



## **Housing for the Aged Action Group**

ABN: 80 348 538 001 Reg: A0017107L

**Postal address: 1<sup>st</sup> Floor, Ross House  
247-251 Flinders Lane, Melbourne 3000**

Admin: 9654 7389 Fax: 9654 3407

Intake: 1300 765 178

Email: [haag@oldertenants.org.au](mailto:haag@oldertenants.org.au)

Website: [www.oldertenants.org.au](http://www.oldertenants.org.au)

3 August 2015

**By email: [geo@ecodev.vic.gov.au](mailto:geo@ecodev.vic.gov.au)**

### **Review of the General Exemption Order Department of Economic Development, Jobs, Transport and Resources**

This submission is a response by Housing for the Aged Action Group (**HAAG**) to the issues paper considering the General Exemption Order (**GEO**) related to license exemptions granted for the transmission, supply, distribution and sale of electricity in Victoria.

This response relates specifically to the exemptions granted to caravan and residential park and village owners and operators supplying and on-selling electricity through an embedded network, and the consequent impact on long term tenants and residents.

#### **About Housing for the Aged Action Group**

HAAG is an older persons housing information and support service that assists pensioners with limited income and little, to no, assets. HAAG's services are partially funded by Consumer Affairs Victoria (**CAV**) to provide tenancy and retirement housing information and support services to vulnerable and disadvantaged older Victorians.

The funding provided by CAV enables HAAG to assist residents and site tenants living in caravan and residential parks and villages throughout Victoria. This comprises a large portion of the work undertaken by HAAG's retirement housing service.

HAAG also facilitates and supports a working group representing residents and site tenants across Victoria living in caravan and residential parks and villages. The working group was consulted for response to the GEO issues paper and their feedback is reflected throughout this submission.

#### **Background and overview**

Caravan parks have traditionally provided affordable, holiday accommodation often also allowing for permanent residency in low numbers. Over time the industry has evolved to provide larger numbers of sites allocated for permanent residents, and in turn moveable dwellings have also evolved to reflect the interest in this type of affordable housing especially for retirees.

Dwellings can be rented on a long term basis in some caravan parks, but many permanent residents own their dwelling and rent the site on which it stands. This form of housing tends to cater for those with lower income and asset levels, as the age and style of dwelling provided is priced more affordably to purchase.

Another form of retirement housing, known as 'residential parks' or 'residential villages', began to emerge in Victoria around the 1980's and onwards, developing from the coastal holiday lifestyle options most prevalent on the New South Wales and Queensland coasts. Residential parks arose when people, mostly retirees, chose to live permanently in caravan parks in dwellings they owned. Over time parks began to choose either to provide mainly tourist sites or to offer mainly permanent living. The evolution towards permanent living became more evident in Victoria in the late 1990's – early 2000's and instigated the development of 'residential villages'.

Residential villages are purpose built villages for permanent living where people own their moveable dwelling and lease the site on which it stands. Villages are marketed at people over 55 years of age often offering a more affordable retirement lifestyle than retirement villages, although this is now changing as the industry grows exponentially.

Within many caravan and residential parks and villages operators supply and sell electricity through an embedded network. The shift towards a model focused on permanent housing for pensioners, coupled with the rising cost of living, has resulted in residents expressing concerns about:

- Their lack of choice in electricity retailer,
- Their inability to access the Energy and Water Ombudsman (**EWOV**),
- The cost of supply charges,
- The difficulties encountered when there is an electrical fault or failure in the park,
- Inadequate billing information,
- Lack of notification when charges are increased,
- Meter reading processes,
- Their inability to secure solar panel benefits, and;
- The lack of information provided upon entry into the park about the embedded network system.

## **Comments**

### **Key Issues – Retail Consumer protections**

- 1. How would consumers benefit from amendments to the GEO to specify what consumer protections should apply to consumers in embedded networks?**
- 2. Is it appropriate for the GEO to specify consumer protections? What should these consumer protections be?**

At present neither the GEO nor the Energy Retail Code (**ERC**) specify what consumer protections apply to customers of embedded networks. In the context of parks this makes it difficult for residents to know what to expect from a park operator, for example: when bills are issued, in relation to the disclosure of pricing and in the event of hardship.

It is important that applicable consumer protections are specified and disclosed to residents in parks that utilise an embedded network. Given the Essential Services Commission (**ESC**) administers the ERC it would seem appropriate for the ESC to specify which consumer protections apply to customers of embedded networks, rather than relying on the GEO to do so.

The GEO currently states that it is a condition of the exemption to observe “all applicable provisions of the Retail Code”. If the ESC provided the details of which protections were applicable then the GEO exemption could be amended to say:

*“the exempt person must observe all applicable provisions of the Retail Code specified by the Essential Services Commission, as if that person was a licensed retailer”.*

The protections residents have had difficulties with in relation to their electricity arrangements, and as outlined in the ERC, are:

- billing especially frequency and billing content,
- tariff changes although for parks there only appears to be one type of tariff (which itself is the issue),
- provision of information (or lack thereof),
- complaints and dispute resolution procedures which are virtually non-existent for park residents,
- meter reading and regulating who is authorised to undertake this, and;
- hardship, essentially meaning there are no hardship policies in place to allow for residents to enter into payment plans if they are struggling to pay their charges.

*Case study:*

*One particular caravan park operator, although not alone in this practice, provides a receipt for electricity once a bill has been paid. There is no bill issued for payment, no meter reading provided on the bill, and no other information pertinent to the bill as outlined in the ERC, except for the cost of overall charges.*

*It is unclear what information he is obligated to provide so HAAG wrote to let him know he must comply with the ERC and after 6 weeks no reply has been received and bills have not been improved.*

*There is no clarity about his obligations and about the rights of residents to ask for more information.*

All of the above protections should be made available to residents of a park with an embedded network. This information should be given to each existing resident, but more so should be made mandatory for operators to provide to prospective residents.

### **Classifying retail exemptions**

- 3. *Should the GEO be amended to specify different categories of deemed retail activities?***
- 4. *If yes, what categories should apply?***
- 5. *Should the Department introduce a registration system for exemptions?***
- 6. *If yes, what registration categories should apply?***
- 7. *What transitional arrangements (if any) should apply if the GEO creates a registration system?***

The issues paper mentions that the Australian Energy Regulator (**AER**) specifies various deemed and registrable classes of exemptions in the exempt selling network. One class, registrable exemption class R4, specifically mentions the sale of “metered energy in caravan parks, residential parks and manufactured home estates to residents who principally reside there”.

The GEO should be amended to reflect the same types of categories to have a consistent approach to energy exemptions. This way a park resident can more easily distinguish the conditions and obligations that an operator must adhere to in order to supply and sell electricity through an embedded network.

If the current system for exemptions does not include registration and as a result the Department has very little information on the activities of embedded networks then a registration system should be introduced. To simplify the process the registration categories could reflect the GEO exemption categories.

The Department should set up the registration system and allow entities a 12 month transitional arrangement to register.

### **Choice of retailer**

- 8. *Should exempt persons be required to provide written notice to all their customers stating that customers may purchase electricity from a licensed retailer of their choice?***
- 9. *Do stakeholders agree that the process of switching from an exempt seller to a licensed retailer is difficult for customers and should be improved?***
- 10. *What steps should be taken to facilitate choice of retailer for customers***

***within embedded networks?***

***11. How can the process be improved so that it is efficient and cost effective for customers to transfer to a licensed retailer?***

***12. Do stakeholders agree that consumers buying property off the plan should be provided with information as soon as practicable if their property will be configured as an embedded network? If yes, what information should be provided?***

The majority of residents in caravan and residential parks and villages in Victoria are not aware they can choose to remove themselves from the embedded network and find a licensed retailer to supply them electricity. Residents should definitely be told this is an option, whether they are existing residents or prospective residents.

The issue is how difficult and costly it would be to switch suppliers. The bulk of residents living in caravan and residential parks and villages in Victoria are older and therefore most likely to be pensioners. They could not afford to make the switch with the current processes in place.

One option would be to ensure a meter can be installed from a licensed retailer without having to remove the embedded network meter and that the cost is kept low by regulation, especially for residents of parks who live there permanently and especially for the majority who hold a pensioner concession card. If a resident chooses a licensed retailer the park operator should be required to allow access to the property for meter readings and should be penalised if they obstruct entry.

Currently in Victoria caravan and residential parks and villages are covered by the *Residential Tenancies Act 1997 (RTA)*. In the RTA it states that a park operator must not charge residents more than they are charged by their own supplier. The difficulty is in obtaining that information which, due to privacy, will not be given out to residents by the operators licensed retailer. Park operators do not provide that information freely either.

An alternative solution to providing a choice of retailer in an embedded network could be to make it a condition that a supplier must provide to their customers, in this case residents, a list of what they are charged by their licensed retailer as well as two other quotes for comparison. The park operator must then choose the most economical quote. It could be required on a biyearly basis so as not to make it too onerous for park operators and this would result in transparency of costs for residents.

The GEO should require that consumers buying property off the plan receive information about the embedded network and this should include consumers buying a new dwelling in a caravan or residential park and village. Although a requirement to provide information about an embedded network should be given to any person buying a property within an embedded network, whether off the plan or pre-existing. Many people are now entering into parks buying directly from residents who are looking to exit the park. This should not preclude them from receiving information that is relevant to their future living arrangement.

The information should detail:

- what an embedded network is,
- the conditions of exemptions provided,
- how choice can be exercised and the impact this might have on the customer,
- what consumer protections are applicable,
- what dispute resolution procedures are available,
- how pricing is set, and;
- how matters are enforced, including which authorities (with contact details) are responsible for the various elements of the network.

## **Key Issues – Networks**

### **Obligations on exempt network operators**

***13. Do stakeholders note any issues in regards to the deemed category of exempt networks in the GEO?***

***14. Do stakeholders agree that the obligations on embedded network operators in the Electricity Distribution Code should be updated?***

***15. If so, what clauses should apply to embedded network operators?***

The obligations on embedded network operators as outlined in the Electricity Distribution Code (**EDC**) should be updated. Of the clauses that embedded network operators are currently exempt from, the following should be made compulsory:

5.4.1(a) which outlines that an operator must make information accessible about any interruption or emergency affecting the supply of electricity. This is especially important for residents in parks who are never informed why there is a fault or failure and when supply will be restored.

9.1.2 to 9.1.6 which relate to the provision of a customer charter and what it must contain, the provision of the EDC upon request and information on the quality availability of supply.

9.1.12 which takes into account the multi-lingual needs of customers.

10.1.12 which ensures customers are told about complaints procedures and the availability of the Energy and Water Ombudsman Victoria (**EWOV**).

Most importantly EWOV should be available to customers of embedded networks. This will be addressed in more detail under dispute resolution.

## **Key Issues – Retail and Networks**

### **Pricing**



**16. Should the pricing rule in the GEO be amended?**

**17. If it is amended, what form of price regulation should apply?**

Currently for caravan and residential parks and villages in Victoria electricity charges are set by the ESC according to the distribution zone in which a park is situated. The ESC produces tariff tables that outline the maximum charges allowed for supply and usage.

Most residents express concern in relation to supply charges in an embedded network whereas usage charges appear to be more reasonable. When compared to supply charges outside of the park it often appears that residents are paying more and supply charges can sometimes exceed the amount residents are paying for usage.

At the top of the ESC tariff tables it states that:

*“long term or permanent residents (and those with permanent sites) should discuss with their caravan park or site management whether charging to the maximum level is appropriate for their circumstances. There is no requirement to charge at the maximum level in all circumstances, especially for the Supply Charge”.*

The issue is that park operators usually charge at the maximum and will not negotiate a lower charge for permanent residents. As mentioned before the RTA contains a section that does not allow park operators to charge residents more than they are charged by their licensed retailer but residents are unable to find out what those charges are.

*Case study:*

*A residential park operator sent out bills to residents with a letter stating they had been undercharged for electricity in the previous financial year so he billed them claiming he was recouping the amount they owed him.*

*The ESC tariff tables show the maximum charges an operator can charge and because this operator had charged below the tariff he believed the residents owed him money. HAAG advised the residents that he did not undercharge them but just charged below the maximum and therefore he could not recoup his costs. In this circumstance it is unclear what can be done and who is correct.*

There is a need to do a comparison between what park operators are charged and the charges they pass on to residents to work out what an appropriate price cap should be for long-term and permanent park residents, especially in relation to the supply charge.

Residents have also expressed that they would like to have the option of peak and off-peak charges, as they would with a licensed retailer. A majority of residents in caravan and residential parks and villages are retired pensioners and as a result are significant energy users. This is likely to be a consequence of being at home

more and therefore utilising electricity for longer periods throughout the day, such as heating in the winter and air conditioning in the summer.

Residents have also noted that different distribution zones result in different levels of costs. There is a feeling amongst park residents that there should be more consistency in electricity costs and perhaps charges should be based on the type of supply, such as an embedded network in a park compared to an apartment building, as opposed to the zone.

## **Enforcement**

***18. Are the current enforcement powers of the ESC adequate to enable it to take appropriate compliance action against an exempt entity?***

***19. If not, what powers does the ESC require in order to take action against an exempt entity?***

Currently the ESC can take administrative enforcement action against an exempt entity, whereas against a licensed entity the ESC has much stronger enforcement powers. The same enforcement powers should apply whether an entity is licensed or exempt.

The current issue is that residents in caravan and residential parks and villages do not understand what the ESC actually does and how it can assist them. This information needs to be much clearer and needs to be disclosed to all embedded network customers.

## **Dispute resolution – Network and Retail**

***20. What dispute resolution processes should apply to consumers in embedded networks?***

The fact that currently customers of an exempt retailer in an embedded network do not have access to proper dispute resolution is one of the main concerns for residents buying electricity from a park operator.

The current dispute resolution pathways that are available to residents within an embedded network are unclear and unknown to most residents as this information is not provided to them.

The issues paper states that the Victorian Civil and Administrative Tribunal (**VCAT**) can be utilised to resolve disputes but the process is not clearly outlined to residents. Residents do not tend to take matters to VCAT anyway, and in fact make up only a small percentage of matters heard under the Residential Tenancies List. If this is the only dispute resolution pathway available it will deter residents from disputing matters and can encourage park operators to take advantage of this vulnerability.



The issues paper also indicates that EWOV will often refer customers to Consumer Affairs Victoria (**CAV**) if they have a dispute but no resident has ever indicated that CAV has been able to assist with matters related to electricity supply through an embedded network.

What is clearly highlighted is that dispute resolution procedures currently available for customers of embedded networks are insufficient.

Residents believe they should be entitled to access EWOV to resolve disputes. Residents are more inclined to contact an ombudsman for assistance with a matter then to take it to VCAT. It is less confronting, free and provides access to expert knowledge with an aim towards fair and equitable outcomes.

### **Alternative Energy Sellers**

One concern mentioned by residents in relation to alternative energy sellers is in relation to installing solar panels on their park dwelling without being informed by the seller, or the park operator, that being part of an embedded network means they do not receive the direct benefits of this type of renewable energy. Where residents have installed solar panels they have also not received reductions in their charges where they thought they might due to the benefits the park operators may derive in their overall bills.

Although this does not specifically respond to the questions asked by the issues paper it highlights another problem experienced by customers of an embedded network.

#### *Case Study:*

*A residential park operator decided to provide a .08 cents per kw reduction for residents who had installed solar panels before realising they could not retrieve the benefits directly. When other residents installed panels later this reduction was not offered to them, even upon their request. The reduction was given at the discretion of the operator and lacked a consistent and equitable approach.*

There should be a requirement of embedded network retailers to alert customers to the implication of installing solar panels, and if customers have already done so to provide them with a reasonable reduction as surely they are receiving some benefits in their charges.

### **In conclusion**

Through the process of this review it is the hope of many caravan and residential park and village residents that their consumer protections will be stronger, clearer and more equitable.

Access to appropriate dispute resolution procedures is vital and the provision of information to prospective and existing residents is of utmost importance.

Reasonable and appropriate charges for supply and usage are especially important to the majority of park residents who are retired pensioners choosing to live in a park permanently as a more affordable retirement housing option.

Overall the limited obligations given to embedded network operators create a huge disadvantage for customers. Customers of an embedded network are still paying for their service and they should be given the same rights as any energy customer.

**Compiled by:**

Shanny Gordon  
Retirement Housing Information Worker  
Housing for the Aged Action Group Inc.

(03) 9654 7389

[shanny.gordon@oldertenants.org.au](mailto:shanny.gordon@oldertenants.org.au)