

26 February 2010

Manager, MCE Secretariat
Department of Resources, Energy and Tourism
GPO Box 1564
Canberra ACT 2601

Dear Sir / Madam

National Energy Customer Framework – Second Exposure Draft

Simply Energy welcomes the opportunity to comment in response to the Second Exposure Draft of the National Energy Customer Framework (NECF), released by the Ministerial Council on Energy's Standing Committee of Officials on 27 November 2009.

Simply Energy is an energy retailer operating in Victoria and South Australia. It has around 350,000 accounts, providing electricity and gas to residential, small and large business customers.

The Energy Retailers Association of Australia (ERAA) is providing a separate response to the NECF Second Exposure Draft. The ERAA submission raises a number of general policy and regulatory design concerns as well as detailed drafting comments. Simply Energy is a member of the ERAA, and supports its submission. In particular, Simply Energy endorses the position expressed in the ERAA submission that, as currently drafted, the NECF falls short of the objective specified in the Australian Energy Market Agreement to minimise the regulatory compliance burden and associated costs.

Simply Energy also wishes to comment specifically on a couple of additional issues.

Credit support

Simply Energy generally welcomes the credit support arrangements set out in the Draft National Electricity (Retail Support) Amendment Rule 2010 and Draft National Gas (Retail Support) Amendment Rule 2010. In Simply Energy's view, the proposed credit support arrangements are consistent with the objective of promoting efficient investment in energy services for the long term interests of energy consumers.

The proposed national credit support arrangements reflect similar arrangements currently in place in Victoria and the United Kingdom. The Victorian arrangements in particular are the result of relatively recent work undertaken by the Essential Services Commission, Victoria, and have operated effectively.

One of the strengths of the proposed credit support arrangements is that the amount of credit support required to be provided by a retailer is determined by taking into account the relative risk that the retailer presents to the distributor. It is important that any credit support arrangement finds the right balance between enabling the distributor to adequately manage the risk of retailer default, and minimising the cost to retailers of providing the credit support. The right balance will minimise the costs to consumers (noting that any costs of credit support borne by retailers will most likely be passed on to their customers).

Simply Energy maintains the view that the credit support arrangements should include flexibility for retailers to provide other forms of credit support (other than a bank guarantee) where these are shown to provide acceptable protection from credit risk. Bank guarantees are costly to retailers as they must be backed by cash. It is noted that trade credit insurance has operated as an effective alternative between some distributors and retailers in Victoria, and is specifically provided for in the UK model. Other credit support

alternatives may also emerge as the market for such products develops. The NECF credit support arrangements should specifically provide for alternatives to bank guarantees.

Implementation of NECF

Simply Energy considers that one of the biggest risks of the NECF relates to the transition to it from current jurisdictional arrangements. Principally, Simply Energy is concerned that:

- Business process and systems changes that will need to be effected by industry to support the NECF are not simply "consequential" changes that can be assumed to be ready at a given point in time. Without providing for the detailed specification and programming of procedure and systems changes by industry to implement NECF and coordinated consideration of the requirements of other industry programmes of work, the overall implementation of the NECF may be significantly compromised.
- Jurisdictions appear to retain significant flexibility in "switching off" current jurisdictional arrangements. Without a clear implementation timeline and commitments from the jurisdictions upfront, this may lead to unnecessary retention of existing provisions, and uncoordinated transition from each jurisdiction, undermining the efficiency gains envisaged for the NECF.

To address these issues, the MCE SCO should, as a matter of priority, draft and consult on an implementation plan. The implementation plan should address the impacts on industry processes and systems and the timelines for industry consultation on these impacts (via existing industry working groups). It should also seek commitment from existing jurisdictions to the timing of the transition.

Please feel free to contact me if you would like to discuss this submission further.

Yours sincerely



Alex Fleming
Legal and Regulatory Manager