



22nd November 2013

Attention: Jacqui Thorpe
Acting General Manager
Retail Markets Branch
AERInquiry@aer.gov.au

Dear Ms Thorpe

RE: AER ISSUES PAPER – Regulation of Alternative Energy Sellers

Thank you for the opportunity to provide input into the Regulation of Alternative Energy Sellers Issues paper.

Sustain Northern Rivers is a collaboration of peak regional organisations working together to improve the sustainability of the Northern Rivers. There are four working groups within the collaboration including one which specifically addresses projects on energy. Over the past three years the energy working group has secured funding and produced the Future Energy Skills Report and the Bio Energy Scoping Study. We have also worked closely with the North Coast Energy Forum to deliver two highly successful events drawing together over 100 energy industry, government and community stakeholders.

Overall we support the general principle of protecting energy consumers from unfair dealings or possible exploitation by energy retailers, given that energy is an essential service. However, this must be balanced against the need to support and encourage investment in renewable energy solutions and allow room for innovations.

In general, we consider the AER has taken a proactive and fair approach to the regulation of these emerging business models. In particular, the basic criteria applied to exemptions – ie, whether customers have access to the additional protections offered by authorised retailers under the *Retail Law* for part of their energy supply, and are able to change sellers should they choose; and where energy is not the seller's main business and may be bundled with other products or services – are appropriate.

We provide responses to the questions raised in the Issues paper as follows:


1. What, if any, other alternative energy selling business models are stakeholders aware of (apart from those listed in section 3), and what future business models do stakeholders consider could emerge?

We note the reference to strata titled properties in the Issues Paper and as housing density continues to increase, this is emerging as highly significant issue. As strata titled complexes become interested in renewable energy opportunities there are several models which could emerge other than the typical on-selling model considered in the Issues Paper. Further, there are many land sharing communities in the Northern Rivers, which present a range of scenarios and opportunities. Many of these are potentially already covered by the exemptions, nevertheless we raise these following examples for your information.

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Embedded Networks: embedded networks are currently eligible for retail exemption, and energy transfers to adjacent properties are subject to the R6 exemption class until the end of 2014. It is our understanding that after this they will be required to become authorised retailers or else apply for exemptions. To date the uptake of renewable energy solutions in medium to high density urban areas has been low, but as technologies improve and prices become more competitive this is an obvious opportunity to reduce carbon emissions. It is therefore essential that unnecessary impediments are not imposed upon embedded networks and adjacent energy transfers.

RECOMMENDATION ONE: WE RECOMMEND that the R6 class of exemption be retained beyond the end of 2014.

Throughout the Northern Rivers region there are a significant number of land-sharing communities. These communities operate under a variety of structures ranging from strata titled communities, to cooperatives, and companies. In the latter two models, the residents of the communities are either members or shareholders, respectively.

These land-sharing communities in particular are increasingly interested in developing or increasing their renewable energy generation to meet their own energy needs.

In the case of communities which may be able to generate energy which is excess to their own needs, there is little incentive, in the absence of a feed in tariff or virtual net metering to simply give that energy to the grid network. In fact, this is a significant barrier to the continued development of an investment in renewable energy options.

As a result, there is increasing interest in the possibility of selling excess energy generated by renewable energy projects, to eg nearby neighbours, or public facilities, in order to increase the viability and value of the energy generator to the investors.

The other scenario which is not adequately contemplated in the Issues paper are energy cooperatives, of which there are various models currently under discussion, where investors collaborate to develop renewable energy projects. Cooperative models have been growing across Europe in particular, and these models offer opportunities to expand renewable energy initiatives into the future. In order for such models to be economically viable for investors, it is important that overly rigorous regulations are not imposed such that they would present additional economic barriers to such projects proceeding.


Example One: a strata-titled land sharing community (ie rural community with several acres of shared community land) where the community agrees to use some common land to install a medium scale solar farm (eg 50kW). If that farm was grid interactive under a net metering regime, then the issue would be how to share the benefit among the strata title holders. If the array was stand-alone and the land sharing community was not grid connected, it would fall outside of AER regulation.

Example Two: a community of investors agree to invest in a solar farm which will power an adjacent public facility, in exchange for a share in the returns on the sale of the energy to that facility. The community of investors become the retailers.

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Example Three: Energy Cooperatives: a group of people form a cooperative and set up a medium scale renewable energy generator and then pay membership fees in exchange for access to the energy – which means the coop members are effectively retailing the energy back to themselves.

Example Four: Nimbin Solar Farm: the 45kW solar farm is owned by a not for profit community organisation and is spread across six community owned buildings on different sites (and DP numbers). At present all arrays are gross metered and are subject to the feed in tariff. Some of the buildings are high energy demand facilities, whereas others, one in particular, use very little power. When the feed in tariff ends, the issue will be how to maintain the viability of the farm, especially any part of it that is simply pouring excess energy into the grid, and whether any of that excess energy could be on-sold to another of the solar farm members, or used as an EV charging station, in exchange for a fee, or even sold to a neighbouring property.

Example Five: a site is owned by a not for profit community organisation and the tenants are mostly also not for profit organisations. The site used to be the old school site and consists of a range of separate buildings which are not separately metered. There are about 9 tenants who are charged electricity by the owner of the site based on a formula which takes account of the floor space occupied by each tenant and the nature of their electricity use, and these arrangements are set out in their lease agreements. The owner of the site installs grid interactive net metered solar arrays across the complex which are net metered and then passes on the net cost savings to the tenants. The tenants can't opt out of the system because of the as single metering of the site. Does this make the site owner an energy retailer? Is there a need for this given that the end consumers will only ever derive a benefit and not any cost? What if the tenants all invested in the generator in the first place?

Many of the above examples involve a relationship whereby the proponents/investors are also the consumers, ie the consumers have a financial and/or legal interest in the energy generation, whether it be onsite, adjacent or in the local area, and the consumers would also be members of the association or company controlling energy supply as well as other common property and services.

2. What are stakeholder's views on the AER's proposed policy considerations set out in section 3 above?


As discussed above, there are a number of models which could be developed which do not involve a third party but rather a group of people who sign up to a shared arrangement. In these situations the parties are involved in a different relationship to that of the traditional retailer and consumer. Where the parties have access to alternate energy supplies then the exempt retail guideline would apply.

Similarly, where the consumer is a public facility owned and operated by a government authority, for example, it would also be overly burdensome of the community of investors who are prepared to fund the endeavour to classify them as energy retailers and subject to the full regulatory requirements. At present this scenario falls into the R5 exemption

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category, and **we recommend the continuation of this class of exemption.**

RECOMMENDATION TWO: WE RECOMMEND the continuation of the R5 exemption class.

The Retail laws and regulations could present just another layer of barriers to medium scale renewable energy projects going forward. It is important to reduce barriers where possible and especially where there is little risk of the relevant energy consumers' rights being abrogated.

RECOMMENDATION THREE: WE RECOMMEND that the AER include in the factors to be considered in relation to exemptions, the following:

- **whether the consumer has a financial or legal interest in the energy generation, and**
- **whether the project is for profit or not for profit.**

Where these criteria apply, greater leniency should be shown in respect of the granting of a retail exemption, and the conditions attached to the exemption. These two additional factors should be given equal weight to the other policy considerations, since such arrangements amount to vertical integration between generation, retail and consumption, giving the consumer control over their energy supply through its generation and sale as well as through their role as consumers.

3. What are stakeholders' views on the AER's proposed approach to granting exemptions and authorisations for alternative energy sellers in section 4?

We broadly support the need for maintaining consumer rights and protections, and appreciate the reasoning behind the AER's position that authorisation is the preferred approach, with exemptions applying in particular situations.

However, the authorisation approach may be overly cumbersome for some of the scenarios referred to above in our answer to question one.

At present the criteria for determining whether a retailer authorisation is necessary appear to be inconsistent with some of the current exemption categories, such as for caravan parks and retirement homes, where the owner may be the sole energy seller but is not required to obtain a retail authorisation.

We refer to our **RECOMMENDATION THREE.**


4. What, if any, other considerations should the AER take into account to regulate the sale of energy under alternative energy selling models?

Virtual Net Metering: From the work of the Sustain Energy Working Group it has become apparent that bio energy will be an important part of the mix in meeting the region's future energy needs. As you can appreciate this bring cogeneration and tri-generation into sharp

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focus. A key barrier to the viability of renewable energy projects such as bio gas powered cogeneration and tri-generation is the ability to sell excess power at a reasonable rate back to the grid. Virtual Net Metering allows an owner of a cogeneration/tri-generation plant to export power to the grid and use that power at another facility nearby which may be owned by the same party or by a third party). For example you may already be aware Ballina Shire Council has secured Federal Funding to build a 4000sqm slow-pyrolysis plant which will be a first of its kind in Australia. This project could increase its viability and likelihood of success if it could secure a way to sell power to other neighbouring Council owned facilities. Virtual Net Metering is neither allowed nor restricted under current retail regulations but the ambiguity over how it would be implemented leads to a culture of inaction from the relevant stakeholders.

The current difficulty in negotiating power pricing agreements and customer connection agreements for large scale bio energy projects is not conducive to encouraging large projects in NSW. Sustain Northern Rivers experience is that the wholesale purchase price and the retail price offered to proponents who are both generators and consumers can severely affect the economics of a project. Offering a much fairer and more realistic price at either the wholesale purchase or retail selling end would provide a better rate of return on large scale projects and encourage investment in new projects. As would simplifying the process for renewable energy generators to negotiate customer connection agreements and the acceptance of virtual net metering for grid transfer of excess energy to selected users over short distances.

5. What implications, or future implications, could arise for the regulation of alternative energy sellers under the Retail Law, or other consumer protection legislative frameworks?

As discussed above there are a range of scenarios where the parties involved in the energy transaction cannot easily be classified purely as the retailers or the consumers in the typical sense and in fact all parties involved are both.

Additionally, as governments at all levels are forced to tighten their budgets due to a range of external economic factors, alternative investment models are the key to the ongoing development of medium scale renewable energy generation, and it is important that the regulatory environment is appropriate to foster these opportunities which will have overall national benefits in relation to carbon emissions.

6. What, if any, conditions should be placed on an individual exemption for an alternative energy seller?

We refer here again to our **RECOMMENDATION THREE**. As discussed above, the AER should consider whether consumers have a legal and/or financial relationship to the energy generator. In these cases retailer authorisation should not be required even where the energy seller is the sole supplier at a premises.



Yours Sincerely

Natalie Meyer


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