b) Are there changes required to the consumer protection framework for off-market embedded network customers?

i. What should the guiding principles for consumer protections for embedded customers be?

We believe that the current guiding principles are satisfactory – the exemption conditions provide comfort.

ii. What risks should be addressed by consumer protections for embedded network customers?

We have no further comment for this question.

iii. Should consumer protections continue to be contained in the retail exemption conditions or should they be elevated into another legal instrument, e.g. the NERR?

We believe the current protections (excluding the lack of Obudsmans access) should remain under the exemption conditions.

Active Utilities Pty Ltd
ABN 43 818 767 917

40 English Street, Essendon Fields
Victoria, Australia 3041
Telephone: 1300 587 624
info@activeutilities.com.au
www.activeutilities.com.au

(c) What energy-specific consumer protections should apply to off-market embedded network customers in the context of market and technological changes and changing risks?

We have no further comment for this question.

(d) How do the current arrangements for consumer protection impact on vulnerable embedded network customers? How can access to concessions and rebates be improved?

Not necessarily a consumer protection issue, more of an administrative issue - Concessions are still available to embedded network customers. The issue facing this process is that there is no mechanism to enable the customer to access this concession directly from the embedded network – they must apply directly to the relevant body.

(e) An exempt seller may be providing a broader service than just electricity to embedded network customers. For example, the exempt seller may also be the embedded network customer's landlord, provider of strata services or water supplier. Does the different relationship between embedded network customers and the exempt seller as compared to the relationship between a retail customer and an authorised retailer have implications for consumer protections?

There may be a perceived risk however in practice this is not reality. Many embedded network exemption holders have entered the arrangement to provide value added benefits to the consumer either via lower utility costs or ease of use i.e. single bill.

(f) What examples or case studies can stakeholders provide which demonstrate differences in the consumer protections provided to exempt customers and to customers of authorised retailers? Do the experiences of embedded network customers indicate poorer outcomes due to differences in consumer protections?

We have no further comment for this question.

Question 7 - Are current regulatory arrangements for gas embedded networks appropriate?

(a) What are the jurisdictional arrangements that apply to gas embedded network service providers?

Gas on selling has a complexity to its regulatory framework that sees it transition over multiple jurisdictions including the AER, AEMO, National Gas Law and Gas Industry Act for example in Victoria. Essentially it is extremely difficult to on sell gas to a larger embedded network site unless you operate under retailer authorisation.

Active Utilities Pty Ltd
ABN 43 818 767 917

40 English Street, Essendon Fields
Victoria, Australia 3041
Telephone: 1300 587 624
info@activeutilities.com.au
www.activeutilities.com.au

(b) How do gas embedded networks currently operate? What metering and charging arrangements exist?

We have no further comment for this question.

(c) What would be the advantages and disadvantages of moving to a national regulatory framework for gas embedded networks? If desirable, what form of national framework would be appropriate?

We feel that following the AER's electricity exemption framework would be appropriate. In particular, focusing on unmetered gas on selling – a clear access to exemption would make sense. The best example of this activity is unmetered charging for gas hot plates within residential apartment complexes. The on seller is a customer of a licenced retailer and has no potential for risk via purchasing or safety. The activity is an exercise in cost recovery and should not be placed in the basket of traditional metered gas selling.

Thank you for the opportunity to respond as part of the ongoing consultation process regarding exemptions. Should you wish to discuss any of the above in more detail please feel free to contact the undersigned.

Yours sincerely,

Mick Dovile
General Manager
Active Utilities Pty Ltd