

13 January 2013

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

Re: AER Revised Exempt Selling Guideline: November 2012 – Notice of Draft Instrument

Dear Ms Proudfoot,

Energy Intelligence is an energy consultancy providing advisory services to clients within the embedded sector. We provide ongoing services to a broad client base whom own / operate embedded sites within the residential, commercial, industrial and retail sectors. We also work with a number of billing agents providing them with ongoing consulting services. Energy Intelligence has been highly active in the development of energy on-selling within Victoria, having been intimately involved with the development of the ESC guidelines before the AER took on responsibility of this sector (albeit still to be fully transitioned).

Energy Intelligence supports the latest changes to the Exempt Selling Guideline as we feel they help strengthen the original framework already put in place. Indeed the framework as re-written provides much greater clarity for new entrants and strengthens the existing class structures. We thus commend the AER on the revised documentation.

We support the fact that the entity who is purchasing energy from the licensed retailer should be the party for which the exemption applies. We also support the requirement for individual exemptions where that entity is not the network owner / operator or owner / occupier within the site. That is when the entity is acting like a retailer as described in the four points highlighted in paragraph 2.1 of the Notice of Draft Instrument.

Whilst many embedded networks outsource the operational aspects covering meter reading, billing and collections, ultimately it is the party controlling the site supply (at the gate meter) that has a vested commercial interest in the site. Therefore it is this party who should be responsible for ensuring all AER guidelines are being followed. The fact this entity may use agents should not change this onus as otherwise there may be multiple sub-contracted parties at a site that would require exemptions (for the same site). This would simply create confusion for both end consumers and the AER should issues arise pertaining to non-compliance.

We further support the points covered in paragraph 2.3 of the Notice of Draft Instrument pertaining to pricing protections extending to commercial customers.

With regards to the draft version of the guideline as issued with your notice, we make the following comments:

1. The diagram on page 6 needs to provide greater clarification regarding the “on-selling” of energy as covered in Clause 4.2. A billing agent whose core business is on-selling energy would answer yes to the second flowchart box and make an erroneous assumption they need a retail licence. It needs to be made clearer that if you on-sell energy then need an individual exemption as this pathway is not obvious the way your diagram currently reads.
2. Table 1 on page 12 shows the Victoria small customer classification as being 100 MWH pa and NSW as being 160 MWH pa. This is erroneous and I suspect a typo. The threshold in Victoria is 160 MWH pa whilst NSW is 100 MWH pa.
3. Table 2 on page 25 is erroneous as I have previously identified in my letter dated 1 January 2012. Small markets embedded network customers in SA do NOT have access to FRC and both small and large market consumers in QLD cannot access FRC. Both for different reasons as highlighted in my original letter.

Kind Regards,



David Regenspurger
Principal Consultant
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