



13 December 2022

Mr Mark Feather
General Manager, Strategic Policy & Energy Systems Innovation
Australian Energy Regulator

Via email: [REDACTED]

Dear Mark

Re: consumer protections for future energy services — Options paper

CitiPower, Powercor and United Energy welcome the opportunity to respond to the Australian Energy Regulator's (AER) options paper on consumer protections for future energy services.

With the dramatic changes occurring in the energy landscape, we are pleased that the AER acknowledges that the current authorisation and exemption framework will not be fit for purpose in the context of the future energy market. To that end, we are supportive of the AER **reforming the energy consumer protection framework to ensure that they can regulate new products and services.**

Our submission seeks to make the following points:

- Model 3, which supports outcome-based regulation, should be adopted to address the risks and potential harms from new energy products.
- The National Energy Customer Framework (NECF) should capture all energy related services and products.
- A contractual relationship should exist between aggregators/traders and distributors.

These matters are further discussed in the attachment.

Should you have any queries please do not hesitate to contact Trent Gibson on [REDACTED] or [REDACTED].

Yours sincerely,

[REDACTED]
Brent Cleeve
Head of Regulatory Policy and Compliance
CitiPower, Powercor and United Energy

Model 3 which supports outcome-based regulation should be adopted to address the risks and potential harms from new energy products

We are supportive of the proposed model, which would require a service provider to:

- Act in the best interests of the customer.
- Act proactively, conscientiously, reasonably, and demonstrably.
- Comply with any imposed obligations, whether they be base obligations or flexible obligations.
- Prepare a regulatory compliance plan that demonstrates how they will meet and comply with the above criteria.

We appreciate that this model is a departure from the current framework. However, given the radical changes that are occurring in the energy markets, we consider it essential changes are made to ensure that the AER is provided the most flexibility possible to address potential customer harms resulting from new energy products and services.

By requiring energy service providers to prepare a regulatory compliance plan, which addresses the above criteria, they will need to actively consider and address compliance issues in earnest. Further to this, requiring that the proposed plan be approved by the AER will afford a level of oversight that is missing under the current regime, particularly in relation to the exemptions framework. It will also provide a level of transparency which does not exist today under the exemption framework.

Model 3 will allow the AER to focus on consumer outcomes, whilst being flexible and scalable. This will result in proportionate regulation for a variety of energy services. This is important as going forward, there will be unique harms and risks which can be ascribed to certain energy products and services. We would encourage the AER to consider some of these new energy products and markets will expose customers to some of the most volatile commodity markets in the world. The information asymmetries will be large and need to be considered in approving a regulatory compliance plan.

We do consider it essential the AER has the ability to review, and reassess, regulatory compliance plans to ensure they remain fit for purpose (especially if there is a change in the service providers business model, or size/type of operations they are involved in or change in product risk profile).

The National Energy Customer Framework (NECF) should capture all energy related services and products

The regulatory framework should apply to any party engaged in the activity of selling energy or energy-related products. This includes electric vehicle (EV) charging, aggregation and/or energy management services.

As highlighted in our submission on the Retailer Authorisation and Exemption review, there is increasing complexity in the energy market and there will be an increasing number of customers who may not understand the market. Our own work with stakeholders on the energy transition has already highlighted a lack of trust with existing market participants. It is important the AER plays its role in ensuring trust is not further eroded by an influx of 'energy cowboys' or new products and services that somehow 'fall between the gaps' of the regulatory framework.

The likely introduction of flexible trading arrangements will only make this landscape more complex with the significant number of new energy products and services that may be active at secondary connection points. As a result, it is crucial that the NECF and the proposed model apply to all connection points and energy related products or services.

We continue to advocate for a contractual relationship between aggregators and distributors

We continue to encourage the AER to consider whether contractual relationships should be required between entities selling new energy services and distributors. We note that this could be included as a requirement in any proposed compliance plan.

The reason we seek a relationship with these new service providers is if an aggregator and/or energy management service operator can turn devices on and off remotely, this could interfere with a distributors' obligations to maintain system security in the National Electricity Market (NEM). They may also place customers inadvertently in contravention of their own contractual agreements with their distributor.

Therefore, we believe a relationship with these new energy service providers is necessary to enable clear and transparent communication, and compliance with, any requirements necessary to protect the security of the network.