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Mr Mark Feather
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Australian Energy Regulator
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By email: AERpolicy@aer.gov.au

Retailer Authorisation and Exemption Review

Dear Mark

Alinta Energy welcomes the opportunity to comment on the Australian Energy Regulator's issues paper on the review of Retailer Authorisations and Exemptions.

Alinta Energy, as an active investor in energy markets across Australia with an owned and contracted generation portfolio of more than 3,000MW and over 1 million electricity and gas customers has a strong interest in policies and regulations governing the retail energy authorisations and exemptions framework.

The authorisations and exemptions framework review is in essence an early-stage assessment of whether the National Electricity Market design remains fit for purpose, in light of the evolutionary market changes, predominantly influenced by technology advancements and innovation in both the generation, delivery and use of electricity at a consumer / household level.

While it is important to have these discussions, given the current level of regulatory reform occurring across other aspects of the market (including, Customer Data Right, Vulnerable Customer Strategies, Better Bills Guideline etc) that will materially impact the functioning of the market, it is important that these reforms are implemented and bedded down before consideration is given to the overall function of the energy market with respect to the authorisations and exemptions framework.

The current framework is functionally influenced by the prevailing market design, and in this case the prevailing premise that energy is an essential service. Therefore, anyone seeking to take on the responsibility for supplying such a service must be able to demonstrate the ability to meet a minimum set of prescribed conditions prior to being granted the right to do so.



The consumer protections under the current framework are focused on “traditional” retailers selling energy and energy related services. If the current framework is deemed not to be conducive to the promotion of new innovative energy services, then it stands to reason that they are also no longer fit for purpose for the traditional retailers supplying these services. This point is critical to ensure the authorisation and exemption framework is competitively neutral.

Alinta energy’s detailed comments are set out below. Should you have any questions or wish to discuss any aspect of our submission I may be contacted on [REDACTED] or via email: [REDACTED]

Yours sincerely



Shaun Ruddy
Manager National Retail Regulation

Retailer Authorisation and Exemption Review

The retailer authorisations and exemptions framework are a function of the market design with the overarching intention of ensuring adequate consumer protections are maintained regardless of the party that is responsible for a consumer's energy supply requirements.

This remains true in a transitioning energy market where the supply of energy is an essential service. We have seen previous examples where transitioning energy services, in the form of embedded networks, were allowed to propagate in the absence of adequate consumer protections, something that we would not want to see repeated for concern that it would undermine trust in the energy sector and result in negative impacts for consumers.

Whilst the energy market is being impacted by new technologies and services that result in shifting market characteristics, consumer confidence and consumer protections should remain a fundamental priority for any governance oversight.

Equally important is ensuring that any authorisations or exemptions framework does not materially disadvantage competing providers of the same service, that is ensuring competitive neutrality is maintained (even promoted).

Any harm and risk assessment used in determining the need for and breath of coverage of obligations for the provision of energy supply and services must be suitably robust. This includes the assessment of competitive neutrality across the market.

It should also be recognised that the provision of new energy services by non-traditional energy retailers may have the unintended consequence of placing additional burden on traditional energy retailers. The harm and risk assessment should also consider this possibility. Again, if this outcome occurs it will further impact competitive neutrality.

Essential Nature of New Energy Services.

For any new energy supply / service where energy is consumed by the end use customer, consideration must be given as to whether the supply is essential. The criteria to assess the essential nature of the energy supply would in essence need to be conducted at an individual level. For example, the electricity supply to charge an electric vehicle. Whether this is considered to be essential or not may vary based on the customers need or use of the electric vehicle and the individual circumstance of the customer and their needs.

Therefore, as a starting point all energy supply should be considered essential. For a particular supply of energy and/or service to be considered non-essential, this would need to be an evidence-based justification that the customer uses the energy or service by choice, and that, if the customer did not choose the service on offer, it could easily be substituted. Such an assessment may need to be undertaken at an individual customer level.

Regulatory Responsibilities

Current regulatory and consumer protections as set out in the NECF apply to traditional and exempt retailers. There remains a risk that issues may arise associated with competitive neutrality for traditional retailers where they are the only market participant that continues to bear the regulatory responsibilities under the NECF, in a market where traditional and non-traditional suppliers of energy supply and services compete.

Any variation to the level of regulatory responsibility between traditional and non-traditional suppliers should only be considered after a detailed assessment confirms the need for the variation will not adversely impact a traditional retailer's ability to compete in the market with non-traditional retailers.

This review should consider whether the current regulatory framework remains fit for purpose.

Consumer Protections in NECF

Existing consumer protections provided under the NECF were determined by policy makers and regulators as providing an appropriate level of protections for energy consuming customers. These NECF consumer protections should at a minimum cover the provision of energy supply and services regardless of the business model under which the energy supply and services are being provided. If the review is to consider whether these protections go beyond what is required under some business models, in order to ensure competitive neutrality, consideration must also be given to whether the current framework remains fit for purpose, including an assessment of the ongoing need for the current level of consumer protections. This assessment should be conducted as its own detailed consultation, given its importance in considering future market structures.

To the extent that the assessment confirms a need to retain the current levels of consumer protection, again under competitive neutrality principles, the expansion of, or application of, existing NECF obligations to non-traditional retailers must be considered.

Tailoring specific obligations to apply to certain authorisation categories would introduce an unwarranted level of complexity and impose additional compliance costs, for minimal benefit.

Likewise, any decision to maintain or vary the application of the authorisation and exemptions framework, and subsequently the consumer protections under the NECF, needs to take account of the potential additional regulatory costs and burden.

Assessment of Authorisation Holders Ongoing Capacity

Any trigger for the audit of an authorisation holder's ongoing capacity against arrangements in the granted authorisation, should only be triggered where there is evidence demonstrating a potential change in the authorisations holder's capacity to meet their obligations or where their business activities have materially diverged



from those under which the authorisation was granted. This approach should apply to all retailers under any authorisation and exemption framework.

Summary

The retailer authorisations and exemptions framework are a function of the market design with the overarching intention of ensuring adequate consumer protections are maintained, regardless of the party that is responsible for a consumer's energy supply requirements.

Whilst the energy market is being impacted by new technologies and services that result in shifting market characteristics, consumer confidence and consumer protections should remain a fundamental priority for any governance oversight.

A review of the level of and ongoing requirement to maintain the current level of consumer protections should be conducted as its own detailed consultation, given its importance in considering future market structures.

Any change to the level of regulatory responsibility, resulting in a regulatory concession for non-traditional retailers should only be considered after a detailed assessment where the need for its ongoing application across traditional retailers will not adversely impact their ability to compete in the market with non-traditional retailers. Competitive neutrality must be maintained.