14 July 2017

Ms Sarah Proudfoot
General Manager
Retail Markets Branch
Australian Energy Regulator
By email: AERInquiry@aer.gov.au

Dear Sarah

Access to Dispute Resolution Services for Exempt Customers

Alinta Energy Retail Sales (**Alinta**) welcomes the opportunity to provide a submission on the Australian Energy Regulator's (**AER**) Issues Paper on "*Access to Dispute Resolution Services for Exempt Customers*"

Alinta is an active investor in the energy retail, wholesale and generation markets across Australia. Alinta has around 2500 megawatts of generation capacity in Australia (and New Zealand) servicing a growing customer base of over 750,000 customers in Western Australia and across the National Energy Market and is therefore well placed to provide comment on the Issues Paper.

At the outset, Alinta supports the premise that all energy customers should have access to independent dispute resolution services. These services need to be effective and efficient in facilitating the management of customer disputes so that they do not add an unnecessary cost burden to participants, given the "user pays" nature of the scheme. Support by Alinta for the inclusion of customers of exempt suppliers to have access to the Energy and Water Ombudsman Schemes (**Ombudsman Schemes**) would be conditional on the funding models to be employed.

The issue of providing exempt customers with access to existing independent dispute resolution services via Ombudsman Schemes is complex. Membership and jurisdictional issues that give effect to the ability of the Ombudsman to be able to direct exempt suppliers need to be addressed across a number of schemes.

Retailers who operate across a national platform already deal with inconsistencies across Ombudsman Schemes. At the same time as considering access for exempt customers, this consultation provides the opportunity to consider the wider functioning of the Ombudsman Schemes, for example, whether continuing with jurisdictional based schemes remains to be the most economic and efficient form of

providing independent dispute resolution services to energy consumers, or whether there is a continuing need for energy specific Ombudsman Schemes, or whether greater economies of scale and efficiencies can be achieved (including the inclusion of exempt customers) through a redesign of the schemes. These are valid questions to be asked when considering the issue of exempt customer inclusion in the existing schemes.

A nationally consistent scheme, one where energy forms part, or is a subset of, the combined dispute resolution services offered by an overall Ombudsman Scheme, may provide efficiency gains and improved outcomes for consumers.

In moving to give exempt customers access to the Ombudsman Schemes we would make the following recommendations.

Recommendation 1: Ombudsman Schemes should have jurisdiction over current exempt suppliers.

Recommendation 2: In order to give effect to the Ombudsman having jurisdiction over exempt suppliers, these suppliers should be required, under their exemption, to become members of the Ombudsman Scheme.

Recommendation 3: Ombudsman Scheme funding mechanisms need to be revised to account for a change in membership with the inclusion of exempt suppliers.

Recommendation 4: To support giving exempt customers access to the Ombudsman Scheme, constitutional amendments should be consulted on, including the ongoing composition of Ombudsman Boards; a change in membership categories would necessitate the restructuring of the Ombudsman Board composition.

Recommendation 5: As part of the AER's review and to assist with the achieving the above recommendations, consideration should be given to options for creating a national scheme, with the potential to revise the need for stand-alone energy specific Ombudsman Schemes.

Our detailed comments on the Issues Paper are contained in the following document. Should you wish to discuss any aspect of our submission or have additional questions I may be contacted on (02) 9372 2653 or via email: shaun.ruddy@alintaenergy.com.au

Yours sincerely

Shaun Ruddy
Manager National Retail Regulation

Alinta Energy Comments on Access to Dispute Resolution Services for Exempt Customers

The Issues Paper sets out the thinking on the potential to expand the existing Ombudsman Schemes so as to be able to take on the complaints of exempt supply customers. The NSW Energy & Water Ombudsman is the only scheme that currently takes on complaints from customers of exempt suppliers, however while it can take on these complaints, it has no jurisdiction over the exempt suppliers to compel them to address or act on customer complaints it may have received.

A key consideration with any change to the Ombudsman Scheme(s) is the ability to future proof their operation and effectiveness given the dynamic changes we are seeing in the energy supply market. More and more non-traditional business models are being employed in the supply of energy to consumers, with an equally ever increasing number not subject to authorisation conditions and thereby not subject to the requirement to be part of an independent dispute resolution scheme.

Allinta agrees with the first policy principle that all customers should have access to independent dispute resolution services. Customers should not be denied access to an independent dispute resolution scheme merely because they are supplied by an exempt supplier who is not subject to authorisation conditions that require binding membership of such a scheme.

However, a number of challenges exist in attempting to revise the schemes to include exempt customers. Any revised schemes will need:

- To be able to provide services to a wide range of consumers being supplied via unique arrangements (some covered by detailed authorisation conditions and some not);
- To ensure any scheme framework is sufficiently flexible to accommodate future market developments, particularly in light of technological advancements in a changing market, with the expectation of more diverse disruptive business models for the supply of energy to occur in coming years; and
- To ensure that the cost of providing the services are distributed equitably across those who are responsible for those costs i.e. user pays.

Under the National Energy Retail Law (**NERL**) customers of authorised retailers have access to free independent dispute resolution services, which are currently provided by state and territory Energy Ombudsman Schemes. It is the requirements under the NERL that give effect to the state based Ombudsman having jurisdiction over the (authorised) retailers.

For any Ombudsman Scheme to be effective in managing and resolving complaints from customers of exempt suppliers, the issue of the ability of the Ombudsman to direct exempt suppliers must be addressed. If this cannot be achieved in an efficient and effective manner, the effectiveness of the Ombudsman Scheme to address complaints from exempt customers is significantly compromised.

Recommendation 1: *Ombudsman Schemes should have jurisdiction over current exempt suppliers*

To address this issue a revision to the exemption guidelines / conditions is required, whereby exempt suppliers, as part of their exemption conditions for dealing with customer complaints, are required to be a member of an independent energy dispute resolution body.

Recommendation 2: *In order to give effect to the Ombudsman having jurisdiction over exempt suppliers, these suppliers should be required, under their exemption to become members of the Ombudsman Scheme.*

Potential barriers to membership of Ombudsman Schemes for exempt suppliers can be addressed via revised funding and membership models, which need to be both equitable and transparent. The fundamental basis for any Ombudsman financial model is that it must be based on a "User Pays" model.

Any financial barriers that exist for exempt suppliers may be addressed via revised funding models. One option would be to revise the funding model whereby the fixed proportion of the membership fee and annual fees is reduced, with a higher proportion of revenue for the running of the schemes coming from the variable case management fees.

Approaches to removing barriers to scheme membership can be reviewed in a more detailed focused consultation.

Recommendation 3: *Ombudsman Scheme funding mechanisms need to be revised to account for a change in membership with the inclusion of exempt suppliers.*

As previously discussed, in order to be able to take on complaints from exempt customers, changes will be required to be made to the funding and membership model of the schemes. In addition to these changes, amendments will also be required to be made to the Ombudsman Scheme constitution.

The addition of new membership categories (e.g. Exempt Supplier) will require changes to the Governance of the scheme and that of the Ombudsman Scheme Board (**Board**). In order for the Board to have effective cross industry representation and expertise, its composition should be revised to include industry representation across categories of suppliers, including First Tier (Incumbent), Second Tier (New Entrant / Challenger) and Exempt Supplier.

Revised Board composition, where industry sectors are represented by one of their industry peers, will aid in gaining membership support for the scheme.

Recommendation 4: *To support giving exempt customers access to the Ombudsman Scheme, constitutional amendments should be consulted on, including the ongoing composition of Boards; a change in membership categories would necessitate the restructuring of the Board composition and aid in gaining membership support for the scheme.*

In reviewing the current limitations with the existing schemes' ability to take on complaints from exempt customers, the issue of nationalisation of the schemes becomes a consideration. A national scheme provides an option to ensure an efficient consistent model for providing independent dispute resolution can be provided to participants that operate across a national platform.

A further question to be consulted on is the on-going need for energy specific Ombudsman Schemes. As we move to a more diverse market for the supply of energy where the types of customer issues being raised are less energy specific and more contract service based, a considered review should be undertaken to look at the on-going need for an "Energy Only" Ombudsman.

Recommendation 5: *As part of the AER's review and to assist with the achieving the inclusion of exempt suppliers into the scheme, consideration should be given to options for creating a national scheme, with the potential to revise the need for stand-alone energy specific Ombudsman Schemes.*