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AER approach to retail exemptions issue paper

Thank you for the opportunity to submit our response to the AER Approach to Retail Exemptions paper.
Colonial First State Global Asset Management has $15 billion in assets under management, comprising 33 shopping Centres and additional commercial properties, with $2.9 billion in the retail development pipeline.
The on-selling of energy has been and is an integral part of our development and operations strategy for over 25 years in Adelaide and Queensland and more recently in Victoria and NSW. Having invested substantial capital in embedded network electricity infrastructure within our properties from a long term return on investment perspective, we have concerns over aspects of AER's approach as follows.

Firstly we deem the on-selling of electricity as a right to freedom of choice for our tenants, and should be reflected in legislation as an equal alternative to purchasing energy from a retailer. Our tenants benefit from our volume purchasing power due to us operating multiple embedded networks. Costs are competitive with electricity retailers, a high quality of service and lower common area electricity costs are as a direct result of owning and operating embedded networks for over 25 years.

We are at a loss as to the relevance of "judging an exempt sellers profit intensions" And whether or not on-selling is "incidental or a core part of a business" or not. Having invested capital in owning and maintaining embedded networks with a view to long term returns and providing tenants with a superior cost effective product, naturally profit is a key element. Why should there be any bias between a retailer and on-seller making profit, and what is the benefit. If the tenant has access to competitive rates and quality of service, does it not render "intent" irrelevant? We disagree with making a differentiation between incidental or core business on-selling. As responsible property managers and developers we adopt strategies to achieve a sustainable and viable business. If tenants and owners can obtain a cost benefit from on-selling, then we are responsible for delivering those outcomes, the same as achieving the best rates for cleaning, car parks, mechanical services. None of these items are part of our core business, although need to be managed effectively for the efficient operation of our sites. Again whether on-selling is incidental or core, it has no bearing on the tenants ability to obtain competitive pricing or otherwise. We believe on-selling should be exempt by default.

In answer to your question "Is the apparent growth in on selling problematic" We agree that the growth rate in Victoria and NSW has increased in the last few years, though currently this represents a small percentage of on-selling nationally, approximately 1000 combined shopping centres and commercial properties have been on-selling for over 15 years in other states with very few problems. On-selling's gradual growth over decades is predominantly a result of mutual cost benefit to both the on-seller and receiver. The market is dictating the growth, as it should.

In item 4.3.3 the AER states that it does not support the concept of exempt sellers passing on an administration fees incurred for the operation of on-selling. We find it difficult to reconcile why a retailer would have the right to pass on a metering fee but not an on-seller. We believe that the fees should replicate that of the retailer of last resort for that network area, which is our current policy.

We refer to page 17 of the AER paper where it states that "where all customers have access to a retailer of choice, On-selling in these circumstances is unnecessary and deprives customers of some protections under the retail law and rules. We currently operate several sites in Victoria where tenants have a choice of retailer or purchasing from the owner, it is by the tenant's choice that over ninety percent choose to purchase from the owner and not a retailer. The prime reason is cost and quality of service. We find this approach from the AER concerning and inconsistent with the proposed outcome, to deny customer access to purchase from the owner is to deny freedom of choice, which could result in higher tenants energy bills and higher common area costs, significant investment in embedded network infrastructure becoming redundant and affecting property valuations.

We disagree with the AER interpretation that the sale of energy occurs when the charge is passed as a separate charge as opposed to a situation where the cost is absorbed into another charge such as rent.
In most cases common area electricity and gas is broken down and recovered from tenants in accordance with the lease agreements and state electricity acts, retail and Commercial acts. In many cases this is an electricity or gas charge related to tenants portion of common area consumed energy. This would mean exemptions are required for non embedded sites simply recovering electricity and gas common outgoings. The interpretation should exclude common area recovery.

Attachment 1 - Condition 12 – Choice of Retailer
We agree with the approach that an on-seller cannot prevent the tenant/customer from accessing their retailer of choice by unreasonably hindering any metering or network changes required to enable choice of retailer, where the cost of potential modifications is to the customer's account.
Having invested capital into the embedded network infrastructure we would deem it unfair to then also be liable for modification costs to enable a customer/tenant to access a retailer of choice.

In summary there are several aspects of the AER approach that have potential to degrade development and operations term investments, tenant energy costs, and result in additional operational and capital costs.

We request that the AER enters into a comprehensive consultative process with participants of the embedded network, such that the ramifications of changes to legislation if fully comprehended by all parties.

Yours Sincerely

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