



Minister for Energy Industries and Resources

Ref: MBN007287

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Mr Greg Wilson
Chairperson
Essential Services Commission
Level 2nd Floor, 35 Spring Street
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Dear Mr Wilson

SMALL SCALE ENERGY DISTRIBUTION AND RESELLING

I refer to a letter from Commissioner Larkin dated 27 July 2005, that provides the Commission's preliminary advice on the energy licensing and exemptions framework and how it may be able to accommodate small scale energy distribution and selling activities.

In his letter, Mr Larkin expressed concern that the licensing and exemptions framework is not meeting the increasing range of energy supply activities being contemplated by the market as a result of being changes in technology, developments elsewhere in the energy market and the trend towards higher density living.

I support the consideration by the ESC of new regulatory instruments such as small scale licences, in consultation with Government, industry and consumer groups. This would be consistent with the Commission's objectives to:

- facilitate efficiency in regulated industries;
- facilitate effective competition and promote competitive market conduct; and
- ensure that users and consumers (including low-income or vulnerable customers) benefit from the gains from competition and efficiency.

If revised regulatory instruments are believed to be desirable to cover these small scale activities, but need to be supported by amendments to the legislative framework, then I would be pleased to consider any proposals you might recommend to Government.

As you would be aware, licence exemption Orders (which are made on Ministerial recommendation) are primarily designed to address incidental, unintended or technical breaches of the standard licensing provisions. Although the exemption process has been recently used to facilitate small scale distribution and selling activities, this is not consistent with the intended use of such instruments.

Whilst some recent exemption Orders have dealt with small scale arrangements, this should be regarded only as a temporary measure, pending the development of more appropriate regulatory instruments. The Government would prefer not to rely on exemption Orders as the primary regulatory instrument for these embedded customer situations.

The Review contemplated by the Commission could benefit from discussions with other jurisdictions which, as the Commission has indicated, have considered similar proposals. It would be sensible for the Commission to consider how the regulation of small scale selling and distribution could fit into the emerging national framework.

Issues to which you may wish to have regard include:

- a) the extent to which small scale retailing and distribution is emerging as a valued service for consumers in embedded network situations;
- b) the existence of inefficient regulatory barriers to entry for prospective small scale retailers and distributors, and whether they can be reduced or streamlined. This could include consideration of:
 - i. a registration or self certification system for small scale activities;
 - ii. the level and nature of compliance and enforcement; and
 - iii. technical and other competency thresholds for parties undertaking such activities;
- c) the means by which consumers may be appropriately protected, and their access to retail contestability provided.

I understand that a related area of concern has been the proliferation of applications for certificates under section 5 of the Government's 'General Exemption Order' (GEO) relating to distribution, supply and sale of electricity in embedded networks. Your views on this and other matters relating to the GEO would be welcome as part of this review or at a later stage.

I would be pleased to receive a report on the Review by 30 September 2006. Please note that I have provided a copy of this letter to the Minister for Finance, the Hon John Lenders MLC, for his information.

Yours sincerely



Theo Theophanous MP
Minister for Energy Industries

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