

Review of the Northern Territory's Electricity Supply Licensing Regime

Final Decision – scope and design

Final decisions and reasoning
for changes to the scope and
design of the electricity
supply licensing regime

August 2023

The Utilities Commission

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Abbreviations and acronyms

AER	Australian Energy Regulator
Commission	Utilities Commission of the Northern Territory
Compliance Quarter	Compliance Quarter Pty Ltd
DCMC	Department of the Chief Minister and Cabinet
DTFHC	Department of Territory Families, Housing and Communities
EDL	EDL NGD (NT) Pty Ltd
Eni	Eni Australia Limited
EPO	electricity pricing order
ERA	Energy Resources of Australia Ltd
ER Act	<i>Electricity Reform Act 2000</i>
ER Regulations	Electricity Reform (Administration) Regulations 2000
EV	electric vehicle
GEMCO	Groote Eylandt Mining Company Pty Ltd
GPS	generator performance standards
IPP	independent power producers
Jacana	Jacana Energy
Licensing regime	electricity supply licensing regime
LMS	LMS Energy Pty Ltd
kW	kilowatt
kWh	kilowatt hours
NECA	National Electrical and Communications Association
NETCC	New Energy Tech Consumer Code
Minister	Minister for Renewables and Energy
MW	megawatts
PPA	power purchase agreement
PV	photovoltaic
PWC	Power and Water Corporation
Rimfire	Rimfire Energy
RTA Gove	Alcan Gove Pty Limited
SCTC	System Control Technical Code
SSG	small scale generation
SSRE	small scale renewable energy
Territory	Northern Territory
TGen	Territory Generation
UC Act	<i>Utilities Commission Act 2000</i>
VPP	virtual power plant

Executive summary

The Commission has reviewed the coverage, relevance and flexibility (scope and design) of the Northern Territory's (Territory's) electricity supply licensing regime (licensing regime) and will make changes to the scope and design of the licensing regime, or recommend the Minister approve changes where relevant, as detailed in this Final Decision. The Final Decision also outlines the Commission's reasoning for those changes. The Final Decision should be read in conjunction with the Commission's Draft Decision.

The changes fall into three broad categories: changes relating to licensing coverage and purpose; changes in the application of licensing to emerging technologies and business models; and changes relating to exemptions from the requirement to hold a licence. A summary of the final decisions under the three categories is set out below.

Licensing coverage and purpose (Chapter 3)

The Commission reassessed the objectives that it seeks to achieve through the application and term of licensing and whether special (legacy) licensing arrangements for independent power producers (IPP) and remote standalone power systems serving mining communities that existed prior to commencement of the *Electricity Reform Act 2000* (ER Act) remain fit-for-purpose. The Commission's final decisions for changes in relation to the coverage and purpose of licensing are as follows:

Legacy arrangements: independent power producers

Legacy licensing arrangements for IPPs will remain in place; however, the conditions of these licences will be reviewed during the next stage (stage 2) of the licensing review, which will assess the consistency, efficiency and effectiveness of the form and content of electricity supply licences.

Going forward, the Commission will only issue a generation licence, that is, no new IPP licences will be issued. Generation licences will include the standard set of conditions except where an applicant can demonstrate standard conditions are not appropriate for its electricity operations.

Legacy arrangements: standalone power systems – mining communities

Going forward, the Commission has decided that new remote standalone power systems will be required to hold all relevant licences unless, in accordance with the Commission's guiding principles, an exemption might be a preferred approach to authorising those operations. The licences will include the standard set of conditions except where a licence applicant can demonstrate standard conditions are not appropriate for its electricity operations.

While the (legacy) IPP licences for EDL NGD (NT) Pty Ltd and Energy Resources of Australia Ltd and the isolated system licence for Groote Eylandt Mining Company Pty Ltd will remain in place, the Commission has decided the conditions of these licences will be reviewed during stage 2 of the licensing review. The Commission will review Alcan Gove Pty Limited's exemption in 2023 as currently scheduled.

Licensing objectives

The Commission is satisfied that the licensing regime is meeting its objectives.

While the Commission publicly consults on licence applications, to improve transparency on licensing decisions, the Commission now issues a summary providing its decisions and associated reasoning when it approves (or not) a new licence for electricity supply operations and the conditions included in that licence.

Licensing duration

The Commission will continue the current approach of granting licences with an open term (that is, no expiry date). This avoids the costs associated with renewal and any risks associated with no expiry date will be managed through the monitoring and enforcement of compliance with licence conditions and, should it be necessary, the Commission may cancel or suspend a licence in accordance with section 36 of the ER Act.

Emerging technologies and business models (Chapter 4)

The Commission examined emerging technologies and business models (alternative supply models), in particular, energy storage systems, virtual power plants (VPPs), solar power purchase agreements (PPAs) and electric vehicle (EV) recharging to better understand the barriers to entry that licensing may create as well as the risks to the safe, secure and reliable operation of power systems and protections needed by consumers that licensing should address. While alternative supply models were not contemplated at the establishment of the ER Act, the Commission considers they are captured under the legislative framework and there are no exclusions specific to these operations (although some general exclusions under the Electricity Reform (Administration) Regulations 2000 (ER Regulations) or section 87 of the ER Act may apply in certain circumstances).

The Commission considers, given the varying types and scale of alternative supply models, characteristics of the power systems in which they may operate and who they provide services to and the nature of those services, a case-by-case approach will generally be needed to balance the costs and benefits of licensing.

Notwithstanding this, the Commission has made decisions in relation to specific technologies and business models which are summarised below.

Energy storage systems

The Commission will continue to classify energy storage systems as generation. This is consistent with current practice and the approach adopted in other state and territory licensing schemes, noting in many cases energy storage will be part of a hybrid system including other forms of generation. Standard generation licence conditions will apply to licences for energy storage systems except where a licence applicant can demonstrate that particular conditions are not appropriate or relevant for its electricity operations.

Owners and operators of generation and virtual power plants (VPPs)

The Commission considers the ER Act's reference to "generation of electricity" covers both ownership and operation of electricity generation plant. Going forward, where different parties are responsible for ownership and operation of generation plant, the Commission has decided to take the following approach (other than for aggregation models such as VPPs, which are discussed below):

- the owner of the generation plant will be required to hold a licence (or exemption)
- an owner's application for a generation licence should provide details of the owner's proposed operator and the contractual arrangements between the owner and operator
- when assessing whether the licence applicant (that is, the owner) is a suitable person to hold a licence the Commission will also consider the details of the proposed operator, including its technical resources and expertise
- licence conditions will require the licence holder (that is, the owner) to notify the Commission of any changes in circumstances that affect the operator
- the owner will remain responsible for meeting the requirements of the ER Act and their licence (or exemption) in relation to the generation plant and cannot contract out these obligations to the operator
- an owner and operator can jointly hold a generation licence or an operator can apply for a generation licence in its own right, if they so choose.

For VPPs, the Commission has decided:

- the operator of the VPP will be required to hold a licence (or exemption) authorising the VPP's operations. This is separate to the licence (or exemption) held by the owners of generation assets under the control of the VPP

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- the conditions of a licence (or exemption) for a VPP will, among other things, mitigate the risk that centralised control of multiple distributed generation plant (and load) poses to the safe, secure and reliable operation of the power system
- for small VPPs up to a maximum aggregated generating capacity of 2 megawatts (MW), the Commission will recommend to the Minister that a class exemption be established. Relevant conditions of the exemption are likely to include the requirement to: register the VPP with the Commission; comply with directions from the power system controller and relevant codes; ensure the quality of supply; and provide information to the Commission.

Third party solar PPAs

The Commission considers the sale of electricity generated by solar photovoltaic (PV) systems owned by third parties to customers (or any other party except a licensed retailer) under a PPA is not currently covered by a standing exemption. The Commission will recommend to the Minister that a class exemption be established to cover the electricity operations of solar PPA providers. Similar to the Small Scale Renewable Energy (SSRE) operations exemption, the solar PPA exemption will apply to solar PV systems up to a maximum generating capacity of 2 MW where supply from that generation plant is solely or primarily for on-site supply. The exemption will also cover the sale of electricity from the solar PV system to on-site end-users and the sale of excess electricity exported to the distribution network to a licensed retailer. Relevant conditions of the exemption are likely to be a requirement for the third party PPA provider to: register their operations with the Commission; comply with directions from the power system controller and relevant codes; ensure the quality of supply; and provide information to the Commission.

EV recharging

EV recharging differs from traditional electricity supply for domestic purposes as it is short-term in nature, there is choice in where to recharge (including at consumers' own premises), the time to recharge has value for which customers will pay extra and there are alternative options for transport. Given these factors, the Commission considers the costs of licensing are likely to outweigh the benefits and may create a barrier to the continued provision or expansion of EV recharging services.

Accordingly, the Commission has decided to write to the Minister recommending the Territory Government consider, through regulations, excluding EV recharging stations from the requirement to hold a retail or network licence (subject to relevant conditions) and from complying with the Electricity Pricing Order (EPO). In the interim, the Commission will recommend the Minister approve an exemption under section 87 of the ER Act. Relevant conditions of the exemption are likely to include: provision of information to the Commission on request and that an EV recharging station must comply with relevant safety and technical requirements under the *Electrical Safety Act 2022*, ER Act and regulations.

Other alternative supply models

The Commission has decided no changes will be made to the licensing regime in relation to other alternative supply models and licensing requirements for those operations will be considered on a case-by-case basis.

Exemptions from the requirement to hold a licence (Chapter 5)

The ER Act requires electricity operations to be licensed unless there exists a standing exemption that covers a person's operations or the Commission grants, with Ministerial approval, an exemption under section 87 of the ER Act.

The Commission recognises that the cost of licensing through fees and resources associated with achieving and maintaining compliance with licence conditions can be disproportionate relative to the potential risks to customers and/or the operation of the power system. Exemptions are a means of lessening the cost of regulation and achieving desired outcomes such as facilitating entry to markets and allowing consumers to benefit from competition and efficiency (through more choice or lower cost providers).

While the Commission is guided by the objects of the ER Act and UC Act in making its licensing decisions, these do not provide guidance for determining whether a licence or an exemption is the most appropriate outcome. Accordingly, the Commission has decided to use a set of principles to guide this decision and demonstrate how it applies the objects of the ER and UC Acts in order to improve transparency for potential applicants and lessen the risk of inconsistency across assessments.

The Commission's SSRE operations exemption, established in 2007, exempts SSRE operations from the need to hold a generation or retail licence subject to meeting eligibility criteria and complying with conditions of the exemption, which relate to the provision of information to the Commission, compliance with relevant safety and technical requirements and the requirement to contract with a licensed retailer for the sale of exported electricity. The Commission has identified shortcomings and uncertainties regarding the coverage of the exemption and will recommend the Minister approve amendments to the exemption to clarify its coverage and for eligible small generators, the conditions they must meet in order to remain covered by the exemption. The Commission will not require parties covered by the exemption to register their operations, noting relevant information is already collected through the network connection process.

Part 4 of the ER Regulations exempts on-suppliers from requirements to hold licences and associated licence conditions for the supply and selling of electricity. The exemption covers what are commonly known as embedded networks, which are privately owned electricity networks that serve multiple premises in a building or self-contained site such as apartment buildings, shopping centres, industrial precincts and caravan parks. The conditions of the on-supplier exemption are less extensive as those applied to licensed retailers, meaning consumers in embedded networks do not have the same access to protections as consumers of licensed retailers.

The Commission notes regulatory oversight of embedded networks has increased elsewhere in Australia with Victoria and the Australian Energy Regulator (AER) establishing registers of embedded networks and requiring compliance with obligations comparable to those of licensed retailers. Further reforms are intended with new embedded networks in Victoria to be licenced and recommendations for other jurisdictions participating in the National Electricity Market to only grant exemptions for embedded networks in very limited circumstances.

The Commission has received complaints relating to the conduct of some on-suppliers. Some on-suppliers and customers have also sought clarity from the Commission on requirements under the exemption, which are difficult to interpret. It is not within the Commission's power to address issues associated with the operation of the on-supplier exemption, which is a policy decision of the Territory Government, implemented through the ER Regulations. There would, however, be merit in the Government reviewing the operation of the exemption and considering whether the Territory should better align with requirements being placed on embedded networks in other jurisdictions.

The Commission's final decisions for specific changes in relation to the exemptions framework and standing exemptions are summarised below.

Guiding principles for assessing exemptions

The Commission has decided to apply the following principles to guide its decision-making on when an exemption may be appropriate for a person applying to operate in the Territory's electricity supply industry:

- any person who is granted an exemption must be a suitable person having regard to equivalent considerations to those that apply under section 16(3) of the ER Act
- an exemption will only be granted where the applicant can demonstrate that the costs of licensing outweigh the benefits associated with licensing and that any potential detriment of the applicant operating under an exemption (instead of a licence) for consumers of electricity is low
- an exemption for operations that affect small customers will only be appropriate where small customers are sufficiently protected, including where the exemption conditions or market conditions are likely to ensure that small customers are supplied on fair and reasonable terms and prices

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- an exemption may be appropriate where the proposed operations do not involve any material risks to the safe, secure and reliable operation of the power system, or any risks can be appropriately mitigated by conditions
- an exemption may be appropriate where the operations do not relate to an essential service and alternative regulated sources of electricity supply or other appropriate substitutes for the product or service are available to customers
- a risk-based approach will be applied to determining conditions for an exemption.

SSRE operations exemption

The Commission has decided to seek Ministerial approval to update the SSRE operations exemption to:

- change the name of the exemption to the Small Scale Generation (SSG) exemption
- remove the specification that generation is to be from a renewable source
- amend the specification relating to on-site supply to capture zero export systems, that is, the specification will be ***the electricity is generated solely or primarily for on-site supply***
- clarify that the exemption covers energy storage systems
- retain the 2 MW threshold and clarify that this applies to total capacity of on-site generation (not individual on-site generators or energy storage systems)
- clarify that the exemption does not cover VPPs or third party solar PPAs (these will be dealt with separately)
- update the condition relating to safety and technical requirements to also reference the *Electrical Safety Act 2022*
- clarify that a failure to comply with the conditions of the exemption means that a person and their operations are not covered by the exemption.

Visibility of SSG operations

The Commission has decided not to require persons using the SSG exemption to register their operations with the Commission or establish a register of SSG operations.

On-supplier exemption

The Commission has decided to write to the Minister recommending that the Territory Government review the operation of the on-supplier exemption to ensure that it provides sufficient protection for customers, requirements under the exemption are contemporary and easy to understand and to give greater visibility of who is utilising the exemption.

1 | Introduction

This Final Decision explains changes to the Commission's framework for considering and granting licences (or exemptions from the requirement to hold a licence) for operations in the electricity supply industry in the Territory.

Context to the Final Decision

The Commission has responsibility for performing licensing functions in the Territory's electricity supply industry under the ER Act and ER Regulations. These functions include the power to: grant, amend, transfer and cancel licenses; grant (subject to Ministerial approval) an exemption from the requirement to hold a licence; determine the conditions to be included or excluded from a licence; and monitor and enforce compliance against licence conditions.

In 2022, the Commission commenced a review of the Territory's licensing regime, the first since the licensing regime was established in 2000. The review aims to clarify and enhance the operation of the licensing regime given the emergence of alternative electricity supply arrangements, and allow the Commission to reassess the balance between the administrative and financial cost of licensing for licensees and government and the benefits to consumers and industry. While the Commission will ultimately reassess all aspects of the operation of the licensing regime, its review is being undertaken in three separate components (stages):

- stage 1: a review of the coverage, relevance and flexibility (scope and design) of the licensing regime
- stage 2: a review of the consistency, efficiency and effectiveness of the form and content of licences
- stage 3: a review of the efficiency and effectiveness of the Commission's licensing and related reporting and compliance processes.

This Final Decision concludes stage 1, that is, the review of the scope and design of the licensing regime.

The review of the scope and design of the licensing regime commenced with the release of an Issues Paper¹ on 8 April 2022, which sought feedback on matters including:

- legacy licensing arrangements established at the commencement of the regime
- whether the licensing regime is achieving its objectives
- the application of licensing to emerging technologies and business models
- the framework for determining when an exemption may be more appropriate than a licence
- the operation of the SSRE operations exemption.

Stakeholders were invited to provide feedback on questions posed in the Issues Paper and any other matters relating to the scope and design of the licensing regime. Responses were received from nine stakeholders:

Department of the Chief Minister and Cabinet (DCMC)

EDL NGD (NT) Pty Ltd (EDL)

Jacana Energy (Jacana)

Power and Water Corporation (PWC)

Territory Generation (TGen)

Department of Territory Families, Housing and Communities (DTFHC)

Eni Australia Limited (Eni)

National Electrical and Communications Association (NECA)

Rimfire Energy (Rimfire)

¹ Available at <https://utilicom.nt.gov.au/projects/projects/review-of-the-northern-territory-electricity-licensing-regime-scope-and-design>

Draft Decision

The Commission considered stakeholders' feedback in making its Draft Decision, which was published on 20 April 2023. The Draft Decision was open for submissions for an eight week period ending on 16 June 2023. The Commission received seven submissions to the Draft Decision from:

Compliance Quarter Pty Ltd (Compliance Quarter)	EDL
Groote Eylandt Mining Company Pty Ltd (GEMCO)	LMS Energy Pty Ltd (LMS)
Jacana	PWC
Rimfire	

Submissions and further information on the review of the scope and design of the licensing regime can be found on the Commission's website at <https://utilicom.nt.gov.au/projects/projects/review-of-the-northern-territory-electricity-licensing-regime-scope-and-design>.

Structure of this paper

The Final Decision sets out the issues, stakeholders' views, and the Commission's reasoning and final decisions on matters raised during the review of the scope and design of the licensing regime. The Final Decision follows the structure of the Issues Paper and Draft Decision, and is arranged as follows:

- Chapter 2 describes the licensing regime
- Chapter 3 presents final decisions and reasoning on legacy licensing arrangements and matters relating to the coverage and purpose of the licensing regime
- Chapter 4 presents final decisions and reasoning on licensing of emerging technologies and business models
- Chapter 5 presents final decisions and reasoning on the exemptions framework including standing exemptions
- Chapter 6 provides information on the next steps of the Commission's review of the licensing regime.

The Final Decision should be read in conjunction with the Draft Decision, which provides more detailed information on submissions to the Issues Paper.

2 | The Territory's electricity supply licensing regime

It is a policy decision of the Territory Government, under the ER Act and ER Regulations, that to operate in the Territory's electricity supply industry, a person conducting the following operations must hold a licence:

- generation of electricity
- owning or operating an electricity network or a dedicated connection asset
- selling electricity
- system control over a power system
- operating a wholesale market.

The Territory Government has, however, provided for certain exclusions and exemptions from the requirement to hold a licence under the ER Regulations as follows:

- exclusion of certain types of generation where it is not connected to electricity infrastructure owned or operated by an electricity entity and it is generated for the person's own use.
- exclusion of the sale of electricity from a person to a customer where electricity is not available for supply to the customer by an electricity entity (for example, a customer located in a remote area where there is no existing electricity network) and the total amount supplied is not more than 160 MW hours per year.
- an exemption for the system control licensee for the Darwin-Katherine power system to operate a wholesale market for that power system without being required to also hold a wholesale market licence.
- an exemption for the on-supply of electricity, that is, where an owner or occupier of premises, or a person who has the right to use premises, supplies or sells electricity to other users on the premises.

Section 87 of the ER Act also provides for the Commission, with the approval of the Minister, to grant an exemption from the requirement to hold a licence from any operation, on terms and conditions the Commission considers appropriate. The Commission has issued the following exemptions:

- a class exemption for SSRE operations with a maximum generation capacity of 2 MW
- three² individual exemptions for specific entities and their operations.

Section 87A of the ER Act provides the Commission with a specific power to issue exemptions relating to owning and operating a dedicated connection asset. The Commission has not issued any exemptions under this provision.

The Commission is required to keep a register of the licences and exemptions it grants under the ER Act, which can be inspected at no cost. The Commission maintains a register on its website for this purpose, which provides viewers with access to a copy of each licence or exemption. Each individual licence or exemption shows the entity licensed or exempted, the activities covered including their location, and terms and conditions attached to the licence or exemption.

In considering whether (or not) to grant a licence (or exemption), section 16(2) of the ER Act requires the Commission to have regard to factors under section 6(2) of the UC Act, which relate to promoting competition, efficiency and the interests of customers with respect to reliability and quality of services and supply while ensuring the financial viability of industry. The Commission also considers the objects of the ER Act, which are similar, but tailored to the electricity supply industry. In granting a licence, the Commission must also be satisfied that the applicant is a suitable person to hold a licence and their operations are able to perform to the necessary standard for that type of operation with the matters to be considered in assessing suitability set out in section 16(3) of the ER Act. These include the honesty and integrity of the dealings of an applicant and the financial, technical and human resources available to the applicant to carry out their operations.

²One individual exemption was subsequently revoked by the Commission following advice from the relevant entities that it was no longer required.

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Sections 15(2) and 19(2) of the ER Act require licence applicants and licensees to pay application fees and annual fees, which are set by the Treasurer. There are no fees associated with exemptions.

3 | Licensing coverage and purpose

Legacy arrangements: independent power producers

Background

The Commission has issued five IPP licences.³ Two of the IPP licences cover privately owned generation serving mining operations and the operations pre-date the introduction of the ER Act. Those licences are discussed in the next section, which reviews licensing for standalone power systems for mining communities.

The remaining three IPP licences are the focus of this section and relate to privately-owned generators whose electricity is sold under contract to another licensed generator, that is, the licence does not permit sales to retailers or end consumers. The IPP licences are held by LMS for generation at the Shoal Bay renewable energy facility in Darwin; TKLN Solar Pty Ltd for solar generation at the communities of Ti Tree, Kalkarindji and Alpuururulam; and Uterne Power Plant Pty Ltd for solar generation at Alice Springs. These IPP licences contain fewer conditions than a 'standard' generation licence, typically omitting conditions relating to:

- evidencing of financial, technical and other capacity to continue operations (when required by the Commission)
- establishing and maintaining a compliance process to ensure the licensee complies with its obligations under the licence and all applicable laws, codes, rules or standards
- reporting on compliance to the Commission and conducting external audits of compliance as required by the Commission
- notifying of changes in officers or major shareholders
- compliance with requirements of community service obligations approved and funded by the government
- providing ancillary services on request by the power system controller
- preparing and submitting a safety management and mitigation plan to the Commission for approval as well as compliance with, and annual review of, these plans⁴
- requirements if an operator is appointed under section 41 of the ER Act
- entry into coordination agreements with retail or network licensees.

The Issues Paper asked whether there are risks that arise as a result of the omission of certain conditions from licences for IPPs, and noting the long-standing nature of IPP arrangements, whether the benefits would outweigh the costs of imposing additional obligations on IPPs through licence conditions. The Issues Paper advised the Commission does not expect to issue IPP licences for new operations.

Responses to the Issues Paper were received from DTFHC, EDL, Jacana, NECA, PWC, and TGen and the feedback was varied. Some respondents were in favour of differential licencing arrangements to facilitate the introduction of new participants or considered that risks arising from conditions omitted from IPP licences could be managed under power purchase agreements, while others pointed to perceived and actual inequities created between market participants, the need for arrangements to ensure safe installation, reliability of supply and protections for retailers and customers.

Following consideration of stakeholder feedback to the Issues Paper, the Commission's Draft Decision was to, going forward, only issue a generation licence, that is, no new IPP licences will be issued and generation

³ Refer the Commission's register of electricity licences and exemptions at <https://utilicom.nt.gov.au/electricity/licensing/register-of-electricity-licences-and-exemptions>

⁴ Responsibility for safety management and mitigation plans is to transfer to NT WorkSafe consistent with new arrangements under the *Electrical Safety Act 2022*.

licences would include a standard set of conditions except where an applicant can demonstrate standard conditions are not appropriate for its electricity operations.

Submissions to the Draft Decision

Responses to the Draft Decision were received from EDL, GEMCO, LMS and PWC.

EDL and LMS both consider compliance conditions and quality and reliability of supply are effectively managed through PPAs for the electricity produced. Furthermore, EDL considers where there is a single generator on a network (excepting community solar) and a PPA exists, an IPP licence exceeds a reasonable cost-benefit balance.

More generally, EDL considers that, in the absence of a clear exemption framework that demonstrates the maintenance or improvement of the cost-benefit balance, the issuing of new IPP licences (under conditions currently in place) is necessary to meet the Commission's objectives (such as facilitating entry to markets and allowing consumers to benefit from competition and efficiency), and that the Draft Decision did not address the issue of licence conditions being disproportionate relative to the potential risks to customers and/or the operation of the power system. EDL was of the view that while potential was provided for certain exemptions to be granted against some licence conditions, there was no clear or structured way for applicants to have certainty of success and unreasonable costs may be incurred in trying to demonstrate the cost-benefit balance against an undefined standard. Regardless, EDL still considers IPP licences may be unbalanced toward cost noting in Western Australia the threshold requirement for licensing of generation has been increased (to 100 MW). EDL cited the associated legislation as stating "there are sufficient regulatory and contractual arrangements in place to manage the operation of generating electricity without the need to licence generators this amendment will remove unnecessary compliance costs and administrative burden associated with current generator licences".

PWC supported the Commission's position that new generators be subject to standard conditions as it enhances transparency and consistency for all market participants. PWC noted that there may be specific cases where standard conditions may not be appropriate, but recommended the Commission provide additional guidance on those circumstances or alternatively, outline the factors that will be considered in making such a determination and clarify whether stakeholder consultation would be involved.

PWC advised it understood the next stage of the licensing review would address IPP licences and requested the Commission grant a derogation or alternative arrangement for PWC's remote and isolated systems. PWC was concerned that applying standardised licensing obligations could impose unreasonable technical, service performance and administrative requirements on PWC or its Indigenous Essential Services subsidiary.

Commission's position and reasons

Consistent with the Draft Decision, the Commission confirms that going forward, it will not issue any new IPP licences, noting there is no provision for this type of licence under the ER Act. Any new generation plant will be authorised through a generation licence containing standard conditions unless the licence applicant can demonstrate that some of those conditions are not appropriate for its operations.

The Commission notes, as outlined in Chapter 2, some generators may be exempt from the requirement to hold a licence under existing exemptions; however, prospective entrants should seek independent legal advice on the application of any existing exemptions to their specific circumstances. The exemption framework also provides for the Commission, with Ministerial approval, to grant individual exemptions, and the Commission's approach to these and other matters relating to standing exemptions is discussed in Chapter 5. As EDL points out, licensing thresholds for generation in other jurisdictions may be higher, but those power systems are also much larger than those in the Territory. The licensing and exemption framework provides a means to weigh the balance between costs, risks and benefits.

The Commission has commenced stage 2 of the licensing review which examines the form and content of licences with the release of a consultation paper on standard licence conditions on 10 July 2023. As part of stage 2, the Commission will consider the matters relating to licence conditions raised during stage 1 including PWC's concerns in relation to requirements for its remote and isolated systems. Any changes to

the conditions of existing licences will be subject to direct engagement between the Commission and the licensee.

Decision to implement

Legacy licensing arrangements for IPPs will remain in place; however, the conditions of these licences will be reviewed during stage 2 of the licensing review, which will assess the consistency, efficiency and effectiveness of the form and content of electricity supply licences.

Going forward, the Commission will only issue a generation licence, that is, no new IPP licences will be issued. Generation licences will include the standard set of conditions except where an applicant can demonstrate standard conditions are not appropriate for its electricity operations.

Legacy arrangements: standalone power systems – mining communities

Background

As noted in the previous section, there are two IPP licensees for remote standalone power systems that supply mining sites: EDL for generation at the McArthur River Mine site and Energy Resources of Australia (ERA) for generation at the Ranger Uranium Mine site. These electricity supply arrangements predate the establishment of the ER Act. As with other IPP licences, the licences for EDL and ERA impose a lesser number of conditions than a standard generation licence.

EDL's IPP licence covers generation of electricity for own use and sale to McArthur River Mining Pty Ltd and other licensed generators. ERA's licence covers the generation of electricity for its own use and sales of electricity to specific customers and other licensed generators. While ERA has historically supplied electricity for use in the township of Jabiru, supply for the township has recently transitioned to the Jabiru Hybrid Renewable Power Station, operated under licence by EDL Jabiru Pty Ltd. Consistent with the Commission's intent not to issue any new IPP licences, supply by EDL Jabiru Pty Ltd is authorised under a standard generation licence.

In addition to the two IPP licensees, there are two other private providers that supply electricity to mine sites and nearby communities: Alcan Gove Pty Limited (RTA Gove) and GEMCO.

RTA Gove is exempt from the requirement to hold a licence through an ER Act section 87 exemption document issued by the Commission in 2005. The exemption was reviewed in 2019 and is subject to further review every three years. The exemption contains conditions relating to the provision of information to the Commission; compliance with life support requirements under the Electricity Retail Supply Code and requirements regarding guaranteed service levels for interruptions, connections and appointments and associated reporting. There is not a condition relating to pricing, but RTA Gove has subsidised electricity supply, charging tariffs to customers that are below the cost of generation and the tariff set in the EPO. In early 2023, RTA Gove advised customers that it would be transitioning its tariffs to the regulated rate by April 2024. While the township of Nhulunbuy was initially established as a mining town and RTA Gove's customers would have primarily been its own operations, workforce and supporting businesses, the township is now evolving to be a regional service hub as a result of the shutdown of the alumina refinery in 2017 and the transition of bauxite mining operations toward closure in 2030.

GEMCO conducts its electricity operations under an isolated system licence, which permits GEMCO to undertake network, generation and sales operations for Alyangula and connect with PWC's electricity network at Angurugu for supply of electricity to that community. GEMCO's licence contains conditions mandated by the ER Act relating to compliance with laws, regulatory instruments and the Territory Government's EPO and development and compliance with customer related standards and procedures. GEMCO's licence also includes obligations relating to the quality, safety and security of supply; disconnections and the provision of information. The licence omits obligations relating to audits of operations, evidencing financial or other capacity to continue operations under the licence and notifying the Commission of changes to officers and major shareholders.

The Issues Paper advised the Commission does not expect to issue any new isolated system licences. This type of licence is not specified in the ER Act and the likelihood of establishing a new mining township (and

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need for a licence for a single entity providing all electricity operations) is low. Should, however, such a circumstance arise or electricity supply arrangements change (as occurred in Jabiru), the Issues Paper advised the Commission will consider licensing requirements on a case-by-case basis.

The Issues Paper asked whether there are risks or negative impacts to customers in remote mining communities where there are legacy arrangements to provide electricity supply by private providers operating under special licences or exemptions.

Responses to the Issues Paper were received from DTFHC, DCMC, EDL, Jacana and PWC and matters raised included:

- recommendations the Commission consider the changing nature of legacy arrangements, particularly for non-mining related activities, and the appropriateness of legacy arrangements for Nhulunbuy and Alyangula due to community concerns about the reliability and quality of supply
- as noted in the previous chapter, risks are mitigated by the existence of PPAs
- granting special licences or exemptions for remote mining communities may be perceived as implying energy consumers in those communities have a lower priority than larger network connected energy consumers
- incoming participants who take over after legacy agreements expire may incur extra costs due to the need to manage and resolve issues and complaints arising from the transition.

Following consideration of stakeholder feedback to the Issues Paper, the Commission's Draft Decision was to, going forward, require new remote standalone power systems to hold all relevant licences (no further isolated system licences or IPP licences will be issued) and the licences would include a standard set of conditions except where a licence applicant can demonstrate standard conditions are not appropriate for its electricity operations. Further, the Draft Decision proposed that the Commission would not make any changes to the (legacy) IPP licences for EDL and ERA or the isolated system licence held by GEMCO, but would review RTA Gove's exemption in 2023 as currently scheduled.

Submissions to the Draft Decision

Responses to the Draft Decision were received from EDL, GEMCO and PWC.

Similar to its earlier submission, EDL advised a single generator on the network (for example, its generation plant at Jabiru) would be adequately covered by a PPA and an IPP licence exceeds a reasonable cost-benefit balance. Further, EDL did not consider a generation licence appropriate for circumstances like its McArthur River Mining Power Station where there is a PPA between two sophisticated organisations and the arrangements do not impact the general public.

GEMCO sought information on what the licensing implications would be if there was a change in the method of electricity generation or if another entity takes over the supply of power to the Groote Eylandt townships of Alyangula, Malkala and Angurugu.

PWC agreed with the Commission's position that going forward, all arrangements should be subject to the same requirements, but additional exemptions may be appropriate based on the Commission's assessment of specific circumstances. PWC suggested the Commission impose reporting and monitoring requirements on IPP licence holders to enhance transparency and ensure accountability for communities served by privately operated power stations in standalone systems.

Commission's position and reasons

Consistent with its Draft Decision, the Commission will not issue any further isolated system or IPP licences. Should there be a situation where a new remote standalone power system is to be established, the Commission will require the owners and operators of that system to hold all relevant licences unless, in accordance with the Commission's guiding principles, an exemption might be a preferred approach to authorising those operations. Any licences for remote standalone power systems will be subject to standard conditions unless the licence applicant can demonstrate that particular conditions are not relevant or appropriate to their operations. This will ensure there is transparency in requirements and that licensees can

be held to account for performance against those obligations. There is also flexibility to assess what arrangements may best suit circumstances such as those exemplified by EDL.

The Commission notes that regulations 3A and 3B of the ER Regulations provide standing exemptions from the requirement to hold a licence for certain types of electricity generation and sales where other supply is not available, and may be relevant to some remote standalone power systems.

The Commission notes that there may be costs associated with new entrants managing and resolving issues that arise when legacy arrangements end, but there are limited instances where these issues may arise and they are commercial matters beyond the scope of the licensing regime.

The Commission will review the conditions in the IPP licences for EDL and ERA as part of stage 2 of the licensing review. The Commission is due to review RTA Gove's exemption during 2023. The Commission will also review the conditions of GEMCO's isolated system licence as part of stage 2 of the licensing review. As noted in the Draft Decision, should there be non-compliance with requirements regarding quality and adequacy of supply, a change in GEMCO's circumstances (including the method of electricity generation) or performance then the Commission would reassess the suitability of current licensing arrangements for GEMCO's operations.

Should another entity take over the supply of power to the Groote Eylandt townships of Alyangula, Malkala and Angurugu, the Commission expects that entity to apply to hold all relevant licences. The Commission would be unlikely to approve a transfer of the isolated system licence to another entity.

Decision to implement

Going forward, the Commission has decided that new remote standalone power systems will be required to hold all relevant licences unless, in accordance with the Commission's guiding principles, an exemption might be a preferred approach to authorising those operations. The licences will include the standard set of conditions except where a licence applicant can demonstrate standard conditions are not appropriate for its electricity operations.

While the (legacy) IPP licences for EDL and ERA and the isolated system licence for GEMCO will remain in place, the Commission has decided the conditions of these licences will be reviewed during stage 2 of the licensing review. The Commission will review RTA Gove's exemption in 2023 as currently scheduled.

Licensing objectives

Background

The Commission considers licensing promotes appropriate consumer protections and market conduct and moderates the monopoly power of electricity entities. There are also licence conditions that influence behaviour between industry participants, for example, generators are required to comply with directions from the power system controller. Other conditions require licensees to ensure reliability, safety and quality of supply including complying with technical and other codes.

Licences are published on the Commission's website providing transparency on licensees' obligations and signalling to potential market participants the conditions for operating in the Territory's power systems. The Commission reports on the performance of licensees in complying with the conditions of their licence and other legislative obligations through its annual compliance monitoring report.

Prior to granting a licence, the Commission must ascertain that an applicant is a suitable person to hold a licence and the suitability of their proposed operation. The Commission consults on licence applications, which provides the opportunity for other system participants and stakeholders to provide input into its assessment of the application. This assists with identifying potential technical, financial and other issues that may adversely affect the operation of the power system or viability of industry participants. Noting the circumstances of a licensee may change over time, it is a condition of a licence that the licensee notifies the Commission of changes in officers and major shareholders and, if requested by the Commission, provide details on its financial, technical and other capacity to continue operations under the licence.

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The Issues Paper sought feedback on whether the licensing regime was effective at controlling market power, facilitating competition, promoting investment and managing risk including ensuring licensees have the necessary technical competence, financial strength and honesty to operate in the industry. Suggestions for improvements were sought where deficiencies were identified or licence conditions could be removed if they were more than was needed to achieve these outcomes.

Responses to the Issues Paper were received from DTFHC, EDL, Eni, Jacana, NECA, PWC, Rimfire and TGen with the following feedback:

- by being clear, understood and consistently applied, licensing can positively impact market power, competition and investment, but despite this, retail competition in the Territory remains limited
- licensing is important for maintaining safe and reliable electricity supply while promoting a competitive and fair marketplace for new entrants
- the licence application process was rigorous and effective, but could be improved by providing visibility of rejected applications and associated reasoning
- the reasons for, and benefits of removing, licensing conditions should be considered so that they are not burdensome and more than what is needed to achieve desired outcomes
- the licensing regime effectively managed risk on an ongoing basis through audits, reporting of changes and Board sign off on reporting, but on-going technical competence and financial strength may require more assessment.

A number of matters were also raised by respondents that were beyond the scope of the licensing review including a variable licence fee structure for generators; continuance of the retail restriction on TGen, provision of essential system services and notification and commitment of new generation.

The Draft Decision advised the Commission was satisfied the licensing regime is meeting its objectives, but acknowledged the absence of information on rejected applications. While such instances are rare, the Commission had not typically provided information on its decisions regarding new licences and the conditions included in those licences. To improve transparency, the Draft Decision advised the Commission had commenced issuing a summary providing its decisions and associated reasoning for approvals (or not) of applications for electricity supply licences. The Commission's first statement, in relation to approval of Darwin International Airport Pty Limited's generation licence, was issued in March 2023.⁵ The Draft Decision also noted matters including review of licence conditions and the Commission's processes for ensuring ongoing financial (and technical) capability of licensees would be considered in subsequent stages of the licensing review.

Submissions to the Draft Decision

PWC's submission supported the Commission's proposed approach.

Commission's position and reasons

Consistent with the Draft Decision and as exemplified above, the Commission considers the licensing regime can positively influence the participation and behaviour of existing or prospective market participants, but agrees it cannot address the root causes of market power or that retail competition continues to be limited in the Territory. The Commission considers the licence application process including public consultation on licence applications effectively scrutinises a person's (and their operations) capability to operate in the Territory's electricity supply industry. Licence conditions and associated compliance monitoring and reporting processes are also effective in ensuring appropriate market conduct, protecting consumers and facilitating safe, secure and reliable supply of electricity.

⁵ Refer <https://utilicom.nt.gov.au/news/2023/generation-licence-issued-darwin-international-airport-pty-limited>

The Commission has addressed feedback relating to the lack of transparency on its licensing decisions with issuance of a summary providing its decisions and a summary of its associated reasoning for approvals (or not) of applications for electricity supply licences.

Decision to implement

The Commission is satisfied that the licensing regime is meeting its objectives.

While the Commission publicly consults on licence applications, to improve transparency on licensing decisions, the Commission now issues a summary providing its decisions and associated reasoning when it approves (or not) a new licence for electricity supply operations and the conditions included in that licence.

Licence duration

Background

Typically, the Commission does not set an expiry date for a licence. Instead, a licence continues until it is surrendered by the licensee or the Commission cancels (or suspends) the licence in accordance with section 36 of the ER Act. This approach avoids the costs associated with renewal for both licensees and the Commission (for example, fees and resources required to prepare documentation and administer the process); however, the Commission can still cancel or suspend the licence where appropriate, if needed.

The Commission monitors licensees' performance primarily through information reported by licensees, audits and complaints by stakeholders. As part of reporting requirements, licensees submit an annual compliance report to the Commission, which declares, among other matters, instances of non-compliance against conditions of their licence. While annual reporting requirements are the Commission's standard approach to monitoring compliance, the Commission does adopt an approach that applies more (or less) reporting or auditing requirements for licensees who consistently demonstrate poor (or good) performance and governance.

The Issues Paper sought feedback on whether the Commission's approach for the term of a licence appropriately balances any risks that may arise from no expiry date and costs associated with requiring regular renewal.

EDL, Eni, Jacana, NECA, PWC and Rimfire responded to the question in the Issues Paper with all considering the current approach to be appropriate. Feedback included advice that regular renewal would introduce unnecessary administrative obligations without adding any real value to the ongoing compliance and auditing procedures, increase costs without fixing competency issues and create complexity in the final year of contracted supply where extension options would need to be managed along with licence extensions. EDL also noted that the lack of an expiry date reflects the long-term nature of arrangements for electricity supply and that licence fees would discourage entities from holding licences unnecessarily.

Respondents acknowledged the importance of compliance monitoring and enforcement to balance the risk of having no expiry date on licences. Jacana supported the imposition of additional obligations on consistently non-complying licensees. Rimfire supported an approach that applied less reporting or auditing requirements for licensees who demonstrate good and consistent performance, but considers increasing licensing obligations or reporting was counter-productive to promoting competition and economic efficiency.

The Draft Decision advised that the Commission considers the current approach of granting licences with an open term (that is, no expiry date) to be appropriate and no changes to that approach were proposed.

Submissions to the Draft Decision

LMS and PWC responded to the Draft Decision with both supporting the open licence expiry term. LMS observed the practice is consistent with the approach in other jurisdictions and PWC considers perpetual licences provide greater certainty to generation providers, which further promotes effective competition.

Commission's position and reasons

Consistent with the Draft Decision, the Commission considers the current approach of granting licences with an open term (that is, no expiry date) to be appropriate. Notwithstanding this, there may occasionally be circumstances where uncertainty or potential risks outweigh the additional administrative and cost burden on the licensee and the Commission chooses to grant a licence for a specific period. Prior to expiry, the licensee can apply for their licence to be renewed and the Commission will then conduct a full reassessment of their circumstances including performance over the term of the licence before determining whether a new licence should be granted.

The Commission will not lessen compliance reporting or oversight of any licensees, but has, in recent years, placed additional requirements on, and increased its oversight of, some licensees in order to be further assured of the robustness of their compliance processes. The increased oversight will be temporary, provided that the Commission observes a suitable improvement in compliance performance.

Noting that increased oversight is targeted and does not affect all industry participants, the Commission does not consider it will have a negative impact on competition. The Commission also believes that businesses with effective compliance systems will be more capable and efficient than those with poor systems and deliver better outcomes for customers.

Decision to implement

The Commission will continue the current approach of granting licences with an open term (that is, no expiry date). This avoids the costs associated with renewal and any risks associated with no expiry date will be managed through the monitoring and enforcement of compliance with licence conditions and, should it be necessary, the Commission may cancel or suspend a licence in accordance with section 36 of the ER Act.

4 | Emerging technologies and business models

Emerging technologies and business models are transforming the electricity supply industry. The application of licences and exemptions needs to be adaptable and flexible to facilitate entry of these alternative supply models while still ensuring customers (or prospective customers) of those services are sufficiently protected and power systems continue to operate safely, securely and reliably.

The Issues Paper and Draft Decision focussed on energy storage systems, alternative supply models including VPPs and solar PPAs, and EV recharging, seeking to better understand the barriers to entry that licensing may create as well as the risks and protections needed by consumers that licensing should address.

Energy storage systems

Background

The Commission considers the definition of generation of electricity in the ER Act – “operation of any kind of electricity generating plant and all incidental and related operations, but does not include anything declared by Regulations not to be generation” – would encompass battery and other energy storage technologies (energy storage systems), noting the ER Regulations contain no exclusions specific to these systems. The Commission notes energy storage systems provide the same services as those provided by, or inherent to, traditional forms of thermal generation.

To date, larger scale commercial energy storage systems in the Territory have been installed by incumbent generators or form part of new hybrid generation systems. However, in the future there may be other proponents who seek to operate energy storage systems to meet localised energy needs or to provide essential system services.

Smaller scale energy storage systems installed by households and businesses may be exempt from licensing under the Commission's SSRE operations exemption provided the total system size including battery capacity remains below the exemption threshold of 2 MW. The SSRE operations exemption is discussed further in the next chapter.

The Issues Paper sought feedback from stakeholders in order to better understand the implications and costs and benefits of licensing for energy storage systems. More specifically, the Issues Paper asked:

- whether there were barriers to entry or other issues with classifying energy storage systems as generation or merit in prescribing energy storage systems as a separate operation
- what key risks to electricity supply (if any) need to be addressed through licensing (or exemptions)
- and the conditions that should be included or omitted in a licence (or exemption) for an energy storage system.

Responses to the Issues Paper were received from DTFHC, Eni, Jacana, NECA, PWC, Rimfire and TGen. Feedback from respondents included:

- support from some respondents for classifying energy storage systems as generation and where these systems are integrated in a generation site, it was considered there should not be separate licensing requirements. Other respondents, however, supported separate classification of energy storage systems including under a new licence class of essential system service provider
- clarity was sought on whether an energy storage system providing power or essential system services directly to customers via a private transmission line would require a generator, network or both licences
- System Control and the Market Operator require visibility of energy storage systems to be able to manage and settle the market, but this could be achieved through 'registration' up to a particular size
- certain clauses in the Generator Performance Standards (GPS) under the Network Technical Code present barriers to the connection and operation of an energy storage system and the interim Northern Territory Electricity Market rules do not allow for a battery energy storage system to be operated in a manner to optimise operation of a generation fleet

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- in terms of risks, respondents identified energy storage systems could have a negative impact on the network and reliability; however, PWC advised there are no risks or requirements for additional licence conditions for energy storage systems that cannot be managed through obligations in the System Control Technical Code (SCTC). PWC did, however, observe that an energy storage system of +/-1 MW discharging/charging rating should be considered equivalent to a 2 MW capacity generating source as this reflects the impact on generation dispatch when it changes from charging to discharging
- several respondents expressed support for an exemption or less rigorous conditions for small energy storage systems to reduce barriers to entry and facilitate uptake.

Following consideration of stakeholder input, the Draft Decision proposed energy storage systems continue to be classified as generation with standard generation licence conditions to apply to licences for energy storage systems except where a licence applicant can demonstrate that particular conditions are not appropriate or relevant for its electricity operations.

Submissions to the Draft Decision

Responses to the Draft Decision were received from Compliance Quarter, Jacana, PWC and Rimfire.

Compliance Quarter supported a standing exemption for small energy storage systems to facilitate uptake given the potential of such systems to benefit consumers through reducing overall energy costs.

Jacana reiterated its position that regulating energy storage systems as generation has issues (the example in its submission to the Issues Paper was batteries that buy from the market not a retailer). Jacana advocated for case-by-case consideration for co-located, large-scale assets or behind-the-meter small scale assets and supported TGen's recommendation, in its response to the Issues Paper, for a new essential system services provider class to be created.

PWC agreed that negotiated access agreements are a suitable pathway for resolving issues with the application of the GPS framework to energy storage systems. PWC advised it would review the framework to address issues that arise relating to new technologies, but since the Territory Government's Priority Market Reform Program is currently examining the framework, PWC would refrain from making significant changes to the framework until the Territory Government's design is finalised.

Rimfire supported the classification of energy storage systems as generation.

Commission's position and reasons

Consistent with the Draft Decision, the Commission will classify energy storage systems as generation and unless an existing exemption applies, a generation licence (or exemption under section 87 of the ER Act) will be required for the operations of an energy storage system.

This approach is consistent with the Commission's current practice and the approach adopted in other state and territory electricity supply licensing regimes. This approach will reduce administrative burden for the Commission and licensees compared with creating a new licence category for energy storage systems (or essential system services). A separate licence category would not have material benefits that would outweigh the costs given that the current standard generation licence conditions are also suitable for energy storage systems and many energy storage systems will be part of a hybrid unit comprising both storage systems and other generating units.

The Commission proposes that standard generation licence conditions will apply except where the licence applicant can demonstrate that some of those conditions are not relevant or appropriate. This will ensure risks, particularly those associated with the safe and secure operation of the power system are mitigated, for example, by requiring compliance with relevant codes and directions from the power system controller. However, it also allows a nuanced approach to the licensing of certain operations where some conditions may be unduly burdensome relative to the benefits from complying with those requirements.

Where there are other electricity operations, such as private transmission lines, associated with energy storage systems and other generation, the Commission will need to be informed of, and assess, these as part of a licence application to determine whether they may reasonably be classified as "incidental and related

operations” (in accordance with the definition of generation) and the management of risks associated with those operations.

The Commission notes PWC’s advice that no additional licence conditions are required for energy storage systems with risks to the power system able to be managed through the SCTC. Compliance with applicable provisions in the SCTC (and other codes) is a standard condition in a generation licence. Compliance with the directions of the power system controller is also a standard condition in a generation licence.

In relation to difficulties for energy storage systems in complying with the GPS framework (raised by TGen), the Commission notes PWC’s response to the Draft Decision advising that the process for negotiated access standards is a suitable pathway for resolving such issues. The negotiated access pathway allows a generator to negotiate alternatives to GPS requirements if they can demonstrate that these do not adversely affect power system security or the quality of supply to electricity consumers.

PWC also acknowledged the Commission’s expectation that PWC would review the GPS provisions to ensure that they do not erroneously create barriers to entry for new technologies. The Commission notes PWC’s intent to refrain from making substantive changes until there is clarity on future market arrangements being considered under the Territory Government’s Priority Market Reform Program. As, however, there is not a clear timeframe for completion of reforms, PWC may need to proceed with its review if the interim measure of using the negotiated access pathway becomes too burdensome.

The Territory Government has (and is expected to continue) to consult on the reform program. The Commission notes this will provide the opportunity for TGen to raise issues relating to the operation of the interim Northern Territory Electricity Market in relation to energy storage systems.

The Commission notes PWC’s observation that the combined impact of an energy storage system changing from charging to discharging means its impact on a power system can be twice that of its rated capacity. This matter along with issues relating to the visibility of systems is examined further in the next chapter in relation to the SSRE operations exemption.

Decision to implement

The Commission will continue to classify energy storage systems as generation. This is consistent with current practice and the approach adopted in other state and territory licensing schemes, noting in many cases energy storage will be part of a hybrid system including other forms of generation. Standard generation licence conditions will apply to licences for energy storage systems except where a licence applicant can demonstrate that particular conditions are not appropriate or relevant for its electricity operations.

Owners and operators of generation and VPPs

Background

The ER Act states the “generation of electricity” is an operation in the electricity supply industry for which a licence is required. It does not distinguish between owning and operating generation as occurs for an electricity network and a dedicated connection asset. In those cases, the ER Act requires both the owner and operator of a network or dedicated connection asset to hold a licence.

This wording potentially creates uncertainty regarding licensing requirements where the owner of generation plant has contracted out the operation of that plant to a third party and for aggregators of small generation units such as VPPs where there is a third party controlling or operating a group of generation assets on behalf of the owners of those assets.

While owners and operators can be individually licensed, the ER Act also allows for joint arrangements. Section 16(4) of the ER Act provides for a person (agent) who will undertake operations on behalf of another person (principal) to apply for a licence on the agent’s own behalf and on behalf of the principal and section 17 provides for a licence to be held jointly by two or more persons.

The issue of licensing arrangements for owning and operating of generation was not specifically raised in the Issues Paper. However, Jacana noted that there was a lack of clarity regarding the application of the

SSRE operations exemption in relation to the aggregation of rooftop solar PV systems, for example, whether a VPP consisting of 2.2 MW of rooftop solar PV systems would require a generation licence.

The Draft Decision advised the Commission considers the ER Act's reference to "generation of electricity" covers both ownership and operation of an electricity generator. Going forward, where different parties are responsible for ownership and operation of a generation asset(s), the Draft Decision proposed the following approach:

- the licence (or exemption) application should be made by the owner of the assets
- the application should provide details of the proposed operator and the contractual arrangements between the owner and operator
- when assessing whether the licence applicant (that is, the owner) is a suitable person to hold a licence the Commission will also consider the details of the proposed operator, including its technical resources and expertise
- licence conditions will require the licence holder (that is, the owner) to notify the Commission of any material changes that affect the operator
- the owner will remain responsible for meeting the requirements of the ER Act and their licence (or exemption) in relation to the generating assets and cannot contract out these obligations to the operator.

Separately, the Draft Decision proposed VPPs or other business models that aggregate and control the operation of distributed generation assets would be classified as generation and the VPP operator would be required to hold a generation licence or individual exemption for its operations.

Submissions to the Draft Decision

Responses to the Draft Decision were received from Jacana, PWC and Rimfire.

Jacana was strongly of the view that VPPs or other aggregation models should not be required to be licensed particularly where the individual generators and loads are located behind the meter or on a customer's premises. Jacana noted the Commission's rationale that these models pose risks to the safe, secure and reliable operation of the power system in the same manner as traditional generation activities, but disagreed because:

- small generation does not require individual controls or mechanisms for dynamic grid interaction that ensures safe, secure and reliable operation of the power system
- the aggregated generation or load asset base is more secure and reliable than had they not formed part of a VPP
- a VPP provides a more efficient means of controlling large numbers of small generation and load assets
- VPPs provide a means to enable further renewable energy penetration and a means for customers to have a greater impact, autonomy and contribution to the wider electricity system transition
- the Commission's approach is not consistent with the Essential Services Commission of South Australia's approach or registration requirements under the National Electricity Rules (5 MW exemption).

Jacana noted that it is currently restricted from generating electricity. It asserted that this was not intended to prevent it from operating or being involved in VPPs. Jacana stated that it is important that a change by the Commission should not modify or create ambiguity in regard to the restriction.

PWC advised it wants flexibility so that it can operate its isolated and remote systems under various models such as 'own and operate', 'own and contract operations', 'contracted assets and PWC operation' and 'contracted ownership and operation'. PWC suggested that the term VPP should be replaced with a more generic term, and considers VPPs, aggregators and trader-type models should be subject to licensing requirements. PWC observed there was a conflict between the Commission's position on VPPs and SSRE operations, noting VPPs can predominantly comprise residential solar and storage. PWC sought

clarification on whether the requirement to obtain a relevant licence should be borne by the VPP operator or by the individual asset owners' comprising the VPP.

Rimfire suggested a broad definition of a VPP be developed in order to provide some certainty of licencing requirements and compliance obligations to prospective entrants. Rimfire suggested that requiring both the owner and operator of small scale VPPs or other aggregated distributed generation less than 2 MW to hold a licence or exemption may act as a barrier and only one party should be required to hold a generation licence or exemption to avoid unnecessary and potentially duplicated compliance costs.

Commission's position and reasons

Consistent with the Draft Decision, the Commission considers the ER Act's reference to "generation of electricity" covers both ownership and operation of an electricity generator. Therefore, in accordance with the ER Act, both the owner and operator of the generator require a licence unless there exists a standing exemption that covers the activities.

Where different parties are responsible for ownership and operation of the generator and no standing exemptions apply for either party, the Commission has decided that a licence (or exemption) must be held by the owner of the generation plant. In most cases, the licence (or exemption) can cover both ownership and operation of the generation plant with the Commission to take the following approach, which is consistent with that in the Draft Decision:

- the owner of the generation plant is to apply for a licence (or exemption)
- the application should provide details of the proposed operator and the contractual arrangements between the owner and operator
- when assessing whether the licence applicant (that is, the owner) is a suitable person to hold a licence the Commission will also consider the details of the proposed operator, including its technical resources and expertise
- licence conditions will require the licence holder (that is, the owner) to notify the Commission of any changes in circumstances that affect the operator of the licensee's generation plant
- the owner will remain responsible for meeting the requirements of the ER Act and their licence (or exemption) in relation to the generation plant and cannot contract out these obligations to the operator.

Alternatively, the owner and operator can elect to each apply for separate licences or exemptions, or apply to hold a licence jointly under section 17 of the ER Act, if they so choose.

The above approach is not, however, suitable for aggregation business models (hereafter referred to as VPPs) where a single entity is grouping and controlling the supply of electricity from multiple owners of distributed generation plant (a one-to-many rather than one-to-one relationship). VPPs typically control energy supplied from rooftop solar PV systems and batteries owned by households and businesses (and the associated load of those consumers). The collective operation of multiple small-scale generation plant (ramping up or down of generation or load, and/or charging or discharging an energy storage system) participating in a VPP poses a risk to the safe, secure and reliable operation of the power system with this risk largely the same as that of traditional generation.

The Commission has decided that the operator of the VPP must hold a generation licence (or exemption). The licence (or exemption) for operation of the VPP is separate from the licence or exemption held by the owners of individual generation plants participating in the VPP. The licence for a VPP will be subject to standard terms and conditions except where a licence applicant can demonstrate that particular conditions are not appropriate or relevant for its electricity operations.

The Commission notes Jacana's observations that generation assets in VPPs may be more secure, reliable and efficiently controlled and could enable greater renewable energy penetration and participation by consumers. While these are benefits of VPPs if they are appropriately operated, VPPs also have the potential to create greater system security and reliability risks if not operated appropriately. The Commission observes that the operator of a VPP operation is not the party that has the connection agreement with the network provider covering the generation plant, nor, in the absence of licensing, is there a mechanism to

require a VPP operator to comply with the directions of a power system controller. The Commission also notes that a VPP acts in the interests of the participants in the VPP and not electricity customers more broadly, and where those interests conflict, the outcomes could be to the detriment of non-participants.

The Commission notes concerns expressed by respondents that financial and other costs of licensing may present a barrier to entry for small VPPs. The Commission considers that the risk to safe, secure and reliable operation of power systems from a small VPP could also be managed through conditions attached to a class exemption. Accordingly, the Commission has decided to recommend to the Minister that a class exemption be established to cover the operations of VPPs up to a maximum aggregated generating capacity of 2 MW. This aligns with the threshold in the SSRE operations exemption (discussed in the following chapter) and the threshold in the Network Technical Code for conditions applying to generators connecting to the power system⁶. Relevant conditions for an exemption are likely to be the requirement to: register the VPP with the Commission; comply with directions from the power system controller and relevant codes; ensure the quality of supply; and provide information to the Commission as requested.

The Commission notes Jacana's concern that classification of a VPP as generation may create ambiguity as to whether Jacana is permitted to own or operate a VPP. The Commission notes the generation restriction on Jacana is a pro-competitive measure intended to prevent Jacana from using its market power to dominate the electricity market and give space for private retailers to operate in the market.⁷ VPPs and their implications for competition are unlikely to have been contemplated at the time the restriction was put in place. To ensure any ownership and/or operation of a VPP by Jacana is not in violation of section 10 of the *Power Retail Corporation Act 2014*, Jacana would need to obtain a Ministerial authorisation, as was done by TGen in order to retail electricity to the Department of Defence⁸.

Decision to implement

The Commission considers the ER Act's reference to "generation of electricity" covers both ownership and operation of electricity generation plant. Going forward, where different parties are responsible for ownership and operation of generation plant, the Commission has decided to take the following approach (other than for aggregation models such as VPPs, which are discussed below):

- the owner of the generation plant will be required to hold a licence (or exemption)
- an owner's application for a generation licence should provide details of the owner's proposed operator and the contractual arrangements between the owner and operator
- when assessing whether the licence applicant (that is, the owner) is a suitable person to hold a licence the Commission will also consider the details of the proposed operator, including its technical resources and expertise
- licence conditions will require the licence holder (that is, the owner) to notify the Commission of any changes in circumstances that affect the operator
- the owner will remain responsible for meeting the requirements of the ER Act and their licence (or exemption) in relation to the generation plant and cannot contract out these obligations to the operator
- an owner and operator can jointly hold a generation licence or an operator can apply for a generation licence in its own right, if they so choose.

For VPPs, the Commission has decided:

- the operator of the VPP will be required to hold a licence (or exemption) authorising the VPP's operations. This is separate to the licence (or exemption) held by the owners of generation assets under the control of the VPP

⁶ Network Technical Code, clause 3.3.1. Available at https://www.powerwater.com.au/__data/assets/pdf_file/0017/43334/Network-Technical-Code-Clean-Version.pdf.

⁷ Northern Territory Second Reading Speeches, Power Retail Corporation Bill, Accessed on 3 July 2023 at http://classic.austlii.edu.au/au/legis/nt/bill_srs/prcb2014295/srs.html

⁸ Gazetted 16 January 2019. Available at https://nt.gov.au/__data/assets/pdf_file/0005/633668/G3.pdf.

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- the conditions of a licence (or exemption) for a VPP will, among other things, mitigate the risk that centralised control of multiple distributed generation plant (and load) poses to the safe, secure and reliable operation of the power system
- for small VPPs up to a maximum aggregated generating capacity of 2 MW, the Commission will recommend to the Minister that a class exemption be established. Relevant conditions of the exemption are likely to include the requirement to: register the VPP with the Commission; comply with directions from the power system controller and relevant codes; ensure the quality of supply; and provide information to the Commission.

Solar PPAs

Background

Circumstances where third parties install and operate rooftop solar PV on private premises (rather than the owner of the premises) and sell the output to the owner(s) or occupier(s), are often referred to as solar PPAs. Solar PPAs were not considered at the time the SSRE operations exemption was established. The absence of either an explicit inclusion or exclusion of solar PPAs creates uncertainty for potential market participants about licensing requirements.

Were solar PPAs captured under the current SSRE operations exemption, their customers would not have protections relating to billing, disconnection and reconnection, payment and dispute resolution arrangements that are applicable to licensed retailers. There would also be no process to scrutinise whether business operators have suitable expertise, integrity and financial resources to conduct operations nor would there be ongoing regulatory oversight of their activities.

The Commission notes, however, that this does not imply consumers are without protections and avenues for recourse. The services provided by solar PPAs are subject to Australian Consumer Law, which provides generic protections for consumers. Compliance and enforcement activities associated with the legislation are undertaken by Northern Territory Consumer Affairs including provision of conciliation services in the case of disputes. The Commission also notes the industry has drafted the New Energy Tech Consumer Code (NETCC), which sets voluntary minimum standards of good practice and consumer protection for the sale of behind-the-meter products and services. The NETCC program commenced in February 2023 with Approved Sellers having demonstrated to the Clean Energy Council, as administrator of the Code, that they have the processes and procedures in place to ensure ongoing compliance with the standards outlined by the NETCC.

The Commission notes a solar PPA will provide an alternative avenue of electricity supply to owners of premises, but it is likely that the premises will also typically have supply provided (or the ability to be supplied) through a licensed retailer from the distribution network. Hence, electricity supply remains accessible even if supply under the solar PPA is curtailed. The Commission also notes the prices charged under solar PPAs will likely be lower than for electricity supplied through traditional sources (where tariffs are capped under the Territory Government's EPO) in order to be an attractive alternative source of supply.

Noting the safeguards above, the Issues Paper asked stakeholders what substantive risks to consumers (if any) arising from solar PPAs would need to be addressed through licensing. The Issues Paper advised a substantive residual risk would be one where the detriment to consumers is likely to be high, the ability to remedy the detriment poor or the industry is unlikely to provide a response (such as changes to conduct) of its own accord.

Responses in relation to solar PPAs were received from Jacana, NECA and PWC.

- Jacana was of the view that neither licences nor a voluntary code of conduct were an appropriate way to deal with these issues, but considers the Commission could impose obligations with other instruments (including a code of conduct).
- NECA noted the potential for third party ownership to create confusion and legal issues for both the property owner and the third party owner of SSRE operations and stated that in its experience, leasing arrangements and other easement style requirements are not easily established, are costly and ultimately the burden outweighs the benefit.

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- PWC advised that from a system security perspective, the percentage of generation consumed behind the meter does not have an impact. PWC considers, however, that embedded networks should be licensed if they are over a certain generation capacity threshold.

In its Draft Decision, the Commission proposed to clarify that the SSG operations exemption does not cover third-party ownership of SSG operations and the sale of electricity from those operations to end-users. Instead, these operations will need to be authorised under relevant licences (or individual exemptions).

Submissions to the Draft Decision

Responses to the Draft Decision were received from Compliance Quarter, Jacana, PWC and Rimfire.

PWC supported the Commission's position, but Compliance Quarter, Jacana and Rimfire supported an exemption for PPAs.

Compliance Quarter considers PPAs should be exempt from the requirement to hold a licence as:

- they are a supplemental service (customers retain their connection to the grid and the ability to source energy from a licensed retailer)
- it aligns with what other states have done with consistency across jurisdictions reducing confusion and uncertainty for businesses operating nationally
- fees and compliance costs may discourage uptake
- risks can be managed under exemption conditions including that providers comply with electrical safety requirements
- Australian Consumer Law would apply to PPAs.

Rimfire noted that the proposal to clarify that third party ownership of SSG operations is not covered by the exemption may unintentionally restrict how customers fund the purchase and installation of assets that are contemplated solely or primarily for on-site supply and act as a barrier to entry of small scale renewable systems in the Territory.

Commission's position and reasons

The Commission considers the SSRE operations exemption may cover the generation operations of solar PPAs, but it does not cover the sale of electricity from those operations to end-users. The sales are also not considered on-supply and therefore are not covered by that exemption. Accordingly, the sale of electricity to end-users under solar PPAs needs to be authorised under a relevant licence or exemption.

Other than NECA, stakeholders' submissions to the Issues Paper and Draft Decision did not point to any residual risks associated with solar PPAs. The Commission notes Victoria and the AER have exemptions relating to solar PPAs.⁹ It is a requirement of those exemptions that the person carrying out these activities be registered and in the case of Victoria, there are a number of other conditions and restrictions relating to pricing, capacity, market participation and information provision.

Since the Draft Decision, the Commission has been made aware that there are solar PPAs operating in the Territory and that the service provider had (mistakenly) assumed their operations were fully covered under the SSRE operations exemption. The Commission notes that solar PPAs are intended to be an additional energy source where customers retain access to regulated supply from the distribution network. Given this, the risks (primarily de-energisation) are low and the costs of licensing may act as a barrier to entry thereby reducing choice and access to avenues of lower cost supply.

Accordingly, the Commission has decided to recommend to the Minister that a class exemption be established to cover third party owned solar PV systems up to a maximum generating capacity of 2 MW where supply from the solar PV systems is solely or primarily for on-site supply (consistent with the

⁹ Refer clause 18 of Victoria's General Exemption Order 2022 (available at <https://www.esc.vic.gov.au/electricity-and-gas/licences-exemptions-and-trial-waivers/information-electricity-licence-exemptions-sellers-and-suppliers>) and p. 35 of AER's Retail Exempt Selling Guideline (available at <https://www.aer.gov.au/system/files/AER%20-%20Final%20Retail%20Exempt%20Selling%20Guideline%20%28version%206%29.pdf>)

coverage for privately owned generation under the SSG exemption), the sale of electricity from those operations to on-site end-users and the sale of excess electricity exported to the distribution network to a licensed retailer. Relevant conditions of the exemption are likely to be the requirement for the third party provider to: register their operations with the Commission; comply with directions from the power system controller and relevant codes; ensure the quality of supply; and provide information to the Commission.

Decision to implement

The Commission considers the sale of electricity generated by solar PV systems owned by third parties to customers (or any other party except a licensed retailer) under a PPA is not currently covered by a standing exemption. The Commission will recommend to the Minister that a class exemption be established to cover the electricity operations of solar PPA providers. Similar to the SSRE operations exemption, the solar PPA exemption will apply to solar PV systems up to a maximum generating capacity of 2 MW where supply from that generation plant is solely or primarily for on-site supply. The exemption will also cover the sale of electricity from the solar PV system to on-site end-users and the sale of excess electricity exported to the distribution network to a licensed retailer. Relevant conditions of the exemption are likely to be a requirement for the third party PPA provider to: register their operations with the Commission; comply with directions from the power system controller and relevant codes; ensure the quality of supply; and provide information to the Commission.

EV recharging

Background

EV recharging services are likely to give rise to a range of business models and be offered by a range of businesses including entities whose primary business activity is the recharging of EVs (akin to a petrol station) and entities where EV recharging is an at-cost or complementary service additional to core business such as recharging stations at shopping centres or hotels. In the future, vehicle manufacturers may also offer bundled car sales and electricity supply offers or partner with EV recharging providers.

The ER Act and associated legislative instruments (including on-supplier exemption provisions in the ER Regulations) do not expressly contemplate EV recharging stations and there is no specific exemption for EV recharging infrastructure.

The ER Act provides that a licence (or exemption) is required by any person who engages in the activity of “selling” electricity. The Commission considers where a charge is applied for the service of providing electricity to charge an EV (including a charge that is based on cost recovery with no profit) it would fall within the ER Act’s definition of “selling” electricity. This definition covers “trading in electricity (including the selling of electricity to customers)”.

Where EV recharging is provided to the owners or occupiers at a premise, the charging infrastructure may fall under the on-supplier exemption. In this case, where a charge is applied for the consumption of electricity used in recharging, as measured by a meter, the charge can be no more than the regulated tariff as prescribed by the EPO (that is, either the commercial or residential tariff). This may apply in a small number of circumstances, for example, EV charging services in residential apartment buildings.

Where, however, electricity is sold through EV recharging equipment to a person other than the owner or occupier of the premises, a retail licence or an exemption from the requirement for a licence would appear to be needed, otherwise the business could be operating in breach of the ER Act.

It is also possible that some EV recharging business models could involve owning or operating infrastructure that falls within the ER Act’s requirement for a network licence. The ER Act defines an electricity network as the “assets that together are operated by the network provider for the purpose of transporting electricity from generators of electricity to a transfer point with another network or to consumers of electricity”. For example, an EV recharging station could constitute a network where the business model involves generation of electricity from rooftop solar PV for recharging purposes.

The Issues Paper sought feedback from stakeholders in order to better understand the implications and costs and benefits of licensing for EV recharging points. More specifically, the Issues Paper asked:

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- what protections in terms of price, access, quality and continuity of supply are needed for users of commercial EV recharging services
- what major risks (such as financial, security, quality or information) associated with EV charging services the Commission should take into account in its licensing decisions and if the Commission were to grant an exemption to an EV charging station, what type of conditions should apply to address these risks.

Responses to the Issues Paper were received from DTFHC, Jacana, NECA and PWC. Issues raised by respondents included:

- the introduction of EV services in major centres should be assessed then a suitable approach adopted for remote communities
- noting the traditional model of electricity pricing is based on a retail and a network component, there may be the need for price regulation for the pass through of network charges in some circumstances
- risks may be different where the owner/operator of an EV charging station is different to the owner/operator of the premises where the station is located and where EV charging stations form part of an embedded network
- charging stations (those similar to petrol stations) should require licensing, but be exempt from the EPO. More generally, there are a range of models for EV charging stations and how they are established and this will affect how they are classified for licensing, for example, as a retailer or an embedded network
- exemption conditions would differ depending on ownership of the EV charging station including where this differs from the owner of the site where the station is located, the basis for charging customers (if a price is charged), the location of the EV charging station, who the EV charging station purchases electricity from, for example, a retailer directly or a landlord and whether EV's are used to provide essential services
- any EV installations should be carried out by qualified and knowledgeable electricians and, particularly for domestic EV charging stations, customers manage their own supply arrangements and capacity restraints (through upgrades or limits on the amount of electricity that can be drawn) to avoid overload situations. Unreasonable requests for network upgrades would act as a barrier to EV charging stations.

The Draft Decision proposed the Commission would write to the Minister recommending the Territory Government consider excluding EV recharging stations (through regulations) from the requirement to hold a retail or network licence, subject to relevant conditions, and from complying with the EPO. In the interim, the Draft Decision proposed the Commission grant (subject to Ministerial approval) an exemption under section 87 of the ER Act from the requirement to hold a retail or network licence. The exemption would include conditions relating to the provision of information to the Commission on request and that an EV recharging station must comply with relevant safety and technical requirements under the *Electrical Safety Act 2022*.

Submissions to the Draft Decision

Responses to the Draft Decision were received from Compliance Quarter, PWC and Rimfire.

Compliance Quarter and PWC agreed with the Commission's proposed approach with PWC noting existing electrical safety requirements should adequately address consumer protection concerns. PWC also acknowledged the potential benefits of introducing localised power storage and large-capacity inverters/DC converters at public EV charging sites. PWC advised these installations could help manage fluctuating demand on the network and enable faster charging rates, aligning with emerging commercial products.

Rimfire advised a class exemption for the selling of electricity by EV recharging stations that does not require compliance with the EPO could result in a retailer supplying to the EV charging station in accordance with the EPO, but the electricity being on-sold to consumers at tariffs above the EPO. This would result in the Territory Government's community service obligation subsidising electricity that is on-sold at tariffs above the EPO.

Commission's position and reasons

Consistent with the Draft Decision, the Commission has decided to write to the Minister recommending that the Territory Government consider excluding EV charging operations (through regulations) from the requirement to hold a retail or network licence, subject to relevant conditions. In the interim, the Commission proposes to grant (subject to Ministerial approval) a temporary exemption under section 87 of the ER Act. The exemption would cover EV recharging stations in urban and remote locations ensuring that existing EV recharging stations in the Territory are covered, noting that current stations are small in scale.

The Commission intends that the exemption not require compliance with the EPO, but include conditions relating to the provision of information to the Commission on request and that (for the purposes of clarity) an EV recharging station must comply with relevant safety and technical requirements under the *Electrical Safety Act 2022*, ER Act and regulations. This is consistent with the approach taken by the Essential Services Commission of South Australia where an exemption for EV recharging stations is in place until November 2023 while the Department of Energy and Mining reviews the electricity supply licensing regime including its application to EVs.¹⁰ The Victorian Government's General Exemption Order 2022 also exempts persons that sell or supply electricity for the purpose of EV recharging from having to obtain a licence.¹¹

The Commission notes that while an EV recharging station would not be classified as generation, where an EV recharging station produces its own electricity (for example through rooftop solar PV), a licence or exemption could be needed for the operations of that generation plant.

In relation to the transport (electricity network) and sale of electricity to EV owners, the Commission considers there are inconsistencies and a lack of clarity in the application of the licensing regime to EV recharging. These services were not envisaged when the ER Act commenced over 20 years ago and involve electricity being used for a very different purpose to other sales of electricity.

Having considered the objects of the ER Act and UC Act, the Commission's view is that the costs of licensing are likely to outweigh the benefits. The costs include direct costs to EV charging operators and the Commission, as well as potential indirect costs to consumers including the risk of reduced access to EV charging services if compliance with the licensing requirements created a barrier to the continued provision or expansion of these services. For the licensing of the selling of electricity, the Territory's regulatory framework seeks to address risks associated with pricing, adequacy of supply, protection of vulnerable customers (such as life support customers), provision of information to customers and dispute resolution, disconnection and the interactions between retailers and other market participants (notably network providers). This reflects the necessity of electricity supply for domestic purposes or commercial activities.

It is unclear, however, how many of these requirements would be relevant to EV recharging stations given the short-term nature of recharging, EV owners' ability to choose where they recharge (including at their own premises) and the existence of alternative options for transport. Furthermore, the Territory's *Essential Goods and Services Act 1981* specifies public transportation of persons or freight other than taxi-cab services as an essential service. It does not define personal transport as an essential service.

Some EV charging stations may be covered by the on-supplier exemption in the ER Regulations, but other business models could potentially be required to hold retail and/or network licences, an inconsistency noted in submissions to the Issues Paper. The Commission considers this creates uncertainty for existing and potential owners of EV recharging stations and has the potential to incentivise the structuring of businesses in a manner that avoids the requirement to apply for a licence.

¹⁰ Essential Services Commission of South Australia. Electricity generation licence exemption – Virtual Power Plant Operations, Electric Vehicle Charging Operators, and Sub 5MW Operators project page, accessed on 10 February 2023 at <https://www.escosa.sa.gov.au/projects-and-publications/projects/electricity/licence-generation-exemption-virtual-pp-operations-ev-charging-and-sub-5mw-operators>.

¹¹ Essential Services Commission. Information on electricity licence exemptions for sellers and suppliers website accessed on 10 February 2023 at <https://www.esc.vic.gov.au/electricity-and-gas/licences-exemptions-and-trial-waivers/information-electricity/licence-exemptions-sellers-and-suppliers>.

EV charging maps available on plugshare.com showed, as at 10 February 2023, 58 EV charging locations across the Territory.¹² The majority of charging stations were at accommodation venues (hotels, roadhouses, caravan parks) and charging infrastructure ranged from wall outlets to high power (fast) charging stations (only available in Darwin and Alice Springs) and the number of outlets at a station ranged from one to six. The largest charging station (six charging bays) is at Charles Darwin University's Casuarina campus. It provides free charging to the public, staff and students and is powered by a solar PV system.¹³ The Commission notes that since the plugshare website was reviewed in February 2023, fast EV recharging infrastructure in the Territory has expanded with Evie opening two fast charging stations in Darwin (there are now three fast charging stations in total in Darwin) and in Alice Springs, there is now a second fast charging station available to EV owners.¹⁴

Many charging stations in the Territory offer power free or as part of the accommodation fee and where charges were levied or suggested (honour systems), the charge was typically \$0.50/kilowatt hours (kWh). The highest charge was \$1.30/kWh; however, an EV owner staying overnight at that premise would only have to pay the site fee (no extra fee for recharging). These rates are higher than the commercial standard tariff of \$0.318557/kWh (plus fixed daily charges) and the caravan park resident tariff of \$0.365391/kWh (no fixed daily fee) under the EPO and may constitute a breach of the on-supplier exemption.

Pricing at fast charging stations in the Territory is higher for more powerful (shorter) recharging and above the EPO and generally in line with average prices for public EV charging in Australia of around \$0.40/kWh for rapid DC charging and \$0.60/kWh for ultra-fast or superchargers.¹⁵ This indicates that EV recharging is not simply about access to, and selling of, electricity. Instead there are other aspects to the service, notably the time to recharge, that have value for EV owners. Equally, owners of EV recharging stations will not invest in fast charge infrastructure if they are unable to earn a return on their investment because the price they can charge is limited to the EPO tariff.

Rimfire's submission to the Draft Decision expressed concern that the Territory Government may be subsidising electricity supplied to an EV recharging station, but under the proposed exemption the operator of the EV recharging station would not have its prices capped by the EPO. The Commission notes this does not mean it will be possible for the operator to take advantage of the absence of price capping and earn an excessive profit. Consumers must be willing to pay the higher price otherwise they will charge at home (subsidised by EPO) or look for an alternative cheaper supplier.

The Commission has not received any complaints regarding the price of EV charging and notes variation in charging practices and prices is also evident in other jurisdictions on the plugshare.com website. The Commission also notes many of the EV recharging stations in the Territory shown on the website appear targeted toward travellers rather than local EV owners who may charge at home rather than through public charging stations.¹⁶ Home charging means many EV owners are covered by protections provided under traditional retail arrangements. However, the Commission notes where EV owners are supplied through an embedded network, they may lack protections and choice in electricity supplier. This matter is discussed further in the next chapter in relation to the on-supplier exemption.

The Commission notes NECA's submission to the Issues Paper expressed concern regarding unreasonable requests to upgrade network infrastructure while PWC's submission to the Draft Decision discusses solutions to issues on the network where there are public EV recharging stations. The Commission would expect a causer-pays approach where solutions are needed and advises that there are dispute resolution provisions under the National Electricity Rules - Northern Territory including that such matters can be referred to the AER for determination should disputes arise over the reasonableness of requirements.

¹² Available at <https://www.plugshare.com/>

¹³ Charles Darwin University. NT's first public car charging station opens at CDU. News article on 3 June 2013. Accessed on 28 March 2023 at <https://www.cdu.edu.au/newsroom/NTs-first-public-car-charging-station-opens-at-CDU>.

¹⁴ Plugshare.com as at 3 July 2023.

¹⁵ Guthrie S. How much does it cost to charge an electric car in Australia? Online article accessed on 10 February 2023 at <https://www.drive.com.au/caradvice/how-much-does-it-cost-to-charge-an-electric-car-in-australia/>.

¹⁶ Ibid

Decision to implement

EV recharging differs from traditional electricity supply for domestic purposes being short-term in nature, there is choice in where to recharge (including at consumers' own premises), the time to recharge has value for which customers will pay extra and there are alternative options for transport. Given these factors, the Commission considers the costs of licensing are likely to outweigh the benefits and may create a barrier to the continued provision or expansion of EV recharging services.

Accordingly, the Commission has decided to write to the Minister recommending the Territory Government consider, through regulations, excluding EV recharging stations from the requirement to hold a retail or network licence (subject to relevant conditions) and from complying with the EPO. In the interim, the Commission will recommend the Minister approve an exemption under section 87 of the ER Act. Relevant conditions of the exemption are likely to include: provision of information to the Commission on request and that an EV recharging station must comply with relevant safety and technical requirements under the *Electrical Safety Act 2022*, ER Act and regulations.

Other alternative supply models

Background

Alternative supply models cover a range of possible future business models and products such as microgrids and alternative energy sellers that could arise as a result of developments in technology (for example, smart meters and communications infrastructure), SSRE operations and competitive markets. They provide supplementary or independent supply of electricity and the ability for new players to engage in providing wholesale electricity, essential system services and selling of electricity.

The licensing requirements for alternative supply models in the Territory are considered on a case-by-case basis. For clarity, these models cannot be assumed to fall under the SSRE operations or on-supplier exemptions as the nature of these activities may not fit within those exemptions.

Furthermore, there is a risk that consumers may assume the protections provided under traditional arrangements extend to alternative models of electricity supply, even where these operate under relatively limited regulatory oversight (that is, an exemption). Equally, the uncertainty regarding the need for a licence and associated costs of compliance could be deterring the entry of businesses offering alternative supply models (and therefore the availability of such services to consumers).

The Issues Paper sought feedback from stakeholders in order to better understand the implications and costs and benefits of licensing for alternative supply models. More specifically, the Issues Paper asked:

- whether there were barriers to entry or other issues with the Territory's current licensing regime for new entrants offering alternative supply models and the characteristics or activities of these models that might justify a more 'light-handed' regulatory approach
- what major risks (such as financial, security, quality or information) are associated with alternative supply models that the Commission should take into account in its licensing decisions and if the Commission were to grant an exemption to operate an alternative supply model, what type of conditions should apply to address those risks.

Responses to the Issues Paper were received from DTFHC, Jacana, PWC and Rimfire. Issues identified by respondents included:

- there are barriers to entry with the main issue being uncertainty on how a model fits in the licensing (or exemption) regime. For private networks and retailers behind the meter, regulation and viability of these activities is still required, but full distributor or retailer obligations may not be appropriate. Any alternative supply model should be able to demonstrate that it is in the long term interest of customers in order to proceed
- the licensing of alternative supply models needs to maintain customer protections and reliability, particularly in remote locations where it is challenging to provide these services and response times to

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faults can be extended, but this needs to be balanced with allowing new entrants to provide services and demonstrate capability

- a framework where licence conditions relate to high level principles and issues and are linked with more detailed instruments (for example, codes and guidelines) setting out the overarching compliance regime and the specific obligations for particular activities would facilitate the emerging and developing nature of alternative supply models
- the level of awareness from customers about the benefits and potential impacts of alternative supply models is low. As a result, market participants become a point of contact for information sought by proponents and prospective customers of alternative supply models, but there is a lack of recognition of the costs associated with the pass through of information. A centralised repository of information on how alternative supply models are treated from a market, energy policy and consumer protections perspective is needed. There should also be clear parameters around financial expectations of alternative supply models (particularly long term arrangements) as well as the pricing models and their impacts on customers
- where more than 25% of generation capacity is envisaged for export, this would indicate the key intended purpose was export and compliance with the current licensing regime should be required
- PWC asserted that System Control should be granted full access and control of alternative supply systems including the ability to turn them on and off. Depending on the type and size of the system, PWC considers they should require, at a minimum, to be registered.

The Draft Decision did not propose any changes to the licensing regime specifically in relation to other alternative supply models with the licensing requirements for those operations to be considered on a case-by-case basis.

Submissions to the Draft Decision

Responses to the Draft Decision were received from Compliance Quarter, LMS, PWC and Rimfire. All submissions supported the Commission's proposed approach. Compliance Quarter acknowledged the balance between facilitating entry of alternative supply models and the risks for consumers and the power system. Similarly, Rimfire supported such balancing where it facilitates the removal of existing barriers to entry and does not introduce new barriers for emerging technologies. PWC considers the Commission should provide feedback to the Territory Government regarding the necessity for clearer policy direction on alternative supply models.

Commission's position and reasons

As stated in the Draft Decision, the Commission will continue to consider the licensing requirements for potential alternative supply models on a case-by-case basis balancing the costs and benefits of licensing and having regard to the objects of the ER Act and UC Act and the required considerations under section 16 of the ER Act.

This approach reflects the difficulty in outlining a definitive approach to licensing for alternative supply models given the varying types and scale of such operations, the characteristics of the power system in which they would operate and who they provide services to and the nature of those services. The risks associated with alternative supply models are common to other electricity operations, for example, the need for customer protections and to be subject to direction by the power system controller.

The Commission notes Jacana's concern in its submission to the Issues Paper that itself and other market participants are assisting in providing information to proponents and potential customers of alternative supply models. While the licensing review should assist in clarifying regulatory requirements, providing broader policy information and guidance on these models may be better addressed by government and the need for change will be discussed more broadly in the Commission's communication with the Minister regarding EV recharging. The Commission notes there are basic customer protections in its Electricity Retail Supply Code and it would consider the applicability of these to any alternative supply model in making its licensing decision.

The Commission is seeking to make the decision framework for exemptions more transparent with the next chapter discussing the principles the Commission will use to guide its decisions in determining whether a licence or exemption is the appropriate pathway. The chapter also discusses concerns about the visibility and regulation of alternative supply models as a result of the SSRE operations and on-supplier exemptions. Rimfire's suggestion, in its response to the Issues Paper, of a threshold for generation capacity envisaged for export is also considered in the next chapter.

Decision to implement

The Commission has decided no changes will be made to the licensing regime in relation to other alternative supply models and licensing requirements for those operations will be considered on a case-by-case basis.

5 | Licensing coverage - exemptions

Background

The ER Act requires electricity operations to be licensed unless there exists a standing exemption that covers a person's operations or the Commission grants, with Ministerial approval, an exemption under section 87 of the ER Act.

The Commission recognises licensing imposes costs on licensees through fees and resources associated with achieving and maintaining compliance with licence conditions. Exemptions are a means by which certain types of operations can be less burdened by licensing costs and obligations when they would be disproportionate relative to the potential risks to customers and/or the operation of the power system. Lessening the cost of regulation can assist in achieving desired outcomes such as facilitating entry to markets and allowing consumers to benefit from competition and efficiency (through more choice or lower cost providers).

It is important to note, however, that while an exemption frees a person from the requirement to hold a licence, an exemption is not unconditional. Typically, there are criteria (definitions) that establish what operations are covered by the exemption and there may be conditions exempted entities must comply with. If an entity does not fall within these criteria or comply with the conditions of exemption, then they are effectively operating without a licence and potentially subject to a penalty under the ER Act.

Exemptions established by the Commission under section 87 of the ER Act are done so with the approval of the Minister. The Commission does not have the power to grant exemptions in its own right. Exemptions established under section 87 of the ER Act take one of two forms:

- an individual exemption, which must be applied for and is tailored to an entity's specific activities and situation including any appropriate conditions
- a class exemption where if an entity's activities fall within a particular defined type (class) of activities, there is no need to apply to the Commission for an exemption, but the person must abide by any conditions attached to that exemption (the SSRE operations exemption is an example of a class exemption). It is up to a person to satisfy themselves that they fall within the activities covered by a class exemption including obtaining their own legal advice, if necessary.

In other jurisdictions, there is also a 'registrable' exemption where if a person's activities fall within a particular class of activities there is no requirement for a licence, but the person must register their activity and abide by any conditions attached to the exemption. The Commission has not used such an approach to date, but it could be appropriate for some emerging technologies such as VPPs and solar PPAs (refer discussion in the previous chapter) where potential risks to power system security or customers justify identification of operations and the capacity for more monitoring than might otherwise be possible under a class exemption. Registration would also provide information should there be a need for the Commission to investigate a complaint and assist the Commission to effectively undertake its compliance and enforcement obligations.

Guiding principles for assessing exemptions

Background

While the ER Act specifies considerations for assessing licence applications, this is in terms of granting or refusing the licence. These considerations do not provide guidance for determining whether a licence or an exemption is the most appropriate outcome or whether an exemption should be considered. The lack of principles or factors to guide this decision reduces transparency for potential applicants and increases the risk of inconsistency across assessments.

To address this, the Issues Paper proposed a set of principles or factors to guide the Commission's decision-making on when an exemption might be a preferred approach to authorising an electricity entity or class of operations. The proposed principles or factors were:

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- exemptions must be in the public interest (individual and broader benefits outweigh any detriment associated with exemption)
- the residual risk of detriment is low (as a result of application of any conditions)
- electricity is bundled with other products and forms an insignificant part of the service
- vulnerable consumers are sufficiently protected
- customers are well-informed to be able to benefit from the activity and its competitive market impact
- market conditions will ensure customers are supplied on fair and reasonable terms
- market conditions will ensure customers are supplied at a fair price
- the costs of regulation would outweigh the benefit of regulation
- if needed, registration (rather than licensing) could provide sufficient visibility of operations
- a risk-based approach will be applied to determining conditions for an exemption (a standard set of conditions for all exemptions would not be sufficiently adaptable or flexible).

The Issues Paper sought feedback on the appropriateness of the principles and suggestions for further guiding factors. The Issues Paper also asked whether there should be a scale (for example, size of customer or operation) for an electricity supply activity including whether scale is dependent on the type of activity, where an exemption may be appropriate.

Responses to the Issues Paper were received from DTFHC, EDL, Jacana, NECA, PWC and TGen. While most respondents considered the principles reasonable, other feedback included:

- an exemption is appropriate where electricity generation is solely supplied to a large scale customer as adopted in Western Australia. EDL noted that in Western Australia, generation licences are only required for larger scale generation (previously 30 MW, now being increased to 100 MW), but acknowledged that the Western Australian energy market is larger and has more non-grid connected operations than the Territory
- the principles should capture that reduced compliance obligations reflect reduced production costs and as a result reduced cost of electricity
- a further principle should be customers having access to a choice of retailer, where this is technically feasible
- principles relating to market conditions (ensuring customers are supplied on fair and reasonable terms and at a fair price) and that costs outweigh the benefits of regulation should be conditions associated with exemptions rather than principles assessing the appropriateness of an exemption
- for the last principle (a risk-based approach), there should be a 'base' level of conditions, for example, pricing, provision of information and dispute resolution, or at least standard topics of conditions
- the Commission cannot actively monitor compliance with exemption conditions or reassess the appropriateness of exemptions without having visibility over who is operating under such exemptions. At a minimum, there should be a registration process (if an application process is not appropriate or financially viable) and limited (if any) use of deemed exemptions
- the particular activity and the customers impacted by the activity should be considered, not scale based thresholds for exemptions
- in determining whether an exemption may be appropriate, consideration needs to be given to various customer classes and consumption levels including requirements for participants to register embedded generation located in embedded networks and who on-sell to customers.

Following feedback, the Commission reconsidered the principles and proposed a new set of principles in the Draft Decision. The proposed principles presented in the Draft Decision were:

- any person who is granted an exemption must be a suitable person having regard to equivalent considerations to those that apply under section 16(3) of the ER Act

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- an exemption will only be granted where the applicant can demonstrate that the costs of licensing outweigh the benefits associated with licensing and that any potential detriment of the applicant operating under an exemption (instead of a licence) for consumers of electricity is low
- an exemption for operations that affect small customers will only be appropriate where small customers are sufficiently protected, including where the exemption conditions or market conditions are likely to ensure that small customers are supplied on fair and reasonable terms and prices
- an exemption may be appropriate where the proposed operations do not involve any material risks to the safe, secure and reliable operation of the power system, or any risks can be appropriately mitigated by conditions
- an exemption may be appropriate where the operations do not relate to an essential service and alternative regulated sources of electricity supply or other appropriate substitutes for the product or service are available to customers
- a risk-based approach will be applied to determining conditions for an exemption.

Submissions to the Draft Decision

Responses to the Draft Decision were received from EDL, LMS and PWC. PWC supported the guiding principles while EDL and LMS pointed to issues with the principles.

EDL did not consider the proposed principles provide confidence that a particular outcome is likely for a particular set of inputs or assumptions and stated there is no clear and structured way of having certainty of success. EDL considers the current IPP licences offer a more reasonable cost-benefit balance for generators, but current conditions are “unbalanced toward cost”. EDL was critical that the second principle requiring an applicant to demonstrate the costs outweigh the benefits of licensing would cause unreasonable costs as there was no defined standard for such a demonstration. EDL did not consider the Draft Decision addressed the issue of licence conditions being disproportionate relative to the potential risks to customers and/or operation of the power system.

LMS considers exemptions from the burdens of licensing should address flexibility for large customer, industrial applications whereby small customer protections are not reflective of supply arrangements. LMS considers assessment should ensure the rapid emergence of alternative supply arrangements is facilitated to allow flexibility to supply and sell to on-site customers within a site boundary.

Commission's position and reasons

The Commission has decided to use the principles proposed in its Draft Decision without change.

The Commission is guided by the objects of the ER Act and UC Act in making its licensing decisions. However, in deciding whether an exemption is appropriate (rather than a licence), the Commission considers it would assist stakeholders and improve transparency to publish a set of principles that demonstrate how it will apply the objects of the ER Act and UC Act when making these decisions.

The Commission notes EDL's concern in response to the Draft Decision that the guiding principles do not provide confidence of a particular outcome. The Commission observes this is no different to a licence application where the outcome of being granted a licence is also not assured. The guiding principles are intended to give structure and provide transparency on the Commission's assessment. An outcome cannot be assumed given the range of factors and variation in characteristics of an applicant, their proposed operations and the power system in which the applicant will operate that the Commission will need to consider in determining whether an exemption is appropriate. The only instance of certainty in relation to exemptions is when there is an existing standing exemption and a prospective participant meets the criteria for that exemption and can (and does) comply with the conditions of that exemption.

As outlined in the Draft Decision, the Commission will apply fit and proper person requirements consistent with those in section 16 of the ER Act to applicants for an individual exemption. These requirements provide basic protections for consumers to ensure that any person who is providing electricity retail, network or generation services is a suitable person to provide those services.

The Commission notes there is an absence of an assessment of the suitability of a person's character and operations in the case of a class exemption. This is considered acceptable where the risk of not assessing these is relatively low, for example, in the case of the SSRE operations exemption, these operations are small in scale (under 2 MW) and electricity must be generated primarily for on-site supply meaning the primary person affected by a failure to generate is expected to be the owner of those operations.

The Commission has decided not to include a principle regarding demonstrated experience and reputation, as suggested by EDL in its response to the Issues Paper. This is already addressed by the requirement (under section 16 of the ER Act) for the Commission to assess that an applicant is a 'fit and proper' person and that the person's operations are suitable for their intended purpose. Once a positive assessment is made, the Commission then decides whether a licence or an exemption should be granted followed by a decision on the appropriate conditions to attach to the licence or exemption.

Principles relating to costs outweighing the benefits of regulation and market conditions are relevant to matters the Commission must consider in granting a licence under section 6(2) of the UC Act and are included in the principles. The Commission does not consider they are suitable as conditions of an exemption, which need to be specific activities or obligations against which a licensee or exemption holder can evidence compliance.

The Commission notes EDL's view, expressed in its submission to the Draft Decision, that there is not a defined standard against which an applicant can demonstrate the balance between costs and benefits. The Commission expects an applicant to understand and therefore, be able to assess the impact (financial and other resources) of requirements associated with holding and complying with the conditions of a licence. The Commission would also expect an applicant to understand its proposed operations and the market it seeks to enter to be able to articulate the benefits that it may deliver (noting the objects of the ER Act) as well as the risks associated with its operations and how and to what extent these are mitigated in the absence of licensing. The Commission would be concerned about an applicant's suitability if they were unable to demonstrate such knowledge and therefore, the relative balance between costs, benefits and risks of their operations.

Compared to the initial set of principles in the Issues Paper, the Commission expanded the principle relating to vulnerable consumers to include small customers, that is, the principle becomes "small and vulnerable customers are sufficiently protected", agreeing with respondents to the Issues Paper that the type of customers and their consumption levels are relevant considerations in relation to retail licensing. While all customers are important, in terms of determining whether a licence or exemption is appropriate, the Commission's focus is on protecting small customers, which the Commission defines under the Electricity Industry Performance Code as a customer consuming less than 160 MW hours per annum. The final principle in relation to small and vulnerable customers is the same as that in the Draft Decision.

The Commission considers its licensing decisions and the conditions it applies to licensees or exempt parties (and thus, costs imposed) need to be flexible in order to include new business models and enhance competition. However, facilitating the entry of innovative and new business models cannot be traded off against basic consumer protections and the secure operation of power systems. This is reflected in the Commission's principles.

Beyond this, the Commission reconfirms that it will not include a principle relating to scale of operations or the level of impact on the power system or customers. This will be a factor in the Commission's decision regarding whether a licence or exemption is appropriate, but falls under principles regarding protection of customers, impacts on the power system and residual risk. In regard to the scale of generation that should be exempt (raised by EDL), this matter is discussed in the next section on the SSRE operations exemption.

The Commission reconfirms the inclusion of the principle taking into account the necessity of a proposed operation for consumers. As discussed in relation to EVs, there may be substitutes for the product or service or alternative regulated sources of electricity supply that mean an operation may not be considered essential. In these cases, the need for licensing and the application of standard conditions may be less relevant and potentially unduly burdensome and restrictive.

There will be some conditions that will apply regardless of whether an applicant is licensed or exempted from the requirement to hold a licence. These will typically relate to the impact on the network and customers, safety, and information required by the Commission to conduct its functions. The Commission

also notes Jacana's prioritising of pricing, provision of information and dispute resolution in its submission to the Issues Paper, as matters to consider in determining conditions for exemptions relating to the sale of electricity.

The principles are intended to have broad application rather than be specific to a type of electricity operation. As such, the Commission has decided not to add principles relating to choice of retailer (raised by Jacana in response to the Issues Paper), but this could be relevant to the conditions to be applied to an exemption. The Commission also reconfirms its decision not to include a principle that costs of electricity should be lower as it would be expected that a new product would need to be competitively priced to attract market share from incumbent providers.

Decision to implement

The Commission has decided to apply the following principles to guide its decision-making on when an exemption may be appropriate for a person applying to operate in the Territory's electricity supply industry:

- any person who is granted an exemption must be a suitable person having regard to equivalent considerations to those that apply under section 16(3) of the ER Act
- an exemption will only be granted where the applicant can demonstrate that the costs of licensing outweigh the benefits associated with licensing and that any potential detriment of the applicant operating under an exemption (instead of a licence) for consumers of electricity is low
- an exemption for operations that affect small customers will only be appropriate where small customers are sufficiently protected, including where the exemption conditions or market conditions are likely to ensure that small customers are supplied on fair and reasonable terms and prices
- an exemption may be appropriate where the proposed operations do not involve any material risks to the safe, secure and reliable operation of the power system, or any risks can be appropriately mitigated by conditions
- an exemption may be appropriate where the operations do not relate to an essential service and alternative regulated sources of electricity supply or other appropriate substitutes for the product or service are available to customers
- a risk-based approach will be applied to determining conditions for an exemption.

SSRE operations exemption

Background

The Commission's SSRE operations exemption, established in 2007, exempts small scale renewable energy operations from the need to hold a generation or retail licence. At the time the exemption was established, uptake of rooftop solar PV systems was relatively low and the exemption was intended to reduce barriers to uptake of and access to feed-in tariffs for the sale of excess electricity from these systems. The exempt activities are defined as follows:

the generation of electricity where:

- the maximum generating capacity is 2 MW; and
- the electricity is generated from a renewable source; and
- the electricity is generated primarily for on-site supply; and
- the generator is connected to the distribution network;

and the associated sale of excess electricity generated that is exported to the distribution network, when electricity is generated in excess of on-site supply requirements.

The exemption is subject to three conditions. The first condition requires an exempt person to provide the Commission with any information requested in the performance of the Commission's functions under any applicable laws. The second condition requires the exempted person to have a contract with a licensed

electricity retailer for the sale of electricity exported to the distribution network. The final condition requires the exempted person to comply with all relevant safety and technical requirements of the ER Act and ER Regulations. Safety and technical matters are overseen by the Electricity Safety Regulator (NT Worksafe).

The Issues Paper identified two potential amendments to the SSRE operations exemption. First, the exemption only applies to renewable generation that is exporting excess electricity to the distribution network (grid). It does not account for circumstances where there is no export and it should be extended to cover those circumstances (otherwise a licence or individual exemption may be required). Second, the existence of aggregators was not contemplated when the exemption was established. The Commission intends to provide clarity about the coverage of such operations under the exemption.

Although not identified in the Issues Paper, the Commission also considers there is a gap with small generators powered by non-renewable fuel sources and used primarily for on-site supply potentially not covered by an exemption.

A final matter identified in the Issues Paper was whether the 2 MW threshold for the SSRE operations exemption should be lowered. The substantial uptake of rooftop solar PV and associated decline in minimum system demand during daylight hours means additional SSRE operations, particularly larger scale operations, could have substantial implications for the stability of a power system. Furthermore, there is no requirement under the exemption for owners of SSRE operations to comply with directions from power system controllers (as is the case for licensed generators) or provision made for other mechanisms to influence the output of these systems in order to manage risks to power system security.

There are, however, some limitations on the export of electricity through PWC's network connections process. PWC provides for systems less than 10 kilowatt (kW) single-phase or 30 kW three-phase to be pre-approved for connection to the Alice Springs, Darwin-Katherine and Tennant Creek power systems (with specified site export limits), while eligibility for connection of generation above 10 kW single-phase or 30 kW three-phase in size must be negotiated (with site export limits determined by assessment). In other power systems in the Territory, different arrangements are in place including a zero export limitation or a total limit on solar PV systems in some cases because of the potential impact on the stability of the power system.

The Issues Paper sought feedback from stakeholders on what would be an appropriate level if the 2 MW threshold for the SSRE operations exemption were lowered and the costs and benefits of such a change.

Responses on issues relating to the SSRE operations exemption in the Issues Paper were received from DTFHC, Jacana, NECA, PWC and Rimfire. Feedback from respondents included:

- it would be beneficial to encourage SSRE operations in Indigenous Essential Services communities, but the small scale of these networks and reliability of supply to consumers needed to be considered.
- the 2 MW threshold was already low and a further reduction would increase costs and administration without much benefit and would dampen investment in commercial-scale renewable energy systems. If the threshold was lowered, there needs to be assurance that customer application and approval times would not be adversely affected.
- PWC provided information on the relative impact of SSRE operations in the three major power systems and noted at present anything below 2 MW does not have an impact on the Darwin-Katherine power system material enough to necessitate centralised dispatch. However, in Alice Springs and Tennant Creek, generation of 800 kW to 1.2 MW and 400 kW, respectively, would likely require centralised dispatch to manage the impact on the power system and/or increase essential system service requirements to operate in the majority of conditions. PWC noted that as behind-the-meter solar PV uptake continues, the level at which each individual generation starts to have a material impact will become more conservative.
- PWC also stated that System Control must be provided access and control of the system to maintain system stability including the ability to turn off the SSRE operation, but advised while provisions exist through the SCTC to isolate the system from the grid, the ability to turn the system on and off will provide better outcomes for system stability.

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- PWC raised additional issues including better quantification of the requirement for the generation to be primarily for on-site supply needs and that the current exemption excludes SSRE operations from the SCTC obligation to make payments to TGen for the provision of essential system services. PWC advised this presents an equity issue with neither the definition relating to generation source or on-site load being indicators of the impact the operations have on essential system service requirements.

Following consideration of respondents' feedback, the Commission proposed in its Draft Decision to vary (subject to Ministerial approval) the SSRE operations exemption to:

- change the name of the exemption to the Small Scale Generation (SSG) exemption
- remove the specification that generation is to be from a renewable source
- amend the specification relating to on-site supply to capture zero export systems, that is, the specification will be **the electricity is generated solely or primarily for on-site supply**
- clarify that the exemption covers energy storage systems
- retain the 2 MW threshold and clarify that this applies to total capacity of on-site generation (not individual on-site generators or energy storage systems)
- clarify that the exemption does not apply to operators of VPPs
- clarify that the exemption does not cover third party ownership of SSG operations (solar PPAs)
- update the condition relating to safety and technical requirements to reference the *Electrical Safety Act 2022*
- clarify that a failure to comply with the conditions of the exemption means that a person and their operations are not covered by the exemption.

Submissions to the Draft Decision

Responses on issues relating to the SSRE operations exemption were received from Compliance Quarter, EDL, Jacana, PWC and Rimfire.

Compliance Quarter disagreed with the Commission's proposal to remove the specification that the generation source should be renewable. Compliance Quarter considers non-renewable generators (for example, diesel generators) pose their own unique set of risks and the exemption that applies to their operation and use should tie into appropriate installation and safety regulations.

EDL noted Western Australia's 100 MW generation exemption and pointed to the Licensing and Other Authorisations Amendment Bill 2016 statement that there are sufficient regulatory and contractual arrangements in place to manage the operation of generators without the need for licensing.

Jacana expressed concern about the exemption only covering SSG where electricity is produced solely or primarily for on-site supply and that it will not cover third party ownership, linking this with its view that VPPs and other aggregators should be exempt from the requirement to hold a licence. Jacana considers this will severely impact the commercial viability of on-site generation and is of the view that there should be consultation with end-users/customers on the proposed amendments.

PWC supported the Commission's position, but as noted previously, PWC sought clarification on requirements regarding VPPs. As noted elsewhere, Rimfire was concerned about the exclusion of VPPs and PPAs from the SSG exemption.

Commission's position and reasons

The Commission has decided that the SSRE operations exemption requires update and will, subject to Ministerial approval, make a number of changes to broaden, but refine the exemption.

Consistent with the proposals in the Draft Decision, the Commission intends renaming the exemption to the Small Scale Generation exemption and broadening the definitions to incorporate energy storage systems, generation from non-renewable sources and generation that does not export to the distribution network.

The Commission has also decided to update the exemption to reflect recent changes to electrical safety legislation and clarify that it does not cover the selling activities of VPPs and solar PPAs (as discussed in Chapter 4), which the Commission recommends be covered by separate new exemptions.

The proposed changes would provide certainty for small generators and aggregators of small generation on whether their operations are exempt (or not) from the requirement to hold a generation licence and where eligible, the conditions they must meet in order to remain covered by the exemption. For the avoidance of doubt, the exemption will make clear that a failure to comply with the conditions of the exemption will mean that a person and their operations are automatically excluded from its coverage (that is, the Commission is not required to write to the person to revoke application of the exemption).

The Commission has decided the exemption should not be limited to renewable generation. Many households and businesses have small back-up diesel generators that are potentially covered by the requirement in the ER Act to hold a generation licence. The costs of a licence or individual exemption would outweigh the benefits in these circumstances. Extending the exemption to cover small scale non-renewable generators would provide clarity that those generators do not require a licence or individual exemption. While Compliance Quarter expressed concern about the broadening of the exemption on the basis of different safety and technical requirements, the Commission notes the current exemption requires exempt parties to comply with all relevant safety and technical requirements under the ER Act and regulations. This will not change (except to now also refer to the ES Act) and regardless of generator type, an exempt person must install and operate their generation as required under legislation.

The Commission has decided to retain the 2 MW threshold for the SSG exemption and clarifies that this applies to the total capacity of on-site generation (not individual on-site generators or energy storage systems). The Commission observes that 2 MW is a very large rooftop PV system, and is more than 200 times larger than the average sized household solar PV system. There could be some benefits to the reliable and secure operation of the power system from reducing this threshold so that it covers systems that are a smaller size, but still larger than is needed for a household or small business.

In responses to the Issues Paper, a number of stakeholders expressed concern about lowering the 2 MW threshold citing cost impositions and the potential to negatively impact investment. The Commission notes lowering the threshold would impose costs on businesses with an annual cost of licensing a minimum of \$8000 unless a specific fixed fee for small systems were introduced¹⁷. Furthermore, compliance with standard conditions of a generation licence would impose further costs on an owner of a SSG operation and there would be a substantial increase in the cost to the Commission of administering the licensing regime. The Commission considers for an individual SSG, these costs exceed the benefits from licensing (which relate largely to ensuring power system security and quality of supply).

As advised in PWC's submission to the Issues Paper, the size of SSG that requires centralised dispatch (for the purpose of managing power system security) is declining and in smaller systems it is already below the threshold of the SSRE operations exemption. Further verbal advice from PWC indicated that while the controllability of SSG greater than 10 kW single-phase or 30 kW three-phase is negotiated as part of the negotiated connection agreement process, for small systems (below 30 kW), there is no such negotiation but, in aggregate, these systems present an increasing operational risk for power system controllers. In the future there may be times when it is necessary to disconnect all SSG (including these small systems) to ensure power system security and avoid major events.

While the Commission could make it a condition of the SSG exemption that all systems must comply with directions from the power system controller to mitigate this risk, the practical means to do this, particularly for existing SSG, are unclear as the majority of rooftop PV likely does not have the capability to be actively managed. Further, such a condition would need to be limited so as to not provide for the unreasonable imposition of requirements (and the costs) on owners of SSG by the power system controller.

¹⁷ Licensing fees are set by the Treasurer and are beyond the scope of the electricity supply licensing review.

The Commission does not consider a condition in the SSG exemption is the most appropriate mechanism to address these issues. Rather, a more comprehensive package of technical standards and other requirements as introduced in South Australia in 2020 is required to deal with the risks small scale solar generation poses to system security.¹⁸ Other states such as Western Australia and Queensland have also introduced specific mechanisms for this purpose.^{19,20} The Commission considers this to be a policy matter beyond the scope of the electricity supply licensing review and should be dealt with as part of the Territory Government's plan to reach its 50% renewable energy target and associated system and market reforms.

The Commission notes PWC's advice in its submission to the Issues Paper that a battery of (for example) 2 MW in size could have an impact of nearly 4 MW on the power system if it moves from drawing electricity from the grid to discharging electricity to the grid (or vice versa). Noting that a battery covered by the SSG exemption would be primarily serving on-site supply, it is not clear why it would be operated in a manner that would mean it may regularly shift from drawing to discharging electricity from the network (or vice-versa) unless for a specific purpose, for example, the provision of essential system services. In this case, it is likely to be under the control of another party (for example, a VPP) and is being used for commercial gain. The Commission has decided VPPs up to 2 MW in size will be covered under a separate exemption and the conditions of that exemption will seek to mitigate the risks exemplified by PWC (refer Chapter 4).

The Commission has decided not to amend the SSRE operations exemption to specify a level for on-site supply. The current definition in the exemption – “the electricity is generated primarily for on-site supply” – implies at least 50% of the electricity generated should be used on-site. The Commission notes the Territory's 1-for-1 feed-in tariff may have incentivised the installation of overly large systems and shifted demand in order to maximise the amount exported to the electricity network (and thus, the amount used on-site could be less than 50%). However, with the phase out of the 1-for-1 feed-in tariff, there is now more incentive for electricity to be used on-site rather than export. While the Commission believes flexibility is needed given these circumstances, the criterion should remain as the exemption is not intended to cover generation that is purposely installed well in excess of needs and therefore, more commercial in its nature. The Commission would expect commercial generation to be larger than 2 MW to be viable and the owners of such generation are required (in accordance with the ER Act) to hold a licence (or individual exemption).

The Commission notes PWC's advice on inequities in relation to payment for essential system services, but the market arrangements for essential system services and how those services are paid for and by whom are matters beyond the scope of the licensing review. Ideally, these should be addressed as part of the Territory Government's Northern Territory Electricity Market Priority Reform Program.

Decision to implement

The Commission has decided to seek Ministerial approval to update the SSRE operations exemption to:

- change the name of the exemption to the Small Scale Generation (SSG) exemption
- remove the specification that generation is to be from a renewable source
- amend the specification relating to on-site supply to capture zero export systems, that is, the specification will be ***the electricity is generated solely or primarily for on-site supply***
- clarify that the exemption covers energy storage systems
- retain the 2 MW threshold and clarify that this applies to total capacity of on-site generation (not individual on-site generators or energy storage systems)

¹⁸ Government of South Australia. Regulatory charges for smarter homes website, accessed on 29 March 2023 at <https://www.energymining.sa.gov.au/industry/modern-energy/solar-batteries-and-smarter-homes/regulatory-changes-for-smarter-homes>.

¹⁹ Government of Western Australia. Emergency solar management website accessed on 29 March 2023 at <https://www.wa.gov.au/organisation/energy-policy-wa/emergency-solar-management>.

²⁰ Queensland Government Department of Energy and Public Works. Emergency backstop mechanism website accessed on 29 March 2023 at <https://www.epw.qld.gov.au/about/initiatives/emergency-backstop-mechanism>.

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- clarify that the exemption does not cover VPPs or third party solar PPAs (these will be dealt with separately)
- update the condition relating to safety and technical requirements to also reference the *Electrical Safety Act 2022*
- clarify that a failure to comply with the conditions of the exemption means that a person and their operations are not covered by the exemption.

Visibility of SSG operations

Background

The SSRE operations exemption means owners of these operations have no need for contact with the Commission and as a result, the Commission has little information on who is relying on the exemption. There is also limited public visibility of the extent, location and size of behind-the-meter operations.

PWC has information on rooftop solar PV systems through its connection agreement process, but there is no publicly available information on these systems other than PWC's Register of Completed Embedded Generation Projects Greater than 200 kW²¹, which captures larger SSRE and other generation operations. Elsewhere in Australia, there are registers for distributed energy resources in the National Electricity Market and Western Australia's South West Interconnected System²².

The Issues Paper sought the views of stakeholders on the benefits and costs of establishing a SSRE operations register for the Darwin-Katherine, Alice Springs and Tennant Creek power systems and input on what existing processes and information that could be used to populate a register and what summary information drawn from a register would be useful for publication.

Responses on registration of small scale generation were received from DTFHC, Jacana, NECA and PWC.

All respondents supported or considered there may be benefit in having a register. It was suggested the Commission obtain an understanding on the costs and benefits of a register from network operators who have implemented similar systems. Jacana considered PWC to be best placed to populate a register as it has all details through the connection process and under the National Electricity Rules the distributor is responsible for populating a register of SSRE operations. Jacana also suggested a register of curtailed customer demand and solar generation would be of value. PWC considered VPPs and community batteries over a certain threshold (personal/domestic use) or located on commercial premises, should be registered to enable the system controller to control them as a means of maintaining system stability.

Following consideration of feedback and further information from PWC on information gathered through the connection process, the Draft Decision did not propose to require persons using the SSG exemption to register their operations with the Commission or establish a register of SSG operations.

Submissions to the Draft Decision

Only PWC responded to this issue, supporting the Commission's proposal.

Commission's position and reasons

Consistent with the Draft Decision, the Commission has decided not to require parties using the SSG exemption to register their operations.

The Commission considers there is limited benefit to justify the cost of establishing and maintaining a SSG register, which would duplicate information already held by PWC (noting the Territory has only one licensed electricity network provider).

²¹ Available on the PWC website at <https://www.powerwater.com.au>.

²² Refer <https://aemo.com.au/en/energy-systems/electricity/der-register>

For the Commission's purposes, it may be informative to have visibility of who is using the SSG exemption, but should the Commission need this information, it may be possible to request relevant information from PWC under section 25 of the UC Act. The Commission notes it already receives technical and high level locational information on SSRE operations from PWC under section 45(2) of the ER Act for the Commission's annual Northern Territory Electricity Outlook Report. In the case of complaints or matters of compliance, the Commission can engage with relevant parties directly, noting that a condition of the SSRE operations exemption is that the exempt person must from time to time provide the Commission with information it may request in performing its functions under any applicable laws.

While the Commission considers it may be of value for planning and investment to have greater visibility on the number and location of SSG operations, further discussions with PWC indicated sensitivities around privacy and the critical nature of electricity infrastructure that may limit information that could be published. Elsewhere in Australia, only data on total numbers, annual additions and cumulative numbers of distributed energy resources by state is published using information from the National Electricity Market and Western Australian distributed energy resources registers.²³ PWC publishes actual and forecast numbers of residential customers with solar PV installed (and other information about solar PV) in the Territory's three major power systems (Darwin-Katherine, Alice Springs and Tennant Creek power systems) in its Transmission and Distribution Annual Planning Reports.²⁴ While this provides some publicly available information, the Commission notes it is more limited than interstate information, in particular, omitting data on the extent of commercial solar PV.

While the Commission notes PWC System Control was of the view that there is value in a register for the purposes of controllability, the Commission does not consider this to be a purpose of a register in isolation of other arrangements (as discussed earlier in this chapter). The Commission notes clause 5.2.3(d)(9) of the National Electricity Rules – Northern Territory may permit System Control (as the Northern Territory Electricity System and Market Operator) to obtain relevant information on SSG for the purpose of modelling the static and dynamic performance of the three major power systems. Where System Control may wish to use this information or seek more information for other purposes including any additional functions under the Territory Government's Market Priority Reform Program, it will be necessary to ensure there are appropriate legislated powers for it to obtain and use that information and a condition in the SSG exemption is not sufficient for this purpose.

The Commission notes Jacana's suggestion for a register of curtailed customer demand and solar generation. The Commission receives advice on interruptions to supply and publishes information on this in its annual Power System Performance Review reports. The Commission does not, however, receive information on curtailment of solar generation that arises when system security is at risk due to high solar generation and low system demand. Commission staff have brought this matter to the attention of PWC. Visibility on this issue is likely to be desirable and of increasing importance as minimum demand declines with the continued increase in behind-the-meter rooftop solar PV and as more commercial scale solar generation comes online.

As noted earlier, the Commission intends to recommend to the Minister that class exemptions be established for small scale VPPs and third party solar PPAs, but a condition of those exemptions is that the exempt party registers its operations with the Commission.

Decision to implement

The Commission has decided not to require persons using the SSG exemption to register their operations with the Commission or establish a register of SSG operations.

²³ Available at <https://www.aemo.com.au/energy-systems/electricity/der-register/data-der>

²⁴ Available at <https://www.powerwater.com.au/about/what-we-do/our-plans-and-values/reports#tdapr>

On-supplier exemption

Background

Part 4 of the ER Regulations exempts on-suppliers from requirements to hold licences and associated licence conditions for the supply and selling of electricity. In the absence of a specific exclusion, the on-supplier exemption appears to cover generation, network and selling operations although the conditions associated with the exemption are targeted at the selling of electricity, limiting the price an on-supplier can charge for electricity supplied or sold to a receiver where the receiver's consumption of electricity is measured by a meter.

The on-supplier exemption covers what are commonly known as embedded networks. These are privately owned electricity networks that serve multiple premises in a building or self-contained site including apartment buildings, shopping centres, industrial precincts and caravan parks. The Commission has no information on the entities relying on the exemption as they have no need for contact with the Commission.

The Commission has received complaints relating to the conduct of some on-suppliers. The Commission can seek to ensure an on-supplier is charging in accordance with the conditions of the statutory exemption and does its best to assist by providing information on options, including the contact details for Consumer Affairs. Beyond this, however, the Commission has no power to investigate matters (as provided for under Division 8 of part 3 of the ER Act) as an on-supplier is not an electricity entity as defined under the ER Act (that is, a person who holds a licence or whose licence has been suspended, cancelled or has expired).

The Issues Paper advised it is not within the Commission's power to address issues associated with the operation of the on-supplier exemption (the exemption is a policy decision of government and implemented through the ER Regulations), but the Commission considers there may be merit in the Territory Government reviewing the operation of the exemption. No questions were asked of stakeholders regarding the on-supplier exemption.

No submissions were received relating to the on-supplier exemption although as reported in the previous section, PWC expressed the view that embedded networks should be licensed if they are over a certain generation capacity threshold.

In the Draft Decision, the Commission proposed to write to the Minister recommending that the Territory Government review the operation of the on-supplier exemption to ensure that it provides sufficient protection for customers and to give greater visibility of who is utilising the exemption.

Submissions to the Draft Decision

Jacana responded to the proposal in the Draft Decision, supporting any reforms that create clarity in relation to the on-supplier exemption and the conditions that apply under the exemption. It considers stronger regulation would be beneficial as customers of on-suppliers can be particularly susceptible to consumer protection and competition issues. Jacana noted other jurisdictions were imposing stricter accountability and conditions on on-suppliers.

Commission's position and reasons

Consistent with the Draft Decision, the Commission has decided to write to the Minister recommending that the Territory Government review the operation of the on-supplier exemption to ensure that it provides sufficient protection for customers and to give greater visibility of who is utilising the exemption. The Commission also considers the requirements under the exemption should be reassessed to ensure they are fit-for-purpose and clearer to on-suppliers and customers in embedded networks.

The number of four or more storey apartment blocks in the Greater Darwin area increased from 4450 in the 2016 Census to 5845 in the 2021 Census.²⁵ This demonstrates the potentially large and increasing number

²⁵ Australian Bureau of Statistics. Census community profiles accessed on 15 February 2023 at <https://www.abs.gov.au/census/find-census-data/search-by-area>.

of embedded networks, and thus, consumers who may be supplied through those networks. The conditions of the on-supplier exemption are not as extensive as those applicable to licensed retailers, meaning consumers in embedded networks do not have the same access to protections as consumers of licensed retailers, an inequity that the Commission considers the Territory Government should consider as a matter of priority.

Since the Draft Decision, the Commission has engaged with an on-supplier who was reviewing their compliance with the exemption. This demonstrated the difficulty experienced in interpreting requirements including what discretion was available to an on-supplier in how to charge for electricity, the ability (or not) to recover administration costs and what rate should be charged to receivers when an on-supplier is charged above or below the regulated price. At a minimum, the Commission considers the Territory Government needs to review the operation of the exemption and provide clarity on these matters.

The Commission notes in recent years, regulatory oversight of embedded networks has increased with Victoria and the AER establishing registers of embedded networks and requiring compliance with obligations comparable to those of licensed retailers. Both Victoria and the AER currently provide a deemed exemption for embedded networks with less than 10 customers which requires no contact with the regulatory body while an embedded network with 10 or more customers is required to be registered in order to be covered by the exemption. Registration provides greater visibility of these operations while lessening the requirements on smaller embedded networks, noting that the supply and sale of electricity to residents or tenants is typically not the main relationship the on-supplier has with its customers. The Commission notes there are also additional obligations where an existing site is converted to an embedded network (retrofitting) relating to explicit informed consent to the proposed retrofit and proposed energy agreement.

The Victorian Government recently announced that new embedded networks will no longer be eligible for exemptions and will need to be licenced under a new licence category.²⁶ The Australian Energy Market Commission has made similar recommendations for reforms in other states and territories in the National Electricity Market, recommending that exemptions for embedded networks should only be available in very limited circumstances and all exemptions should be registered.²⁷

In its recommendations to the Territory Government, the Commission will suggest that similar arrangements be considered and that consideration is given to arrangements to transition existing embedded networks to the new requirements.

Decision to implement

The Commission has decided to write to the Minister recommending that the Territory Government review the operation of the on-supplier exemption to ensure that it provides sufficient protection for customers, requirements under the exemption are contemporary and easy to understand and to give greater visibility of who is utilising the exemption.

²⁶ Refer <https://engage.vic.gov.au/embedded-networks-review>.

²⁷ Refer <https://www.aemc.gov.au/market-reviews-advice/updating-regulatory-frameworks-embedded-networks>.

6 | Next steps

Process following the final decision

Following release of the Final Decision, the Commission will implement its decisions on the scope and design of the licensing regime including engaging with the Minister and their staff regarding the SSG exemption, proposed registrable class exemptions for small scale VPPs and solar PPAs and the operation of the on-supplier exemption.

Other components of the review

There are two further components of the Commission's review, which will be undertaken separately to this review of the scope and design of the licensing regime. The second stage, which will assess the consistency, efficiency and effectiveness of the form and content of existing licences (a review of licence conditions), commenced with release of a consultation paper on 10 July 2023. The final stage will review the Commission's licensing and related reporting and compliance processes (a review of licence administration) and will commence as stage 2 of the licensing review nears completion.



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