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Utilities Commission of the Northern Territory  
GPO Box 915  
DARWIN NT 0801.

Attention: Ms. Jodi Cowdery

By email: [utilities.commission@nt.gov.au](mailto:utilities.commission@nt.gov.au)

Dear Madam

**Submissions by Territory Generation (“TGen”) – Proposed Amendments to the Electricity Retail Supply Code – Final Submissions**

We refer to the proposed draft amended Code – June 2019, draft amended code - April 2018, TGen’s submissions September 2017 and the Commission’s Statement of Reasons 2019.

We thank you for our opportunity to provide these final submissions in regards to the above mentioned subject.

We re-iterate our position and the contents of our submissions of September 2017 and support the Commission’s previous draft amended code - April 2018.

**TGen’s proposed amendments**

In September 2017, TGen proposed amendments to the existing credit support provisions in the Code that would require retailers that are late on payments to be obliged to provide credit support to the relevant generator, regardless of the retailer’s credit rating.

**Primary Purpose**

The primary purpose of the proposed amendments which were included in the commission’s draft proposed Code for consideration in April 2018, was to provide retailers with an incentive to ensure timely payment of statements of charges, especially to retailers with a history of late payment.

**Commission’s comment**

The proposed amendments (by TGen) are not consistent with that in the national electricity framework, and considers that a generator can address the risk of late payment from a retailer through their private arrangements.

Given the issues raised in consultation, that there is a new licensed retailer that may wish to comment on the proposal and that the issue TGen is seeking to address could be managed between the relevant

parties outside the Code, the Commission has removed the previously proposed amendments on credit support requirements from the Code pending feedback.

## **SUBMISSIONS**

### **‘The proposed amendments are not consistent with that in the national electricity framework’**

The National Electricity Market (NEM) has a central depository and deals with distributors and retailers whereas the Electricity retail supply Code deals with generators and retailers. In the circumstances, there is no need for NEM to have similar provisions. Taking into consideration the above, TGen respectfully submits that TGen’s proposed amendments cannot be said to be inconsistent with that of the national electricity framework.

### **‘Generator can address the risk of late payment from a retailer through their private arrangements’**

There is no doubt any arrangement (not inconsistent with the law) including the risk of late payment can be addressed through private arrangements. However, this very issue has been considered important enough to be included in the Code. TGen only proposed extending the scope. The Code has many provisions that could be addressed through private arrangements but were considered important enough to be included in the Code. Another consideration could be that the Commission considers a particular requirement should be applied across the industry for good policy and governance reasons.

TGen submits that its proposed amendments are reasonable and good policy and does not attempt to penalise any retailers in an unfair and unreasonable manner. As stated above, its primary purpose was to provide retailers with an incentive to ensure timely payment of statements of charges, **especially to retailers with a history of late payment** (Emphasis is TGen’s). The amendments did not target all retailers but retailers with a history of late payment. Given that electricity is provided to the retailers in advance of payment, habitual and continuous late payments create havoc on cash flow. Having these provisions in the Code will set standards and will provide the incentive to the retailers to make timely payments.

It is to be noted that the proposed amendments only apply to retailers with an **actual** history of late payments. This is not a case of a retailer missing a payment date because of mistake or reasons beyond its control. It only applies a retailers with a **history** of late payments. That is why TGen proposed to extend the provisions relating to credit provisions to apply to retailers with a history of late payments.

### **‘a new licensed retailer that may wish to comment on the proposal’**

A new licensed retailer may very well wish to comment on the proposal. However, the comment may be in support or against the proposal. Equally, a new generator may comment in support of the proposal. Hence, TGen respectfully submits that the above reason should not have been a ground to remove the proposed amendments from the draft amended Code – June 2019.

### **A clause in the Code cannot be contracted out of agreement**

A clause in the Code sets out the minimum standard which cannot be contracted out by the parties. In the circumstances, if the amendments are accepted, a retailer will not be allowed to contract itself out of its obligation to make payments on time and avoid a history of late payments. The Commission,

by accepting the proposed amendments, will ensure the industry will remain financially viable and healthy for all parties concerned.

**Submissions in conclusion**

TGen respectfully submits that the Commission considers incorporating TGen's proposed amendments to the Code for the reasons stated above.

If you have any questions, please contact Arul Selvaretnam at [arul.selvaretnam@territorygeneration.com.au](mailto:arul.selvaretnam@territorygeneration.com.au)

Yours sincerely

A handwritten signature in black ink, appearing to read 'A. Selvaretnam', followed by a long horizontal line extending to the right.

Arul Selvaretnam  
A/General Counsel

1 August 2019

