

15 December 2017

Ms Sarah Proudfoot  
General Manager, Retail Markets Branch  
Australian Energy Regulator  
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Dear Ms Proudfoot

**Submission to the Australian Energy Regulator:  
Draft Retail Exempt Selling Guideline**

The Energy and Water Ombudsman (SA) Limited ("EWOSA") welcomes the opportunity to comment on the Australian Energy Regulator's (AER) *Draft Retail Exempt Selling Guideline*.

In this submission, the EWOSA primarily addresses matters that are specifically of interest to the EWOSA Scheme.

EWOSA is an independent Energy and Water Ombudsman Scheme in South Australia. It receives, investigates and facilitates the resolution of complaints by customers with regard to (*inter alia*) the connection, supply or sale of electricity, gas or water.

We appreciate the collaborative work the AER is doing with the Australia and New Zealand Energy and Water Ombudsman Network on the important issue of access to dispute resolution services for exempt customers and the support the AER has for Ombudsmen.

**Dispute Resolution**

We support the Retail Exempt Selling Guideline (Draft Retail Guideline) being amended to:

- Require exempt sellers that on-sell energy to residential customers to become members of the relevant Ombudsman scheme where this is provided for by the Ombudsman scheme
- Require all exempt sellers to have in place internal complaint and dispute handling procedures that are consistent with the relevant Australian Standard

We believe the wording of both new Condition 16: Dispute resolution and new Condition 17: Member of energy ombudsman scheme is appropriate.

We support the proposed drafting changes to Condition 2: Information provision (1 c) regarding dispute resolution.

One of the concerns raised by some stakeholders was the cost to small exempt sellers of becoming members of Ombudsman schemes, particularly since some may never have a complaint raised against them by one of their customers.

We believe this concern can largely be overcome by energy Ombudsmen developing appropriate funding models that do not impose an undue burden on small exempt sellers and which also do not involve cross-subsidisation from other types of members, such as large retailers. In 2012, EWOSA developed a fee structure to address similar issues with regards to small water retailers becoming members of the Scheme. Other energy Ombudsmen are considering their funding models. This issue was discussed in the AER's *Notice of Draft Instrument* document.

It is also the case that many of the energy customers of exempt sellers in caravan parks, residential parks and retirement villages – irrespective of their size – are vulnerable customers and most likely to be in need of protections, such as access to the free, fair and independent dispute resolution services of an Ombudsman.

With regards to assessing the application for an individual exemption involving a retrofitted embedded network, we believe that draft Criterion 2 in the Draft Retail Guideline – Mitigation of detriment: Customer dispute resolution services – should be amended so that exempt sellers with individual exemptions which on-sell electricity to residential customers be required to become members of the relevant Ombudsman scheme where this is provided for by the Ombudsman scheme. This would provide consistent dispute resolution protections for all residential customers of exempt sellers, irrespective of whether their electricity is sold by an exempt seller with a deemed, registrable or individual exemption.

We believe that energy Ombudsman schemes should be the primary external dispute resolution mechanism for energy complaints, whether from households or businesses and irrespective of their supply arrangements. Given the findings and recommendations contained in the final report of the Australian Energy Market Commission's Review of Regulatory Arrangements for Embedded Networks – particularly that new embedded networks should be required to become registered embedded network service providers and/or authorised on-selling retailers (apart from in a narrow set of circumstances) and that work should continue to improve access to energy specific, independent dispute resolution services for existing exempt customers – we believe that small business customers of existing exempt sellers should have the right to access the free, fair and independent dispute resolution services of an Ombudsman.

This would mean applying Condition 17 in the Draft Retail Guideline to exempt sellers in classes D1 and R1, which would enable almost all small energy customers to have access to an energy Ombudsman.

If this is not considered the preferred course of action at this time, we believe that it would be appropriate at a later date to revisit the issue of whether or not existing exempt sellers that on-sell electricity to small business customers should be required to become members of an Ombudsman scheme. This would in part depend on the success of the transition of existing exempt sellers that on-sell electricity to residential customers becoming members of Ombudsmen schemes.

### **Other changes**

We support all of the proposed drafting changes to other conditions in the Draft Retail Guideline, including:

- Condition 1: Obligation to supply and Condition 11: Reconnection or re-energisation
- Condition 3: Billing and payment arrangements (5 l), regarding specifying the basis on which tariffs, rates and charges are calculated

- The addition of a stand-alone Payment Plans condition (new Condition 12)
- The addition of new Condition 18: Planned interruptions to supply and new Condition 19: Unplanned interruptions to supply

These changes increase the protections for small energy customers of exempt sellers and more closely align them with the protections for small customers of authorised retailers.

We also support the changes in the Draft Retail Guideline clarifying that:

- A customer's agreement to a proposed network conversion is not the same as their agreement to join the network and that they can choose their own retailer
- The person who should hold the exemption is the person who holds the contract with the retailer to buy energy at the gate meter and then on-sells the energy to the customers at the site

We believe the variations to exemption Classes D10 and R8 are appropriate and help to clarify energy supply arrangements.

Should you require further information or have any enquiries in relation to this submission, please email me at [antony.clarke@ewosa.com.au](mailto:antony.clarke@ewosa.com.au) or telephone me on (08) 8216 1851.

Yours faithfully



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