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Ref: NB/TF/JD

Friday 22 November 2013

Ms Jacqui Thorpe
General Manager – Retail Markets
Australian Energy Regulator
GPO Box 520
MELBOURNE VIC 3001

Dear Ms Thorpe

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

Ergon Energy Corporation Limited (EECL), in its capacity as a Distribution Network Service Provider in Queensland, and Ergon Energy Queensland Pty Ltd (EEQ), in its capacity as a non-competing area retail entity in Queensland, hereinafter referred to as Ergon Energy, welcome the opportunity to provide comment to the Australian Energy Regulator (AER) on its Regulation of alternative energy sellers under the *National Energy Retail Law: Issues Paper* (the Issues Paper).

Ergon Energy broadly supports the approach suggested by the AER in the Issues Paper and considers that an appropriately flexible regulatory framework for alternative energy sellers will assist consumers and enable emerging technologies and practices to develop in the future.

Predicting what types of business models may emerge for future alternative energy sellers is less important to Ergon Energy than creating an environment supportive of innovation whilst ensuring appropriate protections exist for customers. Ergon Energy considers that provided the framework for regulation of alternative energy sellers is appropriate, the market will develop in response to customer needs and business capability.

As new business models for alternative energy sellers develop, Ergon Energy believes an important consideration is the swift application of appropriate regulatory requirements to support flows of information between alternative and established businesses. For instance, where leasing arrangements for photovoltaic installations are put in place between a customer and an alternative energy seller, the distributor needs to be aware of the nature and location of the installation. Ensuring that notification of such installations is mandatory will negate uncertainty that may be caused, and will enable distributors to monitor and operate their network with accurate, reliable data.

Some scenarios that may result from inadequate communication between businesses include, but are not limited to:

- Leasing arrangements with customers cease, or tenancies change and the distributor cannot determine whether the system is still in place/operational;
- Inability of distributors to accurately report to governments and regulators;

- Incorporation of potentially inaccurate information regarding leased assets in assessment and planning processes; and
- New customer applications declined/accepted or upgraded/downsized on the basis of incorrect data.

Ergon Energy would expect that reporting and information requirements for alternative energy sellers will be developed to ensure the market is informed as required.

Ergon Energy regards the policy considerations suggested by the AER in part 3 of the Issues Paper, to determine how alternative energy sellers should be regulated, as broadly appropriate. Once it is determined that an energy seller is not offering services that would identify them as a 'typical' energy retailer, that is to say, they are not offering services that would otherwise interfere with or undermine the customer's access to an 'essential service' and the suite of protections that are attached to it; Ergon Energy agrees the approach suggested would strike an appropriate balance between market development and customer protection.

Furthermore, Ergon Energy generally agrees with the AER's proposed approach with regard to exemptions and authorisations. However, until such a time as the emerging market for alternative energy sellers is sufficiently developed Ergon Energy believes a designated class exemption would not provide the requisite level of flexibility needed by the market at this time. Once the market is clearly developed, it may be appropriate to revisit class exemptions.

In the interim, Ergon Energy believes individual retail exemptions may assist in reducing barriers to entry, facilitating market innovations; whilst ensuring the AER has the opportunity to tailor specific customer protections which can work in tandem with existing protections under other legislative frameworks. Such an approach will give the market adequate ability to respond to customer needs and ensure the AER is able to impose conditions, where required, that mirror those of a retailer authorisation.

Ergon Energy supports the continued reduction in regulatory and market barriers to promote innovation within the energy industry. However, this goal should be applied uniformly to industry participants and not disadvantage incumbents from offering alternative energy supply (e.g. through solar PV).

That is to say, when consideration is given to a new entrant for an individual exemption, the AER should consider how it can regulate the provision of alternative energy supply, so both incumbents and new entrants can compete for customers on a level playing field. The source of the electricity is not differentiated on large alternative schemes versus traditional supply arrangements that sell into the National Electricity Market; therefore, it is questionable why small scale alternative energy retailers should necessarily receive specific competitive advantages, via different regulatory treatment. Particularly when the small scale market is already operating as a vibrant competitive market that gains market advantages from their size and lean operating models.

An example of where regulations might create unfair competition are the provisions within the National Energy Customer Framework relating to how billing needs are prescribed, how payment plans must be managed and rules relating to programs such as life support. If an individual exemption process is preferred, the conditions imposed on alternative energy sellers would need to foster an environment where incumbents and new entrants can compete for customers fairly without undue competitive advantage.

Ergon Energy is available to discuss this submission or provide further detail regarding the issues raised, should the AER require.

Should you require additional information or wish to discuss any aspect of this submission, please do not hesitate to contact either myself on (07) 3851 6416, or Trudy Fraser on (07) 3851 6787.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jenny Doyle', with a stylized flourish at the end.

Jenny Doyle
Group Manager Regulatory Affairs

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