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Ms Sarah Proudfoot
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Dear Ms Proudfoot

Submission on the AER's Issues Paper – Regulating innovative energy selling models under the National Energy Retail Law

Ergon Energy Corporation Limited (Ergon Energy) welcomes the opportunity to provide a submission to the Australian Energy Regulator (AER) on its Issues Paper - Regulating innovative energy selling business models under the National Energy Retail Law (the Issues Paper). This submission which is available for publication is made by Ergon Energy in its capacity as an electricity Distribution Network Service Provider (DNSP) in Queensland.

Consistent with the recently expressed views of the AER's Chief Executive, Ergon Energy supports the notion that good regulatory practice should be 'principles-based' and allow the market to decide which technology or solution is preferable, rather than having the regulator to pick winners.¹ Furthermore, Ergon Energy supports a framework that does not stifle innovation but rather adapts to support new technologies and solutions that are creating new ways of selling energy, without derogating from appropriate customer protections. With this in mind, Ergon Energy considers it an opportune time to commence discussions on this topic particularly given the traditional selling model is rapidly evolving, envisaging multiple selling models being offered by different participants in the market.

Ergon Energy recognises the need for technology to evolve, and enable customers to utilise new technologies as a source of energy beyond the meter. This domain should not be exclusively accessible by retailers; it should be open to the market as a whole. It is therefore, not extreme to consider that DNSPs may from a demand management perspective look to storage solutions beyond the meter in constrained areas. The addition of storage capability to Solar Power Purchase Agreements has the potential to shift value propositions to unlock value to both the customer and the market collectively. This potential should not be ignored.

¹ Michelle Groves, Perspective on regulation in a changing environment, Speech delivered to the Annual Energy Users Association of Australia Conference in Melbourne on 13 October 2014, p.4.

In the Issues Paper the AER has suggested two potential options for regulating innovative business selling models:

- Option 1 – requiring an alternative energy seller whose business model includes storage or other innovative component to apply for authorisation; and
- Option 2 – assessing the market entry of an alternative energy seller whose business model includes storage or other innovative component through the individual exemption component.

Ergon Energy supports a framework that is relatively flexible and adaptable and therefore supports Option 2. We also support the triggers proposed to assess whether an exemption remains the appropriate tool. However, Ergon Energy is concerned that the time triggered review proposed, for example, 5 years, may be too long a trigger period in some circumstances. One only needs to be reminded of how rapidly the solar PV market developed. Ergon Energy considers that the alternative retail selling market is evolving quickly and in ways not anticipated. Therefore, the AER should have regard for these potential and rapid changes, and as such, ensure that the time review trigger is fluid and is perhaps interrelated to another trigger event, for example the seller reaches a customer base level. The triggers should not always be considered in isolation. In addition to those triggers outlined in the Issues Paper, we suggest the following also be included as relevant assessment triggers:

- Where the exempt seller, such as an aggregator, reaches an aggregate MW base that is traded in the National Electricity Market (NEM); and
- Where the exempt seller, such as an aggregator, or customer has shiftable load that has the ability to impact the NEM.

Ergon Energy suggests the AER should examine the evolving selling regime from a whole of market perspective with a particular focus on any potential impacts the contractual arrangements between a customer and exempt seller will have on any other participants in the market. For example, the network may become a party indirectly under common law when an exempt party performs or executes a function as a seller to a customer and the network participates in that function. Consequently, in terms of the proposed conditions for Option 2, Ergon Energy suggests that the following matters also be considered for inclusion:

- exempts sellers should be restricted in their marketing conduct from conveying any messages that directly or indirectly include distribution activities and government subsidies;
- in the interests of market stability, exempt sellers and customers should be required to disclose information that has the potential to interfere with the NEM for example to the Australian Energy Market Operator or affected registered participants;
- that the exempt seller demonstrate compliance with relevant Australian Standards in relation to safety, installation and design aspects for any products (such as battery and solar inverter energy systems) that it markets to customers; and
- that where applicable, registered participants systems are utilised as an intelligence platform, to support the implementation of these alternative selling models and to ensure that the consequential activities – store, shift, trade - do not impact the NEM as a whole.

Noting the above, Ergon Energy considers that the conditions imposed should not deal exclusively with the relationship that the exempt seller has with a customer, but should also where applicable make conditions on both exempt sellers and customers that impact the market as a whole.

Even though Ergon Energy is supportive of Option 2 and has made some recommendations to enhance the trigger points and conditions proposed, Ergon Energy supports the Energy Network Association's proposal that the AER consider adopting and progressing, a more comprehensive review of the regulatory regime for alternative energy sellers and innovative

business models. However, Ergon Energy recognises that this broader review may take time and as such, we consider for the immediate period expanding the exemptions model is appropriate.

Should you require additional information or wish to discuss any aspect of this submission, please do not hesitate to contact either myself on (07) 3851 6416, or Trudy Fraser on (07) 3851 6787.

Yours sincerely



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