

23 February 2015

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

Email: [AERinquiry@aer.gov.au](mailto:AERinquiry@aer.gov.au)

Dear Ms Proudfoot,

**RE: Regulating innovative energy selling business models under the National Energy Retail Law Issues Paper**

The Energy Retailers Association of Australia (ERAA) welcomes the opportunity to provide comments in response to the Australian Energy Regulator's (AER) Issues Paper on Regulating innovative energy selling business models under the National Energy Retail Law (the **Issues Paper**).

The ERAA represents the organisations providing electricity and gas to over 10 million Australian households and businesses. Our member organisations are mostly privately owned, vary in size and operate in all areas within the National Electricity Market (NEM) and are the first point of contact for end use customers of both electricity and gas.

Higher energy prices, a desire (and ability) by consumers to manage their energy use and access to renewable energy options has led to increased demand for alternative energy products. This, coupled with changing market conditions, including the reduction of jurisdictional feed in tariffs and reductions in solar panel rebates, has contributed to growth in this business sector. Consumers are now changing the way in which they participate in the energy market, and in response, a market for new and innovative business models is developing.<sup>1</sup> The ERAA agrees with the AER that it is timely to review the authorisation and exemptions framework as it applies to alternative energy sellers and emerging energy selling business models.

Some of our member views may differ on the application and nature of the principles outlined below in this submission. We encourage the AER to refer to the individual submissions of members for detailed views on the regulation of alternative energy sellers.

**Summary of policy issues requiring consideration**

The ERAA would like to highlight the following areas as important ones for the AER to consider when considering how to regulate emerging and innovative energy sellers under the current regulatory framework.

**1. Consistency of consumer protection**

A consistent consumer protection framework which provides minimum protections deemed necessary in addition to Australian Consumer Law (ACL) to ensure energy consumers are adequately protected. It is important that the energy regulatory

<sup>1</sup> [https://www.aer.gov.au/sites/default/files/AER -Alternate energy sellers - Final statement of approach - July 2014.PDF](https://www.aer.gov.au/sites/default/files/AER%20Alternate%20energy%20sellers%20-%20Final%20statement%20of%20approach%20-%20July%202014.PDF)



framework that applies to innovative energy sellers is clear and sets appropriate and proportionate consumer protection requirements that are in the long term interests of energy consumers and the industry as a whole. All participants in the energy industry should be required to demonstrate adherence to those consumer protection measures deemed necessary to protect the interests of energy consumers, not sufficiently protected by the ACL.

## 2. Maintenance of competitive neutrality

The ERAA supports competitive neutrality between energy businesses through the consistent application of the customer protection framework. The barriers to entry in the retail energy sector are not unnecessarily high as to preclude smaller entrants the opportunity to enter the broader market or a niche segment. The obligations under the National Energy Retail Rules (NERR) applied to authorised retailers but not to alternative energy sellers, distort the market leading to additional compliance costs, credit risk and liabilities for network charges borne by authorised retailers.

As a general principle, the ERAA does not believe that it is beneficial to require different service standards from businesses that are providing the same services. It creates uneven playing fields that distort competitive market outcomes. The ERAA supports competitive neutrality between businesses through the application of a consistent customer protection framework.

The large number of exemptions granted to date by the AER and the expected continuation of growth in alternative energy sellers requesting exemptions will create scale in this segment of the energy industry. Therefore authorised retailers may need to implement alternative strategies to address these distortions.

## 3. Scope and scale of activity

If an alternative energy seller's customer proposition is primarily the sale of energy to their customer for a predetermined fee, then that activity is captured by section 115 of the National Energy Retail Law (NERL) and should require authorisation rather than an exemption.

In instances where the majority of supply is derived from an alternative energy seller the primary or authorised retailer role is in effect reversed. With the expected rapid expansion of this segment over the coming years, the magnitude of any systemic issue or failure of an alternative seller will be significant, requiring foresight in the policy response.

In addition, the current structure and contracts offered by alternative energy sellers may cause confusion for customers, who may be unsure of the responsible party in the event of an issue with their alternative energy seller.

Thank you for the opportunity to outline ERAA member's view on this important issue. Should you wish to discuss the details of this letter, please contact me on (02) 8241 1800 and I will be happy to facilitate such discussions with my member companies.

Yours sincerely,



Cameron O'Reilly  
Chief Executive Officer  
Energy Retailers Association of Australia