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Submission

22 March 2019

Review of the NERL in Queensland – Discussion Paper
Customer Strategy and Innovation
Department of Natural Resources, Mines and Energy
PO Box 15456
CITY EAST QLD 4002

Via email: Energy.Reform@dnrme.qld.gov.au

Dear Sir/Madam

Re: Review of the National Energy Retail Legislation (Queensland) Discussion Paper

The Queensland Farmers' Federation (QFF) is the united voice of intensive, semi-intensive and irrigated agriculture in Queensland. It is a federation that represents the interests of peak state and national agriculture industry organisations, which in turn collectively represent more than 13,000 farmers across the state. QFF engages in a broad range of economic, social, environmental and regional issues of strategic importance to the productivity, sustainability and growth of the agricultural sector. QFF's mission is to secure a strong and sustainable future for Queensland farmers by representing the common interests of our member organisations:

- CANEGROWERS
- Cotton Australia
- Growcom
- Nursery & Garden Industry Queensland (NGIQ)
- Queensland Chicken Growers Association (QCGA)
- Queensland Dairyfarmers' Organisation (QDO)
- Australian Cane Farmers Association (ACFA)
- Flowers Australia
- Pork Queensland Inc.
- Queensland United Egg Producers (QUEP)
- Queensland Chicken Meat Council (QCMC)
- Bundaberg Regional Irrigators Group (BRIG)
- Burdekin River Irrigation Area Irrigators Ltd (BRIA)
- Central Downs Irrigators Ltd (CDIL)
- Pioneer Valley Water Cooperative Ltd (PV Water)
- Theodore Water Pty Ltd.

QFF welcomes the opportunity to provide comment on the Discussion Paper titled 'Review of the National Energy Retail Legislation (Queensland)'. We provide this submission without prejudice to any additional submission from our members or individual farmers.

QFF notes that there are consecutive consultations occurring around the National Electricity Law (NEL) and the National Energy Retail Law (NERL) and associated rules including, but not limited to, the regulatory arrangements for stand-alone power systems (SAPS)[1]. This review was requested by the COAG Energy Council to determine appropriate law and rule changes to permit SAPS where it is economically efficient to do so while maintaining appropriate customer protections and service standards.

As such, it is noted that amendments that be made will require additional changes to the Queensland legislation beyond the Queensland Government's current consultation process. QFF welcomes, the Department's acknowledgement that it is '*also interested in stakeholder feedback on further actions that could be taken by government, industry or consumer groups to maximise the benefits of the NERL and make it easier for consumers to engage in the market*' (page 8).

Previous Amendments

QFF notes that the Queensland Government formerly made amendments through the Electricity Competition and Protection Legislation Amendment Bill 2014, the objectives of which were to amend the *Electricity Act 1994* (the Electricity Act) to remove retail price regulation in south east Queensland (SEQ) and establish an effective market monitoring regime; and amend provisions of existing Queensland energy legislation to avoid duplication upon commencement of the National Energy Retail Law (Queensland) Bill 2014 and to ensure that the remaining provisions continue to operate effectively.

The Queensland Government announced its intention to increase competition in SEQ by replacing retail price controls with a more light-handed market monitoring approach and apply the NERL as a law of Queensland following an Interdepartmental Committee review of the Electricity Sector in Queensland. QFF understands that the review arose out of long-standing concerns about: the cost effectiveness of electricity supply; the viability, sustainability and competitiveness of the electricity sector; and the financial sustainability of arrangements for government.

Introducing market monitoring in SEQ and applying the NERL forms part of a wide-ranging suite of reforms announced by the Queensland Government in response to the review and underpinning the reforms are three strategies:

- Strategy 1 is to stop building unnecessary infrastructure and improve the efficiency of network businesses.
- Strategy 2 is to maximise the benefits of competition while protecting customers.
- Strategy 3 is more effective government.

QFF notes that some of the largest price increases for agricultural customers have been in SEQ since the deregulation of the market. QFF has received bills indicating price increases of 14 per cent at the same time where the increases in the regulated market (Ergon area) for the same tariff were limited by the Queensland Competition Authority to under 3 per cent.

While the merit for open competition is well understood, electricity retailers continue to gouge business customers. It is acknowledged that despite the open competitive framework, most SEQ customers are not pursuing alternative agreements or offers from competing retailers.

The ACCC report noted:
Those customers who have been active in the market, regularly reviewing options and switching between offers, have been the beneficiaries of competition. These customers are likely paying less than the average cost to retailers of supplying electricity. The full extent of costs associated with attracting and retaining customers are therefore borne by inactive or loyal customers and those unable to navigate the complexities of the market. The gap between the best and worst offers in the market has been

[1] A SAPS is an electricity supply arrangement that is not physically connected to the national grid. This includes micro-grids which supply both single and/or multiple customers.

widening, effectively acting as a tax on disengaged customers, whether a customer is disengaged by choice or because of the unnecessary complexity.

The dominant form of competition among retailers has been the advertisement of large headline 'discounts' which retailers have observed are an effective and simple way to connect with price conscious consumers. These discounts are highly problematic for several reasons. Each retailer sets its discounts with reference to its own independently set prices (usually standing offer prices) meaning that there is no easy way to compare the headline discount of one retailer to that of another. In many cases, consumers will be better off with offers that have lower discounts attached to them but which have a lower underlying tariff rate. A further problem with discounting is the common practice of the discount being conditional on the customer paying on time.

Whilst the ACCC report focused heavily on the residential market, QFF notes that many small business owners do not feel that they have the time or knowledge to critically review the retail market electricity offerings. And while retailers will publish their contract offers online and on the AER's independent price comparator website (Energy Made Easy), the rate of 'retailer switching' for both business and residential customers has not been as high as anticipated. Indeed, active engagement requires a minimum understanding of consumptive electricity use and for particularly business tariffs, the time and load associated with that use.

As noted in the Discussion Paper, *'research by the AEMC indicates that awareness of Energy Made Easy and other platforms remains low'* (page 12).

QFF remains critically concerned about the level of information available to and understanding amongst many small business owners with regards to their electricity consumption and pattern of consumption. It is also difficult to have visibility as to how many small, medium and large businesses are changing retail options.

The ACCC's recommendation in respect of improved and streamlined price reporting (recommendation 40) should include expanded reporting for small to medium business. Price reporting for businesses should be consistent with residential electricity price reporting and retailer cost reporting. The expanded and streamlined reporting process would also allow for disaggregated data on business customer switching trends, reporting on what SMEs are paying, and reporting on the kinds of offers they are on. This would make it easier for business and sectoral advocates to determine issues, behaviours and opportunities and instil transparency.

The metrics as shown in Appendix 3 (Time series data for customer protection indicators - residential) must also be available for businesses (small business as a minimum).

Hardship

QFF notes that on 15 November 2018, the AEMC made a rule to assist energy customers who were experiencing hardship and the ability to pay their bills. The rule aims to improve retailers' hardship policies, so customers can better understand their rights and where to seek assistance.

The rule requires the AER to develop Hardship Guidelines that include consistent and specific statements that retailers must include in their hardship policies. The statements providing guidance to customers and advocated on their rights, while allowing retailers flexibility in how they develop the hardship programs to meet their customer' needs.

Timing is critical, with the AER's Hardship Guidelines to be finalised by 1 April 2019, and retailers then having two months to submit their updated policies taking into account the new requirements to the AER for approval and implementation by 1 October 2019.

QFF recognises that Network businesses can play an important role in working with other energy sector stakeholders to support vulnerable customers. Increasing the involvement of networks in assisting vulnerable customers should play to the strengths of the network business and their potential unique contribution.

QFF strongly supports the AEMC decision to mandate Hardship Guidelines and welcomes the development of the AER Guidelines. A customer is vulnerable when they are at risk of experiencing significant financial stress due to a moderate increase in their energy bills, due to their own personal financial circumstances. A customer's personal financial circumstances are likely to change over time, and so any individual customer may move in and out of our concept of vulnerability over their life.

According to Housekemp (2015), vulnerability is not a binary condition, that is a customer is not simply 'vulnerable' or 'not vulnerable'; rather, vulnerability is more accurately a continuum, where the degree of vulnerability increases with the financial stress which is caused by changes in energy costs[2]. QFF believes that both vulnerability and hardship apply both to householders and businesses or all sizes, particularly to the farming sector where external climate pressures/events, exposure to fluctuations in the international commodity markets and the increasing variability experienced across growing-seasons all directly impact cash flow.

While we note there are indications that pressure from network price increases is easing slightly for some tariff groups[3,4], there are a number of changes underway in energy markets in Australia that are resulting in higher energy bills for some consumers. Namely, the structure of electricity distribution network tariffs faced by households and small to medium businesses are changing to better signal the costs of the use of the network at times of greatest demand. These 'blunt' signals are not appropriate for many farming enterprises who cannot respond to demand charges due to water licence constraints, climatic conditions, food storage and safety requirements and animal welfare management amongst other factors.

Protections for Small Businesses as a Minimum

QFF welcomes the protections for vulnerable households within the recently released AEMC Hardship Guideline. Nearly 30 per cent of the workforce in primary production earn under $800 per week[5]. Noting that some awards do allow to pay a lower rate (which will lower the base to $591.69) and workers may also be paid under a piecework agreement.

However, QFF acknowledges that protections for small and large business are also needed. QFF understands that the NERL (including NERL Qld) specifies that the requirements around hardship relate to residential customers only and, as such, the AER cannot extend the application of hardship requirements to small to medium enterprises (SMEs) until there is a change in the Retail Law. QFF recommends that this change needs to be enacted with haste and is also relevant to the curent review of the *National Energy Regulation Law (Qld).*

QFF also recommends that until there is a change in the Retail Law, energy retailers should be strongly encouraged to go beyond the minimum requirements in developing and implementing hardship policies for businesses. Where customer hardship policies are extended to SMEs it will enable them to better manage their payments and, importantly, enable continuation of operation.

[2] HoustonKemp Economists. (2015). Supporting Vulnerable Energy Customers. An Options Paper for the Energy Networks Association. 2015.
[3] QCA Draft Price Determination: 2019-20 Regulated electricity prices for regional Queensland http://www.qca.org.au/Electricity/Regional-consumers/Reg-Electricity-Prices/In-Progress/2019-20-Regulated-electricity-prices-for-regional
[4] Energy Queensland. Regulatory Proposal 2020-2025. https://www.aer.gov.au/networks-pipelines/determinations-accessarrangements/ergon-energy-determination-2020-25/proposal
[5] 6102.0.55.001 - Labour Statistics: Concepts, Sources and Methods, Feb 2018 (Survey of Employment and Earnings). See Table 3.2 EMPLOYEES (excluding OMIEs) IN MAIN JOB: Hourly earnings in main job – Selected characteristics – By industry of main job.

Queensland has over 426,000 small businesses (defined as those employing less than 20 people), representing over 97 per cent of businesses state-wide and employing approximately 44 per cent of all private sector workers. Small businesses are critical to many regional areas and vital to Queensland's economy[6]. Agriculture, forestry and fishing companies are in the top five small of business industries in Queensland[7].

QFF also notes that many small and micro businesses are located within homes, making their visibility to networks difficult and separation of a hardship policy (from household to business) challenging. This is a factor which must also be considered within the current guideline.

Definition of Small Customer

QFF strongly recommends that the Queensland Government increases the small business customer threshold from 100 MWh per year to 160 MWh per year. QFF challenges the proposition that a small business[8] (outside the professional and service industries) only consumes 100MW per annum. Certainly, under all definitions of a small business[8] for the intensive agricultural sector, electricity consumption will be in excess of 100MW.

QFF has been verbally advised by Energy Queensland (EQ) that the Ergon Retail area has around 2,000 NMIs (or sites) which fall into the 100-160MW threshold. Apparently, there is no visibility by EQ of businesses within the 100-160MW range for South East Queensland.

QFF understands that 'small customer thresholds are 160 MW in South Australia and 150 MW in Tasmania. With the ACT, NSW and Queensland setting 100MW. Although NSW did utilise the 160MW threshold when it introduced the NERL in 2011, but later changed the threshold to 100MW.

Increasing the utilisation of the Ergon Energy Network above the current level of 39 per cent will alleviate the need for Ergon Energy Network to continue to rely on excessive fixed charges. This requires tariff reform to ensure that small business customers consuming between 100 and 160 MWh per year are not subjected to $/KW demand charges (sites classified as small are subject to more cost-effective charging structures than those classified as large). QFF understands that it is common practice in many businesses to simply install a new NMI and shift demand as businesses approach the 100MW threshold. This is an unintended consequence of this arbitrary limit, increasing administrative burden and metering charges onto the businesses and the networks.

There are also a range of protections afforded exclusively to small customers under the NERL and the *National Energy Retail Law (Queensland) Regulation 2014* as documented in Appendix 2 of the Discussion Paper. There are also 'threshold' issues relating to the removal of the non-reversion policy which again only applies to and benefits small customers.

In the Explanatory Notes for the Electricity and Other Legislation (Batteries and Premium Feed-in Tariff) Amendment Bill 2018[9], it was noted that '*the Queensland Competition Authority advises that as of June 2016, around 38 per cent of large and very large customers in Ergon's area had switched to a private*

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[6] Queensland Government. (2018). Queensland State of Small Businesses. https://publications.qld.gov.au/dataset/queensland-state-of-smallbusiness

[7] Australian Bureau of Statistics, 8165.0 Counts of Australian Businesses, including Entries and Exits, Jun 2013 to Jun 2017, released 20 February 2018. Definition of small business: businesses employing fewer than 20 people.

[8] 'Small business' is defined differently by regulators in Australia depending on the laws they administer. For example, ASIC regulates many businesses that are 'small proprietary companies', which means a company with two out of these three characteristics:

- an annual revenue of less than $25 million
- fewer than 50 employees at the end of the financial year, and
- consolidated gross assets of less than $12.5 million at the end of the financial year.

The Australian Taxation Office defines a small business as one that has annual revenue turnover (excluding GST) of less than $2 million. Fair Work Australia defines a small business as one that has less than 15 employees.

Despite these differences, many regulators have informally adopted the definition of 'small business' used by the Australian Bureau of Statistics (ABS), which is a business that employs fewer than 20 people.

[9] Queensland Government (2018). Explanatory Notes: Electricity and Other Legislation (Batteries and Premium Feed-in Tariff) Amendment Bill 2018https://www.parliament.qld.gov.au/Documents/TableOffice/TabledPapers/2018/5618T183.pdf

retailer. In Ergon's network east pricing zone, transmission region one (effectively the area along the Queensland coastline) the figures are higher, with more than 50 per cent of large and 76 per cent of very large customers having switched to a private retailer at June 2016.

The amendments do not disturb the non-reversion policy for large customers, which has proved very successful for encouraging retail competition in regional Queensland'.

It appears that the analysis presented in the Explanatory Notes only considered how many large customers had changed to a private provider (and then could not return to Ergon Retail) rather than how many of those were on a cost-competitive package compared to the existing Ergon Retail offerings. The level of retail competition in itself is not an indicator of lower retail prices for large electricity users in regional Queensland.

QFF understands that by amending the small customer threshold to 160MW the total revenue requirement across both small and large customers will not change, just the number of customers allocated to each of the small and large categories, so there may be price changes for each group of customers too (all other things being equal).

However, the real issue is the significant 'step-up' in bills when customers move from the small to large customer category. If the step was smoother, customers may not be so concerned (unless their metering is also an issue). To date, QFF has not seen large-customer tariffs which will alleviate the 'step-up' and, as such, increasing the small customer threshold to 160MW is the only solution.

If there are any queries about this submission, please do not hesitate to contact Dr Georgina Davis at georgina@qff.org.au.

Yours sincerely

Travis Tobin
Chief Executive Officer