



7 August 2015

Alexander Kroon
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Public Utilities Office, Department of Finance
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Dear Mr Kroon,

Draft Recommendations Report: Retail licence exemptions for Solar Power Purchase Agreement providers

Origin Energy (Origin) welcomes this opportunity to respond to the Public Utilities Office (PUO) Draft Recommendations Report on Retail licence exemptions for Solar Power Purchase Agreement (SPPA) providers.

As the PUO is aware, Origin Energy has expressed interest in extending its SPPA provider business into Western Australia. Following discussions with the PUO, Origin Energy Retail 2 (OER2) lodged an application for a licence exemption on 5 January 2015. A final decision on our application for a licence exemption has yet to be made.

Origin agrees with the PUO's preference for granting a class exemption rather than issuing individual licence exemptions. We also agree with the information that the PUO proposes for the product disclosure statement, with the exception of the requirement to provide a comparative cost of the same product if a consumer were to purchase a system outright. We discuss this further below.

Proposed options

The PUO has proposed two options for regulating retail licence exemptions. The first option appears consistent with the process conducted by the Australian Energy Regulator (AER) under the National Energy Customer Framework (NECF). OER2 has obtained a licence exemption from the AER pursuant to this process. The PUO correctly identifies the relative disadvantages of pursuing this option, namely that it will increase red tape and unnecessarily delay entry into the marketplace.¹ Further, under this approach the regulator has the discretion to impose individual conditions on each exemption application, creating the risk that some SPPA businesses will be required to meet different regulatory standards.

The second option would see SPPA businesses automatically receive an exemption upon registration with the PUO. Origin agrees with the PUO that this option is preferable for regulating licence exemptions. This second option will provide more regulatory certainty for potential SPPA businesses, because they will be automatically exempt as a class, and would represent a more streamlined approach to regulating exemptions. Furthermore, by indicating in advance which information will be required in the product disclosure statement, SPPA businesses will have more certainty about the regulatory environment they can expect to operate under.

¹ Public Utilities Office, *Draft Recommendations Report: Retail licence exemptions for Solar Power Purchase Agreement providers*, July 2015, p. 13.

Proposed conditions

Origin agrees with the PUO applying limited conditions to SPPAs as part of the process of granting a class exemption. The PUO correctly states that '[t]he nature of the SPPA business model is distinct from that of an essential service' due to customers having access to ongoing grid supply.² Given that customers voluntarily enter into SPPAs, consumer protections under the *Competition and Consumer Act*, rather than requirements associated with retailer licensing, are more appropriate. The retail licence exemption conditions proposed by the PUO are consistent with not regulating SPPA businesses like energy retailers. It is reasonable for the PUO to keep a register of which businesses are offering SPPAs in the jurisdiction and to request basic data around customer numbers, the amount of installed capacity and complaints.

In terms of the product disclosure statement, Origin supports the proposed minimum requirements, with the exception of providing customers a comparative cost of the same product if a customer purchases a solar system outright. In our view, this condition is based on an incorrect assumption that buying a solar system upfront is the same as a SPPA, when in fact there are differences between them that make direct comparisons unhelpful for consumers.

Where a consumer buys a system outright, it involves purchasing a product; the owner assumes the risks and responsibility of owning and maintaining that system themselves and the owner receives payments for electricity exported to the grid. In contrast, a PPA does not involve the purchase of a product but the purchase of a service (i.e. generated electricity from the installed system) with obligations to maintain the system residing with the service provider. Furthermore, with respect to a lease, depending on the terms that a provider offers a customer, a lease may combine elements of a product and a service. Unlike a PPA or buying a system outright, a lease arrangement will also require the lessor to obtain an Australian Credit Licence in order to operate.

A further difficulty in making a like for like comparison is how to determine a like for like value of exported energy under the different purchase models. For example, where a customer purchases a product outright, the customer will receive the benefit of exported energy whereas under some SPPA models this benefit may accrue to the supplier. To make a direct comparison would involve assumptions around the level of exports and the benefit accruing to those exports. As a result, this complicates a direct comparison of the net costs of each product and service that could be supplied by a SPPA provider.

For these reasons, it is difficult to provide a 'like-for-like' price comparison because they are effectively non-comparable services. The below table demonstrates the differences between these three residential solar PV options.

² Public Utilities Office, *Draft Recommendations Report: Retail licence exemptions for Solar Power Purchase Agreement providers*, July 2015, p. 13.

Obligation/contract term	Buy outright	SPPAs	
		Lease	PPA
Title & ownership obligations	Customer	SPPA provider	SPPA provider
Monitoring system performance	Customer	Contract specific	SPPA provider
System maintenance	Customer	Contract specific	SPPA provider
Insurance	Customer	Contract specific	SPPA provider
Equipment replacement at end of life (e.g. inverter)	Customer	Contract specific	SPPA provider
Generation risk	Customer	Customer	SPPA provider
Payment basis	Upfront or financed	Periodic fixed amount (\$/period)	Periodic floating amount (\$/kWh)
Fixed price of contract	Yes	Yes	No (generation dependent)
Consumer protection framework	Competition and consumer act	Competition and Consumer Act & National credit act (Australian Credit Licence)	Competition and Consumer Act

Origin also notes, from a practical perspective, that some SPPA providers may not sell solar systems outright as part of their business.³ In those circumstances it is unclear how the provider would make this comparison. For these reasons, Origin is of the view that the PUO should not require businesses to provide customers with a price comparison to purchase a system outright in the product disclosure statements.

Further information

Origin would be pleased to discuss any matters raised within this response with the PUO. Please contact Timothy Wilson (Retail Regulatory Analyst) in the first instance on (03) 8665 7155.

Yours sincerely



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³ We note that Origin Energy presently offers customers the choice to purchase a solar system upfront, to finance a purchase or take up Solar as a Service (a PPA) over an agreed period of time.