



BRISBANE GATEWAY RESORT
200 SCHOOL ROAD
ROCHEDALE, QLD 4123
BRISBANE, AUSTRALIA

ACN: 010 502 468
ABN: 14 072 262 439

Telephone: (07) 3341 6333
Facsimile: (07) 3341 8022

9 November 2015

General Manager—Retail Markets
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

Sent via email to: AERExemptions@aer.gov.au

Dear Sir/Madam,

Re: Submission - Review of Retail Exempt Selling Guideline - 2015

Brisbane Gateway Resort thanks the Australian Energy Regulator for the opportunity to make a submission regarding the draft revised version of its Exempt Selling Guideline.

We are a caravan park located in Brisbane that sells metered electricity to approximately 35 tenants. Our core business is in the provision of accommodation and we only sell electricity for incidental reasons. Unlike large energy retailers and some of the larger exempt sellers, we do not have the built-in economies of scale and we do not act to profit from the sale of energy. As a small business we are easily adversely affected by even small changes in regulations.

We are particularly concerned about the AER's proposal to make changes to the obligation around customer rebates and concessions.

As we understand it, if the AER's proposed changes are adopted, the obligation which an exempt seller has in relation to claiming and passing on energy rebates will no longer be conditioned by what is reasonable in the circumstances – it will instead become absolute or unconditional.

We submit that such a change will be patently unfair, particularly to small exempt sellers like us. It will potentially mean that government and non-government bodies will be able to change existing energy rebate schemes at a whim (or introduce new ones) and we will have no choice but to apply and administer those changes immediately, regardless of any additional impacts and costs that we might incur.

The proposed changes are particularly significant for exempt sellers in Queensland as it is now the only mainland state where customers of private energy networks are not able to claim their energy rebate direct from the state jurisdiction. In New South Wales, Victoria, South Australia and Western Australia, businesses identical to ours do not have to bear the burden of administering rebates. Whilst this is obviously an unfair situation for all affected Queensland businesses, it becomes even more absurd if one takes into account that a primary objective of the new national energy laws was to establish a framework that would bring greater consistency across all state jurisdictions.

It is worthwhile for the AER to note that in the case of large energy retailers in Queensland, Section 55DA of the *Queensland Electricity Act 1994* places an obligation the Queensland government to take into consideration the retailer's 'reasonable administrative costs and other risks' before it can require the retailer to provide a rebate or concession scheme.

Having regard to the above, if it is reasonable to consider administrative costs and risks in the case of a large retailer, we see no reason why the AER should not consider it reasonable to offer at least the same protection for smaller sellers of energy under the Retail Exempt Selling Guideline – instead of removing them – particularly in cases where those exempt sellers are small businesses that are only involved in selling energy for incidental reasons.

Overall we believe that the preferred model in relation to rebates which the AER should be encouraging is one where customers can claim them from the state jurisdictions on their own behalf. Such a model would:

- meet the expectations of most customers, who would undoubtedly prefer to claim their rebates direct from the relevant government or non-government body rather than having to deal with the exempt seller;
- reduce the complexity and red tape in administering rebates – at the moment in Queensland there are four parties involved in the process of claiming the electricity rebate – namely, the Queensland Department of Communities, the electricity retailer, (e.g. Origin Energy), the exempt seller (e.g. the caravan park owner) and the customer;
- reduce the administration cost burden on small exempt sellers, like caravan parks, that are only providing electricity as an incidental part of their business;
- reduce the number of disputes between the customer and exempt seller in relation to matters such as the customer's eligibility to be paid a rebate, and such matters as whether the rebate has been paid (or paid on time) to the customer;
- provide greater certainty for the customer, especially if they are moving from one exempt seller to another – they would be able to avoid the vagaries that come with dealing with multiple exempt sellers and their many methods for claiming and administering the rebates and concessions; and
- make the provision of rebates and concessions more consistent and cost effective overall.

We consider that the AER's proposed changes are unlikely to encourage a positive move towards the above preferred model. In our view, they are more likely to have the opposite effect, especially if state jurisdictions like Queensland see them as a means by which they might be able to avoid the costs of administering their own rebate and concession schemes into the future.

The AER's own comments on the draft guidelines suggest that it would consider removing the obligation around exempt customer rebates or concessions altogether if the proposed amendment is not adopted. This suggests to us that the AER is already considering encouraging the ability for the customer to claim rebates and concessions on their own behalf direct from the relevant jurisdictions as opposed to through exempt sellers. We would encourage the AER to move towards that model.

Kind regards,



Russell Holland
Manager