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Submission to the AER's Approach to Retail Authorisations

I have no worries that my details appear on the AER's website.

I wish to thank the AER for the opportunity to participate in the formation of the Guideline. I know that the matters to do with onselling energy (gas and electricity and nothing else) are also currently under way.

In Origin's submission it state:

> **Evidence of arrangements with market participants**
>
> We support amendments to the guideline requiring applicants to provide evidence of arrangements with market participants to the AER, including making an authorisation conditional on the conclusion of outstanding agreements in subject to continued negotiation at the time an application is made.
>
> Origin notes that arrangements need only be demonstrated for those jurisdictions in which the applicant intends to be an active retailer. An applicant not intending to retail energy in Queensland for example, would not require arrangements with distribution service providers in that state.

In Queensland Sun Retail Ltd (a subsidiary of Origin) has a retail exemption from the regulator (Mr. Dan Hunt, the Assoc.. Director of the Department of Mines and Energy) in Queensland.

Sun Retail's only direct link to the market is via the AEMO, although it has an exclusive dealing arrangement with Energex who own hot water meters, in the supply of hot water that is powered by electricity.

This retail exemption is the only exemption given to a privately owned corporation - Sun Retail Ltd. There is a publicly available Register that applies to this exemption, but the actual detail of the terms and conditions is a commercial secret.

This points to the fact that Sun Retail Ltd is a hot water supply company that sells hot water by the litre. (See 2 Origin Brochures PDF's attached). Origin bought 13,700 hot water customers from the Queensland Government. (See page 37 Energex - Supplementary Pass-Through PDF attached). Of these 13,700 hot water customers, 2,500 customers also have a gas supply. (See page 2 of Sale of Retail Business fact sheet PDF attached). Also see an email PDF from the Company Secretary of Envestra, which details the sale of its hot water assets.

This points to the self-evident fact that the hot water heaters are mostly powered by electricity with a lesser

amount powered by gas. Obviously these customers also buy electricity and gas, via Origin's retail licences.

Invoicing

Origin has had hot water customers over the years, and also now has a consolidated geographic monopoly of nearly all the hot water consumers in Queensland as original customers, and latterly acquired customers.

I, as an original customer, receive a single bill for my gas stove and it includes the supply of hot water "by the litre". I have seen several Sun Retail invoices, sent to an acquired (ex-Energex) customers that show details of hot water "by the litre" supply, only.

Recently Envestra, the Natural Gas Distributor, sold its hot water assets to Origin. (See email from Envestra PDF attached). Hot water supply, in the eyes of the AER and AEMO is an "OTHER" service.

Origin (or is it Sun Retail?) is now a Distribution Network Service Provider for the provision of metering service to itself. This is a profoundly disturbing matter!

Sun Retail is a hot water supplier that has an energy retail licence for the sale of hot water! This is a profoundly disturbing matter!

Queensland Electricity and Gas Laws

Hot water is not mentioned in the above laws in Queensland. It is not regulated by any Queensland Authority. Hot water by its very nature could never be contestable for it requires a method of wide ranging metrology. Gas and Electricity systems use a Meter Identifier Data-base. No such thing exists for hot water supply.

The above-mentioned laws require that a retailer is not permitted to be a distributor, and vice versa.

Both the AER and the AEMO need to liase regarding Sun Retail, and indeed all retailers who purport to sell energy, so that they do not make a monumental error.

Information Provisions

Contrary to the wishes of Origin, the AER should make gathering information a much more rigorous activity. The shadowy world of retailing and the issuing of retail authorities needs to be thoroughly investigated before an authority is issued.

The AER needs to seek every detail on the terms and conditions of exemptions handed out willy nilly, by the jurisdictions. Other commentators, such as Ms. Madeleine Kingston have brought to light the Victorian examples of the regulators and others, with all manner of impropriety on behalf of the Essential Services Commission and the Energy and Water Ombudsman, in that jurisdiction.

Sun Retail, and all current holders of authorities, need to explain the exact circumstances under which it received an exemption in the jurisdictions, and the exact details of the terms and conditions included in that exemption. Only then could the consumer rights of the occupiers be known to them, so that they have recourse under jurisdictional and national ombudsmen, energy regulators, fair trading regulators, legal representatives and consumer advocates.

After all, the civil and / or common law of contract are not subservient or usurped by any other law.

Queensland Submission by the regulator, Mr. Dan Hunt.

All of the Electricity and Gas laws, regulation and industry codes in Queensland has been recently made retrospective. This amazing feat is unlike any other I have ever seen. Certain sections are worded as " a customers customer is a customer for ...." The Paliamentary Draftsperson looks in error.

Mr Hunt's submission infers that the onselling in Queensland is "legitimate". He offers up no proof of such a thing. His dealings in issuing a retail exemption to Sun Retail Ltd needs to be scrutinised.

Perhaps it was the warranties that the Queensland Government gave to Origin, when it bought 13,700 hot water customers. Some of Mr. Hunt's associates (in Government Owned Corporations, now privatised - Origin and AGL) run property services companies, with others in property services being ex-employees of the Essential Services Commission of Victoria, (a company called Meters2Cash).

As you can see, Mr. Hunt does not put the date on his submission, this could be a typo, but, if one interrogates the PDF via - File > Properties > all references to who or when it was created has been scrubbed. This takes deliberate effort.

Every current exemption needs to be hauled across the coals of necessary enquiry.

Secret Briefings

The AER should never concede to secret briefings with any retailer or proposer. This will create a world of intrigue and suspicion to the market and consumers. If the current or prospective retailers cannot adduce the proper procedures for the sale of electricity and gas then they need to hire someone who does.

The AER needs to issue much more comprehensive information assets, so that, not only energy entities, but also citizens, become knowledgeable about the way, and the underlying procedures and conditions, that retailers must conform to. There needs to be comprehensive Memoranda issued.

Secret briefings are an anathema to proper accountability, with verbal conversations becoming vague or at cross purposes. Public Hearings should be undertaken, so that citizens know where the retailer is coming from. The AER needs to verbally convey information in the public sphere at that time also, so that citizens know where they are coming from.

Retailers have enjoyed a secret preference when conversing to the jurisdictional regulators and policy makers up until now. This should stop. Citizens will have no faith in the AER if it ever does such a thing. After all the ACCC never holds secret meetings.

Exempt Retailers Registry, Privacy and Property Design

Any Registry should be a public asset, available to anyone. The exempt retailer should not be able to hide behind some misconceived right to privacy. If they do not like such things, then they should change their business model, or if a property developer, change the way they design buildings and sites.

I am absolutely sure that the AER loves this last-mentioned suggestion.

The AER needs to broadcast this idea to all and sundry, and that meters (perhaps remotely read) need to be

considered before construction. Extra development costs will be tiny compared to development costs overall.

Keeping information secret serves no one. Proffering an argument that it somehow resides in property titles or rental agreements assures no consumer at all. Tenants especially do not need the run-around that has existed in the past. Landlords tend to keep these things secret on the misguided view that their dealings in energy matters are forever their own. This makes them unaccountable to the consumer.

Considering that most exempt sites may or may not be contestable, then the current retailer information needs to be proffered. This information should be available over the internet to everyone.

Property Developers, Strata Title Body Corporates and Landlords should not be given any "exempt" authority, until an exempt registry list starts with:

1. The address where consumer / occupier resides. A physical location. That way an occupier can see if their occupancy is covered by an exemption, to start with. Exemptions should be site specific.

2. The identity of the exemption holder, so that again, the occupant knows the exempt retailer's name and address.

3. The specific detail or the terms and conditions of the exemption holder. This should be conveyed in a manner that is either a specific exemption in detail, or in a exemption category.

If available on the internet, a link should be made to categories and the terms and conditions therein. That way any broad-ranging changes and / or updates to the specifics and / or categories will be quickly available to all parities concerned.

To offer up a raft of exemptions as has happened in the past should at all times be avoided. Accountability by, and information about, the exempt retailer should be carved in stone.

Community Service Obligations - Both State and National

Jurisdictional matters such as pensioner rebates, ambulance levies, and other Community Service Obligations should also play a part (internet links), for these things come and go at the whim of politics.

This should see a reduction of reporting back and forth, and relieve the AER of such red-tape or paperwork burdens. Another factor is that many people may contact the AER on a misunderstanding that the AER is the instigator or regulator of SCO's. This may relieve the AER of a great deal of telephone assistance and referral made by the public.

Many people use the internet for a great deal of information and referral. Notices and links become a blessing.

Price Gouging of Pass-through costs

Pass through costs of network charges and ancillary charges should be a factor of invoicing by any retailer. The new consumer law that binds national and jurisdictional spheres state that a consumer has a right to approach any retailer for a itemised bill.

Any retailer or provider must give transparent details of the goods and services that make up to the invoice

price. This does not happen in energy retailing, and consumers are kept in the dark about what goods or services make up hot water network costs. Currently only 3 things are ancillary services, and they are disconnection, reconnection and special (one off) meter reading fees.

"Other" network fees relate to other goods and services provided to Property Developers, Strata Title Bodies Corporate and Landlords. There are seen as a business to business contracts or transactions but it is the occupant that receives the invoice. If one scours the access agreements of distributors, one can sometimes figure out what it costs for meter reading in general, and also capex and opex cost and the like.

I have been fortunate that a distributor gave me the true costs of hot water meter reading, repair and maintenance costs. Origin (in Queensland) mark this up by 50% knowing that a consumer cannot transfer their hot water account to another supplier. In Queensland, the unregulated price of hot water charged by Origin is 50% above the conversion factor as used in Victoria (Energy Retail Code - Vic).

If the parties in lofty towers say that the Victorian invoicing method is the guiding light to be used, then accertainment needs to be used also. The trouble is heat at the boundry of one's abode is unmeasureable. There is no doubt that mass tort is in the minds eye of these august bodies, with all costs and provisions to be bourne by the property developer. It is the property developer (and others in succession) who originally sought supply, and all costs of supply should be bourne by them.

The consumer will only be liable for part of the **measurable** costs - in equity. "Fit for Purpose" will be paramount.

Implied 3rd Line Forcing

3rd Line Forcing is rampant in hot water supply, for prospective owners are vaguely told of such things by property developers, and when one wants to sell up, the owner has to line force again. The way that service contracts are worded, the current owner will bear the liability for hot water costs into the far future, if they cannot on-sell it with the property!

Landlords cannot make tenants buy anything from anyone else, also. In Queensland a third of the population are tenants, and my tenancy agreement does not mention hot water supply. These tacit and underhanded acts are rampant across Australia.

Remote reading and control of hot water meters offers up the spectre of being cut off by remote control, with no recourse (in Queensland), and perhaps other jurisdictions are to follow. This is an abomination to all right thinking Australians.

The tacit nature of hot water sellers is coercion, and letters to new occupants are couched in terms that imply "If you don't sign up, we will cut you off".

When I ring and complain to Origin about the obvious price gouging, they told me:

"YOU DON'T NEED TO BUY IT".

If one complains to an exempt retail authority holder (the landlord), the remedy is usually homelessness.

The Sale of Heat - A Good and not a Service

It is a sad and sorry tale for hot water customers. So far, many may see the AER, AEMC, AEMO and the CSO's

of the MCE and the Ministers themselves, as being supplicants to the needs of energy entities and others who sell heat, whatever hot means.

For consumers to have no easily available remedy to this essential service if unfair. To ask them to find a lawyer and pay to sue the supplier is unfair and unreasonable.

For there to be provisions and metrology of hot water supply, and then to disavow any consumer rights in energy law is unacceptable. Hot water supply is uncontestable. The affected hot water consumers share the concerns of the citizens who live in caravan parks, hostels, nursing homes, supported care residences, boarding and rooming houses. They need protection from energy entities in energy law.

Independence of the AER

For the AER to say they are independent (like the ACCC) of the political process, and then at the same time utter a decree that "onselling of hot water to public housing tenants" will not be factored, then it shows a sign.

The AER looks to be engaging in a discriminatory practices at the behest of politicians and also others who sell hot water, whether they be an energy entity under energy law, or building services companies. Hot water sales rely on "exclusive dealing" and is governed by the Trade Practices Act and the new Competition and Consumer Law.

Why should public tenants be excluded. Has a politician foisted some edict on the AER.

Hot water is a heat product, and its sale conforms to no known method of proper measurement at all. If heat sales are not to be included, then why bother baiting consumers in the first place. Is this some half baked exercise in regulatory window dressing?

A compatriot of mine, Ms. Madeleine Kingston have written to the AER, about the issuance of authorities in Victoria. I hold the same concerns that Ms. Kingston has.

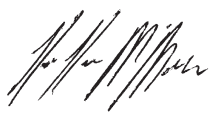
Let us hope that exemptions from the retail law is properly scrutinised and that the AER interrogates the applicants current jurisdictional exemptions to a proper and complete degree.

Summation

Thank you for giving me the opportunity to comment on retail exemptions and I offer hearty encouragement of the AER in its future role as the regulator of energy retailing.

The stage may appear to be small, but the audience is large.

Yours most sincerely



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