



EnergyAustralia

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Ms Jacqui Thorpe
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Dear Ms Thorpe

Regulation of alternative energy sellers under the National Energy Retail Law

EnergyAustralia welcomes the opportunity to provide input into the Regulation of alternative energy sellers under the National Energy Retail Law.

EnergyAustralia is one of Australia's largest energy companies, providing gas and electricity to over 2.7 million household and business customers in NSW, Victoria, Queensland, South Australia and the Australian Capital Territory. EnergyAustralia owns and operates a multi-billion dollar portfolio of energy generation and storage facilities across Australia, including coal, gas and wind assets with control of over 5,600 MW of generation in the National Electricity Market.

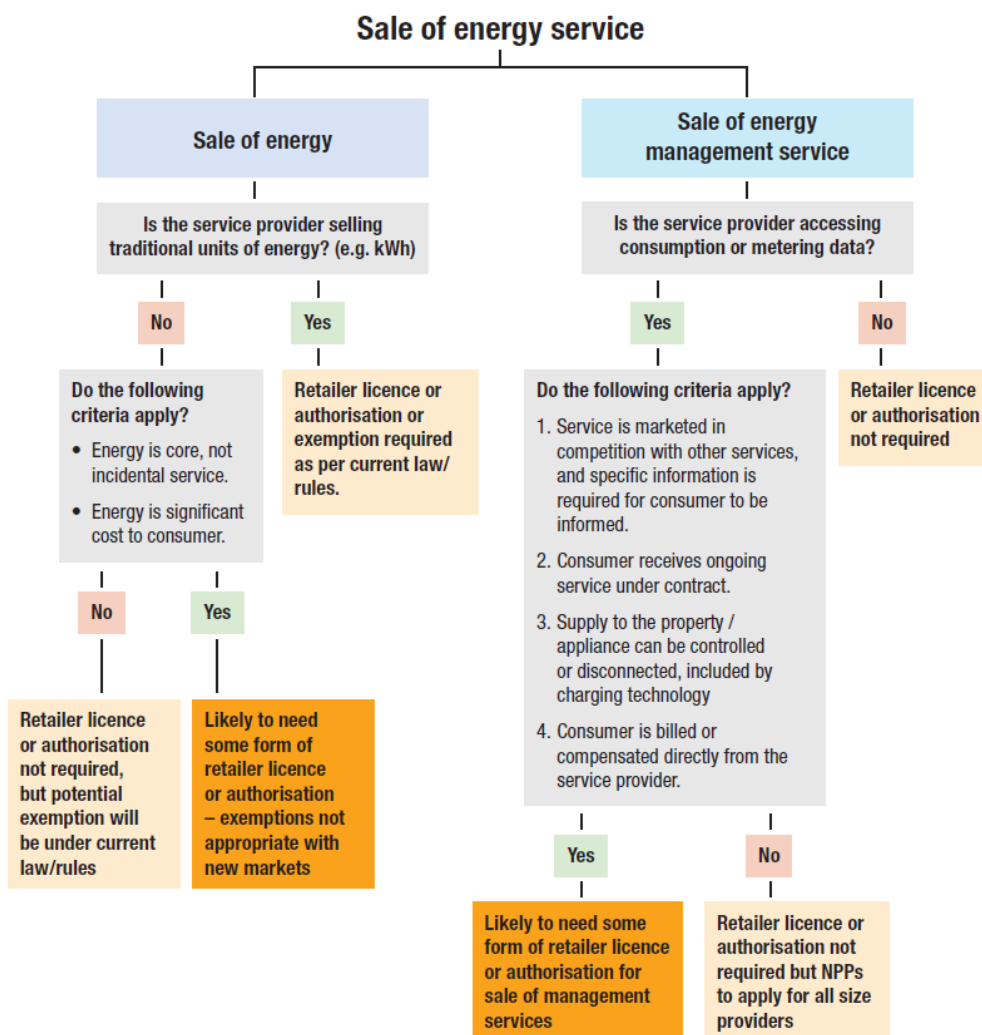
We agree with the AER that an appropriate regulatory framework is required to provide protections for those consumers serviced by energy services businesses who do not conform to the traditional retailer model. We are concerned however, that the proposed approach fails to anticipate the potential future developments in the market. Should a number of recommendations from the Australian Energy Market Commission's (AEMC) Power of Choice Review be implemented the concept of multiple financially responsible market participants (FRMP) for each NMI is likely to eventuate. This scenario undermines the AER's proposed approach which relies heavily on the concept of a primary provider of energy to a consumer and the advent of the multiple FRMP model will lead to considerable confusion as to which party is in fact a consumer's 'primary' provider, what is a 'significant' proportion of the consumer's energy and which portion of the load is an essential service.

EnergyAustralia considers that the Issues Paper is too narrow in focus in that it seeks to rely on the National Energy Customer Framework (NECF) in its current form. Although the NECF allows for exemptions from authorisations for sellers of energy who do not neatly fit within the traditional retailer model, these exemptions did not contemplate what are referred to in Issues Paper as alternative energy sellers. Rather, they were mechanisms to remove a potential administrative burden from those entities who sold energy to end users, but who for all intents and purposes did not fit the characteristics of a retailer (embedded networks for instance). These exempt

sellers were supplying energy as it is traditionally understood, but practical constraints required that an alternative to full retail authorisation be established.

The alternative sellers of energy that the AER is trying to manage through this process are entities which, do not retail energy as it is traditionally understood. In some cases, as outlined in the issues paper, they may sell only a portion of a consumer’s energy such as Electric Vehicle load, and in some cases may sell services beyond the supply of energy. We do not believe that the NECF exemptions regime is adequate to ensure that consumers are protected instances where the alternative seller is not the primary retailer but may still supply considerable load or in the scenario where the alternative seller is not providing energy but some related service such as demand management.

Given the emergence of these alternative sellers since NECF was initially conceived and finally implemented, EnergyAustralia believe that “future-proofing” should be a key principle in the design of any regime. Basing a scheme on the horizon one or two business models will simply lead to many of the policy issues being examined today requiring revisiting in the future. To counter this problem, EnergyAustralia supports a framework which objectively assesses business models. Retailers have already proposed a conceptual framework to assess the requirement for an authorisation or exemption through the Energy Retailers Association of Australia (ERAA). This model is shown below.



The proposed model allows for a transparent decision making process to determine whether an entity requires an authorisation or exemption based on the relationship with, and services it provides to the end user.

As well as allowing for the evolution of the energy retail and energy services markets in Australia, the objective decision based approach strengthens customer protections by ensuring that authorisations are required where it is appropriate. Although we do not support the creation of barriers to entry, it is vital that participants in the energy retail and energy services markets are required to demonstrate a level of technical capability and prudential assurance to reduce the risk of adverse consumer outcomes.

The assessment framework for alternative energy sellers needs to be such that it cannot be gamed by entities who may seek to circumvent regulatory requirements. An appropriate framework should judge entities on both the character and substance of their operations and not allow loopholes for entities who claim to be providing a service other than energy. For example, a provider of electric vehicle load cannot sidestep regulatory requirements by claiming to be selling kilometres, and in a case where energy and other services are provided, the entity must not be able to claim that the energy component is insubstantial by charging a token amount for energy which is cross subsidised by the other service or product offered.

While EnergyAustralia notes that the ERAA model may not be the only approach which provides for an objective assessment, we urge the AER to pursue an approach to regulating Alternative sellers that is based on the principles of optimising consumer protection, allowing for future market developments and ensuring that barriers to entry are minimal while providing a sufficient level of discouragement to 'cowboy' operators who are seeking to enter the market.

If you require any further information with regard to this issue, please contact me on (03) 8628 1731 email joe.kremzer@energyaustralia.com.au

Yours sincerely



Joe Kremzer
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