

27 April 2010

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Australian Energy Market Commission  
PO Box A2449  
Sydney South, NSW  
Attention: Mark Tatuun; Rory Campbell

By email: [aemc@aemc.gov.au](mailto:aemc@aemc.gov.au)

Dear Mr. Tatuun and Mr. Campbell

**Proposed Rule Change Provision of Metering Data Services and Clarification of Existing Metrology Requirements Rule Change - Section 107 Notice ERC0092**

Further to my hurried email of 23 April 2010 following receipt of the AEMC's proposal to consider my correspondence late submission to the AEMC's Draft Proposal I now attach as a .pdf copy the same letter, minus the street address details contained in the original correspondence.

When I discussed with Mr. Tatuun by telephone, he indicated that though he would make enquiries and get back to me, the best plan was to respond to the Draft Decision when published on 6 April.

In the light of the proposal to include after all my correspondence as a late formal submission to the original Proposal, for the sake of a modicum of protection of privacy, including my signature and personal address details in re-submitting.

My intent was to expand on the correspondence and cover further ground. Given my commitments at present and the fact that I am currently on a break from such commitments, the reality is that I will not get to including further relevant material at this stage. I will also need to make a token submission to the AER in connection with their current Regulatory Determination re Jemena's Gas Access Arrangement.

1 of 4

Ltr to AEMC re ERC0092  
Rule Change Proposal Metering Data and Services  
27 April 2010  
Madeleine Kingston  
Individual Stakeholder

Though I have had time to undertaken some limited pertinent market research regarding the range of current data metering providers, the material has not been organized sufficiently to represent a submission appendix.

Nevertheless I believe that the AER and ACCC should be stringent in examining affiliations with outsourced contractors, their inter-relationships, including to holding companies and associations with Singapore Power International itself a holding company sharing ownership with two other Jemena Group companies, which have a number of other companies under its control, including some that are considered to be “outsourced contractors” providing “*metering and data services*” not to end-users of heated water, but rather to developers and/or Owners Corporations. Flawed interpretation of the deemed provisions has resulted in long-standing distortion of consumer rights including but not limited to those under generic laws, contract, tenancy, trade measurement provisions, and unwritten laws.

Please refer to the slides presented by Jemena at the Public Meeting held on 17 December 2009 at which the Chair of the AER gave an overview presentation. One of those slides showed the Jemena Group structure.

Scrutiny of several companies involved in data and metering services, including some that form part of the GridAustralia consortium may be warranted to established ownership. This is a matter for the AER and ACCC but nevertheless pertinent.

These matters are not merely of concern to Gas Access Regulation and Cost Determinations, and not restricted to the current Jemena Gas (NSW) Ltd Gas Access Proposal before the AER. They have implications for all components of the market in all states.

In addition, there are numerous other current AEMC initiatives and AER issues that impact on some of the matters I have raised. It is not my view that bodies responsible for policy, rule and regulation should rely solely on chance inputs from interested stakeholders, but rather that independent and robust independent and accountable research and enquiry should rest with those bodies before incorporating rules and regulations.

It is regrettable that these matters did not receive robust and transparent examination at the time that the NECF2 Package was on the table for discussion and consultative input, which appeared to represent no more than cursory attempts to consider consumer perspectives, notwithstanding the 14 years that the MCE has been examining revised energy regulations, apparently in vacuum conditions without due regard to conflict and overlap with other schemes and impacts.

If I had more time these matters would have been more formally addressed, but given the stage that things are at, these reflections will have to suffice for now. I will endeavour to get a more detailed submission together in response to the published Draft Decision.

Similar considerations will impact on AER and other AEMC current matters and should be taken into account. It really should not be necessary for stakeholders to submit time after time after time material that is pertinent to other arenas.

This material is readily available in the context of other submissions or upon the undertaken of relatively cursory research. The responsibility lies with policy makers regulators and legislators to make sure that matters receive appropriate attention in the light of all available information.

I am disappointed and disturbed that safety and technical issues in relation to fungible commodities such as gas electricity and water energy policy and regulation appear to be well below appropriate levels. I have drawn attention to some of these - rodents and massive wear and tear to essential infrastructure have the potential to cause serious damage. Instead of such issues being addressed as they should, ad hoc suggestions are being made by parties with vested interests to maintain infrastructure that:

- a) are not necessary for the distribution and transmission of energy at all
- b) maintenance of which may not comply with the expectations of the new sole authority of legal metrology;
- c) procedures and practices are apparently being proposed for rubber-stamping without transparent and appropriate levels of stakeholder inputs at all levels or the benefit of Parliamentary sanction

Before the ink pad and paper have connected in relation to proposed national energy provisions, changes are already being contemplated that will have far reaching impacts well beyond consumer protection.

If I had the time I could write a book on this - but alas these scanty comments may have to suffice.

The trade measurement instruments in current use in specified circumstances can calculate neither heat nor volume of gas supplied (or electricity) to individual abodes. Most receive poor quality heated water - leaving aside that energy suppliers, despite owning water infrastructure, do not own the water and therefore cannot sell the water).

The grey areas are how the generic laws and energy laws can be relied upon when the issue of accountability for fitness of purpose and guarantee remain unaddressed. The new proposed energy laws carefully skirt around this by failing to even mention that suppliers are following instructions under codes to distort the principles of sale and supply, and of contractual, guarantee and fitness for purpose principles encapsulated within generic laws, leaving aside the neglected issue of unfair substantive provisions encapsulated into Codes and Guidelines, by implication sanctioned by the MCE and others. I have of course discussed this issue in extraordinary in my Submission 25 to the Senate Economics Committee's Inquiry TPA-ACL-Bill2, and its appendices and in other arenas to no avail so far.

I now refer briefly to the submission by National Retail Technical Standards Committee to the Senate Economics and reflect back similar concerns under many of the following headings, but as applicable to fungible products like electricity gas and water - to say nothing of the myriads of other energy products that are neither referred to within proposed energy laws nor within generic laws. The omission of water in particular is extraordinary.

### **The NRTSC**

The National Retail Technical Standards Committee is a retail industry committee formed to address matters relating to:

- Current or changing standards and regulations applicable to consumer goods or retail merchandise
- Product safety and regulatory reviews and the development of industry positions in response to government or regulatory proposals for change
- Formulation of product recall advice across relevant product categories
- Development of industry standards or codes of practice
- Compliance with codes, standards, and laws and regulations
- Harmonisation of state laws

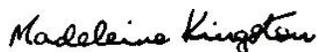
I have already commented on the views of the Pharmacy Guild in their submission to the Senate Economics Committee - as sent to Prof Luke Nottage online and formalized as a Brief Supplementary submission to the Senate Economics Committee.

I hope this will help better inform those making long-range decisions with impacts not only for consumer protection but the entire economy of the country.

I repeat that whilst it is requested that my telephone and email details be retained, my street address should not be, notwithstanding that this is already readily available on the Internet as a result of previously published material submitted in the course of public consultations. Please publish my two items simply as from MADELEINE KINGSTON INDIVIDUAL STAKHOLDER (without title).

I invite enquiry from any interested party by email or telephone.

Sincerely,



Madeleine Kingston

Individual Stakeholder