



17 July 2017

Sarah Proudfoot
General Manager, Retail Markets Branch
Australian Energy Regulator

AERInquiry@aer.gov.au

Dear Ms Proudfoot,

RE: Access to dispute resolution services for exempt customers

ERM Business Energy welcomes the opportunity to respond to the Australian Energy Regulator's (AER) Issues Paper on access to dispute resolution services for exempt customers.

About ERM Business Energy

ERM Power Retail Pty Ltd, which trades as ERM Business Energy, is a subsidiary of ERM Power Limited, an Australian energy company operating electricity sales, generation and energy solutions businesses. Since launching in 2007, ERM Business Energy has grown to become the second largest electricity provider to commercial businesses and industrials in Australia by load¹, with operations in every state and the Australian Capital Territory. ERM Business Energy has increasing success in the small business market. www.ermpower.com.au

General Comments

ERM Business Energy supports the AER's aim to expand exempt customer access to ombudsman schemes. Ombudsman schemes have a proven track record in providing customers with help to resolve disputes between them and energy companies. As the number of exempt customers grows through the expansion of embedded networks and changes in energy retail business models (e.g. solar power purchasing agreements) it is important to consider how customers outside the traditional retailer-customer dynamic can resolve any issues.

Currently, authorised retailers fund ombudsman schemes through an annual fee plus a variable charge based on the number of cases lodged against them. This ensures that the ombudsman has sufficient resources to handle complaints, paid for in a causer-pays manner.

Exempt entities sit outside this framework and as such, customers, who may not have a choice of retailer, do not have access to the same protections as other customers. We agree with the AER that exempt customers should be able to access ombudsman schemes. We recommend that exempt entities should be required to become members of the relevant state's ombudsman scheme as a condition of receiving an exemption. Further we believe that the AER should consider the inclusion of a new exemption condition, requiring an exempt entity to inform a customer in writing at the time the

¹ Based on ERM Power analysis of latest published financial information.

customer enters the arrangement, of their right to access the services of an Ombudsman dispute resolution mechanism.

We acknowledge that the existing annual fee that ombudsman schemes charge may act as a barrier to entry for exempt entities. As such, exempt entities may need a different cost recovery process. ERM Business Energy believes that a lower annual fee is appropriate, particularly in light of the relatively large number of exempt entities compared to authorised electricity and gas retailers. Charges could then continue to be levied based on the number of cases lodged against the exempt entity. We strongly believe that licensed holders should not cross subsidise the costs created by exempt parties.

The financial services industry provides a suitable model that could be applied to exempt entities. In this industry, financial services licence holders, such as financial advisers, must be a member of an ASIC-approved dispute resolution scheme. ASIC has approved two schemes: the Financial Ombudsman Service and the Credit and Investments Ombudsman. This provides customers with access to a free, external dispute resolution scheme and has a membership fee structure that is reasonable, so as not to create a barrier to entry.

ERM Business Energy considers that a similar model could apply in the energy industry.

This approach would ensure that customers have access to an independent dispute resolution scheme consistent with other energy users in their state, while the Ombudsman has sufficient resources to handle the potential increase in workload. Our proposed cost-recovery mechanism outlined above would also ensure that costs are not imposed on authorised energy retailers who have no link to cases lodged against exempt entities.

Please contact me if you would like to discuss this submission further.

Yours sincerely,

[signed]

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