

# Review of the Victorian Electricity Licence Exemptions Framework

Final Position Paper

Energy, Environment and Climate Change Division



Environment,  
Land, Water  
and Planning

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## Summary

The Department of Environment, Land, Water and Planning (the Department) has developed this final position paper to set out the Department's policy positions on how to improve the efficiency and effectiveness of the Victorian electricity licence exemptions framework.

This paper, and the policy positions outlined herein, have been informed by submissions received in response to the Department's General Exemption Order Draft Position Paper released in July 2016.

The Department thanks all industry groups, community and renewable energy groups and consumer representative groups for their valuable contribution to this process.

## Next steps – Consultation on Draft General Exemption Order

The Department has prepared a draft General Exemption Order for stakeholder comment available in **section 12**.

Stakeholders are asked to review the Order and provide comment on its drafting by 5pm on **22 September 2017**.

Comments should focus on the drafting of the Order and its effectiveness in achieving the outcomes of the review.

Submissions can be emailed to [geo@delwp.vic.gov.au](mailto:geo@delwp.vic.gov.au) or posted to:

**General Exemption Order Review**

**Energy Markets Policy and Regulation**

**Department of Environment, Land, Water and Planning**

**PO Box 500**

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Further information about the transition to the new framework is provided in section 10.

## Department Contacts

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## Publication of submissions

This paper and any submissions or parts thereof might be released pursuant to the requirements of the Freedom of Information Act 1982 (Vic). Any requests for public access to a submission will be determined in accordance with the Act.

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# 1 Background

Section 16 of the *Electricity Industry Act 2000* (EIA) states that a person must not engage in the generation of electricity for supply or sale or the transmission, distribution, supply or sale of electricity unless that person either holds a licence issued by the Essential Services Commission (ESC) or is exempt from the requirement to hold a licence.

Exemptions from the requirement to hold a licence are made by the Governor through an Order in Council in accordance with section 17 of the EIA. Exemptions can be issued for a specific entity and activity. In this case, the Department receives exemption applications and can recommend to the Minister for Energy, Environment and Climate Change that an exemption should be granted.

In addition, certain activities related to the small-scale resale, distribution and generation of electricity are currently regulated under the provisions of an Order in Council, called the General Exemption Order (GEO).<sup>1</sup>

The GEO provides for categories of 'deemed exemptions'. This means that no application to the Department is required for the exemption to apply. Instead, entities must satisfy themselves that they fall within the activities covered by the GEO, before undertaking the generation of electricity for the supply or sale or the transmission, distribution, supply or sale of electricity without a licence. The GEO also sets out the terms, conditions and limitations that those operating under it must comply with to retain their exemption. A consolidated version of the GEO can be found attached to the Department's GEO Issues Paper.<sup>2</sup>

In 2015, the Victorian Government commenced a review of the GEO to examine the adequacy of the current regulatory arrangements applying to the small-scale generation, distribution and resale of energy to customers within 'embedded networks', typically found in apartment buildings, caravan parks and retirement villages. The review also examined how to better enable innovative new technologies whilst safeguarding consumer rights in a rapidly evolving energy market. It has provided an opportunity for stakeholders to assess whether these arrangements are sufficient enough for regulating the activities of exempt entities and reflect upon the appropriateness of the obligations that exempt entities must comply with.

An Issues Paper was released in June 2015 and 35 written submissions were received. The Department released a Draft Position Paper in July 2016, having regard to these submissions. The Draft Position Paper set out a proposed approach to the regulation of the Victorian electricity licence exemptions regime going forward and sought stakeholder feedback. The Department held two round table workshops during which each of the main issues in the Draft Position Paper were discussed. The Department received 33 written submissions in response to the Draft Position Paper.

In preparing this Final Position Paper, the Department has given consideration to stakeholder feedback, the role of the Energy and Water Ombudsman (Victoria) (EWOV) and the exemptions regime applying under national energy laws and administered by the Australian Energy Regulator (AER). Another important consideration has been the benefit that small scale reselling, distribution and generation can provide to customers in embedded networks. The Department is aware that any revised regulatory arrangements should aim to minimise the cost impact on exempt entities themselves so that they can continue to offer these benefits to their customers.

The Department has concluded that the current regulatory framework applying to exempt entities needs improvement. However, the Department believes that these improvements can be achieved whilst minimising the impact on exempt entities while also improving the consumer protection framework.

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<sup>1</sup> The GEO is the Order in Council made under section 17 of the EIA on 30 April 2002 and published in the Government Gazette No. S73 on 1 May 2002 as amended.

<sup>2</sup> <http://www.delwp.vic.gov.au/energy/legislation/general-exemption-order-review>

## 2 Classifying Exemptions

### 2.1 Introduction

As noted in the Draft Position Paper, the GEO contains one class of:

- i. retail activity that is subject to a deemed exemption - that being the metered, intermediary sale of electricity within the limits of the premises owned or occupied by the person engaging in that activity ('exempt seller');
- ii. distribution and supply activity that is subject to a deemed exemption - that being the intermediary distribution or supply of electricity to short term residents, long term residents, small business customers or large business customers within the limits of the premises owned or occupied by the person engaging in that activity ('embedded network operator'); and
- iii. generation activity that is subject to a deemed exemption - that being the generation of electricity for supply or sale where the total output by that person (whether or not with another person), using a generator or generators connected to the transmission network or distribution network at a common point, is less than 30MW.

In December 2015, the Victorian Government amended the GEO to include a further deemed exemption which covers the generation, distribution, supply and sale of electricity under small customer power purchase arrangements (PPA). This exemption allows for:

- i. the generation or distribution of electricity on premises not owned or occupied by the exempt person; and
- ii. the supply or sale of electricity to:
  - a. the owner or occupier of the premises on which the generation occurs (the customer); or
  - b. a licensed retailer.

The above classes of deemed exemption are also subject to conditions that may impact on an entity's eligibility. If an entity does not comply with its conditions of exemption it is effectively operating without a licence, and may be subject to penalty.

### 2.2 Draft Position

In the Draft Position Paper, the Department recognised that the way in which the GEO classifies deemed exemptions is no longer fit for purpose. The Department proposed, where possible, aligning the Victorian exemptions framework with the AER's exemptions framework. The AER's exemption framework post-dates the current Victorian framework by over a decade, and has been subject to extensive consultation with stakeholders in its development, as well as further refinement in light of changing energy market conditions.<sup>3</sup>

The Department made the following recommendations:

Those undertaking the following activities should continue to be exempt from the requirement to hold a licence under section 16 of the EIA:

- the intermediary distribution and supply of electricity;
- the intermediary sale of electricity; and
- small-scale generation activities

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<sup>3</sup> The AER's exemptions framework is set out in [www.aer.gov.au/retail-markets/retail-exemptions](http://www.aer.gov.au/retail-markets/retail-exemptions) and [www.aer.gov.au/networks-pipelines/network-exemptions](http://www.aer.gov.au/networks-pipelines/network-exemptions)

The GEO should, however, be amended to establish ‘registrable’ categories of exemptions in addition to deemed and individual exemptions.

New exempt entities wishing to operate under a registrable exemption will need to register their activities on the ESC’s public registration database. The benefit of the exemption will come into effect upon registering.

In addition, deemed and registrable exemption categories will be divided into exemption classes tailored to specific activities, based on the AER’s current exemption categories as adapted to reflect Victoria’s needs. This will include specific ‘multiple activity’ exemption categories to address certain new developments in the market such as community energy projects and solar PPAs (SPPAs).

In its Draft Position Paper, the Department highlighted the advantages of having specific classes for retail, distribution and generation activities rather than one class as per the current GEO. The creation of more specific categories of deemed exemptions, and classes of registrable exemptions should:

- increase clarity regarding activities falling with the deemed exemptions, allowing entities to better self-assess whether they are able to operate under the GEO;
- establish consistency between the way in which exempt entities are meeting the conditions of their exemption;
- facilitate greater oversight and understanding of the activities of exempt entities; and
- create consistency between the AER exemptions framework and the Victorian exemptions framework.

## 2.3 Stakeholder Consultation

Stakeholders that addressed the issue of how best to classify retail, distribution and supply and generation exemptions were overwhelmingly supportive of making the Victorian exemptions framework consistent with that of the AER, including the establishment of ‘registrable’ categories of exemptions, in addition to deemed exemptions and individual exemptions.

The Housing for the Aged Action Group (HAAG), commented that

**“the use of the Australian Energy Regulator’s registrable exemption classes as the basis for Victorian exemptions classes provides a consistency across the sector”**

AGL commented that it

**“supports aligning the GEO with the AER’s exemption framework including the establishment of ‘registrable’ categories of exemptions, in addition to deemed exemptions and individual exemptions. This will bring greater clarity for entities operating in Victoria, as well as promote national consistency.”**

Similarly, embedded network provider, Network Energy Services

**“agrees that the General Exemption Order should continue to cover the exempt selling activities of structures where the sale of electricity is not the core activity of their business activity....supports the proposed approach for deemed, registrable and individual exemptions that reflect the AER categories.”**

Some submissions noted that the registration process should be simple and inexpensive, so that the process does not impose a significant regulatory burden on smaller exempt entities such as caravan park owners.

Consumer Action Law Centre (CALC) and the Consumer Utilities Advocacy Centre (CUAC) also recommended that all exemption classes should be required to register:

**“...to facilitate monitoring, assist compliance and expansion of ombudsman jurisdiction”.**

## 2.4 Final Position

### 2.4.1 Overview

The Department's final position reflects those that were in the Draft Position Paper. That is, the following activities will continue to be exempt under the GEO from the requirement to hold a licence under section 16 of the EIA:

- small-scale generation activities;
- the intermediary distribution and supply of electricity;
- the intermediary sale of electricity.

The specific 'multiple activity' exemption category to address certain new developments in the market, particularly SPPA, will also be continued. Individual exemptions will still be issued on a case-by-case basis.

### 2.4.2 Registrable and deemed exemption classes

Consistent with the Draft Position Paper, the GEO will be amended to:

- established deemed and registrable exemption categories; and
- tailor exemption classes to specific activities,

based on the AER's current exemption framework as adapted to reflect Victoria's needs. The ESC will be tasked with establishing, administering and maintaining the registration database.

The Department acknowledges that some stakeholders suggested that registration be a feature of all exemption classes. While registration has many benefits, the Department considers that it is not practical to require a blanket registration of all exempt entities. Deemed classes cover small-scale arrangements that require little regulatory oversight, but are still subject to conditions. Similar to the AER framework, the Department does not consider it necessary to place registration requirements on certain energy selling and distributing activities, including:

- businesses that sell/supply energy to a related business;
- persons who sell/supply metered energy to fewer than ten small businesses or residents;
- government and community organisations that sell/supply metered energy secondary to their core functions; and
- persons that sell/supply electricity to customers in conjunction with, or ancillary to, the provision of telecommunications information services.

### 2.4.3 Intermediary distribution and supply of electricity

As mentioned in the Draft Position Paper, Victorian embedded network operators, being entities who distribute and supply electricity within embedded networks in Victoria, are regulated by both the EIA and the National Electricity Rules. Currently, these entities:

- are deemed exempt from the requirement to hold a licence to distribute and supply electricity under the EIA by virtue of the GEO, provided that the conditions of the exemption are met; but
- must register with the AER to qualify for a network exemption under the National Electricity Rules.

The Department notes concerns raised in submissions about dual registration and the administrative burden this will cause embedded network operators in Victoria.

In line with the Draft Position Paper, the Department's final position is that embedded network operators will be required to register with the ESC. This approach is consistent with the registration obligations to be placed on exempt sellers, will enable the ESC to tailor Victorian conditions to different classes (if ever required), and will provide both the ESC and the Victorian Government with transparency regarding embedded networks in Victoria. The Department understands that this may result in duplication with the AER's framework, but disagrees that this will create a significant administrative burden.

#### 2.4.4 Multiple exemption categories – community energy projects

The Department has reconsidered its draft position on community energy project exemptions and will not create a registrable exemption for these activities at this time.

During consultation, the Department found that most community energy projects would fall into the current exemption that permits PPAs. Community-owned renewable energy projects where the sale, distribution and supply and generation of electricity is limited to a single site, will accordingly be permitted through the refinement of the PPA exemption category.

The Department also acknowledges the parallel work being conducted by the ESC’s licensing review which may also examine community energy projects in a broader context, for example, where the sale, distribution and supply and renewable generation of electricity crosses individual properties and/or public land. The Department will therefore take a ‘wait and see’ approach to further regulation of the industry, potentially through a separate work stream outside the scope of the review of the GEO.

This issue is discussed in further detail in section 9.

### 2.5 Final exemption categories

The GEO will be amended to provide for the retail, distribution and multiple activity exemptions set in tables 1 to 4 below. Where a person is undertaking an activity that falls within a registrable exemption category that person will be required to register on a database to be maintained by the ESC.

These exemption categories are based on the AER’s exemption categories, with the following key differences:

- exemption categories relating to gas will not apply (the AER’s exemptions framework also applies to the sale of gas);
- exemption classes specified in the AER’s framework that are specific to a jurisdiction have been omitted; and
- the exemption class allowing for the sale of metered energy to small customers at a site or premise adjacent to a site that they own, occupy or operate have also been removed for reasons discussed in section 6.3.4.

In the Draft Position Paper, the Department suggested a classification code system, whereby an alphabetical and numerical class code corresponded to a certain type of exemption activity. The Draft Paper also listed the classification codes in a numerically sequential order. Throughout the consultation phase stakeholders suggested that the classification codes should be slightly changed to align with the AER’s classifications where possible. This would present some ‘missed’ numbers.

The Department acknowledges this approach, however, has decided that the classification codes will not be a feature of the GEO. The classification code may be more relevant as a source of information or guidance and therefore presented in the proposed Victorian ‘Retail Exemptions Guideline’ the Department proposes establishing in collaboration with the ESC (see section 3).

#### 2.5.1 Retail exemption categories

**Table 1 Proposed retail exemption categories**

Deemed Registrable or	ACTIVITY
Registrable	Persons selling metered electricity to <b>ten or more</b> small commercial/retail customers within the limits of a site that they own, occupy or operate.
Registrable	Persons selling metered electricity to <b>ten or more</b> residential customers within the limits of a site that they own, occupy or operate.
Registrable	Retirement villages selling metered electricity to residential customers within the limits of a site that they own, occupy or operate.

Registrable	Persons selling metered electricity in caravan parks, residential parks and manufactured home estates.
Registrable	Persons selling metered electricity to large customers.
Registrable	Persons selling unmetered electricity to small commercial/retail customers at a site that they own, occupy or operate.
Deemed	Persons selling metered electricity to <b>fewer than ten</b> small commercial/retail customers within the limits of a site that they own, occupy or operate.
Deemed	Persons selling metered electricity to <b>fewer than ten</b> residential customers within the limits of a site that they own, occupy or operate.
Deemed	Persons selling metered electricity to occupants of holiday accommodation on a short-term basis.
Deemed	Persons selling electricity to a related company.
Deemed	Persons selling electricity to customers in conjunction with, or ancillary to, the provision of telecommunications information services.
Deemed	Government agencies, other than housing authorities, selling metered electricity to non-residential customers.

## 2.5.2 Network exemption categories

**Table 2 Proposed network exemption categories**

Deemed or registrable	ACTIVITY
Registrable	Persons supplying metered or unmetered electricity to <b>ten or more</b> small commercial/retail customers within the limits of a site that they own, occupy or operate.
Registrable	Persons supplying metered or unmetered electricity <b>to ten or more</b> residential customers within the limits of a site that they own, occupy or operate.
Registrable	Retirement villages supplying metered or unmetered electricity to residential customers within the limits of a site that they own, occupy or operate.
Registrable	Persons supplying metered or unmetered electricity in caravan parks, holiday parks, residential land lease parks and manufactured home estates.
Registrable	Persons supplying metered electricity to large customers
Registrable	Persons supplying unmetered electricity to small commercial/retail customers at a site that they own, occupy or operate.
Deemed	Persons supplying metered or unmetered electricity to <b>fewer than ten</b> small commercial/retail customers within the limits of a site that they own, occupy or operate.
Deemed	Persons supplying metered or unmetered electricity to <b>fewer than ten</b> residential customers within the limits of a site that they own, occupy or operate.
Deemed	Persons supplying metered or unmetered electricity to occupants of holiday accommodation on a short-term basis.
Deemed	All supply of energy via plug-in or rack mounted equipment in any premises. Includes NBN equipment in any premises with an input current rating not exceeding 3 amps AC.
Deemed	Persons supplying metered or unmetered electricity to a related company.

Deemed	Any supply of electricity in conjunction with, or ancillary to, or to facilitate the provision of telecommunications services. Includes internet, telephone, mobile phone, fibre optic, hybrid fibre cable, television, radio, Wi-Fi or other communications technology.
Deemed	Government agencies, other than housing authorities, supplying metered or unmetered electricity to non-residential customers.

### 2.5.3 Generational exemption category

**Table 3 Proposed generation exemption category**

#### ACTIVITY

Persons generating electricity for supply or sale where the total output by that person (whether or not with another person), using a generator or generators connected to the transmission network or distribution network at a common point, is less than 30MW.

### 2.5.4 Multiple exemptions category

**Table 4 Proposed multiple exemptions categories**

#### ACTIVITY

Persons generating or distributing electricity on premises not owned or occupied by the exempt person; and

Persons supplying or selling electricity:

- i. to the owner or occupier of the premises on which the generation occurs (the Customer); or
- ii. to a licensed retailer.

## 3 Consumer Protections

### 3.1 Introduction

In Victoria, the Energy Retail Code (ERC) sets out minimum terms and conditions of sale between an energy retailer and customer, establishing a strong consumer protection framework for customers of licensed retailers. Terms and conditions include, for example, the obligation to:

- offer a payment plan and hardship assistance in the case a customer is facing payment difficulties;
- provide consumers with an energy bill and the minimum content/information to be included on that bill; and
- provide an energy bill based on meter reads (or reasonable estimates).

The ERC also sets out rules regarding disconnection, reconnection and treatment of customers on life support equipment.

Under the GEO an exempt seller must comply with 'all applicable provisions of the Retail Code'. This condition has been accepted by stakeholders generally to be too vague and subject to interpretation by an exempt seller and its customers.

The Department recognises that the exemptions framework should be designed to give customers of exempt sellers a comparable level of consumer protections and services as those afforded to customers of licensed providers, noting that customers of exempt sellers can be some of the most vulnerable in society. However, the Department also acknowledges that exempt sellers generally differ from licensed retailers in that they may lack the economies of scale and from which retailers benefit, may not sell electricity as their core business and that, in relation to some categories of exempt sale (such as sale of electricity to short-term holiday residents), a 'full suite' of protections may not be warranted.

The purpose of the Victorian retail exemption regime is to facilitate different degrees of regulation for different types of energy activity, to allow a divergence of obligations between licensed retailers and exempt sellers, and even amongst exempt selling entities themselves, where appropriate. The regulatory regime must establish the correct balance between ensuring appropriate levels of consumer protections and not imposing excessive or inappropriate regulatory burdens.

### 3.2 Draft Position

In its Draft Position Paper, the Department proposed that the consumer protection obligations of exempt sellers be clarified by tasking the ESC to specify which provisions of the ERC, and other ESC codes and guidelines, as necessary, will apply to all exempt sellers (as core protections) and particular classes of exempt sellers (as additional protections).

This approach maintains consistency with general energy regulatory requirements, while allowing for adjustment and updating over time.

It is also consistent with the approach taken in relation to the distribution and supply of electricity by embedded network operators. In Victoria, the Electricity Distribution Code (EDC) regulates the connection, distribution and transfer of electricity in a safe, efficient and reliable manner. Like the exemption for the metered, intermediary sale of electricity, the GEO also allows for the distribution and supply of metered electricity within an embedded network without the embedded network operator holding a distribution licence. It is a condition of that exemption that the embedded network operator complies with 'all applicable provisions of the Distribution Code as if that person was a licensed distributor.' Clause 1.3.4 of the EDC specifies what 'applicable provisions' are, eliminating the ambiguity and confusion presented by the retail exemption.

The Department acknowledged, however, that this approach is different to that taken by the AER in its *AER (Retail) Exempt Selling Guideline*, where specific conditions are set out in the exemption instrument itself, and that it would maintain the split between the instrument of exemption – the GEO – and the instrument specifying the substantial conditions of the exemption. Accordingly, the Department also proposed that

exemption guidelines be produced to provide a cohesive guide for energy consumers and exempt suppliers on their rights and obligations.

### 3.3 Stakeholder consultation

Stakeholders were generally supportive of the Department's draft position, and agreed that the level of service that exempt sellers must provide to their customers should be clearly specified. Further, most stakeholders supported providing consumers in embedded networks with a comparable level of protection to customers of licensed retailers.

Some stakeholders highlighted that the consumer protections applying to exempt sellers in Victoria should reflect those consumer protections that apply to exempt sellers in other jurisdictions under the *AER (Retail) Exempt Selling Guideline*. Stakeholders noted that:

- national consistency would be beneficial to exempt sellers that also operate in other Australian jurisdictions;
- the *AER (Retail) Exempt Selling Guideline*, including the consumer protection conditions that attach to different exemption categories, has been the subject of extensive consultation (and was most recently updated in March 2016);
- the *AER (Retail) Exempt Selling Guideline* accommodates different customer types by, for example, specifying consumer protections applicable to residential end users and to commercial end users;

Energy Australia was of the view that consumer protections should be nationally consistent:

**“unless there is a clear and quantified detriment that is specific to Victoria.”**

CUAC and CALC joint submission suggested, however, that these consumer protections should also be reviewed by the ESC to:

**“accommodate Victorian conditions to ensure the best balance between protections and inappropriate regulatory burden.”**

Some stakeholders suggested that Victorian Government, rather than the ESC, should be final decision-maker of applicable consumer protections or that the GEO should set out guiding principles that the ESC must use in specifying which provisions of the ERC will apply to all exempt sellers.

For example, AGL recommended that a starting point should be to align the GEO with the core consumer protection conditions and accompanying conditions that apply to the various exempt classes as contained in Appendix A-2 and A-3 of the *AER (Retail) Exempt Selling Guideline*. Further, the ESC should be required to clearly and explicitly outline unique Victorian energy market conditions that would require any different core conditions to the AER Guideline.

Energy Australia recommended that the ESC be required to consider specified principles in developing consumer protections (such as proportionality, competitive neutrality, certainty and national consistency).

Core consumer protections recommended by stakeholders included:

- explicit informed consent requirements
- customer access to alternative dispute resolution
- appropriate management of life support arrangements
- compliance reporting obligations for exempt entities
- privacy obligations comparable to those applying to energy retailers
- provision of concessions or relief grants
- requirement to provide access to energy consumption data
- ability for customers to access competitive offers
- clear billing arrangements especially frequency and bill content
- being informed of prices and tariff changes

- transparent provision of information
- clear and effective complaints and dispute resolution procedures
- meter reading arrangements, including who is authorised to undertake this
- hardship consideration if residents are struggling to pay their charges
- the provision of services agreements outlining what happens in the event of a loss of supply or failure and repairs

The Australian PV institute, however, cautioned that the level of required consumer protections should be appropriate to the energy services offered, and that an increase in the number and complexity of conditions for exemption will result in an escalation in the cost of compliance.

Victoria's electricity distributors argued that embedded network operator consumer protections are equally important to customers within an embedded network as they are to customers connected to a distribution network. While the specification of obligations applying to embedded network operators in Victoria is clearer than those applying to exempt sellers, distributors recommended the inclusion of additional obligations such as the obligation to notify of planned outages in advance.

AusNet services recommended:

**“the incorporation of distributor type obligations and outcomes, such as fault response, planned outage notification, and voltage levels. This is important because customers in embedded networks do not have a relationship with the local DNSP that would provide these consumer protections. The local DNSP has no customer information provided to them from the retailers or the exempt sellers to even identify these consumers if the need arises”.**

Further, Jemena noted that:

**“It is noteworthy the Victorian government consider a distributor’s obligation to provide four day notice of planned outage; and a distributor’s obligation to customers with special needs are vitally important and have included them in the energy industry contraventions regulations. These are only two of a number of Electricity Distribution Code obligations prescribed in the regulations.”**

## 3.4 Final approach

### 3.4.1 Consumer protection obligations to apply to exempt sellers

Consistent with its draft position, the Department considers that customers of exempt sellers should be given a comparable level of protection as customers of licensed retailers, having regard to the nature of the exempt selling activity, and that these protections should be clearly specified. The ESC will be referred the task of specifying which provisions of the ERC (and other codes and guidelines as necessary) will apply to all exempt sellers.

The Department acknowledges that some stakeholders held concerns about referring the prescription of consumer protections solely to the ESC. However, the Department is satisfied that the ESC, in consultation with government and stakeholders, is well-placed to undertake this role.

In its Draft Position Paper, the Department suggested that its preference was to have a core list of consumer protections which would apply to all exemption categories and additional consumer protections which would apply to specific classes of exemptions. As the ESC are being referred the task of prescribing consumer protections, the Department will leave it up to the regulator to assign consumer protections as necessary. This may or may not include the use of *core protections* and *additional protections*, however, the Department expects that consumer protections should be aligned closely with the consumer protections linked to AER exemptions classes. This approach enables flexibility to tailor consumer protections to exempt selling activities in a changing market.

The Department will continue to work with the ESC to determine which specific provisions of the ERC should apply to each class of exemptions. It is proposed that the ESC will consult on these provisions.

It is acknowledged that this approach will necessarily maintain the split between the instrument of exemption – the GEO – and the instrument specifying the substantial conditions of the exemption – namely the ERC.

For this reason, and consistent with the Department's draft decision, it is also proposed that a Victorian 'Retail Exemptions Guideline' be produced to provide a cohesive guide for energy consumers and exempt suppliers on their rights and obligations. These guidelines will be developed in collaboration with the ESC.

#### **3.4.2 Consumer protection obligations to apply to embedded network operators**

The GEO exempts an entity from distributing electricity within an embedded network, subject to conditions. These conditions include that the exempt entity must observe all applicable provisions of the Distribution Code as if that person was a licensed electricity distributor. The EDC then itself sets out the applicable provisions for embedded network operators in section 1.3.5. Therefore, there is no ambiguity arising around which provisions of the EDC are the 'applicable provisions' for embedded network operators.

Nevertheless, the Department is aware that some consumers and distribution businesses remain concerned about service levels and issues pertaining to the distribution and supply of electricity within embedded networks.

The ESC will be asked to review the conditions applicable to network exemptions, to ensure that the conditions are still relevant and fit for purpose. Any concerns regarding the current conditions that apply to embedded network operators can be addressed as part of that review. The Department also recognises that the availability of EWOV (as discussed in section 8) and enhanced information provisions may alleviate some of these concerns.

## 4 Choice of retailer

### 4.1 Introduction

The Department considers that, when purchasing electricity, a customer located in an embedded network should be able to choose between his or her exempt seller and a licensed electricity retailer.

Embedded network customers who purchase electricity from a licensed retailer may benefit from being able to:

- choose the price and price structure of their electricity service that suits them best, which may result in lower bills;
- choose from a wider variety of products and services;
- more readily access government based schemes and rebates;
- more readily access a variety of payment methods; and
- more readily access free, independent dispute resolution services.

However, in its Draft Position Paper, the Department also acknowledged that, in practice, these customers may find it difficult to exercise this choice. This may be due to network configuration, access to individual meters (meaning that the customer has its own meter that can be read by a retailer rather than the exempt seller), and the type of meters in place at the premises. These factors are usually determined at the time a building is constructed, and reconfiguration may be expensive and therefore uneconomic.

If a customer does find retailer that is willing to sell the customer electricity, the customer is likely to have to arrange for the removal of the embedded network meter and the installation of a meter from the distribution network service provider. The meter will be assigned to a National Meter Identifier (NMI) and be visible in the settlement process in addition to the meter used to supply the embedded network. The costs of replacing a meter can be high enough to discourage customer choice within embedded networks, particularly for tenants or customers experiencing financial hardship.

### 4.2 Draft Position

In its Draft Position Paper, the Department proposed enhancing existing exemption conditions, to require an exempt seller to obtain the explicit informed consent of a customer to the exempt selling arrangement before the customer enters into an arrangement. In obtaining this consent, the exempt seller should:

- disclose all information relevant to the customer's rights and obligations under the proposed sale arrangements, in plain English; and
- ensure that consent is provided by someone who is competent to do so.

In obtaining this consent a customer should be made aware of his or her right to elect to purchase electricity from a licensed retailer of the customer's own choosing.

The Department also acknowledged, however, that the most effective way of affording customers the right to a choice of retailer is to ensure that network configuration and metering arrangements for new developments (and redevelopments) facilitate customer choice of retailer.

In this regard, the Draft Position Paper referred to new rules made by the Australian Energy Market Commission (AEMC) governing the administration of metering within embedded networks to facilitate retail contestability in embedded networks.<sup>4</sup> These rules require, amongst other things, that embedded network operators appoint an accredited embedded network manager (ENM) to oversee the provision of metering

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<sup>4</sup> AEMC, *National Electricity Amendment (Embedded Networks) Rule 2015* No. 15

data from the network to AEMO, unless otherwise exempted by the AER through its *Electricity Service Provider – Registration Exemption Guideline*<sup>5</sup> (the Network Exemption Guideline).

These rules, which will commence operation on 1 December 2017, are expected to make it practically easier for customers to access choice of retailer by standardising the handling of metering data for individual sites within an embedded network, and by making it easier and more attractive for competing retailers to make offers to customers within embedded networks.

### 4.3 Stakeholder Consultation

Most stakeholders agreed with the Department that consumers should have access to competition and choice of retailer wherever possible.

As described by EWOV:

**“a noticeable number of cases that EWOV receives about exempt sellers, are where the customer expressed concern about their inability to change retailer. This suggests there is some merit to the exempt seller having an early and informed discussion with all new customers about the exempt selling circumstances.”**

Some submissions argued that recent changes to the National Electricity Rules and AER Network Exemption Guidelines already support consumer choice.

Energy retailer, EnergyAustralia states that it:

**“supports recent rule changes with respect to embedded networks and is now involved in the AEMO’s process to implement supporting procedures. This is the best mechanism for directly addressing the barriers for customers in embedded networks accessing retail market offers.”**

Embedded network provider, Energy Intelligence stated that:

**“we agree with the Position Paper’s view that all embedded network users should have access to retail competition. In fact the AER’s Electricity Network Service Provider Registration Exemption Guideline (March 2016) already mandates that “a private network operator must not impede a customer’s access to retail competition”. Energy Intelligence has no objection to the requirement to an information provision for prospective end users – this is already part of our information process...”**

Consumer groups supported Victorian Government action to improve consumer understanding of embedded networks and their right to choose their electricity retailer. The Australian Technology Association (ATA) advised that:

**“The Victorian energy market and the regulatory framework it operates within are predicated on the existence of effective competition that minimises the need for retail regulation. Offering retailer choice wherever possible to customers in embedded networks is the best way to extend the benefits of competition to these households. The ATA agrees that improving information provision to prospective residents of embedded networks, and obtaining explicit informed consent from new customers, are vital.”**

CALC and CUAC’s joint submission supported the Department’s approach to improving the information provided to consumers entering into exempt selling arrangements or embedded networks. However, CALC and CUAC strongly recommended that the Department consider how this information can be made available to consumers, so that they can consider it appropriately as part of their decision-making. CUAC and CALC suggested that information be made available on relevant government websites.

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<sup>5</sup> AER Electricity Network Service Provider – Registration Exemption Guideline 2016, Section 4.4 page 49

## 4.4 Final position

Following the release of the Department's Draft Position Paper, on 1 December 2016 the AER released version 5 of its *Network Service Provider Registration Exemption Guideline* (Network Exemption Guideline) in response to the AEMC's National Electricity Amendment (Embedded Networks) Rule 2015 (No. 15, December 2015). The AER's Network Exemption Guideline is applicable to new and existing embedded network operators in Victoria.

The Network Exemption Guideline incorporates changes which aim to support and facilitate increased access to retail competition by embedded network customers. In addition to the ENM function, the Network Exemption Guideline contains several other updates, which aim to facilitate and support customers within embedded networks access retailer competition. These include:

- enhanced metering provisions by addressing the requirements for compliance of child meters, including who has responsibility for upgrading and installing meters and in what circumstances;
- a mechanism for access and compensation in relation to customers that elect to access a market retailer and need to use or replace the exempt NSP's existing meters.

These arrangements will apply (including in relation to embedded network operators in Victoria) from 1 December 2017.

Notwithstanding these new arrangements, the Department considers that there is merit in enhancing the information disclosure obligations of an exempt entity when entering into a contract with a customer located within its embedded network.

The Department considers the following conditions to be an appropriate starting point to enhancing provisions:

1. The exempt entity must advise exempt customers, in writing, at the start of their tenancy/residency/agreement of the following:
  - a. the right for the customer to elect to purchase energy from a retailer of their choice and information on the options for metering that would allow this choice;
  - b. that exempt entity is not subject to all the obligations of an authorised retailer, and the customer will not receive the same protections as it would if it were purchasing from an authorised retailer;
  - c. the customer's rights in relation to dispute resolution including:
    - i. the exempt person's procedures for handling disputes and complaints, and
    - ii. the right that the customer has to access EWOV.
  - d. the conditions applicable to the exemption that the exempt entity is operating under the availability of relevant government or non-government energy rebates, concessions and relief schemes;
  - e. the forms of assistance available if the customer is unable to pay energy bills due to financial difficulty, as well as the process the customer should follow to seek these forms of assistance;
  - f. the energy tariffs and all associated fees and charges that will apply to the customer in relation to the sale of energy;
  - g. the flexible payment options that are available to the customer in relation to the sale of energy, such as arrangements for payment by periodic instalments (bill smoothing);
  - h. contact numbers in the event of an electricity fault or emergency.
2. In addition to the requirement to provide the information at the commencement of the customer's tenancy/residency/agreement, the information set out in point 1 of this condition must be provided by the exempt entity at any time on request by the customer or the ESC.

The Department also sees merit in requiring exempt entities to regularly update customers with the above provision of information. Without being required to obtain explicit informed consent, exempt entities will be required to annually advise customers about the conditions listed above.

# 5 Pricing

## 5.1 Network Charges

### 5.1.1 Introduction

Both the AER and the Department have outlined their positions that ‘internal network charges’ in embedded networks should not be applied to consumer billing to recover costs associated with embedded networks. The AER has confirmed its position on this issue and provided detail on how it is to be applied in its Network Exemption Guideline.<sup>6</sup>

The Guideline also describes how ‘shadow pricing’ of the network charge will apply to limit the costs that can be recovered by embedded network operators from consumers, which gives effect to this position. The AER has developed this principle so that private networks do not charge fees for services which would not be charged by the distributor directly to a customer under the same circumstances.

### 5.1.2 Draft Position

With regards to billing, the Draft Position Paper noted that it is preferable that customers receive a single bill that contains both network and retailer costs. This enables easier cost-comparison for customer between energy providers. It also mitigates the risk of double-billing of network charges, which can arise where the embedded network operator and the licensed retailer both charge for network costs as if a meter were a parent meter. This may occur, for example, where a licensed retailer does not recognise that a customer’s meter is a child meter and where a separate bill for network charges has also been issued by the embedded network operator.

### 5.1.3 Stakeholder consultation

Exempt entities, Energy Intelligence and AGL were concerned that the Victorian Government may disallow network charging as part of this review. These stakeholders believed that no action should be taken by the Victorian Government in relation to network charging, particularly as this area is already regulated by the AER’s Network Exemption Guideline.

WINconnect stated that:

**“it is our view that the DELWP defer the jurisdiction in respect of exempt distribution / networks to the AER, should the DELWP decide to pursue the regulation of exempt networks as well, then at the very least, we strongly recommend that it be harmonised to accord with the conditions within the AER guidelines.”**

ATA and HAAG supported additional action to disallow network charging within embedded networks.

The ATA advised:

**“we agree with the proposal to disallow network charging within embedded networks. Additionally, it has come to our attention that there is some lack of consistency in how network use-of system charges (NUOS) for the wider distribution network are allocated to customers in embedded networks. It appears that some embedded network operators charge NUOS separately and that some on-market customers within embedded networks are also paying NUOS to retailers.”**

### 5.1.4 Final Position

Stakeholders were supportive of the AER’s shadow pricing principles. The Department notes that this aspect of the AER’s exemption framework will also continue to apply in Victoria through the AER Network Exemption Guideline, and without any Victorian specific amendments required. The Department will therefore take no action in regards to network charging at this time.

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<sup>6</sup> AER Electricity Network Service Provider – Registration Exemption Guideline 2016, Section 4.6 Pricing, page 55

The Department also notes and concurs with the AER's preference that residents be charged on a pro-rata basis<sup>7</sup>, so that the savings in supply charges through a single network charge being applied to a parent meter may be shared more equitably.

With the role of the ENM to commence from 1 December 2017, the Department expects that the new arrangements will allow for greater streamlining of billing, including the facilitation of single-billing, and a greater capacity for pro-rata charging to consumers for external network costs.

While the Department does not propose that Victoria undertake any specific action with regard to network charges under the revised GEO, it will closely monitor the impact of the AER's Network Exemption Guideline application in Victoria with regard to the commencement of the ENM and its impact on network charging issues.

## 5.2 Retail prices

### 5.2.1 Introduction

Under the GEO, exempt sellers may charge customers no more than the price that would be applicable to customers under the applicable standing offer made by the local area retailer (known as the 'Pricing Rule'). In its Draft Position Paper, the Department outlined a number of issues with the Pricing Rule. These issues included:

- customers of exempt sellers may not be aware of the Pricing Rule and therefore unable to seek clarification on whether it is being applied;
- customers of exempt sellers are sometimes not provided with adequate information on bills and hence they are unaware of whether they are being charged in accordance with the Pricing Rule; and
- customers of exempt sellers do not have ready access to assistance from an independent, third party in the event of a dispute regarding pricing.

A number of reports indicate that standing offer prices in Victoria are higher than prices offered under market retail contracts. The AER 2017 State of the Energy Market report, the AEMC's 2017 Retail Energy Competition Review and the ESC 2016 Victorian energy market report both note that for electricity standing offer prices are higher than prices offered under market retail contracts. Accordingly, the local standing offer may no longer provide an appropriate benchmark for the Pricing Rule.

### 5.2.2 Draft Position

In its Draft Position Paper the Department proposed tasking the ESC with formulating a new price cap benchmark based on commercial market data. This would act as the maximum price that an exempt seller would be allowed to charge its embedded network customers for energy consumption.

The objective of this proposed change is to constrain the maximum price that an exempt seller would be allowed to charge embedded network customers, to ensure that the proposed cap is consistent with what a consumer with access to retailer choice could expect to pay through market offers.

In addition to these issues, the Department is cognisant that any future changes to the standing offer provisions would have direct, resulting impacts on consumers under the GEO framework, given the explicit link under the current arrangements. In view of this, there is an added imperative in establishing a more relevant benchmark for the specific purpose of the GEO Pricing Rule.

### 5.2.3 Stakeholder consultation

The Department received much stakeholder feedback with a diverse range of views on this topic. While consumer groups were generally supportive of the Department's position, most exempt entities and licensed retailers were concerned about the impact of an ESC pricing cap on competition.

HAAG advised that it:

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<sup>7</sup> AER Electricity Network Service Provider – Registration Exemption Guideline 2016, Refer to Section 4.6.4.2, page 60

**“supports a new price cap benchmark based on market data, which will hopefully provide a more reasonable and realistic pricing schedule reflective of the rates charged outside of embedded networks.”**

CALC and CUAC noted:

**“that where transitioning consumer to full retail contestability is not immediately practical, we support the Department’s approach to address monopoly pricing. The proposal to task the ESC with formulating a new price cap benchmark based on commercial market data is sensible as retailers’ local standing offer are well in excess of market rates.”**

Whereas Network Energy Services stated:

**“consumer ‘right of choice’ currently drives the electricity price within the embedded networks that we manage whereby competitive offers in the market force the exempt sellers to adjust their tariffs or risk losing customers.”**

Similarly, the Australian Energy Council advised that it:

**“does not support the proposal to amend the Pricing Rule to formulate a new price cap benchmark...price caps particularly when set at uneconomic rates, can act as a barrier to new entrants and frustrate the consumer choice that retail competition provides. The AEC is concerned that under the proposal the price cap would influence the market and may even have a perverse outcome which limits competitive market offers.”**

#### **5.2.4 Final approach**

The Department’s view is that where competition is effective, price controls are not required. However, in relation to exempt selling arrangements, there will be cases where full retail contestability is not practical or efficient and customers may require protection from the use of effective monopoly pricing power by their exempt seller.

Consistent with the Draft Position Paper, the Department’s final approach is that the GEO will continue to specify the maximum rate an exempt seller may charge its embedded network customers and this price cap will be based on commercial market data.

The Department will task with ESC with formulating a new price cap benchmark based on commercial market data. This would better approximate a fair price for electricity and restrict the potential for exempt sellers to earn monopoly profits on electricity sales.

Currently, the ESC publishes an annual schedule which prescribes the maximum charges that an embedded network operator may charge its customers. The ESC will continue to annually publish the applicable rates on its website.

## 6 Obligations on embedded network operators

### 6.1 Introduction

The GEO exempts an entity from distributing electricity within an embedded network, subject to conditions. These conditions include that the exempt person must observe all applicable provisions of the EDC as if that person was a licensed electricity distributor.

As noted in the Draft Position Paper, stakeholders have previously expressed confusion regarding what activities are captured by the deemed network exemption. The Draft Position Paper sought to provide clarity regarding the regulation of multiple strata lots, caravan parks, district-scale energy networks and the distribution of electricity to adjacent properties.

### 6.2 Draft Position

In its Draft Position Paper, the Department proposed that:

- embedded networks serving multiple strata lots should cease to be protected by the GEO and should be transitioned to an appropriately designed licensing framework to be administered by the ESC;
- caravan park embedded networks will be required to register with the ESC, but would continue to be subject to a deemed exemption where the occupants of the caravan park were residing on a short-term basis;
- district-scale energy networks should continue to be subject to the current energy licensing framework;
- the distribution of electricity to adjacent properties should continue to be subject to individual exemptions, however, the Department would continue to monitor the development of new energy technologies and may issue special exemptions where appropriate to allow for trial and pilots of innovative energy supply models.

### 6.3 Stakeholder consultation

#### 6.3.1 Strata title lots

There was a divergence of views amongst stakeholders regarding whether embedded networks serving multiple strata lots should transition to an appropriately designed licence.

Most licensed retailers and exempt entities disagreed that these activities be licensed. These stakeholders argued that the availability of competition, the requirements in the AER's Network Guidelines, and the clarification of consumer protections as part of this review were sufficient to protect consumers in these arrangements.

EnergyAustralia advised:

**“Given the Department is recommending that the ESC develop core consumer protections for all exempt entities, including these networks, we believe it is unnecessary to introduce a new licence category for embedded networks serving multiple strata title lots.”**

CUAC and CALC supported the Department's position, noting that extending EWOV's jurisdiction to consumers in embedded networks will also assist consumers.

Energy Network Services and the ATA supported licensing where the primary business of the embedded network operator is the supply of electricity. Energy Network Services stated that:

**“In relation to the recommendation for larger scale strata developments (e.g. Apartment buildings) where management of the embedded network is the primary business of the embedded network operator, or embedded network manager, we support the Departments proposal for these activities to be licensed.”**

Ausnet Services suggested that a threshold be applied so that larger strata-title operations are licensed:

**“No thresholds have yet been proposed, but we suggest limits of that reflect larger strata titles where the manager has adequate scale to operate in a more professional manner (e.g. 200 customers) and for parent NMI connections with a maximum capacity capable of impacting upstream network assets (e.g. 250 kVA).”**

### 6.3.2 Caravan parks

Stakeholders were supportive of caravan parks operating under a network exemption, and most were also supportive of caravan park operators registering with the ESC if they have long-term residents.

The Housing for the Aged Action Group noted that:

**“it is reasonable that park operators that engage in electricity distribution through an embedded network should continue to be exempt under the GEO, in recognition that this is not their main trade and is a by product of the type of business they operate.”**

CALC and CUAC noted that consumers in caravan parks can be very vulnerable, and are at higher risk of financial hardship. CUAC and CALC supported the Department's position that caravan park owners supplying electricity to a person who principally resides in the caravan park should be required to register with the ESC.

However, caravan park operators and some consumer advocacy groups argued that an increased level of regulation on the sale and distribution of electricity in caravan parks may impact on the availability of residential and tourist based accommodation.

The Victorian Caravan Parks Association argued that:

**“the central purpose of caravan parks is to provide accommodation – both long-term and short-term to visitors and residents. Providing a supply of electricity to residents of caravan parks is not a core business operation of caravan park owners..... The proposed scale of licencing costs, and associated administrative paperwork requirements to maintain the licence, would be an unnecessary cost of business to an industry comprised mainly of small business operators.”**

### 6.3.3 District scale schemes

District scale schemes refer to supply over several nearby properties that may also traverse public land and easements. Essentially, a district scheme would be a distribution network similar to the existing licensed monopoly networks, albeit on a smaller scale.

Stakeholders had different views on the regulation of district scale schemes.

Energy for the People advised:

**“We welcome a flexible approach to district scale schemes. It is important to consider why licensing requirements are more onerous where networks cross, or utilise public land and easements – this is likely to be driven by the heightened need for adherence to safety standards, given the risk to public safety in the event that these assets are not appropriately managed as/or maintained...(however) as our energy market evolves and becomes more decentralised, it will be important to have a flexible approach to these schemes.”**

Origin Energy argued that district scale schemes and community energy projects be regulated consistently, and via a registrable exemption, as they share the same technical issues and sustainability objectives. Origin Energy believes that licensing district scale schemes may:

**“...discourage strata developments from adopting cost effective and sustainable energy solutions and from embracing innovative energy technologies”.**

### 6.3.4 Adjacent properties

The supply of electricity from one titled lot of land to an adjacent one is not covered by the GEO; any proposals for 'over-the-fence' distribution and supply must seek a licence from the ESC or a specific exemption via Order in Council under the EIA. Several specific exemptions have been granted for such

arrangements. Generally, these have been arrangements for the supply of electricity between large industrial facilities where it has been clear that the parties have an equality of bargaining power and the technical competence to conduct their activities safely and reliably to the parties' satisfaction.

Most stakeholders who responded to this issue were supportive of the draft position. However, electricity distributor Jemena noted that:

**“there is scope for a registrable exemption class to include the supply to adjacent lots where an equality of bargaining power exists and the parties have sufficient competence to ensure safety and technical requirements are met.”**

## 6.4 Final approach

### 6.4.1 Strata title lots

The Draft Position Paper noted that in the time since the GEO was first made, a significant increase in the number of embedded networks has occurred. It appears that this increase has been marked by a particular type of embedded network operator that is tailored to serving larger scale strata type developments.

Where this is the case, the management of the embedded network – and the sale of electricity to customers – is the primary business of the embedded network operator. In its Draft Position Paper, the Department proposed that under these arrangements the exemption should be transitioned to a licensing framework as the sale of electricity is not incidental and the business model providing this service is principally that of an electricity distribution business.

The Department maintains its view that distribution of electricity in this way should be held to constitute the provision of a public utility service, and should be licensed as such. The Department also considers that there is merit in adopting this approach for equivalent exempt selling activities.

However, the Draft Position Paper noted that for this to occur a number of practical measures need to be undertaken. The Department will continue to work with the ESC on this issue, and give consideration to what transitional arrangements need to be put in place. In the interim, however, the supply of electricity through an embedded network to strata title lots will remain regulated by the GEO, but subject to the new requirements implemented as part of this review. These requirements include registration on the exemptions database, compliance with comparable obligations of licensed electricity providers, and membership of the ombudsman scheme.

### 6.4.2 Caravan parks

The Draft Position Paper proposed that where the relevant caravan park owner is supplying metered electricity to a person who principally reside in the caravan park, then the owner will be required to register with the ESC. The Paper also described that caravan parks will continue to be entitled to a deemed exemption for the distribution, supply and sale within their sites where residents are staying in a caravan park on a short-term basis.

As noted above, the Department proposed that a revised GEO framework would distinguish between long-term and short-term visitors and residents through a combination of deemed and registrable classifications classes. The reason for this distinction was that, on the one hand, park tenants may be highly mobile and generally only stay a short period of time, and the transaction costs of supplying electricity on a fully utility regulated basis would be significant. On the other hand, the Department acknowledges that where operators are selling metered electricity to caravan parks, the tenants of those premises warrant the same treatment – and protections – as exists for other registrable exemptions.

The Department's final position is that all caravan parks reselling, distributing and supplying electricity will be required to transition to a registrable exemption. This decision has been made as the Department expects that the registration process will be a simple process and the regulatory burden associated with it will be marginal. On balance, the Department considers that removing a distinction between caravan park classes will in fact provide greater clarity to caravan park operators which will remove a burden of monitoring and evaluating the occupancy behaviour of their residents.

The Department also anticipates that the obligations of network operators in a caravan park setting will be tailored by the ESC so that the full range of consumer protections does not apply to short-term occupants. This is described further in section 3.

#### **6.4.3 District scale schemes**

The Department's final position is that any network which seeks to cross or utilise public land and easements must be appropriately licensed by the ESC under the existing licensing regime. However, where innovative clean energy district scale schemes are proposed, the Department will work with proponents to overcome practical obstacles that may arise as novel proposals navigate the established regulatory regime.

#### **6.4.4 Adjacent properties**

Generally, when a person buys land in Victoria, that person can expect that the land is serviceable by public utilities in the accustomed fashion. The permission of over-the-fence supply on a wide scale could substantially alter this expectation. This is a step not to be taken lightly.

This arrangement does not appear mature enough to draw general conclusions about the appropriate regulatory regime. For this reason, the Department maintains its position that it does not consider it appropriate at this time that supply to adjacent properties be permitted by the GEO, however, individual exemptions will still be considered by the Minister.

# 7 Enforcement

## 7.1 Introduction

Under the current Victorian exemptions framework, all exemptions - deemed and individual - list conditions that exempt entities must comply with in order to be protected by that exemption. Conditions are designed to protect customers without being an unreasonable burden on exempt entities, and the conditions are modelled on the protections that authorised Victorian retailers must provide their customers.

The conditions attached to each exemption class vary according to the nature of the energy sale (including scale and scope) and the relationship the exempt entity has with its customer. For example, minimal conditions would apply to operators providing electricity to commercial or large market customers. This is because commercial and large market customers are unlikely to need a high level of consumer protections. However, as per the final policy positions outlined in this paper, a higher level of obligations will apply to exempt entities providing electricity to residential customers under the revised GEO.

Currently, there is no agency responsible for monitoring and enforcing an exempt entity's ongoing compliance with their regulatory obligations under the GEO, as the current framework does not provide the ESC with the ability to enforce exemption conditions. The way that the GEO is framed means:

- exempt entities self-assess themselves against the terms, conditions and limitations set out in the Schedule to the GEO;
- there is no oversighting body to identify instances where an exempt entity is not compliant with the terms, conditions and limitations set out in the GEO and the Schedule to the GEO;
- the consequences of breaching the exemption requirements are unclear; and
- there are no sanctions where an exempt entity breaches the terms and conditions of the GEO.

Therefore, an exempt entity's failure to fall within the scope of the exemption framework means that the exemption does not apply, with the result that the exempt entity is neither licensed nor exempt from the requirement to hold a licence. This limits the enforcement action available to the ESC to either prosecute for a financial penalty (section 16 (1), EIA 2000) or to take administrative enforcement action (such as entering into agreement with the exempt entity to rectify the breach).<sup>8</sup> The Department considers that these limited options are inadequate compared to the enforcement regime that applies to authorised Victorian electricity retailers.

## 7.2 Draft Position

The Department acknowledges that it is important to ensure that the ESC is empowered to take appropriate enforcement action where required against exempt entities so that it can respond in the best interests of consumers. However, the Draft Position Paper did not propose changes to the ESC's enforcement regime at this time. This is because:

- there is little information about exempt entities, the activities they are undertaking and the types of customers they serve; and
- extending the ESC's enforcement powers without adequate information about the embedded network sector may have unintended consequences.

The Draft Position Paper highlighted that there was limited research and reliable sources on the extent of embedded networks in Victoria, and the number of customers in these networks. In the absence of this data the Department did not propose an alternative compliance framework.

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<sup>8</sup> The penalty for undertaking activities licensable activities without a licence under section 16 is 1000 penalty units (\$158,570 as of 1 July 2017) and 100 penalty units (\$15,857 as of 1 July 2017) for each day after the day on which a notice of contravention is served on the person by the ESC.

### 7.3 Stakeholder consultation

Stakeholder submissions generally concurred that the current compliance monitoring and enforcement framework for exempt entities is inadequate.

Some consumer advocacy groups and retailers recommended that the ESC be given further responsibility for monitoring whether exempt entities are compliant with their obligations under each class of exemption. Stakeholders advised that having the ESC perform this role would ensure that the approach to compliance monitoring and enforcement of exempt entities would be consistent with the approach that the ESC has already established for authorised Victorian electricity retailers.

AGL observed that:

**“An appropriate enforcement strategy would not only ensure compliance with the law but also encourage compliance through educating businesses and consumers of their rights.”**

CUAC and CALC stated that:

**“it strongly disagrees with the Department’s approach to enforcements...developing a regulatory exemptions regime without compliance and enforcement send the wrong message to this industry and shifts risks entirely to consumers.”**

WINConnect advised that

**“the current enforcement powers of the ESC are not adequate to enable it to take appropriate compliance actions against an exempt person who is in breach of the GEO conditions....it was apparent that many issues presented by disaffected consumers from within embedded networks were actually due to non-compliance with the conditions of the exiting GEO.”**

However, the ATA agreed with the Department’s draft proposal, stating that:

**“we recognise that in the absence of information about the shape and size of the exempt selling industry, it is difficult to establish an appropriately scaled enforcement regime....an appropriate penalty regime will be critical under the new GEO.”**

### 7.4 Final approach

The Department recognises that without regulatory oversight, exempt entities’ compliance with their obligations is not being actively monitored and customers within embedded networks may not be adequately protected. While customers have recourse via Victorian Civil and Administrative Tribunal (VCAT), there is no oversight of whether exempt entities are complying with (or even aware of) the obligation to advise customers of their right to have disputes heard by VCAT. Regulatory oversight is particularly important for customers within embedded networks who do not have easy access to the competitive retail market. As discussed in section 4, customers within embedded networks currently face barriers to entering the competitive retail market. As a result, they are susceptible to monopolistic behaviour on the part of the exempt entity.

Despite this, but consistent with the Draft Position Paper, the Department’s final approach will be to progress a compliance and enforcement regime once more information is discovered about the scale and scope of embedded networks within Victoria. Although most consumer advocacy groups viewed this approach as overly cautious, the Department considers that further information is required to determine the appropriate compliance and enforcement regime that should apply to the exemptions regime. This position will be reviewed following establishment of the public registration database and the enhanced consumer protections framework for the GEO.

The Department will examine a suitable compliance framework once:

- the ESC completes its review of its licensing framework, which may result in currently exempt entities moving onto licences, and therefore falling within the enforcement regime for licensed entities;
- the number/degree of Victorian energy customers located in embedded network is better known;
- the number/degree of exempt entities is better known; and

- the numbers/degree of exempt entities, operating within each exemption class is better known.

This will provide the ESC and the Department with valuable information that can be used to assess the nature of the market and the size of any potential consumer detriment in the future.

Currently, all exempt entities are subject to a provision in the GEO that they must provide any information to the ESC or Minister for Energy required for the purposes of administration of the Order. The new GEO will retain this requirement to ensure that data can be collected from the exempt entities by the ESC for the purposes of compliance monitoring.

In the meantime, the Department will work with the ESC to investigate what alternative enforcement measures may be utilised by the ESC to enhance consumer protections. This may include, for example, the ESC consulting with EWOV and the Department to develop a compliance framework to be applied to exempt entities where compliance issues with the GEO framework arise. The government will consult with relevant stakeholders as it develops this framework further.

## 8 Dispute Resolution

### 8.1 Introduction

The jurisdiction of EWOV is currently limited to customers of licensed retail, distribution and transmission bodies. This is because membership of an external alternative dispute resolution scheme is a licence condition under the EIA and therefore does not apply to customers of exempt entities.

Instead, consumers within embedded networks can utilise VCAT to resolve disputes that cannot be resolved directly with the embedded network operator. However, the Department believes that EWOV has many advantages over VCAT in the resolution of energy disputes; EWOV is accessible, free for consumers, less litigious in its approach to resolving complaints and has expert knowledge of the energy regulatory framework, including fair and reasonable outcomes for energy disputes.

### 8.2 Draft Position Paper

The Draft Position Paper recommended that EWOV be made available to consumers within embedded networks. It developed this position on the basis that the right to access independent, inexpensive dispute resolution services is a consumer protection that should apply to embedded residential electricity consumers.

The Department did not propose that EWOV's jurisdiction be extended to include alternative energy sellers and community energy projects generally.

### 8.3 Stakeholder consultation

The Department received an unanimous support for extending the jurisdiction of EWOV to include exempt entities and customers of embedded networks.

HAAG noted that:

**“one of the most important changes for park residents to extend EWOVs powers to include customers of embedded networks. Residents are more inclined to contact an ombudsman for assistance than to take a matter to VCAT. It is less confronting, free and provides access to expert knowledge with an aim towards fair and equitable outcomes.”**

WINconnect highlighted that it:

**“supports the nomination of EWOV to be used as the dispute resolution for customers within embedded networks. The advantage of this is that all energy market participants would have access to a single ombudsman scheme....WINconnect continues to recommend the inclusion of the requirement that all exempt sellers (or their agent, manager specialist service provider or ENM) must be members.”**

CALC and CUAC strongly disagreed with the draft position not to extend EWOV's jurisdiction to alternative sellers (including SPPA) and community energy projects, arguing that:

**“...all ongoing energy-supply arrangements should be subject to free and accessible dispute resolution.”**

EWOV supported a gradual and staged approach to extending its jurisdiction, and was satisfied with the Department's proposal to extend the scheme to established embedded network operators at this time. However, EWOV also noted that:

**“...we do envisage a time when our jurisdiction will be further extended to include other energy users, such as customers of new technologies, like solar power purchase agreements. The objective of comprehensive ombudsman coverage for all Victorian energy customers should be a gradual and progressive policy aim.”**

The extension of EWOV's jurisdiction to SPPA and community energy projects is discussed further section 9.

In regards to the Department's draft position, issues raised by stakeholders related to:

- what was the best way to establish an appropriate funding structure to ensure that current members don't subsidise new members; and
- what is the best way to ensure that EWOV is able to ensure compliance on the resolutions that it facilitates and binding decisions.

A common theme amongst stakeholder recommendations was that the cost of membership should be a fee-for-service arrangement and should include proportional annual membership fees. The Department understands that the Energy and Water Ombudsman NSW (EWON) and Energy and Water Ombudsman South Australia (EWOSA) have voluntary membership mechanisms for exempt sellers. As EWON and EWOSA membership for exempt entities is voluntary, there has been poor 'opt in' response to this, and it is understood that no exempt entities have voluntarily joined EWOSA. Furthermore, although EWON can handle complaints raised by customers within embedded networks, it cannot recover fees and charges from exempt entities, and as such there is a cross-subsidy to exempt entities that are not members. It should also be noted that EWON cannot impose binding decisions on exempt entities.

A further suggestion from exempt entities with relation to establishing an appropriate funding structure is to charge a proportional annual membership fee to exempt entities. Such an approach would minimise the cost impact to exempt entities becoming members of the scheme but would also recover the incremental costs of addressing issues arising from the new membership category. A fee-for-service would also provide an incentive for operators to minimise their disputes with customers in order to minimise the cost of the fee. Potentially, the incentive effect would have the added benefit of minimising the impact on EWOV.

## 8.4 Final approach

It is the Department's final view that all electricity consumers obtaining grid sourced electricity, particularly those located within embedded networks, should have access to EWOV for disputes against an exempt entity. EWOV membership will be a condition of all exemption classes related to grid sourced electricity to ensure appropriate compliance measures may be undertaken in the future for those exempt entities that breach exemption conditions. It will be the decision of EWOV how the scheme's jurisdiction is extended including the appropriate fee structure.

Following extension of EWOV's jurisdiction, the Department will also introduce a new exemption condition requiring an exempt entity to inform a customer in writing at the time the customer enters the arrangement, of their right to access the services of EWOV.

# 9 Alternative Energy Selling

## 9.1 Introduction

Over the past decade there has been a transformation in the Victorian energy market, particularly regarding electricity generation. Generation is becoming increasingly localised, with both the installation of residential solar generation and a desire in developing community-owned renewable energy projects. This has been driven in part by increasing energy prices and an interest and ability by consumers to manage their energy use.

Changing market conditions, which include a reduction of the Victorian feed-in-tariff and reductions in solar panel rebates, has also contributed to growth in businesses wanting to provide energy consumers with services that supplement their typical supply of energy from the grid. Consumer awareness is driving change in the way which they participate in the energy market, and in response, a market for new and innovative business models for alternative energy products is developing.

### 9.1.1 Solar PPAs

As discussed in section 2, in December 2015 the Victorian Government amended the GEO to include a deemed exemption class that covers activities undertaken by solar PPA (SPPA) providers.

The move to provide for SPPAs signalled that the Victorian Government is supportive of allowing businesses to offer solar electricity to Victorian energy consumers. The nature and terms of the deemed exemption were, however, to be reassessed during this stage of the GEO review.

A SPPA is a financial arrangement in which a business provides, installs and maintains, at no initial cost, a solar panel system to a customer and in exchange, the customer buys the energy provided by the solar panels for an agreed price and for an agreed period. Any electricity that is not used is exported into the grid and the customer will usually get the benefit of any feed-in tariff.

In determining whether a deemed exemption class is the most appropriate way to authorise SPPAs in Victoria, the Department considered the guiding principles behind the SPPA business model.

The nature of the SPPA business model is different from that of grid sourced electricity as it is supplied through embedded networks and directly from the grid. The electricity sold to a consumer via an SPPA is optional and supplements the electricity sold to a consumer by electricity retailers. Although both business models sell electricity to the consumer, consumers are more dependent on grid sourced electricity

### 9.1.2 Community Energy Projects

Community-owned renewable energy, otherwise referred to as community energy, is distinguished by projects where a community group initiates, develops, operates and benefits from a renewable energy resource or energy efficiency initiative. Community groups that instigate such projects are often formed based on a common interest or geographical region such as a town or suburb. Every community energy project is different, being tailored to each community's needs and context. Community energy projects may be developed to:

- maximise local ownership and decision making;
- generate jobs;
- use resources efficiently and sustainably;
- match energy production to local energy needs and circumstances; and
- help address climate change.

Community projects can provide a wide range of benefits for local communities including direct financial returns and employment but more importantly, it empowers people by enabling a town or group to create a renewable and sustainable energy supply. The projects enable communities to develop and own their own renewable energy infrastructure and become consciously involved energy citizens.

The Department considers community development of sustainable energy projects as a key feature of Victoria's future energy landscape. The potential for community energy to contribute to the transition to clean energy in Victoria is significant, given the abundant renewable energy resources available in the State<sup>9</sup>.

## 9.2 Draft Position

### 9.2.1 SPPAs

The Department's draft position was that licensing is not a suitable authorising framework for SPPAs at this time. However, the Department acknowledged that this is a developing business model and the potential impacts on consumer protection issues are evolving as product take-up increases.

The Draft Position Paper therefore proposed transferring SPPAs from a deemed to a registrable class exemption.

The Draft Position Paper noted that moving SPPAs to a registrable class of exemption will help the ESC and the Department keep record of:

- I. the number/degree of Victorian energy customers contracted under a SPPA;
- II. the number/degree of businesses offering SPPAs to Victoria energy customers; and
- III. the amount of electricity capacity installed under a SPPA.

This will provide the ESC and the Department with valuable information that can be used to assess the nature of the market and the size of any potential consumer detriment in the future.

### 9.2.2 Community Energy Projects

The Department's draft position was that the authorising framework for community energy projects be developed under a registrable exemption and subject to a condition that requires the ESC to be reasonably satisfied that the principal purpose of the provision of services by the exempt entity is to benefit the community it is servicing.

## 9.3 Stakeholder consultation

### 9.3.1 SPPAs

The Department received consistent support from energy businesses and consumer advocacy groups with regard to SPPAs:

- being regulated under a class exemption; and
- being moved to a registrable exemption category.

The Department did, however, receive conflicting responses to its recommendation regarding the inability for a SPPA customer to have access to EWOV for any dispute that may arise with their SPPA provider.

CALC and CUAC stated:

**“We support the Department’s approach in recommending SPPAs and other alternative energy sellers be moved to a registrable class exemption however, we strongly disagree with the Department’s approach towards alternative energy selling.... Our strong preference is that the EWOV should cover disputes arising from any energy service, including SPPAs and community energy projects.”**

AGL stated that it:

**“supports the retention of the SPPA exemption and associated conditions but changing its status from a deemed to a registrable exemption... AGL also supports postponing on a decision regarding broadening the Ombudsman’s role.”**

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<sup>9</sup> Guide to Community-Owned Renewable Energy for Victorians 2015

The Australian PV Institute notes that it is:

**“important that changing the exemption class from deemed to registrable does not impose an excessive administrative burden on exempted sellers, does not result in increased conditions being applied.”**

### 9.3.2 Community Energy Projects

Currently community energy projects can generally be viable if they are large scale and compete on the wholesale market or if they operate behind-the-meter (such as community solar on commercial host sites) to attract close to retail value for their generated energy.

With regard to the issue on how best to authorise community energy projects, the Department once again received diverging views.

The Victorian Community Solar Alliance advised:

**“We believe that CSOs (community solar organisations) would be able to claim an exemption under Class VMR1, as they will be entering into solar power purchase agreements (SPPA), and none of the current requirements proposed for that exemption class would be of concern. However, we understand that VMR1 requirements may be tightened which could make compliance more difficult for community groups run by volunteers.”**

CALC and CUAC advised that they:

**“supports community energy programs...(however) there is a high potential for misunderstanding in these transactions and little evidence that community energy projects have adequate experience handling dispute resolution”**

The ATA recommends that community energy projects be:

**“required to have a documented internal dispute resolution process in line with that required for other exempt entities and required to be members of EWOV via a new membership category.”**

The majority of submissions put forward by community-owned renewable energy groups to the Department noted a common understanding of what constitutes a “community energy project”, as defined by the Victorian Government’s *Guide to Community-Owned Renewable Energy for Victorians* November 2015. This guide describes the following classes of projects:

1. *Donation/philanthropic projects*

Donation/philanthropic projects involve a community raising funds through donations, either using a crowdfunding platform or more traditional fundraising programs. Typically, the host site and beneficiary of this model will be a not-for-profit community organisation, such as a school, surf-lifesaving club or fire station, and the project scale will be small (10-50kW). While members of the organisation may donate to the project and will have a say over its direction, they are not investors and will not earn a dividend. Instead, all the money generated will go back to benefit the organisation.

2. *Community investment projects*

Community investment projects are typically initiated and led by a community organisation such as a cooperative or company. Funds are raised by opening up the project to community investors on the expectation that they will receive a certain return on their investment. Investors can be local and non-local individuals, organisations and small businesses. Income can also be distributed to the broader community through the creation of a community grant fund.

3. *Community-developer partnerships*

Community-developer partnerships are where the community or a renewable energy developer initiates a renewable energy project and both parties agree to deliver it in partnership. This structure is used typically for large (multi-MW) renewable energy projects where a community investment vehicle is part owner, along with the renewable energy developer and possibly other entities. The community often leads community engagement and consultation activities while the developer leads

the technical studies. In many cases, the developer owns a majority of shares and holds most of the decision-making power.

#### 4. *Community-council partnership*

A community-council partnership enables a community energy group to access a premise or land from a council to install a renewable energy system, with the council agreeing to purchase all electricity generated. The community group will often initiate the renewable energy project and then approach the council to enter into a partnership. The council will have ideally conducted assessments of its buildings and identified sites suitable for installations. The community energy group will lease the site, invest in the project and/or receive dividends from selling the electricity to council. Alternatively, it may provide a loan to the council for the infrastructure purchase.

#### 5. *Multi-household models of community energy*

Multi-household community energy models are where a community group aggregates households to bulk-buy and install renewable energy technology. For example, the Bendigo Sustainability Group, with the help of a Government grant, funded community education and a support program for small scale household solar PV.

#### 6. *100% renewable energy towns*

Z-NET and the broader 100% Renewable Energy movement forms part of the larger community energy sector in Australia. It is also well developed in North America and Western Europe. Already in Victoria, communities such as Newstead, Yackandandah, Castlemaine, Geelong and Daylesford have announced their intent to substantially transform their energy towards 100% renewable resources. The renewable energy town model provides a process for mapping out pathways to a community's renewable energy goal. This process can use feasibility studies and other methods to identify specific projects which can contribute to the ultimate goal.

## 9.4 Final Approach

### 9.4.1 SPPAs

Consistent with the draft position, the existing SPPA exemption will be retained but will become a registrable exemption rather than a deemed exemption. Entities operating under the SPPA exemption will be required to register once on the ESC's registration database rather than register for each site. However, they will also be required to provide up to date, relevant information to the ESC regarding the scale and nature of their business on a regular basis.

The Department also acknowledges that the COAG Energy Council is conducting further work on the implications of 'behind the meter electricity supply' for consumers, and on appropriate consumer protections for these emerging business models.

As discussed in section 6 in relation to strata title lots, the option of applying tailored licence conditions to this type of activity is available. However, as also noted in that section, the existing licensing regime would need to be changed to accommodate the issue by the ESC of a licence of a new kind, and the ESC will need to have the systems and resources to administer a greatly increased number of licensees. The deemed licence conditions of the EIA would also need to be reviewed to assess their appropriateness to SPPAs. The Department also notes concerns that the cost of complying with licence obligations may prohibit investment into the market.

Accordingly, the Department will monitor and may review its position, taking into account the ESC's energy licence framework review and the work of the COAG Energy Council, and as further information regarding operation of SPPA business models becomes available. Notwithstanding the above commentary, customers of SPPAs are currently protected under other regulatory instruments such as the:

- *Australian Consumer Law and Fair Trading Act 2012* (which deals with unfair contract terms, marketing, warranties and guarantees); and
- *Competition and Consumer Act 2010* (which deals with misleading, deceptive or unconscionable conduct).

SPPA providers in Victoria are also required to thoroughly inform customers about the nature of the service that they are buying and the protections they are entitled to. This is reflected in the following obligation, placed on SPPA providers through the current GEO (and which will be retained) which states:

*The exempt person must provide the Customer written notice, in plain English, at the time of entering into the agreement for the supply and sale of electricity that:*

- i. the agreement is covered by the Australian Consumer Law;*
- ii. includes a summary of the relevant rights of the customer under that Law; and*
- iii. is separate to the customer's contract with their licensed retailer and distributor, which are subject to the EIA.*

Following consultation on the Department's Draft Position Paper for the review, has been brought to the Department's attention that the definition SPPA exemption may be causing some confusion amongst those attempting to self-assess against the exemption definition. The exact wording states that the following persons are exempt:

Persons generating or distributing electricity on premises not owned or occupied by the exempt person; and

Persons supplying or selling electricity:

- I. to the owner or occupier of the premises on which the generation occurs (the Customer); or
- II. to a licensed retailer.

The policy intention of this exemption is to enable alternative selling methods. That is, encouraging a third party to enter into an agreement with an energy consumer for the provision of generating solar energy.

The Department notes that the drafting of this exemption states that the generation or distribution of electricity should be on premises **not** owned or occupied by the exempt entity. This seem to commonly work when the third party (exempt entity) is contracting with a residential customer. However, the Department has recently received advice that, in some instances, the third party (exempt entity) may have an arrangement or agreement with the owner of this premises (either via licence or lease) to occupy a portion of the premises to undertake activities associated with the generation or distribution. The Department understands that this may be common for commercial arrangements in particular.

The policy intention is not to prevent these types of arrangement/agreements from benefitting from this exemption. Therefore, the GEO's clauses regarding SPPA exemptions will be updated as follows:

- (a) generating or distributing electricity on:
  - (i) premises not owned or occupied by the person; or
  - (ii) a portion of premises occupied by the person for the purpose of the generation and distribution, where the premises are not owned by the person and the remainder of the premises is not occupied by the person; and
- (b) supplying or selling the electricity:
  - (i) to the owner or occupier of the premises on which the generation occurs (the customer); or
  - (ii) to a licensed retailer.

The Department seeks feedback from stakeholders on the proposed changes to the SPPA exemption.

The retention of the SPPA exemption does means that customers will not have access to EWOV for any dispute that may arise with their SPPA provider. Extending EWOV's jurisdiction in this respect has potentially adverse implications for the quality of dispute resolution able to be offered by EWOV, particularly where a single or related companies are supplying both grid energy and a SPPA to the same customer, or where there are inter-linkages between both products in the context of a dispute.

As the market develops, the Department and ESC will monitor disputes and complaints raised around SPPA products and may seek to further broaden EWOV's jurisdiction to require membership of the scheme. This

assessment will take place regardless of the future authorising framework for SPPAs and in collaboration with the ESC and EWOV.

#### **9.4.2 Community Energy Projects**

There are a range of social, environmental, technological, economic and political motivators that drive community energy projects in Victoria and the Department is aware that a supportive and accessible regulatory environment is essential to unlock the passion that communities have for renewable energy and sustain the momentum of the community energy movement.

The Department's final position, different to that recommended in its Draft Position Paper, is that it will amend the current exemption category available for SPPAs to allow for community-owned renewable energy projects where the sale, distribution and supply and generation of electricity is limited to a single site.

The Department acknowledges that the nature of community energy may reduce the risk of consumer detriment. However, the success of community energy projects relies on ongoing, workable community relationships between the organisation and its members that are geographically connected.

The Department expects that the conditions attaching to this exemption class will include a condition requiring that full disclosure of important information is made by the exempt entity to participants in the project. Fully informed customers and greater transparency about the terms and conditions in their contracts should minimise risk of participant disputes.

Furthermore, the Department's final position is that community-owned renewable energy projects must adhere to the Pricing Rule.

As noted in section 2, the Department is proposing that a separate work stream be established to examine community-owned renewable energy projects where the sale, distribution and supply and generation of electricity crosses individual properties and/or public land.

The introduction of an exemption class for community-owned renewable energy will, however, mean that consumers will not have recourse to EWOV. Similar to the framework being established for SPPAs, customers who opt in to community energy projects will need to turn to Australian Consumer Law or to informal mediation with the community energy body as a means of addressing disputes. Given the nature of community energy projects, the Department does not, however, propose that at this time such projects should become subject to the EWOV scheme.

The Department will monitor and may review its position, taking into account the ESC's energy licence framework review and the work of the COAG Energy Council, and as further information regarding operation of community energy projects becomes available.

# 10 Implementation

## 10.1 Next Steps

The Department has prepared a new GEO for stakeholder comment in **section 12**.

Stakeholders are asked to review the Order and provide comment on its drafting by 5pm on **22 September 2017**.

Comments should focus on the drafting of the Order and its effectiveness in achieving the outcomes of the review.

Submissions can be emailed to [geo@delwp.vic.gov.au](mailto:geo@delwp.vic.gov.au) or posted to:

**General Exemption Order Review**

**Energy Markets Policy and Regulation**

**Department of Environment, Land, Water and Planning**

**PO Box 500**

**East Melbourne VIC 8002**

## 10.2 Commencement of new GEO

The Department proposes to commence the new exemptions framework by 1 April 2018.

### 10.2.1 Registration database

The GEO will establish 'registrable' categories of exemptions in addition to deemed and individual exemptions.

The Department will work with the ESC to have the public registrations database operationally effective from 1 April 2018.

### 10.2.2 Consumer Protections

The Department will continue to work with the ESC to determine which specific provisions of the ERC should apply to each class of exemptions. It is proposed that the ESC will consult on these provisions throughout 2017 and 2018. Until the ESC specifies what consumer protections apply, the arrangements under the current GEO will continue.

It is also proposed that the ESC will publish a Victorian 'Exemptions Guideline' to provide a cohesive guide for energy consumers and exempt suppliers on their rights and obligations.

Other requirements in the GEO that are outside of the ESC's Codes and Guidelines, such as the requirement to obtain explicit informed consent from consumers and provide certain information to consumers, will commence 1 April 2017.

### 10.2.3 SPPAs

Activities relating to SPPAs will continue to be exempt from the requirement to hold a licence under section 16 of the EIA under the GEO for the immediate future. However, this exemption class will become a registrable exemption rather than a deemed exemption and existing parties operating under the exemption will be required to register. Entities operating under the SPPA exemption will be required to register once on the ESC's registration database and will be required to provide updated, relevant information to the ESC regarding the scale and nature of their business.

## 10.3 Transitional arrangements

Some of the final positions will require transitional arrangements to enable the further development of policy and systems, and to provide time for stakeholders to meet their compliance requirements. These are outlined below.

### 10.3.1 Pricing Rule

With regard to the Pricing Rule, the Department continues to work with the ESC on how best to address this. The scale and scope of this work stream will include establishing a formula at which a new price cap benchmark can be re-evaluated by the ESC on a yearly basis. The Department will commence further consultation with interested stakeholders throughout 2017 and 2018 however does not anticipate that a new Pricing Rule will be implemented or operational until **1 January 2019**. The existing Pricing Rule will continue to apply until then.

### 10.3.2 EWOV's jurisdiction

The Department supports the move to extend EWOV's jurisdiction, making it available to most customers of embedded network operators and associated exempt sellers. The Department will continue to work with the ESC and with EWOV to establish a membership category for these exempt entities by **1 July 2018**.

The Department will also introduce a new exemption condition requiring an exempt entity to inform a customer in writing at the time the customer enters the arrangement, of their right to access the services of EWOV's dispute resolution mechanism.

The Department will consult further on whether EWOV's jurisdiction should be extended to make it available to customers of alternative energy sellers or who participate in community energy projects.

# 11 Final Positions

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Those undertaking the following activities should continue to be exempt from the requirement to hold a licence under section 16 of the *Electricity Industry Act 2000*:

- the intermediary distribution and supply of electricity;
- the intermediary sale of electricity; and
- small-scale generation activities.

## Position 1

The General Exemption Order (GEO) should, however, be amended to establish 'registrable' categories of exemptions in addition to deemed and individual exemptions.

New exempt entities wishing to operate under a registrable exemption will need to register their activities on the ESC's public registration database. The benefit of the exemption will come into effect upon registering.

In addition, deemed and registrable exemption categories will be divided into exemption classes tailored to specific activities, based on the AER's current exemption categories as adapted to reflect Victoria's needs. This will include specific 'generation' exemption categories to address certain new developments in the market such as solar PPAs, however, will no longer include an exemption class for community energy projects.

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## Position 2

The Department supports the need to clarify and specify what consumer protections are available to consumers purchasing electricity from an exempt seller. The ESC will be referred the task of specifying which provisions of the ERC (and other codes and guidelines as necessary) will apply to exempt sellers. The Department and the ESC will work together Victorian 'Retail Exemptions Guideline' to provide a cohesive guide for energy consumers and exempt suppliers on their rights and obligations.

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## Position 3

The Department sees considerable merit in measures to improve information provision to customers that may be affected by exempt sellers.

The Department proposes enhancing existing exemption conditions, to require an exempt seller to obtain the explicit informed consent of the customer to the exempt selling arrangement before the customer enters into that arrangement. In obtaining this consent the customer must be made aware of its right to elect to purchase electricity from a licensed retailer of the customer's own choosing.

The Department will continue to liaise with our partner agencies to work towards all new apartments having suitable metering to enable effective retailer choice.

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**Position 4**

Embedded networks serving multiple strata title lots should cease to be protected by the GEO, and should be transitioned to an appropriately designed licensing framework administered by the ESC.

Distribution of electricity to adjacent properties will continue to be subject to individual exemptions. However, the Department will continue to monitor the development of new energy technologies and may issue special exemptions where appropriate to allow for trial and pilots of innovative energy supply models. Community energy projects will be subject to a registrable exemption.

District scale energy networks will continue to be subject to the current energy licensing framework.

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**Position 5**

The Pricing Rule will be amended. The Department proposes to task the ESC with formulating a new cap benchmark based on commercial market data. This would act as the maximum price that an exempt seller would be allowed to charge its embedded network customers for energy consumption.

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**Position 6**

The Department does not propose to amend the enforcement regime, applicable to the GEO and exempt entities, at this time. This position will, however, be reviewed as more information about exempt entities becomes available.

The GEO will require exempt entities to provide compliance and reporting information to the ESC on request, for the purposes of compliance monitoring under its current powers.

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**Position 7**

The Department supports the move to extend EWOVs jurisdiction, making it available to most customers of embedded network operators and associated exempt sellers.

The Department will also introduce a new exemption condition requiring an exempt entity to inform a customer in writing at the time the customer enters the arrangement, of their right to access the services of EWOV's dispute resolution mechanism.

The Department will, further down the track, review whether EWOV's jurisdiction should be extended to make it available to customers of alternative energy sellers or who participate in community energy projects.

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**Position 8**

Activities relating to solar power purchase agreements (SPPAs) will continue to be exempt from the requirement to hold a licence under section 16 of the *Electricity Industry Act 2000* and will continue to be authorised under a 'multiple activity' exemption via the GEO. However, this exemption class will become a registrable exemption rather than a deemed exemption.

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Entities operating under a SPPA exemption will only need to register once on the database, but will be required to provide regular information to the ESC regarding the scale and nature of their activities.

The SPPA exemption will be updated to reflect arrangements where an exempt entity providing the SPPA occupies a portion of the customer's premises for the purposes of generation and distribution only. Stakeholder views on this amendment is sought.

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**Position 9**

The authorising framework for community energy projects will be limited to single site premises and captured by the multiple activity category of the GEO.

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## 12 Draft General Exemption Order

**Electricity Industry Act 2000**  
GENERAL EXEMPTION ORDER 2017  
Order in Council

The Governor in Council makes the following Order under section 17 of the **Electricity Industry Act 2000**:

### Part 1 Preliminary

#### 1. Objectives

The objectives of this Order are:

- (a) to exempt persons from the requirement to obtain a licence under section 16 of the Act in respect of certain specified activities; and
- (b) to make consequential amendments to the General Exemption Order 2002 so that it applies only to individual exemptions existing at the date of commencement of this Order.

#### 2. Commencement

- (1) This Order, except clause 11, comes into operation on 1 April 2018.
- (2) Clause 11 comes into operation on 1 July 2018.

#### 3. Definitions

In this Order:

**approved meter** means a meter that a holder of a licence under the Act is permitted by law to use to measure the consumption of electricity for the type of person to whom electricity is being transmitted, distributed, supplied or sold;

**Distribution Code** means the Electricity Distribution Code from time to time approved by the Essential Services Commission;

**explicit informed consent** means consent is given by a customer to an exempt person where:

- (a) the exempt person, or a person acting on behalf of the exempt person, has clearly, fully and adequately disclosed, in plain English, all matters relevant to the consent of the customer, including each specific purpose or use of the consent; and
- (b) the customer gives the consent to the arrangement or transaction,
  - (i) in writing, signed by the customer; or
  - (ii) verbally, if the verbal consent is evidenced in a way that it can be verified and recorded; or
  - (iii) by electronic communication generated by the customer;

**General Exemption Order 2002** means the Order in Council made under section 17 of the Act on 30 April 2002 and published in the Government Gazette No. S73 on 1 May 2002 as amended and in force immediately before this Order comes into operation;

**Note:** the General Exemption Order 2002 has been amended by the following Orders:

- Order in Council made on 25 November 2008 and published in the Government Gazette S315 on that day.
- Order in Council made on 26 October 2010 and published in the Government Gazette G43 page 2686 on 28 October 2010.
- Order in Council made on 8 December 2015 and published in the Government Gazette S393 on that day.

**generation** includes co-generation;

**kVa** means 1000 volt amps;

**large customer** means a business customer to whom peak demand of not less than 500 kVa, or consumption of not less than 160MWh per annum is distributed, supplied or sold for commercial or industrial purposes;

**licensed retailer** means the holder of a licence to sell electricity under the Act otherwise than through the wholesale electricity market;

**meter** means any device that measures the quantity of electricity passing through it or that records the consumption of electricity at the customer's premises;

**metered electricity** means electricity measured by an approved meter;

**Minister** means the Minister responsible for the **Electricity Industry Act 2000**;

**MW** means megawatts;

**MWh** means megawatt hours;

**National Electricity Rules** has the same meaning as in the National Electricity (Victoria) Law;

**related body corporate** has the same meaning as in the Corporations Act;

**residential customer** means a person who buys electricity principally for personal, household or domestic use at premises;

**Retail Code** means the Energy Retail Code from time to time approved by the Essential Services Commission;

**small commercial/retail customer** means a business customer to whom peak demand of less than 500kVa, and consumption of less than 160MWh per annum, is distributed, supplied or sold for commercial or industrial purposes;

**the Act** means the **Electricity Industry Act 2000**.

## **Part 2            Retail and distribution exemptions**

### **Division 1        Retail exemption categories**

#### **4.    Deemed exemption of retailers**

- (1) A person carrying out an activity set out in Table 1 is exempt from the requirement to obtain a licence under section 16 of the Act in respect of that activity if:
  - (a) the electricity the person sells is obtained by the person as the customer of a licensed retailer; and
  - (b) in the case of the sale of metered electricity, the premises of each customer of the person is separately metered.
- (2) The exemption is subject to the conditions set out in Division 3 of this Part.

<b>Table 1    Retail activity deemed exemption</b>
Persons selling metered electricity to fewer than 10 small commercial/retail customers within the limits of a site that they own, occupy or operate.
Persons selling metered electricity to fewer than 10 residential customers within the limits of a site that they own, occupy or operate.
Persons selling metered electricity to occupants of holiday accommodation on a short-term basis (excluding caravan parks, holiday parks, residential land lease parks and manufactured home estates).
Persons selling electricity to a related body corporate.
Persons selling electricity to customers in conjunction with, or ancillary to, the provision of telecommunications services.
Government agencies, other than housing authorities, selling metered electricity to non-residential customers.

## 5. Exemption of registered retailers

- (1) A person carrying out an activity set out in Table 2 is exempt from the requirement to obtain a licence under section 16 of the Act if:
  - (a) the person is registered in the Register of Exempt Persons under the Act in respect of that activity; and
  - (b) the person is the customer of a licensed retailer; and
  - (c) in the case of the sale of metered electricity, the premises of each customer of the person is separately metered.
- (2) The exemption is subject to the conditions set out in Division 3 of this Part.

<b>Table 2 Retail activity registration exemption</b>
Persons selling metered electricity to 10 or more small commercial/retail customers within the limits of a site that they own, occupy or operate.
Persons selling metered electricity to 10 or more residential customers within the limits of a site that they own, occupy or operate.
Retirement villages selling metered electricity to residential customers within the limits of a site that they own, occupy or operate.
Persons selling metered electricity in all caravan parks, holiday parks, residential land lease parks and manufactured home estates.
Persons selling metered electricity to large customers.
Persons selling unmetered electricity to small commercial/retail customers at a site that they own, occupy or operate.

## Division 2 Network exemption categories

### 6. Deemed exemption of distributors

- (1) A person carrying out an activity set out in Table 3 is exempt from the requirement to obtain a licence under section 16 of the Act in respect of that activity if:
  - (a) the person is not a distribution company; and
  - (b) the electricity is supplied through facilities of the person after it leaves a supply facility owned or operated by a distribution company and before it is supplied to the customer.

- (2) The exemption is subject to the conditions set out in Division 3 of this Part.

<b>Table 3 Network activity deemed exemption</b>
Persons supplying metered or unmetered electricity to fewer than 10 small commercial/retail customers within the limits of a site that they own, occupy or operate.
Persons supplying metered or unmetered electricity to fewer than 10 residential customers within the limits of a site that they own, occupy or operate.
Persons supplying metered or unmetered electricity to occupants of holiday accommodation on a short-term basis (excluding caravan parks, holiday parks, residential land lease parks and manufactured home estates).
Persons supplying electricity via plug-in or rack mounted equipment in any premises, where there is National Broadband Network equipment with an input current rating not exceeding 3 amps alternating current.
Persons supplying metered or unmetered electricity to a related body corporate.
Persons supplying electricity in conjunction with, or ancillary to, or to facilitate, the provision of telecommunications services. Includes internet, telephone, mobile phone, fibre optic, hybrid fibre cable, television, radio, Wi-F, or other communications technology.
Government agencies, other than housing authorities, supplying metered or unmetered electricity to non-residential customers.

## 7. Exemption of registered distributors

- (1) A person carrying out an activity set out in Table 4 is exempt from the requirement to obtain a licence under section 16 of the Act if:
- (a) the person is registered in the Register of Exempt Persons under the Act in respect of that activity; and
  - (b) the person is not a distribution company; and
  - (c) the electricity is supplied through facilities of the person after it leaves a supply facility owned or operated by a distribution company and before it is supplied to the customer.
- (2) The exemption is subject to the conditions set out in Division 3 of this Part.

<b>Table 4 Network activity registration exemption</b>
Persons supplying metered or unmetered electricity to 10 or more small commercial/retail customers within the limits of a site that they own, occupy or operate.
Persons supplying metered or unmetered electricity to 10 or more residential customers within the limits of a site that they own, occupy or operate.
Retirement villages supplying metered or unmetered electricity to residential customers within the limits of a site that they own, occupy or operate.
Persons supplying metered or unmetered electricity in caravan parks, holiday parks, residential land lease parks and manufactured home estates.
Persons supplying metered electricity to large customers.
Persons supplying unmetered electricity to small commercial/retail customers at a site that they own, occupy or operate.

### **Division 3 Conditions on retail and network exemptions**

#### **8. Compliance with Retail Code or Distribution Code**

It is a condition of an exemption under this Part that the exempt person must comply with the provisions of the Retail Code or the Distribution Code that are specified by the Essential Services Commission in the relevant Code as provisions applicable to an exempt person of that category or class.

**Note**

Until the Essential Services Commission specifies provisions under this clause, the current arrangements in the General Exemption Order 2002 will apply.

#### **9. Informed consent and provision of information**

- (1) It is a condition of an exemption under Division 1 that the exempt person must obtain the explicit informed consent of the customer to an arrangement for the sale of electricity to that customer.
- (2) It is a condition of an exemption under Division 1 that the exempt person must provide the following information to the customer before obtaining the consent referred to in subclause (1):
  - (a) that the customer has the right to elect to purchase electricity from a licensed retailer of their choice, and information on the options for metering that would allow this choice;

- (b) that the exempt person is not subject to all the obligations of a licensed retailer and the customer will not receive the same protections as it would if it were purchasing from a licensed retailer;
  - (c) the customer's rights in relation to dispute resolution including:
    - (i) the contact details of the exempt person as the initial point of contact for disputes; and
    - (ii) the exempt person's procedures for handling disputes and complaints; and
    - (iii) from 1 July 2018, the right that the customer has to access an external dispute resolution service approved by the Essential Services Commission;
  - (d) the forms of assistance available if the customer is unable to pay electricity bills due to financial difficulty, as well as the process the customer should follow to seek these forms of assistance;
  - (e) the electricity tariffs and all associated fees and charges that will apply to the customer in relation to the sale of electricity;
  - (f) the flexible payment options that are available to the customer in relation to the sale of electricity, such as arrangements for payment by periodic instalments (bill smoothing);
  - (g) contact numbers in the event of an electricity fault or emergency.
- (3) It is a condition of an exemption under this Part that an exempt person must also provide the information set out in subclause (2):
- (a) at any time at the request of the customer or the Essential Services Commission; and
  - (b) annually to the customer.

## 10. Pricing rule

- (1) It is a condition of an exemption under this Part that the price, or range of prices, at which electricity (and services related to the provision of electricity) may be sold or supplied under the exemption must not exceed the relevant maximum price *formulated* by the Essential Services Commission for the purposes of this Part and published on its website.
- (2) The Essential Services Commission must have regard to commercial market data in formulating a maximum price.

### Note

Clause 27 provides for a transitional pricing rule to apply until a relevant maximum price is formulated under this clause.

## **11. Customer dispute resolution**

- (1) It is a condition of an exemption under this Part that the exempt person must enter into a customer dispute resolution scheme approved by the Essential Services Commission.
- (2) In approving a customer dispute resolution scheme for the purposes of this Order, the Essential Services Commission must have regard to the matters set out in section 28(2) of the Act, with any necessary changes.

## **12. Provision of information to the Minister or Essential Services Commission**

It is a condition of an exemption under this Part that the exempt person must provide (whether or not through an agent), to the Minister or the Essential Services Commission, any information requested by the Minister or Commission, that the Minister or Commission may reasonably require for the administration of this Part.

## **Part 3 Generation exemptions**

### **Division 1 Generation exemption**

#### **13. Deemed exemption of generation**

- (1) A person carrying out an activity set out in Table 5 is exempt from the requirement to obtain a licence under section 16 of the Act in respect of that activity.
- (2) The exemption is subject to the conditions set out in Division 2 of this Part.
- (3) This exemption does not apply to the generation of electricity for supply or sale if the relevant generator or group of generators is required by the National Electricity Rules to be centrally dispatched.

<b>Table 5 Generation exemption</b>
Persons generating electricity for supply or sale where the total output by that person (whether or not with another person), using a generator or generators connected to the transmission network or distribution network at a common point, is less than 30MW.

### **Division 2 Conditions on generation exemptions**

#### **14. Export output**

It is a condition of an exemption under this Part that the total exported output of the relevant generator or group of generators must be supplied or sold to a licensed retailer.

#### **15. Compliance with Distribution Code**

It is a condition of an exemption under this Part that the exempt person must comply with the provisions of the Distribution Code that are specified by the Essential Services Commission in that Code as applicable to an exempt person under this Part.

**16. Provision of information to the Minister or Essential Services Commission**

It is a condition of an exemption under this Part that the exempt person must provide (whether or not through an agent), to the Minister or the Essential Services Commission, any information requested by the Minister or Commission, that the Minister or Commission may reasonably require for the administration of this Part.

**Part 4 Multiple activity exemptions**

**Division 1 Multiple activity exemptions**

**17. Exemption of registered persons carrying out generation, distribution, supply and sale of electricity**

- (1) A person carrying out the activities set out in Table 6 is exempt from the requirement to obtain a licence under section 16 of the Act if the person is registered in the Register of Exempt Persons under the Act in respect of the activities.

**Examples**

- 1. A solar power purchase agreement under which a business provides, installs and maintains, at no initial cost, a solar panel system to a customer and in exchange, the customer buys the electricity provided by the solar panels for an agreed price and for an agreed period. Any electricity that is not used is sold to a licensed retailer.
  - 2. A community energy project under which a community group initiates, develops, operates and benefits from a renewable energy resource or energy efficiency initiative.
- (2) The exemption is subject to the conditions set out in Division 2 of this Part.
  - (3) A registration of a person will cover all activities set out in Table 6 that are carried out by the registered person.

<b>Table 6 Multiple activity exemption</b>	
Persons:	
(a)	generating or distributing electricity on: <ul style="list-style-type: none"> <li>(i) premises not owned or occupied by the person; or</li> <li>(ii) a portion of premises occupied by the person for the purpose of the generation and distribution, where the premises are not owned by the person and the remainder of</li> </ul>

- the premises is not occupied by the person; and
- (b) supplying or selling the electricity:
- (i) to the owner or occupier of the premises on which the generation occurs (the customer); or
  - (ii) to a licensed retailer.

## **Division 2      Conditions on multiple activity exemption**

### **18. Pricing rule**

- (1) It is a condition of an exemption under this Part that the price, or range of prices, at which electricity (and services related to the provision of electricity) may be sold or supplied under the exemption must not exceed the relevant maximum price formulated by the Essential Services Commission for the purposes of this Part and published on its website.
- (2) The Essential Services Commission must have regard to commercial market data in formulating a maximum price.

#### **Note**

Clause 27 provides for a transitional pricing rule to apply until a relevant maximum price is formulated under this clause.

### **19. Generating capacity**

It is a condition of an exemption under this Part that the installed or name-plate generating capacity of the generator or generators installed at the relevant premises is less than 5MW.

### **20. Financially responsible market participant**

It is a condition of an exemption under this Part that:

- (a) the exempt person is not the financially responsible market participant for the relevant premises; and
- (b) the financially responsible market participant for the relevant premises is a licensed retailer.

### **21. Wholesale market registration**

It is a condition of an exemption under this Part that the exempt person is not registered in the wholesale market for the purposes of purchasing electricity.

### **22. Sale of output of generation**

It is a condition of an exemption under this Part that:

- (a) some or all of the output of the relevant generator or generators must be sold to the customer; and
- (b) any output of the relevant generator or generators not sold to the customer must be supplied or sold to a licensed retailer.

### **23. Notice of application of Australian Consumer Law**

- (1) It is a condition of an exemption under this Part that the exempt person must provide the customer with written notice at the time of entering into the agreement for the supply and sale of electricity that the agreement is:
  - (a) covered by the Australian Consumer Law; and
  - (b) separate from the customer's contracts with their licensed retailer and distributor, which are subject to the **Electricity Industry Act 2000**.
- (2) The notice must:
  - (a) be in plain English; and
  - (b) include a summary of the relevant rights of the customer under the Australian Consumer Law.

### **24. Compliance with Distribution Code**

It is a condition of an exemption under this Part that the exempt person must comply with clauses 7.2 to 7.8 and clause 9.3 of the Distribution Code and any other clauses of that Code that apply to embedded generators.

### **25. Provision of information to the Minister or Essential Services Commission**

- (1) It is a condition of an exemption under this Part that the exempt person must provide (whether or not through an agent), to the Minister or the Essential Services Commission, any information requested by the Minister or Commission, that the Minister or Commission may reasonably require for the
- (2) It is a condition of an exemption under this Part that the exempt person must provide the Essential Services Commission, on request, with information regarding the scale and nature of the exempt person's activities to which the exemption applies.

## **Part 5 Transitional provision**

### **26. Pricing rule**

Despite clauses 10 and 18, until the Essential Services Commission formulates a maximum price under clause 10 or 18 in respect of a particular category of exemption or customer, the price, or range of prices, at which the exempt person may sell or supply electricity (and services related to the provision of electricity) to

that customer must not be more than the tariff that would apply to the customer if the customer purchased the electricity and related services pursuant to an offer made:

- (a) in accordance with section 35 of the Act; and
- (b) by a licensee who is the local retailer for electricity supplied in the electricity distribution area in which the supply point for the supply of electricity to the customer is located; and
- (c) in accordance with any guidelines issued by the Essential Services Commission.

## **Part 6 Amendment of General Exemption Order 2002**

### **27. Definitions**

In clause 4 of the General Exemption Order 2002, the definitions of **approved meter, intermediary distribution or supply, metered intermediary sale of electricity, National Electricity Code and Supply Code**, are **revoked**.

### **28. Revocation of clause 5 (Certification by Commission)**

Clause 5 of the General Exemption Order 2002 is **revoked**.

### **29. Clause 8 revoked**

Clause 8 of the General Exemption Order 2002 is **revoked**.

### **30. Revocation of Part A of the Schedule**

Part A of the Schedule to the General Exemption Order 2002 is **revoked**.

