



10 February 2011

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

By email: AERInquiry@aer.gov.au

Dear Mr Leuner

Re: The Australian Energy Regulator's Consultation Paper on Retail Exemptions and Draft Exempt Selling Guideline (December 2010)

Thank you for the opportunity to provide comment on the Australian Energy Regulator (AER)'s *Approach to Retail Exemptions Consultation Paper* (including draft determinations on exemptions) (the Consultation Paper) and the *Draft Exempt Selling Guideline* (the Draft Guideline).

The Energy and Water Ombudsman (Victoria) (EWOV) provides further comments in addition to our previous submission on the AER's *Approach to Retail Exemptions Issues Paper*. As usual, we base our comments on our extensive case handling experience. With this submission, EWOV seeks to address section three of the Consultation Paper.

3.2.2 AER considerations on whether the growth of onselling is in the long term interests of customers – Q1: Do stakeholders agree with the AER's considerations on whether onselling is in the long term interests of consumers?

EWOV shares the AER's concerns that the growth of onselling may present customer protection issues. We therefore welcome the AER's consideration of matters such as small customer access to energy ombudsman schemes, community service obligations (rebates and social programs) and energy efficiency measures when assessing whether it is appropriate to grant an individual exemption to an onselling arrangement involving small customers.

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Noting the AER's concerns that customers of onsellors are not protected through a retailer of last resort scheme, EWOV suggests that this issue warrants further consideration and solutions.

3.3.1 Policy principle 1: Divergence in regulatory arrangements between onsellors and retailers – Q2: Do stakeholders agree with the AER's considerations on onseller compliance costs?

Given the potential imbalance in the negotiating power between an onseller and a customer, EWOV agrees with the AER's assessment approach to place more weight on ensuring that customers of onsellors receive appropriate protections to avoid energy costs being included with other charges (e.g. through accommodation charges).

3.3.3.1 Hardship protections and customer payment plans – Q5: Do stakeholders agree with the AER's reasons for not requiring hardship policies for deemed and registrable exemptions?

As stated in our previous submission, EWOV appreciates the AER's concern regarding the feasibility of drafting a standard hardship policy to be used by all exempt sellers. However, given that customers in these situations are often particularly vulnerable, EWOV maintains that providing assistance should be considered, such as flexible payment arrangements, the prohibition of late payment fees and the provision of energy efficiency advice.

When establishing payment arrangements, exempt sellers would need to discuss a customer's capacity to pay, and if required, establish a short-term payment plan based on a customer's regular income stream (e.g. weekly or fortnightly) in association with the tenancy agreement duration (e.g. three months).

3.3.3.2 Access to Ombudsman schemes or other free external dispute resolution

EWOV welcomes the AER's acknowledgement of a number of issues that require addressing before a decision on the feasibility of access for customers of exempt onsellors to an ombudsman scheme can be made. As outlined in our previous submission on the AER's Issues Paper, EWOV is open to the idea of expanding access to scheme membership but will need to further discuss this matter with the EWOV Board, which may also result in the commissioning of another feasibility study prior to making a final comment.

3.3.3.3 Internal complaints handling – Australian Standard AS ISO 10002-2006 – Q6: Do stakeholders support the AER's considerations on the application of Australian Standard ISO 10002-2006?

EWOV notes the AER's further reasoning as to why it would require only larger onsellors, on a case-by-case basis, to comply with the Australian Standard on internal complaint handling. We support the requiring of individual larger onsellors to develop internal complaints handling arrangements based on the Australian Standard ISO 10002-2006.

3.8 Proposed changes to the conditions of class exemptions – Q23: Do stakeholders agree with the revised conditions outlined in the draft determinations that will apply to each class of exemption? Why or why not?

3.8.1 Information provision

EWOV welcomes the requirement for exempt sellers to advise whether they are subject to all of the obligations of an authorised retailer. Where customers have a choice of retailer, this may be an important deciding factor for them if their protection is limited by the choice they make.

Further, EWOV welcomes the proposed change to make flexible payment options available to all exempt customers. As outlined above, this budgetary tool is vital for vulnerable customers who may have no other option than to enter into an agreement with an exempt seller.

3.8.4 Pay-by date

EWOV supports the extension of the payment period to 13 business days from the date of the bill being issued as this provides consistency with the requirements for authorised retailers.

3.8.7 Pricing requirements

EWOV welcomes the AER's proposal that exempt sellers are not allowed to impose any charges that could not be charged by the relevant local retailer for new connections under a standard retail contract.

3.8.8 Payment difficulties and disconnection or cessation of supply

EWOV supports the extension of requirements around disconnection to include a reminder notice, a disconnection warning and personal contact with the customer. Again, this provides consistency with authorised retailer's requirements.

3.8.11 Concessions and rebates

EWOV notes the AER's modification of the requirement for an exempt seller to assist its customers to access any government rebate, concession, or assistance under a relief scheme, and thereby removing the obligation to help customers with sourcing support directly available to them. EWOV suggests that exempt sellers should be required to inform customers of available assistance (an obligation that could be included under 3.8.1 – information provision), which would also be in their interests as it provides customers with additional financial means.

3.10.1 Smart meter-related protections – Q25: How should the AER address protections for small exempt customers in embedded networks with a smart meter? What core protections are required?

EWOV welcomes the AER's reference to the customer protection framework established in Victoria with regard to smart meter issues. Referring to the Essential Services Commission Victoria (ESCV)'s final decision on its *Regulatory Review of Smart Meters*¹, EWOV considers the following core protections relevant:

- protections for vulnerable customers (e.g. providing access to the most cost-effective tariff)
- bill verification measures (e.g. providing a total consumption read)
- unbundling tariffs and charges on bills (e.g. extracting time-of-use components)
- notification of tariff variations (e.g. advising of price increases)

EWOV notes that most of these issues have been addressed by the AER, however, smart meters may add additional complexities to them.

We trust the above comments are helpful. If you require further information or have any queries, please contact Matt Helme, Research and Communications Manager on 03 8672 4460.

Yours sincerely



Fiona McLeod
Energy and Water Ombudsman (Victoria)

¹ ESCV's Final Decision on its Regulatory Review of Smart Meters:
<http://www.esc.vic.gov.au/public/Energy/Regulation+and+Compliance/Decisions+and+Determinations/Smart+meters+regulatory+review/Smart+meters+regulatory+review.htm>