

12 July 2017

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

Dear Ms Proudfoot

Access to dispute resolution services for exempt customers

Caravan Parks Association of Queensland Ltd (CPAQ) appreciates the ability to provide input into the current Australian Energy Regulator's consultation around dispute resolution services for customers of exempt energy sellers and exempt network service providers (exempt NSP's).

We believe the AER must strike a balance between the regulatory burden it imposes and the selling activities of the exempt seller. It could be argued that the implementation of an ombudsman service for exempt seller customers imposes a significant regulatory and cost burden on the seller while not providing the customer any real benefits (as opposed to perceived benefits).

Due to the already high cost burden for caravan and residential parks operating embedded networks we believe an ombudsman service would be detrimental to the industry and the customers it seeks to support.

Education and support services, such as a help-line, may better serve to support both the customer and the exempt seller than an ombudsman service.

Background

In Queensland there are a large number of caravan parks (many of these mixed use park, that is 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.

Queensland legislation, specifically section 99A of the Manufactured Home (Residential Parks) Act 2003 and section 167 of the Residential Tenancies and Rooming Act 2008, 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 make a profit from the on-sale of the utility).



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As a result the on-sale of electricity is a service that these parks offer to their residents for no financial gain to their business, in fact they largely operate at a loss due to the significant administrative work that results from running an embedded network (reading meters, calculating electricity charges and rebates, invoicing, and chasing outstanding accounts in addition to the infrastructure maintenance costs).

While the legislation allows for these administration costs to be absorbed in site fees or rent there is also legislation that limits a park's ability to increase these fees beyond a certain amount in a given period.

What should be our approach to considering exempt customer access to ombudsman schemes?

While we understand and support the need for customers to be able to access free or low-cost dispute resolution processes this needs to be carefully balanced with the cost and regulatory burden that such a service would inflict on the embedded network provider. This is particularly relevant where it comes to caravan parks as these businesses are already making a loss on the on-supply of electricity due to the administration functions and infrastructure costs associated with it. Increasing the financial burden of this service will only serve to see more parks looking for ways to no longer provide this service.

Further, any increased cost to a park operator through a user-pays system would likely erode the value that their customers currently receive in their electricity supply costs (either directly or through site rent fees) while not providing the customer with any real (as opposed to perceived) benefits.

Currently under both Condition 15 of the Retail Guidelines and Condition 6 of the Network Guideline:

"In the event of a dispute concerning the sale of energy to an exempt customer, and in the absence of a determination of the relevant tenancy tribunal if the customer is a tenant..."

As all customers of caravan parks would be considered to be a tenant, either renting the land and building or just the land depending on the circumstance, where a successful resolution to a dispute cannot be determined the relevant tenancy tribunal (in our case QCAT) is involved in the dispute resolution process. A determination by QCAT is binding for both parties and as such we believe this is a much more suitable outcome for both parties than an ombudsman's decision where the customer is not bound by the decision.

While it could be perceived that residents in caravan parks are a customer group that need a higher level of protection this needs to be carefully balanced with the burden to the caravan park which is providing this as a service to their customer, not as a core business activity.

Clear education to businesses operators regarding common misconceptions or issues, and to customers regarding their rights and obligations might better serve to protect these potentially vulnerable customers without imposing further costs on either the business operator or the customer (albeit indirectly). This may include a Help-Line which either customers or businesses could call with queries and a series of fact sheets designed to educate all parties.

What is the scale of the problem?

Disputes relating to energy are relatively low in caravan parks. Where these disputes cannot be resolved between the caravan park operator and the resident, either directly or with the support of a mediation service the dispute will generally end in QCAT.

Regular communication with bodies such as the Residential Tenancies Authority and the Residential Services Unit at the Department of Housing and Public Works would provide an indication of the number of calls and

the nature and seriousness of these calls for customers living in caravan parks as these authorities are a source of information for both caravan parks and consumers and are able to provide accurate advice to callers to help them resolve their issues.

Identification of common questions may provide opportunities to work with industry to provide further education to businesses where the on-supply of energy is not a core business activity.

Due to the low level of complaints and the other mediation and complaints handling processes in Queensland we do not believe there is the need to justify an Ombudsman service for exempt sellers under the registration class R4.

What is the nature of energy disputes experienced by exempt customers?

The primary energy related enquiries we hear of relate to pricing, particularly from caravan parks and residential parks looking to ensure that they are charging their residents the correct rate for their electricity, and other utilities if appropriate.

Due to their nature, caravan park residents often form a very strong sense of community, this propensity to develop an internal network is highly beneficial for those customers who may be considered more vulnerable. This sense of community and the networking opportunities it provides allows residents to share information and we often find that residents seek information, advice and support from other residents when they are unaware of their rights and/or any dispute resolution processes. This sense of community will generally provide a higher level of support for residents who may not know what to do when they have a problem, particularly over those living in the general community (outside of the embedded network).

Can existing external dispute resolution mechanisms effectively deal with energy disputes?

In the first instance it is recommended that all disputes between a caravan park owner/operator and their residents, are dealt with through the park's internal dispute resolution service. This process may include making a complaint through the Home Owners Committee (for manufactured home parks), speaking with the nominated person who deals with complaints at the park (i.e. the manager, a resident, or a staff member), or engaging an independent mediator.

In the event that the dispute cannot be resolved internally there are a number of bodies in Queensland that can provide mediation services including (but not limited to) the Residential Tenancies Authority (for tenants under Residential Tenancy Agreements), or the Park and Village Information Link (PAVIL), a free service provided by Caxton Legal Centre (for residents of manufactured home parks, or on manufactured home site agreements). The Department of Justice and Attorney-General's Dispute Resolution Branch may also be able to help to resolve conflicts.

Complaints can also be taken to QCAT, as decisions made by QCAT are binding for both parties this can prevent any ongoing complaints if a customer is not happy with a decision (which could occur with an Ombudsman's decision). QCAT also has an abbreviated mediation program where issues can be settled before the tribunal makes a decision on the matter.

Customers living in caravan parks have access to a range of support groups who can help them navigate issues to do with their living situation. These groups include:

- Residential Tenancies Authority
- Park and Village Information Link (PAVIL)

- Residential Services Unit at the Department of Housing and Public Works
- Tenants Union
- Manufactured Home Owners Association (MHOA)
- Queensland Statewide Tenant Advice Referral Service (QSTARS)

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 460 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, industry suppliers, tourism businesses, plus 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 parks) with those of the Government and industry. We actively strive to ensure not only that minimum standards within 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

For further information please contact Michelle Weston, General Manager, Caravan Parks Association of Queensland.