

11 August 2015

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### **Retail licence exemptions for solar power purchase agreement providers**

The Energy Supply Association of Australia (esaa) welcomes the opportunity to make a submission to the Public Utilities Office's (PUO) draft recommendations report into retail licence exemptions for solar power purchase agreement (PPA) providers.

The esaa is the peak industry body for the stationary energy sector in Australia and represents the policy positions of the Chief Executives of 37 electricity and downstream natural gas businesses. These businesses own and operate some \$120 billion in assets, employ more than 59,000 people and contribute \$24.1 billion directly to the nation's Gross Domestic Product.

The draft recommendations report proposes two approaches for licensing exemptions for solar PPA providers. In the first instance the esaa considers that the PUO should have analysed whether an exemption is appropriate rather than how to apply exemptions. Given the Electricity Market Review is examining arrangements in the retail electricity market, it would be sensible for this issue to be examined as part of the broader review process. Nonetheless, there are several issues raised in the recommendations report that need to be examined.

Across a range of industries technology is allowing new businesses to upend established markets and posing challenges for policy makers and regulators: Uber in the taxi/car hire industry, AirBnB in the accommodation industry, Amazon in the retail sector. These new companies are providing value to consumers by offering new products and using technology to cut costs. But in some of these areas, businesses are also benefiting from a regulatory advantage over the incumbents. While innovation leaves society better off, regulatory arbitrage does not. The challenge for policy makers and regulators is striking the balance between enabling competition from new providers and maintaining a level playing field, while ensuring consumers have access to appropriate consumer protections.

Regulatory arrangements for new entrants are important because regulation is not free. Regulatory costs are borne by businesses and are ultimately passed on to consumers in higher prices. This becomes problematic when businesses providing the same service face different regulatory burdens. If consumer protection is achieved by only regulating the incumbents, this will allow new entrants to free ride.

In the case of the West Australian retail electricity market the problems are magnified as there is a monopoly, government-owned retailer for small customers. The esaa has consistently argued for the introduction of competition into the WA retail electricity market; WA households have already seen the benefits of competition in the retail gas market. It therefore seems inequitable that solar PPA providers will be able to compete against Synergy when other retailers are unable to do so.

The decision to exempt solar PPA providers also raises questions about the nature of electricity as an essential service. If energy supplied through a solar PPA is not an essential service then could other alternative energy models carve out other parts of a household's energy use while also not being part of the essential service? This is not to say that the energy retail model should not adapt to new technologies; it certainly should. Greater research and discussion needs to occur to examine how consumers' rights can be maintained as new business models seek to erode the conventional retailer-customer dynamic.

The draft report states that "the nature of the SPPA business model is distinct from that of an essential service" and that customers will still have access to electricity from the grid and from their existing retailer. This is certainly accurate, but the existing retailer will still be required to offer financial counselling associated with administering the Hardship Utility Grant Scheme, discounts for concession card holders, and collect the Tariff Equalisation Contribution as well as meeting other state government requirements. Complying with these requirements increases the regulatory cost for retailers, giving solar PPA providers a regulatory cost advantage. Crucially this may occur despite the solar PPA providing the majority of the customers' electricity requirements and the traditional retailer the minority

To address this inconsistency, the esaa's first preference is that such schemes, if justified, be funded by the WA government on budget rather than using electricity as a tax base and financial counselling service. If governments continue to recover these costs through electricity prices the logical approach would be to seek to impose the cost across all forms of electricity consumption. Otherwise investment decisions will not reflect the actual cost to serve and the distortion will grow as consumers switch to new energy products and the tax base for these schemes erodes.

Questions also need to be asked around how complaints will be dealt with. As the draft paper correctly notes, customers of solar PPA providers will have recourse to Australian Consumer Law (ACL). Despite this, in the event of problems with their solar arrangements customers may well contact the Energy and Water Ombudsman of WA. This will result in costs being passed onto Synergy (and if FRC is introduced in the future, to other retailers) despite the problem having little, if anything, to do with them.

Currently, Synergy is required to pay households who install solar PV a feed-in tariff, known as the Renewable Energy Buyback Scheme (REBS) of 7.135 cents/kWh for any electricity fed back into the grid. It is unclear from the PUO's draft paper to whom Synergy will be required to pay the REBS as part of a solar PPA arrangement. Requiring Synergy to continue to pay this as part of a solar PPA arrangement would be counterintuitive given the nature of the solar PPA business model. As mentioned in the draft paper, under a solar PPA arrangement the customer agrees to purchase the energy generated by the solar panels from the provider over an agreed period at an agreed rate. If Synergy were still required to pay the REBS to either the customer or the solar PPA provider, they would in effect be subsidising the solar PPA business model as a result of government regulation.

Although the PUO appears to have come to the decision that a retail licence exemption for solar PPA providers is justifiable, the esaa considers that more work needs to be done to fully understand the implications of allowing an exemption. Innovation in markets should certainly be encouraged and the solar PPA model is one that could provide benefits for many households and businesses. It is less clear that this should be done in a manner which creates an uneven playing field that leaves risks, responsibilities and costs solely with other parts of the supply chain. Rather than offering a total exemption from licensing requirements, it could be more efficient for all parties to establish a licensing regime for such businesses that ensures that they contribute to the costs of the system in line with the impact they have on the system.

Any questions about our submission should be addressed to Ben Pryor, by email to [ben.pryor@esaa.com.au](mailto:ben.pryor@esaa.com.au) or by telephone on (03) 9205 3103.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Kieran Donoghue', written in a cursive style.

**Kieran Donoghue**  
General Manager, Policy