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Attention: Ms Susan Faulbaum

Australian Energy Regulator
35/360 Elizabeth Street
MELBOURNE VIC 3000

Email: susan.faulbaum@aer.gov.au

Dear Ms Faulbaum

National Energy Retail Law (NERL) – section 110 – Exemption Application – Weipa township electricity supply

1. Introduction

This is an application pursuant to S110 of the NERL.

RTA Weipa Pty Ltd (ACN 137 266 285) (the **Applicant**) hereby applies for an exemption from the requirement to hold a Retail Authorisation, in respect of the sale of electricity, to the township of Weipa, and to Ergon Energy (Queensland) Pty Ltd (**EEQ**), for on-supply to the Napranum Aboriginal Community.

2. Background

2.1 The township of Weipa

- (a) Weipa is a township situated on the west coast of the Gulf of Carpentaria, in far north Queensland. It has a current population of approximately 3,300. Though the township has had a permanent population since the late 19th century, the township as we know it was developed in the 1950s, to service the Weipa bauxite mine, which is owned and developed by Comalco Limited, now Rio Tinto Aluminium. The Weipa bauxite mine is the largest operation of its type in the world.
- (b) In its early days, the township was originally a 'company town'. Now, mining remains the main focus of the Weipa economy, but the township also serves as a tourist destination, the base of a commercial fishing industry, and as a regional centre. Some 80% of the housing in Weipa is privately owned, and the township hosts a number of businesses, schools, medical facilities, a port, churches and sporting facilities.
- (c) In the next few years, Weipa is likely to accommodate other resources companies, together with their employees, as surrounding mineral deposits are commercialised.

2.2 Weipa power supply

- (a) The Applicant is the sole commercial electricity supplier to the township of Weipa. It owns and operates two diesel fired power stations of nominally 26MW and 10MW sent out capacity respectively, and has recently supplemented this with 1.2MW of solar electrical capacity. The Applicant also owns and operates the Weipa electricity distribution network.

- (b) **Annexure A** to this application sets out a map and diagram showing the physical layout of the township of Weipa, the power station locations of Lorim Point and Andoom, and the nearby Aboriginal community of Napranum.
- (c) The power stations were installed to facilitate the commercial operation of the Weipa Mine and associated Rio Tinto facilities such as the Port. However, as the only source of electricity in Weipa, the Applicant supplies electricity generated at its power stations through its distribution network to some 1,600 residential customers and 200 businesses in Weipa. In addition to its customers in Weipa, it supplies electricity to EEQ which in turn supplies electricity to the community of Napranum.
- (d) While the supply of electricity to the mine is essential to RTA's operations, the supply of electricity to other customers is non-core to RTA's business. Unlike virtually all other regional centres in Queensland, the State Government does not subsidise electricity prices in Weipa. Accordingly, the Applicant makes no profit from the supply of electricity to customers in Weipa. The annual volume of electricity supplied to the Weipa mine and associated facilities is of the order of 52,768MWh. The annual volume of electricity supplied to Weipa township (that is, exclusive of the mine and associated facilities) is of the order of 33,784MW hours.
- (e) Maximum average daily load in 2014 was 13.2MW for both mine and town.
- (f) In keeping with its non-commercial character, the Applicant's electricity retailing operations has been conducted on a 'cottage industry' basis. In addition, there are a number of technical factors that hinder the supply of electricity on a commercial basis. These include limited access to premises and metering, and practical difficulties in disconnecting premises, due to the rudimentary nature of the grid. In consequence, there can be delays in the issuing of invoices, and in addition, there have been high levels of outstanding invoice payments for Weipa customers.

2.3 *Competition for electricity supply in Weipa*

There are no other commercial suppliers of electricity in Weipa. The nearest connection point to the National Electricity Market is approximately 800kms away, north of Cairns. So far as the Applicant is aware, no electricity retailer other than the Applicant has ever sought to supply electricity to a customer in Weipa. The area the subject of this application is expressly excluded from the retail licence area of EEQ. Accordingly, there is no 'local retailer' for Weipa.

3. **How does the NERL apply?**

3.1 *Present licensing arrangements*

- (a) The Applicant holds a Special Approval (number SA18/98) under the *Electricity Act 1994*, to:
 - (i) connect its diesel powered generating plant: to:
 - (A) the Applicant's supply network, and
 - (B) Ergon Energy Corporation Limited's supply network;
 - (ii) supply electricity using its supply network to domestic and commercial premises, facilities and infrastructure; and
 - (iii) supply electricity to bodies and persons who own, occupy, operate or manage domestic or commercial premises, facilities or infrastructure and EEQ.

3.2 Application of the NERL.

- (a) The NERL applies as a law in Queensland by virtue of the National Energy Retail Law (Queensland) Act (2014) (the **Application Act**), which became effective on 1 July 2015.
- (b) The supply network is not connected to the 'interconnected national electricity system', and therefore does not constitute a 'distributor' for the purposes of the NERL.
- (c) However, unlike other States, even though the network is not connected to the NEM, the sale of electricity by the Applicant will be regulated by the NERL, unless the AER grants the exemption sought in this case.
- (d) Regulation 18 to the Application Act provides that each:

'Special Approval (Retail) Holder is taken to hold an exemption for electricity for the NERL (Qld) which stops applying one year after the commencement (ie on 1 July 2016).'

3.3 The Exempt Selling Guidelines

- (a) The Applicant has considered the AER's (Retail) Exempt Selling Guidelines of April 2015, and the proposed amended guidelines.
- (b) The Applicant submits that the situation for its supply falls within the exempt selling policy principles published by the AER. In particular:
 - (i) the Applicant does not conduct its electricity sales on a 'for profit' basis, and lacks the economies of scale and scope from which retailers benefit,
 - (ii) the Applicant does not sell energy as its core business;
 - (iii) there are limited prospects for competition;
 - (iv) the cost burden of full compliance with the NERL is likely to be substantial; and
 - (v) the amount of electricity likely to be sold is very small, in relation to the national electricity energy markets.
- (c) Accordingly, the Applicant submits that it is appropriate for the AER to grant an exemption in this case.
- (d) The Applicant submits that the imposition of conditions on exemption will permit appropriate obligations to govern the Applicant's behaviour and that will achieve a better and more cost effective outcome, than requiring the Applicant to obtain a retailer authorisation.

4. Submission as to exemption conditions

- (a) The Applicant acknowledges that the requirement that:

'Regulatory arrangements should not unnecessarily diverge from those applying to retailers'.

However, we also note the AER's stated view that conditions should not be such as to be 'overburdening exempt sellers', or make it 'uneconomic....to continue supply'.

- (b) The Applicant has considered the operation of the standard conditions put forward by the AER. If the AER is agreeable to giving the exemption and wishes to impose conditions, the Applicant would not have any major concerns with conditions 2.1, 2.2, 2.3, 3.3, 3.4, 4, 5, 6.2, 7.2, 7.4, 7.5, 8.1, 9.1, 9.4, 10.2, 10.3, 10.4, 10.5, 12.1, 13, 14, 15, 16, 17, 18 and 19 of the Standard Conditions¹ applying to its case.

¹ Standard conditions are those in version 3 of April 2015.

- (c) However, the Applicant has some concerns about the practical application, administration cost and benefit to consumers of some of the standard conditions concerning customer connection and pricing, payment plans and disconnection and administration.
- (d) The Applicant sets those concerns about below, and proposes some alternative formulations, which it believes will meet the relevant policy objectives.

Issue/ Standard Condition	Applicant Concern	Proposal
Right to refuse to sell/disconnect 1.1, 10,11	<p>These are conditions which can have an unforeseen application, to a provider who operates vertically integrated retail distribution and generation operation, in a remote community.</p> <p>The Applicant is concerned that it should not be obliged to expand its generation capacity to meet a new connection enquiry, or supply at a subsidised price to any customer, but in particular to a competitor or their employees or agents.</p>	<p>The Applicant may refuse to sell or reconnect if there is insufficient capacity in the generation system or the network at Weipa or for other reasonable grounds.</p> <p>The Applicant shall:</p> <ul style="list-style-type: none"> ▪ use reasonable endeavours to recognise and support supply to customers whom it knows to be on life support apparatus, in accordance with a plan discussed and agreed with the customer, and ▪ have due regard for those who are seeking financial support. <p>If an Ombudsman has appropriate jurisdiction, the Applicant will submit to any process over which the Ombudsman has jurisdiction.</p>
Issues with pricing linked to local retailer 7.1, 7.3, 7.6	As noted above, there is no local retailer for Weipa.	If the State provides a subsidy for the supply of electricity, to the Weipa township, the Applicant will pass that subsidy on to customers, in accordance with its obligations at law
Payment plans, hardship 3.2	<p>In practice, the Applicant has seldom disconnected a defaulting customer. However, in this case, the Applicant's particular concern is that the standard condition requires it to offer flexible terms to anyone 'who has identified themselves as being in financial hardship', whether or not that financial hardship in fact exists.</p> <p>The Applicant would like at least to be satisfied as to the bona fides of the application.</p>	The Applicant publishes a flexible payments policy with which it agrees to comply, and must only offer a payment plan, if it is first satisfied itself, acting reasonably, that the relevant customer is in financial difficulty.
Refusal to supply, default and	RTA believes that it would be unduly onerous to add to its costs by also requiring it to extend credit to a defaulting customer.	Delete these conditions.

Issue/ Standard Condition	Applicant Concern	Proposal
disconnection 1.2, 9.2 and 9.3		
Administration – billing 3.1	Metering data is often hard to obtain and not necessarily capable of being gathered quarterly. See paragraph 2.2(g) of this Application.	The Applicant shall use all reasonable endeavours to issue bills as nearly as practicable on a quarterly basis.
Administration 6.2	This adds a compliance cost to an already subsidised service that is of relatively little benefit to the customer.	Delete
Administration – rebate assistance 12.2	This adds a cost to an already subsidised service.	Assistance only to be provided if reasonably requested by the customer.

5. Further material

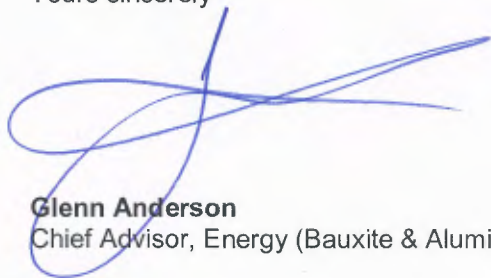
Annexure B to this letter sets out the information required for the individual application as per the AER's requirements.

6. Further communications

Please feel free to contact me (email glenn.anderson@riotinto.com, telephone (07)3625 3438) with any further questions.

We look forward to hearing from you.

Yours sincerely



Glenn Anderson
Chief Advisor, Energy (Bauxite & Alumina)