



**SUBMISSION TO THE
AUSTRALIAN ENERGY REGULATOR (AER)**

DRAFT EXEMPT SELLING GUIDELINE

**Prepared by
National Policy Office**

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COTA Australia

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INTRODUCTION

COTA Australia - Council on the Ageing - is the national policy arm of the eight State and Territory COTAs in NSW, Queensland, Tasmania, South Australia, Victoria, Western Australia, ACT and the Northern Territory. COTA Australia has a focus on national policy issues from the perspective of older people as citizens and consumers and seeks to promote, improve and protect the circumstances and wellbeing of older people in Australia.

COTA is concerned that the growth of on-selling has the potential to disadvantage older people as they move from detached housing into a range of accommodation arrangements. Living in apartment complexes, residential parks and some retirement villages often involves purchasing energy from an on-seller.

While COTA welcomes a national approach under the AER's Future Retail Functions, it is concerned that this approach must adequately fulfil the obligations of the AER under the National Energy Objective. Specifically, the AER must ensure that the Exempt Selling Guideline meets the '...long term interests of consumers of energy with respect to price, quality, safety, reliability and security of supply of energy'.¹ COTA remains concerned that customers of exempt sellers may still be disadvantaged in comparison to retail customers under the current approach.

SPECIFIC COMMENTS

Growth of onselling

COTA supports the AER position that the growth of on-selling is not necessarily in the long term interests of consumers. While in some cases exempt customers may benefit in terms of price through the bulk-buying power of exempt sellers, this is not guaranteed. Allowing or promoting such growth also does not promote competition or consumer choice in energy retail markets.

Consumer protections versus on-seller compliance costs

COTA supports the AER's principle approach to consumer protections and compliance costs. The needs of consumers should always be given more weight than compliance costs whilst consideration is given to not imposing conditions that are too onerous on exempt sellers.

COTA does not see requiring compliance with a basic form of hardship policy as being too onerous (refer 'Hardship policies' below).

Obligation to supply

COTA fully supports the AER's position in regard to the obligation of exempt sellers to supply energy to customers. Obligation to supply is a fundamental element of the relationship between designated retailers and energy customers in the National Energy Retail Law (NERL).² Retail customers are afforded this right and it would not be too onerous for exempt sellers. Therefore it would be unreasonable to disallow it for exempt customers, particularly as they often do not have access to retail competition.

¹ s. 13 of the National Energy Retail Law

² See Part 2, Division 3 of the NERL.

Additionally, exempt customers should not be exposed to prices that are any higher than the designated retailer in their locality except where these can be justified to the AER.

Hardship policies

COTA does not agree with the AER's reasoning regarding the efficacy of payment plans for exempt customers. In its submission to the December 2010 retail exemptions consultation paper, COTA SA (then COTA Seniors Voice) and other consumer groups noted that the effect of energy costs and rental costs are accumulative. While rent is generally a regular payment, energy bills are often less frequent and therefore more difficult to budget for. In this respect, energy costs can be a decisive element in driving a default on rent and/or energy payments.

However COTA also recognises that in many situations energy costs are added on to rent and therefore form part of a tenancy agreement. In these cases the rent and energy costs are inseparable. Where energy is billed separately, exempt customers should be provided with an avenue to request a payment plan. This could be done through contact with jurisdictional ombudsman schemes or other identified agencies.

CONCLUSION

Increasing housing density and an ageing population will see a growth in on-selling. This is not necessarily in the long term interests of consumers and the risks to consumer protections and retail competition require mitigation. COTA recognises that it is impractical to ensure that all exempt customers are provided with the same level of consumer protections to retail customers. However it is imperative that as many of these protections be provided as possible, and that every effort is made into the future to ensure that this becomes more not less practical and possible.