

AUSCRIPT AUSTRALASIA PTY LIMITED

ABN 72 110 028 825

Level 22, 179 Turbot Street, Brisbane QLD 4000

PO Box 13038 George St Post Shop, Brisbane QLD 4003

T: 1800 AUSCRIPT (1800 287 274) F: 1300 739 037

E: clientservices@auscript.com.au W: www.auscript.com.au



TRANSCRIPT OF PROCEEDINGS

PUBLIC TRANSCRIPT

O/N H-476988

AUSTRALIAN ENERGY REGULATOR

PUBLIC FORUM

REGULATING INNOVATIVE ENERGY SELLING BUSINESS MODELS UNDER THE NATIONAL ENERGY RETAIL LAW

CHAIR: MR JIM COX, Australian Energy Regulator

LOCATION: AUSTRALIAN ENERGY REGULATOR
LEVEL 38, 360 ELIZABETH STREET
MELBOURNE, VICTORIA

DATE: 10.14 AM, THURSDAY, 5 FEBRUARY 2015

THIS PROCEEDING WAS CONDUCTED BY VIDEO CONFERENCE

MR J. COX: Good morning, ladies and gentlemen. I think we'd like to start the
5 forum now. Just to introduce myself, I am Jim Cox, and I'm a board member of the
Australian Energy Regulator, and with me is Sarah Proudfoot, who's the General
Manager of Retail Markets and some of her colleagues in the Melbourne office and
also in Adelaide and Canberra. And also sitting in the back row is Paula Conboy,
chair of the AER and Jess McCrum is there. So that's who we are.

10 So thank you very much for coming today. We appreciate the time and trouble
you've taken. We realise it does take some effort to attend these things, and we're
grateful for that, and also we would like to thank you in advance for submissions that
you're going to make which will be of considerable assistance to us in deciding how
15 to progress these issues. And I should also say we – this meeting follows up a
similar forum we had in Sydney last week.

Just to start off with, the purpose of the forum – I think it's a number of things. It's
20 to comment on our recent issues paper on innovative energy selling models, to raise
and to discuss any concerns that you might have and to seek clarification from us
regarding our issues paper and process from here. So – but I think the emphasis is
really on you presenting your views to us, and we might probe them a bit. We're not
really trying to reach agreement or consensus at this meeting. It's an early stage of
the process. I think the important thing for us is to hear your views.

25 Just some issues of process, if you like. Firstly, as you would have noted, the forum
is being transcribed. We're doing that to get a record of proceedings to enable us to
complete our work. So that's the purpose of the transcript. We will circulate the
transcript to attendees for any corrections, and then we'll place it on our website so
30 it's part of the public record, if you like, for this review. If you wish, you can treat
your remarks as on the transcript as a submission to us, if you want to do that, or,
alternatively, you can make an additional formal submission, and we'll be grateful
for that as well.

35 Secondly, the conference is being transmitted by video conference to Adelaide and
Canberra, and that gives us some advantages, but some challenges too. So the way
we're going to go is we'll start off by having discussion in this office, the Melbourne
office. Then we'll go to Canberra and Adelaide and get people in those rooms to
make their comments. So there's a bit of sort of process there. When you're given
40 the opportunity to speak, it's important to identify yourself and your organisation for
the benefit of the transcriber and do that each time you speak. So when you do
speak, if you – it would help us if you can speak clearly and slowly. And another
issue is that it's important if – unless you're speaking, that you get – that you mute
the control, otherwise we'll get annoying feedback and AER staff members will help
45 you to do that, but it's just an important point to note.

So we'll go around office by office. After that's been done, we'll give everyone a chance to comment on the points that have been made. Obviously, you can ask questions to the AER, and we'll try and give you an answer, now or later. If you want to ask a question of other participants, we'll do that with their agreement. And
5 if this thing turns out to being a bit sort of conversational, I don't think that's a bad thing. So we had – I think we still had some good discussion in Sydney last week.

Turning now to the issues before the forum, I guess the context for us is a rapidly
10 changing energy market where new services and products are becoming available. Increasingly, people are able to generate and store their own electricity and this and other innovations in metering and tariff structures are leading to a situation where there is a two-way relationship between energy metres and energy sellers. So customers are changing from being passive consumers of electricity to active
15 managers of their use of energy, and this is obviously being assisted by new and cheaper storage and by smart grids. So that's the context. Our regulatory model under the Retail Law – because we're talking about the Retail Law here – needs to change to keep up with these changing developments.

So we got into this area, I think, for the first time with our statement of approach in
20 July 2014, and this looked at how we proposed to regulate a particular model which is solar power purchase agreements where a company is essentially putting panels on people's roofs and selling the energy. And we had a consultation process on that, and we thought at that time that these were essentially secondary and fairly small sources of energy and that a light-handed model was appropriate. So that was stage
25 1.

Stage 2 was November 2014 where we put out an issues paper, and I guess what had happened in the meantime was that there were new proposals in front of us involving
30 storage, and that meant now that there was a possibility of the customers being able to disconnect themselves from the grid for a substantial period of time, and we thought that our approach for the solar panels purchase agreements might need modification. So we put out an issues paper in November raising these issues. In that paper, there were no – there was no preferred position, but there were two options, either requiring that the alternative energy provider models should be
35 authorised under the Retail Law or, alternatively, allowing exemptions subject to robust conditions. We requested comments by the 15th of January, but there was a lot of interest in the paper and there was a wish to hold this forum, so we subsequently extended that to the 16th of February 2015. And that's where we are today, if you like.
40

In thinking about the various options, I think there a number of policy objectives that are important. Obviously, I think a very important one is that customers receive sufficient protection. That's one objective. I think a second objective is not to unnecessarily discourage or make unnecessarily expensive some of the new energy
45 selling models, because these might after all get – be good ways of people – of meeting people's energy needs, so we don't want to discourage them. And I think the third policy objective is to avoid subsidies between groups of customers depending on the technology that they choose. Obviously, I think these objectives may conflict to some extent, and I guess there's an important question about the

relative importance to be given to each of those, and I guess we'll be interested in your thoughts on that as we work through the issues today.

5 So that's the sort of, I think, what's to be achieved here. In terms of questions, there were five that we listed in the issues paper, and I'll just go through those. The first of those is what difference should storage and other emerging technologies make to how the AER proposes to regulate innovative energy supply models under the Retail Law? So that's essentially about the importance of storage and other technologies. Secondly, what do you think about the two options proposed by the AER which were
10 authorisation or exemptions subject to conditions? I think thirdly, are there other options that the AER should consider? And then in relation to option 2, which is the exemption option, what conditions should be placed on individual exemptions for alternative energy suppliers? So that's exemptions. And then the final question, the fifth question, is whether the AER should include a trigger point for further review of
15 individual exemptions if we go along the option 2 route, and if so, what should the trigger be?

Now, I think to assist discussion, we might combine some of those questions. So we might start off discussing the first one, which is about storage and emerging
20 technologies, though we might combine the second and third which are the two options imposed by us and any other options. So those are all about options. Then we might combine the fourth and the fifth, which are about exemptions and trigger points under option 2, so we'll have a discussion about option 2, if you like. So I think that might be a reasonable way to proceed. So with that, we'll open the
25 discussion. We'll start with the Melbourne office, and I know it's always difficult to go first, but I really hope that someone will lead off. So thank you. Yes.

MR C. MEMERY: I will jump in, if you need someone to.

30 MR COX: Yes.

MR MEMERY: I will take that one for the team. Craig Memery, Consumer Advocate with ATA. Thanks for hosting the meeting. I think it will be a really
35 valuable discussion. It's obviously really timely and important. And great to see that we're having this discussion now rather than in five years' time when – you know, when issues have emerged unaddressed. And I think it's a really good discussion paper. I'm just back from holidays so I haven't read it in detail. But one of the – the key point that stood out for me which I thought was worth addressing in the context of storage is that it's really important for us to focus on the services and
40 the products that are provided to consumers rather than the technology itself and also how that fits in to the nature of providing an essential service.

So to use the example of storage in the case of batteries, you could have a – a product
45 provided to consumers or a service whereby someone leases batteries to someone who's a renter in an apartment and that consumer charges the batteries in the off-peak and they use it to reduce their demand in the peak. Now, if that business goes bankrupt or folds, the impact on that consumer might be that they can stop accessing such a good energy deal but they're not going to lose access to the essential service through the power company. On the other hand, batteries can form part of a

standalone power supply, where a customer disconnects from the grid and then they're entirely reliant on the performance of those batteries.

5 And if they fail then that consumer could spend some time – a protracted period of time – without access to an essential service. So the point there is that in that case, obviously, the service provider is providing the full retail function, interestingly, as well as a distribution function because they're responsible for the reliability that's provided too. So our key point on that is that, yes, we do need those services protected. And certainly there need to be equivalent protections, where this service
10 is equivalent to a retail service. However, it's important to focus on the service provider not the actual technology itself.

MR COX: Okay. Thank you very much. Who would like to go next?

15 MS P. BOYCE: Patricia Boyce, Seed Advisory. We've been doing some work over time with people who are interested in - - -

MR COX: Sorry. I didn't catch your organisation.

20 MS BOYCE: Seed Advisory.

MR COX: Seed Advisory. Thank you.

25 MS BOYCE: So we've been doing work with people who are interested in innovative power supply. And – and much of those discussions are happening in the context of, for example, multistorey buildings with multiple tenants. And so, the – the issues that Craig raises are important. But there's also a question about the locus of the service provider. So we – we – in these kind of arrangements, under exemptions and authorisations, there are material questions raised about so where's
30 that – where is that service located. And both the national rules and then the jurisdictional requirements have quite different treatments about how this works – how this works for customers, whether it's possible at all, depending on whether it is a one-to-one. I'm in a detached suburban house and the storage is in my garage or I'm in a multistorey unit in the CBD, where the proposition may well be
35 considerably more cost effective, and the service is provided in the basement of my building or, worse from the regulatory perspective, the service is provided from the basement of the building two doors down. These are also issues we need to grapple with. I appreciate it extends the topic a bit. But we need to think very carefully about what the model is that we have in our head about the locus of the service
40 relative to the customer as well as the nature of the customer-provider relationship.

MR COX: Yes. From your experience, can you just talk a bit about what sorts of models are actually out there? Because that - - -

MS BOYCE: Well - - -

MR COX: That would be of interest to us, to - - -

5 MS BOYCE: There are fewer models out there than there are aspiring models, not least because this is very – it’s very hard.

MR COX: Yes.

10 MS BOYCE: It’s very hard because – but the sorts of people I’m talking to right now – so let’s talk about the things people are trying to do.

MR COX: Yes.

15 MS BOYCE: They’re trying to do for energy service agreements with a new apartment block where as part of a whole energy efficient design there’s some level of either onsite shared cogeneration or trigeneration or offsite shared cogeneration or trigeneration or thermal power being provided. And so – and then the issues that then are presented to them are how do you – how do you contract with the
20 customers? Do you actually have to go and call the service you’re providing, which depending on the design might be, in fact, all of the power to the tenants? Do you have to actually go and describe that as climate control services and building facilities and take yourself outside the retail environment for the purposes of signing customers up and charging them through the body corporate levy, for example? And
25 can you – can you do that thing not – you know, that’s not entirely clear.

But you could – you can technically get to the point where the building or a group of buildings is entirely self-sufficient. Are the – can you contract the customers? And, if so, can you do so for a limited period of time, under an exemption, or a longer
30 period? And those are then issues that are both questions about the customer rules in the energy market but in some cases in New South Wales it also goes to the customer rules governing body corporate contracts. But they’re the sorts of – the sorts of people we have been working with are trying to do these kinds of things. And they’re not – often – you know, often they’re, at the moment, for very high-end
35 developments - - -

MR COX: Yes.

40 MS BOYCE: - - - not least, because that’s where they expect they can attract the customers. Should customer protections for those customers be identical to the customer protections that we require for students in multiple unit accommodation? I don’t know. But they do present a real barrier to actually going forward with these kinds of models.

45 MR COX: Certainly, these models – would it be right to think that most of the power supply comes from the cogen and the trigen - - -

MS BOYCE: Yes.

MR COX: - - - but grid power would still be available?

5 MS BOYCE: Yes. I mean, there are all sorts of questions then about at what size or
whether you go putting your own backup. Because at the connection point the
economics are often very difficult because the DNSP will insist that the connection
sizing is related to an assumption that you always draw a hundred per cent of the
10 power for all the estimated use of the building. And so, it can be cheaper if you – if
you kind of – if you're averaging down your take, if we can reach a point where it's
probably cheaper to go off-grid altogether and put in some – a diesel unit that you
hope never to run, in preference to staying connected to the grid for those – for the
remote possibility that the solar all disappears and the cogen unit falls over and
everything happens all at once.

15

MR COX: Right. Sorry but, some of the more innovative arrangements, say, in
Sydney, which I know more about, sort of Central Park and so on, I mean, how does
that work and how are customer protections provided?

20 MS BOYCE: Well, as Sydney would tell you, it hasn't worked because the issues
of customer protection impose significant costs. So, for example, if we insist that
customer protection takes the form of every customer requires a meter for the
purposes of being charged for their electricity and we then – and we resist the idea
that customers could receive their electricity by way of some other feed then we've
25 just increased the cost. So Sydney is facing a whole bunch of problems, some of
which are what do we do in the building in relation to the customer? Can the body
corporate contract in advance and, if so, for how long? What are the costs of
introducing these protections? But they are also subject to issues associated with
how distribution charging structures work.

30

So the power that leaves a building, to be transmitted to the building next door or the
one two doors down, has incurred a connection cost and a charge that is unrelated to
distance travelled. Now, our system is entirely – you know, it's not a path-specific
system. But the issue that we will, I think, eventually face is that the way payments
35 work in a distribution network they are a disincentive to power production in the
network where that production is exported from one building, say, to the next. And
so, we have kind of two separate issues. One is the consumer issue and the one is the
charging structure issue. They are, in effect, wheeling charges that are happening but
they're quite inefficient.

40

MR COX: Okay. Thank you. Who would like to go next?

MR A. MOHAMMED: Anwar Mohammed, ZAPD Energy. I just wanted to add on
to your comments there. Like, it - - -

45

MR COX: Sorry. I didn't catch your name.

MR MOHAMMED: Anwar Mohammed with ZAPD Energy.

MR COX: ZAPD Energy? Yes.

5 MR MOHAMMED: Yes. ZAPD.

MR COX: ZAPD.

10 MR MOHAMMED: I just wanted to add on it sounds like the type of model, what
you're talking about, sounds similar to an inset model, where shopping centres would
have multiple tenants. And the shopping centre has obviously made the investment
into distribution within the shopping centre. You have one metering point. And then
15 from there onwards they can actually on-sell the electricity and recover part of their
cost of putting in the plant and equipment, to recover that cost. Is that what you're
alluding to? I'm - - -

MS BOYCE: Yes. But we treat commercial tenants differently depending on - - -

20 MR MOHAMMED: Yes.

MS BOYCE: - - - how many there are, for a start - - -

MR MOHAMMED: Yes.

25 MS BOYCE: - - - and how large they are.

MR MOHAMMED: Yes.

30 MS BOYCE: So residential tenants then present a whole different class of problem.

MR MOHAMMED: Yes.

MS BOYCE: So a shopping centre can do that to some extent.

35 MR MOHAMMED: Yes. In some states.

MS BOYCE: Yes.

40 MR MOHAMMED: Yes.

MS BOYCE: But – but once you get residential tenants then you have a whole
different level of difficulty.

45 MR MOHAMMED: Okay. So that's the part - - -

MS BOYCE: Yes.

MR MOHAMMED: - - - where you're alluding to which has to be evolved and some certain protections put in place? Okay. Thank you.

MR COX: Thank you.

5

MS D. FOONG: Patricia, in Victoria we do have, you know, buildings with body corporates holding the – sorry. I'm Deanna from the Consumer Utilities Advocacy Centre.

10 MR COX: Yes. Thank you very much. Yes.

MS FOONG: I just wanted to respond to Patricia's comment.

MR COX: Yes.

15

MS FOONG: I found that really interesting. In Victoria we do have, multistorey buildings and with lots of tenants and the body corporate actually on-sells the energy to the tenants and the site is individually metered. And so, the body corporate holds an exemption. And a lot of the new buildings in Melbourne, I think, the developer is usually the one who comes in and – and the site is set up and a private network installed within the building. So, the developer enters that contract with the exempt seller. And then subsequently the contract passes on to the body corporate. And the body corporate has an agreement with the exempt seller for the supply of energy but the body corporate may actually be the one who is actually holding the exemption. So I think – I'm not sure whether the rules are a little bit different.

25

MS BOYCE: In Sydney one of the issues is that a body corporate – so a developer can't enter into a contract on behalf of the body corporate. So – so there's a chicken-and-egg problem, at least in New South Wales, which is related to who can enter into these contracts because the equipment and the design is being done well before the body corporate formally exists. A body corporate can't formally exist until a certain point down the development chain of the building. And so, the decision about are we going to do it and how are we going to do it is taken well in advance of the body corporate formally existing. And so, you can't – there's no transmission of those arrangements, at least in New South Wales, from the developer, who may well, in fact, have agreed with individual customers of the development that they're all very happy to do this but they nevertheless can't contract on behalf of the body corporate, and hand that over to the body corporate and say, "Here you go. Here's a contract," for even, you know, a five year term. And so, from the developer's perspective, in the New South Wales market, then it's a really big issue about if we do this will the customers – will the body corporate take it on?

30

35

40

MR COX: What do you think are the implications here for the Retail Law, which is our focus?

45

MS BOYCE: Well, in other contexts – so we’ve been involved in the discussion about innovative generation more generally – I have to say, my reaction is that we should be allowing adult customers to exercise their contractual choices, which may, in fact in a development which is being marketed to them as, you know, incredibly green and very upmarket – may be, in fact, that they are happy to forego the benefits of retail contestability for a five year period so that this thing gets up.

MR COX: Yes.

MS BOYCE: So, I have to say, my attitude to this – and I appreciate that not all customers are necessarily in this situation. But I would – my attitude is consenting adults ought to be able to consent to a range of arranged agreements, some of which will be, “I’ve opted out for a time.”

MR COX: Yes. Thank you.

MR MEMERY: Totally support that point and would add that it’s very - - -

MR COX: Do you mind introducing yourself again?

MR MEMERY: Yes. Sorry. Craig Memery again, Consumer Advocate, ATA.

MR COX: Yes.

MR MEMERY: It is very important that consent is explicit and informed, so that it’s more – because it is naturally a more complicated and longer term than a retail commitment. We’ve very much, in the National Energy Market, come to value the ability to change retailers in the interests of competition. However, that doesn’t actually work when you’ve got an energy provision that’s based on an investment that has got a high upfront cost and you need to be with the one provider to recoup that with time. So it’s all the more important that the right information – that it’s incumbent on the provider of that service to provide the right information and be able to demonstrate the consent that they’ve gained from the consumer is explicit and informed. And I would say in that context it’s probably more important than in a normal – in relation to a normal retail agreement.

MR COX: Okay. Thank you. Someone else? Yes, thank you.

MR D. CALDER: David Calder from Origin Energy. Yes. Look, I tend to agree that, you know, customers should have choices in those particular examples that Patricia’s mentioned. I suppose one of the issues you confront and we deal with as retailers – and most of the retailers in this room will have customers who are in what we call tier 1 or tier 2 embedded networks, and I think – I suspect we’re getting into embedded networks here rather than - - -

MR COX: Yes.

MR CALDER: - - - you know. Well, I think Patricia has raised a really - - -

MR COX: Yes.

5 MR CALDER: - - - good example that's quite complex, but I suppose we've got
experience with both. One of the issues, obviously, to confront down the track is if
it's a rental situation and there is no metering, for example, it's very difficult to
retrofit, although that is becoming easier over time. But if you want to then access
10 the national electricity market through a and have a normal retailer down the
track, you might not have that choice. But, yes, so I suppose it's just a comment.

MR COX: Thank you. Yes, Craig?

15 MR MEMERY: I don't want to hog the microphone - - -

MR COX: Yes.

MR MEMERY: - - - but in the absence of someone else putting their hand up - - -

20 MR COX: Yes.

MR MEMERY: On the topic of embedded networks in this context of multiple
energy users, potentially over different properties, some of the analysis that we've
done which has been pretty comprehensive shows that – and there's certainly a lot of
25 interest from a lot of community energy groups in this. There's a lot of groups that
are interested in – whether they're connected to the grid or not – entering – having a
microgrid arrangement of some description whereby you've got multiple properties,
maybe some with batteries, some with solar. They're all interconnected, and they're
– either they're trading energy between themselves, or they've got a – some sort of
30 an organisation set up to trade energy, or even a separate energy provider is trading
energy, or even energy services that aren't actually related to the tradeable metered
energy but to the services provided, such as, you know, heating and cooling or actual
hot water rather than the energy going into it.

35 One area where the current embedded network arrangements are lacking in relation
to the future products of that type and where, I think, the current plans for changing
them also don't pick up is where you do have the potential for consumers to sell
energy across property boundaries and for there to be the – a more complicated
purchasing and trading arrangement. Similar to a lot of the other aspects that we've
40 discussed, it's the sort of thing that you'd probably not want to stifle that innovation
to the point where consumers couldn't access those services if they're going to get
cheaper energy in the longer term and also more certainty about the energy price in
the longer term.

45 That's another reason that consumers value these products. It's not just because they
might get a cheaper deal, because based on the prices at the moment for things like
batteries, they might not get a cheaper deal. But they do value the independence and

the certainty that they know what their energy is going to cost, or at least the duration of the warranty on that device. So there are two separate things there. There's the embedded network arrangements probably need to be able to account for more novel trading arrangements that might emerge, including across property boundaries and
5 that slightly separate issue of the value of price certainty for consumers as much as price.

MR COX: Thank you. Anyone else?

10 MR L. BROWN: Luke Brown, Momentum Energy. I've actually got a – I'd like to start on a question, and I might preface it by saying that even though I am from one of the big bad energy retailers, I've got a background in clean tech entrepreneurship. I'm really enthusiastic personally and in our business about participating in meeting
15 the challenge of competing in new markets, and I think to a greater and lesser degree, but increasingly a greater degree, that applies across retailers. I'm unclear why those three introductory principles you laid out, Jim, don't include a fourth around competitive neutrality, because - - -

MR COX: Yes.

20

MR BROWN: - - - my read on the laws around the relevant decision-making factors in relation to the decisions that have been made to date is that that core principle, that the regulatory regime faced by these guys shouldn't unnecessarily diverge from that which we face, is first and foremost about consumer protection, yes, as it should be,
25 but is also there because of the principle of competitive neutrality, and so those introductory three principles you laid out are all appropriate. But I'm unclear why the issue of competitive neutrality isn't in there amongst them.

MR COX: Well, I mentioned avoiding subsidies between groups of customers,
30 which I think is the same point in slightly different language.

MR F. POPE: because under the current interpretation, it requires a traditional retailer to provide services for free to alternative energy sellers. So they're – so I suppose if you're – you're not the different treatment of the company which
35 presumably will eventually show up in their prices, but competitive neutrality is a much more explicit way of describing it.

MR COX: Okay. If you prefer that, that's fine. Yes.

40 MR POPE: But, yes which is – so the interpretation obviously, every business would like to get free services from another business, especially one they compete against, which is how they're currently operating the choice. So just on that – like, do you envisage a point – at what point the traditional retailer wouldn't wear the whole cost? Like, so what – how many services that get kicked off from a
45 consumer before the traditional retailer would no longer be the sole bearer of those costs? Like, I've got my solar panels. Then someone sells me an EV charging

system. Someone else sells me this. At what – how little of the load does the traditional retailer end up with before everyone starts paying those costs?

5 MR COX: And, obviously, that's a very good question. I wish I had an answer.

MR POPE: Because as long as we go down - - -

10 MR COX: I mean, I suppose the way to think about it is, well, we started off with solar panel purchase agreements. They seemed to us to be secondary and marginal. Should we – is it okay, so to speak, for the existing retailer to cover the cost? Probably yes. There might be some other arrangement that's larger, less marginal, less secondary. You might start wondering. I mean, in a way, I think one of the purposes of the consultation was, you know, does storage make so much of a difference, so to speak? Because it sort of flips it from being in the secondary, 15 marginal category to something more significant and which the arrangement we have with the solar purchase – the solar power purchase agreements might not be appropriate. I mean, I – that, in a way, is what we're trying to explore here.

20 MR POPE: But wouldn't a more principle-based approach be that it's not a technology; it's how much the alternative service is delivering to the customer. So if I'm a pensioner that's home all day, then my solar panels actually could represent a very large portion of my load, as opposed to, say, a working couple where neither of them are home. So these – how much is being provided by the alternative provider to the traditional retailer is very different, and so if the concern is the storage is 25 flipping over, say, to a certain percentage of the load is now provided by the alternative provider, wouldn't it be more appropriate that, regardless of what technologies are installed, it's assessed on that basis?

30 MS PROUDFOOT: And I think that's what we're looking at particularly - - -

MR COX: Yes.

35 MS PROUDFOOT: - - - in terms of that last question around trigger points and whether there's a review point at some stage around the exemption. So it sounds like everyone's in fairly strong agreement.

40 MR COX: Yes. The other issue being whether it's on a customer-to-customer basis or whether you sort of aggregate over customers for reasons of practicality or whatever. I mean, that's - - -

MR D. GLADMAN: If I could just pick up on that - - -

MR COX: Yes.

45 MR GLADMAN: Sorry, what was your name again?

MR POPE: Sorry, Fergus Pope from the Energy Supplier Association.

MR COX: Yes.

5 MR GLADMAN: From the Energy Supplier – thank you. If I could pick up on Fergus from the Energy Supplier Association’s point, my name is Darren Gladman.

MR COX: Thank you.

10 MR GLADMAN: I’m from the Clean Energy Council.

MR COX: Yes.

15 MR GLADMAN: And I’m here representing some companies that either provide PPAs or would like to. We’ve moved on to the question of the trigger, so is it okay for me to address that now?

MR COX: Well, I suppose we should probably go through this systemically for the sake of - - -

20

MR GLADMAN: Okay. In that case, I’ll just - - -

MR COX: - - - covering the agenda, yes.

25 MR GLADMAN: - - - flag that I’d like to return to the point of the trigger.

MR COX: But perhaps just flag briefly the point you’re going to make.

MR GLADMAN: Because it wasn’t really addressed in the first consultation.

30

MR COX: Yes.

MR GLADMAN: Just while I’m talking, I’ll just reiterate some of the key points that I thought were made in the last consultation that we would support, which is we think the key principle is consumer protection. We would be – as a representative of the solar industry, we’re not averse to increasing consumer protection. We’d like to see that. But I think, picking up on the point that Craig made, it’s – the key consideration is the nature of the service being provided, not the technology and not the proportion of energy. And I’ll return to the trigger later when we get to the discussion of the trigger.

40

MR COX: Yes, okay. Yes, please. .

MR CALDER: Sorry. It’s David Calder again from Origin. Yes. I think it is a – you know – I think it vexes some folks when you think about, well, you know, we could be left with five per cent of a customer that used to be, you know a 1940

45

sized customer rather than a 1995 sized customer which is bigger than a 2015 sized customer. But I think the – you know, it’s a bit – it’s sort of interrelated, in some respects it’s like network tariff reform. If you’ve got a certain number of obligations and you’re authorised to do certain things, report, etcetera, there’s a fixed nature to that. So whilst the network will say in the future, “Well, your capacity is X so here is your rolling monthly demand charge”, similarly, your retailer – “Here’s your fixed charge for accessing – maintaining access to those authorised protections even if you’re not buying energy from us any more, we still have to maintain this stuff to do things for you”, therefore, it’s not on a variable basis it’s just a flat charge as well.

Yes, you might end up in that situation – that’s potentially one way of dealing with it – and that might encourage customers to say, “Well, you know, well, I want to pull the pin completely”, and then you’re in the situation of, well, they’re off the grid altogether, what happens when things fail? I won’t mention life support but you can sort of see where these things get – you know, there’s a lot of rabbit warrens to run down, dry gullies.

MR COX: Yes. Okay.

MR CALDER: But, yes, I think there are a lot of things up in the air about it. I think Origin, generally – I think full authorisation, obviously, is not something we would support. It’s not practical. At the same time, there are careful considerations needed around conditions that might apply and that applies to us, as well, since we’re also an exempt seller.

MR COX: Sure.

MR POPE: Fergus Pope again - - -

MR COX: Yes.

MR POPE: - - - from ESAA would a logical extension that the retailer – because it can pick up the full – because it’s connected to the network full load – the extension that would be the network business where you all had to charge the network connection not at what the actual likelihood, so maybe they’re consuming at, say, one kilowatt is their peak. Because they’ve got their solar system and that’s but what about actual peak? Is peaking at five. So the network would be allowed to charge at five because a retailer – under this assumption, the retailer can pick up the full load at any point and that’s why the protections are assigned to the retailer. So the network could operate on the same assumption that the retailer, at any point, could have to meet that five and, therefore, could charge for five.

MR COX: Okay. Yes. Yes.

MR MEMERY: Yes. Craig Memery - - -

MR COX: Yes.

MR MEMERY: - - - again.

MR COX: Yes.

5 MR MEMERY: I think - - -

MR COX: Yes.

10 MR MEMERY: - - - that's an interesting point made by Fergus. I think it's pretty well addressed though by distribution tariff reform. Consumers get charged for what they use from the network in a perfect world where we have longer and marginal costs and all that stuff. Regardless of – and if the equipment that they're using means that they place less burden during the peak time then, fortunately, they should have less charge. And if they don't use less during the peak time, unfortunately, they
15 will have the same charge. So I don't see that as being an actual issue.

MR POPE: What about connections?

20 MR MEMERY: What about connections?

MR POPE: So if I'm connecting this building I've got my whatever my – I'm predicting my load to be very low, I want a small connection and the network says, well, the obligation if you – for whatever reason it breaks and you have to draw from the grid, we want to connect you with the maximum the entire building could
25 draw. Are they allowed to push for the full connection – like, a connection to the full load or a – or arguably what's more realistic that the whole system is not going to fall in on itself.

30 MR MEMERY: Okay. It's a bit of a separate issue. But, as I see it, there's probably a case-by-case judgment to be made. If a building developer is assuming that the generator that they're installing is never going to fail, then they probably need to speak to an engineer. So, in that case, it's probably good that they're having a chat to the nice engineers at the distribution business. If, however, they're
35 installing a hybrid system that has got, say, I don't know batteries as well as their own backup generator separate to that then they're actually installing a system that has got a higher level of reliability than the existing distribution network that is serving them. So, in that case, they probably don't need a higher grid connection than their anticipated need. So I think it's really on a case-by-case basis.

40 MR COX: Yes. Thanks. Yes.

MR CALDER: Sorry. David Calder again from Origin. Yes, look, I think it really becomes an issue when you cross a threshold. So the distributor will say, "Well, this
45 customer behaves in a certain way" – and sorry, Verity, I'm probably stepping into your territory – you know, they – so, therefore, they're assessed as this in terms of their network tariff assignment. If the system did fail and it was saying there was a detached house, it's probably easier to think about this and that was, you know,

\$7 a kilowatt or whatever it was and they were drawing one or less or whatever. If they're paying \$7, you know, not much for the network charge, then all of a sudden they draw 50 they're going to get a bit of a surprise. But if it's a commercial situation where they might be assigned one based on their characteristics but then the
5 system failed and they – it turns out they should have been on the kVA – whatever it might be – tariff, then that could present a bit of an issue, I suppose. But, as you say, it depends on reliability and what situation is in place. .

MR COX: Okay. Thank you. Who's next? Anyone sitting in the back row? If you
10 don't want to speak, there's a microphone here which will give you the chance. Okay. Well, then let's try - - -

MR BROWN: Sorry. Jim, if I might - - -

15 MR COX: Yes. Please.

MR BROWN: If I may make another remark?

MR COX: Yes.
20

MR BROWN: Luke Brown, Momentum Energy.

MR COX: Yes.

25 MR BROWN: This issue was often characterised as an interesting one where retailers and consumer groups are very aligned and the new energy players are bringing in their innovations and retailers and consumer groups are quite aligned in being concerned about how that impacts. That's one valid way of looking at this. There's another way of looking at this which is that – to the new energy sellers,
30 welcome to our world in energy retail. Of course there should be consumer protections. Of course they should be appropriate. Of course we should be always thinking about whether or not the regime is keeping pace with change, including technological but other forms as well.

35 What this leads to is – part of this picture is a need – in the interests of ensuring competitive neutrality of not just ensuring that the consumer protection is faced by new energy sellers approximate to those that we've faced to the appropriate extent and I agree with David that authorisation, as we currently face it isn't the answer. It leads on to consideration of whether or not the regime we are facing needs to be
40 lightened to bring closer to what the new guys – who we welcome to the competition – are going to face. But we have to move onto consideration of that. I know that's probably not in the scope right now. But it should be in the backs of all our minds. Because we've got to have change. We've got to shake up the way we deliver energy to customers.

45 I'm really excited about the new ways that things can be done and that's, as I said earlier, both personal and also for - - -

MR COX: Sure.

MR BROWN: - - - entry into new markets in our business. But – and this relates a little bit to what Patricia from Seeds said, we have to get the balance right between
5 protecting consumers and unshackling innovation and seeing new ways of doing business that have the impact of bringing energy to people at lower cost, reducing emissions in particular – that’s a passion of lots of people around this table and an imperative. So, yes, we have to continue to protect consumers – but, yes, welcome to our world in juggling that balance.

10 MR COX: Okay. Thanks. Let me try, again, to someone again in Adelaide.

MS PROUDFOOT: It doesn’t look like - - -

15 MR COX: Yes.

MS PROUDFOOT: Susan, is Andrew in Adelaide?

MS FAULBAUM: No.
20

MS PROUDFOOT: No.

MS FAULBAUM: We don’t appear to have any participants in Adelaide so you probably don’t need to come back to us – I’ll let you know if anyone turns up.
25

MR COX: Okay. And anyone in Canberra?

MS PROUDFOOT: Kyle, is anyone in Canberra?

30 MR COX: So we’re

MS PROUDFOOT: Okay. It’s not sounding like there is.

MR COX: No. Okay.
35

MS PROUDFOOT: So Melbourne it is.

MR COX: Good. So it’s Melbourne. That makes – that simplifies things a bit. I guess – before we move on, any final comments? I think in this session I really
40 wanted to get out what’s going on in the market, you know, to what extent is storage a big deal? You know, what sort of things are going on that we should be aware of? So, I guess, any final comments you want to make on that or if you want to respond to someone else – someone else’s comments?

45 MS PROUDFOOT: You probably weren’t asking me, Jim, but if I may - - -

MR COX: Yes. Of course.

MS PROUDFOOT: - - - step in. Sorry.

MR COX: Of course.

5 MS PROUDFOOT: No. But just picking up on Luke's point, I think that's a really valid one.

MR COX: Yes.

10 MS PROUDFOOT: Everything we're doing here is based in the context of the Retail Law and the framework under which, if the party is selling energy, they need to be either authorised or exempt. We're very mindful of the fact that a lot of the models that we're seeing in the market and being prepared for the market weren't necessarily contemplated at the time that the framework was being developed. What
15 we're looking to do here is get a framework that allows us to take a principle based approach to all of those rather than putting out a separate guide on SPPA, SPPA plus storage, wheeling and things like that to provide some certainty for new entrants coming in to provide the consumer protections. And then we're also very cognisant of the fact that in the next year or two we expect there will be work being done
20 around, you know from the groups we're hearing, EMRWG, retailers and all those groups around whether this is the right framework and that whole issue of energy as an essential service versus consumers becoming more engaged in the process, rather than just acting as consumers. So I think that's probably to explain a bit more about where we're coming from and what we're looking at doing today.

25 MR COX: Yes, please. Yes.

MS V. WATSON: Verity Watson, United Energy. I would just like to say that please don't consider that this is our submission because we are still having the
30 debate internally.

MR COX: Yes.

35 MS WATSON: But we did find it curious that the "primary energy" became one of your deciding factors. Because customers could have a bigger solar installation/generation and the customer may or may not be at home during the day, so they can flip whether that is their primary source or not. The same could be said with batteries as well. If an inverter has tripped then the primary source is still the grid side. You know, there might be a difference between summer and winter as to
40 whether the appliance level within the home is the primary source. So we find that, sort of, quite a curious factor moving forward.

The other thing is that if the customer adds solar with battery what's the outcome that the customer is looking for? Is it to negate their energy bill on the grid side, or is it
45 to actually make money on the grid side by selling their energy through a feed-in tariff? So I think there should be an option where customers can consent and they can seek out a number of options. They could get the solar and battery as a loan

from a bank; they could seek out somebody else and relinquish control, to do that sort of control, to deliver an outcome. There are all sorts of packaging of products for solar and battery that could be configured in a whole different set of ways. It seems to me kind of inappropriate to go for an authorisation model as opposed to
5 maybe an individual exemption. And that seems to be a reasonable holding pattern while the EMRWG is going ahead and COAG Energy Council consider this in the longer term.

I think it's hard to have an authorisation model that pre-empts and manages all of
10 these sorts of situations. And essentially this is nothing but an appliance. It's a lease within the customer's premise. If they don't pay for a lease then the lease company comes and gets the equipment back. It's not the primary – it's not the default supply. The protections need to be on the essential service, which is the default supply, not the discretionary product. So I guess – we are of the view that we're not at the full
15 authorisation, but rather see the exemption framework as a bit of a holding pattern, and an ability that if there were adverse customer outcomes that maybe the AER could relook at the conditions on the exemption as a way of dealing with that. So I guess from my point of view, what is the failure that we see in the market – the systemic adverse customer impact – that warrants going to an authorisation at this
20 stage, given that the battery is nothing more than shifting energy?

MR COX: Yes, thank you. You mention the default supply as being the relevant factor. Can you just explain what you mean by “default supply”?

25 MS WATSON: The grid connection. So, should there be an obligation to offer for an appliance-level supply within the customer's premise, that's a discretionary product? You can't continue to have that obligation to offer if the customer is not paying for that leasing arrangement. So the full exemption conditions I would have thought aren't quite appropriate.

30 MR COX: Okay, thank you. Further comments?

MR MOHAMMED: I just wanted to add – and I think Verity mentioned something
35 similar – about leasing options. Because it's not only a solar power purchase agreement that could be available on the market. It could be – taking a wild example, but a consumer may decide, “Well, I'll go completely off grid,” rather than the supplier selling them the energy product, he may enter a finance arrangement. How would that actually be covered? And is that then still an essential supply of electricity, or is that covered in the AER rules or what? I'm just throwing it out there
40 for other people's comments.

MS HARTCHER-O'BRIEN: There has to be a sale of energy. So if that's - - -

45 MR MOHAMMED: So if there was a finance product, there's no energy being produced and there's no supply in the premises, like, as such, that product could fail or whatever. Like, I think this is beyond where, you know, the solar power purchase agreement – well, they just – I think that is definitely something that

consumers what I'm speaking to are thinking about doing. And just getting into finance arrangements and just doing it themselves and producing their own energy.

5 MR COX: I think we probably should move on. Before we do, I just wanted to ask Craig for my sake, perhaps, to explain something. You said it was – that what was important was the nature of the service. I just wonder if you could expand on that a bit.

10 MR MEMERY: So to elaborate on the example that I, sort of, glossed over before, there's a lot of different potential services that could be offered and one difference between them is how much, if that service were compromised, that consumer's access to essential service – the essential service that is energy would be compromised. So to use the example that was just given, if you've got someone providing a full standalone power supply, then that person – the provider of that is performing the function that's currently provided by – sorry. If – that is not owned by the consumer, but if it's owned by someone else to provide energy on site, the provider of that is providing the function that is currently performed in the national energy market by the retailer and by the generator, who are usually the one entity, or often the case – oftentimes – and also the distributor.

20 So they're responsible for providing the reliability. They're responsible for providing the capacity. And they're responsible for providing the function of the retailer in terms of the – you know, some sort of financial transaction, be it based on kilowatt-hours or based on something else. So in that case if there was an issue of solvency or performance by that party providing that service the consequences for the consumer are far greater. So my – yes, my real point is about there being a range of different services that could be provided. When you compare that to someone just providing a – one of the services that we've caught wind of is someone talking about – to cut a long story short, when people have solar in batteries one of the issues is they don't know how much to let their batteries discharge so that they can accommodate the next day's solar resources, because it might be cloudy.

35 Some people are talking about offering a battery management system, where the consumer buys the battery, the service provider manages their charge and discharge of the battery. Now, if that service provider goes belly up, the consumer might end up paying a bit more for their energy because they're no longer getting the best optimised use out of it, but they're still going to access it, the essential service. So you would argue, I think that that provider shouldn't need to come with any significant protections beyond Australian Consumer Law. Whereas the person who's providing energy exclusively from a standalone power supply is providing a very – is providing the whole essential service. It certainly gets into that threshold question.

45 MR COX: Okay. Thank you, that's helpful. I think we should move on to the next topic, which are a number of questions around options. We've put out two, which was authorisation and exemption, and I think a number of people are saying they don't think much about authorisation. But we're also asking whether there are

any other options that we should consider, so now is the chance to discuss those questions further.

5 MR BROWN: Just – Luke Brown, Momentum. Just to clarify, when you say “other options to consider”, do you mean other options you would – might decide to recommend to those bodies considering changing the framework under which you operate? Is that - - -

10 MS PROUDFOOT: No, we’re talking about whether you would look at – for example, at the moment the SPPA arrangements are done under an individual exemption. Do you look at a class exemption? You know, for registration, rather than doing that sort of more fulsome process. So it’s any other options, I guess, within our framework, which is quite limited. And I think really class exemption would be it. But that is – that’s something you would look at more generally. I
15 mean, we’ve not heard anything either last week or this week that has suggested anyone is amenable to the authorisation option. So that really puts the focus back onto exemptions.

20 MR GLADMAN: Darren Gladman, Clean Energy Council. Just on the question of alternatives, you might want to look at the Western Australian regulatory framework, which I understand is in many respects quite similar to the AERs framework with authorisations and exemptions, but I understand that they allow a class exemption for solar PPA providers to large commercial customers. So that’s just another
25 alternative that could be considered.

MR COX: Yes. Thank you.

MR BROWN: Luke Brown, Momentum. I just – sorry, Fergus.

30 MR POPE: That’s all right.

MR BROWN: That’s a really good platform for thinking about where retailers’ issues lie in relation to consumer protection. So in relation to that set of customers you’ve just alluded to, the regulatory burden we face in providing consumer
35 protection is relatively low, which has an impact on the competitive neutrality question that I’ve heard a couple of times here at this meeting. So that’s important. It’s the not the end of the story, though, because we still as retailers, face issues around predicting the load that we need to meet, and hedging issues, etcetera, etcetera, which will feed through – which can to some extent be dealt with in pricing,
40 but there are remaining issues beyond consumer protection, so I probably don’t want to go into it more than that in this forum. But it’s worth putting that on the table, that consumer protection is not the only element that we’re talking about on the retail side.

45 MR FOX: Thanks. Craig.

MR MEMERY: I was just going to observe – so one of the more, you know, extreme examples of a consumer using alternative services that we have been talking

about is the idea of them going completely off grid. It's probably worth being cognizant of the current arrangements for provision of off-grid services whereby there's an accreditation. Darren could certainly speak a lot more authoritatively than me on this, but the providers of those systems are required to be accredited. My
5 understanding is that's for the purpose of being able to access the renewable energy certificates that are available. It's not an absolute requirement.

So currently I think there is an issue where someone who doesn't have an accreditation of any description should be providing what is a really complicated
10 system for an energy user, and that person might not have the adequate training or accreditation. It would get signed off on by an electrician, presumably, but that would only be to meet the safety requirements that are electrical in nature, rather than the actual performance requirement. So I would suggest – and I don't want to step into Darren's territory – but I would suggest it would be a good idea to perhaps
15 make, at the very least, that sort of accreditation that is required currently with CEC a minimum requirement for anyone who is going to be installing, you know, standalone power supplies for consumers.

MS PROUDFOOT: See, once a customer is off-grid they're actually not subject to the retail law, so we don't have any jurisdiction if they have elected to move off. So
20 - - -

MR GLADMAN: If I could just pick up on the issue that Craig raised and also on the one that you just raised, Sarah, just to note that Clean Energy Council has either
25 written or is in the process of writing to all of the state and territory Energy Ministers, and we're bringing a number of issues to their attention, but one of those is the question of consumer protection for micro-grids or isolated grids, because we do see that as an emerging issue. We understand that the AER doesn't have regulatory coverage of that area, and we imagine that that was not anticipated when
30 the regulatory framework was established, and so we're bringing it to the attention of Energy Ministers that they might want to consider consumer protection for micro-grids and isolated grids.

And on the other point that Craig made, I would – we would certainly welcome if there was an extension of the AER's regulatory coverage to isolated grids or micro-
35 grids, but you also look at mandating the requirement for accreditation for installers and designers, because, as Craig said, at the moment, that's a voluntary system, but it's connected to the small-scale renewable energy scheme, which means that you don't get the government rebate unless you use an accredited installer, but already in
40 legislation there is a wind-down of that system over time, which is appropriate, and Clean Energy Council supported that, because we know that in the long run solar will be competitive. But it does mean that there won't be the financial incentive for the sort of protections, so we do need to look at whether a regulatory system is required for that.
45

MR MEMERY: Yes. And if I could just pick up on one very key issue in relation to that, traditionally, I think it's fair to say that the market for standalone power

supplies has been a much better-informed market, because you have got consumers in regional areas who are in areas that don't have electricity supply. They have grown up with or they have become used to or they are well-familiar with a lot of the issues. Whereas when we're talking about consumers who are today used to the reliable supply that they get from the grid in an urban area, and potentially getting sold, you know, the cheapest thing that someone says they can install to take them off the grid, there's a real issue that they won't be informed in the same way that traditional SAPS (Stand Alone Power Supply) customers are. So there could be a real, serious emerging issue there, if the right accreditations aren't in place.

10 MR MOHAMMED: If I could just follow on from that. Just over and above accreditations is also the systems that are going to be available on the market but they are actually tried and tested.

15 MR MEMERY: That's

MR MOHAMMED:

20 MR MEMERY: That's a really good point. And I think the current accreditations cover that, because they will only be valid for products that are on an approved product list.

25 MR MOHAMMED: At the present moment, the Australian standard doesn't really cover batteries, lithium batteries, and some of these other batteries that are becoming available are potentially bombs in people's households.

MR GLADMAN: If I could just add - - -

30 MR COX: Yes. This is a bit of a side-track, but I will let you go. Yes.

35 MR GLADMAN: The point that's raised is an important one. CEC has recently approved standards – applied to Standards Australia for development of standards around residential battery storage, because we think this is an important issue, and Standards Australia has approved that. So we are part of a process to develop standards, but the other key point is if the AER's regulatory coverage were extended to isolated grids or micro-grids, it would be really useful to mandate product standards as well as standards of accreditation for designers and installers.

40 MR COX: Thank you. Yes, please. Yes.

45 MS WATSON: Verity Watson from United Energy. In going through the paper that we need to respond to in March on new products and services, we have similar concerns about ongoing safety and maintenance, and the equipment in general. When we're actually considering these issues, we're not sure that that is the best fit with the national energy customer framework; maybe not even the national electricity rules, more so the safety regulations. It's a matter of how that gets managed moving forward and where. And we're, sort of, of the view that it probably not best managed the AER framework.

MR COX: I would have thought – yes.

MS WATSON: It was probably the safety regulator and standards. So - - -

5 MR COX: Yes. Yes. I would have thought it was more technical regulatory - - -

MS WATSON: Yes.

10 MS PROUDFOOT: And you're referring to the Energy Market Reform Working Group

MS WATSON: Yes. .

15 MR COX: Yes.

MS WATSON: But I think it's related here as well.

MS PROUDFOOT: Yes.

20 MR COX: Yes.

MS WATSON: And we think that those things do need to be covered, and maybe that – we don't want a Home Insulation Scheme type thing happening again.

25 MR COX: Yes.

MS WATSON: But we weren't sure that the AER was the right body for that.

30 MR COX: Yes. I would have thought we are probably the consumer protection body rather than the technical standards - - -

MS PROUDFOOT: Technical safety. Yes.

35 MS WATSON: Yes. And technical standards and safety is someone else, I think.

MR COX: It's a different set of expertise. Yes.

MR M. CALIFANO: Could I just interrupt?

40 MR COX: Yes.

MR CALIFANO: Michael from Luminous, I'm a solar - - -

45 MR COX: Michael from?

MR CALIFANO: Luminous - - -

MR COX: Luminous.

MR CALIFANO: - - - Solar; I'm a solar retailer.

MR COX: Yes. Thank you.

5 MR CALIFANO: If I could just – this is an area that concerns me; product
selection. I think, if I could just bridge the gap between the consumer protection and
product selection, you have got people signing up for long term power purchase
agreements. With solar, you add batteries that maybe might last five years if not
10 designed properly. Where's the consumer protection if the solar retailer goes broke
during that term and the batteries fail because they haven't been designed for the
longer term? So I think it is a consumer protection concern that the product selection
is very, very important, I think.

15 MS BOYCE: Patricia Boyce here again. I have to say – and I appreciate that in
some people's eyes, here, this would be spitting in church – the idea that a
consenting adult can choose to do something to my mind includes the consenting
adult making a bad choice, failing to choose a registered installer, not doing their
homework in a marketplace where registered installers compete and perhaps demand
20 a higher price than the bloke down the road who will knock it up on a weekend for a
crate of beer. I mean, you know, there are a range of choices that people make here,
and I'm not sure that we can simultaneously manage a process that says consenting
adults have a right to choose certain things and also then regulate those things we
don't like or don't think they ought to be choosing, so they don't choose.

25 And I think – and there's quite a lot of impetus in this recent discussion to go: and
we have to regulate who does it, we have to regulate what they will buy, we have to
regulate how they buy it, we have to regulate that they haven't made a poor choice. I
don't think we can do all of those things. We can do some of those things. And
people who are registered can make the case to their customers that it's better to
30 choose a registered guy than a non-registered guy, and people who supply equipment
can go, well, "I wouldn't do that deal if I was you, because in five years' time you're
going to be talking to me again." But, you know, I can buy a cheap washing
machine or a dear washing machine.

35 MS PROUDFOOT: I think that's certainly around, you know, coming back to
issues of energy as an essential service versus these products that are discretionary or
additional, and that's, sort of, one of the distinctions we have been trying to look at in
determining the best way to approach this. But also the other theme that hasn't come
up as much today but was certainly very prevalent last week was around that explicit
40 informed consent. And, you know, once a competent adult has given their explicit
informed consent, yes. There's certain decisions that they have made, and that may
not be the best, but they have entered in that and taken that choice, and I think it's
how you balance those things that we are certainly trying to look at. David?

45 MR COX: Thank you. Yes.

MR CALDER: Sorry. David Calder from Origin.

MR COX: Yes.

5 MR CALDER: Just picking up on that point, Sarah, so obviously there's sort of a
general consensus that, you know authorisation shouldn't apply. In the case of an
exemption, you have – we have got things like EIC and whatever – those conditions
that may or may not apply. My question really goes to, then, for the AER, what –
10 how do you discharge your role monitoring or, you know, hopefully not enforcing as
required, and then, for example, if someone who has got an exemption, whether it's
individual or class, or however it evolves, and they're found to be non-compliant –
what are the steps in the pyramid of noncompliance, if you like, and how that would
be dealt with. Is the AER – I mean it could be a fair way down the track, but has the
15 AER put any thought to the sorts of resources or the most effective way of looking at
where the exempt persons are doing the right thing, I guess?

MS PROUDFOOT: And that's one of our monitoring activities, I guess, is looking
– it's a little bit different with exempt sellers, and it's certainly one of the
20 considerations that we were looking at – one of the attractions of authorisation is the
ombudsman membership, and that vehicle for consumers and dispute resolution. We
also work very closely with the ombudsman in terms of identifying problem areas
with compliance and things. You lose that visibility, to some extent, with exempt
selling, and that's certainly one of the factors that we're mindful of. Again, though, I
25 guess, coming back to the idea that you've got other protections like Australian
Consumer Law and things for the more discretionary products.

MR CALDER: Yes.

30 MS PROUDFOOT: It's different, I guess, having a discussion around an SPPA
arrangement with an exemption to a registered – a caravan park resident or
something - - -

MR CALDER: Sure.

35 MS PROUDFOOT: - - - like that.

MR CALDER: No, certainly, Sarah. I think I was more curious about monitoring
and the AER's perspective. I wouldn't want to see a situation – I don't think anyone
40 does – where, you know the AER would have to massively expand its, you know,
surveillance of what's going on.

MR COX: Yes.

45 MR CALDER: At the same time there needs, you know - - -

MS PROUDFOOT: Yes.

MR CALDER: There will be, sort of, checks every now and then to say, well, are we still going down the right path with this particular model – given the prevalence, I mean, you know, it has – I think it has been pointed out there’s more exempt sellers now than there are licensed retailers in the NEM so, yes. And that number could
5 grow - - -

MR COX: Yes.

MR CALDER: That number could grow substantially.
10

MS PROUDFOOT: Yes.

MR COX: We are aware of the issue. I mean, it’s a strategy of compliance issue, really.
15

MR CALDER: Yes.

MR COX: Yes.

MR CALDER: I was dealing with the authorisation on
20

MR COX: Yes.

MR CALDER: Thank you.
25

MR COX: Okay. Other comments?

MR M. ARMITAGE: Sorry. Matthew Armitage from AEMO.

MR COX: Yes.
30

MR ARMITAGE: Slightly unrelated point, but I just wanted to pick up on Patricia’s points just then. I do actually agree that you can’t regulate the bad choices, but just from AEMO’s perspective, one of our primary concerns about new products and services is visibility over where these are being stored throughout the network, how many there are, their potential impact going forward. We had envisaged, potentially, that we could gain some visibility through maybe standards going forward to accredited providers. That’s something we still need to work out. But it’s really important that we do have visibility over these new products and services going forward from a system security and reliability perspective, but also from a perspective of helping us with our forecasting, of course.
35
40

Companies make billion dollar investment decisions based on our forecasts, and so unless we have visibility over these new products and services, it makes that task very, very difficult. So, yes, I do agree with Patricia’s point, but, you know, we also need to figure out a way of finding that visibility.
45

MR COX: Okay. Thank you. All right. Anyone else on options? Yes.

MR CALDER: Just a quick question for Matt, I suppose. David Calder from Origin again. The – I wouldn't want to open a briar patch of metering because that's not the
5 focus of this, but in AEMO's view, would it help if there were – this is wrapped up
in the power of choice review as well, I suppose – that there – on – maybe not on
market, but a form of, you know, MDP type delivery. What's going on outside. So
you've got your grid facing metre front RPMC, whatever it is in the future –
there's this other thing as well, there's downstream of the parent meter, if you like.
10 So almost like an embedded network arrangement too, I suppose. Is that something
– or does it mean it is a separate issue almost, and you don't want to have another
issue to look at I know, and neither do we.

MR ARMITAGE: Yes. I think that's an issue that we have to work through.
15

MR CALDER: give you at least that picture, though. I think that's part of the
issue because net gross, you need both.

MR ARMITAGE: Yes. We do.
20

MR COX: Yes. Thank you. Yes.

MS WATSON: Can I just add to that – Verity Watson – when a customer purchases
solar and no battery storage that's an appliance, as a product, and AEMO might
25 want to know for all of those reasons, there's already an obligation on Victorian
distributors that any embedded generation at a connection point has to be registered.
I think it was about October '07, that rule came in for us. So I guess there's a bit of a
question mark on exactly what United Energy is going to put on their register for a
battery, so that we actually meet that obligation. But when you go further and there's
30 an electric vehicle at my premise, and that electric vehicle – one day I could buy
something that could release energy to negate my grid side, retail bill, then what do I
put down on that register. And what does some party in the market actually tell
AEMO in that respect.

MS BOYCE: Well, Verity, you might not even know.
35

MS WATSON: That's right.

MR COX: Yes.
40

MS BOYCE: You know, the person who sold you the vehicle knows, possibly,
where it is, but why am I going to ring my distributor and say I have one of these.

MS WATSON: Well, I wouldn't want to get into the metering debate, but if you did
45 unexpectedly generate electricity into the grid we would have an error at the AMI
meter.

MS BOYCE: Yes.

MS WATSON: If we received a generation stream that we don't expect, we would turn it on and we would need to contact the customer and say we have an old
5 connection agreement that says that you will be generating into the grid, so we will need to amend connection agreements and gain information on the generation equipment, you know, how big is it? So we can put it down on the register, because we provide that information to AEMO, I understand, on a quarterly basis for the forecast.

10 MR ARMITAGE: Yes. And it would be useful to have that information, you know
- - -

MS WATSON: Yes.
15

MR ARMITAGE: I agree. And, you know, with the issue of it's our responsibility to find our data from whatever sources we can find it from, so we have relationships with, you know

20 MS WATSON: Yes.

MR COX: It seems to me we're getting some distance away from our concern which is the retail law.

25 MR ARMITAGE: Yes.

MR COX: So I think I would like to move us on to the third discussion topic which is really about – given that most people seem to want to go down the exemption route, conditions of exemption and trigger points. I would be really very interested
30 in comments on those points, if I may. Yes, please.

MR GLADMAN: Darren Gladman, Clean Energy Council. So to pick up on the trigger point discussion that began earlier, and getting back to the objectives that we set early in the piece about taking a principle-based approach - - -
35

MR COX: Yes.

MR GLADMAN: - - - and putting consumers at the centre of that, I would be concerned about the – or I am concerned about the proposal floated in the issues
40 paper to have a trigger based on percentage of energy consumed, and the reason for that is supposing I – let's suppose that you set a rule that said, you know, if you're providing more than 50 per cent of someone's kilowatt hours, then you need to do a different registration process or have a different whatever – different set of rules applying to you – then as a PPA provider I might be cognisant of that requirement
45 and I might for my customer design a system that provides them with, let's say, 40 per cent of their power.

And then through no fault of my own, their consumption patterns might change through family circumstances or whatever, and that change of behaviour by my

customer would trigger a need for me to change my business model or my registration, and that seems to me a very unmanageable business risk, so the principle that I would suggest would be that a trigger point for additional conditions on an exemption requirement is probably appropriate, but that trigger point should be based
5 on the offering or the service, as Craig put it, that the provider is proposing, and it seems to me that some of those offerings that should potentially trigger different conditions would be: is the customer looking to disconnect from the grid?

10 And, particularly if in association with that there's either a contractual or a physical reason why reconnection to the grid is going to be problematic. So either I'm offering you a solar plus storage PPA that allows you to get off the grid, and the contract says you've got to stay with me for the next 10 years, and you're not going to get back onto the grid, or if it's an isolated grid or a micro grid – I know that AER
15 doesn't cover that, but when you have a physical limitation to reconnection I think that raises a new issue that is worthy of consideration. And I think if you think in terms of the trigger being the service that's offered, then it becomes much easier to think about: so what additional consumer protections are warranted in those circumstances.

20 MR COX: So just to be clear then, if there were a proponent coming forward not proposing to disconnect from the grid, but offering a system that would meet most of the customer's power requirements you would say no additional conditions?

25 MR GLADMAN: I don't see that as the key threshold. I think the key threshold is whether the nature of the service fundamentally changes the options available to the customer.

MR COX: Okay. Thank you. Yes, please, Craig.

30 MR MEMERY: Craig Memery again. I just – just picking up on Darren's point, there's a – I would like to understand some of the issues around this a little better, so I would sort of like to put a question of sorts to the retailers. I understand that one of the issues around the whole threshold thing is that you, as a retailer, might be
35 providing five per cent of a customer's energy, yet you might carry 100 per cent of that customer's need for protection if, you know, they have – they enter hardship and have difficulty paying or whatever, so - - -

MR BROWN: And then - - -

40 MR MEMERY: And - - -

MR BROWN: plus beyond 100 per cent plus some additional – potentially some additional burdens created by the agreement with the alternative energy side,
45 rightly or wrongly.

MR MEMERY: Okay.

MR BROWN: We foresee we would face additional problems because we will be the - - -

MR MEMERY: So for example - - -

5

MR BROWN: - - - easy target for ombudsman or whatever.

MR MEMERY: So for example if that customer's energy system that they buy, their solar battery system stops working, the impact on you guys might be all of a sudden that customer is buying a whole lot more energy from you, which doesn't seem like a terrible outcome from the retailer's perspective.

10

MR BROWN: It would be a good one.

15 MR MEMERY: That's a good one. Yes.

MS BOYCE: Depending on when it fails.

MR MEMERY: And, from what you're saying - - -

20

MR CALDER: At the moment that doesn't

MR MEMERY: Yes. But – so – or, to pick up on your point there, so if the customer is – has energy literacy issues or doesn't quite understand their contractual arrangements they might not know who to get angry with if their battery system fails? Is that what you're saying?

25

MR BROWN: Yes. Probably if they've got a battery they're pretty literate. But, yes, something along those lines.

30

MR MEMERY: Yes. See, I'm just trying to understand the materiality of that. So what we're talking about then is there really a case where the customer is going to buy something from one party but take their retailer to the ombudsman? I can't see that being a reality, except for maybe a real boundary case, a very isolated case. So, happy to have a response to that, though, before I finish my question

35

MR BROWN: I'm not sure that's right.

MR MEMERY: Okay.

40

MR BROWN: And, to be honest, I'm not sure how likely or high the incidence of this will be.

MR MEMERY: Okay. So what I'm wondering if, given that there's definitely some risk and there's definitely – you've still got to issue bills and carry all those administrative costs even if they're only using five kilowatts in the middle of winter when they're not getting enough energy from their solar, is – are there any problems really – if a retailer were to carry – continue to carry the full brunt of having those

45

protections while someone else is providing the majority of the energy, is there really a case there that you can't fix through pricing and being selective about which customers you take on?

5 MR CALDER: Yes.

MS BOYCE: Price resistance, Craig, seems – Patricia Boyce – seems – price resistance seems to me to be the issue, which is at what point does – at point is that trigger point where the customer themselves goes, “Hold it. What’s the value of the service that I’m getting here?” And the retailer is in the situation where they’re going, “It’s the value of the service I’m obliged to provide you. I need to send you bills. I need to do X. I need to do Y. And that costs me A, B, C.” And the fact that it’s now being divided by many fewer units is neither here nor there. I mean, I would have thought the real issue for a retailer is how happy are the customers compared to the customers – other customers – about this outcome.

MR MEMERY: Sure. But we have a competitive retail market. So if a customer doesn’t think that they’re getting the best service from that one retailer the retailer can always say to them, “Well, go find another retailer who’s going to give you a better – the same service for a better price.” Or the customer might do that of their own volition. And if they can’t – I mean, I can’t see there being a real issue other than misunderstandings. And I don’t think misunderstandings are a basis on which to make, you know, any significant changes. Sure, there are – there is a risk that some customers – I mean, we have a hard enough time finding customers – helping customers to be numerate enough simply to choose the most competitive retail deal for them.

For 50 per cent of customers thereabouts they have trouble doing that. So, yes, there will be customers who really don’t understand what they’re getting into when they buy an off-grid system or a – or some sort of system. But I feel like what I’m hearing a lot from the retailers is that there’s a lot of genuine concern about, “We’re worried that the fingers are going to point at us when something goes wrong with something else.” And I think, yes, sure, that’s a genuine reputational concern. I don’t see that as a valid reason, though, to impose stricter protection requirements on someone just on the basis that they’re providing 95 per cent of a customer’s energy needs. I can’t see the logical connection there.

MR POPE: That’s starting from the – sorry. Fergus Pope, Energy Supply Association. It’s starting from the premise that the customers already opt out of the system. Obviously, from the retailer’s perspective is they are the sole provider to that customer and there is another service provider that is competing. And so, anything that makes their service offering more – less attractive than their competitor due to regulatory costs not due to their own commercial practices would be their principal concern.

45

MR MEMERY: But the retailer's competitor isn't the person providing the battery service; it's other retailers. Because the service the consumer is given from the retailers - - -

5 MR POPE: Well, no - - -

MR MEMERY: - - - is the bit from the grid, not - - -

10 MR POPE: Well, that's a - that's - - -

MR MEMERY: - - - so.

MR POPE: That's competition for the residual. But the retailer's first preference is to be the sole supplier of the customer.

15

MR MEMERY: And the retailer is welcome to try and offer a better deal to the consumer to get it.

MR POPE: Yes. But I'm - and they're more than happy to compete on equal commercial terms. But it's the difference of your - it builds into your prices' regulatory costs - - -

20

MR MEMERY: Absolutely.

25 MR POPE: - - - and they're uncontrollable by the retailer. And it's that element where the issue arises.

MR MEMERY: Completely agree. But that sounds to me like a problem you can fix with price. You can say to your customers, "All right. Well, we're going to have a higher fixed price because we know a lot of your customers are using blah." You could even, after had the customer for a year, say, "All right. Well, look, we're going to do what," I think it's what Powershop do and we're going to give different prices to customers who use different amounts of energy." So there's - it seems to me that the tools are there for retailers to manage that risk in a pricing sense. I can't see one - I'm yet to see the thing that can't be managed through pricing.

30

35

MR BROWN: Luke Brown, Momentum here again. It's a - it's a good question. But it seems - it's premised on something that's absolutely not right. You just said the retailer's competitor is the next retailer and the retailer along there. At this premises, this hypothetical premises we're talking about, our primary competitor is Darren's member, the alternative energy seller. That's the competitor who has come in and taken 95 per cent of the load and some similar promotion of the revenue available at that site. That's our competitor, our first competitor and, to use an interesting example, I'm not sure if the retailers who have applied for these exceptions have been awarded them.

40

45

MR POPE: So Origin and AGL

MR BROWN: They've got their exemptions now?

MR GLADMAN: Origin, AGL and many other retailers – authorised retailers who are getting into the solar PPA market.

5

MR BROWN: So - - -

MR POPE: Which indicates there is

10 MR COX: - - -

MS PROUDFOOT: Origin has its exemption.

MR COX: Yes.

15

MS Hartcher-O'Brien: Yes.

MR BROWN: Yes. So - - -

20 MS PROUDFOOT: Sorry. Origin 2.

MR BROWN: That's what I'm trying to figure out. Origin's related party has an exemption.

25 MR BROWN: If they come along to a Momentum customer's site and start providing their alternative energy supply, through the solar power purchase agreement, first of all, we need to know about it. That's – that's do-able.

MR POPE: Yes. That's fair enough.

30

MR BROWN: And in particular if it's a large customer we need to know about it. But also who's going to get paid last if that customer has a problem? Is it going to be Origin 2 providing 90 per cent of the energy with their optimised supply system matching – matching the load off this commercial premises – well, no, let's keep it residential – of this residential purpose – premises? Or is it going to be Momentum Energy with all the hardship obligations, etcetera?

35

MR MEMERY: Definitely Origin in that case, because Origin will have the bigger bill. The customer knows that they risk disconnection if they don't pay the person providing the actual grid connected service. Whereas all they risk if they don't pay Origin is that, you know, they don't access that particular service

40

MR BROWN: Yes. In that – in that example - - -

45 MR MEMERY: So in that example - - -

MR BROWN: We – we are - - -

MR MEMERY: - - - you get paid first.

5 MR BROWN: No. We don't. We absolutely don't get paid first. Because we've got all the obligations - - -

MR MEMERY: Really?

10 MR BROWN: - - - that allow the customer to get out of paying us. And, to some extent, that's – that's right. Absolutely in that situation we do not get paid first.

MR MEMERY: What you're talking about there is – so you're assuming that the customer is going to be, let's say, "gaming", for the want of a better word, the tools
15 at their disposal in terms of consumer protection? So you're suggesting that even though you offer them an on-time payment discount, whatever - - -

MR BROWN: I'm not suggesting gaming. I'm - - -

20 MR MEMERY: - - - they would prefer – they would opt to have a late bill, not get their on-time payment discount just because they can pay you later? I see that as something that occurs probably in a very minor group of customers, and it occurs today, and the likelihood of that occurring because of new entrants to the market providing competitive services isn't likely to get any higher

25

MR POPE: - - -

MR BROWN: No.

30 MR POPE: - - - a single flat rate on-time

MR BROWN: Yes. So - - -

MR COX: Yes. Can I – can I ask the question – pose the question a different way.
35 I mean, what I think I hear from the retailers is that they are facing a series of costs because they are the, if you like, the default provider, whatever, and these are – these costs are onerous. It would help to speak a bit about the nature of these costs and how large they are in reality.

40 MR BROWN: Well, there's probably others in the room with vastly more experience than me in being – working in retail who can elaborate on that. But, essentially, if we are required to provide a whole lot of consumer protections and other things – and, you know, that's fine, that's good – then we necessarily are incurring costs through managing our risk and through our systems, which we then
45 charge all our customers for. So that goes to your introductory remark, Jim, around the important principle of avoiding cross-subsidies. And what – where this lands is

us having to recover those costs from a whole bunch of customers who aren't getting the benefit of this alternative energy supply.

MR CALDER: So it's David Calder again.

5

MR COX: Yes David.

MR CALDER: I – but you wouldn't – couldn't sort of put a number on it, it's different for every business and how well they perform. The key way to not pay these costs is to get it right the first time, all those sorts of aspirations. But, you know, I doubt that some of the alternative energy supplies, including the division under our own business, will ever have a call centre the size of ours or a resolutions team or a - - -

15 MS PROUDFOOT: Or a hardship program and

MR CALDER: Precisely. So they're FTEs. And then, obviously, on the other side of the equation you've got, clearly, the retail businesses, not as capital-intensive perhaps as networks or generators, but you've got IT systems and then you've got around the IT systems that have to meet set requirements, which change and might get tightened or whatever, on top of your own commercial objectives that you might want to achieve. So I suppose – I hear what Craig was saying before regarding the example where, okay, you're left with this sort of – this nub of the demand of a particular site. But I think what we're also hearing is that the definition of the market might be changing, such that, well, it's not just at the – it doesn't just end at the meter.

And I would consider that, you know, whether or not we're an alternative seller or not, as a retailer, of course, it's a competitive – source of competitive – competition, rather, for your conventional business because it's a substitute, just like energy efficiency would be or anything else if you're in the business of selling energy. So – so whilst we're saying that the trigger point might be the definition of the service for an SPPA, equally, there might be a trigger point going back the other way such that the nature of the service for retailers also changes at that site and, therefore, the full suite of service conditions under authorisation whatever it might be, seem inappropriate, which is what I think Luke mentioned before.

MR BROWN: You know, I never raised these issues saying, "This has all got to stop because of these very important issues." They're just issues that need to be properly dealt with so that we can have innovative sources of new energy supply and - - -

MR COX: You know, do retailers have a view on what the right trigger is? I would be interested to hear that. Because the alternative energy supplier suggests a fairly high trigger, so to speak, you know.

45

MR POPE: The greater the regulatory treatment of alternative sellers to traditional retailers the less relevant the trigger becomes. It's the bigger the gap of treatment the more relevant the trigger

5 MR COX: Sorry. I don't quite understand.

MR POPE: Well - - -

MR COX: Yes.

10

MR POPE: So you're – you become more indifferent to what the trigger point is things switched over to an authorisation-type model the closer their current regulation reflects - - -

15 MR COX: Yes. If you had fewer conditions you would be less worried about it.

MR POPE: Well, they - - -

MR COX: Yes. I mean, I can see that.

20

MR POPE: So - - -

MR COX: But assuming that we stay with roughly the same conditions for you, just for the sake of argument, what would your view be about a trigger?

25

MR POPE: I defer to the actual retailers in the room.

MR COX: Yes.

30 MR CALDER: Look, it's David Calder from Origin. I think it's – it's really difficult to say. You know, as a – as a competitive retailer, most retailers in this room, we're not in the business of advocating, you know, increased regulation where there's no justification for it or there's no obvious market failure.

35 MR COX: Yes.

MR CALDER: So, you know, that's a – we debate this internally as well. So I think a lot of organisations are having this – these considerations. But I suppose, you know, the flipside is, really, practically what it would come down to is if, okay, we had very light-handed conditions and vast numbers of customers jumped on this, and then there was a major failure of – financially or otherwise of a particular supplier and it ended up in the media and the politicians get wind of it, that's when you will get your regulation, you know. That's not a preferred way of doing it, obviously. So – so, yes, I think there are steps between those – that extreme. They're things that spring to mind for us, whether or not a particular threshold or trigger point would – would begin. Things like dispute resolution is a key one. We think very uniform customers won't have a problem going to VCAT in Victoria, for example,

40

45

notwithstanding the New South Wales example, but others wouldn't know where to start. Do they go to their local solicitor? How do they sort it out? That sounds expensive. EWOV doesn't cost the customers anything. So there's – so it's really a – that sort of consideration. But the – yes – trigger point itself is – we don't have a particularly strong view at this point.

MS PROUDFOOT: I think the other issue with trigger points – I would be interested in others' views – is it almost creates a ceiling to stay under. So if you say, you know, it's 50 per cent of energy, all right, well, we will just make sure we're always providing 49 and then create something new. So it's certainly not – we're not proposing that a trigger point is the answer. And it's something we're mindful of. But we were interested in views around that.

MR BROWN: I think what this – Luke Brown from Momentum. I think what this throws up is the need for very serious consideration of a lower standard of authorisation - - -

MR COX: Sure.

MR BROWN: - - - in – when the framework is reconsidered over the next little while. But I guess find our way to that point.

MR COX: I mean, the strength of – the strength of the argument here - - -

MS PROUDFOOT:

MR COX: - - - seems to be fewer conditions on the existing retailers, rather than more conditions of the alternative retailers. That seems to be - - -

MR BROWN: Well, yes, I mean, they're overriding principles supposed to the outcome of these applications for exemption is that the – that the regulatory obligations most closely approximate the ones faced by authorised retailers.

MS PROUDFOOT: Yes. There's less divergence as possible. Yes.

MR COX: Yes. Okay. Thank you

MR MEMERY: Just picking up on an earlier point that relates to that and just to be a bit – quite specific on it. We're of the view that probably where a consumer is being provided a service which is a full energy service they would have previously received from a retailer distributor and the actual energy market. It might actually – if they're receiving that from, say, a standalone power service it's a provider known by someone else and they're buying that energy. It probably actually warrants them having some protections that are over and above what they would currently receive from a retailer, particularly getting back to that point of if they are disconnected from the grid to achieve that and they can't – but currently if there's a RoLR event,

consumers can change retailer or they can do whatever so a consumer does now, if anything happens with a particular retailer, they can access another retailer.

5 And with smart meter in Victoria, for example, they can do it within 24 hours. You can't rectify most significant problems with a standalone power supply in that time and you certainly can't rectify a standalone power system provider of last resort situation in a timely manner as well.

10 MR COX: Yes.

MR MEMERY: So I think it does go both ways. I do think that there doesn't need to be so much regulation that it reduces a customer's ability to access that stuff but there might be some cases where elements of the regulation and protection do need to be higher for the alternative service providers than they would be for a retailer and I think that might be one of them.

MR COX: Thank you. Yes.

20 MS FOONG: Deanna from the Consumer Utilities Advocacy Centre. I don't think the solution is to lower the authorisation standards which are currently in place – I know there has been talk about that and was mentioning it – not to lower the authorisations per se but to see, you know, what conditions are appropriate for the alternative service. And one of the problems that - - -

25 MR COX: Right.

30 MS FOONG: - - - you know, that comes to mind is the dispute resolution and the lack of access to the ombudsman which is an ongoing concern. I would imagine that in cases like that, customers would have – might have problems with the alternative supplier. They might not be able to pay for the energy which they're generating and all sorts of issues and what happens? What is the customer supposed to do in that sort of situation? And access to VCAT is not an ideal solution.

35 MR COX: Okay. Are there other conditions that you think we should consider for this alternative supplier?

40 MS FOONG: Well, I guess the bottom line is that the conditions should be – you sort of start from all of it up there, then you sort of decide – rather than thinking of what conditions, you start from a high level and then you sort of decide what are the conditions that should apply to an alternative seller.

45 MR COX: So your preference would be to have most of the conditions or the conditions that presently exist on the retailers or supplier for the alternative energy sales.

MS FOONG: All the – well, my preference is not to whittle down the consumer protections, but to consider, the most appropriate ones such as dispute resolution and what would a customer do if, you know, they have payment difficulties vis-à-vis the alternatives energy seller as opposed to the retailer – the default retailer, you know. I mean, because the problem is with the alternative energy seller, not so much with the retailer who may be the default supplier to the household in some situations.

MR COX: Okay. Thank you.

MR CALIFANO: I would be inclined to agree with that, and it must sound strange coming from a solar retailer but I was part of the home insulation scheme and I fell victim to other operators not being tightly managed from the beginning. I think that on this side of it, particularly with the battery storage, I think it's quite loose at the moment. There's a lot of solar retailers, I think, solar energy through a long term power purchase agreement, customers being charged for power that has been generated that might not necessarily use that power. So it's not really, you know.

MR COX: Yes.

MR CALIFANO: You know, but the battery storage allows the excess to be fed into batteries which they can drawdown later so, in fact, it's a benefit more so having the batteries than no batteries alone because if you get the solar system wrong, the customer ends up paying for what they're not using. So I think it should tighten up a little bit.

MR COX: Okay. Thank you. Other views on this? Probably the key question for us, I think, is, you know, the conditions and trigger points, if any, so we would be interested to have other views if you have them.

MS BOYCE: Do you mind? I have a question. I don't – it's not clear to me as to how many of these alternative arrangements you're actually responsible. So the issue that was raised by Origin earlier about leasing arrangements – it was raised on the other side of the table as well – if it's a finance lease and it's not the same as electricity and it's not billed on the volume, do you cover that?

MS PROUDFOOT: If it's not the sale of energy, we don't. So - - -

MR COX: Yes.

MS BOYCE: So one of the risks that we have in the discussion here is that depending on how we construct the terms and conditions for both the existing authorised retailers and their substitutes is that we encourage people to rebadge their service and indeed to sub-optimally sell it because I can – if I can do it without running the risk of selling electricity, that's an infinitely preferable outcome to be entering into the AER's cover.

MR COX: Yes. That's a fair point.

MS BOYCE: So sale of electricity with – through a meter.

5 MS PROUDFOOT: Sale of energy to a person for premises is the definition in the retail law.

MS BOYCE: Right.

10 MR MEMERY: Doesn't need to be through a meter.

MS BOYCE: Okay.

15 MS PROUDFOOT: And so what you're saying is correct and it's similar to the trigger issue. As soon as you create a shape that says this is what's regulated, people look at how they can go over here or here.

MR COX: Yes, correct.

20 MR MEMERY: Craig Memery again. So just on that, would the AER be receptive to, in the longer term, potentially considering proposing to change that definition so it's not focused on the sale of energy, but the provision of energy because that's really the difference between what we're talking about here. There are a lot of – and it's done currently. I mean, today there are people who have avoided the need to get
25 retail exemptions by being – property owners, they're landlords. And they have, rather than entered into a financial arrangement around the sale of energy they've entered into an arrangement with their tenant where they charge a higher rent because the tenant gets the benefit of solar panels on the roof. You know, that's probably not a bad thing. But that's the sort of case that could be used. And there
30 are plenty more – I mean, some of the discussion that I've heard around proposed projects, particularly novel projects in the energy space is often focused on, "Well, okay, what are the rules and regulations and what are the ways that you can deal with – you know, the next lease difficult situation around that." And it might be, "Okay, can we avoid being a retailer by getting a retail exemption by doing blah?" It could
35 be, "Can we avoid even getting a retail exemption by doing something different?" So there's always a thirst for looking at a way of avoiding those things. Would the AER potentially be interested in considering changing it from sale to provision of energy so that they can pick up on some of those cases?

40 MS PROUDFOOT: I don't think that's something we could answer today.

MR MEMERY: Okay.

45 MS PROUDFOOT: It would be something that the board would need to look at and sort of - - -

MR COX: It's a very significant change, I think - - -

MS PROUDFOOT: Yes.

MR COX: - - - that we would need to think about.

5 MR POPE: So is the AER likely to make a submission to the process being run by the SCER Working Group dealing with the more - - -

MS PROUDFOOT: We're still discussing whether we will make a formal submission.

10

MR COX: Yes.

MS PROUDFOOT: It's something we've been involved with sort of in the margins and obviously they're aware of this process and things. So we may not make a
15 formal submission. But it is still being discussed.

MR COX: Yes.

MR CALDER: David Calder from Origin.
20

MR COX: Yes.

MR CALDER: One of the conditions we think is important and, I think, is covered by the couple that are in place now to some extent but it really depends on how far
25 you want to take it. But, yes, provision of information upfront is obviously very critical for customers. And that goes to the extent of how informed their consent is. Whether it's explicit or otherwise or check later or not. Did they understand what they were signing up to? And things like, well – because, obviously, you're not going to say, "Well, you realise you don't have access to a financially responsible
30 participant in the electricity market" means nothing to a customer. So you don't put it in those terms. But relevant bits of information may have greater or lesser weight depending on the customer class we're talking about. It might be different to the example of a commercial building.

35 MR COX: Yes.

MR GLADMAN: Sorry. If I could - - -

MR COX: Yes.
40

MR GLADMAN: Sorry.

MR COX: Yes.

45 MR GLADMAN: If I could – sorry, Darren Gladman from Clean Energy Council.

MR COX: Yes.

MR GLADMAN: If I could support the point that David's made, and to reiterate for the people in the room who weren't at the Sydney forum the point that I made at the previous consultation, that Clean Energy Council has a voluntary code of conduct for solar retailers, for providers of solar leases, and we are applying currently to the
5 ACCC to expand that to providers of solar PPAs. It's an ACCC-approved code. Part of that will be absolutely provision of information. That's – I totally agree that's crucial, and our preferred approach would be that that should not be a voluntary requirement, because what we find is that we're representing the more reputable suppliers, we think, because they're participating in this conversation and wanting to
10 raise standards, and it's very difficult to bring the less reputable suppliers into a voluntary scheme and to have that conversation with them. So basic things like minimum provision of information is something that we'd support being a mandatory requirement.

15 MR COX: Yes. Okay. Thank you.

MR POPE: Sorry. Fergus Pope, Energy Supply. This is a query about information provision, is it enough if I say you have access to my dispute resolution and – or as
20 opposed to saying you do not have access to the ombudsman? Like, are you obligated to take that second step, like – is simply outlining what you have access to enough to – to work out by default what they don't have access to.

MR MEMERY: Just in terms of – that's what – what's the informed part of explicit
25 informed consent is your question. I think this is a real can of worms, particularly for the provision of some of the services we're talking about. Which are inherently a lot more complex than retail services. So, you know, it goes beyond dispute resolution. If you have got – with your retail service, your retailer is not responsible for your reliability. So the retailer carries no obligation there. However, in a stand-alone power supply, the person providing that is responsible if your lights go out and
30 stay out for a week. So that needs to be part of the information provided. You know, the information that might be provided to a retail customer might be half a page long. The equivalent information to a customer who is buying services from a SPPA provider might need to be 10 pages long. So they understand where the additional cost might be for them if they have a party on the weekend and discharge their
35 batteries and have to use their backup generator for 24 hours with expensive diesel. Just things like that that people don't have to think about in the current retail arrangements. So I think there's a lot that would need to be in some of those arrangements where it's different – where it's just that battery provision – battery service provision where the consequence is quite low and a customer is still
40 connected to the grid, then there's probably a lot less required in that information. So it's very different. It's very much dependent on the type of service offered, how much information is supplied.

45 MR COX: So, in your view, should there be some prescription of what information is provided in which circumstances?

MR MEMERY: Yes. I don't know what the current working definition is of "explicit informed consent", but I think that the appropriate target – being that a

consumer is informed so that they know what they're getting themselves into and that it's explicit that they're providing consent. So they're not just excited because someone has told them that they're going to never have an energy bill again - - -

5 MR COX: Yes.

MR MEMERY: - - - but they're actually consenting and consenting specifically to those bits of information. I mean, I almost – because we've – in a past life, I've dealt a lot with people who use stand-alone power supplies. And there's a real issue that I
10 raised before of if the people who have grown up understanding how those things work or they live in a rural area then, you know, they know what to expect. There are a lot of people though who – and a good example is how – you know, already we've had people who have been told by solar installers, “You will never get a bill again”. Certainly not all of them. You know, they aren't – they're not all
15 unscrupulous. But some are. They've been told, “Install this power system and you will never have a bill again”.

Now, retailers kind of still have fixed costs they need to recover and they need to send bills regardless of whether you're selling energy to the grid or buying it or not.
20 So, you know, the level of information and consent would have to be so that mistakes like that don't happen and when mistakes like that happen with a stand-alone power supply, the consequence is far greater.

MS FOONG: I think the explicit consent is to allow the customer to understand the
25 implications - - -

MR COX: Yes.

MS FOONG: - - - of all those things. And I think it's also complex when you're
30 talking about people who might not have English as their first language and how to communicate that information across in a way that they will be able to give explicit informed consent.

MR COX: When the subject matter is inherently complex. Yes.
35

MR MOHAMMED: Just – Anwar Mohammed – just on the explicit consent of stand-alone, in particular, Craig mentioned that there's lots of unscrupulous operators out there that are promising the world and delivering nothing. Like, you know, in the past I've always tried to approach this as actually create what energy
40 using and appliance-by-appliance, set that out in appliances that would be utilised. Obviously is how many hours you can use the appliances. So that you've actually got – you've got a model that we can actually translate into something practical. My kettle is on for two hours a week and my television is on for so many hours you know, that could be a starting point, like, you know informed consent.
45 You know, but we must sign off - - -

MS PROUDFOOT: I think you're also looking then at broader consumer law issues and so the ACCC and Fair Trading and organisations like that manage the consumer law, which has similar things around not misleading and deceiving - - -

5 MR MOHAMMED: Yes.

MS PROUDFOOT: - - - or not making misrepresentations around savings or benefits and things. So this framework is one part of the protections that are there. And I think that's what – one of the issues we're grappling with is how much of this
10 is a retail law issue and how much of this sits outside that broader issue of protection law.

MR COX: It's broader. Yes. Further comments on conditions? Trigger points?

15 MS PROUDFOOT: Luke? You looked - - -

MR BROWN: I was - - -

MR COX: Yes
20

MR BROWN: It's not really a comment on conditions, but I was going to comment on something that Sarah just said. It's that intersection between the ACL and what's in NECF which is actually quite interesting, because NECF, in some respects, engages in a little bit of replication of what's in the ACL, for purposes including
25 giving the AER the right and the capacity to effectively enforce the law in a way that's best for the consumer, and that's fine. So I'm referring to elements of the ACL which are also codified in NECF. So that's interesting, and I imagine – because part of the response from alternative energy sellers is, well, there's this and that in the ACL, so that doesn't need to be a condition, because it's covered by the ACL. We
30 make the same point, but we also understand why it's in NECF; so that there's effective regulation and compliance. But that whole scenario, which is all very reasonable, sort of, starts to become a little bit – some questions arise when – in circumstances where most of the energy used is not being provided by the party bearing that extra burden of regulation.

35 MR COX: Okay. I think I will now move on to any final comments; just give you a chance if you want for anything that you haven't had a chance to say and you think we really ought to hear, or comment on what was said earlier just before I close the forum.

40 MR POPE: Fergus Pope, energy supplier. Just more sort of in relation to the overarching process run by the ministerial council, so, as part of your process, if you identify any deficiencies you feel that are limiting you within the current framework it would certainly, from our perspective, be very useful for them to be articulated
45 publically to that process. It's obviously up to you how you want to manage it, but that would be very useful, I think, as part of that broader change.

MR COX: Thank you. Anyone else? Okay. Well, let me then move to close the forum. Obviously, there are a couple of next steps. There will be a transcript circulated to you shortly, and you will be asked whether that's accurate; correct it if it's not. Once you have done that we will place it on our website. So that's the first
5 next step. The second next step is written submissions. We would value written submissions once you have reflected on what was said today. And, certainly, we would appreciate them very much and would like them by 16 February. And, finally, thank you very much for coming today and for the interesting and constructive
10 discussion we have had which we very much appreciate. So thank you very much.

FORUM CONCLUDED at 12.06 pm