



**EnergyAustralia**

10 August 2018

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Essential Services Commission  
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Dear Dr Ben-David

## Victorian General Exemption Order Review

### 1. Introduction

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EnergyAustralia welcomes the opportunity to comment on the Essential Services Commission's (the Commission) Draft decision: Energy Retail Code obligations for exempt sellers under the draft General Exemption Order 2017. We are one of Australia's largest energy companies, with over 2.6 million household and business customer accounts in NSW, Victoria, Queensland, South Australia and the Australian Capital Territory. We also own and operate a multi-billion dollar portfolio of energy generation facilities across Australia, including coal, gas and wind assets with control of over 4,500MW of generation in the National Electricity Market.

The Embedded Networks Company (TENC) is a subsidiary of EnergyAustralia and has operated as an agent for on-sellers of electricity to customers within embedded networks on the east coast of Australia since 2016. TENC has a small customer base in Victoria of 600 (predominantly residential) customers. It operates under separate systems and process than EnergyAustralia, including a separate call centre, different billing system and different customer relationship management system. In servicing such a small customer base, TENC must operate with low overheads to provide least cost energy to customers within embedded networks. Its operations and processes are not affiliated with those of EnergyAustralia and TENC does not receive any benefits that would otherwise be associated with the scale of EnergyAustralia's customer base.

Embedded energy networks generally have a much smaller market share than traditional retailers. Their exemption from many provisions of the Energy Retail Code (the Code) means that they can respond simply and specifically to the issues experienced by their small customer bases without the cost and delay associated with the complicated rules and procedures; costs of which are more easily absorbed by larger, licenced retailers. This flexibility allows exempt sellers to continue to innovate and streamline the provision of services and business models to customers within embedded networks. This flexibility allows customers of exempt sellers to benefit from lower prices than they would if these small businesses were subject to the full range of provisions of the Code and the resulting higher operating costs.

While we support the retention of a flexible exemption regime for embedded networks, we agree customers of exempt sellers should have a comparable level of protection as customers of licenced retailers. In considering how to achieve this level of protection, the Commission should consider in detail the operational limitations and differences of specialist embedded network companies. These differences include lower customer numbers, simple billing platforms, processes and payment methods, and simple tailored customer service.

We have reviewed the draft decision and considered the capacity of TENC to absorb the expanded application of the Code. Fortunately, TENC can absorb many of the new provisions into its current operating procedures by making small changes without much additional cost, however we believe that other smaller exempt sellers may find it much more difficult and that the costs for customers will increase to unacceptable levels.

## **2. PDF specific provisions**

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The level of prescription and systems changes required to adopt Part 3 of the Code: Payment Difficulties Framework (PDF) will be difficult for TENC as their system requires many functions to be performed manually. We appreciate that the Commission sensibly proposes to reduce the impact of PDF on exempt entities by not requiring them to comply with some or all of clauses 79, 82, 84-87, 94, 111, 112 and 117.

The exempt person categories that the PDF obligations apply to includes relatively small embedded network service providers. It is difficult for large retailers like EnergyAustralia to interpret and operationalise the PDF, so we expect this component of the Code to be particularly onerous for some exempt persons. It wouldn't be surprising to see small, non-specialist or community-based exempt retailer organisations relinquishing functions to a larger party and not entering this part of the market at all. Aside from implementation and operational costs of PDF, many exempt retailers have far fewer customers and much lower capacity to carry debt over a longer period of time. Requiring small exempt retailer to carry debt for a 2-year period will put significant strain on their business thereby reducing the benefits to customers in embedded networks.

We have further concern with the prescription over requirements in clause 81. Allowing the customers to have complete flexibility over the amount of payment instalments (equal or not) and how and when payments will be made presents difficulties for small businesses using unsophisticated billing systems. TENC's small residential customer base of around 600 customers means that we have limited capacity to have an individualised approach to repayment and will require significant adjustments to manual processes and automated systems. We ask that the Commission consider removing the expectation that exempt entities may need to allow customers to enter into bespoke payment plans (e.g. under clause 81). These types of requirements can add high costs for little additional benefit to customers.

Additionally, we believe that the Commission could consider excluding exempt entities from clauses around reminders notices (clauses 109(2) and (4)) which are likely to add disproportionate cost compared to their benefit to customers.

Initial discussions with our vendor about the costs of complying with the new PDF obligations indicate that TENC would incur approximately \$30,000 per year on an ongoing basis. This figure includes just the system upgrade and additional subscription costs to bring in additional billing modules for TENC to comply with PDF. TENC is already largely compliant with other aspects of the Code so this is a standalone estimate for the PDF, but it doesn't include other

costs for maintaining compliance, record keeping, reporting and additional resources to support manual processes. These additional operational costs would need to be factored into price offering to TENC's residential customers. We have not estimated the cost of carrying the additional debt from creating payment plans over an extended period of time. The costs per customer for some other exempt entities could easily be double this impact or more. These sort of figures can ruin the value proposition to customers putting at risk the business model for some exempt entities.

### **3. Timing**

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TENC is of the view that manageable and equitable timeframe for implementation is required as we and other sellers will require time to implement these changes, traditional and larger retailers have had a much longer period within which to implement and we request that exempt sellers be afforded a reasonable timeframe. The Commission intends to make a final decision on the amendments to the retail code in September 2018 and propose to have the new obligations take effect from 1 January 2019. This may allow only 3-4 months for these many small exempt entities to prepare. Not only is 3-4 months a very short time to make the large changes required, exempt entities are in general unlikely in many cases to have the support of specialist teams to assist them in legal, compliance, IT and process changes and training etc.

We proposed that January 2020 would be sufficient to allow exempt entities to execute and implement the required processes to ensure compliance particularly for those required to implement Part 3 of the Code: PDF.

### **4. Conclusion**

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EnergyAustralia supports the principle that customers of exempt sellers should have a comparable level of protection as customers of licenced retailers. We also recognise the need to balance the costs of additional regulation against the perceived benefit to customers.

Of course, there are many smaller exempt sellers whose capacity to absorb these changes will be much less feasible. This should not be surprising given the payment difficulty framework was developed for the more traditional business model of licenced retailers with much larger customer base. EnergyAustralia considers the Commission should consider removing the need for exempt entities to comply with some of the more detailed clauses where the service benefits to customers are outweighed by disproportionate costs across all customers.

Should you require further information regarding this submission please call me on (03) 8628 1242.

Yours sincerely

**Melinda Green**  
Industry Regulation Leader