

IR POLICY AND GOVERNANCE UPDATE



INTRODUCTION

This week we look at energy brokers and related contract issues and a brief update on the progress of the federal governments IR Bill as detailed in last week's IR bulletin.

ENERGY BROKERS

Some members have advised recent contact from Energy Brokerage firms looking to sign them up to contracts. Entering into energy provider agreements through the services of energy brokers can be beneficial, however we advise caution.

Energy Brokers v. Energy Consultants

Essentially an energy broker negotiates deals between utility companies and consumers. An energy broker will go to market, often by way of tender, for a consumer's energy requirements at any given time. They review and present options to the consumer for their selection. By contrast, energy consultants can offer the same services, but will more often provide advice to businesses on energy efficiency and sustainability strategies for use in your business.

A professional energy broker or consultant must have specialist knowledge of the market and utilise comparative tools that assess multiple quotes and make accurate comparisons. All this is carried out while ensuring the contract you are offered will not put you or your business at risk.

Considerations

If you are approached by an energy broker, or you are entering into discussions with an energy broker, we provide the following list of issues for your consideration.

- > **Broker reputation** - If you don't use a reputable broker or consultant, there's a good chance you won't receive the most competitive offer from the energy provider. You may potentially expose yourself to higher costs and or risk and or inflexible contractual terms. Before being drawn into any negotiation, undertake some homework on the broker as well as what your business requires.
- > **The contract** – Ultimately the broker is providing a service for you, and they generally are not a party to the contract. Ultimately the contract is between you and your business and the energy provider.
 - Ensure you review and consider the proposed contracts before signing.
 - Does the contract contain a dispute resolution clause and related process?
 - Ask the broker about load fluctuations for your business and the potential effect on pricing and whether that is contained within the contract.
 - What about early termination of the contract?
 - Can the contract be novated if you sell the business?
 - If you have any doubts, request clarification on the specific terms.
 - If you continue to have doubts, seek professional advice on the contractual terms.
- > **Fees and commissions** – Effectively if the broker signs you up to a particular energy provider they receive a fee or commission from that provider or they may receive a trailing style

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commission through the terms of that contract. However, the broker may charge you a fee for the services they are providing. In your discussions and negotiations, ensure any brokerage fees/commissions are completely transparent.

- > **Transparency** – as you may have seen with financial advisors, is the broker pushing one energy provider or are they truly independent and do they really go to the market looking for the best deal across all providers.
- > **Length of contract** – Usually the longer a broker signs up your business to one particular provider the better for the broker. Enquire with the broker as to the basis for the length of proposed contract with the provider. It could be that the provider prefers longer term contracts with clients for their own business security and this may result in cheaper overall pricing for you. However, once related contracts are signed they are generally difficult to terminate during the life of the contact unless the provider materially breaches the contract terms and does not remedy the breach.
- > **Greenwashing** – are you signing up for renewably backed energy products? ...But are you really? We advise you ask to be provided with appropriate evidence that backs up such provider claims and to your satisfaction.

Ultimately it is the brokers role to get you and your business the best possible deal, consider commercial issues and risks, and to obtain appropriate contractual flexibility. Make them earn their fees.

IR AMENDMENT BILL

Further to last week's Bulletin, the omnibus style IR Bill proceeded through the House of Representatives, with amendments, and will move to the Senate for debate and review. In relation to the hot topic item of multi-employer bargaining there has been numerous amendments prior to the Bill passing through the House. Some of the amendments to that particular issue include, that employers and their employees are precluded from being compelled into an authorisation or single interest employer agreement where they have agreed to bargain for a proposed single enterprise agreement. With only two more weeks of Parliament sitting for the year, we will see whether the Bill has enough time to get through the Parliamentary process this year.

CONTACT

Any Industrial Relations Member who has a related query should contact Charles Watson, GM – IR, Policy and Governance at The Real Media Collective via email charles@thermc.com.au or mobile:+61 428 568 032.

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