19 December 2017

General Manager
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

Email: AERInquiry@aer.gov.au

Dear General Manager,

RE: AER (Retail) Draft Exempt Selling Guideline Version 6

Flow Systems Pty Ltd (Flow) welcomes the opportunity to comment on the Draft AER (Retail) Exempt Selling Guidelines Version 6. The guidelines will provide important clarifications for exempt sellers in order to enhance the rights of consumers, which Flow supports and is to be commended.

Flow has some concerns around potential unintentional consequences impacting the ability to retrofit existing buildings with more sustainable and efficient technologies, including retrofitting local renewable generation technologies. Our concerns are outlined below.

Planning for 21st Century energy utility solutions

As the market transitions to next generation utility infrastructure and service, the ability to install and operate local, sustainable, affordable, next generation energy solutions and services to both new communities and share with existing communities will be essential.

Key issues

Flow is concerned about a number of amendments to **Part 3, Retrofitting embedded networks**. In particular the following:

1. Provision of information

You must confirm you have evidence that consumers have been provided with the following information:.
29: that in order to exercise their right to a retailer of choice, consumers may need to enter into an 'energy only' contract, which is offered at retailers' discretion and may be difficult to obtain.

Flow believes the words "*and may be difficult to obtain*" are subjective and should be deleted from this requirement. This statement creates unnecessary and undue strain on the consumer. The rule changes brought in with the Power of Choice support churn from embedded networks and Flow believes it is likely Retailers will develop energy only offers.

In addition, you need to confirm that you have provided consumers with:
31. your electricity sales agreement, which details all fees and tariffs

The new requirement on Exempt Retailers to confirm they have provided consumers with an electricity sales agreement, including the provision of detailed fees and tariffs, is unlikely to be achieved by most Exempt Retailers at this stage. This is because of the time it takes to gain consent (EIC) for the conversion to be implemented effectively renders tariff/fee information outdated. The need to obtain EIC from a minimum of 85 percent of all residents for a retrofit conversion can take 12 to 18 months or longer according to the experience of Flow and METERS2CASH.

As NEM prices change frequently, this timing lag makes it impossible to provide exact consumption charges at the commencement of the communication process to seek EIC for the network conversion from affected residents.

Input cost of energy and prices on the national wholesale electricity market at the Gate Meter dictate the foundation of commercial tariffs offered to customers of embedded networks at a point in time. It is not possible to provide specifics on consumption charges for customers more than one to two months out of a network conversion going live.

Flow recommends changing the language of the requirement to reflect the commitment of the exempt retailer to provide the most competitive offer possible from when the embedded network is energised, and also to reconfirm to the customer their right to choose other Retailers after the network conversion is implemented. Details of fees and tariffs are provided to potential customers as soon as they are available.

Flow's position on this point is that there are already various customer protections in the Guidelines (including price matching obligations) to ensure no customer is financially disadvantaged as a result of the conversion.

2. Retail contestability

To demonstrate you have addressed any potential customer detriment resulting from a loss of retail contestability, you must confirm whether you have:

36 sought advice from the distributor about whether non-consenting customers can be wired out of the embedded network

37 taken steps to ensure that customers who wish to remain with their retailer, but cannot be wired out, will not be financially disadvantaged by the retrofit. Measures to reduce financial detriment are likely to include price matching for affected customers, and taking financial responsibility for any double billing of network charges.

Flow is concerned Point 36 and 37 combined will unfairly disadvantage the owners and residents within the building who have consented to an embedded network conversion.

In our experience, the obligation to wire a non-consenting customer out of the embedded network carries a cost to the Body Corporate/ Owners Corporation along with the majority residents and owners who do consent.

The combination of these two provisions therefore adds risk and cost to building owners wishing to convert to an embedded network, in order to obtain access to bulk purchased electricity and cheaper prices for all in the building. While Flow supports protecting customer rights, Point 36 may in fact act as a deterrent for Body Corporates/Owners Corporations who do not have the revenue in capital works funds to pay for individuals who require to be wired out of the embedded network.

The protections currently offered through the requirement for 85percent EIC, in addition to Power of Choice, provide adequate consumer protection while supporting alternative network and supply technologies and financial benefits from bulk energy purchasing. For example, in one building in Qld, Waratah, the cost to wire out one individual from the embedded network which had been consented to by 99% of owners and residents was around $10,000. This cost was carried by strata.

For future conversions this cost may not be able to be recovered and retrofit conversion therefore becomes unviable. In addition, should the owner or incoming tenant in that unit wish to join the embedded network in the future, wiring in an additional meter is technically difficult and expensive.

Therefore, point 37 on its own, will deliver the most customer protection to the non-consenting customer, while not unfairly disadvantaging the owners and residents within the building who have consented to the conversion.

In Flow's submission to the AEMC on embedded networks on the 17th October, we recommended the removal of the 85 percent EIC requirement because Flow believes infrastructure decisions should sit under strata law with the owners of the building. Current provisions have shut out owners from decision making around infrastructure which is theirs. Flow believes it is the owner's right to convert the building to an Embedded Electricity Network (EEN) and the tenant's right to choose a retail supplier.

The benefits of retail competition remain. As it currently stands, the EIC threshold in practice restricts consumer choice. For example if 84 owner occupiers in a 100 resident building opt in, they can be refused the right to install an EEN by 16 renting tenants. Put another way, 16 percent of any building's residents are effectively given a blocking right over 84 percent. This restricts consumer choice and resulting benefits such as lower costs and sustainability outcomes. EEN can significantly reduce costs to owners and tenants, in turn reducing the strata fees and potentially putting downward pressure on rental cost.

Conclusion

Multi-utility solutions are playing a critical role transitioning the market to be more sustainable, affordable and resilient for communities. This includes sharing the benefits of new efficient, self-sufficient energy communities with existing neighbourhoods and helping to drive downward pressure on pricing. New business models supporting community utility solutions need to be supported in providing more customer choice and more sustainable products and services.

Flow and its subsidiary, METERS2CASH would like to meet with the AER to discuss these perverse impacts and provide more information on the barriers and opportunities to achieving a low carbon and local energy future.

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