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Energy Policy WA
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Draft Code of Practice for Behind the Meter Services

The Australian Energy Council (the “**AEC**”) welcomes the opportunity to make a submission to Energy Policy WA on the Draft Code of Practice for Behind the Meter Services (the “**Draft Code**”).

The AEC is the industry body representing 24 electricity and downstream natural gas businesses operating in the competitive wholesale and retail energy markets. These businesses collectively generate the overwhelming majority of electricity in Australia and sell gas and electricity to over 10 million homes and businesses.

Introduction

The energy landscape has changed considerably in recent years and technological advancements have enabled new business models and services. These developments can potentially benefit consumers but the current licensing and regulatory framework under the *Electricity Industry Act 2004* (the “**Act**”) isn’t sufficiently equipped to protect customers who are accessing these alternative electricity supply arrangements.

In this context, the AEC supports the creation of the Draft Code to provide a more robust regulatory framework, to ensure consumers are adequately informed and protected, and to provide a more level playing field between behind-the-meter (“**BTM**”) providers and existing retailers and network operators.

It is noted, however, that Energy Policy WA made clear during the stakeholder engagement process that the regulation of embedded networks is not under consideration in the development of the Draft Code. The AEC would prefer that embedded networks are included in the Draft Code due to their large and growing uptake, and the cross-over with BTM products and services. It will reduce regulatory burden by having a multi-purpose code rather than multiple regulatory codes effectively establishing the same customer protections.

Notwithstanding this, the AEC makes the following comments about the Draft Code for Energy Policy WA’s consideration.

Part 1 – Preliminary

Behind-the-meter code participant – This definition should specifically exclude the holder of a retail license issued under the Act.

Behind-the-meter meter – It should be noted that this is a separate meter to the network operator’s meter and the meter is required to be of ‘revenue meter’ standard under the Electricity Industry (Metering) Code 2012 (the “**Metering Code**”).

Complaint – This definition relies on the BTM provider registering the complaint. A complaint may not be registered for many reasons so it is suggested that ‘registered’ be replaced with ‘lodged’.

Part 2 – Marketing and Information Provision

2.4 (1) u

- In addition, this clause should specify who is responsible for the connection and for obtaining any necessary approvals to connect to the network.

2.5 (2)

- It is suggested that this information is given to a BTM customer ‘before’ entering into a BTM service agreement, not ‘when’ entering the agreement.
- BTM customers should be fully informed about the BTM service. As part of this, the BTM providers must be compelled to provide a comprehensive offer, including the expected performance of the BTM system, any limitations or exclusions, a complete list of inclusions, any warranties offered by the BTM provider or equipment manufacturers, the timeframe for rectifying warranty claims, a breakdown of costs, and confirmation that the installation will comply with all safety regulations, manufacturers’ specifications, Australian Standards and other requirements.
- Many BTM providers offer a finance component to their BTM services. The AEC suggests that BTM providers who offer finance must disclose to BTM customers if they are a licensed credit provider or comply with an industry code of practice, the full terms of the finance, and provide any information reasonably requested by the BTM customer about the finance.

2.6 Compliance

- The Draft Code does not appear to consider retailers or network operators despite BTM services potentially increasing their liability. For example, controller liability and obligations under the Access Code (WA). The AEC encourages Energy Policy WA to outline in the Draft Code how BTM providers will address situations where their actions may affect retailer or network operator liability or requirements.
- 2.6 (2) and (3) mentions the penalties when a BTM marketing agent contravenes the Part, however there is no reference to a penalty if a BTM provider contravenes the Draft Code. The Draft Code should be amended to specifically address this.

Part 4 – Metering

A core objective of the Draft Code is to protect and inform BTM customers. However, the metering requirements in the Draft Code are inadequate to meet this objective and give BTM providers far too much discretion. The AEC recommends that the metering requirements should adopt elements of the Metering Code and, in particular, address items such as a requirement to install a meter to the standard of a ‘revenue meter’, meter reading standards, and data validation, ownership and confidentiality.

Conclusion

The AEC appreciates this opportunity to provide feedback on the Draft Code. The AEC is supportive of the establishment of the Draft Code but encourages Energy Policy WA to further consider the issues outlined above.

Any questions about our submission should be addressed to Graham Pearson, Western Australia Policy Adviser by email to graham.pearson@energycouncil.com.au or by telephone on 0466 631 776.

Yours sincerely,

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