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29 January 2007

Manager
MCE Secretariat
Department of Industry, Tourism and Resources
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Dear Sir/Madam

NATIONAL FRAMEWORK FOR DISTRIBUTION AND RETAIL REGULATION – WORKING PAPER 2

Powerdirect Australia Pty Ltd (Powerdirect) and its wholly owned subsidiary Powerdirect Pty Ltd appreciate the opportunity provided by the Ministerial Council on Energy's (MCE) Retail Policy Working Group (RPWG) to comment on the *National Framework for Distribution and Retail Regulation – Working Paper 2* (Working Paper).

Powerdirect is an active retailer in the National Electricity Market (NEM) and experiences the costs and complexities of operating across jurisdictional borders and jurisdictional regulatory frameworks, on a daily basis. Powerdirect fully supports the RPWG's development of recommendations for a national regulatory framework for retail and distribution that balances minimisation of the regulatory burden with the introduction of explicit consumer protections only where required.

Comment on the individual sections of the Working Paper is provided below.

Contractual Models for Distribution Services

Powerdirect supports the recommendation of the NERA Economic Consulting and Gilbert and Tobin consultation paper (consultation paper) to adopt a triangular relationship for the national framework. A national contractual model is essential, as diversity results in system and process duplications along with consumer confusion. Ultimately this results in additional costs and jeopardises the delivery of the economic benefits attributable to the reform process.

Despite acknowledging at the outset that all of the prospective models are workable, we are concerned at the suggestion that a pure triangular model is unworkable in the absence of any supporting evidence. We note that the triangular model currently operates in South Australia and will be implemented in Queensland to coincide with the introduction of Full Retail Competition. In the South Australian instance, this model has proven to be workable particularly with respect to billing and receipting functions.

Powerdirect is concerned by the assertion that 'the retailer ... take the customer credit risk'. Albeit this view is consistent with conventional wisdom, it fails to recognise the actual allocation of risks between distributors and retailers. Powerdirect believes prior to any allocation of risk an assessment of all applicable regulatory obligations should be conducted so to ensure an appropriate allocation of risk is achieved, from both a commercial and economic perspective. Failure to appropriately assess and allocate risk may result in uneconomic outcomes, such as cross-subsidisation between distribution and retail businesses and consumers paying higher energy prices.

Distributor Interface with Retailer

Due to the monopoly characteristics of the services provided by distributors, Powerdirect supports option one. That is, a contract between the distributor and retailer is deemed to arise when a retailer supplies to a customer connected to the distributor's network. Options two and three are not supported as retailers are generally not in a position to negotiate with distributors. The difficulty for retailers to enter into such agreements with distributors has been evidenced across the NEM in various forms, such as negotiations on credit support and use of system agreements/coordination agreements, which have ultimately resulted in the jurisdictional regulator either facilitating negotiations or mandating a deemed agreement.

As noted previously, a consistent set of regulatory/commercial principles should be applied by all distributors to ensure the full efficiency benefits attributable to a NEM wide approach are achieved. Failure to minimise jurisdictional variations undermines the potential for the material benefits of reform to be fully achieved and realised by consumers through increased competition and reduced prices.

How are Terms and Conditions of the Contract Regulated?

Powerdirect does not support the view that initial responsibility for defining the terms and conditions should rest with the distributors. Throughout the working paper, much of the analysis has been prefaced on the assumption that retailers can effectively negotiate with distributors. Albeit opportunities currently exist for a retailer and distributor to negotiate commercial arrangements, the ability of a retailer to truly negotiate a commercial arrangement should not be overstated. Similarly, neither should the willingness of some distributors to consider alternative arrangements, given many of the current default arrangements are set in the distributors favour.

To ensure a level playing field for negotiation, Powerdirect supports option five, where the regulator is required to conduct a consultative process with retailers, distributors and other stakeholders to determine the contract terms and conditions. As noted previously, prior to or as part of the consultative process a review of the regulatory instruments should be conducted. Failure to analyse the actual allocation of risk will ultimately lead to economic inefficiencies and higher energy prices.

Please feel free to contact me on (07) 3023 2478 should you wish to discuss any aspect of Powerdirect's submission.

Yours sincerely

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