

# UPDATING THE REGULATORY FRAMEWORKS FOR EMBEDDED NETWORKS

STAKEHOLDER WORKSHOP

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PRIMUS HOTEL, SYDNEY AND WEBCAST  
8 MAY 2019

AEMC

# Agenda

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1. Introduction
  2. Recap of draft report
  3. Changes to the draft report
  4. Proposed transition framework
  5. Proposed transition process
  6. Implementation of the new framework
  7. Closing remarks
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## Background and overview of the workshop

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In January 2019, the Commission released its draft report *Updating the regulatory frameworks for embedded networks*.

The report set out detailed amendments to national energy laws and rules to establish a new regulatory regime to improve consumer protections and access to retail market competition for embedded network (EN) customers.

Going forward, these new arrangements will apply to any new EN that is created on and after the commencement of the Rules.

In the Draft Report, the Commission also noted that there could be benefits in requiring certain existing “legacy” exempt ENs to transition to the

new framework and sought stakeholder views on the appropriate arrangements for transition of legacy networks and the costs associated with doing so.

Today we will provide:

- a brief recap of the proposed draft framework
- changes we are considering to the draft report recommendations in relation to the retail authorisation and exemption framework
- a proposed transition framework to transition certain legacy embedded networks to new authorisation and registration framework for discussion

# RECAP OF DRAFT REPORT

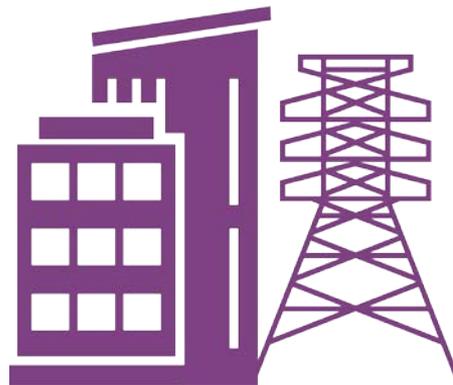
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## Draft report - recommendations

The new regime aims to elevate embedded networks into the national regulatory regime.

The draft report sets out proposed changes in the areas of:

- Registration and exemption
- Market and system integration
- Network billing
- Connection services
- Consumer protections in the NERL and NERR
- Monitoring and compliance
- Jurisdictional regulations



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A new regulatory regime  
for embedded networks

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## Authorisation and registration

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The draft report proposed the creation of two new roles under the new framework:

- the **Embedded Network Service Provider (ENSP)** must register with AEMO and be subject to many of the existing regulatory requirements placed on DNSPs
- the **Off market retailer** must:
  - obtain an authorisation from the AER and be subject to most requirements that existing authorised retailers are subject to
  - register with AEMO under the NER
  - appoint a metering coordinator for off-market connection points
- Obligations relating to consumer protections, retail market competition and compliance and performance reporting would be placed directly on these parties
- To increase the flexibility of the retailer authorisation framework, the draft report proposed:
  - providing the AER the power to exempt authorised retailers and off-market retailers from specific obligations under the NERL and the NERR on a case-by-case basis
  - enabling different classes of retailer under the NERR to be established, for which obligations could be varied

## Exemptions

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- Correspondingly, the draft report proposed decreasing the scope of the exemptions framework by:
  - Removing the deemed and individual categories of network exemptions and reducing the number of network exemptions by narrowing the criteria for embedded networks to be eligible for an exemption
  - Removing the deemed and individual categories of selling exemptions and reducing the number of selling exemptions by narrowing the criteria for sellers to be eligible for an exemption
  - Changing the definition of “distribution system” to decrease the number of activities considered to constitute owning, controlling or operating a distribution system
- Overall, the intent was to significantly reduce the amount of exemptions and to have only a single type of exemption: registrable exemptions.

## Common embedded network types under the current and proposed framework

Activity	Current	Proposed
Short term holiday accommodation	Deemed exempt	Registered exempt
Electric vehicle charging stations	Deemed exempt	Registered exempt
Small commercial and residential complexes	Deemed exempt	Registered network service provider and retailer
Large commercial and residential complexes	Registered exempt	Registered network service provider and retailer
Retirement villages	Registered exempt	Registered network service provider and retailer
Long term holiday accommodation	Registered exempt	Registered network service provider and retailer
Shopping malls	Registered exempt	Registered network service provider and retailer

## Other features of the proposed framework for new embedded networks

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- Under the proposed framework in the draft report, the application of the NEM metering framework will be extended to embedded networks
- Introduction of standardised billing arrangements and 'shadow pricing' for the recovery of external network charges from embedded network customers who choose to go 'on-market'
- ENSPs to have an obligation to make an offer to customers seeking connection services for new connections and connection alterations within their embedded network area
- Customers in new embedded networks will be customers of an authorised retailer, either a NEM retailer or an off-market retailer. ENSPs will also be recognised in the NERL and NERL. This will enable consumer protections for embedded network customers to be closely aligned with those of standard supply customers under the NERL and NERR.
- The proposed framework will provide increased regulatory oversight of parties providing services in embedded networks
  - **ENSPs**, as registered participants, will be subject to the AER's monitoring, investigation and conduct powers, general information gathering powers and reporting requirements
  - **off-market retailers** will become subject to the compliance framework applicable to NEM retailers

## Improved monitoring and compliance and clarification of price conditions for legacy exempt embedded networks

- To improve outcomes for customers in existing embedded networks and future exempt networks, the AEMC recommended that
  - exempt sellers be subject to compliance audit provisions
  - exempt network service providers be subject to general information gathering powers
  - any breaches of exemption conditions be enforceable by the AER as part of its monitoring, investigation and enforcement procedures with breaches being enforceable under the law
- Currently, the NERR sets a ceiling for any price condition set by the AER as the local retailers standing offer.
- We propose to clarify in the NERR that the AER has discretion to set a price ceiling for exempt sellers.

# CHANGES TO DRAFT FRAMEWORK

AUTHORISATION, REGISTRATION AND  
EXEMPTIONS

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## Stakeholder views

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- **Embedded network operators and businesses** had mixed views on the proposed authorisation, registration and exemption framework.
  - Some **supported** new requirements for off-market authorisation and ENSP although noted it would **introduce additional costs**.
  - Some were **concerned about the costs** of seeking registration and authorisation or having to appoint intermediaries and considered these would outweigh benefits to consumers.
- **DNSPs** had similarly mixed views to embedded network operators and businesses.
- **Retailers** were **supportive to strongly supportive** of the proposed framework for new embedded networks and its intent to open embedded networks to retail market competition, and extend the same consumer protections to embedded network customers.
- **PIAC** submitted that there should be scope to exempt ENSPs and off-market retailers from some aspects of the frameworks in circumstances where innovation would be promoted, while still extending protections to consumers. For example, where communities of consumers are able to establish innovative energy projects which are based around solar PV and/or battery installations.

## Stakeholder views

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- The **AER** considers that the proposed changes to the authorisations framework will be suitable for the vast majority of current energy retailing activities. However, it is concerned there will still be **energy supply arrangements that may not be properly catered for** in the proposed regulatory framework.
- The **AER** considers **individual exemptions** should remain an important regulatory tool available to the AER, to avoid imposing high regulatory costs for different and new energy sales and supply models to the detriment of customers.
- **AEMO** notes that there are a very limited set of NER requirements for which OMRs would be 'registered participants' and considers that there is little benefit in having OMRs registered in Chapter 2 of the NER.

## Potential changes to draft recommendations for discussion – individual exemptions

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- We are considering retaining individual exemptions as part of the retail framework
- A new exemption framework including individual exemptions would provide a regulatory tool which would cater to unforeseen energy supply arrangements that may not be properly catered for in the proposed regulatory framework and which need less regulatory oversight
- Individual exemptions would only be granted where an application meets a set of consumer interest and competition based principles and factors
- A requirement on the AER to consult on applications for individual exemptions would also provide a formal mechanism through which consumers and market participants can provide their views on whether there are consumer or competition concerns regarding an application

## Proposed changes to draft recommendations – retailer obligations

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- If there is a re-introduction of an individual exemption, we are considering removing the proposed AER power to exempt authorised retailers and off-market retailers from specific obligations under the NERL and NERR is required
- This power had been introduced in large part to replace the flexibility provided by the individual exemption
- Retaining both the individual exemption and this AER power would essentially provide two different pathways to exemption which may cause confusion and a lack of regulatory clarity
- However, there would still be the ability to establish a new class of retailer under the NERR with different obligations to ordinary authorised retailers
  - The AER might choose to propose such a class if it found itself providing multiple individual exemptions for the same reasons

# PROPOSED TRANSITION FRAMEWORK

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TRANSITIONING LEGACY EMBEDDED  
NETWORKS

## Transitional framework

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- There are three parts to the proposed transitional framework to consider:
  - a) Proposed categories of customers for transition
  - b) Proposed criteria for triggering the transition for each customer category
  - c) How and when will the transition occur
- Deemed exempt networks and sellers will not be transitioned to the new authorisation and registration framework.

## Part A: Categorisation of existing EN customers for transition

**Table 1: Categorisation of customers for transition**

PROPOSED CATEGORY	SUB-CATEGORY	DESCRIPTION
<b>Residential</b>	Long-term residential accommodation.	Residential accommodation for which residents reside long-term (including any mix premises such as caravan parks in which customers have their primary residence).
<b>Residential</b>	Caravan or holiday accommodation.	Holiday accommodation for which short and long term residents are charged for their electricity usage including where there are long-term casual occupants.
<b>Residential</b>	Aged care accommodation.	Premises solely providing supply to aged-care residents on a long-term basis under a commercial operation.
<b>Commercial</b>	-	All embedded networks supplying commercial customers only.

## Part B: Criteria for triggering transition

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- Existing EN are quite diverse and will have their own unique situation and characteristics. The transition framework needs to recognise this while keeping the arrangements simple and practical.
- The use of suitable triggers to identifying legacy EN for transition helps to make the arrangements workable plus can tailor the transition to those networks where the costs are proportionate.
- It is proposed to use two types of triggers:
  - Time based; and
  - Size based (number of customers).
- There would be no ability for legacy ENs to seek an exemption from the obligation to transition. Exemptions are likely to be unworkable and costly due to the administrative burden.

## Part B: Criteria for triggering transition cont'

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- **Time based triggers**

- From 1 January 2013, the National Measurement Institute required new electricity meters less than 750mWh to be pattern approved and verified. Therefore EN meters installed after this point are likely to already be NEM compliant, and reduces the potential costs of transition.
- Also need to recognise the possibility of new EN between the date of final report (1 July 2019) and the commencement of the new arrangements.

- **Size based triggers**

- Existing arrangements for appointing an Embedded Network Manager already has a size threshold (number of customers).
- The costs per customer of transitioning large networks is likely to be lower given the larger number of customers that costs can be smeared across.
- Greater benefits may also be realised in larger networks on the basis that larger networks are more likely to include more customers that wish to access retail electricity offers.

# Proposed framework for transition for discussion

**Table 2: Proposed position for Long-term Residential Accommodation**

PROPOSED CATEGORY	TRIGGER	PROPOSED TRANSITION ARRANGEMENT
<b>Long-term residential accommodation</b>	ENs established from 1 July 2019	Must transition to the proposed arrangements within [X] months of final rule. These ENs are expected to be aware of the forthcoming law and rule changes and can establish their networks and arrangements accordingly.
<b>Long-term residential accommodation</b>	ENs established between 1 Jan 2013 to 1 July 2019	Must transition to the proposed arrangements within [X + 2 years]. An additional 2 years is provided on the basis of varying levels of capacity and resources.
<b>Long-term residential accommodation</b>	ENs with less than 100 customers established prior to 1 Jan 2013	Remain as a legacy EN with existing exemptions.
<b>Long-term residential accommodation</b>	ENs with 100 or more customers established prior to 1 Jan 2013	Must transition to the proposed arrangements within [X + 5] years. Additional time may required for this tranche given the high likelihood that infrastructure requires upgrading.

# Proposed framework for transition for discussion

**Table 3: Proposed position for Holiday Accommodation & Aged Care Accommodation**

PROPOSED CATEGORY	TRIGGER	PROPOSED TRANSITION ARRANGEMENT
<b>Caravan or holiday accommodation</b>	<i>Not applicable.</i>	Remain as a legacy EN with existing exemptions. <i>This only applies to casual occupancy premises.</i>
<b>Aged-care accommodation</b>	ENs established from 1 July 2019	Must transition to the proposed arrangements within [X] months of final rule. These ENs are expected to be aware of the forthcoming law and rule changes and can establish their networks and arrangements accordingly.
<b>Aged-care accommodation</b>	ENs with 30 or more customers after 1 Jan 2013 to 1 July 2019	Must transition to the proposed arrangements by [X+ 5]. An additional 5 years is provided on the basis of varying levels of capacity and resources.
<b>Aged-care accommodation</b>	ENs with less than 30 customers after 1 Jan 2013 to 1 July 2019	No transition – remain as a legacy EN with existing exemptions.
<b>Aged-care accommodation</b>	ENs established prior to 1 Jan 2013 to 1 July 2019	No transition - remain as a legacy EN with existing exemptions.

## Proposed framework for transition for discussion

**Table 4: Proposed position for Commercial**

PROPOSED CATEGORY	TRIGGER	PROPOSED TRANSITION ARRANGEMENT
<b>Commercial</b>	ENs established from 1 July 2019	Must transition to the proposed arrangements within [X] months of final rule. These ENs are expected to be aware of the forthcoming law and rule changes and can establish their networks and arrangements accordingly.
<b>Commercial</b>	ENs established between 1 Jan 2013 to 1 July 2019	Must transition to the proposed arrangements within [X + 2 years]. An additional 2 years is provided on the basis of varying levels of capacity and resources.
<b>Commercial</b>	ENs with less than 100 customers established prior to 1 Jan 2013	Remain as a legacy EN with existing exemptions.
<b>Commercial</b>	ENs with 100 or more customers established prior to 1 Jan 2013	Must transition to the proposed arrangements within [X + 5] years. Additional time may required for this tranche given the high likelihood that infrastructure requires upgrading.

## Part C: Application of metering standards for discussion

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- Following transition to the new arrangements, we are considering whether metering installations (for metering installed between 1 Jan 2013 and 1 July 2019) would only be required to meet accuracy requirements in Schedule 7.4 of the NER where:
  - a customer goes on-market
  - there is a new or replacement meter installed
- Retailers are likely to upgrade meters for on-market customers at no upfront cost to customers in a similar manner to many standard supply customers currently.
- This would mean metering in legacy ENs could transition to the new metering standards in a staged way to help manage the costs of transition.

## Part C: Application of the transition framework

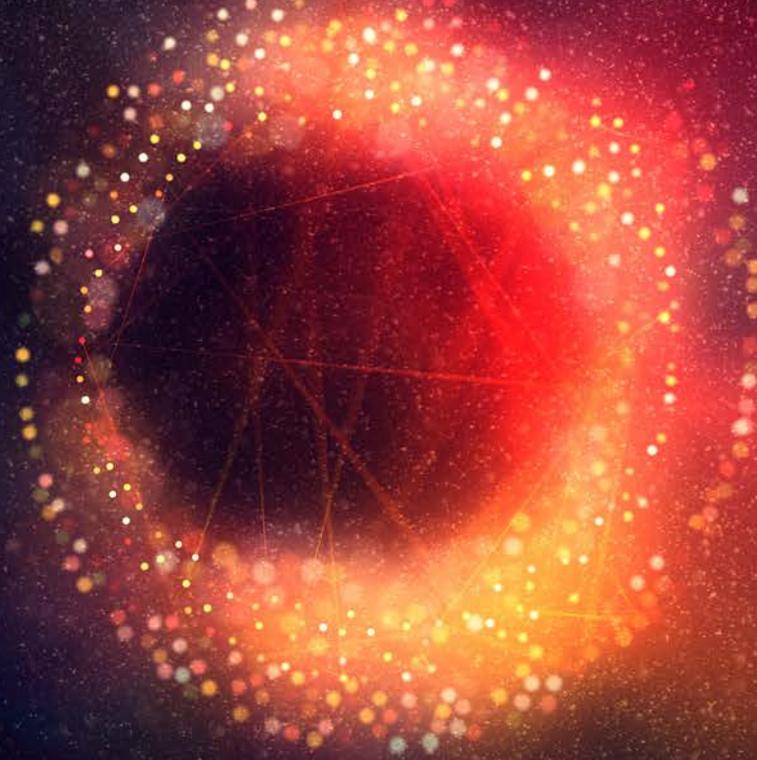
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### **The procedures to notify EN owner and monitor compliance**

1. AER to issue a “How to” guide for transition. AER should work with relevant stakeholders in preparing this guide.
2. AER to notify the existing legacy EN of the requirement and timeframes to achieve transition.
3. AER is available to respond to any queries or issues raised by the EN owner.
4. EN owner required to notify AER once transition is complete.
5. EN owner required to notify tenants of the transition and changes.
6. AER has option to audit any legacy EN transition process within 12 months of notification from EN owner.

# IMPLEMENTATION

JURISDICTIONAL, AEMO, AER AND INDUSTRY IMPLEMENTATION



## Overview of implementation requirements

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- Following publication of the final report in June 2019, a series of other processes will need to be undertaken for the new framework to be fully implemented:
  - COAG consideration and approval of recommended framework
  - SA Parliamentary Counsel will need to draft the law changes to the NEL and NERL
  - SA Parliament to make law changes and SA Minister for Energy to make rule changes
  - Reviews of jurisdictional legislation
  - A range of AER and AEMO procedures and guidelines will need to be updated or developed
  - Industry implementation

## Updates to procedures, guidelines and systems

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Updates to procedures and systems will include:

- AEMO updates to procedures, including metrology, MSATS and service level procedures
- Information Exchange Committee updates to B2B procedures
- AEMO updates to market systems
- Industry systems and business process changes and testing
- ENSP and embedded network area - guidelines for registration

## AER guidelines

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The AER will also need to update and develop a range of new guidelines:

- Retailer authorisation guidelines for off-market retailers
- Performance indicators and reporting for off-market retailers
- Compliance and enforcement guidelines
- Transition of legacy embedded networks guidelines
- AER administrative and systems changes to expand the reporting framework to include off-market retailers
- Network and retail exemption guidelines

## Jurisdictional regulations

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- The AEMC proposes state and territories consider the following functions
  - access to state and territory concessions and rebates
  - access to independent dispute resolution for distribution and retail services
  - network reliability protection, including GSL schemes
  - other GSL payments
  - safety and monitoring regimes
  - technical regulation, such as equipment and performance standards

## Jurisdictional regulations cont'

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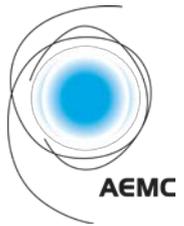
- The AEMC also proposes that state and territories consider any changes to licensing schemes.
  - Many of the jurisdictional regulations will apply automatically for retail activities, given that off-market retailers will be subject to authorisation.
  - Jurisdictional action is especially important with regard to network reliability and GSL payments. However, obligations on networks are usually put in place through jurisdictional licensing schemes rather than as a result of registration with AEMO
- Jurisdictions may also wish to consider reviewing other jurisdictional legislation such as tenancy and strata legislation for duplication and inconsistencies with the new framework.

## Industry implementation

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- We are also seeking stakeholders' input on how long they need to make the necessary changes to their systems and business processes to comply with the proposed new laws and rules.
- We understand that stakeholders will require sufficient time to:
  - Register as ENSPs and authorise as off-market retailers
  - Appoint metering coordinators
  - Update their systems and business processes and undertake testing





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