

22 November 2013

Ms Jacqui Thorpe
Acting General Manager, Retail Markets Branch
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

By email: AERInquiry@aer.gov.au

Dear Ms Thorpe,

RE: Regulation of alternative energy sellers under the National Energy Retail Law: Issues Paper

The Energy Retailers Association of Australia (ERAA) welcomes the opportunity to provide input to the *Regulation of alternative energy sellers under the National Energy Retail Law: Issues Paper* (the Issues Paper). The Issues Paper raises a number of important matters in relation to the provision of energy management services that require further consideration.

The ERAA represents the organisations providing electricity and gas to almost 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.

Proposed approach to regulating alternative energy sellers

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 consistent application of the customer protection framework.

The proposed approach contained in the Issues Paper does not seem to be addressing a specific market failure. Whilst there may be barriers to entry in the retail energy sector, these barriers are not unnecessarily high, and exist to ensure that consumers are adequately protected. Should obligations under the National Energy Retail Rules only apply to primary retailers, these businesses will take on additional compliance costs, credit risk and liabilities for network charges. The proposed approach may also introduce confusion for customers, who may be unsure of the responsible party in the event of an issue with their alternative energy seller. This may result in increased costs for government, ombudsman, retailers and alternative energy sellers. This approach is not consistent with the principle that risks are apportioned to those parties best able to manage them.

Primary retailers

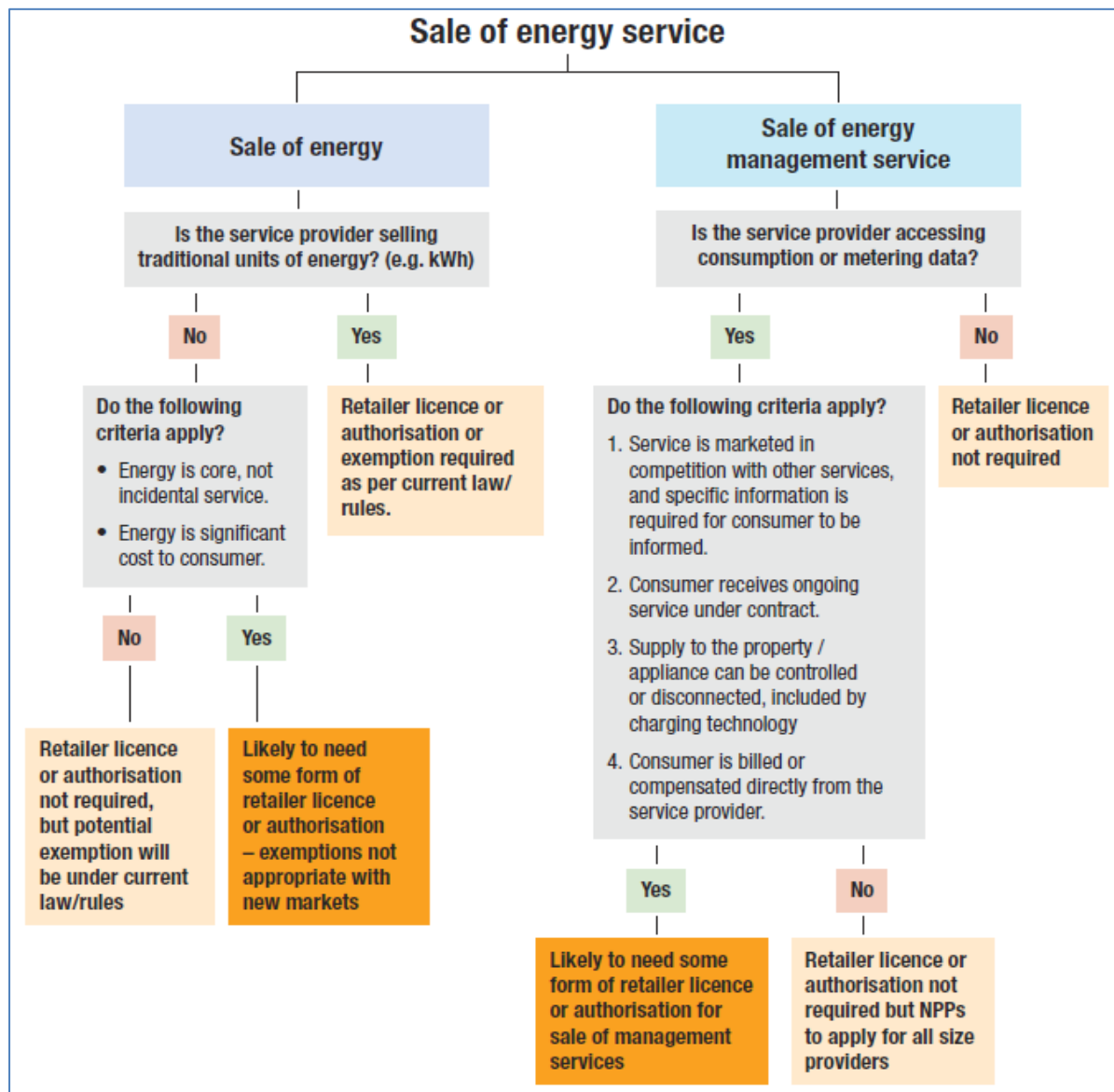
The proposed approach assumes that there will be a primary retailer for each customer who may seek to contract with an alternative energy seller. The implementation of a number of recommendations from the Australian Energy Market Commission's Power of Choice review and electric vehicles consultation will mean this assumption is no longer valid. For example, the Multiple Trading Relationships and Embedded Networks working group is currently looking to implement a model where numerous energy service companies are able to provide services through individual connection points. As these reforms are implemented and customers sign contracts with multiple service providers simultaneously, identification of the primary retailer will become more difficult.



An alternative model for considering exemptions

The ERAA believes that a broader approach is required when considering a long-term approach to the regulation alternative energy sellers. This approach should not be based on what is deemed as essential, but should instead aim to provide a model to ensure that consumers are adequately protected in a competitively neutral way. **Figure 1** below outlines a conceptual framework for considering whether an activity should receive an exemption and what that exemption would look like. This diagram is an excerpt from the ERAA's *Third party and distributor sale of energy management services: ERAA smart meter Working Paper 5*, available on the ERAA website at [link](#)

Figure 1: A proposed conceptual framework for new retail authorisations



Should you wish to discuss the details of this submission, 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
CEO
Energy Retailers Association of Australia