



**energy & water  
OMBUDSMAN SA**

Via email: [AERInquiry@aer.gov.au](mailto:AERInquiry@aer.gov.au)

Attention: Sarah Proudfoot  
General Manger  
Retail Markets Branch

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13 January 2015

Dear Ms Proudfoot

### **Refining our regulation of alternative energy sellers – Issues Paper**

The Energy and Water Ombudsman (SA) Limited ("the Scheme") welcomes the opportunity to comment on the above mentioned Issues Paper.

The Scheme is an independent Energy and Water Ombudsman Scheme in South Australia. We receive, investigate and facilitate the resolution of complaints by customers of energy and water suppliers.

The Scheme handled some 18,000 complaints last year. In our experience, new technologies and business practices, such as the introduction of photo voltaic systems in recent years, tend to generate increased contacts to our Scheme. If the matter is out of our jurisdiction eg. the provider is not a member of the Scheme, we are not able to deal with the complaint. We will, nevertheless, experience increased levels of 'Enquiries' which are charged to our members.

In this submission we only address matters that are specifically of interest to the Scheme. In relation to any other matters, no comment has been made. The areas that we comment on, in relation to regulating alternative energy sellers, include consumer protection, access to an Ombudsman and options for regulating different business models.

#### **Consumer Protection**

Energy customers have become accustomed to the robust consumer protections that are in place, and we believe it is important for consumers to continue to have appropriate protections as new innovative energy products and new types of energy sellers emerge. Whilst new products and sellers are bound by Australian Consumer Law and contractual obligations, it would be desirable for consumers to also have access to an independent, free dispute resolution scheme, such as our Scheme, that has the authority to ensure issues are rectified in a timely manner.

#### **Access to Ombudsman**

If the alternative energy sellers are not members of the Scheme, we would not be able to deal with any complaints regarding those sellers. Additionally, we are restricted by our Constitution as to who we may accept as our members.

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Currently only holders of retail licences under the relevant Acts, holders of relevant authorisations under the National Energy Retail Law or holders of exemptions under the relevant laws are eligible to be members.

Our Constitution can only be amended by Special Resolution of the members, who include water & sewerage providers as well as energy providers.

### **Regulating different business models**

Access to an independent dispute resolution scheme such as the existing industry ombudsmen would seem essential in the changing environment. The service is free for consumers and the Ombudsman has the power to investigate, resolve and determine disputes.

Option 1: Authorisation of energy sellers in South Australia allows new sellers to become eligible to join our Scheme.

Option 2: Exemptions with a condition that a seller develop and implement procedures to resolve customer complaints and disputes, or participate in an Ombudsman Scheme would also make new sellers eligible to join our Scheme.

Either option would allow us to deal with complaints between consumers and alternative energy sellers, whereas the absence of either leaves the consumer without access to an Ombudsman Scheme (although other protections as noted will apply). Expansion of the Scheme (allowing members without authorisation/exemption to join) would require approval from our Board and from our members and amendments to our Constitution and Charter.

We expect emerging technologies to create new issues that have not previously been anticipated or considered in the current environment. The existing ombudsman schemes can identify systemic issues and report on complaint trends thereby assisting with future regulatory reform.

Should you require further information or have any enquiries in relation to this submission please contact me on (08) 8216 1888 or Pia Bentick, Company Secretary & Corporate Counsel on (08) 8216 1854.

Yours sincerely



Sandy Canale  
Energy and Water Ombudsman SA