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25 January, 2007

Manager
MCE Secretariat
Department of Industry, Tourism and Resources
GPO Box 9839
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Email: MCETMarketReform@industry.gov.au

Dear Sir/Madam

**Consultation Working Paper No.2
Retail Policy Working Group.**

Thank you for the opportunity to comment on the Consultation Paper No.2 of the Retail Policy Working Group. CitiPower and Powercor Australia are Victorian electricity distributors which will be affected by the transfer of non-economic distribution and retail regulatory functions to the national energy market framework.

CitiPower and Powercor generally support the approach proposed in Consultation Paper no 2 and offer the comments set out in Attachment 1 for your consideration.

Should you have any questions in relation to this submission, please do not hesitate to contact me on (03) 9683 4282 or by email at rherrmann@powercor.com.au.

Yours sincerely

Rolf Herrmann
Manager Regulation

Attachment 1

National Framework for Distribution and Retail Regulation

Retail Policy Working Group – Working Paper 2 Consolidated Statement of conclusions and recommendations.	CitiPower and Powercor Comments
Distributor obligation to provide connection services	
<p><i>Provisions to be included in the Law</i></p> <p>The Law should provide that 'local distribution service providers' must, in accordance with the Rules, provide distribution services in respect of a retail customer's premises located in the distributor's designated distribution area.</p> <p>For this purpose:</p>	
<ul style="list-style-type: none"> • A 'local distribution service provider' would be defined in the Law as the distributor nominated with respect to a defined geographic area in an equivalent manner to the nomination of Local Network Service Providers in the NER. 	<p>The approach of defining the “local distribution service provider” in the law will lack the flexibility currently available through licencing.</p>
<ul style="list-style-type: none"> • Distribution services would be defined in the Law as: <ul style="list-style-type: none"> ➤ the connection of the premises to the distribution network to allow the supply of energy from the network to the premises; ➤ increasing the maximum capacity of an existing connection; 	<p>This definition contemplates only energy flow from the network to the premises which is inconsistent with the objective of connecting generators where the power flow may be from the premises to the network.</p>

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<ul style="list-style-type: none"> ➤ where a physical connection already exists, activating or opening the connection in order to allow the flow of energy from the network to the premises; and ➤ maintaining the capability for energy to be supplied from the network to the premises through the connection. 	
<p>The definition of distribution services in the Law should be capable of being supplemented by the AEMC in the Rules.</p> <p>The reference to a retail customer's premises is intended to limit the obligation to customers acquiring energy through a retailer, as distinct from a customer acquiring energy directly from the wholesale market.</p>	<p>This obligation is specifically limited to distribution services provided in respect of a retail customer's premises. The reason for this limitation is not explained and it is not clear how this limitation will facilitate the connection of market customers intending to acquire their energy directly from the market rather than through a retailer.</p>
<p><i>Provisions to be included in the Rules</i></p> <p>As matters of detail, the Rules should set out:</p>	
<ul style="list-style-type: none"> • Connection application procedures, permitting an application for connection to be made by either the customer or its retailer and requiring customer contact details and prescribed information relevant to the connection of equipment at the customer's premises (e.g. life support, special plant and equipment). For applications by the customer, evidence of a retail contract would also be prescribed information. 	<p>This provision makes reference to “evidence of a retail contract” as part of the connection application procedure. This is likely to be administratively inefficient and likely to lead to inappropriate connections. There are existing protocols between retailers and distributors that should be used by the retailer to instruct the distributor to energise a connection.</p>
<ul style="list-style-type: none"> • Connection requirements and conditions, including: <ul style="list-style-type: none"> ➤ payment for any augmentation or extension works to the distribution system if required to effect the 	<p>The Rules should also include provisions requiring retailers to take responsibility for ensuring safe ongoing access to metering and other equipment of the distributors on the customer's premises.</p>

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<p>connection;</p> <ul style="list-style-type: none"> ➤ completion of any works required for connection which are not part of the distribution system; ➤ compliance with technical and safety requirements in relation to the customer's installation or equipment; and ➤ failure to provide safe access to meters and other equipment of the distributor on the customer's premises. 	
<p>Process</p> <p>The initial Rules should be made by Ministerial order as part of the 2007 legislative package, with subsequent development to be dealt with by the AEMC under the rule making procedures in the Law.</p>	<p>Making the Rules in this way is problematic as it does not provide the fulsome opportunity for review and comment afforded by the AER rule making process.</p> <p>The MCE should ensure that adequate consultation is provided, consistent with the consultation requirements for the AER to make Rules.</p>
<p>Distributor interface with customers</p>	
<p>Provisions to be included in the Rules</p> <p>The Rules would include the following provisions in relation to the distributor-customer relationship:</p>	
<ul style="list-style-type: none"> • a requirement in the deemed distribution contract that the distributor must comply with any applicable jurisdictional instruments imposing service standards or guaranteed service levels; 	<p>This provision is not consistent with the concept of a national regulatory regime and should be deleted.</p>
<ul style="list-style-type: none"> • the circumstances in which a distributor is entitled or required to disconnect customer premises, including: <ul style="list-style-type: none"> ➤ in emergency, including at the direction of a relevant 	<p>These provisions refer to the “certification by the retailer of its entitlement to disconnect”. It is unclear what form this certification may take but it is important that the mechanism for carrying out a disconnection instruction from a retailer be efficient. A distributor should be able to rely on an instruction from the retailer</p>

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<p>authority;</p> <ul style="list-style-type: none"> ➤ for health and safety reasons; ➤ at the request of the customer or its retailer (subject to certification by the retailer of its entitlement to disconnect); ➤ for non-compliance by the customer with obligations under the deemed distribution contract that are expressed to give rise to an express right of disconnection (e.g., failure to provide safe access or meet equipment specifications, or taking unauthorised supply); 	<p>without further checking the validity of that instruction.</p>
<ul style="list-style-type: none"> • the circumstances in which a distributor is entitled or required to interrupt or curtail the supply of gas to customer premises, including: <ul style="list-style-type: none"> ➤ planned interruptions subject to prescribed advance notice periods; and ➤ unplanned interruptions (faults etc) and circumstances beyond the distributor's control, subject to information requirements and obligations to minimise duration and extent of interruptions; 	<p>This provision appears to be restricted to the supply of gas; it should be extended to apply to the supply of electricity also.</p>
<ul style="list-style-type: none"> • possible additional protections for small customers in relation to negotiated distribution contracts, e.g. protected terms or cooling-off periods. 	<p>CitiPower and Powercor do not believe cooling off provisions are appropriate or necessary in relation to distribution contracts.</p>
<p>Process</p> <p>The initial Rules should be made by Ministerial order as part of the 2007 legislative package, with subsequent</p>	<p>Making the Rules in this way is problematic as it does not provide the fulsome opportunity for review and comment afforded by the AER rule making process.</p> <p>The MCE should ensure that adequate consultation is provided, consistent with</p>

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development to be dealt with by the AEMC under the rule making procedures in the Law.	the consultation requirements for the AER to make Rules.
Distributor interface with retailers	
<p><i>Default terms and conditions - provisions to be included in the Law</i></p> <p>The Law should specify certain minimum requirements as to matters which must be included in a UoS agreement in respect of the distributor retailer interface. The minimum requirements should include at least the following:</p>	<p>Implementing the default terms and conditions through the law will be less flexible in regard to any future amendments required as it cannot be achieved through the AEMC Rule change process.</p>
<ul style="list-style-type: none"> provisions requiring the distributor to provide the distribution services to the retailer; 	<p>An additional condition requiring the retailer to pay for the distribution services is also required.</p>
<ul style="list-style-type: none"> provisions relating to the exchange of information between the distributor and the retailer in relation to customer information, faults, planned and unplanned outages; 	<p>CitiPower and Powercor wish to emphasise the importance of Distributors receiving customer details from retailers. This information is critical when dealing with customers in relation to planned and unplanned outages and other service related matters.</p>
<p>There may also be other provisions which would be relevant to be referred to in the Law. A table discussing possible terms and conditions for consideration is set out in Attachment 3.</p>	<p>The Paper proposes that the retailer should carry the customer credit risk and the retailer is therefore to be liable for the payments to the distributor of the charges for connection and use of system. The paper contemplates appropriate credit or prudential provisions in the Use of System Agreement. CitiPower and Powercor agree with this approach.</p> <p>However, despite the inclusion of credit or prudential arrangements in the UoSA there remains a risk that a retailer failure could result in a bad debt for distribution services. The Law or Rules should provide for the distributor to be sheltered from this risk by an appropriate pass through mechanism.</p>

<p align="center">Retail Policy Working Group – Working Paper 2 Consolidated Statement of conclusions and recommendations.</p>	<p align="center">CitiPower and Powercor Comments</p>
<p>Process</p> <p>It is proposed that the initial model interface terms and conditions would be prescribed by Ministerial order, with the AEMC subsequently having power to amend the terms and conditions in accordance with the Rule change process.</p>	<p>CitiPower and Powercor are concerned that this mechanism may not provide the fulsome opportunity for review and comment afforded by the AEMC rule making process.</p> <p>The MCE should ensure that adequate consultation is provided, consistent with the consultation requirements for the AEMC to make Rules.</p>
<p align="center">Distributor interface with embedded generators</p>	
<p>The NEL currently authorises the making of Rules with respect to the terms and conditions of generator access to distribution networks, including embedded generation.</p>	
<p>The form of the draft Code of Practice for Embedded Generation is influenced by the current national and jurisdictional regulation. It is drafted on the basis that it will supplement but is subordinate to (and must not be inconsistent with) existing national and jurisdictional regulation. This presumably accounts for its characterisation as a 'code of practice' rather than a binding regulatory instrument.</p> <p>To the extent that the MCE wishes to adopt all or part, or a modified form of, the draft Code of Practice, the Code should be reformulated as rules to be incorporated in the NER under the power for direct amendment by Ministerial order described above.</p>	<p>CitiPower and Powercor believe that a more appropriate mechanism for adopting all or part of the Code of Practice for Embedded Generation would be to incorporate the relevant provisions into the NER through the AEMC using the established Rule Change procedures and governance structure established for this purpose. There is no obvious reason for the Rule to be made under the power for direct amendment by Ministerial order.</p>