



Meridian Energy Australia Pty Ltd
Level 15, 357 Collins Street
Melbourne VIC 3000

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Australian Energy Market Commission

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Consumer protections in an evolving market: New energy products and services 2020 Retail Energy Competition Review

Meridian Energy Australia Pty Ltd and Powershop Australia Pty Ltd (MEA Group) thanks the Australian Energy Market Commission (the AEMC) for the opportunity to provide comments in response to both the Consumer protections in an evolving market: New energy products and services Issues Paper 1 (Issues Paper 1) and the Traditional sale of energy Issues Paper 2 (Issues Paper 2) 2020 Retail Energy Competition Review.

Background on the MEA Group

MEA Group is a vertically integrated generator and retailer focused entirely on renewable generation. Powershop is an innovative retailer committed to providing lower prices for customers and which recognises the benefits to customers in transitioning to a more distributed and renewable-based energy system. Over the last five years, Powershop has introduced a number of significant, innovative and customer-centric initiatives into the Victorian market, including the first mobile app that allows customers to monitor their usage, a peer-to-peer solar trading trial and a successful customer-led demand response program. Powershop has also been active in supporting community energy initiatives, including providing operational and market services for the community-owned Hepburn Wind Farm, supporting the Warburton hydro project, and funding a large range of community and social enterprise energy projects through our Your Community Energy program.

Powershop has been a market leader seeking new, innovative and technological products that can assist our customers to manage their energy demand and affordability. However, these further technological capabilities and their dynamic application means the current regulatory framework in the market must also be agile and capable of supporting stakeholders providing consumers a strong choice of products and services, whilst protecting those consumers accordingly. Poor regulation is a natural antagonist to innovation and progression so the modernised regulatory framework should not act as a constraint to advancement.

Powershop believes that the current consumer protections provided by the Australian Consumer Law (ACL) and the National Energy Customer Framework (NECF) remain strong. The New Energy Tech Consumer Code (NETCC), whilst voluntary and applies a principles-based approach to regulation, has known overlaps with the ACL. Such overlaps must be more carefully considered as the AEMC aims to achieve a strong balance between proportionate consumer protections and incentivising stakeholders. Overlap in regulatory requirements fundamentally cost money and wasted resources that could otherwise be invested in the products and services we wish to provide.

Powershop does not believe that an overreach of consumer protections for issues outside of its control (e.g. solar panel or battery performance) are beneficial to further evolving and innovating its products and services for customers and believe competitive neutrality in providing such products and services would significantly assist in achieving this balance.

Please find below our responses to the questions raised in Issues Paper 1.

1. Market developments and consumer protections: Are there any other market developments the Commission should consider when assessing consumer protections for new energy products and services?

Powershop holds a strong view that there are many providers in the market, particularly solar based providers that operate free of specific product disclosure (e.g. solar panels, batteries) to the same requirements of an energy retailer. Any participant, through their product or service that has a responsibility to the access to energy for a customer, should be required to provide under the ACL and NECF, the appropriate advice before a customer can make such a significant purchase.

2. New business models and innovation in the market: Are there other business models the Commission should consider in its analysis of new energy products and services?

Powershop does not believe that the AEMC needs to assess the need to regulate at the business model level. Regardless of any model an energy provider may develop and look to introduce, stakeholders are still bound by the ACL and NECF protections as is relevant. If the AEMC was to regulate, even at a principle level a business model then the incentive to develop such models would be reduced and the flow on effect is multiple lost opportunities for customers to potentially benefit from such models.

The AEMC should consolidate the premise that current customer protections are adhered to in order to develop any business model, regardless any level of complexity.

5. The supply of energy is an essential service: What are the elements that define the supply of energy as an essential service?

Supply of energy is now secondary behind the customer having 'access' to energy. Access to energy from the national grid for the customer should be the primary defined term of an essential service. Supply in the current market is now a two-way mechanism where the customer can also feed electricity back into the national grid. Logically access is the essential service and supply can come in many forms to deliver this access.

6. Changes in the nature of energy service: Has the essential nature of the sale of energy changed with the market's evolution?

Powershop believes that whether a customer is highly engaged or not engaged in the market, the essential nature of energy has not changed and we do not believe will ever change whilst access to energy remains fundamental to a satisfactory standard of living.

8. New energy products and services: For the supply of new energy products and services, is there any risk of consumer detriment that needs to be considered to have additional consumer protections (industry-specific regulation) beyond the voluntary framework? Please explain.

As we advise in our response for Question 1, having discretionary levels of regulation, depending on your entity type will always cause a natural friction between the protections you may get from stakeholder under a customer contract to the next stakeholder.

Powershop believes that the current framework of the ACL, NECF and the NETCC is enough to detect and rectify consumer detriment in the market. Powershop would prefer to see all market participants to be subject to this current framework in order to achieve competitive neutrality and technology neutrality.

9. Application of energy consumer protections: Which elements of the energy market are useful to define the scope of the energy specific consumer framework?

Powershop encourage the AEMC to apply an assessment on the delivery and performance of a business model based on consumer choice and market drivers rather than assessing if a model would be suitable before it goes to market. A retailer will research and develop a model based on its own results and feedback. Once the proposed model goes to market, it would then be for consumer choice and decisions as to whether this model is successful. What should be protected for the customer is what we have responded to earlier in the submission. Applying the require ACL and NECF disclosure requirements.

10. Objectives of an overarching consumer framework: Do you agree with the objectives identified by the Productivity Commission? Are there other objectives the AEMC should consider?

The AEMC consultation refers to the Productivity Commission identifying two benefits to industry-specific consumer regulation; high risk of consumer detriment and/or the detriment suffered if things go wrong is potentially significant and possibly irreparable, as well as possible regulations when suitability and quality of services hard to gauge before or after purchase.

We agree with the sentiment of the response from the Australian Energy Council in their submission that despite the expense of generation and storage products causing possible financial detriment to a customer, the market will ultimately determine that some technologies will be eventually be made redundant either by price or by more advanced technology based products and services.

What should be the objective is to reduce the deficiency in the information provided on a product or service to a customer. As is currently occurring, regulating information issues is far more effective than trying to protect consumers from their own decisions. Trying to regulate consumer choice would likely impede market innovation at a broad level.

13. Vulnerable consumer: For new energy services and products, what characteristics of a vulnerable consumer should be considered under the energy-specific regulatory framework different to any other industry? Why?

Powershop does not believe that for new products and services there is a need to have specific vulnerable customer requirements beyond the strong protections already in existence under the NECF. A new product or service does not highlight any further risks to vulnerable customers when compared to broader market.

15. Policy risks: What are the risks of extending the obligation of having policies that identify and protect consumers under vulnerable circumstances to new energy services and products suppliers?

The Issues Paper has not identified through any evidence or research what it would be trying to resolve for vulnerable customers by extending obligations via such policies. It is not the product or service that would introduce a customer to a vulnerable. A customer becomes a vulnerable customer only when it is apparent that they are experiencing significant financial stress from an increase in their energy bills. Those factors are usually related to a customer's personal circumstances as opposed to any new product or service.

16. Other characteristics for consideration: Do new energy products and services have specific characteristics that require additional protections to prevent unfair practices or conduct against good faith that should go beyond the ACL? Please explain.

Powershop does not endorse any further regulation beyond what is already provided by the ACL, NECF and the NETCC, but would encourage a strong push to further competitive neutrality. As retailers are currently required to do, we would expect all providers in the market to improve their practices of disclosure on material matters including billing, warranties, lifespan as well as advise of relevant dispute resolution mechanisms (particularly when a retailer fields a complaint about a product not even affiliated with their business).

Full disclosure has always been in the best interests of a retailer such as Powershop so that customers remain with and support our business in return. This is a concept all too frequently forgotten from regular industry forums, workshops and debates industry stakeholders, regulators and consumer representatives participate in when 'retailer behaviour' is discussed.

17. Additional redress mechanisms: Does the nature of the market (new energy services and products) require an industry specific system/scheme to handle consumer complaints? Please explain.

No. The current dispute resolution mechanisms are complicated but manageable between the retailer, customer and state-based Ombudsman. A further scheme on top of this framework would be costly, time consuming, resource hungry (e.g. ongoing education requirements for continued business model developments for ombudsman staff) and likely does not provide customers with any tangible benefits.

20. Enforcement of the energy consumer framework: How could the enforcement tools and actions under the voluntary framework be better integrated with the ACL and the NECF? Please explain.

The ACL and NECF where relevant should prevail above all voluntary mechanisms. That is the cleanest way to integrate the three frameworks.

Powershop believes that the broad consumer protection frustrations faced by the energy market have stemmed from poor stakeholder behaviour; a lack of disclosure or delivery on various elements of a customer contract or the conduct of that stakeholder. Our recent experience comprises very positive feedback on our products that have been subject to significant innovation or differentiation from the market. One key driver for the success of innovation for Powershop has been customer satisfaction with the outcome, without the need of further energy specific regulation.

If you would like to discuss any aspect of this submission please do not hesitate to contact me.

Yours sincerely,

Alan Love
Regulatory Manager
Meridian Energy Australia
Powershop Australia Pty Ltd



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Attention: Ms Stephanie Flechas

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Powershop is pleased that the AEMC is seeking to review and, where appropriate, modify broad requirements under the National Energy Customer Framework (NECF), specifically where the more dynamic innovative market has forced billing requirements and Explicit Informed Consent (EIC) to become partially redundant. We do caution that the NECF should be reviewed in a manner that avoids snapshot regulation and ensure that it can absorb the market's ongoing, constant change and digital transition.

In order to compete in the market, Powershop is a retailer that relies heavily on the ability to differentiate from incumbent, vertically integrated retailers not only on price but products and services. Part of this differentiation is in our ability to be able to provide products and offers that are based on continued digitalisation of the industry. In order to further innovate this part of the market there are regulatory burdens that we believe curtails this progress.

Please find below our responses to the questions raised in Issues Paper 2.

1. Information provision in the contents of bills: Are the current requirements for the information and delivery of information that is required to be included on restricting innovation and digitalisation? If so, what changes would allow innovation to occur?
Yes. The notion of presenting 24 requirements on a Bill under Rule 25 alone was based upon the need for customers to receive a quarterly bill. As of a result of improved technology, the industry now has the ability for

most, if not all, information requirements under this rule to be placed into various non paper applications, including mobile phone apps and online accounts that the customer can view on demand.

This rule is antiquated in today's market, with many of the requirements retrospective in their nature when customers today can access real time information and data regarding their energy usage.

Powershop is provided with regular feedback suggesting that customers do not necessarily review their paper bills. With the proliferation of mobile phones comes the opportunity for customers to far more easily engage with their energy bills.

With significant costs and resources incurred by retailers to produce these bills, the AEMC is taking the correct action of reviewing whether this is no longer required for the benefit of customers and retailers.

2. Forms of regulation (bills): Does the current form of regulation of information provision restrict innovation and digitalisation? If so, what form of regulation —the mechanism employed— could be introduced? For example, could industry self-regulation or principle-based regulation better facilitate innovation and digitalisation?

Powershop supports the proposed rule change that the Australian Energy Council present in their submission to Issues Paper 2. In summary, customers on a Standing Offer contract would continue to receive a paper bill. This allows those customers not engaged with their energy account to continue to be formally informed and the prescriptive protection remains.

However, a new Rule 25A applying to Market Retail Customers advises that the Bill Contents could be made available to the customer at any time and based upon what a customer may wish to either see online or receive by mail. This approach allows a retailer to further develop and innovate for their engaged customers the best delivery methods for this information, unencumbered by the current regulatory burdens. This dynamic approach would allow for greater incentive to develop products and services that customers can then choose based on their preferences.

3. Notifications: Do the current requirements on delivery of information of notifications to consumers restrict innovation and digitalisation? If so, what changes would allow these to occur?

Please note our response to Question 2.

4. Forms of regulation (innovation): Does the current form of regulation of information provision restrict innovation and digitalisation? If so, what form of regulation —the mechanism employed— could be introduced? For example, are industry self-regulation or principle-based regulation appropriate methods of regulation?

Powershop encourages the AEMC to seek changes to the NECF information provision requirements that allow retailers to be incentivised to notify our customers in an agreed manner before a change is made to their contract terms and conditions, providing simpler products. Simpler products can mean less changes to contract terms and reduce the need to inundate customers with unnecessary communications. We agree with the AEC submission that as long as a customer receives advice of when their contract is amended, there is no significant risk to customers caused by the removal of information provision obligations.

Such changes will then also ensure that market best practice can determine if a customer wishes to remain with their retailer or if they choose another retailer based on their different communication needs.

5. Explicit informed consent in a digitalised market: Is the current method prescribed in the NECF for retailers to record EIC restricting innovation and digitalisation? If so, how could it be changed to allow these to occur?

Powershop believes that the highly prescriptive Explicit Informed Consent (EIC) process under the NECF may no longer be required for solicited contracts. A customer will make a conscious decision to engage and take up an offer based on their own needs. Retailers need to ensure they maintain the relevant Australian Consumer Law and NECF disclosure requirements prior to the customer entering a contract.

Additionally, Powershop believes that there are other items (e.g. billing arrangements) currently applying a highly prescriptive EIC process, should be reviewed considering current technological capabilities. Powershop supports further consultation with the AEMC on these processes for EIC.

6. Temporary explicit informed consent waiver: Should energy consumers be able to waive EIC for certain services for a given time period?

Please note our response to Question 5.

7. Explicit informed consent, innovation and digitalisation: Are the current provisions that require retailers to have a record of EIC restricting innovation and digitalisation? If so, how could these be changed to allow these to occur?

Powershop believes that records of EIC would be consistent with our recommended approach in Question 5.

8. Explicit informed consent delegation on a third party: Should energy consumers be able to provide EIC to a third party to interact with the retail market on their behalf? If so, what arrangements should be in place?

Powershop acknowledges that there are certain circumstances where a third party may provide EIC on behalf of a customer (e.g. energy broker or aggregator). However, it is not clear who then takes responsibility for activity that occurs on an account once the contract is entered.

For example, for the same requirements a retailer must maintain a record of EIC, a relevant third party must also adhere to those requirements when they act on the customer's behalf. The disclosure conduct of a third party in advising a customer of a preferred product or offer prior to contacting the retailer should be treated in the same consistent manner to a customer who contacts a retailer directly.

9. Cooling-off period under the NECF: Are cooling-off period protections for solicited retail market contracts still beneficial? If so, why? If not, what improvements could be made?

No. The pending application of the Australian Energy Market Operator's customer switching timeframes to allow a customer to transfer retailers will act as a stronger protection for customers, negating any benefits the cooling-off period protections would otherwise provide.

Powershop would like to work further with the AEMC on these potential initiatives as we agree with the AEMC's view that modification to the NECF is essential for the market not just for today but tomorrow. If you would like to discuss any aspect of this submission, please do not hesitate to contact me.

Yours sincerely,

Alan Love
Regulatory Manager
Meridian Energy Australia
Powershop Australia Pty Ltd