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# Retailer Energy Productivity Scheme: Reporting Requirements

Final Decision

September 2021

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## Glossary of terms

AGN	Australian Gas Networks
AEMO	Australian Energy Market Operator
Code	Retailer Energy Productivity Scheme Code
Commission	Essential Services Commission, established under the <i>Essential Services Commission Act 2002</i>
Electricity Act	<i>Electricity Act 1996</i>
energy productivity activity	has the meaning given to that term in Parts 4 of the <i>Electricity (General) Regulations 2012</i> and <i>Gas Regulations 2012</i>
ESC Act	<i>Essential Services Commission Act 2002</i>
Minister	The Minister for Energy and Mining, responsible for the administration of the <i>Electricity Act 1996</i> and/or the <i>Gas Act 1997</i>
obliged retailer	is an energy retailer with an obligation to meet one or more targets in a year
Regulations	The <i>Electricity (General) Regulations 2012</i> and the <i>Gas Regulations 2012</i>
REPS	Retailer Energy Productivity Scheme
SAPN	Sou Australian Power Networks

# 1 Executive summary

The Essential Services Commission of South Australia (**Commission**) is established under the *Essential Services Commission Act 2002 (ESC Act)* as a regulator of certain essential services in South Australia, with the primary objective of protecting the long-term interests of South Australian consumers with respect to the price, quality and reliability of those essential services.

One of the Commission's functions within both the electricity and gas industries is to administer the Retailer Energy Productivity Scheme (**REPS**). The scheme was established by the Government of South Australia and commenced on 1 January 2021. It requires energy retailers with sales and customer numbers above certain thresholds (**obliged retailers**) to provide energy productivity activities to South Australian households and businesses to meet annual Ministerial targets. REPS is the successor scheme to the Retailer Energy Efficiency Scheme (**REES**), which operated from 1 January 2009 to 31 December 2020.

The Minister for Energy and Mining (**Minister**) has set REPS obligation thresholds and targets, as well as the methodology by which REPS annual targets are apportioned amongst obliged retailers. The Commission is responsible for determining which retailers are 'obliged' under REPS and for the apportionment of targets in accordance with the prescribed methodology. The Commission is also responsible for producing an annual REPS report in accordance with *Regulation 29 of the Electricity (General) Regulations 2012* and *Regulation 23 of the Gas Regulations 2012 (Regulations)*. Under those Regulations the Minister may prescribe specific content requirements for that report.

The Commission has publicly consulted on reporting requirements for determining REPS obligations and reporting requirements for the REPS Annual Report.

## Reporting requirements for determining REPS obligations

Having considered the changed operating arrangements for REPS, the final decision is to reduce reporting requirements on retailers for the purposes of determining REPS obligations. This change removes the previous requirement under REES for energy retailers to report on energy sales and customer numbers.

To determine retailers' REPS obligations, the Commission will use:

- ▶ data on customer numbers as reported by SA Power Networks and Australian Gas Networks, and
- ▶ data on energy purchases as reported by the Australian Energy Market Operator (**AEMO**).

To apportion targets, the Commission will use:

- ▶ data on energy purchases reported by AEMO.

## Reporting requirements for the REPS Annual Report

Having considered the specific content requirements specified by the Minister for the REPS annual report, the following information will be collected from each obliged retailer for a minimum of 15 energy productivity activities in total (delivered and not delivered) for:

- ▶ all activities delivered: average direct, overhead and total delivery costs (excluding GST) by activity and/or target, provider and customer type, and
- ▶ activities not delivered: estimates of average direct, overhead and total delivery costs (excluding GST) by activity and/or target, source of estimate, provider (if applicable), and customer type.

The Minister also requires the Annual Report to cover, where possible, competition in activity delivery and any identified barriers to competition and the delivery of eligible activities.

In analysing competition issues, the Commission will consider existing data including indicators of market share extracted from the REPS and REPS-R IT systems.<sup>1</sup>

To gather further evidence on competition in activity delivery and any identified barriers to competition and the delivery of eligible activities, each obliged retailer will report on the process by which energy productivity activity providers are selected.

Reporting will be by calendar year with returns to be provided no later than 31 January following the relevant calendar year. The new reporting requirements will come into effect immediately.

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<sup>1</sup> The IT systems used to administer REPS and to assess if obliged retailers have fulfilled REPS target obligations.

## 2 Introduction

### 2.1 The Commission's role in REPS

The Essential Services Commission of South Australia (**Commission**) is established under the *Essential Services Commission Act 2002 (ESC Act)* as a regulator of certain essential services in South Australia, with the primary objective of protecting the long-term interests of South Australian consumers with respect to the price, quality and reliability of those essential services.

One of the Commission's functions within both the electricity and gas industries is to administer the Retailer Energy Productivity Scheme (**REPS**). The scheme was established by the Government of South Australia and commenced on 1 January 2021. REPS is the successor scheme to the Retailer Energy Efficiency Scheme (**REES**), which operated from 1 January 2009 to 31 December 2020.

REPS is given statutory effect through Parts 4 of the *Electricity (General) Regulations 2012* and *Gas Regulations 2012 (Regulations)*. These establish the Commission as the administrator of REPS and provide that REPS will run until 31 December 2030.

The Minister for Energy and Mining (**Minister**) has set REPS obligation thresholds and overall targets for the years 2021 to 2025, as well as the methodology by which REPS targets are apportioned amongst obliged retailers. The Commission is responsible for determining which retailers are 'obliged' under REPS and for the apportionment of targets in accordance with the prescribed methodology.

REPS requires energy retailers with sales and customer numbers above certain thresholds (**obliged retailers**) to provide energy productivity activities to South Australian households and businesses to meet annual Ministerial targets.

The Commission is also responsible for producing an annual REPS report in accordance with *Regulation 29 of the Electricity (General) Regulations 2012* and *Regulation 23 of the Gas Regulations 2012 (Regulations)*. Under those Regulations, the Minister may prescribe specific content requirements for that report.

### 2.2 Submissions on the draft REPS reporting requirements

On 2 June 2021 the Commission invited submissions on draft reporting requirements that would apply to energy retailers and enable the Commission to:

- ▶ determine REPS obliged retailers and apportion REPS targets, and
- ▶ fulfil the requirements the Minister has specified for the annual REPS report.

The consultation invited feedback from stakeholders on three consultation questions:

- ▶ Do you support the streamlined process to determine REPS obligations, whereby energy retailers will no longer be required to report energy sales and customer numbers to the Commission? If not, why not?
- ▶ Should the information requested from obliged retailers to inform reporting on the costs of each type of activity being delivered under REPS be changed? If so, how?
- ▶ Is there any additional evidence that would inform reporting on competition in activity delivery and any identified barriers to competition and the delivery of eligible activities?

Eleven submissions were received in response. Nine public submissions are available on the Commission's website:<sup>2</sup>

- ▶ Australian Energy Council
- ▶ Demand Manager
- ▶ Energy Australia
- ▶ Momentum Energy
- ▶ Origin Energy
- ▶ Red Energy and Lumo Energy
- ▶ Shell Energy
- ▶ Simply Energy
- ▶ Zen Energy

The Commission also received two confidential submissions to the consultation. While positions put in confidential submissions cannot be addressed in this final decision, the Commission will respond to submitters separately on matters raised.

The Commission has included responses to non-confidential submissions in Annexure A.

The Commission thanks stakeholders for their submissions and feedback. In general, submissions covered matters of policy, rather than administration, and therefore is out of scope for this consultation. Nevertheless, the policy feedback received will be provided to the Department for Energy and Mining for consideration.

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<sup>2</sup> Submissions are available here: <https://www.escosa.sa.gov.au/projects-and-publications/projects/reps/retailer-energy-productivity-scheme-reporting-requirements-consultation-paper/reps-reporting-requirements-consultation>



## 3 Reporting requirements

### 3.1 Reporting requirements to determine REPS obligations

Under Part 6A of the *Electricity Act 1996* and Part 5A of the *Gas Act 1997*, obliged retailers are required to provide energy productivity activities to South Australian residential and business customers.

These energy productivity activities must be performed in sufficient quantities to meet Ministerial targets allocated by the Commission (pursuant to Parts 4 of the Regulations). This requires the Commission to identify which electricity and gas retailers will be bound by REPS in that year and to allocate energy productivity activity targets to those retailers.

The Minister has fixed the following obligation thresholds for REPS for 2021 to 2025<sup>3</sup>:

- ▶ Energy retailers with 5,000 or more South Australian residential electricity or gas customers are considered primary obliged retailers and are given an energy productivity target, a priority group energy productivity target and a household energy productivity target.
- ▶ Other retailers that do not meet the primary obligation threshold but sell 20,000 MWh or more of electricity or 133,000 GJ or more of gas in a year to South Australian households and businesses, are considered secondary obliged retailers and are given an energy productivity target.

The Minister has set the methodology the Commission must use to apportion REPS annual targets between obliged retailers. The methodology enables the Commission to use data from the Australian Energy Market Operator (**AEMO**), SA Power Networks (**SAPN**) and Australian Gas Networks (**AGN**) to determine all REPS obligations and to apportion targets and subtargets.

#### 3.1.1 Submissions

Of the nine public submissions received, eight expressed support for the proposed process to determine REPS obligations, whereby energy retailers will no longer be required to report energy sales and customer numbers to the Commission. Demand Manger (an activity provider) did not comment on this aspect of the consultation.

Some submissions, while supporting the reduced reporting obligations, had further suggestions to improve the accuracy of the data used. The Commission will investigate these and incorporate the suggestions in the Commission's data verification and target setting quality assurance processes where it will make a marked difference and not unnecessarily delay notifying obliged retailers of their targets.

The Commission has included responses to non-confidential submissions in Annexure A.

#### 3.1.2 Final decision

The Commission asked stakeholders if they supported the streamlined process to determine REPS obligations, whereby energy retailers will no longer be required to report energy sales and customer numbers to the Commission.

The submissions supported the streamlined process to determine REPS obligations, whereby energy retailers will no longer be required to report energy sales and customer numbers to the Commission. A couple of submissions also included suggestions for checking and refining data received from AEMO.

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<sup>3</sup> The South Australian Government Gazette, 21 December 2020, No 98, p 6024.

Therefore, the Commission confirms its draft decision on reporting requirements to determine REPS obligations.

To determine the primary obligated retailers in REPS, the Commission must identify energy retailers that meet the threshold of 5,000 or more South Australian residential electricity or gas customers. The Commission will use residential customer numbers from SAPN and AGN to determine whether or not an energy retailer is above the threshold.

Further, to determine the secondary obliged retailers in REPS, the Commission must identify retailers that sell 20,000 MWh or more of electricity or 133,000 GJ or more of gas in a year to South Australian households and businesses. The Commission will use energy purchase data from AEMO, to determine whether or not an energy retailer is above the threshold.

In addition, to apportion REPS targets and subtargets, the Commission only requires overall energy purchase data. The Commission will use energy purchases data from the AEMO to apportion REPS targets and subtargets.

#### Final decision

To determine retailers' REPS obligations, the Commission will use:

- data on customer numbers as reported by SA Power Networks and Australian Gas Networks, and
- data on energy purchases as reported by the Australian Energy Market Operator (AEMO).

To apportion targets, the Commission will use:

- data on energy purchases as reported by AEMO.

## 3.2 Reporting requirements for the REPS Annual Report

The Regulations specify the information that must be included in the REPS Annual Report. The Regulations also provide that the Minister may specify additional content requirements for the report.

### 3.2.1 New reporting on costs of REPS activities

The Minister has specified additional requirements (refer Annexure B), including that the report must include information on:

- ▶ the costs of each type of activity being delivered under REPS, and
- ▶ individual costs for a majority of eligible REPS activities must be reported – whether or not a majority of eligible REPS activities are being delivered by the obliged retailers.

In that context, the Minister requires that obliged retailers annually provide information to the Commission on costs and energy productivity activity offers for the majority of eligible REPS activities (refer Annexure B).

### 3.2.2 Submissions

On this aspect of the consultation, the majority of submissions were not supportive of providing energy productivity activity costs to the Commission for the majority of eligible REPS activities. The following submissions expressed concerns regarding providing commercially sensitive information to the Commission:

- ▶ Australian Energy Council
- ▶ Momentum Energy
- ▶ Red Energy and Lumo Energy

It was also suggested that reporting be allowed by target as well as by activity. The submission from Energy Australia noted that the Commission was proposing to require reporting *per activity* and suggested that the reporting requirements should accommodate different arrangements that retailers have with providers, including price per Gigajoule (GJ) not only by activity but also by the target/sub target for that activity, that is, *price per GJ* for each target. The Commission accepts that argument and, as a result, has amended the proforma (refer Annexure C) to collect data to accommodate these different arrangements should they apply to an obliged retailer.

Demand Manager (an activity provider) expressed support for price information being made publicly available and reported based on sub-targets that comprise the overall REPS targets as it is of the opinion that it would permit greater price competition in the market. However, most submissions were not supportive of the reporting requirement, especially the requirement for each obliged retailer provide information for a minimum of 15 energy productivity activities in total (delivered and not delivered). As this is a matter of policy the Commission will draw this feedback to the attention of the Department for Energy and Mining.

The Commission has included more detailed responses to non-confidential submissions in Annexure A.

### 3.2.3 Final Decision

The Commission asked stakeholders if the proposed information to be requested from obliged retailers to inform reporting on the costs of each type of activity being delivered under REPS should be changed. Submissions did not raise any material matters that suggested a change to the draft proposal is warranted. Therefore, the Commission confirms its draft decision on the reporting of costs of REPS activities. In response to submissions, the Commission will amend the proposed reporting proforma to allow greater flexibility in reporting of this information.

It should be noted that in analysing and reporting the data in the REPS Annual Report, the Commission is required to ensure that no commercially confidential information is disclosed. The Commission will be adhering to the Minister's request that no information is disclosed that is commercially confidential to a retailer or contractor.

#### Final decision

The Commission will collect the following information from each obliged retailer for a minimum of 15 energy productivity activities in total (delivered and not delivered) as detailed in Annexure C:

- all energy productivity activities delivered: average direct, overhead and total delivery costs (excluding GST) by activity and/or target, provider and customer type, and
- energy productivity activities not delivered: estimates of average direct, overhead and total delivery costs (excluding GST) by activity and/or target, source of estimate, provider (if applicable), and customer type.

### 3.2.4 New reporting on competition in activity delivery

The Minister also requires the REPS Annual Report to cover, where possible, competition in activity delivery and any identified barriers to competition and the delivery of eligible energy productivity activities (refer Annexure B).

### 3.2.5 Submissions

Most submissions expressed concern that reporting on competition in activity delivery and any identified barriers to competition and the delivery of eligible activities, will increase the reporting burden on obliged retailers without adding value. However, no submissions provided suggestions for the collection of additional evidence regarding competition in activity delivery or barriers to competition and the delivery of eligible activities.

The Commission has included more detailed responses to non-confidential submissions in Annexure A.

### 3.2.6 Final Decision

The Commission asked stakeholders if there is any additional evidence that would inform reporting on competition in activity delivery and any identified barriers to competition and the delivery of eligible activities. Submissions did not raise any material matters that suggested a change to the draft proposal is warranted. Therefore, the Commission confirms its draft decision on the reporting of competition in activity delivery.

#### Final decision

The Commission will ask each obliged retailer to report on the process by which it selects energy productivity activity providers, as detailed in Annexure C.

### 3.2.7 Other matters

Origin Energy and Shell Energy proposed a reporting date of 31 March instead of 31 January as in their view January is too close to the holiday period, the date of final submissions of the previous year's REPS activities and coincides with reporting deadline.

The Commission is of the view that information about the cost of activity delivery and engagement of energy activity providers will be available to energy retailers before the end of the calendar year as contracts with providers will be entered into earlier in the year. The Commission will consider request for extensions to the deadline on a case-by-case basis, should retailers have a justifiable reason for not being able to meet the 31 January deadline for submission.

## 3.3 Next steps

The new reporting requirements will take effect immediately.

The Commission will publish a Bulletin on its website with details about the reporting requirements.

The Commission will commence the reporting process by writing to obliged retailers each October, with returns to be submitted by no later than 31 January following the calendar year. Reporting will be by calendar year (as explained in Annexure C).

## Annexure A - Submission responses received to consultation questions

Question 1: Do you support the streamlined process to determine REPS obligations, whereby energy retailers will no longer be required to report energy sales and customer numbers to the Commission? If not, why not?

Entity type	Entity	Submission	Commission Response
Industry body	Australian Energy Council	We note the decision by the ESC to use data provided by each of SAPN, Australian Gas Networks (AGN) and the Australian Energy Market Operator (AEMO) to determine the retailer obligations under the REPS. This change will reduce compliance costs for retailers and is welcomed.	<p><b>Has the draft decision been amended to reflect this issue(s)?</b> No</p> <p><b>Commentary</b> Supportive</p>
Retailer	Energy Australia	We welcome the removal of the data reporting and the proposed reliance on Distributor and AEMO data to determine retailer liability under the scheme.	<p><b>Has the draft decision been amended to reflect this issue(s)?</b> No</p> <p><b>Commentary</b> Supportive</p>
Retailer	Momentum Energy	We support the proposal to source energy data from AEMO and retailer customer numbers from SAPN. The current processes are tedious and overly prescriptive considering they only form the basis of category threshold for individual retailers and the targets for each retailer to achieve. This will reduce the retailer resources required to determine and audit this data.	<p><b>Has the draft decision been amended to reflect this issue(s)?</b> No</p> <p><b>Commentary</b> Supportive</p>
Retailer	Origin Energy	Reporting requirements for REPS obligations – the proposed streamlined process using SAPN and AEMO data is practical and is supported.	<p><b>Has the draft decision been amended to reflect this issue(s)?</b> No</p> <p><b>Commentary</b> Supportive</p>

Entity type	Entity	Submission	Commission Response
Retailer	Red Energy and Lumo Energy	Red and Lumo welcome the decision by the Commission to use data provided by SA Power Networks, Australian Gas Networks and the Australian Energy Market Operator (AEMO) to determine the retailers obligations under the REPS. This change will not only assist in reducing administrative costs for retailers but allow them to better focus on delivering the REPS scheme.	<p><b>Has the draft decision been amended to reflect this issue(s)?</b> No</p> <p><b>Commentary</b> Supportive</p>
Retailer	Shell Energy	<p>Shell Energy supports measures to streamline data collection and reduce progress reporting requirements on retailers. However, further clarity is required by the Commission on how energy purchase data reported by AEMO is used to determine a retailer’s liability. That is, at what point is a load aggregated to? For example, settlement data is provided at the transmission node identifier (TNI). Is it the Commission’s intention to also use the TNI as the calculation point and if so, how will the Commission account for loss factors? Shell Energy would welcome the opportunity to discuss this matter further with the Commission.</p> <p>We note that the Commission proposes that where an energy retailer’s residential customer numbers are close to the participation threshold, the Commission may validate customer number data with an individual retailer directly but will not require data from all retailers. Shell Energy considers that the Commission should also validate AEMO energy purchase data with a retailer if the data is close to the participate threshold for secondary obliged retailers (+/- 15% validation). This is so the Commission may better understand the contracting arrangements behind this data which may impact a retailers REPS obligation.</p> <p>Shell Energy notes that the Minister has not specified designated purchases, so large customer energy purchase data is not required from individual retailers. We consider this a sensible approach. Should this approach change, we encourage the Commission to undertake further consultation on this matter to ensure REPS does not interfere with large customers’ retail contracting decisions.</p>	<p><b>Has the draft decision been amended to reflect this issue(s)?</b> No</p> <p><b>Commentary</b> Supportive</p> <p>The purchases data obtained from AEMO is the same data used for market settlement purposes and is calculated, and validated, on the same basis for all retailers in accordance with market settlement procedures. The Commission confirms that the data is based on metered consumption for the national meter identifier so is inclusive of loss factors. As requested, the Commission will discuss the matter raised about losses with Shell.</p> <p>The Commission confirms it will validate AEMO energy purchase data with a retailer if the data is</p>

Entity type	Entity	Submission	Commission Response
			close to the threshold for secondary obliged retailers.
Retailer	Simply Energy	<p>Simply Energy agrees with ESCOSA that solely relying on electricity and gas purchase data from the Australian Energy Market Operator (AEMO) is appropriate. In the context of there being no specified designated purchases under the REPS, there does not appear to be any benefit in retailers providing data on energy purchases to ESCOSA on an individual basis.</p> <p>The removal of designated purchases under the REPS also means that the load from commercial and industrial (C&amp;I) customers now contributes to retailers' targets. Retailers' C&amp;I load is significantly more variable than small customer load on a year-to-year basis. For that reason, Simply Energy is concerned that the current methodology to apportion targets based on the load in the previous financial year will lead to mismatches between a retailers' costs and revenues in each REPS period. To ensure that C&amp;I customers do not pay more than their fair share of REPS costs in each year, retailers may charge C&amp;I customers a fee based on their forecast contribution to the following year's REPS obligation. Other energy efficiency schemes, such as the Victorian Energy Upgrades program, set liabilities based on the current year's load. This avoids the types of revenue and cost mismatches that can occur under the REPS, particularly for highly variable C&amp;I customer loads.</p> <p>Simply Energy supports ESCOSA's proposal to rely on customer number data from the networks and energy purchases data from AEMO. While data provided individually by retailers may be slightly more accurate, this will make little practical difference for most retailers. For those retailers that are close to the scheme participation threshold, Simply Energy agrees with ESCOSA's proposal to consider these retailers on a case-by-case basis to decide whether they meet the threshold.</p>	<p><b>Has the draft decision been amended to reflect this issue(s)?</b> No</p> <p><b>Commentary</b></p> <p>Supportive</p> <p>The timing of designated purchases and how it impacts on REPS obligations is a matter of policy and not in scope for this consultation.</p>
Retailer	Zen Energy	<p>Yes, streamlining reporting is preferred. Having a bulk acquisition view as opposed to individual sales and customer numbers avoid the lengthy process of data reconciliations, which in turn may result in a faster target being issued but not necessarily a more accurate one. ZEN is concerned this year at the size of our target not being reflective of the market share, this comes down to the data accuracy that AEMO and AGN have on sales acquisitions of ZEN Energy. ZEN would like to consider interrogating the data that ESCOSA use to create the target so we can help tidy up any anomalies.</p>	<p><b>Has the draft decision been amended to reflect this issue(s)?</b> No</p> <p><b>Commentary</b></p> <p>Supportive</p> <p>As requested, the Commission will discuss concerns regarding data anomalies with Zen.</p>

Question 2: Should the information requested from obliged retailers to inform reporting on the costs of each type of activity being delivered under REPS be changed? If so, how?

Entity Type	Entity	Submission	Commission Response
Industry body	Australian Energy Council	<p>Contractual arrangements between sellers and buyers are generally made on a commercial in confidence basis, and any contravention of this in a readily identifiable or deductible form (given the number of retailers and suppliers) may prove a problem. Contractual arrangements will be for services for which there is both a demand and which competition will ensure are provided at an efficient cost. It has been suggested to industry that reporting on the costs of each type of activity is required for the regulator to understand the general costs of activities in the market, however it seems unreasonable to request activity costs for those activities that a retailer doesn't deliver. We assume, as noted in our introductory remarks, that these activity costs must have been approximated before the activities were approved.</p> <p>We acknowledge that the ESC cannot ignore the direction it has been given, however poorly thought through we may assess the approach of that direction to be. However there is in our view no demonstrable need nor case made to further publish commercial information in the public domain. Whilst it is not clear what the detriment to consumer outcome being addressed here is we would also note that the unintended consequence that service providers may in fact increase their pricing in line with any published results is plausible. Notwithstanding our opposition, if this understanding is still required, then either of ESCOSA or the Department could determine these costs readily by directly approaching approved service providers. This would simplify arrangements for approximating costs and would not increase the compliance obligations onto every retailer.</p>	<p><b>Has the draft decision been amended to reflect this issue(s)?</b> No</p> <p><b>Commentary</b> Limiting the information request to activities delivered will not enable the Commission to satisfy the Minister's requirements (refer Annexure B) for the Annual REPS report, which requests information for the majority of eligible REPS activities (whether or not a majority of eligible REPS activities are being delivered by a retailer).</p> <p>As to concerns about the Commission publicly reporting commercially sensitive information, the Commission will be adhering to the Minister's request that no information is disclosed that is commercially confidential to a retailer or contractor.</p>
Provider	Demand Manager	What the Minister has proposed and requested is a step in the right direction. Whilst comparable Schemes in NSW and Victoria have functioning certificate markets which deliver price transparency, no	<p><b>Has the draft decision been amended to reflect this issue(s)?</b> No</p>



Entity Type	Entity	Submission	Commission Response
		<p>such information is available in the South Australian market. Demand Manager believes the lack of such information undermines the Retailer Energy Productivity Scheme.</p> <p>Demand Manager would support price information being made publicly available, perhaps reported based on the individual sub-targets that comprise the overall REPS would permit greater price competition in the market.</p>	<p><b>Commentary</b></p> <p>Supportive</p>
Retailer	Energy Australia	<p>With regard to reporting on the 15 energy productivity activities – we note that this requires reporting per activity. For one out of our two providers, the price we pay for GJ's is based on the target/sub target for that activity i.e. price per GJ for each target. This means that procuring based on targets should be reflected; or alternatively we would need to convert these GJ to activity based reporting.</p> <p>Overall, it may make more sense to report per GJ, however we expect that different retailers may have different arrangements and ESCOSA's reporting requirements should accommodate all those different arrangements.</p> <p>(Confidentially provided pricing, showing rate per GJ by activity and rate per GJ by target)</p>	<p><b>Has the draft decision been amended to reflect this issue(s)?</b></p> <p>Yes</p> <p><b>Commentary</b></p> <p>The proforma has been updated to enable rate per GJ by target to be reported.</p>
Retailer	Momentum Energy	<p>Momentum is not sure what value will be delivered from the request to report costs of each type of activity being delivered by our contracted energy productivity service provider. These costs are provided to us by our contractor on a commercial in confidence basis. Our contractor may deliver on our obliged target using only one or a few of these activities depending on the market demand for these services. It has been suggested to us, at a recent ESCOSA forum, that this new request is required to understand the general costs of activities in the market. We would argue that these cost have been approximately determined, via estimated modelling, before the activity was approved. ESCOSA or the Minister's Department could determine these costs by directly approaching approved service providers without increasing the compliance obligations of retailers.</p>	<p><b>Has the draft decision been amended to reflect this issue(s)?</b></p> <p>No</p> <p><b>Commentary</b></p> <p>As to concerns about the Commission publicly reporting commercially sensitive information, the Commission will be adhering to the Minister's request that no information is disclosed that is commercially confidential to a retailer or contractor.</p>

Entity Type	Entity	Submission	Commission Response
Retailer	Origin Energy	<p>Reporting requirements for costs of activities – reporting on 15 types of activities is unnecessarily onerous. The level of detail required by ESCOSA is too detailed. Asking for specific costs per activity, by customer type and delivery costs is invasive to the businesses we operate in partnership with. We suggest some means of providing overall program costs would be more relevant.</p>	<p><b>Has the draft decision been amended to reflect this issue(s)?</b> No</p> <p><b>Commentary</b> Limiting the information request will not enable the Commission to satisfy the Minister’s requirements (refer Annexure B) for the Annual REPS report, which requests information for the majority of eligible REPS activities (whether or not a majority of eligible REPS activities are being delivered by a retailer).</p>
Retailer	Red Energy and Lumo Energy	<p>Red and Lumo are concerned that the Commission has also not clearly identified or justified its reasoning for requesting this commercially sensitive data from retailers. Furthermore, the Commission again, has not articulated what actions it will undertake in response to the data provided.</p> <p>In fact the SA Government review into the REES scheme in 2019 acknowledged “the current approach of obligating retailers to undertake the scheme and recover the costs from their customers as part of their tariffs was adopted, and the scheme rules were designed to encourage retailers to meet their targets as cost effectively as possible.” Furthermore stakeholders were advised that the Department of Energy and Mining (DEM) commissioned an independent inquiry to “complete a cost-benefit analysis of the REES to date – utilising, where appropriate, existing studies/reports.” Following these reviews and subsequent consultation the South Australian Government proposed the establishment of the REPS scheme. Red and Lumo question what was the outcome or purpose of these reviews which has led the Commission to require this specific costing data from retailers in its management of REPS?</p> <p>Red and Lumo also question how the Commission would use this commercially sensitive information in response to concerns about the costs of the scheme for consumers. How will the Commission measure the data from retailers, what will be defined as expensive? What will be defined as an appropriate cost for retailers? Will the Commission seek to mandate or regulate the costs for retailers and potentially undermine the competitive market?</p>	<p><b>Has the draft decision been amended to reflect this issue(s)?</b> No</p> <p><b>Commentary</b> As to concerns about the Commission publicly reporting commercially sensitive information, the Commission will be adhering to the Minister’s request that no information is disclosed that is commercially confidential to a retailer or contractor.</p> <p>Other matters raised relate to policy which is not in scope for this consultation.</p>

Entity Type	Entity	Submission	Commission Response
		<p>While Red and Lumo agree that there are concerns around the costs of the scheme which is inevitably borne by South Australian consumers, the Commission and the Government should have been aware of the overall costs before implementing the scheme.</p> <p>There remains no clear justification for the level of data that has been requested; and the Commission must clearly articulate what they will do with the data provided and what will be potential changes to the scheme based on this data? If the SA Government and the Commission believe that the costs have begun to outweigh the benefits of the scheme then we would support the ending of the scheme or a moving to a certificate based scheme but this information should have already been assessed in the previous reviews.</p>	
Retailer	Shell Energy	<p>Shell Energy notes that the Minister has required individual costs for a majority of eligible REPS activities must be reported - whether or not a majority of eligible REPS activities are being delivered by the obliged retailers. However, Shell Energy does not agree with the Commission that all obliged retailers should be required to report costs on a minimum of 15 energy productivity activities. This seems to contradict the Commission's aim to reduce reporting requirements for retailers. We consider that obliged retailers should only be required to report cost data on the activities it actually partakes in. This may be the intention of the Commission but as currently written this is not made clear in the proposed Annual Report Proforma. Further, if the activities are undertaken in-house, or by any liaison arrangement that does not directly cause a retailer to engage with a third party contractor, this cost data should be estimated only.</p> <p>In addition, obliged retailers should only be required to report on the costs of activities in which they have delivered in the reporting calendar year. Having to track direct costs and overhead costs for an activity which may or may not be delivered, in our view, is excessive and provides little additionality. It also creates an additional complexity for us to determine our cost factors and contracting agreements with service providers in advance to be able to meet this reporting requirement. It is also unclear how the Commission will use this information and we are concerned that reporting cost data for activities that have not been delivered could be misleading and expose a retailer to incorrect interpretations of the activities it is undertaking.</p>	<p><b>Has the draft decision been amended to reflect this issue(s)?</b> No</p> <p><b>Commentary</b> Limiting the information request to activities delivered will not enable the Commission to satisfy the Minister's requirements (refer Annexure B) for the Annual REPS report, which requests information for the majority of eligible REPS activities (whether or not a majority of eligible REPS activities are being delivered by a retailer).</p>
Retailer	Simply Energy	Simply Energy acknowledges that consumers may benefit from more transparency on how the REPS affects their energy bills. However, Simply Energy would be concerned if the introduction of these reporting requirements suggested that the South Australian Government decided to implement the REPS without understanding the broad costs involved in administering the scheme. Simply Energy	<p><b>Has the draft decision been amended to reflect this issue(s)?</b> No</p>

Entity Type	Entity	Submission	Commission Response
		<p>has consistently preferred a certificate-based scheme over an activity-based scheme, as it would lead to more transparent cost information and would be more cost efficient to administer. Moving to a certificate-based scheme would be consistent with the energy efficiency schemes in other Australian jurisdictions.</p> <p>ESCOSA has not explained in its consultation paper how requesting information on the estimated costs of undelivered activities would satisfy the Minister's request. By collecting information from all industry participants on their actual costs of delivered REPS activities, ESCOSA should have sufficient information to satisfy the Minister's request for 'information on the costs of each type of activity being delivered by the REPS' (emphasis added).</p> <p>[Confidential information has been removed]</p>	<p><b>Commentary</b></p> <p>Limiting the information request to activities delivered will not enable the Commission to satisfy the Minister's requirements (refer Annexure B) for the Annual REPS report, which requests information for the majority of eligible REPS activities (whether or not a majority of eligible REPS activities are being delivered by a retailer). Other matters raised such as introducing a certificate based scheme are relate to policy and is out of scope for this consultation.</p>
Retailer	Zen Energy	<p>We do not support the requirements that retailers must submit our costings to ESCOSA and encourage the Department to reconsider the purpose of this type of reporting. The penalties for the shortfall built into the scheme are significant and represent such a momentous brand risk that they are the key considerations when selecting approved providers. We consider this to be quite an onerous reporting task and it is not known how this data will be used or disclosed given these factors.</p>	<p><b>Has the draft decision been amended to reflect this issue(s)?</b></p> <p>No</p> <p><b>Commentary</b></p> <p>Not supportive, but no changes suggested.</p>

Question 3: Is there any additional evidence that would inform reporting on competition in activity delivery and any identified barriers to competition and the delivery of eligible activities?

Entity Type	Entity	Submission	Response
Industry body	Australian Energy Council	<p>Industry submissions on both the former Residential Energy Efficiency Scheme (REES) and its successor REPS have compared them to the Victoria Energy Upgrades program (VEU) certificate based scheme. In this context industry has consistently concluded that certificate based schemes provide lower cost outcomes and greater ease of regulatory oversight. Industry presumes that the decision to ignore national best practice and proceed with a standalone type REPS scheme was based upon advice within Government that REPS costs were lower and the scheme had greater ease of administration, and that this assessment would be based upon an understanding of the general costs of activities. If that understanding was not sought, then we are concerned that costs have not been approximated correctly and that the new information being sought represents the first insights the Department has into the costs of activities. This apparent gathering of evidence after the decision would not seem prudent in policy making.</p> <p>Broadly speaking competitive markets, and prudent procurement, require businesses to effectively test the market for cost competitive solutions. The market for REPS is in its early stages of development, and the procurement decisions by businesses could have serious consequences for both them and the consumers of REPS services over the long term. The oversimplification of competition to price ignores broader governance principles applied by businesses in the assessing of providers. Whilst the Department might be curious as to what these internal processes might be, they could look to their own procurement guidelines to understand the principles. For example the lowest tender may not be accepted, and often reliability, consistency, terms of trade and other less tangible factors will inform the choice of suppliers.</p> <p>By comparison, even regulated businesses such as South Australia Power Networks (SAPN), who are not exposed to the review and disciplines of competition and instead are reviewed and disciplined by regulation, are not required to provide such a granularity of information about suppliers. In the absence of either an observable market concentration, or of barriers (other than the structural barrier of REPS not being a certificate scheme) to entry being apparent, the information being sought in the proposal appears a significant overreach. The further proposal that industry provide information to the ESC on services that it does or may not even procure is an extension of this regulatory overreach that we have not seen before.</p>	<p><b>Has the draft decision been amended to reflect this issue(s)?</b> No</p> <p><b>Commentary</b></p> <p>The introduction of a certificate-based scheme is a policy matter and out of scope for this consultation.</p>

Entity Type	Entity	Submission	Response
Provider	Demand Manager	<p>The Scheme has changed in name to Retailer Energy Productivity Scheme (REPS) but barriers to competition and entry continue within the Scheme with no appreciable effort from the Department to address this obvious shortfall. This has led to higher costs to consumers, lower service standards for customers and less innovation in program delivery. It is regrettable that this was not addressed a year ago before the start of the new scheme so guidelines could have been integrated into the Rule change.</p> <p>The first item I would address is transparent reporting on Third Party Contractor's market share each year. I would recommend that for the past 5 years of the REES, the Third Party Contractor's actual GJs and market share for each year are published publicly in the same way that the Electricity Retailers obligations are published. Having transparency around the problem is the first step in addressing the problem.</p> <p>This year, first year of the REPS that the GJs and market share of Third Party Contractor's are published to the market in the same way that the Electricity Retailers have their obligation published. If the Government is now interested in the competition of activity delivery and barriers to competition in the REPS, then a speedy resolution would be desired such that the market can take positive steps before the start of 2022 calendar year.</p> <p>For the record, Demand Manager believes there are issues in the Scheme with competition and involvement in the delivery of activities. We believe this affects the integrity of how the Scheme is run and the cost to the ultimate consumer – electricity customers. Demand Manager can deliver many different activities across the residential and commercial sectors in the REPS and we welcome more involvement, competition, equity and fairness in the REPS in the future.</p>	<p><b>Has the draft decision been amended to reflect this issue(s)?</b> No</p> <p><b>Commentary</b> Supportive</p>
Retailer	Momentum Energy	<p>Momentum is unaware of any barriers to competition with service providers although we note that 80 percent of the eligible activities were provided by three service providers in 2020. We are concerned that the proposed new obligation for retailers to report on their energy productivity service provider selection processes will not have any impact on competition concerns. Retailers operate in a highly competitive energy market, on very small margins and these businesses have well established purchasing processes dictated by internal governance structures. While some retailers may use an open or selected tender process others may choose to simply seek quotes from several service providers, for various terms, or reappoint a current provider. Each retailer will then make their own assessment of the service providers' capabilities and performance based on their individual risk assessments. Momentum is unsure what ESCOSA and or the Minister for Energy and Mining hopes to achieve by publishing these processes in their annual report.</p>	<p><b>Has the draft decision been amended to reflect this issue(s)?</b> No</p> <p><b>Commentary</b> The introduction of a certificate-based scheme is a policy matter and out of scope for this consultation.</p>

Entity Type	Entity	Submission	Response
		<p>As aforementioned, a more effective solution to competition concerns would be to establish a certificate based market whereby ESCOSA would have full control to allocate activities to various energy productivity service providers subject to their capabilities and performance. Retailers should not be tasked with additional onerous reporting obligations in an attempt to solve competition concerns.</p>	
Retailer	Red Energy and Lumo Energy	<p>Red and Lumo strongly oppose the proposed requirement that each retailer “should report on the process by which energy productivity activity providers are selected.” Retailers are competitive businesses with different procurement processes and this obligation risks forcing retailers to provide commercially sensitive information to the Commission. The purpose of this requirement is unclear and it is equally unclear how the Commission will use the information.</p> <p>Supplying REPS services is a competitive market, as such it should not be an obligation on a purchaser of an activity (a retailer) to demonstrate that the market is operating effectively and fair for both producers or suppliers of a service. If a retailer is electing to use one supplier over another then that is a business decision. Further, if they are paying more for this service than another retailer then this will impact their bottom line. This is the basis of a competitive market and it is up to the providers themselves to demonstrate why their offering is of value to the retailers not for the retailers to demonstrate why they did not choose to do business with these providers. A retailer may select a provider simply because they provide a superior service or make the process of supplying the activities simpler allowing them to focus on their core business activity of supplying energy to customers. If a retailer pays more for goods or services than another retailer, this may be based on a variety of factors and/or commercial decisions which may or may not be quantifiable.</p> <p>Aside from the difficulty in quantifying the reasons for these business decisions it remains unclear what the intent of this reporting is for the Commission. If retailers report the reason for selecting a provider over another how will the Commission act in response to this? Is the Commission seeking to mandate how retailers select providers or alternatively will retailers be forced to select different providers based on the data they provide?</p>	<p><b>Has the draft decision been amended to reflect this issue(s)?</b> No</p> <p><b>Commentary</b> Not supportive, but no changes suggested.</p>
Retailer	Shell Energy	<p>Shell Energy notes that the Commission is proposing to request information on how many providers were considered for activities; how many providers were engaged; what was the process for selecting providers; and, what were the key criteria (top three) for selecting providers.</p> <p>While, Shell Energy welcomes additional competition in this sector we are concerned about the commercial sensitivity of this information being published and what it would mean for future commercial contracting arrangements. Shell Energy is committed to responsible management</p>	<p><b>Has the draft decision been amended to reflect this issue(s)?</b> No</p> <p><b>Commentary</b></p>

Entity Type	Entity	Submission	Response
		<p>practices that minimise any adverse health, safety or environmental impacts arising from our activities, products or services. We aspire to a vision of zero harm and zero loss. Given the regulatory requirements and obligations in REPS we do not want a consequence of this reporting obligation to be that we will be required in the future to engage with providers who do not meet our safety and compliance requirements.</p> <p>Shell Energy considers that if the Commission wants to seriously address barriers for service providers to partake in REPs, rather than asking retailers to report on their procurement activities, the Commission should develop a central accreditation scheme for service providers.</p> <p>Currently the compliance and operational burden placed on retailers to manage third party service providers' compliance risk and delivery is inefficient and costly. There are duplications of compliance plans between activity providers and retailers who must detail the compliance processes and controls of their appointed third party. A central accreditation of each service provider would address the duplication that currently occur where a number of retailers performing their own compliance checks for the same service provider. This approach would remove the retailers' costly risk management of contracted third-party installers and streamline the compliance monitoring to be centralised and managed by the Commission, allowing activities to be provided safely, at lowest cost. If an accreditation scheme existed which resulted in a pool of service providers accredited by the Commission, retailers would more likely engage with a greater number of providers. It is our view this move can be quickly realised if the accreditation held by providers in other schemes, such as the NSW Energy Savings Scheme or VEU accreditation was deemed acceptable for application and operation in South Australia under REPS.</p>	<p>As to concerns about the Commission publicly reporting commercially sensitive information, the Commission will be adhering to the Minister's request that no information is disclosed that is commercially confidential to a retailer or contractor.</p> <p>The introduction of a certificate-based scheme is a policy matter and out of scope for this consultation.</p>
Retailer	Simply Energy	<p>As outlined in the previous section, the South Australian Government could have addressed any perceived issues with the competition levels and transparency of the scheme by transitioning the Retailer Energy Efficiency Scheme from an activity-based scheme to a certificate scheme.</p> <p>In relation to ESCOSA's proposed information request, Simply Energy does not consider there is any value in providing this type of information on an annual basis. Simply Energy has a standard procurement process that does not vary significantly from year-to-year. Each retailer will likely have their own robust procurement processes that will value certain factors (including price, reliability, consistency, etc.) differently when assessing tender responses. ESCOSA has not explained in its consultation paper how requesting information on each retailers' specific procurement processes could be collated to provide useful analysis for the Minister.</p>	<p><b>Has the draft decision been amended to reflect this issue(s)?</b> No</p> <p><b>Commentary</b></p> <p>The introduction of a certificate-based scheme is a policy matter and out of scope for this consultation.</p> <p>Having retailers detail their concerns about lack of</p>



Entity Type	Entity	Submission	Response
		<p>If ESCOSA is concerned that retailers are unable to obtain efficient prices from third-party providers due to a lack of competition in the market, perhaps ESCOSA could instead request that retailers detail their concerns on a voluntary basis. If there is a trend in issues raised, this may enable ESCOSA to further investigate whether there are anti-competitive practices occurring amongst third-party providers. It is not clear how adding an additional regulatory burden on retailers is intended to inform ESCOSA about the behaviour of third-party providers in the market.</p>	<p>competition in the market on a voluntary basis could be considered for future reporting.</p>
Retailer	Zen Energy	<p>As this is the first year ZEN Energy has been obligated for such a scheme (were not obligated under REES), no previous experience in this area in SA and given the tight timing to get underway, we chose for CY2021 to contract directly (without a tender process) with an Activity Provider based on existing, trusted relationships that were already in place, and a provider who is already serving one of the major electricity retailers in SA.</p>	<p><b>Has the draft decision been amended to reflect this issue(s)?</b> No</p> <p><b>Commentary</b> No specific issues raised.</p>

## Annexure B – Minister’s requirements for annual REPS report<sup>4</sup>

### REPS Annual Report

Regulation 29 of the Electricity (General) Regulations 2012 and Regulation 23 of the Gas Regulations 2012 outline the information that must be reported in the annual REPS report. The regulations also allow for me to outline specific requirements that should be included in that report.

I request that the annual report include information on the costs of each type of activity being delivered by the REPS. Cost reporting must provide individual costs for a majority of the eligible REPS activities (whether or not a majority of eligible REPS activities are being delivered by the retailer).

To that end, I ask that obligated retailers annually provide information on costs and activity offers to ESCOSA for the majority of eligible REPS activities. In analysing and reporting this data in the REPS annual report, ESCOSA should ensure no information is disclosed that would be commercially confidential to a retailer or contractor.

I also request that the report cover, where possible, competition in activity delivery and any identified barriers to competition and the delivery of eligible activities.

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<sup>4</sup> Extract from letter to the Commission, from the Minister for Energy and Mining, dated 18 December 2020.

## Annexure C – Annual Report Information

In accordance with clause 4.4.2 of the **REPS Code**, **obliged retailers** are required to complete the following Annual Return for the provision of information to the **Commission**, with the appropriate officer completing the responsibility statement below. Information must be provided for a minimum of 15 activities in total (delivered and not delivered).

Proforma 1: **Energy productivity activities** delivered (costs must be included for all **energy productivity activities** delivered in the calendar year)

Energy Productivity Activity code	Target type	Provider	Customer type	Average direct cost per GJ (excl GST)	Average overhead cost per GJ (excl GST)	Total cost per GJ (excl GST)	Comment
	Include target type if relevant		priority group/ household/ commercial				

Note: Costs are related to the retailer

Proforma 2: **Energy productivity activities** not delivered (costs to be provided based on internal calculations or quotes received)

Energy Productivity Activity code	Target type	Source	Provider	Customer type	Average direct cost per GJ (excl GST)	Average overhead cost per GJ (excl GST)	Total cost per GJ (excl GST)	Comment
	Include target type if relevant	Quote/internal calculation	If based on quote	priority group/ household/ commercial				

Note: Costs are related to the retailer

Proforma 3: Additional information

Question	Response
Please provide information about the process used to select <b>energy productivity activity</b> providers.	<p>Please include the following details:</p> <p>How many providers were considered for providing energy productivity activities?</p> <p>How many providers were engaged to provide energy productivity activities?</p> <p>What was the process for selecting providers (e.g. open tender)?</p>

	What were the key criteria (top three) for selecting providers (e.g. price)?
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Responsibility Statement

Having reviewed this Annual Report Information Return of ..... [insert name of **energy retailer**] in my opinion the information provided in this report is true and accurate.

Signed: \_\_\_\_\_

Name of Chief Executive<sup>5</sup> \_\_\_\_\_(please print)\_\_\_\_\_

Energy retailer: \_\_\_\_\_(please print name of retailer)\_\_\_\_\_

Date: \_\_\_\_\_

When completed, this return should be sent to the **Commission** via email to [reps@escosa.sa.gov.au](mailto:reps@escosa.sa.gov.au)<sup>6</sup>. Please note that this return needs to be received no later than 31 January following the relevant calendar year.

<sup>5</sup> Or other person as authorised under clause 4.1.2 of the REPS Code.

<sup>6</sup> Providing the emailed version consists of a Portable Document Format (PDF) of the entire return as a single PDF file, including a signed responsibility statement and a spreadsheet version of the information in the proformas.



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