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National Electricity Market Campaign

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Submission to AER

Alternative Energy Sellers: Issues Paper

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Total Environment Centre's National Electricity Market Advocacy

Established in 1972 by pioneers of the Australian environmental movement, Total Environment Centre (TEC) is a veteran of more than 100 successful campaigns. For nearly 40 years, we have been working to protect this country's natural and urban environment, flagging the issues, driving debate, supporting community activism and pushing for better environmental policy and practice.

TEC has been involved in National Electricity Market (NEM) advocacy for eight years, arguing above all for greater utilisation of demand side participation — energy conservation and efficiency, demand management and decentralised generation — to meet Australia's electricity needs. By reforming the NEM we are working to contribute to climate change mitigation and improve other environmental outcomes of Australia's energy sector, while also constraining retail prices and improving the economic efficiency of the NEM — all in the long term interest of consumers, pursuant to the National Electricity Objective (NEO).

Introduction

TEC appreciates the opportunity to provide input into this issues paper. We have contact with many alternative energy sellers through the rural and regional component and community energy components of our energy market advocacy.

While it was not established for this purpose, the AER's exempt selling (retail) guideline (ESRG) provides the opportunity for emerging business models involving local renewable energy generation to participate in the NEM, and is therefore a welcome tool in a regulatory environment that is mostly hostile or indifferent to new energy services providers. The AER's network registration exemption may provide a similarly useful tool, jurisdictional impediments notwithstanding, to reduce overheads and increase project viability — at least until virtual net metering is introduced into the NEM. This is important because most community energy and precinct scale trigeneration projects are not financially viable without the proponent being able to reduce or eliminate network and retail costs, in part because large retailers are unwilling to offer anything approaching socket-parity prices for exported energy in the absence of feed-in tariffs.

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.

However, this space is changing so rapidly that it may be necessary to revisit the issue in as little as a year's time, particularly with a view to determining whether the time has come to create new categories of exemption, rather than requiring companies and groups offering broadly similar models or services to go through the process of seeking individual exemptions.

Responses to AER questions

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?

The Issues Paper has been published mainly in response to the emergence of new energy services sellers associated with rooftop solar systems. A number of other current and potential relationships between generators, sellers and consumers are not covered in the Issues Paper, especially (as the Sustain Northern

Rivers submission identifies) involving land sharing communities. Where these communities are totally off-grid, obviously they would then fall outside the ambit of the National Electricity Rules.

Other examples include:

- A variety of innovative arrangements between strata owners and between strata corporations and tenants involving the generation, distribution and sale of rooftop solar energy within the same property.
- Privately owned precinct scale co/trigen projects involving the movement of energy across property boundaries to commercial or residential consumers.
- Ecovillages in which there is centralised renewable energy generation and storage owned by the ecovillage residents, with a grid connection retained for backup supply.
- Large greenfield property developments in which the developer offers centralised renewable energy (at a discount to retail prices) to homeowners and businesses, who may also be owners of the community energy services company.
- Community owned renewable energy projects involving sales of energy across property boundaries.
- Where a community group or group of private investors owns, operates and sells (probably solar) energy generated on a publicly owned building or land, to the owner of that building or land, possible across one or more property boundaries. (This would appear to be covered under Class R5, Persons selling metered energy to large customers. If this is not correct we would appreciate being informed of this.)

What most of these examples have in common is a relationship in which the consumer has a financial and/or legal interest in the energy generation, whether it be onsite, adjacent or in the local area. In these cases, a mainly or wholly renewable energy supply is often part of the attraction for joining the community or group, and consumers would also be members of the association or company controlling energy supply as well as other common property and services.

In spite of the variety outlined above, this almost represents a generic model additional to commercial solar PPAs. Given their scale and community ownership, it would be impossibly burdensome for these groups to obtain full retail authorisation.

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

While the proposed policy considerations make sense for commercial solar PPAs, they are too prescriptive for the other models outline above and by SNR. In these cases, an additional key issue for the AER to consider should be *whether the consumer has a financial or legal interest in the energy generation*, and possibly also *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.

Should these additional criteria not be applied, it could affect the financial viability of some alternate selling models, which rely on efficiencies of scale to be viable. For instance, if an land-sharing community or ecovillage wishes to install centralized renewable energy generation and storage, but to retain a grid connection for emergencies of peak demand, it may need most of its members or residents to supply their energy from this facility in order for it to be viable. Should a significant proportion decide to obtain their

supply from an authorised retailer, the whole scheme may collapse – as well as causing reliability problems if the grid connection is constrained.

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

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 agree that it is reasonable to grant sellers an exemption covering multiple sites if the selling model is the same in each case (at 4.2.1). However, there are also broad similarities between the solar PPA models marketed to date (selling energy at a discount to the homeowner or business in return for the PV output, for a fixed period and with buyback options at the end of the contract); if this continues for the next year, the AER may wish to consider creating a new exemption class for them.

In addition, there are over 50 community energy groups in various stages of development across Australia. Most of them involve sales of energy across property boundaries which are not necessarily adjacent. Given the number of these projects; their broad similarities; the fact that they are mostly not generating and selling energy onsite or across a single boundary; and the fundamental distinction between their not for profit nature and the commercial nature of the solar PPAs the AER is aware of, the AER may wish to consider creating a separate exemption class for them. TEC and its partners in the new Coalition for Community Energy would be happy to assist in this process.

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

As 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.

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?

The NER were constructed to reflect the old one-way centralized energy electricity system. With the rapid shift to a more decentralised system, it is critical that the Rules are as flexible as possible, in order to support the move to a lower carbon economy which also supports households and businesses taking control of the generation as well as consumption of their own energy. While it was not developed for this purpose, the AER's ESRG provides a welcome opportunity to use existing regulatory mechanism to accommodate new models of selling energy. We therefore look forward to it being implemented in jurisdictions which are not currently part of the NECF.

While some of the changes to the ESRG are supportive of decentralised generation, at least one is not. Category R6 would appear to be applicable to co/trigen proponents and community solar groups selling energy across property boundaries from generation to tenants, and is therefore of great value for emerging microgrid models, so it is unfortunate that it is to be closed to new entrants from 1 Jan 2015. We understand the problem with landlords being the sole energy providers for tenants, but this shouldn't stop other applications, especially when it appears to be the only class of exemption that does not apply only to embedded networks. An alternative solution would be to add a new class criterion to the effect that customers of an R6 seller must be able to retain access to an authorised retailer.

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

In principle, the full range of core exemption conditions other than 13, choice of retailer, should apply where the seller is the sole seller. Where the option remains for consumers to either retain a contract with an authorised retailer or to switch to an authorised retailer, the full range of core exemption conditions should apply.

However, in line with the recommendations above, where the consumer is also part of a gentailer/prosumer arrangement, they should be free to opt out of some of these conditions, on the proviso that they are able to cancel such contracts with due notice and return to a contract with an authorised retailer.

Recommendations

1. Rather than requiring the sole supplier of energy to a consumer to obtain a retail authorisation, the AER should consider a retail exemption to sole suppliers on the basis of *whether the consumer has a financial or legal interest in the energy generation, and whether the project is for profit or not for profit.*
2. In view of the number of emerging energy selling models to which it may apply, the AER should consider not closing category R6 at the end of 2014.
3. The AER should review the number and types of solar PPA models it approves over the next year, with a view to determining if they are consistent enough to warrant a separate category of registrable exemption, in order to make the registration process easier for these companies and groups.

TEC would be happy to attend a stakeholder forum, or to discuss this submission with AER staff.

Yours sincerely,



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