



# **Retail licence exemptions for Solar Power Purchase Agreement Providers – Draft Recommendations Report**

**Alinta Energy  
Submission**

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## 1 Introduction

Alinta Sales Pty Ltd (**Alinta Energy**) is pleased to provide comment on the *Retail licence exemptions for Solar Power Purchase Agreement Providers – Draft Recommendations Report (Report)* prepared by the Public Utilities Office (**PUO**).

Alinta Energy is Western Australia's largest gas retailer and also supplies electricity to customers consuming over 50 MWh per annum in the South West Interconnected System (**SWIS**) under Electricity Retail Licence ERL6, issued by the Economic Regulation Authority.

Alinta Energy notes the objective of the Report is to determine the best approach to regulating Solar Power Purchase Agreements (**SPPAs**), whereby the SPPA provider installs a solar power system on a customer's premises without any initial capital outlay by the customer and the customer agrees to purchase the electricity generated by the solar power system for an agreed rate over the life of the contract.

Specifically, the Report considers two options:

- Option 1, whereby SPPA providers would be required to apply for an individual exemption from the requirement to hold an electricity retail licence; and
- Option 2, which would introduce a new electricity retail licence class exemption.

Option 2 is noted as the PUO's preferred option.

Alinta Energy has some specific comments concerning the two options below.

## 2 Regulatory Governance

The Report notes that one of the advantages of implementing an exemption scheme is that it reduces barriers to entry for potential new market entrants; a supplier who is exempt from requiring a retail licence will face less regulatory risk and cost than one who is obliged to comply with the customer protection, compliance and reporting requirements of a retail licence.

Alinta Energy considers that both options proposed by the PUO lack regulatory governance over providers of alternative energy products. In considering the most appropriate regulatory framework for alternative energy sellers, including SPPA providers, the following objectives are paramount:

- The continued promotion of competitive neutrality across all service and supply entities;
- Maintaining minimum levels of customer protection for all consumers; and
- Ensuring the regulatory framework is sufficiently flexible to accommodate future market developments, particularly in light of technological advancements.

These objectives are discussed in more detail below.

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### 3 Competitive Neutrality

Whilst Alinta Energy supports a regulatory framework proportionate to the risk of consumer detriment, it is also of the firm view that it is poor policy to require higher service and consumer protection standards and obligations from some service providers and not from others providing similar (or in most cases, identical) energy supply services. Such an approach distorts competitive market outcomes and has the potential to confuse customers and create further market complexity.

The licence exemptions proposed in the Report are likely to have the effect of transferring risk to licensed market participants, whilst allowing alternative energy sellers an ability to benefit from a light-handed compliance approach. Two areas where risk may be transferred from the SPPA provider to the licensed energy retailer are customer financial hardship and complaints handling.

#### 3.1 Financial hardship

Energy retailers who supply residential customers are required to develop a hardship policy and hardship procedures<sup>1</sup> to assist customers experiencing financial hardship in meeting their financial obligations and responsibilities to the retailer. Under the proposed options, if an SPPA customer defaults on payment to the SPPA provider, the SPPA provider will not be under any obligation to offer the customer assistance in meeting their financial commitments. The customer may then in turn seek financial support from their energy retailer. This result is a prejudicial burden on one party to provide assistance over another party, when both are supplying the same service to the same customer.

Alinta Energy understands the Electricity Market Review currently underway in Western Australia will consider methodologies for the payment of concessions and other subsidies. It is worth noting that many jurisdictions offer concessions that are calculated on the basis of the amount of energy being consumed. With the acceptance of an SPPA, a consumer should hence be made aware that their electricity concession may not stretch as far in dollar terms due to the reduction in electricity consumed from the distribution network. However, their overall electricity consumption (network plus solar generated) may be the same and their overall expenditure may not be significantly reduced, particularly if any energy concessions are diminished.

#### 3.2 Complaints handling

In Western Australia, energy retailers are required to develop complaints handling processes in accordance with licence and legislative obligations and must be a member of the Energy and Water Ombudsman Western Australia (**EWOWA**). The costs of operating EWOWA are borne by its members. As a licence exemption will mean an SPPA provider is not required to join EWOWA, a customer may lodge a complaint concerning their SPPA to their energy retailer and/or the energy ombudsman simply because they have no, or are not aware of any, other avenue of redress.

It is interesting to note that in NSW, the Energy & Water Ombudsman NSW (**EWON**) is currently receiving a range of complaints from customers about solar scheme arrangements and the installation of solar panels over which it has no jurisdiction<sup>2</sup>.

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<sup>1</sup> For electricity, refer to clause 6.10(1) of the *Code of Conduct for the Supply of Electricity to Small Use Customers*; for gas refer to clause 6.10(1) of the *Compendium of Gas Customer Licence Obligations*. The Economic Regulation Authority has also published *Financial Hardship Policy Guidelines – Electricity & Gas Licences* to provide retailers with additional guidance in meeting their hardship requirements.

<sup>2</sup> <http://www.ewon.com.au/index.cfm/making-a-complaint/what-can-i-complain-about/solar-energy/>

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## 4 Consumer protection

The Report observes that outside the retail licensing framework, consumer protection is incorporated in Australian Consumer Law (**ACL**). The ACL framework is considered by the PUO to be sufficient for SPPA customers.

However, respected Australian consumer advocate Choice maintains<sup>3</sup> that a potential issue with SPPA deals is that there are fewer consumer rights if a customer gets into financial difficulty. "The consumer has fewer avenues for relief and fewer guaranteed rights, for example protection under hardship policies. They're getting a better deal than through their energy retailer, but they're trading out some rights."

Alinta Energy urges the PUO to contemplate whether the ACL gives the customer sufficient remedy, given that under the options proposed an SPPA provider is required neither to have a complaints handling framework nor to join an energy ombudsman scheme. Alternatively, if the ACL is considered to be sufficient for SPPA customers, then the PUO may want to consider whether energy specific regulation continues to be necessary for licensed retailers.

## 5 Flexible Framework

It is important that the regulatory framework is sufficiently flexible to accommodate future market developments, particularly innovations of a technical nature.

The Report states<sup>4</sup> that one rationale for pursuing a retail licence exemption for SPPA providers is that "the sale of energy through a SPPA is a discretionary arrangement that operates in addition to a customer's main electricity supply arrangements. The customer retains access to grid supplied electricity from their licensed retailer." This logic assumes the current retailer-consumer arrangement will continue and that there will always be a primary energy retailer where an alternate energy seller is also supplying a consumer.

Where there is an option for multiple trading entities and service providers to supply a consumer through a single connection point, the ability to determine the "primary retailer" will become less clear and thereby undermine the fundamental concept of the proposed approach. The advent of home battery storage, whereby solar-generated electricity can be stored for later use, means that for many consumers, network connection would only serve as a back-up and indeed many residences could become completely self-sufficient in terms of electricity supply. The PUO should consider whether under these circumstances, the customer protection obligations would transfer to the SPPA provider.

With on-going advancements in technology and the way in which consumers use energy, the definition of what is deemed essential and non-essential will evolve.

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<sup>3</sup> <https://www.choice.com.au/home-improvement/energy-saving/solar/articles/solar-pv-system-leasing-and-power-purchasing-agreements-ppas>

<sup>4</sup> Report, p. 8

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## 6 Conclusion

Alinta Energy urges the PUO to contemplate whether the proposed retail licence exemptions provide the appropriate regulatory governance framework for SPPA providers. In particular, the PUO should consider:

- Whether it is good policy to require higher customer service and consumer protection standards from licensed energy retailers than from SPPA providers. Such an approach is likely to transfer risk to licensed market participants whilst allowing SPPA providers to benefit from a light-handed compliance approach;
- If the absence of a requirement for SPPA providers to operate a financial hardship program will have a detrimental effect on SPPA customers and a consequential effect on licensed energy retailers;
- Whether the ACL framework offers sufficient consumer protection for SPPA customers or whether a complaints handling process and ombudsman scheme may be more appropriate. Alternatively, if the ACL is considered to be sufficient for SPPA customers, then the PUO may want to consider whether energy specific regulation is necessary for licensed retailers; and
- If the regulatory framework is sufficiently flexible to accommodate future market developments, particularly in consideration of recent advancements in home battery storage.