

30 May 2011

Mr Tom Leuner
General Manager
Markets Branch
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

AERinquiry@aer.gov.au



positive energy

Dear Mr Leuner

Re: Retailer Authorisation Guideline

ENERGEX Limited (ENERGEX) welcomes the opportunity to respond to the AER's Draft Retailer Authorisation Guideline (Draft Guideline) released for consultation in May 2011. ENERGEX provides this response as a Distribution Network Service Provider (DNSP) operating in South East Queensland.

ENERGEX is pleased to note that some of the concerns raised in ENERGEX's response to the March 2010 Draft Guideline have been addressed by the AER, and that credit support arrangements are required to be finalised with distributors before a retailer applying for authorisation is allowed to provide retail services to customers.

However, ENERGEX remains concerned with the issue of a retailer's ongoing financial viability once operations have commenced. ENERGEX strongly believes that it is important, as part of the licensing regime, to have ongoing assessment of a retailer's financial viability. ENERGEX notes that the Draft Guideline states that AEMO will undertake ongoing prudential assessments, however AEMO's focus is on the wholesale market settlements and does not include financial considerations outside of energy settlements (e.g. network charges). Consequently, ENERGEX is concerned that this matter has not been adequately addressed.

ENERGEX notes that s.150 of the National Energy Retail Law only allows the retailer or AEMO to notify the AER when they become aware of anything that may affect a retailer's ability to maintain continuity of supply to its customers. In the AER's November 2010 consultation paper the AER also indicated that:

Where a market participant is aware of any circumstances that may affect the ability of a retailer to maintain continuity of the sale of energy to customers, it should raise this with the AER.

Enquiries

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Currently, ENERGEX has a standing letter with the jurisdictional regulator which provides for ENERGEX to notify the regulator where a retailer is in breach of its licensing obligations. The jurisdictional regulator issued ENERGEX with the standing letter in accordance with s.120 of the *Electricity Act 1994*. ENERGEX requests confirmation from the AER on the process it will follow to allow distributors to notify the AER. The AER may give consideration to include a similar facility in the Guideline.

If you wish to discuss this matter further please contact Louise Dwyer, Group Manager - Regulatory Affairs on (07) 3664 4047

Yours sincerely



Kevin Kehl
Executive General Manager Strategy and Regulation