

8 February 2011

AERInquiry@aer.gov.au

General Manager
Markets Branch
Australian Energy Regulator
GPO Box 520
Melbourne Vic 3001



Retail Exemptions – Consultation Paper and Response to Submissions - December 2010

Envestra, a natural gas distributor in all mainland states except for Western Australia, welcomes the progress made since the first consultation on Retail Exemptions, and submits the following comments in response to the second consultation paper.

We previously submitted that national Retail exemptions must work in parallel with the Distributor exemptions being developed by the jurisdictions. We understood that this issue was to be progressed at a forum in December 2010. However, it is still not clear that jurisdictions will adopt the same principles and structure when developing their Distributor exemptions. The national Retail exemptions allow embedded network operators and building owners/corporations to sell energy but may not be allowed to deliver the very same energy due to a lack of jurisdictional Distributor exemptions. The draft Victorian policy restricts Distributor exemptions to large or related businesses and will not be provided where there are residential or small business customers involved. We understand Victorian DPI are reviewing this position in light of NECF developments, however if the jurisdictions do not all adopt the same approach for Distributor exemptions, then the Retailer exemptions being proposed will not work in practice.

As a distributor we are deeply concerned that this could lead to, or imply that, the energy that is allowed to be sold under a Retail exemption will, in the absence of a parallel Distributor exemption, somehow be delivered by the Distributor. The core business of a Distributor is to construct, operate and maintain distributions assets in the public domain, and not in privately owned buildings and complexes. Working in such situations requires detailed knowledge of the buildings, a level of control over changes and ongoing access to the relevant assets. The embedded network operator or building owner is far better placed to manage these factors and risks.

The second issue we would like to raise is one of principle. New regulatory obligations should only be imposed where the benefits have been shown to outweigh the costs. The exemption framework being developed involves imposing a fairly onerous range of conditions for a relatively small number of consumers. There is an inference that these consumers 'need' the protection afforded to the majority of consumers via competition. No assessment has shown that the advantages outweigh the costs for these consumers. It has largely been assumed that if the advantages outweigh the costs for the typical consumers, then the same must be true for all consumers. However, there are important differences here and the solutions/costs being imposed here can be significant.

It is somewhat difficult to compare energy bills for embedded networks/consumers, where the distribution costs per customer can be very high, with that for a very large network where the costs per customer are much lower. To assert that this gap can somehow be reduced by enabling choice of retailer needs to be more rigorously assessed before imposing conditions for Retail exemptions. A more effective regime would be to establish a guideline of good practice and only impose such conditions in specific cases where a disadvantage is shown to exist following investigation. It may be that consumers in embedded networks already receive efficient energy services at a lower cost than those with choice of retailer, notably where the consumption of those consumers is aggregated. For these consumers there may be no real advantage to be gained. Some form of assessment of cost and real benefits is therefore required.

We look forward to contributing to the development of a workable framework for Retail exemptions. Should you like to discuss any of the issues above further please contact Ian Stewart on (03) 9463 8450.

Yours faithfully



Ralph Mignone
Manager Engineering and Technical Regulation