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Ms Sarah Proudfoot
General Manager—Retail Markets Branch
Australian Energy Regulator

Ref: Draft Exempt Selling Guideline

Target Australia Pty Ltd (**Target**), Coles Supermarkets Australia Pty Ltd (**Coles**) and Kmart Australia Ltd (**Kmart**) welcome the opportunity to make a submission regarding the amendment to the Retail Exempt Selling Guideline, and wish to draw your attention to the following issues:

1. The AER's approach to regulating retrofitted embedded networks

In relation to point 4.2 amendments to the guideline:

[..] Previously the AER's stance has been to restrict the conversion (i.e. retrofitting) of existing (brownfield) sites to become embedded networks. We currently do this by requiring landlords to apply for individual retail exemptions and through condition 12 of the network guideline, which sets a high threshold (100% acceptance by tenants) for a conversion to proceed. This is because we consider that access to retail competition is the best way to empower electricity consumers and that if the way they source their energy changes, consumers should have a say in those changes. However, we understand from our recent engagement with the shopping centre sector, in particular, that the intended protections are now acting to prevent residents / tenants from accessing lower energy costs through the bulk purchasing power of their landlords. We note that not all residents / tenants will benefit from a conversion so our concern has now shifted to addressing a different question: If the majority of residents / tenants stand to benefit from a conversion and want it to proceed, how do we protect those who do not want to join the embedded network?

Target, Coles and Kmart support the AER's view of consumers having a say in embedded network changes, and wish to highlight that not all tenants will benefit from an embedded network conversion.

Target, Coles and Kmart, as large commercial tenants, run their own tenders, and purchase electricity in bulk as part of a larger group and will be significantly worse off financially if forced to buy electricity from another stakeholder such as a landlord. The rates that Target, Coles and Kmart are able to access for their larger sites are much lower than the rates offered by any stakeholder such as a landlord. Target, Coles and Kmart's strong assumption is that this situation will be same for other large tenants such as Woolworths, any cinemas, Big W and Myer.

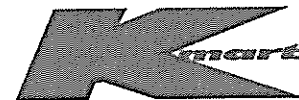
Likewise, in Child NMI embedded network situations where Target, Coles and Kmart have access to retail competition, Target, Coles and Kmart have had issues with double billing, lack of billing transparency, and inadequate compliance with market practices (e.g. sometimes network tariff changes, demand resets and capacity reductions have been rejected or delayed). This ultimately prevents the implementation of energy efficiency measures, e.g. why would Target, Coles and Kmart invest in LED lighting or a Power Factor Correction unit if Target, Coles and Kmart can't reset demand.

More importantly, embedded network arrangements hinder the ability to expand/decrease Target, Coles' and Kmart's supply capacity. E.g. move from a dedicated capacity of 400 kVA up to 600 kVA or down to 200 kVA. In relation to Child NMI embedded network situations, Target, Coles and Kmart make the following points:

- i. Currently, as independent NMI's, Target, Coles and Kmart liaise with the LSNP to negotiate an augmentation agreement, or the downsizing of Target, Coles and Kmart's dedicated transformer/substation. Similarly, most sites are low voltage so these activities do not require



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specialist skills/equipment to deal with HV nor do they require the entire centre to be shut down.

ii. Unclear infrastructure and cost accountabilities in embedded networks.

E.g. 2 MVA dedicated substation, 400 kVA capacity dedicated to one of our stores, where we need to expand to 600 kVA. In this situation, Target, Coles and Kmart would need to shut down the entire shopping centre to replace the 2 MVA substation/transformer for a 2.2 MVA, and the costs would be much higher.

Key questions Target, Coles and Kmart believe need to be considered would include:

- Who is liable for the cost of such upgrades on a landlord HV infrastructure?
- Would a stakeholder such as a landlord accept capacity reductions e.g. from 400 kVA to 200 kVA?

Target, Coles and Kmart urge the AER not to over-relax the 100% acceptance threshold and to help Target, Coles and Kmart preserve their right to access retail competition and market protections. Tenants should have the choice to remain outside of embedded networks.

The above 100% acceptance condition has already been relaxed in recent AER exemption grants to a requirement of 60% of the total of all active tenants' acceptance.

Target, Coles and Kmart believe that if the above condition is to be formally changed, it should take into account the volume of electricity consumed instead of the number tenants (as this is more representative); and be based on *at least 90% of the volume of electricity consumed by active tenants*.

Alternatively, landlords can always re-wire the tenants that wish to retain their independent NMI outside of the embedded network, or reconfigure the location of the gate meter to exclude them.

2. Customer protection conditions between retailers and exempt energy sellers

The AER states that an exemption may be more appropriate for a person, business or government agency that sells energy:

- *Incidentally - for example, where a shopping centre owner rents a shopfront to tenants and also sells them energy.*

If the AER considers the energy volume sold in embedded networks across all sites belonging to one large chain of shopping centres, the total electricity volume sold in embedded networks operated by one entity is often larger than the volume sold by small energy retailers.

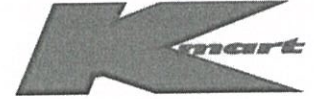
It is Target, Coles and Kmart's view that energy retailing in the above case would become part of the shopping centre operator's core business and should be subject to retail law like conditions. There should be a threshold taking into consideration the total volume of energy sold across all sites when considering eligibility for individual exemptions to provide an even playing field, and appropriate consumer protection.

3. Bulk purchasing power and embedded networks

One of the strongest arguments in favour of embedded networks raised by landlords/shopping centre operators is facilitating access to bulk purchasing power for smaller business/residential tenants. Target, Coles and Kmart's view as tenants is that there are sufficient market schemes facilitating access to cheaper electricity rates outside of embedded networks, and that ultimately every tenant should retain the right to choose to purchase electricity from the embedded network or not.



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By way of example, group-buying schemes aimed at winning large discounts from electricity retailers are available to both residential and small businesses. This mechanism allows tenants to retain retailer choice (lost in embedded networks) and access lower bulk electricity rates.

Target, Coles and Kmart appreciate the opportunity to make a submission regarding the amendment to the Retail Exempt Selling Guideline and look forward to meeting with you to discuss these issues further.

A representative of Target, Coles and Kmart will be in contact with your office to arrange a time.

Yours sincerely,

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