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Review of Consumer Protections for Future Energy Services – Options for Reform of the National Energy Customer Framework

Alinta Energy welcomes the opportunity to comment on the Australian Energy Regulator's (AER) Options Paper on the Review of Consumer Protections for Future Energy Services – Options for Reform of the National Energy Customer Framework.

As an active investor in energy markets across Australia with an owned and contracted generation portfolio of more than 3,000MW, and whilst servicing over 1 million electricity and gas customers, Alinta Energy has a strong interest in the consultation for reform of the National Energy Customer Framework.

Alinta Energy previously provided comments to the AER's consultation paper on *Retailer Authorisations and Exemptions Framework*. At the time we commented that the review was in essence an early-stage review of whether the National Energy Market design, remains fit for purpose, and that in light of the evolutionary market changes, predominantly influenced by technology advancements in both the generation, delivery, and use of energy that the current framework is no longer fit for purpose.

New energy technologies, innovative energy products and business models are playing an ever-increasing role in the energy transition. Such changes represent a significant shift in the way customers are electing to interact with the energy market. The essential nature of energy, where it was a "one-way" flow of energy has significantly moved on.

The machinations of new energy products and services that challenge the traditional norm of energy supply are not captured by the existing framework. Further this area of the market is continually evolving making it difficult to determine a regulatory framework option that will remain fit for purpose in the future.

As a result we face the challenge that in a continually evolving market, not least of which is being lead by consumer preference for new services that allow them greater control over their engagement with the energy market, where the potential for varying levels of regulatory burden, associated with varying levels of consumer protections, will continue to place at risk the concept of competitive neutrality, which is essential to ensuring that all categories of customers have the potential to access energy services under fair and reasonable conditions and price.

The three options put forward in the options paper individually (in our view) do not address the issues identified with the evolution of the market. However combined elements of the three proposals could be used as a transitional guide to move towards a framework that is more fit for purpose for the transitioning / evolving energy market.

We look forward to the continuing opportunity to engage with the AER on this important topic of reform. Our more detailed comments are contained in the following document. Should you have any questions or wish to discuss any aspect of our submission I may be contacted on [REDACTED] or via email:

[REDACTED]

Yours sincerely

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Shaun Ruddy

Manager National Retail Regulation

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New energy products and their potential essential nature are not captured by the current energy regulatory framework. Therefore, customers who opt to engage with new technologies for energy services risk not being adequately protected. As the uptake of new technologies and services continues to grow as they become more affordable and reliable, so will the potential inequities in consumer protection as the gap in the services covered by the existing framework continue to widen as more services provided by non-retailers are not regulated through the energy regulatory framework.

Regardless of how energy is supplied to an end use customer and whether or not there are intervening technologies that supplement or store supply (solar panels, decentralised generation, batteries etc) consumers should be equally protected.

Likewise, where traditional and non-traditional energy suppliers (Authorised Retailers vs Exempt Sellers) are supplying the same service (energy) to end use customers there should be no difference in the regulatory and consumer protections provisions to be complied with, there needs to be equity in regulatory oversight, so that competitive neutrality can be maintained.

In seeking to address the issue the AER Options paper proposes three options for consideration.

- Option 1 – Tiered authorisation,
- Option 2 – Principles based framework,
- Option 3 – Outcomes based framework

Whilst all three options have elements of a preferred framework, no single option, in our view, would address the issues of the evolving market.

The challenge is designing a framework where the end outcome of the types of products and services that need regulatory oversight are continuing to evolve and will continue to evolve for the foreseeable future.

Option 1 – Tiered Authorisation

The tiered authorisation option is the option most aligned with the current framework, however on face value it seeks to introduce a greater level of complexity regarding authorisation status.

The option introduces 5 Tiers of authorisation, where traditional retailers are considered Tier 1 retailers while non-traditional retailers are categorised as Tier 5. Whilst both Tier 5 & Tier 1 authorisation holders provide energy services to small customers, Tier 1 authorisation holders would be subject to the full consumer protection provisions while Tier 5 authorisation holders would only be subject to consumer protections based on a risk assessment of the products and services they supply.

This Option, Option 1 continues to place the bulk of future regulatory burden on traditional retailers. Option 1 has the potential to introduce further competitive neutrality issues whilst creating greater regulatory inequities.

The risk assessment process for Tier 5 authorisations is at risk of becoming a subjective assessment, one where there is not a consistent approach to risk assessment, given future energy services and products, that would seek authorisation under a Tier 5 option will continue to evolve, creating the need for an evolution in risk assessment approaches, which in itself can lead to further inconsistencies in authorisations.

Option 2 – Principles Based Framework

A principles-based framework has merit; however, its implementation and overarching governance can influence the success of any such framework.

The challenge with a principles-based framework is the governance structure, the options paper suggests that in conjunction with a principles-based framework the AER would develop Guidelines on the interpretations of the principles, thereby setting expectations.

Guidelines on interpretation often become seen as directions instruments, creating a level of unintended regulation that stifles any innovative market approach that would underpin a principles-based framework. This point is related to a broader concern that, in general, the AER should not impose additional regulation through the use of guidelines.

Again, one of the concerning factors in developing any future framework, is the unknown nature of the future energy services and products, over which the proposed framework is meant to govern.

Option 3 – Outcomes Based Framework

An outcomes-based framework would be an optimal model to deal with the uncertainty of future energy products and services.

However, such a framework would be the furthest from the current framework, so would require the greatest commitment if it were to be adopted, the process of adoption would also potentially be lengthy, and in light of the pace at which the market is transitioning this could also be an issue.

Summary

Alinta Energy is firmly of the view that the current authorisation and energy regulatory framework are no longer fit for purpose, given the ongoing and continued evolution of the retail energy market.

No single option in the AER options paper is likely to address this issue. However, the options as put forward could be used as a guide for a transitioning regulatory and authorisations framework. Where a gradual shift towards a principles-based



framework is commenced with the ultimate goal of delivering an outcomes-based framework at a future point in time.

Whilst we plan for this transition the AER still has the ability to seek to strengthen the protections afforded to customers who seek their energy supply from non-traditional energy suppliers.

We look forward to the opportunity for further engagement with the AER as we work towards an authorisation and regulatory framework that is more fit for purpose for the transitioning / evolving energy market.