

18 December 2017

Attention Sarah Proudfoot
General Manager, Retail Markets Branch
Australian Energy Regulator
GPO Box 520
MELBOURNE VIC 3001

Dear Ms Proudfoot

Submission on Draft AER (Retail) Exempt Selling Guidelines Version 5

Caravan Parks Association of Queensland Ltd (CPAQ) appreciates the ability to provide input into the current Australian Energy Regulator's (AER) consultation on the Draft AER (Retail) Exempt Selling Guidelines Version 5.

As previously indicated we believe the AER must strike a balance between the regulatory burden imposed on exempt sellers, and any additional costs that would be incurred. Where additional costs are incurred it can be expected that these will be passed on to the customer, or, as is the case for caravan parks in Queensland on-charging for utilities under the Residential Tenancies and Rooming Accommodation Act 2008 or Manufactured Homes (Residential Parks) Act 2003, potentially impact the financial viability of the seller.

Recommendations

- (1) Should the AER introduce Condition 16 in its current form, that the complaints handling mechanism not be overly burdensome on sellers (or be in line with the requirements of state based legislation which governs long term residents in caravan parks)
- (2) Changes to Condition 17 (1) (a) must allow for alternate types of membership of an ombudsman scheme (i.e. membership through a third party such as a peak body)
- (3) Further work be completed on the definition of "Embedded Network"
- (4) Amend exemption class D3, so that only "the basis on which tariffs, fees and charges are calculated" be required
- (5) Further consultation be completed with stakeholders prior to the insertion of condition 11 (1) (c)
- (6) Condition 12 (1) (a) be amended to "the exempt customer's capacity to pay (where sufficient information has been supplied by the customer to make the determination)"
- (7) Further information needs to be made available on the logistics of condition 18 and 19 before comment can be made on these changes



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Background

In Queensland, there are a large number of caravan parks, many of these mixed-use parks (that is caravan parks with a mix of tourists, permanent caravans, and residents in manufactured homes) which on-sell electricity to the permanent residents within their park under the registration class R4, as set out within the AER (Retail) Exempt Selling Guidelines, as an embedded network operator.

Caravan parks operate under the Residential Tenancies and Rooming Accommodation Act 2008 (RTA) and Manufactured Homes (Residential Parks) Act 2003 (MHA) when providing long term accommodation for residents, both of which set out specific requirements for the on-supply of utilities and provide sound dispute resolution systems.

This legislation, specifically section 99A of the MHA and section 167 of the RTA, prescribes how a park operator can charge their residents for the supply of utilities, in this case electricity.

Both these pieces of legislation require that the caravan park does not charge the tenant more than the amount charged by the relevant supply authority (and in the case of the Manufactured Home (Residential Parks) Act 2003 that the park not charge more than the cost of supply for the use of utility).

Under the recently passed Housing Legislation (Building Better Futures) Amendment Bill 2017 the MHA prohibits the seller from charging more than the cost of supply for the use of the utility, or charge an amount for reading a meter for the use of the utility or another amount for administration relating to the supply, or on-supply, of the utility to the site.

Section 99A: Separate charge by park owner not to be more than cost of supply for use of utility

(1) This section applies if—

- (a) under a site agreement or another agreement or arrangement, a home owner for a site in a residential park is required to pay the park owner or a third party for the use by the home owner of a utility at the site; and*
- (b) the use is separately measured or metered.*

(2) The park owner must not charge the home owner or arrange for the home owner to be charged, an amount (a prohibited amount) for the use of a utility that is more than the amount charged by the relevant supply entity for the quantity of the service supplied to, or used at, the site.

Maximum penalty—20 penalty units.

(3) For subsection (2), the park owner charging the home owner, or arranging for the home owner to be charged, an amount for the use of the utility includes—

- (a) the park owner directing the home owner to pay the amount to a third party; and*
- (b) the park owner agreeing or arranging with a third party for the home owner to be charged the amount and the park owner or third party charging the home owner the amount for the purpose of that agreement or arrangement.*

(4) Without limiting subsection (2), a prohibited amount includes the following amounts charged, or purported to be charged—

- (a) an amount for reading a meter for the use of the utility;*
- (b) another amount for administration relating to the supply, or on-supply, of the utility to the site, including, for example, an amount relating to obtaining for the home owner a State government concession or rebate for the supply or on-supply of the utility.*

As a result, the on-sale of electricity is a service that caravan parks offer to their residents, operated at a loss, recognising that it is an essential service, and not a primary business activity.

Under the RTA and MHA caravan park residents have access to mediation and QCAT should a dispute be unable to be resolved internally. Under the Housing Legislation (Building Better Futures) Amendment Bill 2017 a new three step dispute resolution process was introduced:

- (1) **Negotiation:** The parties must meet and try to resolve the dispute by negotiation
- (2) **Mediation:** If step 1 is unsuccessful, a party to the dispute may apply to the registrar to refer the dispute for mediation
- (3) **Application to tribunal:** If step 1 and 2 are unsuccessful, a party to the dispute may apply to QCAT for an order to resolve the dispute

This process is similar to the process available to tenants under the RTA (although slightly more formalised).

Condition 2 – Information Provision

As this is only a minor drafting amendment we have no issue with this amendment.

Condition 16 – Dispute Resolution

Should the AER introduce the requirement that Exempt Sellers “develop and make a set of procedures detailing the exempt person’s procedures for handling complaints and disputes” we would ask that the AER work with industry bodies such as Caravanning Queensland to educate Exempt Sellers as to best practice in meeting the standards required as well as providing all Exempt Sellers access to the Australian Standard set out in Condition 16 (2), ensuring the most current version is available to these Seller’s at all times.

Further should the complaints handling process need to be in line with an Australian Standard that the AER must clearly communicate to all Exempt Sellers when there is a change to the standard.

As raised at the Stakeholder Forum on 14 December 2017 it is also important to clarify which standard 10002:2014 will apply – International Standard ISO 10002:2014 (Customer satisfaction – Guidelines for complaints handling in organizations, or Australian Standard AS/NZ 10002:2014 (Guidelines for complaint management in organisation) as these two documents appear to have quite different desired outcomes, one being customer focused and the other process driven.

Most of our member businesses are small to medium sized businesses already struggling with the ever-evolving regulatory burden placed on them, as a result we would ask that any additional requirements placed on them not be overly onerous and not create an unnecessary administrative burden.

Condition 17 – Member of energy ombudsman scheme

As previously advised we believe that the existing state based legislation (in Queensland at least) provides ample consumer protections around the on-supply of utilities without creating additional costs and confusion for both business owners and residents.

Should it become a requirement to be a member of an energy ombudsman scheme we would ask that the AER ensure that the wording of this clause allow for the various types of membership that may occur, including but not limited to, instances where a peak body joins the Ombudsman scheme allowing access to the scheme for all their members.

The wording used in Condition 17 (1) (a) should be consistent in the Retail Guideline and Network Guideline.

For those jurisdictions that do not have an appropriate Ombudsman scheme what requirements will Sellers in those States be required to meet?

Glossary Variations

The draft AER (Retail) Exempt Selling Guidelines sees a new definition for Embedded Network which refers to “a privately owned electricity network where a single meter (which is supplied by a retailer) provides all the energy for the site”.

Many caravan parks in Queensland that are running embedded networks that have multiple meters – this may be due to an expansion in the park, changes to the requirements of the park over time or some other reason (keeping in mind that nearly all caravan parks in Queensland have been around for a minimum of 20 years).

Clarity is required on how these businesses would sit within this definition.

Other Core Exemption Condition Variations

Condition 3 (l): We have no issue with this change as those caravan parks (class R4) that are charging for the on-supply of electricity are already required to provide this information under the state legislation. Due to the type of relationship between a caravan park (class D3) and their customer (holiday maker) we do not believe this level of information is necessary for this relationship and would recommend that information about “the basis on which tariffs, fees and charges are calculated” would be sufficient.

Condition 11 (1) (c): It is important to note that ‘agreement’ to enter into a payment plan is not the same thing as actually making payments to reduce the debt. While most customer would be trying their best to reduce their debt this clause is open to systematic abuse and should be tightened up. We would strongly recommend that further consultation be entered into prior to the insertion of this clause.

Condition 12 (1) (a): Due to the relationship park operators cannot be expected to have the necessary information required to decide on a customer’s capacity to pay – this condition should be restricted to where sufficient information has been supplied by the customer to make this determination.

Condition 18: Prior to commenting on the suitability of this condition we would like further clarification on how the Exempt Seller is to communicate this information. Does this information need to be supplied to each resident? Can it be supplied electronically (email or SMS) or must it be by mail? Is a notice in a common area sufficient? Further in some cases the planned interruption may be by the “to the gate” retailer in which case the Exempt Seller may not have four business days’ notice available to them – in these instances does this become an unplanned interruption to supply?

Condition 19: As per Condition 18, further information is required on the logistics of this condition prior to informed comment being made.

About us

Caravan Parks Association of Queensland Ltd (CPAQ) is the industry body representing caravan parks in Queensland. Established in 1966, the association is the voice for the sector, providing support and networking opportunities in addition to advocating on behalf of the industry, and promoting the sector to interested consumers.

There are currently over 450 full and associate members of CPAQ, made up of caravan park operators, mixed use parks (i.e. catering for caravans and residents in manufactured homes), and campgrounds, large and small, from all corners of the State, along with industry suppliers, tourism businesses, and regional and local tourism organisations.

We seek to work with both state and local governments to balance the needs of the consumer (which includes permanent residents in caravan parks) with those of the Government and industry. We actively strive to ensure not only that minimum standards within caravan parks are met, but that over time these industry standards are in fact driven higher.

As the peak body for the sector we aim to:

- Foster and assist in the development of the caravan parks industry
- Encourage a high standard of quality service and ethics from caravan parks in Queensland
- Strongly advocate for a level playing field for all industry participants
- Promote Queensland Caravan Parks as the holiday destination of choice
- Work closely with State and Local Government for the benefit of our members and councils
- Provide support and advice to member businesses and distribute relevant information to ensure the smooth running of member businesses

Once again, as an important stakeholder in relation to the draft AER (Retail) Exempt Selling Guidelines version 5, thank you for the opportunity to provide feedback on this draft document.

Should you have any questions about the content of this submission, or wish to discuss the implication of these changes on caravan parks in Queensland I would welcome your call on 07 3862 1833.

Kind regards



Michelle Weston
General Manager