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Queensland  
Government

Our reference: CTS 25379/15

Department of  
Energy and Water Supply

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

Dear Ms Proudfoot

**Re: Notice of Draft Instrument: Amendments to the Australian Energy Regulator's (Retail) Exempt Selling Guideline**

Thank you for your email of 25 September 2015.

The Queensland's Department of Energy and Water Supply (the department) welcomes the opportunity to provide comment on the Australian Energy Regulator's (AER) proposed guideline changes.

Of particular interest to Queensland is the AER's proposal to amend Condition 12(2) of the current guideline to place a mandatory obligation on on-suppliers of energy to pass on relevant rebates and concessions to their customers.

The department supports the proposed amendment. The department is of the view that the current 'best endeavours' requirement in Condition 12(2) is not sufficient to ensure that Queensland residential on-supply customers are able to access the energy rebates for which they are eligible. Indeed, the department has become aware of a number of on-suppliers supplying energy to their residential customers who are failing to administer the energy rebates.

The proposed amendment will replace the current best endeavours requirement with a clear, enforceable obligation on on-suppliers to administer Government rebates and concessions. In doing so, it will solidify an important customer protection for vulnerable customers, many of whom live in an embedded network.

Should the proposed amendment not be adopted, the department does not support the removal of Condition 12(2) of the guideline. While the department agrees that the term 'best endeavours' is ambiguous and subjective, it does provide an indication to on-suppliers as to what is expected of them in terms of administration of Government rebates and concessions on behalf of their residential customers. The department is concerned that, if the 'best endeavours' requirement is removed and not replaced with a mandatory obligation, some on-suppliers who currently apply for concessions and rebates on behalf of their customers may discontinue doing so.

Mineral House  
41 George Street Brisbane  
PO Box 15456 City East  
Queensland 4002 Australia  
Telephone +61 7 3137 4296  
Website [www.dews.qld.gov.au](http://www.dews.qld.gov.au)  
ABN 91 416 908 913

We also note that the current guideline (April 2015 – pages 25–26) outlines that on-suppliers should not pass on an 'administration' or similar fee to their customers to circumvent any capping of energy charges required under an exemption condition. The department is aware that this reference to an 'administration' fee in the guideline has caused confusion. On-supply customers often interpret any separate fees on their bills as a charge by their on-supplier to maintain the embedded network infrastructure, and for time and labour in reading meters and preparing accounts. To mitigate the chance of this misinterpretation, the department suggests the following footnote be included in the guideline:

*An administration fee does not include a fee for the cost of installation and maintenance of the 'poles and wires' and other infrastructure that connects the embedded network to the electricity generators, as well as other non-consumption related costs. These charges are commonly referred to as a 'service to property' charge or 'network charges'.*

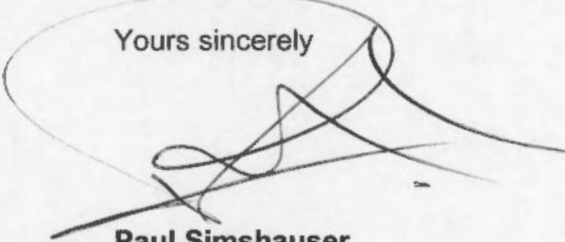
Similarly, the department notes the AER's proposal to create a new exempt class for Power Purchase Agreement (PPA) providers who sell to business or residential customers where the PPA has particular characteristics, including limiting it to residential agreements of no more than a ten year term.

The department supports this proposal. This approach may help to grow the uptake of solar technology and address the split incentive issues that exist in commercial tenant/landlord situations. This would also complement the Queensland Government's renewable energy policy, in particular, the one million solar rooftops or 3000 megawatt of installed capacity by 2020 target.

As stated in the proposed amendment to include a new class of exempt sellers for PPA providers (R8), the department considers contract terms of less than ten years for residential PPA customers to be appropriate where providers sell energy to residential customers. However, this limit should be monitored to ensure it remains appropriate as the market evolves. It is further noted that the proposed criteria in relation to the class exemption as it relates business customers has less stringent requirements. We consider that commercial customers under PPAs could include businesses of any size — i.e. from very small local business to major commercial enterprises. Often small businesses do not possess any more resources or skills to effectively negotiate PPAs than residential customers. As such, we suggest that the AER consider whether protections similar to those proposed for residential customers under this new class (ie. contracts of less than ten years and transparent early termination clauses) be also extended to small business (which could be determined on the basis of consumption or other metrics such as employee number or turnover) being similar to other small, residential customers in terms of resources and understanding of the energy market.

Once again, thank you for the opportunity to comment on the draft guideline. If you require further information please contact Ms Ty Taylor, Director, Consumer Policy of the department on 3199 4978.

Yours sincerely



**Paul Simshauser**  
**Director-General**  
**Department of Energy and Water Supply**