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# Retailer Energy Productivity Scheme Code

Draft Decision

November 2020

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## Request for submissions

The Essential Services Commission (**Commission**) invites written submissions on this paper by **Friday, 11 December 2020**.

It is the Commission's policy to make all submissions publicly available via its website ([www.escosa.sa.gov.au](http://www.escosa.sa.gov.au)), except where a submission either wholly or partly contains confidential or commercially sensitive information provided on a confidential basis and appropriate prior notice has been given.

The Commission may also exercise its discretion not to publish any submission based on length or content (for example containing material that is defamatory, offensive or in breach of any law).

Responses to this paper should be directed to:

### **Retailer Energy Productivity Scheme Code, Draft Decision**

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## Glossary of terms

Term	Description
Commission	Essential Services Commission, established under the ESC Act
DEM	South Australian Government Department for Energy and Mining
EET	Energy Efficiency Target
Electricity Act	<i>Electricity Act 1996</i>
EPT	Energy Productivity Target
ESC Act	<i>Essential Services Commission Act 2002</i>
Gas Act	<i>Gas Act 1997</i>
Minister	Minister for Energy and Mining
NERR	National Energy Retail Rules
REES	Retailer Energy Efficiency Scheme
REES Code	Retailer Energy Efficiency Scheme Code
Regulations	<i>Electricity (General) Regulations 2012 and Gas Regulations 2012</i>
REPS	Retailer Energy Productivity Scheme
REPS Code	Retailer Energy Productivity Scheme Code

# 1 Executive summary

The Retailer Energy Productivity Scheme (REPS) will replace the Retailer Energy Efficiency Scheme (REES)<sup>1</sup> from 1 January 2021. The South Australian Government's policy objectives for the REPS focus on improving the productivity of energy through demand shifting and response management capabilities, as well as improving energy efficiency.<sup>2</sup>

As the REPS administrator, the Essential Services Commission (Commission) has the functions and powers as are necessary to give effect to the REPS.

Based on the information available at the time of publication, the Commission has drafted a Retailer Energy Productivity Scheme Code (REPS Code) that reflects the revised statutory and policy framework established by the Department of Energy and Mining (DEM) to enable the effective administration of the REPS from 1 January 2021. This Draft Decision sets out the key differences between the Retailer Energy Efficiency Scheme Code (REES Code) and the draft REPS Code.

Importantly, the draft REPS Code includes only necessary and consequential changes from the REES Code required for the Commission to administer the REPS within the revised policy framework established by DEM.

Accordingly, the purpose of this consultation is to inform affected parties, rather than to open issues of wider regulatory policy or scheme administration up for debate.

The Commission will undertake another review of the REPS Code in late 2021. This subsequent review will consider the operation of the REPS under the new REPS Code during the scheme's first six months, including whether there are any consumer protection or scheme administration issues that need to be addressed.

Submissions are welcomed on the draft REPS Code, or any other matter relevant to the Commission's administration of the REPS, by no later than **Friday, 11 December 2020**. However, any issues or suggestions provided on further amendments or enhancements to the REPS Code will be considered and addressed through the subsequent review in 2021.

The REPS Code will come into effect on 1 January 2021, upon the revocation of the REES Code.

## Consultation questions:

- ▶ Does the draft REPS Code adequately capture the key changes required of the REES Code to reflect the revised policy framework developed by the South Australian Government?
- ▶ Are there any additional amendments that the Commission should consider?

<sup>1</sup> The REES is a South Australian Government energy efficiency scheme that provides incentives for South Australian households and businesses to save energy. The REES will conclude on 31 December 2020.

<sup>2</sup> Information on the South Australian Government's policy objectives for the REPS is available at: [www.energymining.sa.gov.au/energy\\_and\\_technical\\_regulation/energy\\_efficiency/retailer\\_energy\\_productivity\\_scheme\\_reps](http://www.energymining.sa.gov.au/energy_and_technical_regulation/energy_efficiency/retailer_energy_productivity_scheme_reps)

## 2 Introduction

The Essential Services Commission (**Commission**), established under the *Essential Services Commission Act 2002 (ESC Act)*, is the independent economic regulator of essential services in South Australia. In undertaking its regulatory functions, the Commission's primary objective is the protection of the long-term interests of South Australian consumers with respect to the price, quality and reliability of essential services.

The Retailer Energy Productivity Scheme (**REPS**) will replace the Retailer Energy Efficiency Scheme (**REES**)<sup>3</sup> from 1 January 2021. The REPS will support energy demand management and demand response activities, as well as energy efficiency activities in homes and businesses.<sup>4</sup>

The REES will conclude on 31 December 2020, after operating for six years. A recent review of the REES<sup>5</sup> proposed a revised scheme objective to reflect changing network and energy market challenges and opportunities by placing a greater focus on optimisation of energy use.<sup>6</sup> This new objective is captured through the REPS.

The statutory framework has been varied to give effect to the amended scheme, the REPS, from 1 January 2021. The Commission has been appointed as the administrator of the REPS and is required to develop an industry code to enable its administrative and compliance functions. The draft Retailer Energy Productivity Scheme Code (**REPS Code**) is a new industry code for this purpose and will replace the REES Code from 1 January 2021. The new REPS Code is based on the existing Retailer Energy Efficiency Scheme Code (**REES Code**) to provide as much consistency as possible for industry during the transition to REPS. The Commission has made only necessary and consequential changes from the terms of the REES Code to enable the administration of the REPS within the revised policy framework established by the Department for Energy and Mining (**DEM**).

### 2.1 Purpose, scope and timing of the REPS

DEM is the South Australian Government agency responsible for designing and establishing the legislative, regulatory and policy framework for the REPS and its predecessor the REES.

DEM has the primary responsibility for engaging directly with REPS stakeholders and the public on its changes to the policy framework, including scheme objectives and methodology. DEM's stakeholder engagement program has informed the timing and scope of the Commission's REPS Code drafting process.

Under the REPS, the Commission is responsible for:

- ▶ determining obliged retailers and calculating and notifying obliged retailers of any targets that apply on an annual basis
- ▶ monitoring retailer behaviour and holding them accountable for meeting their obligations, and

<sup>3</sup> The REES is a South Australian Government energy efficiency scheme that provides incentives for South Australian households and businesses to save energy. The REES will conclude on 31 December 2020.

<sup>4</sup> Information on the South Australian Government's policy objectives for the REPS is available at: [www.energymining.sa.gov.au/energy\\_and\\_technical\\_regulation/energy\\_efficiency/retailer\\_energy\\_productivity\\_scheme\\_reps](http://www.energymining.sa.gov.au/energy_and_technical_regulation/energy_efficiency/retailer_energy_productivity_scheme_reps)

<sup>5</sup> Review into the South Australian Retailer Energy Efficiency Scheme, December 2019. Available: [https://www.energymining.sa.gov.au/\\_data/assets/pdf\\_file/0008/356228/2019\\_REES\\_Review\\_Report.pdf](https://www.energymining.sa.gov.au/_data/assets/pdf_file/0008/356228/2019_REES_Review_Report.pdf)

<sup>6</sup> The REES Review Report noted that an independent evaluation of the REES '*found the scheme had been an effective policy tool*' and determined the scheme '*should continue until December 2030 or until a national scheme that is acceptable to South Australia is put into place.*' pp 2, 6.

- ▶ annually reporting, publicly and to the Minister, on retailers' progress in achieving the required targets.

This Draft Decision outlines the key differences between the REES Code and the draft REPS Code. The draft REPS Code is required to enable the Commission to administer the REPS within the revised statutory and policy framework from 1 January 2021.

The Commission invites submissions on this Draft Decision by **Friday, 11 December 2020**. It also welcomes discussions with stakeholders on the matters raised in the paper or on any related matters that will assist the Commission with the transition from REES to REPS.

However, the wider statutory and policy frameworks are outside of the Commission's functions and powers, and so matters of policy are outside the scope of this Draft Decision.

The timetable for establishing the new REPS Code is set out in Table 2.1 below.

Table 2.1: REPS Code timetable

Action	Date
Consultation closes on Draft Decision and draft REPS Code	11 December 2020
Final Decision and final REPS Code published	18 December 2020
REES Code is revoked and REPS Code comes into effect	1 January 2021

The Commission plans to undertake a review of the new REPS Code in late 2021. This subsequent review will consider the operation of the REPS under the new REPS Code during the scheme's first six months, including whether there are any consumer protection or scheme administration issues that need to be addressed.

## 3 Implementing the REPS

### 3.1 The Retailer Energy Productivity Scheme

The South Australian Government's policy objective for the REPS is to:

*'improve energy productivity for households, businesses and the broader energy system, with a focus on low-income households. This will reduce energy costs and greenhouse gas emissions, while improving human health'.<sup>7</sup>*

The REPS is designed to take advantage of opportunities to achieve customer and system benefits by targeting:

*'energy savings at peak times, and to facilitate the demand response market by incentivising activities based on their demand response capabilities'.<sup>8</sup>*

The REPS will include activities that improve the productivity (or economic output) of energy use. It proposes to do this by incentivising activities which promote the transition to a smarter power system with greater demand shifting capabilities. By incorporating activities designed to shift energy demand from times of peak energy use to off-peak energy use times, the scheme plans to put downward pressure on wholesale electricity prices. Incentivising the addition of demand shifting capabilities also aims to improve control over the power system and, as a consequence, increase network security.

### 3.2 Key differences between the REES Code and the REPS Code

The Commission has drafted the REPS Code to reflect the above policy changes. In doing so, there are three key consequential differences between the REES Code and the REPS Code to enable the administration of the REPS within the revised policy framework:

- ▶ **Removal of clauses related to energy audit targets:** Under the REES, the Commission sets energy audit targets (EAT) for each primary obliged retailer by apportioning the relevant annual target set by the Minister. These EATs are related to priority group households and are expressed as the annual number of energy audits required to be undertaken by obliged retailers. There is no longer a requirement for the Commission to set annual EATs for obliged retailers.
- ▶ **The introduction of sub-targets:** The draft REPS Code includes the Minister's power to retain discretion to introduce sub-targets via notification in the Government Gazette.
- ▶ **New transitional arrangements:** The draft REPS Code includes updated transitional arrangements in relation to the procedures for energy credit conversion and reporting cut-off dates. The updates facilitate the administrative procedures governing the transition between the REES and the REPS.

All amendments are summarised in Appendix 1: Table of changes, and included in the draft Code at Appendix 2: Draft Retailer Energy Productivity Scheme Code.

#### Consultation questions:

- ▶ Does the draft REPS Code adequately capture the key changes required of the REES Code to reflect the revised policy framework developed by the South Australian Government
- ▶ Are there any additional amendments that the Commission should consider?

<sup>7</sup> Review into the South Australian Retailer Energy Efficiency Scheme Report, p. 2.

<sup>8</sup> Review into the South Australian Retailer Energy Efficiency Scheme Report, p. 14.



## 4 Next steps

Stakeholders are invited to discuss or provide submissions on this Draft Decision by no later than **Friday, 11 December 2020**. All submissions will be placed on the Commission's website, subject to any confidential material being excluded.

The Commission welcomes discussions with stakeholders on any of the matters raised in this Draft Decision or on any related matters.

Following consideration of the issues raised in submissions, the Commission will release its Final Decision on 18 December 2020. The REPS Code will come into effect from 1 January 2021, upon the revocation of the REES Code.

## 5 Appendices

**Appendix 1: Table of changes between the Retailer Energy Efficiency Scheme Code and the Retailer Energy Productivity Scheme Code**

**Appendix 2: Draft Retailer Energy Productivity Scheme Code**

## Appendix 1: Table of changes between the REES Code and REPS Code

Number	Existing term or clause/s in REES Code	New term or clause in REPS Code	Reason for change	Relevant regulation
<b>Global changes</b>				
1	REES	REPS	Reflects the new scheme name.	N/A
2	'Energy efficiency' or 'energy reduction'	Energy productivity	The REPS objective is to improve energy productivity.	N/A
3	'Energy audit'	None	There are no energy audits under the REPS. All clauses relating to energy audits, and references to energy audits, have been removed.	N/A
<b>Definitions</b>				
4	None – new term.	<b>energy productivity sub-target</b> means a target set by the <b>Minister</b> which is a designated proportion of an <b>energy productivity target</b> that must be met in a specified manner, including, but not limited to, the <b>priority group household energy productivity target</b> .	Under the REPS the Minister will have discretion to establish new energy productivity sub-targets by publishing notice in the Gazette.	<i>Electricity (General) Regulations 2012, r25.</i> <i>Gas Regulations 2012, r19.</i>
5	None – new term.	<b>normalised gigajoules</b> are calculated pursuant to a notice published by the <b>Minister</b> under the Part 4 of the <i>Electricity (General) Regulations 2012</i> and Part 4 of the <i>Gas Regulations 2012</i> that sets out relevant information relating to an activity or measure that constitutes an <b>energy productivity activity</b> .	Transitional arrangements in chapter 8 of the REPS Code require credits and shortfalls accrued by obliged retailers prior to 1 January 2021 to be expressed in normalised gigajoules rather than tonnes of carbon dioxide equivalent.	<i>Electricity (General) Regulations 2012, r28(4)</i> <i>Gas Regulations 2012, r22(4).</i>

Number	Existing term or clause/s in REES Code	New term or clause in REPS Code	Reason for change	Relevant regulation
6	<b>primary obliged retailer</b> refers to an energy retailer which has residential customer numbers equalling or exceeding the primary obligation threshold as at 30 June immediately prior to the commencement of a REES year. A <b>primary obliged retailer</b> will be set an <b>energy reduction target</b> , a <b>priority group energy reduction target</b> , an <b>energy audit target</b> .	<b>primary obliged retailer</b> refers to an energy retailer which has residential customer numbers equalling or exceeding the primary obligation threshold as at 30 June immediately prior to the commencement of a REPS year. A <b>primary obliged retailer</b> will be set an <b>energy productivity target</b> , and a <b>priority group household energy productivity target</b> , and may be set further <b>energy productivity sub-targets</b> .	Definition changed to reflect revised obligations on primary obliged retailers. Under the REPS primary obliged retailers will be set an energy productivity target and an energy productivity sub-target, the priority group household energy productivity sub-target.	<i>Electricity (General) Regulations 2012</i> , r25.  <i>Gas Regulations 2012</i> , r19.
7	<b>priority group energy reduction target</b> means a target as determined under Part 4 of the <i>Electricity (General) Regulation 2012</i> and Part 4 of the <i>Gas Regulations 2012</i> (as the case may be).	<b>priority group household energy productivity target</b> is an <b>energy productivity sub-target</b> set by the <b>Minister</b> from time to time under Part 4 of the <i>Electricity (General) Regulation 2012</i> and Part 4 of the <i>Gas Regulations 2012</i> which must be met in the specified manner.	Definition changed to reflect the revised energy productivity sub-target obligation, the priority group household energy productivity sub-target, under the REPS.	<i>Electricity (General) Regulations 2012</i> , r25(2)(a).  <i>Gas Regulations 2012</i> , r19(2)(a).
8	None – new term.	<b>REPS year</b> means each consecutive twelve-month period 1 January to 31 December, commencing on 1 January 2021.	New definition to reflect new scheme.	N/A.
<b>Chapter 1 Preliminary</b>				
9	None.	Clause 1.4.3  Nothing in this Code affects anything done or omitted to be done or rights, obligations or liabilities accrued under the previous Retailer Energy Efficiency Scheme Code (REESC) in effect from time to time.	A new clause 1.4.3 has been drafted to make clear that liability for breaches committed before the end of the REES Code remain despite the creation of the new REPS Code.	N/A.

Number	Existing term or clause/s in REES Code	New term or clause in REPS Code	Reason for change	Relevant regulation
10	Clause 1.6 Retailers' general obligations	Re-drafted to reflect revised retailer obligations under the REPS.	This clause has been redrafted to clearly state retailers' revised general obligations under the REPS. The redrafted clause includes the new obligation on obliged retailers to meet any energy productivity sub-targets set by the Minister.	<i>Electricity (General) Regulations 2012, r22.</i> <i>Gas Regulations 2012, r16.</i>
11	Clause 1.7 Class of persons experiencing hardship	Not included in the REPS Code.	The Regulations no longer give the Commission power to define classes of person experiencing hardship.	<i>Electricity (General) Regulations 2012, r23(1).</i> <i>Gas Regulations 2012, r17(1).</i>
<b>Chapter 2 Determination of Obligated Retailers</b>				
12	Clause 2.1 Obligation thresholds	Updated to reflect the REPS energy productivity sub-targets, and to include the possibility of secondary obliged retailers being subject to energy productivity sub-targets.	Amended to reflect that under REPS a primary obliged retailer will be subject to a priority group household energy productivity target, and may be set further energy productivity sub-targets.  Additionally, a secondary obliged retailer will be set an energy productivity target and may be set energy productivity sub-targets.	<i>Electricity (General) Regulations 2012, r22.</i> <i>Gas Regulations 2012, r16.</i>
<b>Chapter 3 Energy Audits</b>				
13	Chapter 3 Energy audits	Deleted - no references to energy audits are included in the REPS Code.	Energy audits will not be a part of the REPS.	N/A.

Number	Existing term or clause/s in REES Code	New term or clause in REPS Code	Reason for change	Relevant regulation
<b>Chapter 4 Annual Energy Reduction Target</b>				
14	Clause 4.3.2 Obligation to achieve productivity targets	Clause 4.3.2 and all its sub-paragraphs have not been included in the REPS Code.	This clause is inconsistent with the new Regulations which provide that the Minister by Gazette notices has the power to determine what constitutes energy productivity activities.	<i>Electricity (General) Regulations 2012, rr26, 27, 28.</i>  <i>Gas Regulations 2012, rr20, 21, 22.</i>
15	Clauses 4.4.2, 4.4.3 and 4.4.4 Notification of energy reduction target shortfall	Clauses not included in the REPS Code.	Target shortfalls (i.e. those more than 10% and also those less than 10%) will no longer be added to future targets.	<i>Electricity (General) Regulations 2012, rr26, 27.</i>  <i>Gas Regulations 2012, rr21, 22.</i>
<b>Chapter 5 Record Keeping, Reporting and Assurance</b>				
16	Clause 5.1 Compliance plans	Clause 5.1.3(b)(i)  Amended to reflect updated complaint and dispute resolution standard.	The required complaint and dispute resolution standard Australian Standard ISO 10002-2006 has been updated since the previous Code review. The relevant standard that now applies is AU/NZ 10002:2014, and any successor standard that subsequently supersedes this standard.	N/A.

Number	Existing term or clause/s in REES Code	New term or clause in REPS Code	Reason for change	Relevant regulation
<b>Chapter 7 Consumer Protection Obligations</b>				
17	Clause 7.2 Complaints	Amended to reflect updated complaint and dispute resolution standard.	The required complaint and dispute resolution standard Australian Standard ISO 10002-2006 has been updated since the previous Code review. The relevant standard that now applies is AU/NZ 10002:2014, and any successor standard that subsequently supersedes this standard.	N/A.
<b>Chapter 8 – Transitional Arrangements</b>				
18	Clause 8.1 Conversion of energy credits and shortfalls	Clause 8.1 has not been included in the REPS Code.	Clause 8.1 is inconsistent with the process for applying unused credit contained in the new Regulations. The new Regulations allow a maximum amount equivalent to 20% of the energy efficiency target applying to the retailer for 2020 to be applied in 2021 as energy credit.	<i>Electricity (General) Regulations 2012, Part 4, Schedule 1, r2.</i> <i>Gas Regulations 2012, Part 4, Schedule 1, r2.</i>
19	Clause 8.3 2014 reporting provisions	Clause 8.3 has not been included in the REPS Code	Clause 8.3 is now obsolete as it refers to 2014 reporting provisions that are no longer relevant.	N/A.



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