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Consultation Paper Response

Introduction

Energy-Tec has prepared the following response to the Department of Finance / Public Utilities Office (PUO) consultation paper `Amendments to electricity and gas on-selling licence exemptions` dated April 2016. Our comments are in direct response to the `Recommendations for Comment` noted in section 4.3 of the document and provide our considered opinions of matters that we believe should be taken into account when the Governor makes any future determinations regarding licence exemptions for both electricity and gas within Western Australia.

Timeline for amendment

In our opinion, the exemption order amendment timeline noted in the Consultation Paper does not provide sufficient time to give due consideration to the feedback provided from any consultation paper responses. The proposed changes may have far reaching consequences with many consumers and stakeholders alike, most of which have not been consulted or advised in relation to the proposed changes.

We strongly recommend that PUO:

1. Extend the review period of proposed changes to provide adequate time to review all stakeholder feedback.
2. Defer the request for a determination from the governor regarding the proposed amendments
3. Complete the Energy Market Review Phase 2.
 - a. Seek consultation from the major existing embedded network service providers and customers. (propose 3 month consultation period)
 - b. Release outcomes and findings of the energy market review phase 2 to the market participants and stakeholders with a reasonable consultation timeline (3 months) as well as a holistic program timeline outlining the state government's clear intended longer term transition period.
4. Complete the above tasks prior to developing any proposed amendments to the existing WA embedded network market.

Responses to Specific Recommendations

1. *Clause 4 of the Electricity Exemption Order and clause 5 of the Gas Exemption Order are amended to exempt a third party providing electricity or gas supply services on behalf of a commercial on-seller from the requirement to hold a transmission/distribution/retail licence (electricity), or distribution licence (gas).*

The proposed changes appear to have been drafted without due consideration and consultation with key stakeholders and sufficient investigation of existing embedded network management systems and contractual arrangements.

Economic and contractual considerations

Most commercial property Owners and landlords have a sound understanding of embedded metering networks and rely upon these networks as a key source of income to their property. This is contrary to the assertion within the consultation paper that these networks are not part of their key business activities.

In addition to this, many Owners have made major capital investments into their existing networks to provide clear and concise data, accurate billing, reporting and energy management facilities.

Any industry rule changes which may affect these networks could have an impact upon many existing conditions of contract in place. These effects could include property values, income, operational expenditure budgets and lease negotiations.

Proposed amendments to allow third party intervention will cause the overall cost of managing embedded networks to increase significantly to levels on par with the Eastern States.

The increased costs will ultimately be borne by the end user (i.e. tenant or occupant).

Economic development impact

If Owners lose control of their embedded networks, this may adversely affect commercial decisions stifling economic and regional development. For example, renewable generation, energy efficiency, electrical upgrades and other essential projects may be shelved or cancelled. These are significant growth sectors within the WA Economy that generate many job opportunities.

Existing market competition

The Consultation paper effectively refers to commercial property Owners (being exempt retailers) as a 'barrier to entry' for third parties, while landlords and tenants are supposed to benefit from the intended amendment. We suggest the primary benefactors will be the third party network managers, at the cost of the network Owners and their tenants.

The landlord owns the electrical infrastructure (the embedded network). They have an obligation to maintain, upgrade and insure this infrastructure and have a right to grant or deny access. They can also add value via efficiency and renewable enhancements and charge for its use. This right of Ownership should not be deemed to be a barrier to entry.

- 2. Clause 5 of the Electricity Exemption Order and clause 4 of the Gas Exemption Order are amended to exempt a third party providing electricity or gas supply services respectively on behalf of a residential on-seller from the requirement to hold a transmission/distribution/retail licence (electricity), or distribution/trading licence (gas).*

We do not agree that a third party should be allowed to operate under the licence exemption order for the same reasons noted in Item 1 of this document.

- 3. The definition of 'commercial premises' in the Electricity Exemption Order and Gas Exemption Order is amended to include premises used for business or general purposes.*

We do not agree with the recommended definition.

Reference to the proposed definition as 'likely to be' is inappropriate. The definition needs to be formulated through a consultative process with the commercial property industry taking into account any existing definitions and terminology.

- 4. A new gas trading licence exemption is granted to allow a person to on-sell gas on commercial premises that it has control or management of (it will also allow a third party to operate under this licence exemption on behalf of the on-seller).*

We agree that a gas trading licence exemption to allow a person to on-sell gas on commercial premises that it has direct control or management of, should be granted the same exemption currently in place for electricity.

However, we do not agree that a 'third party' should be allowed to operate under the same licence exemption for the same reasons noted in Item 1 of this document.

- 5. All existing electricity and gas on-selling licence exemptions (and the proposed new gas licence exemption in recommendation 4) include a condition that the on-seller must provide its customer with billing information, which must include information that clearly sets out the quantity and price of electricity/gas supplied to the customer and the fees and charges payable by the customer for the provision of electricity/gas services.*

We agree with the proposed amendment. This will ensure that consistent billing information is provided.