

# FACT SHEET

## NERL Review - Issues Paper on Methodology for Review November 2013

The Commission has today released an Issues Paper on the methodology it proposes to adopt to fulfil its statutory obligation to undertake a review of the operation of the National Energy Retail Law (NERL) in South Australia, to be undertaken from 1 February 2015.

### WHY RELEASE THIS PAPER NOW?

The Commission's objective in releasing this Issues Paper at this time is to provide all members of the community with the opportunity to provide input on any issues related to the Commission's proposed approach to the NERL Review.

This will help the Commission confirm a clear methodology, set a baseline for the review and ensure that key factors will be monitored in the period leading up to the Review.

The Commission is not proposing to commence the formal elements of the NERL Review early. In accordance with the legislative requirements the Commission will not commence the review until February 2015. However, it is important that:

- the NERL Review be conducted in a timely manner, which will be assisted by consulting on the approach before commencement; and
- when the Commission commences the NERL Review it has access to critical data, which might be lost should the Commission wait to specify its data requirements until 2015.

### WHAT IS THE NERL?

From 1 February 2013, the principal regulation of South Australia's retail energy market transferred to the Australian Energy Regulator (AER). The AER is now responsible for consumer protection and performance monitoring in the electricity and gas retail market, under the National Energy Customer Framework (NECF). The NERL is the key national legislation underpinning the NECF.

For practical purposes, the Commission when fulfilling its function of reviewing the NERL, will effectively be reviewing the operation of NECF in South Australia, and consequently the terms are used interchangeably.

### WHAT IS THE COVERAGE OF THE REVIEW?

A key aspect of the Issues Paper is to gain an understanding of what the community considers should be addressed in this Review.

The terms of reference for the Review are contained in section 30 of the National Energy Retail Law (South Australia) Act 2011. Under these terms of reference the NERL Review must focus on the impact of the NERL on South Australian energy consumers and whether the implementation of the NERL has -

- resulted in increased efficiencies; or
- adversely affected customer protection in pursuit of national consistency,

and may address such other matters as the Commission thinks fit.

The requirement that the Commission conduct a review of the operation of the NERL suggests that the Commission must make a finding as to whether overall the operation of the NERL has furthered the interests of South Australian energy consumers.

Given the Commission's primary objective of the protection of the long-term interests of South Australian consumers with respect to the price, quality and reliability of essential services, the Commission intends addressing the specific NERL Review requirements by first seeking to determine if there is any indication that the NERL has adversely affected customer protection in pursuit of national consistency.

The Commission will attempt to determine whether the NERL has resulted in increased efficiencies, adopting the broad economic use of the term 'efficiency' and quantifying the impact to the extent possible.

The performance of the customer protection regulatory framework should be assessed within the context of the market it governs. Energy retail price deregulation was adopted on 1 February 2013 in South Australia, which coincided with the adoption of the NECF.

A key element in assessing the performance of the market is to determine the level of retail competitiveness: are consumers gaining access to competitively set prices and is the NERL consumer protection framework robust enough to operate in such an environment?

Reviewing pricing outcomes is also integral to the NERL Review so that any change in indicators such as the level of disconnections can be assessed in the context of price movements. For example, an increase in the number of hardship customers and disconnections during a period of price decreases may raise concerns about the customer protection framework, other things being equal, but an increase in hardship customers in the absence of pricing information would be harder to interpret.

## REPORTING TIMETABLE

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The Issues Paper contains a proposed timetable for this Review, which has a Draft NERL Review report released in October 2015 and Final Report released in February 2016.

## REQUEST FOR SUBMISSIONS

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Any comments received from members of the community would be welcomed, with a series of specific questions raised throughout the Issues Paper seeking comments on aspects such as review coverage and the nature of the data that should be collected for the Review.

The Commission will consider all submissions in developing the Final NERL Review Methodology, to be released in February 2014.

Comments are sought by **13 December 2013**.

The Issues Paper can be downloaded from the ESCOSA website ([www.escosa.sa.gov.au](http://www.escosa.sa.gov.au)) and written submissions can be made via email ([escosa@escosa.sa.gov.au](mailto:escosa@escosa.sa.gov.au)) or letter (GPO Box 2605 Adelaide SA 5001).

## FURTHER INFORMATION

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If you have any questions or would like to discuss any matter relating to the Inquiry, please contact:

- Mike Philipson, Principal Advisor

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