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**Clean Energy Council submission to the Australian Energy Regulator**

**Draft AER (Retail) Exempt Selling Guideline**

**Executive Summary**

Clean Energy Council (CEC) welcomes the proposed amendments to the AER (Retail) Exempt Selling Guideline. We agree that exemptions remain the preferable mechanism to regulating alternative energy sellers given the strong principle-based framework for exemptions combined with flexibility and adaptability. We support the AER’s proposal to revise the guideline to make it clearer, more flexible and to better reflect developments in the energy retail market.

We agree with the approach taken by the AER, determining how and to what extent alternative energy sellers are regulated on the basis of the distinction between a customer’s primary source of supply, the secondary or discretionary source of supply and the effect disconnection would have on a customer’s ongoing energy supply.

CEC strongly supports the proposed amendment to provide a class exemption for PPA providers who sell to business customers or residential customers where the PPA has particular characteristics, including limiting the maximum duration for residential agreements. However, there are likely benefits for consumers if the AER allows for a longer PPA contract duration, such as 15 years rather than 10. We would urge the AER to consider extending the proposed limits on the duration of PPA contracts from 10 to 15 years.

We support the proposal to retain an electricity tariff cap that exempt sellers may charge small customers. The relevant retail standing offer is a sensible level against which to benchmark other tariff offers.

We are not aware of any potential barriers to exempt sellers offering a customer a minimum of two payment options.

We support the proposal to require exempt sellers to claim rebates or concessions on behalf of customers who cannot claim the rebates or concessions themselves

**Key recommendations**

CEC strongly supports the proposed amendment to provide a class exemption for PPA providers who sell to business customers or to residential customers under an agreement that is limited in its duration and has transparent termination and buy-out clauses for the customer.

There are likely benefits for consumers if a longer solar PPA contract duration is allowed under the class exemption framework proposed. We urge the AER to consider extending the proposed limits on the duration of solar PPA contracts from 10 to 15 years.

It is reasonable to retain an electricity tariff cap that exempt sellers may charge small customers. The relevant retail standing offer is a sensible level against which to benchmark other tariff offers.

We are not aware of any potential barriers to exempt sellers offering a customer a minimum of two payment options.

We support the proposal to require exempt sellers to claim rebates or concessions on behalf of customers who cannot claim the rebates or concessions themselves.

**The framework for regulating alternative energy sellers is working**

The AER’s approach to regulating alternative energy sellers is working. It provides the appropriate regulatory oversight and has been very successful in stimulating competition, protecting consumers and ensuring compliance requirements do not present a barrier to market entry by new competitors.

CEC supports the AER’s conditions for solar PPA individual exemptions which require the seller to:

* clearly inform its customers that their seller is not an authorised retailer;
* explain it is not bound by obligations under the Retail Law that apply to an authorised seller, but is bound by all other relevant customer protection legislation;
* refrain from registering in the wholesale market for the purposes of purchasing energy; and
* not be the financially responsible retailer for the premises.

We support the changes proposed by the AER, as outlined in our responses, below, to the questions posed in the Notice of Draft Instrument.

**Responses to AER questions**

1. ***Should the electricity tariff cap that exempt sellers may charge small customers (i.e. relevant retailer standing offer) be retained? If not, how else can small customer tariffs be kept to a reasonable level?***

It is reasonable to retain an electricity tariff cap that exempt sellers may charge small customers. The relevant retail standing offer is a sensible level against which to benchmark other tariff offers.

1. ***Are there any potential barriers to exempt sellers offering a customer a minimum of two payment methods?***

We are not aware of any potential barriers to exempt sellers offering a customer a minimum of two payment options.

1. ***Under Condition 11 – Reconnection of Supply – the AER has removed the term ‘as soon as practicable’ in relation to the requirement that an exempt seller must reconnect the premises. We seek views on whether the obligation should be time limited and if yes, what limits should be imposed.***

We do not think it is necessary to make the obligation for reconnection time limited. In the case of a PPA, there will be a strong financial incentive for the exempt seller to reconnect supply as soon as any dispute is resolved. As the supply is secondary or discretionary, there is no need to require a time limitation to guarantee access to electricity as an essential service.

1. ***We are proposing to require exempt sellers to claim government rebates or concessions on behalf of customers who cannot claim the rebates or concessions themselves. In the current guideline exempt sellers must use best endeavours only. We are interested to understand what this change would mean for exempt sellers – in particular, what costs exempt sellers would incur in making the claims. We are also interested in whether stakeholders see other possible solutions to this issue.***

We support the proposal to require exempt sellers to claim rebates or concessions on behalf of customers who cannot claim the rebates or concessions themselves, noting that:

* The proposal is aimed at assisting customers within embedded networks;
* The requirement will only apply in those instances where the rebates or concessions can only be claimed by the exempt seller and not where exempt customers can claim them themselves; and
* The customers affected by this decision are vulnerable customers.

We note that in New South Wales, for example, exempt customers can claim government energy rebates and concessions themselves. It would be preferable is all jurisdictions allowed customers to claim rebates and concessions themselves, rather than the current situation which, in some circumstances, requires exempt sellers to claim rebates or concessions on their customers’ behalf. It would assist the process of reform if the AER could publish a guide to jurisdictional regulations that limit the ability of customers to claim their rebates or concessions themselves.

1. ***We are proposing a new class for power purchase agreement (PPA) providers who sell to business customers or residential customers where the PPA has particular characteristics, including limiting it to residential agreements of no more than a 10 year term.***
2. ***Is this term appropriate? Do you consider a different term would be better?***
3. ***Are there any other criteria the AER should include for eligibility for this class?***
4. ***Should the class be extended to cover other types of alternative energy seller?***

CEC strongly supports the proposed amendment to provide a class exemption for PPA providers who sell to business customers or residential customers where the PPA has particular characteristics, including limiting the duration of residential agreements.

There may be benefits for consumers by allowing solar PPA contracts of longer than 10 years. Even though a solar PV system will typically pay for itself in electricity bill savings in less than ten years, this is by no means certain. If a customer wants battery storage as part of the solar PPA, the simple payback period for the system might exceed ten years. In addition, distribution businesses are currently in the process of reforming the structure of distribution tariffs and are expected to include a new, demand-based component in future tariffs. This will affect the payback period for a solar PV and storage system in ways that are not yet fully understood and cannot be properly modelled until further information becomes available.

A longer duration PPA could benefit customers by:

* Ensuring that PPAs can still be offered competitively following the proposed reforms of distribution network tariffs;
* Enabling battery storage to be bundled into a solar PPA offering without rendering the offer uncompetitive;
* Longer terms can make the contract more competitive in the early years, lowering monthly costs and enabling electricity bill savings from year one;
* Longer terms can help to protect the customer against obsolescence of solar components which are covered by the financier. For example, if the PPA contract runs for fifteen years then components will be replaced during the period of the contract even if, for example, the warranty for the inverter is only ten years and the inverter fails during year 14.

There are no other criteria for eligibility we wish to suggest at this stage.

We do not propose that AER should extend the class exemption to any other types of alternative energy seller at this stage.