

Electricity On-Supply in Queensland: Discussion Paper

Submission by the

Shopping Centre Council of Australia

22 February 2013

TABLE OF CONTENTS

<u>Topic</u>	<u>Page</u>
Executive Summary	3
1. Points for discussion	5
2. Contact details	8

Executive Summary

The Shopping Centre Council of Australia (SCCA) welcomes the opportunity to comment on the *Electricity On-Supply in Queensland: Discussion Paper* released on 30 January 2013, which was prepared in support of the Inter-Departmental Committee (IDC) on Electricity Sector Reform.

Our members, as major shopping centre owners and managers, operate embedded networks (or 'on-selling schemes') and on-sell electricity to their retail tenants across the state including in both the Energex and Ergon distribution areas. This includes on-selling to large (e.g. supermarkets, bottle shops, bakeries) and small (e.g. clothing, footwear, mobile phone stores) electricity users. The on-selling of electricity is an incidental business for our members.

From the outset, it is positive that the Government has released the Paper to gain a better understanding of on-selling schemes and to assist in future decision making. We would gladly be involved in future decision making on this important area of public policy if changes are to be made.

We believe the policy framework for embedded networks and on-selling works reasonably well.

Despite this, our members have experienced some significant pricing and regulatory issues in recent years, largely as a function of the Queensland Competition Authority's (QCA) tariff reforms introduced on 1 July 2012. These changes have resulted in considerable losses of income, with some schemes now operating at a financial loss (particularly in the Ergon area). This undermines the ability to undertake further capital investment and maintenance and is clearly unsustainable.

In short, our main concerns with the pricing and regulatory framework include:

- The reduction of Tariff 20 resulted in significant income loss and in some cases, total financial loss for some embedded networks.
- The disconnection between large and small customer tariffs in the Ergon area has resulted in some schemes operating at a total financial loss.
- The deregulation of pricing for large non-residential customers within the Energex area did not align with section 20J of the *Electricity Act 1994*, creating major regulatory and operational risk and uncertainty.

It is pleasing that these concerns are captured and summarised in the Paper, which remain as pressing issues which we would like to see addressed.

We would have liked to provide our feedback on the QCA's *Draft Determination: Regulated Retail Electricity Prices 2013-14* as part of this submission, however due to its release being deferred from 15 February to 22 February (the due date of this submission) we have been not been able to undertake a proper assessment at this stage. We will provide feedback in the near future.

We have responded to the Paper's 'points for discussion', however in relation to the focus areas of consumer protection and contestability in the marketplace, we do not believe there is a strong case for major change.

To cite one example, while retail tenants within on-selling schemes are not viewed as customers under the *Electricity Act 1994* and are therefore unable to access the Act's 'suite of customer protections' or the services of the Energy and Water Ombudsman (EWOQ), retail tenants have protections under the *Retail Shop Leases Act 1994*. Without going into too much detail, it is worth noting the objective of this legislation is to "promote efficiency and equity in the conduct of certain retail businesses in Queensland". This is to be achieved through "mandatory minimum standards for retail shop leases" and "a low cost dispute resolution process for retail tenancy disputes".

We certainly want to avoid any duplication of 'protection' provisions; particularly given complaints and disputes are minimal within our member's on-selling schemes.

We question the statement in the Paper (at page 5) that Queensland “has not approved embedded networks for ‘SMALL’ consumers and determined that there will be no new embedded networks for ‘LARGE’ consumers” with a reference to 1 July 2007 when ‘full retail contestability’ was introduced. A number of embedded networks have been approved – including networks comprising both small and large customers – since 2007 and we have been made aware of projected new schemes out to 2015. These networks have been approved by Energex and Ergon. We seek clarification on this statement, but can also not overstate our concerns if there is a viewpoint within Government to prevent the further roll-out of embedded networks.

As a final point, we would urge the Government to consider transitioning to the Australian Energy Regulator’s (AER) *Exempt Selling* and *Network Service Provider Exemption* framework for on-selling schemes which forms part of the National Energy Customer Framework (NECF). As our member’s operate across various jurisdictions, this national framework would improve certainty, consistency and efficiency in the operation of on-selling schemes. The SA Government announced the adoption of this framework on 18 December 2012, which formally commenced on 1 February 2013.

We look forward to continued discussions with the Department on this issue. Our contact details are provided at the end of this submission.

2. Points for discussion

We are pleased to provide the following feedback on the 'points for discussion' raised in the Paper.

Does this paper adequately summarise stakeholder concerns with Queensland's existing on-supply arrangements. Are there relevant matters or considerations that have not been raised?

The Paper captures our main concerns with the existing arrangements.

As outlined above, our current major concerns relate to the QCA's tariff reforms which commenced on 1 July 2012, which has resulted in significant income loss for our member's embedded networks. In addition, there is the related issue where the deregulation of large non-residential customers in the Energex distribution area did not align with section 20J of the *Electricity Act*.

What is the experience of stakeholders regarding on-supply and embedded network arrangements in other Australian jurisdictions?

Our members operate on-selling schemes in jurisdictions outside of Queensland, including NSW, Victoria, and South Australia. On-selling schemes operate in accordance with relevant laws which generally exempt the operators of such schemes from the requirement to be a registered network service provider and an authorised electricity retailer, subject to compliance with certain conditions.

A key emerging difference in the operation of on-selling schemes is the adoption of the AER's exemption framework, which forms part of the National Energy Customer Framework (NECF). The SA Government adopted the AER's exempt selling framework on 1 February 2013. The NSW Government has indicated it is aiming to commence the NECF on 1 July 2013.

The AER framework has three broad exemption classes: (1) deemed exemptions, (2) registrable exemptions, and (3) individual exemptions, within which there are a number of situation specific exemptions. Our members typically rely on the following deemed and registrable exemptions to permit the operation of their inset networks:

- Retail class D7 & Network class D7 - Landlords or lessors passing on common area energy costs to premises in commercial developments
- Retail class R1 & Network class R1 - Metered energy onselling by commercial/ retail landlords or lessors to small customers
- Retail class R5 & Network class R5 - Metered energy onselling to large customers

All of these exemptions impose conditions on the onseller or network operator, which are outlined in the AER's *Network Service Provider Exemption Guidelines* and *Exempt Selling Guidelines*, and include conditions which relate to issues such as:

- The right of customers to access to electricity provider of choice.
- Metering arrangements.
- Dispute resolution.
- General customer protections.

We would urge the Queensland Government to consider a transition to the AER framework, particularly as it addresses the focus areas raised in the Paper.

Is there a case to introduce choice of retailer for child customers by adopting the Embedded Network Guideline? If so, can parent/child meters be implemented in a cost-effective manner where the parent and child must both have the same meter type (interval or accumulation)? What factors might impede implementing any metering changes needed?

We support the principle of on-selling scheme customers having access to their electricity provider of choice, and the use of child NMIs is common in other jurisdictions such as Victoria and South Australia.

However, we would urge caution ahead of implementing parent/child meters. We highlight the following issues for the Government's consideration which can create administrative and billing uncertainties:

- The data from the child NMI needs to be passed through the market together with the parent NMI to enable a deduction of usage and demand.
- The meter data agents (MDAs) for parent and child NMIs can be, and are normally different companies.
- The result is that the parent meter data sits with the electricity retailer or MDA until such time that all the child data is available. In several instances our members have seen accounts taking 6 months to be finalised and issued instead of 30 days. This is more the norm than the exception. Our members have experienced incorrect billing as a result of this procedure at a higher rate than standard billing.

There is a range of other practical issues our members have encountered with parent/child meters. We would recommend an opportunity to discuss these issues further with the Department.

Would introducing parent/child metering help alleviate the issues raised in this paper?

As outlined above, we would urge consideration in the potential roll-out of parent/child metering.

Are there risks associated with altering the existing on-supply arrangements?

As on-selling schemes represent a substantial investment from our members which operates within a regulatory environment – and also involve the provision of electricity to a large number of retail tenants – the main risks relate to regulatory, operational and commercial issues. For this reason, we generally recommend appropriate industry consultation and transition periods in relation to major proposed changes.

The unexpected and recent issues with the QCA's tariff reforms noted earlier in this submission also impacted annual budgeting processes as well as property valuations, creating substantial commercial risk.

Are there issues arising in on-supply situations as a result of embedded generation that should be addressed as part of any regulatory or legislative changes being considered?

No additional comment.

What other options/arrangements are available to help strengthen on-supply of electricity while satisfying consumer protection, contestability and commercial objectives?

As we highlighted above, we believe that the AER framework should be considered to satisfy customer protection, contestability and commercial objectives.

In the absence of adopting the AER framework, we reiterate our previous comments that retail tenants already have protections under the *Retail Shop Leases Act 1994*, and we see no need for unnecessary duplication.

RECOMMENDATIONS

- 1. The Government should commit to the principle that on-selling schemes should be able to operate on commercial terms and not suffer significant financial losses as a result of policy or tariff reforms.**
- 2. The Government should consider reviewing section 20J of the Electricity Act to ensure it complements price deregulation for large non-residential customers as part of the QCA's tariff reforms.**
- 3. The Government should consider transitioning to the AER's exemption framework for on-selling schemes.**
- 4. The Government should clarify its statement that no new embedded networks are to be approved.**
- 5. The Government should consider current administrative and billing issues in other jurisdictions with parent/child meters ahead of committing to their roll-out.**
- 6. The Government should consider the *Retail Shop Leases Act* as having appropriate protections in place for retail tenants.**
- 7. The Government should consider establishing an industry advisory group to advise on future policy changes for on-selling schemes.**

3. Contacts

The Shopping Centre Council of Australia represents Australia's major owners, managers and developers of shopping centres.

Our members are AMP Capital Investors, Brookfield Office Properties, Charter Hall Retail REIT, Colonial First State Global Asset Management, DEXUS, Eureka Funds Management, Federation Centres (formerly Centro Retail Australia), GPT Group, ISPT, Ipoh Management Services, Jen Retail Properties, Jones Lang LaSalle, Lend Lease, McConaghy Group, McConaghy Properties, Mirvac, Perron Group, Precision Group, QIC, Savills, Stockland, Westfield Group and Westfield Retail Trust.

Contacts

The Shopping Centre Council would be happy to discuss any aspect of this submission. Please do not hesitate to contact:

Angus Nardi

Deputy Director
Shopping Centre Council of Australia
Level 1, 11 Barrack Street
SYDNEY NSW 2000
Phone: 02 9033 1930
Mobile: 0408 079 184
Email: anardi@scca.org.au

Milton Cockburn

Executive Director
Shopping Centre Council of Australia
Level 1, 11 Barrack Street
SYDNEY NSW 2000
Phone: 02 9033 1902
Mobile: 0419 750 299
Email: mcockburn@scca.org.au