

7 August 2015

Mr Alexander Kroon
Markets and Regulation Division
Public Utilities Office, Department of Finance
Locked Bag 11
Cloisters Square WA 6850

Email: PUOsubmissions@finance.wa.gov.au

Dear Mr Kroon,

RE: Draft Recommendations Report - Retail Licence Exemptions for Solar Power Purchase Agreement Providers

The Energy Retailers Association of Australia (ERAA) welcomes the opportunity to provide comments in response to the Public Utilities Office's (PUO) *Draft Recommendations Report: Retail Licence Exemptions for Solar Power Purchase Agreement Providers* (the Draft Report).

The ERAA represents the organisations providing electricity and gas to over 10 million Australian households and businesses. Our member organisations are mostly privately owned, vary in size and operate in all areas within the National Electricity Market (NEM) and are the first point of contact for end use customers of both electricity and gas.

Higher energy prices, a desire and ability by consumers to manage their energy use and access to new technologies has led to an increased demand for alternative energy products and services. The ERAA believes that the existing regulatory framework is only equipped to cater for the traditional retailer-customer relationship and the increasing number of products and services being offered to small customers fall outside the capability of the current regulatory framework. Any final recommendations stemming from this consultation must consider the market reform objectives being progressed through Phase 2 of the Electricity Market Review (EMR).

Regulation of the sale and supply of energy should adhere to the fundamental principles of best practice regulation and be technology neutral to accommodate the changing business models and services being offered in the electricity market. The conditions and regulatory framework that should apply to businesses whose activities are captured by section 7(4) of the *Electricity Industry Act 2004* (WA) (EIA) must be deemed necessary to protect the legitimate interests of energy consumers specifically and therefore not provided for elsewhere, such as under the Australian Consumer Law (ACL).

A consistent consumer protection framework which provides minimum protections deemed necessary in addition to the Australian Consumer Law (ACL) is required to ensure energy consumers are adequately protected. It is important that the energy regulatory framework that applies to Solar Power Purchase Agreements (SPPA) is clear and sets appropriate and proportionate consumer protection requirements that are in the long term interests of energy consumers and the industry as a whole. All participants in the energy industry should be required to demonstrate adherence to those consumer protection measures deemed mandatory for licenced retailers to protect the interests of energy consumers, not



accommodated or sufficiently protected in the ACL. This is particularly important in the context of the EMR and the introduction of competition in the WA market.

As a general principle, the ERAA does not believe that it is beneficial to require different service standards from businesses that are providing the same services. It creates an uneven playing field that distorts competitive market outcomes. The ERAA supports competitive neutrality between businesses through the application of a consistent consumer protection framework.

The ERAA believes that the preferred option outlined in the Draft Report (Option 2), the creation of a new retail class exemption removes regulatory oversight and requires providers' knowledge and goodwill to understand and comply with the exemption framework, particularly in relation to Draft Recommendation 1¹. In the NEM, SPPA providers are required to apply to the Australian Energy Regulator for an individual exemption which allows an assessment as to the suitability of the provider and enables any conditions deemed necessary to be included as part of their exemption. Requiring SPPA providers to request an individual exemption provides increased oversight and transparency of the developing market, enables businesses to demonstrate their operational and financial capability to participate in the market and ensures the uniform application of required consumer protections.

A centralised dispute resolution scheme allows disputes to be dealt with in an integrated way and where multiple businesses are concerned apportion responsibility to the multiple parties equitably. Should a business's activities be deemed to involve the sale and supply energy as captured by s 7(4) of the EIA, the ERAA believes these businesses should similarly be required to participate in the same dispute resolution scheme to ensure consistent standards and access for consumers when resolving energy disputes. However we are unsure how this will be suitably funded and applied to SPPAs that are not subject to the prudential credit requirements imposed on authorised retailers. The ERAA believes this issue requires further analysis and review to ensure licenced electricity retailers are not cross subsidising the dispute management schemes likely to be used by SPPAs.

Should you wish to discuss the details of this submission, please contact me on (02) 8241 1800 and I will be happy to facilitate such discussions with my member companies.

Yours sincerely,



Alex Fraser
Interim CEO
Energy Retailers Association of Australia

¹ Department of Finance, Public Utilities Office, Draft Recommendations Report: Retail licence exemptions for Solar Power Purchase Agreement Providers, July 2015, p 16.