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Essential Services Commission Victoria  
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## **HARMONISATION OF THE ENERGY RETAIL CODE AND GUIDELINES WITH THE NATIONAL ENERGY CONSUMER FRAMEWORK**

Alinta Energy appreciates the opportunity to provide a submission to the Essential Services Commission (**Commission**) on the harmonisation of the regulations contained in the Victorian Energy Retail Code (**ERC**) and Energy Guidelines (**Guidelines**) with the National Energy Consumer Framework (**NECF**).

Alinta Energy is both a generator and retailer of electricity and gas in Western Australia and the Eastern States energy markets. It has over 2500MW of generation facilities and in excess of 700,000 retail customers, including around 90,000 customers in Victoria and South Australia. As an incumbent retailer in WA and a new entrant retailer in the National Energy Market, Alinta Energy is well placed to comment on this review.

Alinta Energy commends the decision of the Victorian Government to instruct the Commission to align the ERC and Guidelines with NECF and the National Energy Retail Law (**NERL**) as it will assist with the transition to NECF in Victoria. Whilst we are supportive of the initiative to harmonise the ERC with the NERL we would still look to the Government to provide certainty around the date for the adoption of NECF in Victoria.

### **Code Harmonisation with the NERL**

From the outset of consultation on NECF, it has been made clear that Victoria will seek to retain a number of specific Victorian requirements through derogations, whilst not wishing to revisit the details of issues previously discussed; we would however reiterate the general concern that the existence of jurisdictional derogations undermines the efficiency and effectiveness of the NECF.

Jurisdictional derogations introduce additional costs that are ultimately borne by customers. They also introduce a higher level of risk of non-compliance by retailers who are forced to operate divergent systems and processes to account for the derogations. Therefore we continue to hold the view that derogations should only be contemplated where it can be demonstrated that there is a significant risk of market failure if they

were not in place, or where there is a unique market structure that only exists in Victoria.

Consistent with this view it is our position that the harmonisation of the obligations within the ERC and Guidelines should be aligned with those contained in the NERL.

### **Adoption of the Draft ERC**

The revised draft ERC will carry with it a significant number of changes to the existing framework under which Victorian retailers currently operate. As a result there is a need to ensure retailers are provided with significant lead time in order to ensure compliance with NECF consistent obligations.

If the revised draft ERC and Guideline is not finalised until just prior to the proposed implementation date, Alinta Energy suggests including a transitional grace period within the revised ERC where, provided that retailers remain compliant with provisions of the version of the ERC that applied immediately prior to implementation of the revised ERC, retailers will be viewed as being compliant.

Retailers would still be required to report any breaches or potential breaches however the Commission will take no action for non-compliances of the revised ERC for a period of three months from the date of implementation.

### **Transition to NECF**

Alinta Energy would like to see a higher degree of regulatory certainty in Victoria in relation to the Victorian Government's policy position and intention to implement NECF through adoption of the *National Energy Retail (Victoria) Bill 2012 (NERLVA)*. Communication of a clear Government position to retailers would assist in providing certainty to the market and retailers and ensure continued investment in initiatives that assist customers and further develop the market.

Further, Alinta Energy encourages the Commission to consult with the Department of Primary Industries to ensure the derogations included in the NERLVA as currently proposed are imperative and the perceived consumer benefit is not outweighed by the cost to retailers to meet additional and modified obligations in Victoria.

If you have any queries in regards to issues raised in this submission, please contact Shaun Ruddy Manager National Retail Regulation on (02) 9372 2653, or via email: [shaun.ruddy@alintaenergy.com.au](mailto:shaun.ruddy@alintaenergy.com.au)

Yours sincerely



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