



16 November 2015

Ms Sarah Proudfoot
General Manager – Retail Markets Branch
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

Email: AERExemptions@aer.gov.au

Dear Ms Proudfoot

Re: Amendments to the AER (Retail) Exempt Selling Guideline

WINenergy Pty Ltd (**WINenergy**) welcomes the opportunity to provide comments in response to the Australian Energy Regulator's (**AER**) proposed Amendments to the AER (Retail) Exempt Selling Guideline (**Guidelines**).

WINenergy is a privately owned company with its corporate headquarters in Melbourne supported by offices in Sydney, Brisbane and Adelaide. Since 2005, WINenergy has specialised in the establishment and operation of private embedded networks for electricity. In this role we act as an agent of either the property owner or the owners' corporation as applicable. We also hold retail electricity authorisations in Victoria and under NECF which authorises us to sell electricity in NSW, Qld, South Australia, Tasmania and the ACT.

Our fundamental business has traditionally been the supply of metering, the management of data and customer billing in privately owned embedded networks across the eastern states of Australia. Today, WINenergy manages and operates over 400 private embedded network sites across Victoria, NSW, Queensland, South Australia and Western Australia. Our clients include large funds and property trusts who own shopping centres as well as property developers who either build and manage properties, or hand them over to owners' corporations on completion.

WINenergy supports the AER reviewing the Guidelines to provide greater clarity, flexibility and to reflect developments in the retail energy market, including the emergence of alternative energy sellers.

Retrofitting of premises

WINenergy is supportive of the AER's proposed amendments that the retrofitting of premises be allowed to proceed provided that the exempt person has sought the explicit informed consent (**EIC**) of those affected tenants or residents who wish to participate in the embedded network.

WINenergy is of the view that the current AER position requiring 100% EIC from potential exempt customers is not practical and is in fact restricting tenants and residents from accessing lower energy costs through the bulk purchasing power of the owners of the embedded network.

To this end, WINenergy believes that the current individual exemption regime where landlords seeking to 'retrofit' a building with a private embedded network be maintained but that the threshold for the granting of the exemption by the AER for the conversion to proceed be lowered from 100% EIC from all tenants / residents to a more practical and reasonable level of 60%.

'Fair and reasonable' pricing

WINenergy is supportive of the AER's proposed amendment to clarify within the Guidelines what exempt sellers can charge customers within an embedded network. We further support the current position in the AER Guidelines (Condition 7) where an exempt seller can charge no more than the local standing tariff is an appropriate mechanism for determining tariffs for customers within embedded networks. It is transparent and ensures that customers within the embedded network are afforded the same protections as market customers. Any further clarification of this condition would be helpful to customers.

Concessions for exempt customers

WINenergy's position is that if a customer is eligible and entitled to receive a government rebate or concession but is unable to claim that entitlement, then the exempt seller (or their agent), should be able to facilitate the process. This will in most NECF jurisdictions require the government to make legislative changes to ensure an appropriate mechanism is in place for the exempt customer to receive the benefit for which they are eligible and for the exempt seller or their agent to manage this process directly with the appropriate government department.

Power purchase agreements (PPA) providers

WINenergy is supportive of a regulatory regime which captures all sellers of energy irrespective of whether the energy is generated from traditional or 'alternative' sources.

New class for exempt sellers for PPA providers

In principle WINenergy is supportive of the AER's proposed amendments to introduce a new exemption class for PPA providers who meet particular conditions as set by the AER such that there is no longer a requirement for the alternative energy provider to continue to apply for an individual exemption provided these prescribed conditions are met.

New class for temporary supply in building and construction

WINenergy is supportive of the AER's proposed amendments to introduce a new exemption class to cover the temporary supply of electricity for the construction and commissioning phase of building and construction phase of projects.

Other Considerations

Enforcement

In order for this to be an effective means of regulation WINenergy believes that the AER also consider the current enforcement powers vis-à-vis such a condition such that the non-compliance of exempt sellers in respect of this condition are disciplined appropriately.

WINenergy strongly recommends that the AER should have a strong monitoring, compliance and enforcement role for embedded networks and the on-selling activities which occurs within them. The powers of the AER should be such that they are empowered to deal with a breach of an exemption condition as if it were a breach of the National Energy Retail Law. We are also supportive that where there is a material breach or failure to comply with an exemption condition by the exempt seller, then revocation of their exempt status would be appropriate and encouraged.

Dispute resolution – network and retail

WINenergy believes that all energy customers, be they market or embedded network customers, should have access to a free, independent and unbiased dispute resolution scheme.

In this instance, WINenergy supports the nomination of the relevant state based Ombudsmen schemes be used as the dispute resolution for customers within embedded networks. The advantage of this is that all energy market participants would have access to a single Ombudsman scheme and thereby ensure the dispute resolution process remains simple, free, equitable and consistent across the market.

WINenergy therefore recommends the inclusion of the requirement that all exempt sellers become a member of an approved customer dispute resolution scheme in the relevant jurisdiction in which they operate.

Consumer protections

WINenergy would be supportive of the introduction of consumer specific protections for customers within private embedded networks and would therefore support the introduction of prescriptive and specific consumer protections within any revised Guidelines such that embedded network customers are afforded the same protections as market customers.

Payment methods

WINenergy does not foresee any barriers to exempt sellers being required to offer a minimum of at least two (2) payment methods to exempt customers. We believe that the introduction of this as a specific condition to the Guidelines provides further equality between market and exempt customers.

Should you wish to discuss the details of this submission, please contact either myself or Andrea Steele on (03) 9832 0016 we would be pleased to have further discussions on our submission and the industry more generally.

Yours sincerely



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