



Review of the South Australian Electricity Licensing Framework

Position Paper



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Acknowledgement of Country

As guests here on Kaurna land, we acknowledge everything this department does impacts on Aboriginal country, the sea, the sky, its people and their spiritual and cultural connection which have existed since the first sunrise. Our responsibility is to share our collective knowledge, recognise a difficult history, respect the relationships made over time, and create a stronger future. We are ready to walk, learn and work together.

Date:	Comment:



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Background to the Review

The electricity supply is in the process of rapidly transitioning to a carbon constrained future, with South Australia leading this transition. This is resulting in technically different electricity supply entering the market and radical changes to customer demand from the electricity system.

Distributed energy resources (DER) refer to often smaller generation units that are located on the consumer's side of the meter, and includes technologies such as battery storage, rooftop photovoltaic (PV) units, diesel and oil engines, wind generating units, batteries in electric vehicles used to export power back to the grid, biomass generators, hydro schemes, fuel cells, and tri-generation units that also utilise waste heat to provide cooling.

The transition to a power system increasingly supplied by DER represents an unprecedented change in power system and electricity market operation. Growth in installed distributed PV is set to continue as consumers seek to better manage their energy use, security, and costs. Changes in consumer awareness and solar industry competitiveness and marketing are leading to increasing choices for consumer energy solutions.

The falling cost of renewable generation and batteries is leading to significant decreases in the costs of providing off-grid electricity supply, providing customers potential additional benefits such as improved reliability for customers in remote regions and a reduced carbon footprint. Recent legislative amendments to the national framework now mean that Stand-Alone Power Systems (SAPS), which supply electricity not physically connected to the national grid, can be provided by Distribution Network Service Providers (DNSPs) where these offer a lower cost substitute to investing in, and maintaining, traditional network solutions.

In addition, while market participants were once previously classed as either loads or generators, it is now more common for participants to be both drawing electricity from the grid and sending electricity out to the grid. This is due to the increasing role of storage, ranging from fixed grid scale batteries connected to the transmission network down to smaller distributed storage options. This also extends to grid-scale hybrid facilities, comprising storage systems coupled with generating systems and/or industrial loads co-located behind a single connection point.

Increasingly complementing these technologies are new network services such as dynamic network pricing, flexible exports, interoperability between DER devices, arbitrage plans, energy aggregation and management, and microgrids. In many cases these services are still maturing in parallel with new energy market rules that facilitate their development.

South Australia is a world leader in meeting electricity demand with renewables. In October 2020, solar output accounted for more than 100 per cent of state demand, while on Saturday 2 October 2021, solar reached a record peak of 106.1 per cent of South Australian demand, meeting at least 100 per cent of state demand for nearly an hour.



As reported by AEMO in its latest Electricity Statement of Opportunities (ESOO), South Australia has achieved periods with up to 78 per cent of underlying demand met by distributed PV and is, to AEMO's knowledge, the first gigawatt-scale power system in the world to approach periods with 100 per cent of underlying demand being supplied by DER. Supporting this view, the South Australian distribution network reported negative load on four occasions in October 2021 including for a period of over four hours on Saturday 31 October.

A power system with significant supply from DER operates very differently than the dispatch of centralised generation. Most distributed PV systems in the NEM today are not subject to the same performance requirements as centralised generation and are not visible or controllable by distribution network service providers (DNSPs). This transition has also led to system security challenges such as the disconnection of distributed PV inverters in response to voltage disturbances and the load requirements needed to provide minimum required levels of system strength, inertia, frequency control and voltage management.

Fortunately, new technology now available makes it feasible for DER to be actively managed. South Australia is pioneering active management capabilities for all new distributed installations, including by supporting the development of South Australia's Virtual Power Plant. As outlined in the Electric Vehicle Action Plan, South Australia is also bringing forward the adoption of electric vehicles (EV's) including providing support for EV smart chargers and EV VPPs.

Case for action

Licenses are required under the Electricity Act for electricity generation, transmission, distribution, and system control functions. A retail licence may also be required for entities who sell electricity to customers but are not connected to the National Electricity Market (NEM). Licensing of electricity entities operating in South Australia under the Electricity Act enables appropriate regulatory oversight of the South Australian power system.

A well-functioning electricity regulatory framework is crucial to ensure industry participants generate and deliver electricity, as an essential service, sustainably, safely, and reliably to South Australian consumers.

It is acknowledged that the current licensing framework detailed in the Electricity Act and Electricity (General) Regulations 2012 (Regulations) was established in a very different technological environment from the one that is currently evolving. It is important that the electricity licensing framework keeps pace with the way that electricity is increasingly being generated and delivered to customers in South Australia.

Any licensing framework must balance the need for technical and safety oversight with the administrative and financial implications for industry. In considering the framework, it is important to be aware that Distributed Energy Resources (DER) and associated business models, such as Virtual Power Plants (VPPs) and Electric Vehicle (EV) charging networks,



are expected to grow and evolve in coming years and subsequently have a significant impact on our future electricity supply and demand balance.

The energy licensing framework has limited scope for flexibility or customisation to, for example, apply a 'lighter' compliance regime for new and emerging electricity services. It is not possible to apply a portion of the compliance obligations to a licensee, such as obligations related to customer protections. Furthermore, the costs associated with holding a licence (including auditing requirements) may be prohibitive for a small to medium size enterprise supplying only a small number of customers.

Further use of the licensing exemptions framework to accommodate new DER business models could also pose risks for small use customers of those services who may incorrectly assume continued enjoyment of protections generally available to customer relationships with the standard licensed retailers.

Action is required to effect regulatory change to address deficiencies of the licensing and exemption arrangements, in order to provide:

- a regulatory framework that is future-proofed and flexible to accommodate new and emerging technologies and business models;
- customer protections that are relevant to the product or service provided;
- appropriate and practical dispute resolution processes; and
- a robust and proportionate compliance and enforcement regime.

There are licence exemptions in place until 30 November 2023 for sub 5MW generators, virtual power plants and EV charging stations.

Summary of Review Outcomes

The review of the South Australian electricity licensing framework commenced with an 8-week period of public consultation between 22 December 2021 and 18 February 2022 that included:

- public release of a Consultation Paper and Supplementary Paper
- an online workshop with key stakeholders on 21 January 2022
- individual stakeholder meetings
- the provision of 12 submissions

A detailed summary of stakeholder submissions has been completed, with the key issues identified by stakeholders including:

- duplication of some conditions and requirements of the South Australian licensing framework to those imposed by entities such as SA Power Networks, the Australian Energy Regulator and the Australian Energy Market Operator.

- uncertainty of the extent that enforcement and compliance of license requirements is being actively pursued to lead to beneficial electricity network outcomes for South Australian consumers.
- need for adjustments of capacity thresholds for the licensing of electricity generators
- need to consider permanent exemptions for those classes currently granted fixed term electricity class exemptions
- need to better focus the review on the objective of protecting the interests of consumers of electricity
- unequal burden of licensing conditions on smaller DER operators whose core business functions may not be the generation or distribution of electricity.

Subsequently the Department developed this Position Paper proposing changes to the licensing framework. To both enable consultation and allow for implementation of these proposed changes, the existing temporary exemptions will be extended for 12 months until 30 November 2024, to reduce unnecessary impacts on relevant industry participants.

It is proposed to:

- amend regulations to permanently change the capacity threshold for generation licenses from 100kVA to 5MW conditional on the exempt entity holding a maintenance plan with the Technical Regulator.
- amend regulations to permanently exempt EV charging stations from the need to hold a distribution or transmission network licence.
- Seek further industry advice on the need for additional consumer protections for EV charging stations, while noting that existing retail licence conditions don't suit the operation of EV charging stations.
- Temporarily exempt VPP's from the need to hold a generation licence until November 2025 while investigating developing a generation licence appropriate for VPP's with a generating capacity of at least 5MW.

Options Evaluation

Small Generating Entities

In South Australia, the Regulations currently exempt operations under 100kVA from the requirement to hold an electricity licence but for generators with a capacity of between 100kVA and 5MW a licence is required. No other jurisdiction requires licences for sub 5MW generators.

Regulatory obligations for these generators from AEMO and SA Power Networks are also in place:

AEMO

- Network connected generators under 5MW are generally provided a standing exempt from registering with AEMO as they are considered unlikely to cause material degradation in the quality of supply to other network users.
- This standing exemption applies for a sub 5MW generator as long as the sent-out generation is purchased by the local retailer or a customer at the same connection point.

SA Power Networks

- SA Power Networks requires individual connection agreements with any customer with a generator who has an export capacity over 30kVA to ensure the operation of such a generator does not adversely impact the distribution network and other customers.

ESCOSA has received an increasing number of applications for generation systems less than 5MW. The increase is being led by commercial scale solar photovoltaic arrays. In many cases, these operations provide a dedicated source of own-use electricity to a particular large industrial or commercial facility. These operations may be supplemented by storage and be backed by diesel generation.

Table 1: Generation licenses issued

Financial Year	Generation licences issued	Solar licences issued (<5MW)
2018	16	9
2019	17	12
2020	26	14
2021	19	11
2022	27	17*

* 1 July 2021 to 24 November 2021 only

Notably, for the five-month period from 1 July 2021, until the exemption was introduced on 24 November 2021, five new sub-5MW licences were approved, with a further 12 in progress, for a total of 17 possible sub-5MW licenses.

The annual licence fee for a sub 5MW generator is currently \$1400, while the fee for an electricity licence application or transfer is \$5000. While ESCOSA has some discretion to tailor the level of information to have regard to the scale and scope of the generation operations, feedback from applicants indicates that satisfying the mandatory licensing conditions is complex and burdensome for small scale operators.

ESCOSA has estimated that assessing each application for a sub 5MW generator licence takes approximately 20 hours.

Options have been considered as a way to review the regulatory framework for small generating entities:

Option 1: No change: Allow current licence exemption to expire, necessitating generation licences or individual exemptions for generators with a capacity of between 100kVA and 5MW.

Option 2: Permanently exempting generators with a capacity of between 100kVA and 5MW via changes to regulation.

Option 3: Allow current licence exemption to expire but amend regulations to exempt sub 5MW generators from select license conditions that are incompatible with the operating characteristics of these small generating entities.

Table 2: Summary option evaluation – small generating entities

Criteria	Option 1	Option 2	Option 3
Consumer protections			
Red tape burden / innovation			
Regulatory intent / complexity			
Safety & technical			
Energy market implications			

Legend			
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Negative impacts

No impacts

Positive impacts

EV Charging Stations

ESCOSA has met with some EV charging station operators within South Australia, who have raised concerns as to whether the current regulatory framework is appropriate for their activities, and they have put the view that immediate action should be taken to resolve this issue.

The issue of licences for EV charging stations, particularly in view of the Electric Vehicle Action Plan, has been raised by a number of potential operators, including those seeking to be involved in the Electric Vehicle Smart Charging Trials.

In particular they noted their position that the electricity licensing regime imposes considerable administrative and cost burden on them, while providing minimal benefits to the secure and safe operation of the electricity supply industry and the interests of energy consumers in South Australia.

Stakeholder consultation has revealed some lack of understanding around license eligibility, requirements, and conditions. Subsequently, it is important to differentiate between distribution and retail licenses when assessing options for reform to the licensing regime.

EV charging stations are an example of electricity operations that were not envisioned at the time the Electricity Act was drafted, and as such, there may not be full alignment between the practical operations of those stations and the mandatory licence terms and conditions contained in the current regulatory framework.

EV charging stations as retailers

Electricity retailers subject to the NERL are not required to hold a South Australian retailer licence. This would appear to include home EV charging stations connected to the NEM and small business premises with EV charging stations connected to the NEM.

For off-grid activities however, under the Electricity Act, an EV charging station operator could be considered to provide retail services to customers for consumption by that person and may therefore be required to hold a licence. Retail licenses may also be required for commercial EV stations, such as those connected to shopping centres, roadsides, hotels, universities, etc whether attached to the NEM or not.

It is not clear that retail licenses would appear to be required for EV charging stations in apartments. In terms of coverage under the NERL, the AEMC has stated that apartments would be case specific and depend on the charging and metering infrastructure.

Option 1: No change – ESCOSA to potentially license, or individually exempt, EV charging stations once current class exemption expires.

Option 2: Provide exemptions for specific conditions in section 24 of the Act and, in collaboration with the Commission, develop appropriate industry advice, guidelines and codes as necessary.

Option 3: Regulatory change to exempt from requirement to hold a retail license if the retailer is an electric vehicle charging station.

Option 4: Temporarily renewing retail licence exemption for EV charging stations for three years.

Criteria	Option 1	Option 2	Option 3	Option 4
Consumer protections				
Red tape burden / innovation				
Regulatory intent / complexity				
Safety & technical				
Energy market implications				

Legend			
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Negative impacts

No impacts

Positive impacts

EV charging stations as distributors

An EV charging network operator could also be captured within the concept of the operation of a distribution network. EV charging network operators are not currently entitled to

statutory exemptions as set out in Regulations, because the EV charging network operator cannot offer customers their choice of licensed retailer. Therefore, EV charging network operators could currently be captured under the existing licensing framework.

Option 1: No change – ESCOSA may license, or individually exempt, EV charging stations once current class exemption expires.

Option 2: Regulatory change to classify EV charger not as a distribution network.

Option 3: Regulatory change to exempt from requirement to hold a distribution license if the distribution operator is an electric vehicle charging station operator.

Criteria	Option 1	Option 2	Option 3
Consumer protections			
Red tape burden / innovation			
Regulatory intent / complexity			
Safety & technical			
Energy market implications			

Legend			
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Negative impacts

No impacts

Positive impacts

Virtual Power Plants

VPPs are unique in that their operations are based on an aggregation of distributed energy resources and the size, distribution and composition of that aggregation may continually change over time.

As a share of national VPP penetration, most currently operate in South Australia. SA Power Networks have estimated that there are around 1,200 batteries enrolled across 10 VPP's in South Australia, comprising around 43 per cent of all sites with batteries in the State.

Generally, each generating plant that makes up part of a VPP has a small capacity and falls below the current 100kVA licensing exemption threshold provided for under the Regulations. However, once coordinated and controlled as part of a larger system, their combined output capacity (when treated as a single unit) may bring them within the licensing framework.

In its latest Knowledge Sharing Report on the NEM VPP Demonstrations project, AEMO noted that VPPs are currently exempt from participating in the NEM energy market dispatch process. With no operational visibility of VPPs, AEMO considers this could pose a risk to the efficient operation of the power system as VPPs increase their presence. AEMO states that improved visibility and control of elements within the VPP, such as batteries and/or rooftop PV can help to avoid curtailment of consumer loads.

National reforms under development remain nascent. For example, “Scheduled Lite” is a voluntary mechanism that aims to lower barriers and provide incentives for a range of end users, traders and resources that are not currently scheduled in the market, including VPP’s, to participate in the NEM. In January 2023 AEMO submitted a rule change request to the AEMC to amend the National Electricity Rules. The AEMC has not yet initiated this rule change request.

In June 2021, an exemption variation was issued by ESCOSA under the Electricity Act, extending the exemption for enrolled participants in the AEMO Virtual Power Plant Demonstration Program from the requirement to be licensed until 30 June 2023¹.

ESCOSA recently undertook stakeholder and public consultation in relation to VPP operators, in particular on the potential extension of the term of the current exemption for enrolled participants in the VPP Demonstration. From the six submissions received, stakeholders expressed concern as to the applicability of the licensing regime to VPPs.

Given the potential for a VPP to scale up and to be operated as a dispatchable resource, there remains a need for operational visibility to maintain power system security within the distribution network.

Option 1: No change: Allow current exemption to expire, potentially necessitating generation licences or individual exemptions for VPP’s.

Option 2: Permanently renewing generation licence exemption for VPP’s.

Option 3: Temporarily renewing generation licence exemption for VPP’s for three years.

Option 4: Creating a new license type for VPP’s/aggregators for loads/generation of a certain size, possibly involving an obligation for an operator to negotiate an operating agreement with SA Power Networks.

Criteria	Option 1	Option 2	Option 3	Option 4
Consumer protections				
Red tape burden / innovation				
Regulatory intent / complexity				
Safety & technical				
Energy market implications				

¹ <https://www.escosa.sa.gov.au/news/electricity-news/jun21-news-2021-e-glva-vpp-aemo-final>

Preferred options

Small Generating Entities

Option 1: No change: Allow current licence exemption to expire, necessitating generation licences or individual exemptions for generators with a capacity of between 100kVA and 5MW.

Option 2: Permanently exempting generators with a capacity of between 100kVA and 5MW via changes to regulation.

Option 3: Allow current licence exemption to expire but amend regulations to exempt sub 5MW generators from select license conditions that are incompatible with the operating characteristics of these small generating entities.

The Department recommends amending the Regulations to permanently exempt these small generating entities by raising the exemption threshold from a rated nameplate output of 100 kVA to a rated nameplate output of 5MW. It is recommended that this exemption be accompanied by a condition that the exempt entity provide and maintain a maintenance plan to the Technical Regulator. This maintenance plan is expected to be comparable to that already required under a Safety, Reliability, Maintenance and Technical Management Plan (SRMTMP). This option is preferred because:

- benefits of regulating these entities are outweighed by regulatory compliance costs to industry and government.
- More closely aligning these exemption thresholds with those of other jurisdictions, and AEMO, reduces a barrier to innovation and investment in South Australia.
- A majority of stakeholders have expressed support for this approach.
- The increasing number of businesses with generators with an installed nameplate output of between 100kVA and 5MW generate electricity from photovoltaic systems. These operations generally consume this electricity for their own use, with supply of electricity for reward to or by means of a transmission or distribution network as a secondary activity only.
- In line with its obligations under its distribution network licence and AEMO registration obligations SA Power Networks requires individual connection agreements with these small generating entities.

EV Charging Stations as retailers

Option 1: No change – ESCOSA to potentially license, or individually exempt, EV charging stations once current class exemption expires.

Option 2: Provide exemptions for specific conditions in section 24 of the Act and, in collaboration with the Commission, develop appropriate industry advice, guidelines and codes as necessary.

Option 3: Regulatory change to exempt from requirement to hold a retail license if the retailer is an electric vehicle charging station.

Option 4: Temporarily renewing retail licence exemption for EV charging stations.

The Department recommends option 4, to exempt from the requirement to hold a retail license for electric vehicle charging station operators is preferred. The key reasons are:

- The existing conditions and requirements of a typical retail license are incompatible with the operations of a EV charging station. Requiring these operators to hold a retail license is unlikely to improve customer protections, safety, and technical matters.
- The requirements associated with a license authorising electricity retail operations exceed the scale and scope of the typical retail operations of an electric vehicle charging operator.
- It is not currently apparent that extra consumer protections for EV charging stations are required, but the pace of the transition to EV's warrants revisiting the need for a license or other reforms.
- Option 2 (Guidelines/code to be developed with the regulator) is not currently preferred but may be considered:
 - if the license conditions and requirements outlined in the Act can be interpreted by the Commission in such as way as to reasonably apply to the operations of an EV charging station.
 - if guidelines, a consumer code, or changes to exemptions in the Regulations for these operators can reasonably be introduced by the Commission and materially add to consumer protections.
 - If, with increased penetration of EV's in future, consumer protections for retail operations become more pressing.
- Even though consumer protections currently appear ample, the discretion the Commission has to regulate EV charging stations potentially only exists if they are exempted, rather than excluded from the Act.
- The red tape burden for consumers and government is the lowest relative to other options.
- The proposal provides medium term clarity around any legal and regulatory requirement for entities operating EV charging stations to hold a licence.

EV Charging Stations as distributors

Option 1: No change – ESCOSA may license, or individually exempt, EV charging stations once current class exemption expires.

Option 2: Regulatory change to classify EV charger not as a distribution network.

Option 3: Regulatory change to exempt from requirement to hold a distribution license if the distribution operator is an electric vehicle charging station operator.

Option 3, involving regulatory change to exempt from requirement to hold a distribution license for electric vehicle charging station operators is preferred. The key reasons are:

- The existing conditions and requirements of a typical distribution license are incompatible with the operations of a EV charging station. Requiring these operators to obtain distribution licenses is unlikely to improve customer protections, safety, and technical matters.
- EV charging stations only distribute energy to customers from the distribution network to discrete locations so are not required to distribute energy, install new connections, and install and maintain meters across a wide network like tradition networks.
- The requirements associated with a network license authorising exceed the scale and scope of operation of an electric vehicle charging operator in the distribution of electricity. These requirements include conditions relating to the locating of powerlines, insurance against liability for causing a bushfire, responsibility for the integrated operation of the State's power system.
- Option 2 (Regulatory change to classify EV charger to not be a distribution network) would lead to the lowest compliance cost burden of the three options. However, this option may lead to heightened safety and technical risks by removing any possible oversight by the Technical Regulator.
- A distribution license exemption for EV charging stations would not be dissimilar to exemptions provided to businesses that carry out similar activities of supplying customers with electricity using minimal network infrastructure. These businesses include holiday parks, caravan parks, and other inset networks.
- Even though the risks to the electricity system and safety are currently low, the discretion the Technical Regulator has to regulate EV charging stations only exists if EV charging stations are exempted, rather than excluded from the Act.
- The proposal provides clarity around any legal and regulatory requirement for entities operating as a VPP to hold a licence.

Virtual Power Plants

Option 1: No change: Allow current exemption to expire, potentially necessitating generation licences or individual exemptions for VPP's.

Option 2: Permanently renewing generation licence exemption for VPP's.

Option 3: Temporarily renewing generation licence exemption for VPP's for three years.

Option 4: Creating a new license type for VPP's/aggregators for loads/generation of at least 5MW.

While consultation and more detailed policy work is required, the Department recommends option 4, which involves expanding the licensing framework to include aggregated decentralised resources such virtual power plants, storage and potentially aggregated loads. key reasons are:

- An increasing need for visibility over increasingly numerous and larger aggregated resources that impact the distribution system and later supply and demand dynamics in South Australia.
- Regulatory consistency within the existing licensing framework that ensures VPP's, DRSP's and other aggregated loads are subject to a comparable regime as larger, licensed generators.
- AEMO registration requirements and potential national reforms are not expected to provide adequate visibility and management of energy flows with the distribution network in the near to medium term.
- Increasing regulatory coverage of larger aggregated resources is compatible with recommended options above pertaining to small generating entities and EV charging stations that reduce the regulatory burden on individual small operators.
- An increasing need to monitor and manage flows within the distribution network that have the potential to impact the planning and operations, and subsequently the reliability, security and quality of supply for other consumers.
- Options 1 is not considered viable as the characteristics of a VPP are unsuited to existing generation licence conditions.
- Option 2 is not preferred as the future expected growth of VPP's as a share of South Australian generation may warrant adequate safety, technical, and consumer protections.
- A reflection that the regulatory obligations for safe, reliable, and high quality VPP generation should be ultimately borne by the aggregator rather the individual operators.
- The proposal provides clarity around any legal and regulatory requirement for entities operating as a VPP to hold a licence.



Appendix 1: Current legislation, regulations and consumer protections

Australian Consumer Law

The ACL is the principal consumer protection and fair-trading law in Australia. It was enacted in 2011 and aims to provide consumers with protections when buying goods and services. It takes a principles-based approach to promote fair trading and includes protections for consumers relating to:

- misleading and deceptive conduct
- unconscionable conduct
- unfair contract terms
- consumer guarantees
- unsolicited consumer agreements
- product safety.

The ACL also contains specific carve-outs relevant to energy regarding unfair contract terms and consumer guarantees.

National Energy Consumer Framework

The NECF was enacted to supplement the ACL and regulates the sale and supply of electricity and gas to ensure all consumers can access energy on fair and reasonable terms.

The NECF incorporates a suite of tools that govern the relationship between retailers and customers, distributors and customers, and retailers and distributors. The NECF is comprised of:

- the National Energy Retail Law (NERL)
- the National Energy Retail Rules (NERR)
- the National Energy Retail Regulations.

The NECF has been adopted and operates in the Australian Capital Territory, Queensland, New South Wales, South Australia, and Tasmania.

Regarding the sale of energy by authorised retailers, the NECF provides consumer protections relating to contract terms, marketing and offers, information requirements, disconnection and reconnection requirements, financial difficulty, vulnerable customers, complaints and dispute resolution, and retailer failure (Retailer of Last Resort (RoLR)).

The NECF authorisation framework plays a role in prohibiting a person from engaging in the activity of selling energy to a person for premises unless that person holds a current retailer authorisation or is an exempt seller.

The NECF also recognises that not all persons or businesses engaging in the activity of selling energy to a person for premises should be required to obtain a retailer authorisation



and expend costs to comply with all the obligations set out in the NECF. Retail exemptions are distinct from authorisations in that they may apply where the sale of energy is either:

- incidental and not the main part of someone's business
- provided as a community service or at cost
- to a defined group of customers at one site.

Voluntary New Energy Tech Consumer Code

The New Energy Tech Consumer Code (NETCC) is a voluntary industry code of conduct which outlines expected industry practices for the sale of new energy technology products, systems and services by retailers to residential and small business customers. NETCC signatories would principally sell solar photovoltaic (PV) systems but it is intended to apply to a broad range of behind the meter technologies, including energy storage systems and electric vehicle charging, and aims to cover the main steps of the customer journey.

Financial Services Law and Credit Protection Act

The Australian Securities and Investments Commission (ASIC) is the regulator for consumer credit under the national credit legislation, which includes the National Credit Act and the National Credit Code (which is Schedule 1 to the National Credit Act). The National Credit Act provides that, where consumers obtain credit contracts or consumer leases, those they engage with must be licensed and comply with responsible lending requirements. Consumer protections provided under this Act also include hardship, addressing unfair contract terms in standard consumer contracts and ensuring a dispute resolution system is in place.

The Corporations Act 2001 also provides a licensing regime for the provision of financial services and financial products. Some new energy products may cross over into financial services. This may include financing to install solar PV through consumer obtained credit, which is then paid off by a consumer over a set period



Appendix 2: Description of Evaluation Criteria

Consumer protections

The regulatory framework should reflect the objects of the Act to protect the interests of consumers of electricity. Similarly, section 6(1) of the Essential Services Commission Act notes the primary objective of the Commission must

have as its primary objective protection of the long term interests of South Australian consumers with respect to the price, quality and reliability of essential services

This includes the application of consumer protections for small customers, and includes protections related to hardship customers, including consideration of the AER's Consumer Vulnerability Strategy.

Red tape burden and innovation

Compliance costs are the direct costs of complying with regulation. This may include regulatory charges, administration time and costs, and other substantive compliance costs. The government, business regions and the community may be subject to these costs depending on the nature of the regulation. Compliance costs can be divided into one-off costs and ongoing and recurring costs.

Assessment of business compliance costs should consider differences between the proposed South Australian regulatory model and those operating in other jurisdictions and whether this will increase compliance costs for businesses operating across jurisdictions.

ESCOSA has estimated the costs of the license application process at approximately 19-25 hours for each application, spread across four staff members, and includes consideration by both the Leadership Team and Commissioners. Activities undertaken by ESCOSA in assessing each application includes reviewing applications, undertaking public consultation, and preparing briefing material for ESCOSA executive and Commissioner approval.

In addition to ESCOSA's costs there are costs to applicants in preparing applications, annual compliance and audit reports, and monitoring. Costs to the OTR include assessing applications for SRMTMPs, assessing annual audits of these plans, and providing advice to ESCOSA on specific factors in the Electricity Act such as the quality of the electricity being generated.

Intent, spirit and complexity of the licensing framework

The licensing framework, as described in the Electricity Act, Regulations or supporting guidance, should not be unnecessarily complex or confusing, such that stakeholders cannot easily interpret or act upon the measures outlined in the laws and rules.

Where possible, any reform resulting from the Review should be done to minimise the need for future amendments resulting from the emergence of other business models that impact the way that electricity is generated and delivered to customers in South Australia.



Safety & technical

The licensing framework should ensure entities' compliance with technical standards, and protection of the public, personnel and property.

The framework should satisfy the relevant Objects of the Act – namely:

(c) to establish and enforce proper standards of safety, reliability and quality in the electricity supply industry; and

(d) to establish and enforce proper safety and technical standards for electrical installations (including such standards relating to the design of electrical installations);

Energy market stability, efficiency, transparency & competition

The licensing regime should preserve the stability of the South Australian energy market system and not undermine stability across the National Electricity Market. As reflected in the Objectives of the Essential Services Commission Act 2002, regard should be given to the need to

- (i) promote competitive and fair market conduct; and*
- (ii) prevent misuse of monopoly or market power; and*
- (iii) facilitate entry into relevant markets; and*
- (iv) promote economic efficiency; and*
- (v) ensure consumers benefit from competition and efficiency; and*
- (vi) facilitate maintenance of the financial viability of regulated industries and the incentive for long term investment; and*
- (vii) promote consistency in regulation with other jurisdictions.*

The framework should satisfy the relevant Objects of the Act – namely:

(a) to promote efficiency and competition in the electricity supply industry; and

(b) to promote the establishment and maintenance of a safe and efficient system of electricity generation, transmission, distribution and supply;

To achieve these objectives, the licensing regime should also promote transparency such that decision makers and regulators have adequate visibility to be able to identify and prevent imbalances between supply and demand and preserve essential system services and system stability.

Further information

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