The Caravan Parks Association of SA

August 11th 2011

RE: Issues paper: AER proposed approach to retail exemptions under the National Energy Retail Law and Rules.

To Whom It May Concern,

This submission follows on from Richard Davis from SA Parks previous submission in respect to the Issues paper that AER has published on its proposed approach to retail exemptions under the National Energy Retail Law and Rules.

SA Parks held its annual conference subsequent to our original submission and one issue in particular caused concern amongst the delegates.

SA Parks reaffirm that Class D3 Deemed Exemptions should continue for "metered energy on-selling to short term residents in holiday accommodation" for reasons stated in our previous submission.

However, SA Parks notes that Class D2 is a Deemed Exemption that applies to "residential landlords or lessors operating under jurisdictional residential tenancy legislation to less than 20 residences." Yet Class R4 is a Registrable Exemption that applies to "Metered energy on-selling in caravan parks, residential parks and manufactured home estates to residents who principally reside there."

We submit that if residential landlords of less than 20 properties are entitled to a Deemed Exemption, then operators of caravan parks, residential parks and manufactured home estates of less than 20 sites that on-sell energy should also be entitled to a Deemed Exemption and not be required to register for an exemption. The Issues paper appears to reason that landlords are entitled to a Deemed Exemption because they operate under residential tenancy legislation. We submit that jurisdictional residential tenancy legislation also applies to tenancies within caravan parks, residential parks and manufactured homes estates where that tenancy is a principle place of residence. In South Australia, the Residential Parks Act 2007 is the relevant tenancy legislation and other states have similar tenancy legislation.

We argue that as tenancies with landlords or park operators are all covered by relevant jurisdictional tenancy legislation, both landlords and park operators of less than 20 residences should all be entitled to Deemed Exemptions from energy registration. We submit there are no reasonable grounds to discriminate between the two forms of tenancies and therefore, it is only equitable that both be granted Deemed Exemptions.

Consider the circumstances of small holiday or regional park operators. These operators are primarily in the business of operating a seasonal or holiday caravan park. However, occasionally in off-peak periods or circumstantially, seasonal or project workers stay in their accommodation for uncertain periods of time and their energy is metered. It is often not clear to the park operator if this accommodation is these tenants principle place of residence.

In situations like these, under the terms of the issues papers, the operator does not have sufficient information to know if they are required to register for an exemption or if their exemption is deemed. Further, if they are deemed exempt at AER's inception date of 1/7/12, but some time later a handful of tenants arrive who may or may not declare their tenancy as their principle place of residence, what trigger will there be to alert the operator to the need for registration?

This example may appear insignificant but as the Issues paper quotes threat of use of Section 120 of Retail Law for non-compliance, we submit that a Deemed Exemption for smaller operators who primarily provide holiday accommodation but on-sell energy as market opportunities arise from time to time is entirely appropriate. Without the Deemed Exemption for small on-selling energy operators, they will be at risk of incurring onerous penalties for the simple oversight of not registering if or when their circumstances changed, even on a temporary basis. We argue that the rights of these tenants and obligations of operators are already covered via park tenancy legislation.

Finally, we do not see a problem for parks that have over 20 metered energy on-selling residences being registered with AER as an exempt seller. 20 residencies is a reasonable number to warrant an operator being informed and conversant with the requirement for a Registrable Exemption. It is essential that caravan parks, residential parks and mobile home parks are able to remain as on-sellers as the costs of retrofitting existing parks to provide choice of retailer is prohibitive.

We trust that our comments will be considered when formulating the approach to retail exemptions under the National Energy Retail Law & Rules.

Yours faithfully,

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