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Manager, MCE Secretariat
Department of Resources, Energy and Tourism
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By email: MCEMarketReform@ret.gov.au

**NATIONAL ENERGY CUSTOMER FRAMEWORK –
SECOND EXPOSURE DRAFT**

Aurora Energy appreciates the opportunity to provide feedback to the Ministerial Council on Energy (MCE) Secretariat on the National Energy Customer Framework (NECF) Second Exposure Draft.

Aurora Energy (Aurora) is a Tasmanian Government-owned electricity distribution and retail company formed in July 1998 pursuant to the Tasmanian Electricity Companies Act and incorporated under the Corporations Law. Aurora operates predominantly in a jurisdiction where competition in electricity is currently only available to large consumers and the State gas distribution network is deemed 'uncovered' for economic purposes.

Aurora is broadly supportive of the 2nd Exposure Draft and considers the NECF as proposed as a suitable framework from which to commence national regulation of end use retail and distribution services to energy customers. However, there are instances where aspects of the proposed law are incongruous with what Aurora considers to be best practice regulation or the practical application of regulation to electricity infrastructure and entities in Tasmania.

To highlight these instances an attachment to this letter is provided with detail on Aurora's concerns with the Second Exposure Draft.

*From the Office of the
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Aurora recognises that as a distribution and retail company many of our concerns will be reflected in the peak industry body submissions from the Energy Networks Association (ENA) and the Energy Retailer Association of Australia (ERAA). Aurora's Retail and Network Divisions have been working closely with these associations in the preparation of their submissions, particularly their commentary on the contractual relationships between customers, retailers and distributors. As such, Aurora's submission focuses on areas that relate to our specific circumstances or where we believe it important to highlight a particular concern with the Second Exposure Draft.

One such concern is the regulation of prepayment metering under the NECF. Prepayment metering customers constitute a fifth of Aurora's residential customer base. Prepayment metering regulation in Tasmania is well tested and Aurora strongly requests the MCE take full regard of the comments provided in the attachment.

As a further point of context to Aurora's submission, it has been observed that there are instances in this draft of the NECF where the proposed law and rules are prescriptive to an extent that they represent a shift away from the key energy market reform objective provided to the Ministerial Council on Energy, that is, to develop a truly national and efficient energy market. Further, while the objective of the Australian Energy Market Agreement (AEMA) is to promote the "long term interests of consumers with regard to the price, quality and reliability of electricity and gas services" there are corresponding objectives and intentions to minimise regulatory burden on retailers.

In this regard Aurora requests the Retail Policy Working Group (RPWG) be mindful of the intent of the AEMA when considering feedback it receives on the 2nd Exposure Draft.

If you would like to discuss further any of the issues raised in this letter or the attached submission, please contact Giles Whitehouse, Aurora's Market Policy Manager (03) 6208 7809, in the first instance.

Yours sincerely



Dr Peter L. Davis
Chief Executive Officer

Attachment: Aurora comments on Second Exposure Draft of the NECF

Pre-payment meter regulation

Aurora reiterates its view on prepayment regulation that with over 45,000 prepayment metering customers in Tasmania, by far the largest population of prepayment metering customers in Australia, regulation of prepayment metering in Tasmania is the most rigorously tested in the Australian energy sector. This is concerning given that key provisions from the both Tasmanian and South Australian prepayment metering Codes are absent in the Second Exposure Draft.

The absence of prepayment metering regulation in other jurisdictions limits the basis for understanding of best practice or best principles in the use of prepayment metering by consumers. An informed understanding of consumer concern and protection requirements is more likely to be derived from a jurisdiction that is active in the regulatory area in question. The framework proposed in the Second Exposure Draft presents as a more onerous and inefficient framework than that currently in place and operating effectively in Tasmania.

While some points of difference could be settled through derogation or transitional arrangements, this option is somewhat perverse as it would result in the majority of prepayment metering customers in Australia not being fully captured by the NECF. Where possible, Aurora seeks direct amendment to the NECF to ensure it is as effective and consistent as possible for the majority of the consumers in question. Otherwise, we seek a soundly based explanation of why the more workable Tasmanian model has not been proposed.

Detailed concerns with prepayment regulation in the Second Exposure Draft are listed below.

Rules - 803(3) & Rules - 803(5)

The disconnection times proposed in 803(3) do not align with the Tasmanian times that are set at 8am to 8pm on a weekday. These are hard wired into Aurora's Siemens prepayment system for the majority of its customers and cannot be changed.

The requirement from 803(5) is for self-disconnection to be a capability of the prepayment metering system. This is currently not a capability of the 45,000 prepayment meters in Tasmania, although all new prepayment meter systems do have this capability. Without amendment or derogation this clause would result in a mass-market change over of prepayment meters in Tasmania. This would be a cost prohibitive

outcome for a retail offering that is embraced by a wide range of residential customers as a highly useful tool for budgeting and managing their energy usage.

Critically, Aurora notes that regarding the technical capabilities of prepayment meters, there has been a change from the SCO Policy Response document which noted "a prepayment meter system must identify to the retailer instances of self-disconnection, where the meter is technically capable". Aurora sees no reason or justification for a change in this policy position.

Grandfathering provisions are commonplace in reform of metering arrangements in Australia, such as those included with the process of introducing a National Metrology Procedure (NMP). Additional clauses grandfathering current metering arrangements would allow the NECF to capture all prepayment meter customers without the need for derogation provisions. To mitigate the issues raised through 803(3) and 803(5) the NECF should only apply to prepayment meters installed after a certain date or following commencement of the NECF. This is currently the case in the Tasmanian prepayment meter code.

Rules – 804(3)

The requirement for retailers to install of a 'Standard' meter on behalf of the customer would impose a new obligation on Aurora to install a standard meter. As discussed in our comments on 820 below, Aurora does not provide a standard offer in all jurisdictions where it provides prepayment metering. Aurora's preference, as occurs now, is to have the customer make this arrangement with another retailer, which offers a standard meter.

Rules – 807

Aurora notes that the limitation on the recovery of debt remains in the Second Exposure Draft. There should be counter balance that allows for retailers to provide a final standard contract bill to customers. Aurora recommends that making it an option available to customers / retailers upon agreement should remain available 'subject to agreement with the customer' rather than precluding it via this code.

Rules – 816

Again, this rule is impossible for Tasmania to introduce without requiring a mass-market change over of PPMs. This is a critical issue and needs to be addressed along with 803(5).

Rules – 820/821/820

Aurora previously submitted to the First Exposure Draft that a new entrant retailer that entered into a customer retail contract should not be financially responsible for the customer until the market transfer process has completed. This has not been rectified in the Second Exposure Draft. Again we stress that to require the prepayment retailer to remove the prepayment meter system at no cost is not appropriate unless the transfer process has been completed. The proposed rule would oblige the financially responsible retailer to provide a standard tariff metering arrangement for a very brief period. This limits the ability of a retailer to act in a jurisdiction solely as a prepayment meter retailer and as such creates additional compliance burdens and barriers to entry that limits the ability of potential competitive players to act efficiently in providing alternative retail offerings to consumers.

Energy retail hardship regulation

Aurora considers that the amendment to the NECF hardship regulation with the additional requirement for approval of hardship policies goes beyond the original intent of the NECF to minimise regulatory burden. Aurora contends that the drivers for this change have not been clearly stated or justified. Previous experience with the approval process of hardship policies in jurisdictions, such as Victoria, has shown this to be an intensive process.

The proposal from the First Exposure Draft for guidelines to shape retailer hardship policies provided the best fit for meeting the needs of consumers and balancing the impost on retailers. Most Australian retailers already have hardship policies and indicators of future performance were proposed in the NECF to act as a secure checking point of the impact of retailer policies in mitigating hardship. However, with the introduction of the obligation for approval of hardship policies, the RPWG has allowed for a circumstance where the impacts and impediments on retailers will be propagated at an immeasurable advantage to a small number of consumers for a problem that is undefined in each jurisdiction.

A key factor in the original policy supporting hardship was that hardship is not a commonly defined problem across the jurisdictions. Further, it has not been qualified if the levels of bad debt or disconnection are prevalent or problematic in any or all jurisdictions and therefore if there is a demonstrated need for approval of policies. The lack of definitive answers to these questions gave weight to the originally proposed light-handed approach to hardship regulation in the SCO Policy Response Paper and First Exposure Draft.

Extension of hardship regulation to obligations that require regulatory approval of policies imposes a level of resource use that is unjustified and unwarranted. Enabling customers experiencing hardship with the options and/or tools to resolve their situation is a critically important capability for Aurora. This is evidenced by the presence of our hardship policy, which is established and maintained voluntarily in the absence of State regulation. Aurora recognises the mutual benefit to the customer and the retailer in having such a policy. We consider as a base position, hardship regulation to be unnecessary given our current voluntarily-provided policy. However, if regulation is deemed necessary it should be at a level commensurate with current practice.

Aurora prefers the previous option of guidelines to retail hardship policies allows retailers flexibility in their arrangements as well as the opportunity to show themselves to be good corporate citizens. If in future, the data provided by hardship indicators shows any concern through identification of systemic issues then that would be an appropriate time for the AER to intervene.

Small customer dispute resolution additions

Aurora believes there is a lack of exploration of the linkages between the jurisdictional ombudsman schemes and the NECF. At their base purpose, these proposals are a useful point of clarity for ensuring that jurisdictional ombudsman schemes will assist the Ombudsman in connecting to the NECF. However, certain points in Part 4 duplicate powers listed in the Tasmanian *Energy Ombudsman Act 1998*, such as Part 406 of the NERL which duplicates section five of the Tasmanian Act. This appears contrary to the carve-outs of jurisdictional powers under the AEMA that state Ombudsman powers are to remain at the jurisdictional level.

Aurora suggests that much of Part 4, specifically 402-408, is an unnecessary and confusing duplication of powers already set at a jurisdictional level. For clarity, any point of duplication should be amended or at the least reviewed when the RPWG considers submissions to the Second Exposure Draft.

Further concerns with small customer dispute regulation are:

- 406(3) - this clause should state “must” decline rather than “may”. We believe a firmer direction to the Ombudsman is required to ensure electricity entities are afforded an opportunity to resolve the customer’s case. As written this may not eventuate.
- Rules 603(3) - Aurora does not put the Ombudsman contact details on reminder notices, although the contact number is placed on disconnection notices. We believe this encourages the customer to

first contact Aurora, which is the entity best placed to offer assistance to consumers facing payment difficulties.

- 610(1)(b) prevents a retailer from disconnecting a customer who has submitted a complaint to the Ombudsman. In the Tasmanian framework, a customer has no liability for a disputed account if they make a complaint to the Ombudsman before the due date for payment of the account.

Aurora notes that in most jurisdictions Ombudsman charge on a per complaint basis and that the requirements of 406(3) & 603(3) are likely to result in a steady stream of unwarranted contacts to the Ombudsman's office. In this regard the most efficient outcome for the NECF would be to only attract complaints that warrant the Ombudsman's attention.

National Energy Retail Objective

It is unclear what is intended by s113(2) – National Energy Retail Objective. As noted in s114, the objective is the guiding principle for the making and reviewing rules. While it may not directly address consumer protection, it is highly concerning to suggest that the key elements of consumer use of energy, such as price, safety and reliability, would be forgone or disregarded in favour of perceived consumer protection outcomes. Aurora argues that the National Energy Objective is the primary basis for consumer protection and requires no qualification and s113(2) is further evidence of a step away from the intent of the AEMA in establishing an efficient energy market.

Performance Reporting

Aurora is concerned over the potential impact of the performance reporting obligations on performance reporting on large customers associated with Section 1002 of the NERR, especially the application of 1002(1)(e) to large customers and commercial-in-confidence arrangements. Aurora questions whether there is any benefit to be derived from the reporting on energy affordability of large customers in a contestable environment, in both effective and non-effective competitive sectors. In some instances in Tasmania, one retailer may have a small number of customers. Reporting on the energy affordability of a small number of customers creates the likelihood that commercial-in-confidence arrangements will be breached.

Aurora calls for a review of the interaction of 1002(1)(e) with the reporting on large customers, including whether there is a need for regular reporting of large customer data. Again, Aurora highlights that the NECF should produce a benefit for retailers in operating across jurisdictions while recognising consumer protection requirements.

Relationships between Distributor and Retailers; between distributors customers

As highlighted in our submission to the First Exposure Draft, Aurora defers comments on the contractual relationships to the relevant peak body associations. However, as raised in that submission to the First Exposure Draft, there is one issue associated with the contractual model that is of particular concern to integrated retail and distribution businesses. This is the inability of such an entity's retail and network arms to contract with each other. In this regard, Aurora would be non-compliant with the key basis of the proposed contractual model. As per our previous submission, we perceive this as a drafting issue that can be mitigated at this point in time and avoid the need for unnecessary transitional provisions. We again request this be considered for the final version of the NECF.

Conclusion

Aurora believes the NECF is an important step in the progression of national energy reforms but stresses its concern that the Second Exposure Draft seems to move away from the intent of Australian energy market reforms as derived from the AEMA. Further, that key policy decisions presented in the SCO Policy Response document appear to have been altered without proper consultation.

On the elements of particular concern to Aurora, namely prepayment metering regulation, we ask that full consideration of our concerns be provided, given Aurora's extensive experience (and the experience of the Tasmanian jurisdiction) in prepayment metering regulation. We are happy to discuss these concerns with representatives from the RPWG as the feedback on the Second Exposure Draft is considered over the coming months.