

30 May 2022

Mark Feather  
General Manager,  
Strategic Energy Policy & Energy Systems Innovation  
Australian Energy Regulator  
GPO Box 3131  
CANBERRA ACT 2601  
BY EMAIL: [AERpolicy@aer.gov.au](mailto:AERpolicy@aer.gov.au).

Dear Mark,

Re: *Submission to AER retailer authorisation and exemption review*

As an authorised retailer and embedded networks operator, Altogether Group (**Altogether**) welcomes the opportunity to provide feedback to the Australian Energy Regulator (**AER**) regarding the **Retailer authorization and exemption review issues paper (Issues Paper)**. We support reforms that yield greater consumer protections and reforms within the retailer authorization and exemptions framework (**RAEF**) in an evolving energy marketplace, which we consider is likely to include more non-traditional energy retailers. We support the uplift of consumer protections to ensure the RAEF remains fit for purpose for a decentralized grid. Whilst we await the delayed implementation of the AEMC's *Updating the Regulatory Frameworks for Embedded Networks (URFEN)* in 2019 we note the following responses to the Appendix 1, consultation questions to the Issues Paper.

*Interaction of new energy products/services with the NECF*

- 1 - 2. We support the use of cases/business models to identify harms/risks of energy services and products to the extent that the AER is open to consider essentiality of common models, and those that are unique to their own. We have no further comments relating to the types of cases/business models identified.
3. Altogether contends that any supply of energy to customers ought to require similar consumer protections offered by authorised retailers to ensure vulnerable customers such as life-support customers are protected at all times.
- 4 - 5. No comment.
6. The regulatory responsibilities set out in the NECF ought to apply to retailers, as expanded to include non-traditional energy product and service providers, where the nature of those services affects consumers similar to that of traditional energy suppliers.

*Current and emerging challenges arising in a transforming energy sector*

7. Altogether contends that the current RAEF is not fit-for-purpose for the following reasons:
  - (a) in the current frameworks, the RAEF:
    - is a point in time authorisation process and a perpetual license – authorised retailers should be subject to review of their license to ensure retailer compliance with NECF, with the threat of license revocation.
    - as the number and types of non-traditional energy product and service providers increases, we urge the AER to ensure new participants are required to be authorised licensees in some format, and not caught under the underenforced retailer exemption framework - we have seen numerous incidents of non-sophisticated and unscrupulous embedded network operators relying on the retailer and network exemption framework, resulting in poor consumer outcomes and protections. For this reason, we reiterate the importance of implementing the URFEN (or at least the substance of that reforms package), but also ensuring that any new additional energy product and suppliers are required to be authorised licensees in some form.
  - (b) We contend that the relevant form of consumer protections exist under NECF, but are not adequately afforded to customers due to gaps in the retailer authorization framework, and a lack of oversight of existing retailers (as noted in in para (a) above).
- 8 - 9. Refer to our comments in 7(a) above.
10. Serious misconduct of authorised retailers and exempt sellers ought to be addressed by ensuring the NECF retailer authorization framework captures the intent of the URFEN by expanding the types of parties required to be authorised, and by introducing the ability to revoke retailer licenses for serious misconduct.

*Identifying risks arising from new energy technologies*

- 11-12. Altogether agrees with the approach and the identified risks and harms noted in the Issues Paper but reiterates that risks relating to embedded networks could be readily mitigated by implementing the substance of the URFEN to enshrine consumer protection obligations to embedded network retailers.

13. Altogether generally agrees with the ECA's consumer archetypes being used to assessing identified risks, but also suggests the use of a life-support customer either as a type of archetype or subsumed into the categories noted.
14. Altogether agrees that the conduct of energy businesses will also impact the risks around new energy products and services but has no comment as to the requirement of additional consumer protections at this stage. Altogether contends that of greater importance is the AER enforcing the provision of existing consumer protections by retailers.
15. We generally agree with the mitigants noted in the Issues Paper.

*Considering regulatory reforms to manage energy transition challenges*

16. Altogether agrees that an expansion of the scope of NECF should take place by ensuring that new energy products and service providers are captured under the retailer authorization framework, and that consumer protections are extended to ensure those consumers are not left behind. We otherwise reiterate comments in this submission regarding implementation of URFEN to mitigate issues already present in the NECF.
17. We agree that the development of a fit-for-purpose retailer authorisation and exemption framework is required and agree that point-in-time authorization for retailers is no longer fit for purpose. We otherwise caution the use of the exemption framework given the current porous retail and network exemption framework that has resulted in negative consumer outcomes for embedded network customers not sold electricity by legally abiding authorised retailers.
- 18 – 21. We have no comment as to the efficacy of introducing a form of limited retailer authorisation (relating to business model/type/or activity), the development of a core set of retailer obligations, nor a need to seek variations to existing retailer authorisations in the event the retailer's business model changes, until a model is presented
- 22-23. We support the need for AER audits on retailer activities against arrangements set out in their original retailer and exemption application and consider valid triggers including when a party has been fined for a significant breach of the NECF, insolvency, change in ownership, and or done routinely every 3-4 years after an audit has already taken place. Altogether has no concerns over the form of validation provided (i.e. whether it be a certificate of compliance, or done by way of an audit as is the case for water industry participants under the IPART regime in NSW).
24. Altogether notes that limiting additional regulatory cost could be achieved by streamlining audit requirements into a format similar to the AER performance reporting regime (i.e. clear guidelines, the audit ought to be a desktop audit).
25. We consider an audit of a retailer's ability to comply with the representations made in the original application ought to be sufficient in the event of a change in control of an authorised retailer (in the event retailer authorisation audits were to be introduced).
26. Altogether reiterates that URFEN in substance ought to be implemented, and, to ensure that the retailer exemption framework only captures a very small subsection of participants.
- 27-29. Altogether has no comment on these specific issues.

*Other potential changes to the NECF*

- 30-36. Altogether has no comment on these specific issues.

Altogether is happy to discuss this further, please feel free to contact me on my details below.

Kind regards

**Drew McKillican**



**Executive Manager of Energy**

