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TRANSCRIPT OF PROCEEDINGS

PUBLIC TRANSCRIPT

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AUSTRALIAN ENERGY REGULATOR

PUBLIC FORUM

REGULATING INNOVATIVE ENERGY SELLING BUSINESS MODELS UNDER THE NATIONAL ENERGY RETAIL LAW

CHAIR: MR JIM COX, Australian Energy Regulator

LOCATION: AUSTRALIAN ENERGY REGULATOR
LEVEL 20, 175 PITT STREET
SYDNEY, NEW SOUTH WALES

DATE: 11.09 AM, THURSDAY, 29 JANUARY 2015

THIS PROCEEDING WAS CONDUCTED BY VIDEO CONFERENCE

MR J. COX: Well, good morning, ladies and gentlemen. Can we begin now, begin
5 the forum now. My name is Jim Cox and I'm a board member of the Australian
Energy Regulator, and with me is Sarah Proudfoot, who is the General Manager of
the Australian Energy Regulator's Retail Markets Branch, and there are also various
ACCC and AER colleagues, going to help us with the process this morning. So
that's who we are. We would like to thank you very much for coming, for taking the
10 time and trouble to be here. We realise you are giving up a fair amount of time. We
are pleased with the amount of interest that this paper has generated, and we are
grateful to you for coming today, and may we also thank you in advance for
submissions that you may make. I think we've got a very interesting group and I'm
looking forward to the discussion very much.

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In terms of the purpose of the forum, it's to comment on our recent issues paper on
innovative energy sellers, so it's really to get your comments and views more than
anything else. You can raise and discuss any concerns. If there are things that you
don't understand you would like us to clarify, we will endeavour to do that. But the
20 emphasis is very much on your presenting your views to us. We're not attempting to
reach a consensus or agreement today. I think that's too early in the process to do
that. So that's the purpose. In terms of procedures, a couple of points to make.
Firstly the forum is being transcribed. Obviously a transcript, gives us a record and it
helps us in completing our work. We will circulate the transcript to you in the next
25 day or so.

MS S. PROUDFOOT: Yes.

MR COX: Yes. Okay. Yes. Relatively soon, and then we will give you a chance
30 to correct it, and once that process has been gone through we will put the transcript
on our website. You can treat your remarks at the forum as transcribed a submission,
should you so wish. We would have regard to that. Also, of course, you can
supplement it with a written submission. But the transcript of this conference will be
part of the materials that we consider in making decision. That's the first point. The
35 second point, as you will have noticed, we are doing this by video conference. I
think video conference is just great. It means we've got people in offices throughout
eastern Australia that can participate, and we're very pleased about that, but it does
present some challenges.

40 So what we need to do is, I think, to go through each office in a fairly structured sort
of a way. The way I think we will do it today is to start off with Sydney, and then go
to Melbourne, Canberra, Adelaide, then Brisbane. So we need to do that in a sort of
more structured way than we normally would. We ask you, when you are given an
opportunity to speak, to introduce yourself and say where your organisation is, and
45 that will help the transcribe, of course, and also please try to speak clearly and

slowly, particularly so the people in other offices can hear what you are saying. A particularly important point is to put your connection on mute if no one in the particular office you're at is speaking, because this avoids annoying feedback events, and I ask the AER staff members to try and assist in that.

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So what we will do is go office by office, give everyone an opportunity to make their comments, and then, once we've done that process, we will go around offices again. If you want to supplement or comment on someone else's point, or raise issues, we will do that then. If you want to ask a question of the AER we will try and answer it, either now or later. If you want to ask a question of another participant, please go through me, and then we will ask that other participant whether or not they wish to address the question. Just must point out, next to me there's an empty chair. That's there for a purpose, so that people in other offices can see you. If you're sitting in the back row, we would just ask you to come up and use the chair to make your contribution, so you can be seen and heard by people throughout eastern Australia.

So that's in terms of the procedural matters. Just in terms of the matters for discussion, perhaps worth making a few introductory comments about that. I guess the context for us, it's a rapidly changing energy market. New products and services are being provided. We think we're moving from a situation where people are passive consumers of electricity to a situation where increasingly they will be able to generate and store their own electricity. These changes combined with innovations in networks, metering and tariff structures, will result more in a two-way relationship with energy sellers and energy users in the future. So we're seeing a change from a passive consumption, if you like, to a situation where customers actively manage their use of energy.

So there's a whole lot of interesting things happening in the energy market. We have important responsibilities to ensure consumer protection, and I think our job is to ensure that our regulatory approach under the retail law keeps up with these changing developments. So we have approached this in two chunks, so to speak, the first chunk in July 2014, when we put out a statement of approach, and there we were looking at a particular sort of model where people proposing to generate power from solar panels on people's roofs, and to purchase that power through a solar purchase agreement. It seemed to us these models involved secondary and supplementary use of electricity, and it seemed to us a fairly light-handed approach was appropriate for those sorts of situations. It seemed to us that the grid connected retailer would provide adequate consumer protection, and there was no need to duplicate those arrangements.

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So that was the July 2014 statement approach on solar purchase agreements, solar panel purchase agreements. However, things have continued to develop, and there are now new business models involving storage, and this provides the possibility for people to disconnect from the grid for substantial periods of time, and it may be that the July 2000 [sic] approach is appropriate for these new situations, but it may not be. It may require some modification. So we put out a further issues paper in November 2014, and that didn't offer a preferred position. We put out two options

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for discussion. One was to require energy providers to be authorised under the retail law and, hence, would pick up the protections under the retail law. An alternative was to allow an exemption subject to robust conditions. So those two options were put up by us in November 2014, and we requested comments by 15 January, but
5 because of the interest and the wish to hold this forum, we subsequently extended the deadline to 16 February.

In terms of what we might want to achieve from all these various options, it seems to me the most important points are to ensure that consumers receive sufficient
10 protection in their circumstances; to ensure that energy selling models, new energy selling models are not unduly discouraged or made unnecessarily expensive, because there might be better ways of providing energy; and also, I think, in the regulatory context, to avoid one group of customers subsidising another on a different technology. A difficulty is to achieve all these things to a reasonable extent at the
15 same time, and that's what we should try and explore today. Now, in terms of questions, we've put forward five questions for discussion which I will just go through, and these are listed in the issues paper, and the first one is, what difference, if any, should storage and other emerging technologies make to how the AER proposes to regulate innovative energy supply business models under the retail law.

20 So that's the first one. It's to do with storage and emerging technologies. The second one is what are your views on the options proposed by the AER, which are authorisation or exemption under conditions. The third one is, are there any other options that the AER should consider. Then fourthly, in relation to option 2 as
25 exemptions, what conditions should be placed on individual exemptions from alternative energy suppliers; and finally, if we do do option 2, should the AER include a trigger point for further review and, if so, what should the trigger be? I think what we might do, Sarah, is start off with question 1, and possibly combine questions 2 and 3, because they're both about options, and 4 and 5, because they're
30 both about option 2, which means we've only got to go around the offices three times and not five, which will be a good thing. I understand we've got until – we have said this will go till 1, but we can go to 2 if we need to.

35 MS PROUDFOOT: We've got a bit of space.

MR COX: So we've got a bit of space and time if there are things that people want to discuss. So I think what we should now do is to move on to the first question, which is about storage and emerging technologies. I would invite people in Sydney first to make any comments they wish about that, and please introduce yourself for
40 the benefit of the transcriber and people in other offices. So who would like to go first? It's always difficult going first, but – thank you. Yes.

MR B. NIXEY: Shall I come up?

45 MR COX: Yes, please. Yes.

MR NIXEY: Well, good morning. My name is Bill Nixey. I'm from IES Advisory. Our company specialises in technology, in particular data and IT solutions and we provide a number of software solutions for market participants throughout the NEM. We're very interested to see the paper that was put forward by the AER.
5 In fact, our first question when we saw it was, "Is there a need for more regulation?" We currently don't believe that there's a strong case for changes to the existing arrangements and to specifically look at point 1, what is the difference between –
"What difference should storage make?" We don't see that there's a clear need for
10 more regulation as a result of storage systems being rolled out throughout distribution networks in the home.

The reason is that, really, there – for us, we don't see any clear difference between kilowatt-hour that's produced off a rooftop and whether that be used immediately or whether it be stored and whether it would be used, say, a day later. We don't see in
15 terms of that difference needing any new particular type of regulation. So I really wanted to make that point. For us, we have reviewed the paper and very much consider that one thing that's missing in there is a trigger and I know this is jumping to a later point, but I think it's very relevant to this discussion and that's if the system is islanded.

20 And we only consider that there should be regulation if a system is cut off from the grid and the reason for that is that these home solutions will no longer have access to the network and no longer access to an incumbent retailer who would be the front at the NMI point, and that's the – that's an environment where we would consider that
25 maybe there is a need for regulation if those systems do become islanded and there's now a third party providing energy services in a monopoly type environment in that system. So are we discussing point 2 now?

MR COX: No. .
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MR NIXEY: Okay. All right.

MR COX: Okay. Thank you very much.

35 MR NIXEY: No problem.

MR COX: Who would like to go next? Yes, please.

MR D. GLADMAN: Hi. Thanks for the opportunity to speak here today. My
40 name is Darren Gladman. I'm with Clean Energy Council and I'm here today to represent a number of members who are interested in entering the PPA market or are already in it. We think the framework that the AER finalised in July last year is a good one. We support the objectives and we think that to date it appears to be working well in delivering its objectives of encouraging competition. It has been
45 very successful with that, of providing consumer protection and not having significant barriers to entry to the market. We welcome the opportunity to review

this in the context of falling costs of storage. We don't think the falling cost of storage fundamentally change the situation and call for new regulations.

5 However, it does – lower-cost storage does offer two new possibilities that may warrant some consideration of whether additional consumer protections are warranted. One obviously is consumers may choose to disconnect from the grid and certainly if the condition of that PPA, enabling someone to disconnect from the grid was a contract, for example, that prevented someone reconnecting to the grid, then there would be a case, I think, for additional consideration of consumer protections.
10 You might argue, though, that in terms of access to an essential service if someone is on the grid, removes themselves from it, and is dissatisfied with the service they get from their PPA provider – in terms of access to an essential service, they will still have the option of reconnecting, assuming the contract with their provider doesn't provide a barrier to that.

15 The issue that I think reducing costs of storage does present as a potential new situation that might require some consideration of additional consumer protection is, as was just mentioned, the possibility of microgrids or isolated grids where, for example, if there was a new, say, housing development that was totally off the grid
20 and you had a customer that was dissatisfied with their electricity and it was an issue to the point of having access to an essential service, then you might wonder what the options are for that customer in terms of reconnecting to the grid. So I think that presents a potential new situation but I think these are relatively minor considerations at this stage. They're very hypothetical and, in the main, I would say the regulatory
25 framework that the AER finalised July last year is working and it doesn't need substantial new regulations and we should, I think, let it continue with some consideration of new situations like microgrids or isolated grids.

30 MR COX: Thank you, Darren. Who would like to go next? Yes.

MS P. McLENNAN: Hi. Prue McLennan from the Energy & Water Ombudsman NSW. Actually, first of all, question for the AER. If once a site is isolated from the grid, does the AER have any further role?

35 MS PROUDFOOT: No.

MS McLENNAN: I didn't think so.

40 MS PROUDFOOT: If they're not connected.

MS McLENNAN: So it's off-grid - - -

MS PROUDFOOT: Yes.

45 MS McLENNAN: You don't regulate once that's off-grid- - -

MS PROUDFOOT: Right.

MS McLENNAN: That's what I thought. Yes. From the Energy – from the Ombudsman's point of view, a lot of the power purchase agreements – one thing, unlike other jurisdictional ombudsman, in New South Wales, the ombudsman has jurisdiction over the exempt sellers, so we do have jurisdiction to look at complaints
5 from customers of these solar power purchase agreement companies and so on. We're watching this space with interest to see how that impacts on our business, and I think the concern is once battery storage, which we welcome, I guess, in the world generally, once a customer is getting the majority of their power through that system, consumer issues become more relevant and I'm just thinking of things like, you
10 know, say, the meter stops working so you have an estimated bill or there's concerns about meter accuracy, all these sort of things that are, you know, run-of-the-mill things for our Ombudsman office with customers normally.

How do they get resolved? I mean, I was just thinking of those 19 conditions for
15 exempt retailers. I think some of them might be useful once – maybe once, you know, we're talking about trigger points – once a trigger point has reached their – getting the majority of their power this way. You know, there's things about other protections in the 19 conditions. I know you might be going on to this later, but things like protections of the tariff can't be any more than a certain amount, things
20 about disconnection, things about payment difficulties. So that's the concern of our office and we're watching this space with interest

MR COX: Thank you very much. Who would like to go next?

25 MS PROUDFOOT: Melbourne can go next.

MR COX: Perhaps we go to Melbourne, then. Anyone in Melbourne would like to make a comment?

30 MS D. SHIELDS: Hello. It's Dianne Shields from Simply Energy. Can you hear me?

MR COX: Yes.

35 MS PROUDFOOT: Yes.

MS SHIELDS: Yes. I've got a – I suppose our concern – I would say upfront that, as the AER is aware, we've actually applied for an exemption of our own for one of our businesses. So the fact that we're advocating for additional regulation isn't so
40 much protecting our business model. The regulation we advocate for will actually affect us as much as exempt sellers, Our concern is the potential for market failure in this space and the market failure really rests on the terms of the contract these customers are signing up for. Under the law, one of the conditions that exempt – or that the AER is to consider, initially, an exemption is whether a customer can freely
45 access – I'm not – I'm paraphrasing in the law.

But the customer has – should be allowed to freely access alternative retailers, even though they have become part of an exemption or signed up to some sort of exempt seller. The issue that we are thinking about at the moment and trying to work through is that the terms of these contracts are often seven to ten years long. And, typically, the customer has to buyout the term of the contract if they want to leave that contract early. So, in effect, it's like an early termination fee and that could run into thousands of dollars, particularly in the early part of the contract.

As a result, we do question whether the arrangements that have been put in place actually prevent customers from freely accessing the market and they actually find themselves in a position under these contracts. Which is why we're seeing retailers' early termination fees more heavily regulated in recent years because ETFs can prevent customers accessing better market offers in the authorised retail space. The early termination fee on these contracts is much higher than what you see on a standard market contract. To us, they act as a barrier to exiting that contract and, thus, act as a barrier to that customer accessing a better deal that may be available out there regardless of whether that's grid-delivered energy or some new technology that provides them with much cheaper off grid-delivered energy. They are essentially tied into a contract for seven to ten years – perhaps longer if they sign up for something that contains battery storage where one exempt seller is offering a contract including storage for 25 years.

So that's the issue we're struggling with at the moment and it's the issue that I – we believe that the AER should be focusing on. Because it's where we see market failure in the – in what's happening in the market. But that's – in our view, so far, that seems to have been lost. And unless we focus on the market failure, then we're in danger of trying to chase technologies and business models down rabbit holes and the AER is constantly going to have to be opening up your approach every six months when some new technology comes up – comes – or business model is introduced into the market. So in our view, you're much better focusing on what the market failure is and trying to address that and regulating that and understanding, well, given that market failure, we need customer protections in place.

In our view, that includes things like information up front, about the term of the contract, about the – about the – you know, the cost of breaking that contract. Very similar to what licensed retailers have to provide at the moment. We believe – we believe, possibly, there might be some billing requirements that are on there, given that billing is – was introduced in relation to prevent bill shock. There may be some of these that require at least one – or at least quarterly billing. The fact that if you're – you are subject to the contract and you fall into hardship, what does that mean for the early termination fee that you have to pay the exempt sellers in order to exit that contract early and how does that customer get protection for that early termination fee? There's nothing at the moment. But, really, the main point I wanted to make was that if you focus on market failure, what is the market failure regardless of the business model, regardless of the technology that is being used and that gives a much better focus on what customer protections should be attached to these exemptions.

MR COX: Thank you very much, Dianne. Someone else from Melbourne?

MS SHIELDS: I think we're both with Simply Energy.

MS PROUDFOOT: Dianne is it.

5

MR COX: Okay. Right. We will go for Canberra next.

MR J. BRADLEY: Thanks, Jim. I don't know if you can see me. It's John Bradley and Jim Bain here from the ENA and we're all the Canberra participants.

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MR COX: Okay. Thanks, John.

MR BRADLEY: Thanks for the opportunity to be with you. Can I say at the outset that we're still probably grappling with the significant issues that are in the paper.

15

We do support the approach the AER has taken to it and to try and balance those various objectives that you mentioned at the outset. Probably some of the things that are top of mind for us at the moment I just provide as a prefacing comment but let our submission actually speak as the formal response for the ENA. The things at the top of mind for us at the moment are probably strong support for a light-handed and fit for purpose regulatory model. Which is consistent, regardless of the service delivery model for, say, the traditional and non-traditional suppliers. And we say this not from having a point of view as a vested interest in terms of any one of those providers but it will just be the interest we all have in competitive neutrality in competitive markets.

25

At the moment, we're trying to grapple with – probably, going to the topic that you have asked to comment on – we're trying to grapple with the assumption that storage and innovative business models are the step change which requires consideration of a different regulatory approach. Whereas when we look at the significance of solar at the moment and solar PPAs, we're questioning at the moment whether or not the current criteria of the distinction of a primary energy seller continues to be the right test.

30

So we've recently had some work done – people have their own views on this – but we've recently had some work done which shows that a typical customer with Solar New South Wales is generating about 3700 kilowatt hours and maybe consuming about 5000 kilowatt hours. So by any stretch there is a very significant amount of output being produced by solar units in domestic households. The average unit size appears to be increasing and, as the earlier speaker mentioned, there's a very significant financial commitment, potential break fees applying to households which enliven those issues of customer protection. So as we're thinking about the issues at the moment, probably we're – probably questioning, Jim, whether or not there's a need to take a sort of first principle's approach, which looks at, as the earlier speaker said, the market value issue or the policy requirement rather than assuming that the step change is occurring in the course of a particular technology development happening now.

45

The last point I would raise, I guess – and you may want to provide some feedback on – is how this review process will integrate with the sort of overlapping consultation occurring from Commonwealth Energy Market Reform Working Group where they are looking at related issues at the moment and we’re probably trying to grapple at the moment with whether or not there’s a need for the AER to take a more holistic approach to its review.

It said in the consultation paper in a couple of places that the authorisation exemption framework is being tested, if you like, and there may be a need to provide further guidance in the future after this review. And as the earliest we can mention – I guess, we’re probably concerned at the moment that we end up with a holistic review of the regulatory framework – which is used as an integrated outcome but then allows for potential market participants to have clarity about the regulatory obligations they’re likely to be subject to in a very clear and transparent way. Rather than these things being addressed on a case-by-case assessment through exemption applications. So that’s sort of, if you like, where our thinking is at on these issues at the moment, Jim, while still working our way through the response of the AER.

MR COX: Yes. Thanks, John. On the issue raised of the need to liaise with or keep in touch with the Commonwealth – with officials on their work, I think we understand the importance of that and – so we don’t proceed down two different paths.

MR BRADLEY: Yes. Do you see the two things coming together, I guess, in some form or their being a longer range exercise and yours being more short-term? Or how do you see the distinction between the two?

MR COX: Yes.

MS PROUDFOOT: I think we do see the EMRWG work as potentially having a longer term effect. What we’re trying to do – and I’m pleased that a couple of people have, sort of, referenced that principles-based approach – is provide enough certainty for people coming in now, and saying to the AER, we – you know, with an application for an exemption or an authorisation, giving them some certainty around how we will approach that, but with a view to not, six months down the track, having this discussion again when a new technology comes up, because, obviously, we think we need to think a bit more around the SPPA with the storage and the new things we’re coming – that we’re seeing coming in, but we’re looking to make it, I guess, more certain for people, but to allow for any sort of form that comes in, given at the moment the tools we have are authorisation or exemption.

So I know there is, sort of, more thought being given to that broader issue, both at Commonwealth level and other areas, but we’re doing what we can now just to get that certainty in place.

MR COX: Yes. Thank you. Can we then go to Adelaide.

MS FAULBAUM: No comments from Adelaide, Jim.

MR COX: Okay. Thank you. And, finally, to Brisbane.

5 MS Y. TRAN: No comments from Brisbane, thanks.

MR COX: Okay. Thank you. We will just go briefly around each of the offices to give everyone the opportunity to make an additional comment should they so wish. So anyone from Sydney?

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MR R. SOUSSOU: Yes.

MR COX: Yes, thank you.

15 MR SOUSSOU: Ramy Soussou from the Energy Retailers Association. The ERAA, probably everyone knows, we represent – the members we have are retailers. We have been pretty vocal, with the AER on solar PPAs. We believe that the conditions imposed at present don't actually meet some of the protection obligations. For example, whilst I know they have access to the Ombudsman here in New South
20 Wales, in other jurisdictions that access is denied. The AER has stipulated that they believe that the current complaint mechanism which is, I think, the Department of Fair Trading, is appropriate. We don't believe that is the case. We also have concerns, sir, with what you just said, which is providing certainty for the next six
25 months.

25

If the Commonwealth does come back and suggest that, you know, conditions imposed on not only solar PPAs, but all models that are going forward, how will that apply to the exemptions currently provided by the AER in the market? Will there be a retrospectivity in those conditions? Things like the provision of information on
30 bills; the type of information to be provided at customer – at point of sale. We've looked at what the AER has advised to current exempt solar PPAs. We don't believe that is sufficient. We also have a view that the analogy of retailers being basically the defunct consumer protection body for customer protection- -

35 MR COX: Default.

MR SOUSSOU: Yes, the default, or we call them the frontFRMP now. We don't think that is the right model moving forward. We are going to propose in our submission to the Commonwealth an alternative model of how you should be
40 assessing, not only solar PPAs, but battery storage, EV providers. You know, how will this apply with the multiple fronts that is being proposed under the AEMC, with a DRM coming in play. There is a – there is a – the market is changing. We support light-handed regulation, as John Bradley from the ENA said, but it has to be based on competitive neutrality. All parties must be on the same level playing field, and at
45 present we believe that we are not on a level – same level playing field. Like the network businesses, retailers have a lot of fixed costs, and 55 per cent of consumption is now being assumed by solar. How will the fixed costs that we currently have, how will

they be passed through to all consumers. So we have some concerns. We don't want heavy regulation, but we do want competitive neutrality.

5 MR COX: Thank you, Ramy. Someone else in Sydney. Okay? To Melbourne. Anyone else in Melbourne?

MS HARTCHER-O'BRIEN: Nothing in Melbourne, thanks, Jim.

10 MR COX: No? Canberra?

MR K. AURET: No, nothing from Canberra.

MR COX: Okay. Adelaide?

15 MS FAULBAUM: No. We're right here.

MR COX: Okay. And Brisbane?

20 MS TRAN: No, nothing here.

MR COX: Okay. Thank you very much. What I think we might then do is to move on to the next segment, and there are two discussion points I think we might take together, and these are discussion point 2, which is, what are the stakeholders' views on the AER's proposed options, and discussion point 3, are there any other options
25 than those two which the AER should have regard to. So once again I will start with Sydney, and I invite someone to lead off.

MR GLADMAN: All right. Well, I will start.

30 MR COX: Yes, of course. Thank you.

MR GLADMAN: Darren Gladman, Clean Energy Council. We very strongly believe that the framework for solar PPA providers under an exemption framework is appropriate, and the requirement to – a requirement for full authorisation for solar
35 PPA providers would be over the top, very heavy-handed regulation, and simply not necessitated. Simple as that. We think it would be too much.

40 MR COX: Okay. Thank you. Another comment? Then I will move on to Melbourne.

MS SHIELDS: Look, we think, given the nature of market failure, authorisation does, sort of, seem like an over the top solution to that market failure. In our view, in our stage of thinking, we believe that option 2, which is where you've got the exemption, but you're proposing conditions upon that exemption, should be adequate
45 in our view to address that failure.

MR COX: Okay. Thank you very much. Where are we now? Canberra.

MR BRADLEY: Jim, we probably have specific comment on this choice between the two options at this stage. As mentioned earlier, we're probably – thinking through how this sits in the context of a fit for purpose regime, at the moment we see the AER's approach as trying to, sort of, use the existing authorisation and exemption framework, and both those options are just reflections of that existing framework, rather than, sort of, considering a root and branch approach to what would establish a fit for purpose regulatory regime.

10 MR COX: Okay. Thank you. Adelaide?

MS FAULBAUM: No. No comments from Adelaide, Jim.

MR COX: And Brisbane?

15 MS TRAN: No, nothing from Brisbane. Thanks.

MR COX: Thank you very much. There appears to be little support for authorisation.

20 MS PROUDFOOT: It would seem so.

MR COX: So if anyone supports authorisation, let us know. Okay. Then we might move on to the two questions on the exemption framework, and just to remind you what they were, in relation to option 2 exemptions, what, if any, conditions should be placed on individual exemptions for an alternative energy seller; and discussion point 5, should the AER include a trigger point review of individual cases if it proceeds with the exemption option and, if so, what should the triggers be. So this perhaps is the heart of what people are most interested in, so we do welcome your comments on this. Who would like to go first?

30 MR SOUSSOU: I will go.

MR COX: Thank you. Yes.

35 MR SOUSSOU: Yes. Ramy again from the Energy Retailers Association, we support the exemption regime, but we believe the conditions could be a bit more prescriptive. Looking through the conditions outlined in the issues paper, I fail to see where one condition shouldn't apply. So I'm basically saying all conditions. It doesn't actually mean things, like life support, I tend to agree that there might be some reason why – why we do not need a condition on life support, especially with what is being considered now under the metering contestability rule change, where they're looking at only having one body to control the life support register. But things like dispute resolution, whilst I know that the current conditions stipulate that a provider must detail the dispute resolutions, I don't actually see where the AER has a monitoring role in actually going in and monitoring that under the current exemption framework.

I would probably prefer that the AER actually has a more active monitoring role than they currently do and, you know, would that be quarterly reporting on how your dispute resolution is going. As an example, customers that are on hardship, you know, are you providing – are you informing customers that if they actually do move
5 down the path of actually getting their energy from somewhere else, whether they might be no longer entitled to certain concessions. Things like this need to be clearly stipulated to customers. So when we're looking at the conditions, we believe most of those conditions should actually apply.

10 The conditions outlined in the Issues Paper are not too prescriptive. They're not like conditions that retailers have, you know, where you have to have, for example, things like ensuring they have appropriate network prudentials that ensure the financial viability of the market. That's full authorisation. We're not looking for that as part
15 of the exemption regime. But we're looking where the exemptions – whether conditions should be a bit more prescriptive than what is currently being deemed appropriate by the AER.

MR COX: And your view that would be true of all suppliers, all technology models? Or is there a case for tailoring them to - - -
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MR SOUSSOU: Yes.

MR COX: - - - particular circumstances?

25 MR SOUSSOU: There is a case for tailoring.

MR COX: Yes.

30 MR SOUSSOU: For example, if you're a solar PPA customer and you bring in battery storage, I believe those conditions should be fairly prescriptive. Because you are taking over the whole consumption of the customer. And consumer protections become more paramount. We are working for a model right now that will hopefully help frame and guide the type of conditions that should apply.

35 MR COX: Thank you very much. Yes, please.

MR NIXEY: Bill Nixey from IES Advisory. I would just like to put forward a different view on the draft conditions that the AER has at the back of the discussion paper. I read through – they almost look like conditions for, you know, a normal
40 retailer. And it does raise the question that if these are the requirements for proponents of new technology, is this really achieving the objective? I mean, these would be significantly additional – more compliance requirements for these small companies when to date, you know, the emphasis has been on encouraging innovation and change in the market and, effectively, competition for consumers.
45 And, you know, if the objective is to have informed, educated and active customers in the market, then this proposal with the terms and conditions, as it is, would certainly hinder the arrival of these new technologies.

We are at the cusp of these new technologies arriving, such as storage. And this is certainly not the time where new regulation could be introduced, which would slow that down. I mean, I think that would be a counterproductive to the take-up of these new solutions and providing customers with the choice to select those solutions.

5 Going back to my earlier comments, if the customer has an incumbent retailer with a hardship program and all the other associated things, as it is at the – as the FRMP at the connection point then there is still that allowance and that fall-back for things such as retailer of last resort.

10 Also, referring to my earlier comments, we don't see any need for new regulation as a result of the arrival of storage. There's no real difference between a kilowatt hour being used straight off the solar panels or stored and used at a later date. Reading through the AER's issues paper, it really seems that what has driven the arrival of this proposal is the potential arrival of storage.

15

MR COX: What do you think of the argument that storage changes a situation because now most of a customer's energy needs may be met by a system that includes storage?

20 MR NIXEY: I saw that in - - -

MR COX: if you can sort of draw out your thoughts on that, that might be helpful.

25 MR NIXEY: I don't agree with the notion that if a customer has a primary amount of his electricity sold by technology – such as storage in a solar panel – that it's a requirement for additional regulations. Our view is that if there is that link to the network with a fully licensed retailer serving the residual needs of electricity to the customer then there is no additional need for compliance requirements on the
30 technology provider. Now, there have been submissions by large retailers arguing a different point of view. But, you know, this is a competitive market and there's every opportunity for existing and large retailers to participate in the technology space. And I know that a number of the major retailers are doing that. So there's an opportunity for all parties to have a role in that technology. And it's not as if the
35 playing field has been changed as was suggested in one section of the paper.

MR COX: Okay. Thank you.

MS PROUDFOOT: Can I ask a question?

40

MR COX: Yes. Sure.

MS PROUDFOOT: Sorry, Bill

45 MR COX: Sorry - - -

MS PROUDFOOT: - - - just while you're here and you're speaking up on the discussion where you mention sort of informed and educated customers, in particular. I mean, one of the things that we're seeing a lot of is most customers aren't particularly knowledgeable about the detail of their current energy supplies.

5 So, now we're talking about bringing in new technologies that are potentially much more complicated, but promise, you know, savings – whether that's financial, environmental. Could you see any sort of information provision – I guess conditions and things – how that might support – you know, if – even if you didn't like all the conditions that were there, what sort of information do you think would be helpful to

10 the issues?

MR NIXEY: I think there should be that understanding that the technology provider is not the licensed retailer and that information should be certainly provided to the customer. There shouldn't be – it needs to be made simple so the customer isn't

15 confused about who they need to call when they have a supply disruption and those sorts of things like information provision and it's what I was getting at with that point is really the need for a customer choice. So having informed customers – and I know that's the AER position to have informed and active customers. Well, these technology solutions certainly facilitate that and facilitate customer choice. And

20 that's something that, I think, should certainly be considered.

MS PROUDFOOT: Thank you.

MR COX: If I can just – one more. I think one of the things that was mentioned

25 earlier is that, well, with some of these systems people get signed up for 25 years and they may not quite know what they're getting into and they may regret it and getting out of these contracts could be difficult. I mean, that was the sort of thing that was discussed.

30 MR NIXEY: Yes.

MR COX: Maybe a sufficiently educated and informed customer wouldn't enter into those agreements in the first place. But perhaps not all customers are as well informed. So how do you respond to

35

MR NIXEY: Well, there's existing regulations in place. The Competition and Consumer Act is in place for circumstances where customers have a – have received services that they're not happy with. And there are – there is a framework already in place to address that.

40

MR COX: Okay. Thank you.

MS McLENNAN: Can I just ask you another question?

45 MR COX: Yes, yes.

MS McLENNAN: Just – just of you another question.

MR COX: And then we will come to you next.

MS McLENNAN: I'm sorry. When the – you know, I agree that – I suspect some of these customers aren't going to be educated.

5

MR COX: Can you just introduce yourself?

MS McLENNAN: Sorry. It's Prue McLennan - - -

10 MR COX: Sorry. Yes.

MS McLENNAN: - - - from EWON again.

MR COX: Yes.

15

MS McLENNAN: We suspect that some of these customers aren't going to be as educated and informed as you would like, as we suspect the first wave of customers – who took up solar – were, you know, empowered and well educated and these ones where it says, "No cost to you", you know we will put it on your roof – it's not going to be necessarily the same level of engaged customer. Those customers may be struggling with their bills. What do you do – what is it anticipated you do when they can't pay their bills? Do you just go through debt recovery? Or do you actually disconnect their system or what?

20

25 MR NIXEY: Yes. Certainly, that's something that needs to be considered. But, I mean, if their system is no longer working and they have – they receive kilowatt hours from a traditional supplier. So that traditional supplier - - -

MS McLENNAN: Yes. I realise that. But I'm thinking - - -

30

MR NIXEY: - - - is still there.

MS McLENNAN: - - - of your relationship with the customer.

35 MR NIXEY: Well, not our company

MS McLENNAN: Yes. Sorry. No. The solar PPA. I didn't mean you particularly. But this – in the – in this environment with solar PPA.

40 MR NIXEY: Yes. Well, it's up to the provider and how they arrange that and those particular circumstances.

MS McLENNAN: That's just - - -

45 MR NIXEY: But it is a question for - - -

MS McLENNAN: Yes.

MR NIXEY: - - - you know – it’s a question of customer choice and what happens when things – you know, those circumstances when, you know, things, you know, need to be addressed in that respect.

5 MS McLENNAN: Yes. It’s just – you know, at the ombudsman’s office we’re always dealing with “when things go wrong”. So excuse my negativity in looking for problems that

10 MR NIXEY: Of course. But there is always that supply maintained. So the customer - - -

MS McLENNAN: Yes. I realise that.

15 MR NIXEY: The customer will receive a service and we’re not talking about disconnecting at the connection point.

MS McLENNAN: No. I know. But you could disconnect them from their inverter, from the solar supply.

20 MR NIXEY: Yes. But the issue is not that the customer is now totally without a supply - - -

MS McLENNAN: I realise that.

25 MR NIXEY: - - - they would still have a supply.

MS McLENNAN: I’m just thinking of the financial things. We get customers, you know, they can’t pay. What regime manages that? Just - - -

30 MR NIXEY: Well, as I mentioned - - -

MS McLENNAN: Yes.

35 MR NIXEY: - - - existing arrangements for any other service.

MS McLENNAN: Okay. Thanks.

MR COX: Thank you very much. Yes, please.

40 MR P. CHOURDIA: My question is a little more general. I’m sorry. Prateek from SMA Australia. Do you then propose an adjustment or a change to the definition of “primary energy supply”?

45 MR COX: I think we might take that on notice - - -

MR CHOURDIA: Okay.

MR COX: - - - and move on. Yes.

MR: Always the tough questions.

5 MR COX: Yes.

MR N. MORRIS: Thank you Jim, and thanks for the opportunity to speak. My name is Nigel Morris. I'm from Solar Business Services. I'm a solar industry researcher and business consultant. I wanted to make a couple of comments and ask
10 you a question, if I may. Firstly, going back to your question earlier about the volume and that seems to be an important trigger and there have been a couple of comments made around how much energy might be consumed from a battery and what the implication was for a solar and battery system to be the primary source of supply to suddenly become the primary source of energy supply. We've been
15 involved in quite a lot of modelling and both in PPAs and in storage systems in the last three months, in fact, and it seems to me, although it remains unclear, there are two primary – two big issues here.

20 Firstly, it's extraordinarily unlikely that a battery system in a home or even in a business would come anywhere near delivering a primary amount of energy that a home or a business would require in the next few years. The costs, based on what we're seeing, are prohibitive at this point in time. Now, there is an earlier adopter market that exists today and it will continue to grow and it's growing very rapidly but we think what we're starting to see is the economics can make sense in certain
25 situations where the economics of excess energy being fed into the grid can be put into a battery, but it – we believe that we're quite a long way from storage being anything more than a small proportion of the home's or a business' total energy supply.

30 So I think that's a really important contextual piece because if we understand that it's very, very unlikely to occur, then we're perhaps worrying about something that's a bit further away. That would be my first point. Secondly – and a question, perhaps – in a number of other countries, California, Germany, Italy and France, I believe, they have quite advanced storage policies that have been developed and regulations that
35 have been developed to encourage the update of storage in those markets. I haven't read through all of them. I've read through some of them but I haven't seen a lot of regulation around the provision of – and in the context that you're talking about. What there has been is a lot of aspirational targets and a lot of regulations around what rewards or incentives might be in place but there has been a lot of effort. I will
40 just ask the question, "Has the AER taken the opportunity to look at those international policies and regulations so that we can learn from those?"

MS PROUDFOOT: I will ask Imogen or Susan. You've had a look at that?

45 MS I. HARTCHER-O'BRIEN: It's Imogen from Melbourne.

MS PROUDFOOT: Thanks, Imogen.

MS HARTCHER-O'BRIEN: It's a good point. We've certainly looked at the international literature on development of storage and how that fits into potentially regulation but I haven't had a look – we haven't had a look in detail at the energy regulation policies in those countries. But it's something we will do now. Thanks
5 for bringing it up.

MR MORRIS: Okay. Thank you very much.

MR COX: Thank you. Who would like to go next? Thank you.
10

MR GLADMAN: Darren Gladman, Clean Energy Council. CEC members who are in the PPA market, I think I could safely say are not averse to efforts to improve levels of consumer protection. So I wouldn't want to give an impression that we think nothing can be improved in this area, however, we do think that by and large,
15 it's working well so far and doesn't need a whole lot of tinkering at this point. However, we've – it has been mentioned already that only in one jurisdiction, the Ombudsman has jurisdiction to review PPAs. That would, I think, be a positive development elsewhere. Also worth noting that Clean Energy Council is making its own efforts to improve consumer protection in the industry.

20 We have a retailers' code of conduct which currently applies to sale and lease but we've encouraged and we are currently in the process of applying to the ACCC to extend the application of that to solar PPAs, and that would include some of the provisions that have been discussed, for example, provision of information for
25 consumers so that people are well informed and in formats that are understandable and where it's appropriate, we would be happy to see some of those things adopted as across the board improvements but I wouldn't want to suggest that we would support everything that has been proposed in the discussion paper because it looks like there's quite an onerous set of requirements there and we would need to work
30 through them piece by piece. But there are some suggestions that have been mentioned that I think the industry would support because we want to see this business model and this technology introduced well and for the customer experience to be a good one.

35 MR COX: Can you just, for my benefit, say a bit more about the code of conduct and - - -

MR GLADMAN: Sure.

40 MR COX: - - - the extent to which it's voluntary, extent to which it's enforceable.

MR GLADMAN: It's a voluntary code of conduct. It's administered by the Clean Energy Council. It currently applies to retailers and lessors, companies that lease. I suppose the key component is a requirement for a five-year whole of system
45 warranty, so going well beyond Australian Consumer Law. If there is an issue with your system and you purchased it in the last five years, the idea is that you can take that to the retailer. The retailer will address your issues. Not to say that they're

liable, but they will be – they won't push off the problem to the importer or to – they will deal with the problem and if the customer has a problem with the retailer conforming with those conditions, then they can bring that to the CEC and we have a dispute resolution process.

5

We also have – and we will make this available as part of our submission. There are also other provisions within the code of conduct regarding information provision and what we see as reasonable minimum standards for best practice retailing solar PV in Australia and we're keen to see that available to providers of solar PPAs and we're happy to have a conversation with the regulator about whether there are aspects of that that could be applied across the board.

10

MR COX: Thank you. Who's next? We might move to Melbourne now.

15 MR J. BARTON: Hi. Jim, at the start you said we can ask questions of other speakers.

MR COX: Can you introduce yourself?

20 MR BARTON: James Barton, Simply Energy.

MR COX: Sorry?

MR BARTON: James Barton, Simply Energy.

25

MR COX: Simply Energy, yes.

MR BARTON: You said at the start we could ask questions of other speakers. I know that the gentleman from IES has already answered a few questions but I've just got a couple more that you might want see if he's interested in responding to.

30

MR COX: Are you happy to answer the questions?

35 MR NIXEY: Not a problem.

MR BARTON: Okay. Good.

MR NIXEY: But I'm not an expert on the Competition and Consumer Act so if they're related to those sorts of things, I will just pass. So - - -

40

MR BARTON: No worries. The first question, I suppose, I've got is about your proposed approach is that for the PPAs, the Australian Consumer Law is sufficient to – you know, to protect customers in that respect. I'm wondering how you think that that approach provides competitive neutrality between different types of technologies, in particular competitive neutrality between distributed generation being regulated just under the ACL and grid delivered electricity being regulated in

45

ways which you've described as onerous and heavy-handed by other speakers this morning.

5 MR NIXEY: Could you give some examples of distributed generation that's regulated under – I assume you mean under the AER's remit.

10 MR BARTON: No, no. I'm saying under the approach that solar – SPPAs and solar SPPAs and storage but you've talked about only the ACL would be needed to provide customer protection. I mean, that's what you were saying before. And contrast that with grid delivered energy which has customer protections which the other speakers have said are onerous and heavy-handed. I'm saying how does that – how do those two approaches, which would be the consequence of what you're proposing – how does that give competitive neutrality between different technologies, for instance, between solar and storage and the grid delivered.

15 MR NIXEY: Well, I mean, my perspective is, from the consumer – that the consumer has a constant link to the distribution network. So in that respect, if there are issues of – I know you're talking about competitive neutrality, but if I just talk about the consumer aspect. The consumers have an existing connection to the grid, and they have an authorised retailer there who is licensed to provide – to provide those protection measures that are under existing arrangements. Competitive neutrality, this is new technology, and there is a lot of potential for this technology, and I think it shouldn't be overburdened with additional rules and regulations and compliance requirements around that.

20
25 Now, some may have the view that that means that it's not an equal playing field between a large generator and a small generator, but small generators, you know, they have disadvantages just due to economies of scale, you know. So they have a different playing field in that respect as well. So there are many ways to look at it, but I don't agree with the notion that there's that – that that is that argument.

30 MR BARTON: Okay. Thanks, but the only comment I would make to that is that you could have made arguments when retail competition was first opened up in the NEM that people support competition in energy retail to allow second tier retailers to have a different set of regulation than the first tier retailers, for example – equal opportunity to grow, not under a burden in the growth phase, increased competitive options for customers – and yet that approach wasn't taken. The view was that there are certain customer protections which are so important and critical for the supply of an essential service that even new entrants, who were small businesses at the time when retail competition began, should still have to provide those customer protections, and so I think that – I'm surprised that a different separate approach is being taken today when we're talking about a new technology, whereas then, you know, competition which was supposed to give similar outcomes to consumers by broadening choice, was not taken up.

45 So that's what I suppose my response to that, and my question to you is that, I think you referred to grid delivered energy as being residual energy, I think, for the –

meeting the customers' residual needs, and yet the grid connection underpins the argument that the solar PPA storage providers don't need a lot of regulation, because the customer can always fall back on the grid delivered energy, and my question would be, well, what role do you really see for grid delivered energy? Is it just that
5 residual supply, and we know that grid delivered energy has a high level of fixed costs in terms of the networks and also the power stations need to meet big demand when battery capacity has been exhausted, or when the sun is not shining, for example, and how do those high levels of fixed costs be recovered from customers, given that grid delivered energy is being displaced by solar generation? Will that be
10 through high fixed charges, for example, and in your mind as to you know, because I can see you have done a lot of thinking about how the market can develop with these new technologies coming in.

MR NIXEY: Well, I think if you start with the need for competition, and customer
15 choice, then the approach that I'm suggesting is not unreasonable, and that is that customers want to have the choice of how they receive their electricity supply, whether it be through the traditionally sourced grid connection, or whether it be through new technology options in their home, and I think it's important to allow the consumer to do that and have that choice, and there shouldn't be regulations in place
20 to hinder those choices, and that may be where we will be heading if we do go down the track of requiring advocates and proponents of these new technologies to have licensing requirements. I mean, I don't want to go over the point too much, but I think the main concern there is consumer protection and, as I've said before, is that existing – that existing link to the traditional electricity supplier remains.

25 I've also already mentioned that retailers who feel that they are losing market share – not in terms of connections, but in terms of kilowatt hours – are fully able to set up businesses and to provide those technology solutions for customers, and that's how the competitive market works. So does that answer your question?

30 MR BARTON: I take your point, but not – not quite, but that's fair enough.

MR COX: Okay. James, anything else you want to say?

35 MR BARTON: No, thank you.

MR COX: Okay. Anyone else in Melbourne? No? We will move on then to Canberra.

40 MR BRADLEY: Jim, I just wanted to make a comment specifically in relation to that last discussion about competitive neutrality and offer a view on that.

MR COX: Thank you. Yes.

45 MR BRADLEY: I would emphasise at the outset that we strongly support the full economic utilisation of distributed energy resources, that that's something that

networks are actively seeking to enable. So we – as I said earlier, we want to see the
minimisation of barriers to entry and light-handed regulatory framework for new
entrants, but that that should apply consistently for the incumbent energy sellers
using different delivery rules, and so the concern I have with the exchange that just
5 occurred is probably the statement that because there are economies of scale for
incumbent energy sellers and retailers, that they can bear a heavier regulatory burden
and not be in a position where they lack competitive neutrality with the new entrants
that don't have the same economy of scale advantages, and I guess I'm saying the
obvious here, but clearly the role of regulation – clearly the role of the regulatory
10 framework is to provide a competitively neutral regulatory framework, rather than to,
sort of, take into account, or rely upon the differences in economies of scale between
particular delivery models.

That's only going to frustrate our efficiency in an economic sense. So I just think
15 it's really important in the AER's approach to this review that it approaches
competitive neutrality in a way that considers the impact of the regulatory
framework, rather than relying on differences of economies of scale between
different providers.

20 MR COX: Yes. That seems to me to be an issue here, about, you know, people say
we don't want to unduly discourage new technologies, which you can all agree with,
and we need to ensure at the same time competitive neutrality. So that the two things
may not be capable of achievement simultaneously. So, in that case, how would one
trade off against the other?

25 MR BRADLEY: Well, the two objectives are that we don't unduly discourage new
entrants or new technologies, and that we maintain competitive neutrality and
competitive markets in the national regulatory framework, and those two things
aren't directly – are complementary, in that the unduly constrained test you're talking
30 about in terms of constraining new entry takes into account that those new entrants
should face the economic cost of supply, and customers taking up those new entrant
options should face the true economic cost of the service, and when we have new
entrants being enabled to participate in markets through costs being borne by
incumbent suppliers or incumbent technologies, then that is a cross-subsidy which is
35 not only a problem for allocated efficiency in the service delivery of energy, or
energy services, but it's also a problem for fairness between cohorts of customers
where we have early adopters effectively receiving a subsidy from those customers
that are not early adopters in those markets.

40 So the two tests as you just articulated them are actually complementary, because we
would propose that the new entrants should not be unduly constrained, but a new
entrant facing true economic costs of supplying their service is not unduly
constrained.

45 MR COX: Okay. Thank you. Other comments from Canberra?

MR BRADLEY: No, thanks, Jim.

50 MR COX: We will come back to you. Yes. I won't forget. We then move on to
Adelaide.

MR A. NANCE: Hi. It's Andrew Nance from South Australian Council of Social Service. I've got – it's a question and a comment. I'm having trouble reconciling the ability under the framework for retailers – such as Simply or AGL or Origin or
5 Energy Australia – to also be approved under the exemptions framework to be operating in the solar PPA space, and I'm just trying to work out whether it really is in the consumer interest to be able to have the same entity effectively operating under a couple of different arrangements where consumers would receive different levels of protection, depending on the service that they're given, and doesn't that
10 really just mean that you've got two markets, where one market is a behind the meter market, in which case these businesses are competing openly with the new entrants, and is that a separate market to the regulated market, which is the grid connected market, which is where you, or I understand the AER's responsibilities fall off anyway.

15

So I would be keen for some feedback on how – is it part of a test for this framework is that it's actually a workable arrangement for these larger retailers, and should they be able to have different requirements on each side of the meter?

20 MR COX: Do you want to - - -

MS CAMERON: Do you want me to just answer one part of that, Andrew?

MR NANCE: Thanks
25

MR COX: Yes.

MS CAMERON: In terms of the – just in terms of the entities, the same entity, the same legal entity can't hold an authorisation and an exemption - a company can't be
30 an authorised entity and an exempt entity at the same time -

MR NANCE: No. But is that - - -

MS CAMERON: You can't have an authorisation and an exemption – no, no.
35 Because it is important to note that the two businesses that hold the exemption and the authorisation are separate. So it is not one company offering different protections.

MR NANCE: Is that in the consumer interest, I guess, is my question.

MS CAMERON: Yes. I'm not – I'm not dealing with the issue of whether it is in
40 the consumer interest to have related companies holding authorisations and exemptions.

MR NANCE: Yes.
45

MR COX: Yes.

MS CAMERON: I'm just saying in terms of the legalities of the situation – I want it to be clear that the same legal entity cannot hold both an authorisation and an exemption.

5 MR NANCE: But it can be a wholly owned subsidiary of a retailer and most consumers would struggle to distinguish them

MS CAMERON: You have to be a completely separate legal entity and then you can operate under an exemption, Andrew. You can create a new business and that business can then hold the exemption. But the business of , say AGL, which holds a
10 retailer authorisation, cannot also hold an exemption. AGL would need to create a new company to hold the exemption - a retailer cannot also hold an exemption. I'm not going into the consumer thing. I'm just saying from a legal perspective we need to be clear that one legal entity cannot hold both a retailer authorisation and an exemption.

15

MR NANCE: Thank you.

MR COX: Thank you. Anyone else from Adelaide? Then onto Brisbane.

20 MS H. SMITH: I would like to – sorry – Heather Smith.

MR COX: Yes.

MS SMITH: I would like to just pursue the – well, ask the question to what extent
25 are you interested in this process unlocking more alternative energy reseller discussions. Because, obviously, we've focused on solar and storage today and that technology and generation view. But the behind the meter space is definitely the space where in order to make different options cost effective for consumers, you have to look at where the meter is, whether the meter can be used, whether you can
30 cluster consumers. That's a space that I believe is moving – especially with the reducing cost to solar – and to what extent does this process lend itself to opening up that broader discussion or do you want to maintain it around quite a narrow brand?

MR COX: Well, my stance on this is if there are other developments in the market
35 that are taking place and are significant, it would be good for us to know about it.

MS SMITH: What if the market, at the moment, constrains some of those developments by its very nature and so you might have – from a big picture economic perspective – community energy opportunities do make economic sense,
40 but the way they rub up against the market doesn't let them emerge at the moment that that's – that it – shouldn't the regulator be a bit more proactive to catch up on – with technology?

MR COX: Well – I mean, it seems to me that this is an opportunity for us to look at
45 what's going on in the market and to be assured that our particular job here – which is regulating under the retail law – is reasonable and based on sound principles going forward – whatever technology might emerge in the future. I mean, that's – I think we want to get to and to try and develop some principles that we can use technology-by-technology, development-by-development as they occur. So that's where we
50 want to go and if you have knowledge of things that we may not know about and

choose to draw it to our attention, we would be grateful. Okay. Thank you.
Brisbane.

5 MR P. GREENE: Can I – can I just add - - -

MR COX: Yes.

MR GREENE: Can I just add one final point - - -

10 MR COX: Sure.

MR GREENE: - - - to the previous discussion that you were having - - -

15 MR COX: Yes.

MR GREENE: - - - around consumer protection for PPAs – sorry – my name is
Patrick Greene from Green Point Consulting.

20 MR COX: Right.

MR GREENE: I've worked in the solar industry and sold PPAs and solar leases for
a while and now I consult to solar businesses on similar stuff. I think there are a
couple of key risks that consumers face when taking on a PPA. One is a generation
25 risk of the system – which is generally pretty well covered by the exempt operator.
They don't get paid unless the system performs. But the key risk that the consumer
holds is how much of that generation is consumed on site. So whether we're talking
about onsite utilisation versus exporting electricity and, obviously, the benefit to the
consumer is much greater if they're consuming that solar onsite versus exporting it or
30 a very – typically, a very small amount of power. I would support, you know, any
standardisation of approach where exempt sellers need to disclose what they think or
what they've done to work out what that - - -

MR COX: Yes.

35 MR GREENE: - - - onsite utilisation might be, how much of the solar power is
going to get exported to the grid so that your uninformed consumers are signing up to
something that they can make a reasonable judgment on, you know, how much
money they will be paying on electricity at the end of the year.

40 MS SMITH: And the other element is the – because it changes the nature of your
retail arrangement, the alternative resellers need to be transparent about what your
licensed retailer would now offer you.

45 MR GREENE: Yes.

MS SMITH: So there's some assumptions by consumers that they know what their
electricity costs are.

MR GREENE: Yes.

MS SMITH: And, suddenly, they're thrown onto a maximum tariff and their cost per kilowatt hour shoots through the roof.

5

MR GREENE: Yes.

MS SMITH: And they can't understand why because they don't understand electricity bills.

10

MR GREENE: Yes. .

MR COX: Okay. Thank you. Anyone else from Adelaide?

15 MS FAULBAUM: No. That's all of us.

MR COX: Thank you very much. Brisbane?

20 MS A. CHRISMAS: Yes. Hi, it's Alena Christmas from Ergon Energy. I've just got a couple of points in relation to the trigger assessment points that the AER has proposed. So we support them. We would just like to make the point that potentially the five year period may be too long in some circumstances and, perhaps, that the review trigger period should be a fluid concept and, perhaps, interrelated to another trigger event. So they shouldn't be considered in isolation. So perhaps like a review
25 period of two years that's related to the customer base level. The other thing in relation to the triggers that we would like to talk about is, like, microgrids because they are a real possibility and they're happening now – especially in Queensland – that because you won't have this visibility over the contractual terms between the exempt seller and the customer that, potentially, if a microgrid – you know, we've
30 been talking about if they reach an aggregate megawatt base and that's then traded in the market, that potentially could be another trigger point that the AER could consider.

35 In relation to the conditions proposed, we just wanted to get some thought – potentially, it could be appropriate to look at the exempt seller demonstrating compliance with the relevant Australian standards in relation to safety, design and installation with batteries and solar PVs. And I know the market is a lot more – in terms of safety and the standards – is a lot more advanced in relation to solar PVs. However, I think the battery standards – they're a lot more relaxed and I know
40 there's a lot of work going on in this space but I think that that's quite critical from a customer perspective. That they would have some sort of certainty that the product – the products that are being offered do meet those standards.

45 MR COX: Thank you. Is that it for Brisbane?

MS CHRISMAS: Yes. Thanks.

MR COX: Yes. Thank you. Right. Let's come back to Sydney.

MS G. KUIPER: Hi. Gabrielle Kuiper from the Public Interest Advocacy Centre. I just wanted to pick up on this issue of competitive neutrality and whether that's the most important principle here and what does that mean? Because I'm struggling with what are the key issues that we need to address here? And, I guess, you know, I'm not unsympathetic to the arguments about the cost being borne from – by incumbents. But that's a commercial argument and that is not necessarily an argument for the consumer's best interests. So if we bring it back, I think, to what is in the interests of consumers then that's about neutrality in terms of consumer protections, not about whether or not the people that they're getting their electricity supply from can compete in a neutral way. I mean, it's not about whether wheelwrights and car manufactures are competitively neutral. And in terms of the cost being borne by incumbents cognisant of that, you know we've actually done some research and suggested that we need to look at network as an option.

But I think the fact is that when you buy an energy efficient fridge, you reduce the amount of electricity you get from the grid. If we take competitive neutrality to the extreme, then you're going to have competitive neutrality issues between energy efficient appliances and electricity supply from the grid and that, of course, would be meaningless. But the point is that PV and storage both reduce the amount of electricity you get from the grid – which is in consumer's commercial interest. It might not be in retailer's commercial interest. But I think we need to focus on the outcomes for consumers, rather than the protection of the incumbents being cognisant that the incumbents do have a lot of high fixed costs and there needs to be other ways of looking at that rather than setting up barriers to new entrants.

MR COX: Okay. Thank you. Further comments from Sydney?

MS McLENNAN: I might make one - - -

MR COX: Yes, please. Yes.

MS McLENNAN: Another one.

MR COX: Yes. . Thank you.

MS McLENNAN: So Prue McLennan again from EWON. I just thought I would clarify something on dispute resolution, and why it's just in New South Wales. It's actually a New South Wales State Government requirement – it's in the Electricity Supply Act and Regulations, so it's really not in the AER's power.

MR COX: Yes.

MS McLENNAN: The other states don't have that, and the reason we got it years ago was because the exempt retailers were really confined to small caravan parks with permanent residents that had, you know, embedded networks. It was thought

that we would get jurisdiction over that because they were vulnerable customers. They wouldn't be at the – the retail – the residential park operators weren't required to become a member of EWON, which would be a big cost to them. We just investigate their complaints free of charge. We are watching the space with great
5 interest. If it's something ballooning out, all these exempt retailers are going to say, "EWON can be our dispute resolution person free of charge," and we're going to have to look at that.

10 So just – you know, this might be considered again, and it might be a charge that you don't have to bear if you don't become some sort of member. I'm not precluding anything. This hasn't really been a – this is still a topic of discussion, but I just want to clarify that. It's not quite as easy as to say, "Yes, everybody should use an Ombudsman," because each state would have to have separate legislation.

15 MR COX: Okay.

MS McLENNAN: One other thing I just wanted to follow up on a point Ramy made that wasn't actually followed up, which was a lot of these points that you've been making about consumer protections today apply equally to the solar PPAs that
20 have already got exemptions, some of those consumers, and what - - -

MR COX: Yes.

25 MS McLENNAN: - - - what would be anticipated to happen then if you suddenly decide, "Actually, they do need some of these 19 conditions," can you retrospectively apply some to one of those ones that have only got those two very minimal conditions? So - - -

30 MS PROUDFOOT: We can, yes.

MS McLENNAN: You can?

MS PROUDFOOT: It involves a variation to the exemption instrument, and we are looking at whether that's something that we take up.

35

MS McLENNAN: Great, because I thought that's the case.

MS PROUDFOOT: Going forward, yes.

40 MS McLENNAN: That's a pretty important point.

MR COX: Yes. Thank you.

45 MS McLENNAN: Thank you very much.

MR COX: Who would like to go next? No one else in Sydney? We might then move on to Melbourne.

MS SHIELDS: It's Dianne Shields from Simply Energy. The only thing I wanted to say was just to support what that lady from PIAC had to say, and I think it is the customer that is important here, but I think competitive neutrality is important for the customer, and that's where I go back to my original comments, that it's the lack of
5 choice that is the outcome of these contracts that they sign up to.

MR COX: Yes.

MS SHIELDS: That the customers sign up to, because the ETF is quite high to get
10 out of them. So, as a result, they need the choice of which retailer they want, which supplier they want. It's constrained. So it does have competitive neutrality effects from that point of view. But certainly I agree with that lady from PIAC it is the customer that it is the customer that should be the centre of the deliberations.

15 MR COX: Thank you very much. Further comments in Melbourne?

MR BARTON: James Barton from Simply Energy. The lady from Ergon talked about trigger points, and I just wondered have we reached the point where we're
20 looking at that question now?

MR COX: Yes, we are.

MR BARTON: Okay.

25 MR COX: Yes.

MR BARTON: Talk about the trigger points. I find this idea a bit weird, and I think it fits in with the comment that was made from Adelaide about how can somebody be both an authorised retailer and also have an exemption, and there's something else
30 you know, that makes me uncomfortable, and trigger point if it's – I can see that if a trigger point removes a business from providing a low level of customer protections top providing a high level of customer protections, then I just can't see how a trigger point would be appropriate in that – in that circumstance; that either the activity that's being undertaken for 100 customers requires consumer protections,
35 or the same activity that's being undertaken for 10,000 customers requires consumer protections, and I can't quite understand how the scale of the business would have an impact on whether the customers of that business need better protections or not.

So the trigger points about the scale of the business providing customer protections, I
40 can't see how that would work. If, however, the trigger point is moving a business from having, you know – not having to report frequently to the AER about what it's doing and what its customers are experiencing and so on, to a point where it is doing that kind of reporting, then I can see that a trigger point might make sense. So if the trigger point is that the customer's relationship with its customers – sorry – the
45 business' relationship with its customers, I don't see how a trigger point is relevant. Either the customers need to be protected in some way or they don't. If it's about the

business' relationship with the AER, and how it communicates with the AER and how – what it reports to the AER, then I can see that there's some sort of – some reason for a trigger point maybe hitting on that, and so a bigger business would have more – you know, more reporting obligations to the AER than a small one, for example.

But then my concern with that is similar to the point that was made about exemptions, is that I would then just have 20 legal entities, wouldn't I, and I would have them all just under the threshold for the trigger points, and if I wanted to expand my business, I would just create a new legal entity and up that would go, and so I would never, ever hit the trigger point. So I just wonder, you know, really, whether trigger points are actually workable as a concept, or whether they're just going to become an enforcement problem, because business models will develop to avoid meeting those trigger points.

MR COX: Thank you for that. Other comments in Melbourne? We're done? Okay. Canberra. Further comments in Canberra?

MR AURET: No further comments from us.

MR COX: Thank you very much. Adelaide?

MS FAULBAUM: No. No comments from here.

MR COX: And Brisbane?

MS TRAN: No further comments.

MR COX: Okay. Well, I think what we might do is just run round each of the offices briefly, so if there's anything you want to say, if you haven't had the chance to say, or there's something that has occurred to you while other people were talking, we will just give you the opportunity to say those things now, and then after that we will close the forum. So let's start off in Sydney. Nothing more? Great. Melbourne?

MS SHIELDS: It's Dianne Shields from Simply Energy. I've probably just got more of a clarifying question about where the AER, or what the AER would like to get out of this review. I have heard, I think, yourself, James, talk about developing some principles that guided you into assessing these exemption applications. Is that where you want to get to, that you've got a robust set of principles that you can then apply to each exemption application to determine whether the customer would have protections?

MR COX: I think so. I think that, to my mind, they're two very strong points that have emerged from the discussion this morning. The first is we should have the consumer at the centre, and secondly, that we should have a principle-based approach that is capable of being applied to new technologies and business models as they emerge. So I think those are two things that come out, to my mind, as important

points that emerge from this discussion. Obviously, there is a range of views about what those principles might be. Yes. So I think that's probably where we are. Anything else in Melbourne? Okay. Canberra?

5 MR BRADLEY: Jim, just one last question from me that kind of relates to that last topic.

MR COX: Yes.

10 MR BRADLEY: On page 12 of the consultation paper, after the details about how to submit, there's the statement that:

15 *We may, in future, make alterations to our exempt ceiling guidelines, including setting appropriate conditions and retail authorisation guidelines to further explain our treatment of alternative energy sellers under the retail law.*

I guess it kind of relates to – my question relates to the discussion that you just had then - - -

20 MR COX: Yes.

MR BRADLEY: - - - and the opening query I had, which is to what extent do you expect this review to produce a kind of a clear predictable framework which, sort of, addresses those issues around criteria and the decision-making rules that the AER
25 will apply, and to what extent you think some of that will be left to future guidelines as that paragraph? Is that question possible to answer at this point?

MR COX: I can try and provide an answer. It may not be entirely satisfactory. I think it will be desirable to have a set of principles that we think will stand the test of
30 time. I mean, I think that's where we should get to if we can. Having done that, obviously, circumstances will change, and it may be that, at some stage, they do need to be reviewed, but hopefully we can have something that covers the field and people think is pretty reasonable, and will be fairly robust to likely changes in technology and business arrangements. That's where I would like to get to. We will see how we
35 get on, I think.

MS PROUDFOOT: And I think just to expand on that a little bit, the exemptions guideline is actually the formal framework through which we explain the exemptions regime under the retail law, and so what we're looking to do is provide some greater
40 certainty in that document, particularly around people who are looking at individual exemptions, and taking that principles-based framework and putting it all into that guideline, so that it's there, it's robust, it's transparent, and that may also be – you would be familiar with the statement of approach document that was issued in July. It may mean folding that into the guideline as well, and just having a single
45 document that, rather than speaking about specific business models or technologies, just looks at – this is our approach to exemptions, because that's the framework that we're operating under. We don't, as such, have a separate technical framework for

SPPAs or SPPA with storage, and things like that. The idea also is that that will be principles-based and longstanding while the rest of this work is going on, sort of, outside the AER's remit.

5 MR COX: Okay. Thank you. Is that it, John?

MR BRADLEY: Yes, thank you very much.

10 MR COX: Yes. You're looking thoughtful. Adelaide?

MS FAULBAUM: No. No more comments.

MR COX: And Brisbane?

15 MS TRAN: Nothing from Brisbane.

MR COX: Okay. Thank you very much. I think we will now move to close the discussion. Obviously, thank you very much for coming and for participating. I think we've had a good discussion, and I'm grateful for that. The next stage is for us
20 to accept written submissions in relation to the issues paper, and we request you to provide submissions to us by 16 February. As we said earlier on, there is a transcript of today's proceeding, and that will be circulated to attendees shortly, and you will be asked to confirm whether the record is accurate. Once that has been done we will
25 place the transcript on the AER's website, and it will be part of the material we will take into account in considering issues in front of us.

I think we've had a good discussion today. I think I said earlier that there were two points that emerged for me as strong points, which is the protection of consumers and desirability of having a set of principles that are capable of continuing application. I
30 think those are the strong points that emerged out of the discussion. Obviously, I think there is disagreement about things like the extent to which retailers and alternative providers should be subject to the same conditions or not, and those are things we will need to consider carefully. I do encourage you to make submissions to us that will enable us to think through these issues. I do encourage that and,
35 finally, just like to thank everyone in whichever office you're in for coming, and for participating in the discussion so constructively. I found that very useful, and I hope it was useful to you to listen to one another's views. So, once again, thank you very much.

40

FORUM CONCLUDED

[12.45 pm]