

RETAILER FEED-IN TARIFF

*Draft Price Determination
Statement of Reasons*

September 2013



REQUEST FOR SUBMISSIONS

The Essential Services Commission (**the Commission**) invites written submissions from all members of the community on the matters raised in this Draft Report. Written comments should be provided by **Friday 1 November 2013**. It is highly desirable for an electronic copy of the submission to accompany any written submission.

It is Commission's policy to make all submissions publicly available via its website (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 Feed-in Tariff - Draft Price Determination
Statement of Reasons
Essential Services Commission of South Australia
GPO Box 2605
Adelaide SA 5001

Telephone: (08) 8463 4444
Freecall: 1800 633 592 (SA and mobiles only)
E-mail: escosa@escosa.sa.gov.au
Website: www.escosa.sa.gov.au

Contact Officer: Con Carellas

The Essential Services Commission of South Australia is an independent economic regulator of the electricity, gas, ports, rail and water industries in South Australia. 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*. For more information, please visit www.escosa.sa.gov.au.

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GLOSSARY OF TERMS

AAC	ACIL Allen Consulting, an independent expert appointed by the Commission to advise on the fair and reasonable value of PV electricity to electricity retailers
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
Commission	Essential Services Commission of South Australia
D-FiT	The mandatory FiT of 44c/kWh or 16c/kWh for each kWh of electricity fed into the distribution network payable by SA Power Networks to PV customers (based on the date of connection or connection approval of their PV units) under Division 3AB of the Electricity Act
Electricity Act	Electricity Act 1996
ESC Act	Essential Services Commission Act 2002
FiT	Feed-in Tariff
IPART	Independent Pricing and Regulatory Tribunal (New South Wales)
kWh	kilo Watt hour, which is the equivalent of 1,000 Wh, an amount of energy approximately equivalent to running a single bar radiator for one hour
MWh	Mega Watt hour, which is the equivalent of 1,000 kWh
NECF	National Energy Customer Framework
NEM	National Electricity Market
NSLP	Net System Load Profile
PV customer	A residential or small business customer using less than 160 MWh of electricity per annum at a connection point which has a PV unit and complies with the requirements of Division 3AB of the Electricity Act
PV unit	A PV customer's photo-voltaic electricity generating unit which has a maximum nameplate capacity of 10kVA (single phase) or 30kVA (at three phases), meets the requirements of Australian Standard AS 4777, is connected to the

	distribution network in a manner allowing the export of electricity and has appropriate metering arrangements in place.
R-FIT	The minimum FiT amount as determined by the Commission payable for each kWh of electricity fed into the distribution network by electricity retailers to PV customers under Division 3AB of the Electricity Act
QCA	Queensland Competition Authority
Watt	A derived SI (International System of units) unit of power, defined as one joule per second
Wh	One watt hour, a unit of energy

EXECUTIVE SUMMARY

The Essential Services Commission of South Australia (**Commission**) is an independent economic regulator of the electricity, gas, ports, rail and water industries in South Australia. 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.***

One of the Commission's functions in the electricity industry is determining the *minimum* price which electricity retailers must, under the provisions of the Electricity Act 1996 (**Electricity Act**), pay to residential and small business electricity customers (**PV customers**) whose solar photovoltaic generators (**PV units**) feed electricity into the distribution network - the retailer feed-in tariff or **R-FiT**.

The R-FiT recognises that there may be an economic value for any electricity which is fed into the distribution network, albeit that it may vary over time, and provides a means by which PV customers may realise that economic value through the receipt of payments from electricity retailers.

Any price determination of the *minimum* R-FiT is made under the terms of the Commission's establishing Act, the Essential Services Commission Act 2002 (**ESC Act**), as authorised by and consistent with the terms of the Electricity Act.

The current R-FiT price determination establishes a minimum value of 9.8c/kWh for the period until 31 December 2013. This Draft Price Determination sets out the Commission's reasons in respect of its proposal to make a one-year price determination under the Electricity Act and the ESC Act to commence from 1 January 2014:

- ▲ setting a *minimum* R-FiT value of 7.6c/kWh, which is the lower bound of the reasonable range of estimated value to an electricity retailer of electricity fed into the distribution network (with the range being 7.6 to 13.4c/kWh); and
- ▲ implementing a formal price-monitoring regime in respect of electricity retailers' R-FiT offerings,

with a view to further reviewing its regulatory approach for the *minimum* R-FiT prior to 2015.

The primary reason for proposing to make a *minimum* R-FiT price determination for at least one more year is that there is sufficient uncertainty about how competitive the market for PV customers would be – and therefore whether PV customers would receive fair value for fed-in electricity – in the absence of a *minimum* R-FiT

The proposed *minimum* R-FiT of 7.6c/kWh to apply from 1 January 2014 is less than the current R-FiT of 9.8c/kWh, for two reasons. First, electricity wholesale cost forecasts have declined significantly. Second, a minimum R-FiT of 7.6c/kWh gives retailers the opportunity to demonstrate how competitive the market for solar customers can be, while ensuring that PV customers receive at least the lower bound value if the market does not prove sufficiently competitive.

The price-monitoring regime will involve monitoring of electricity retailers' offers to, and competition for, PV customers. Findings from that regime will inform the Commission's subsequent decision as to whether to continue to set a *minimum* R-FiT.

The Commission is seeking submissions from all members of the community on this Draft Price Determination.

The current R-FiT price determination

As at 30 June 2013, one in five South Australian residential and small business electricity customers were PV customers, qualified under the Electricity Act to receive the *minimum* R-FiT as determined by the Commission.

The R-FiT is distinct from another feed-in tariff available under the Electricity Act, the distributor feed-in tariff or **D-FiT**. The D-FiT provisions of the Electricity Act require SA Power Networks, the electricity distributor, to make payments to PV customers of either 44c/kWh or 16c/kWh (depending on the date on which a PV customer's PV unit was connected or approved for connection). New PV customers will not be able to access the D-FiT scheme after 30 September 2013 – the scheme will be closed to new PV customers from that time. The Commission has no regulatory functions in respect of the D-FiT.

The Commission's function in respect of the R-FiT is to determine (having regard to various statutory factors) whether or not it should make an R-FiT price determination and, if it decides to do so, what value it should set for the R-FiT from time to time.

In 2012, the Commission made an initial R-FiT price determination as required by the Electricity Act. That price determination set R-FiT values as follows:

- ▲ January to June 2012 at 7.1c/kWh;
- ▲ July 2012 to June 2013 at 9.8c/kWh; and
- ▲ July 2013 to June 2014 at 11.2c/kWh.

In June 2013, the Commission varied that determination to hold the value at 9.8c/kWh from 1 July 2013, rather than allowing it to increase to 11.2 c/kWh. That decision reflected the Commission's view that there had been some reduction in the value of wholesale electricity relative to that forecast in early 2012. The Commission also changed the term of the initial R-FiT price determination such that it will cease to have effect on 31 December 2013 (six months early).

As a result, the current *minimum* R-FiT payable by electricity retailers to PV customers is 9.8c/kWh.

Reviewing the Commission's R-FiT approach

At the same time as it varied the R-FiT price determination, the Commission also commenced a review to further explore the need for, or nature of, future price regulation of the R-FiT. The Commission did so having particular regard to the South Australian

Government's decision to remove formal retail price regulation in the electricity and gas retail markets from 1 February 2013.

To assist community members in responding to the review, in June 2013 the Commission released an Issues Paper setting out key issues and matters for consideration. There was significant interest in the review, with the Commission receiving 27 submissions, including one submission enclosing a petition signed by 1,420 South Australians.

Proposed 2014 price determination of the R-FiT

Following further considerations and deliberations, which have been informed by submissions, the Commission has reached the draft position that it is appropriate for it to make a further one-year R-FiT price determination to apply from 1 January 2014, setting a new *minimum* R-FiT value of 7.6c/kWh.

The Commission has also reached the draft position that it will implement a formal price-monitoring regime under the ESC Act, to monitor the extent to which competitive forces are driving electricity retailers to provide R-FiTs in excess of the *minimum* value determined by the Commission.

Reasons for the Commission's draft price determination

In making this Draft Price Determination the Commission has taken two key uncertainties into account. Those uncertainties are in relation to:

- ▲ the fair and reasonable value to electricity retailers of PV electricity fed into the distribution network; and
- ▲ how competitive the market for PV customers would be if the R-FiT was set at a lower level or not at all.

The Commission has determined that, based on independent economic advice provided to it by ACIL Allen Consulting (**AAC**), the reasonable range of expected fair and reasonable values is between 7.6c/kWh and 13.4c/kWh.

The fair and reasonable value to an electricity retailer of each kWh fed into the distribution network is, however, only one of the statutory factors that the Commission must take into account in making a price determination. At this time, the Commission has selected the lower bound of 7.6c/kWh to encourage competition in respect of R-FiT payments in South Australia.

It has done so having regard to (among other matters) the overall competitiveness of the South Australian retail electricity market, interstate experience and its view that competitive forces, rather than regulators, should set prices if sufficient competition exists.

Inevitably, considerable uncertainty exists regarding the fair and reasonable value (hence the wide range estimated by AAC). Given this uncertainty there is a risk that, if the Commission were to set a *minimum* value which proved too high, then there may be a

reduction in competition for PV customers and hence in the incidence or extent of Market Offers available to them, as those customers may be less attractive to electricity retailers.

On the other hand, if the Commission was to set the *minimum* R-FiT at too low a level *and* if competition was not sufficiently robust to deliver competitive R-FiTs above that level, then PV customers may not receive fair value for their fed-in electricity (to the extent of the difference between the Commission's *minimum* R-FiT and the value to the electricity retailers of the fed-in electricity).

The Commission has had to balance the possible gains and losses to consumers involved with setting higher or lower R-FiT values.

The Commission considers that, based on its consideration of the statutory factors set out in the Electricity Act and the ESC Act, setting a *minimum* R-FiT value for 2014 at 7.6c/kWh will provide a safety net for consumers. For the purposes of this Draft Price Determination, the Commission accepts that the overall electricity retail market appears to be reasonably competitive and therefore considers that an R-FiT set in this way will also provide flexibility for electricity retailers to compete more vigorously above that minimum value - if it is valuable to do so.

The Commission has attempted to reduce uncertainty about how competitive the market for PV customers would be if the R-FiT was set at a low level (or zero) in various ways; e.g., by assessing experience in other jurisdictions. Nevertheless, significant uncertainty remains.

To ascertain the extent to which electricity retailers actually do compete for PV customers during the period of the price determination, the Commission also proposes to implement a formal price-monitoring regime under the ESC Act.

In reaching these positions, the Commission has adopted a cautious and measured approach, with the price-monitoring regime – and particularly the insights it will provide as to the level of competitive behaviour in the delivery of R-FiTs – to be used by the Commission to inform any subsequent price determination.

Next steps

The Commission is seeking submissions from all members of the community on this Draft Price Determination, with submissions due on or before **Friday 1 November 2013**. All submissions will be placed on the Commission's website, subject to any confidential material being excluded.

The Commission intends to release its Final Decision in early December 2013. If the Commission elects to make a Price Determination (whether or not on the same terms as this Draft Price Determination) as a result of its Final Decision, then that determination will take effect from 1 January 2014.

1. INTRODUCTION

The Essential Services Commission of South Australia (**Commission**) is an independent economic regulator of the electricity, gas, ports, rail and water industries in South Australia. 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.***

One of the Commission's functions in the electricity industry is determining the *minimum* price which electricity retailers must, under the provisions of the Electricity Act 1996 (**Electricity Act**) pay to residential and small business electricity customers (**PV customers**) whose solar photovoltaic generators (**PV units**) feed electricity into the distribution network (the retailer feed-in tariff or **R-FiT**).

The R-FiT recognises that there may be an economic value for any electricity which is fed into the distribution network, albeit that it may vary over time, and provides a means by which PV customers may realise that economic value through the receipt of payments from electricity retailers.¹

Any price determination of the *minimum* R-FiT is made under the terms of the Commission's establishing Act, the Essential Services Commission Act 2002 (**ESC Act**), as authorised by and consistent with the terms of the Electricity Act.

The current R-FiT price determination establishes a minimum value of 9.8c/kWh for the period until 31 December 2013. This Draft Price Determination sets out the Commission's reasons in respect of its proposal to make a one-year price determination under the Electricity Act and the ESC Act to commence from 1 January 2014:

- ▲ setting a *minimum* R-FiT value of 7.6c/kWh, which is the lower bound of the reasonable range of estimated value to an electricity retailer of electricity fed into the distribution network (with the range being 7.6 to 13.4c/kWh); and
- ▲ implementing a formal price-monitoring regime in respect of electricity retailers' R-FiT offerings,

with a view to further reviewing its regulatory approach for the *minimum* R-FiT prior to 2015.

The primary reason for proposing to make a *minimum* R-FiT price determination for at least one more year is that there is significant uncertainty about how competitive the market for PV customers would be – and therefore whether PV customers would receive fair value for fed-in electricity – in the absence of a *minimum* R-FiT.

¹ In its Issues Paper on this review and in previous regulatory documents, the Commission has referred to the R-FiT as the FiT Premium. Noting a submission received on this review from Tindo Solar suggesting that, consistent with the provisions of the Electricity Act, the payment is better characterised as a *minimum* FiT rather than a *premium*, the Commission has decided to adopt that nomenclature. The term R-FiT (short for retailer FiT) is used throughout this and associated documents. A copy of Tindo Solar's submission may be access from the Commission's website at: <http://www.escosa.sa.gov.au/projects/200/review-of-the-solar-feed-in-tariff-premium.aspx#stage-list=1>

The proposed *minimum* R-FiT of 7.6c/kWh to apply from 1 January 2014 is less than the current R-FiT of 9.8c/kWh, for two reasons. First, electricity wholesale cost forecasts have declined significantly. Second, a minimum R-FiT of 7.6c/kWh give retailers the opportunity to demonstrate how competitive the market for solar customers can be.

The price-monitoring regime will involve monitoring of electricity retailers' offers to, and competition for, PV customers. Findings from that regime will inform the Commission's subsequent decision as to whether to continue to set a *minimum* R-FiT.

The Commission is seeking submissions from all members of the community on this Draft Price Determination.

1.1 The feed-in scheme: D-FiT and R-FiT

The South Australian FiT arrangements are established under the Electricity Act.²

Under the FiT scheme, South Australian PV customers which consume less than 160MWh of electricity annually at a single connection point and have qualifying PV units installed at their premises may receive FiT payments in respect of each kWh of electricity exported into the distribution network.

Customers may choose to install PV units for various reasons, environmental concerns, the potential for financial returns or to reduce the amount they pay to electricity retailers for the electricity consumption at their premises. The generation output of a PV unit is a substitute for the need to purchase electricity from an electricity retailer. If the PV units generate more electricity than a customer requires, the excess electricity is exported to the distribution network.

To be a *qualifying* PV unit for FiT purposes, a PV customer's PV unit must:

- ▲ have a maximum nameplate capacity of 10kVA (single phase) or 30kVA (at three phases) and meet any other requirements of Australian Standard AS 4777;
- ▲ be connected to SA Power Networks' distribution network in a manner allowing the export of electricity; and
- ▲ have appropriate metering arrangements in place.

Of note, the FiT scheme does not apply in any distribution network serving less than 10,000 customers, which effectively limits its scope to customers who are directly connected to the network operated by SA Power Networks.

The Australian Energy Market Operator (**AEMO**) noted in its August 2013 *South Australian Electricity Report* that:³

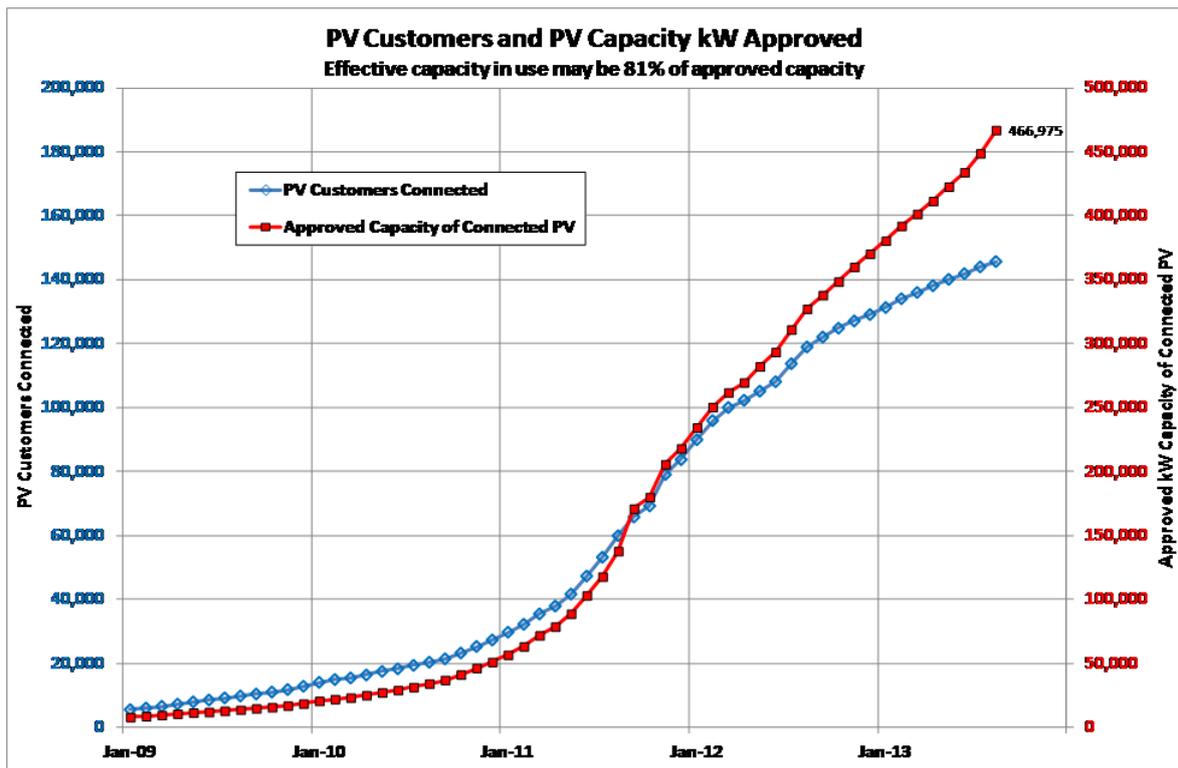
² Refer generally, Electricity Act 1996, Division 3AB; a copy of that Act may be accessed from the South Australian Legislation website at <http://www.legislation.sa.gov.au/LZ/C/A/ELECTRICITY%20ACT%201996.aspx>

Rooftop PV in South Australia has grown strongly since 2009, and rooftop PV penetration is higher compared with other NEM regions. This is primarily due to government incentives in the form of rebates and feed-in tariffs, the Small-scale Technology Certificate (STC) multiplier, falling system costs and rising electricity prices. These factors help reduce payback period, making PV an attractive options for households, particularly from 2010 to 2012.

Growth has slowed in recent years, partially due to reduced feed-in tariff rates. Moderate growth is expected to continue over the outlook period due to continued increases in energy prices and decreasing costs of imported solar panels which will allow payback period to remain the same (5 to 7 years) despite a reduction in the feed-in tariff.

As at 31 August 2013, data provided by SA Power Networks shows that there were 145,688 PV customers in South Australia (approximately one-in-five South Australian residential and small business customers), with the aggregate approved PV unit capacity of 467MW.

As set out in the figure below, and consistent with AEMO’s observations, SA Power Networks’ data confirms that there has been a consistent upwards trend in both the number and installed capacity of PV units in this State since the commencement of the FiT scheme.



Source: SA Power Networks

³ Australian Energy Market Operator, 2013 South Australian Electricity Report, August 2013, page 2-7; available at <http://www.aemo.com.au/Electricity/Planning/South-Australian-Advisory-Functions/South-Australian-Electricity-Report>

Notably, the average capacity of PV units has increased at a greater rate than the increase in the total number of PV units installed. In 2012/13, those PV units generated a total of 497 GWh, approximately 3.7% of South Australia's annual energy.⁴

Under the FiT scheme, each kWh exported (as measured quarterly) entitles a PV customer to FiT payments, subject to various limitations and qualifications set out in the Electricity Act. The payments related to exported kWh of electricity are sometimes referred to as "credits" as they are, in the first instance, set off against any amounts payable for electricity consumed by the PV customer and, if in excess of those amounts, thereafter accrue to the credit of the PV customer.

There are two FiTs within the scheme: a distributor FiT (**D-FiT**) and the R-FiT.

1.1.1 The D-FiT

The D-FiT scheme is set out in section 36AE of the Electricity Act and commenced on 1 July 2008. The Commission has no regulatory role in relation to the D-FiT; however, to provide background and context, the key elements of the D-FiT arrangements are set out below.

Background to the D-FiT

The D-FiT scheme was originally identified in the South Australian State Strategic Plan as a Government policy intention to introduce a "feed-in law" to reward households that install PV generation units by paying them for the electricity fed back into the electricity grid as part of its broader strategy to tackle climate change.⁵

At the time of introducing the feed-in scheme in 2008, the South Australian Government stated that its proposed feed-in scheme aimed to fill the gaps left by declining Commonwealth Government support for residential PV generation units and allow the South Australian Government to pursue its objective of leadership in solar power.⁶

The proposed scheme was a means of promoting de-centralised renewable energy generation by providing a specific bonus for owners of small-scale grid-connected PV generation units. PV customers⁷ would receive 44 c/kWh, (or roughly double the price at

⁴ Australian Energy Market Operator, *2013 South Australian Electricity Report*, August 2013, page 2-8; available at <http://www.aemo.com.au/Electricity/Planning/South-Australian-Advisory-Functions/South-Australian-Electricity-Report>

⁵ "Objective 3: Attaining Sustainability" outlined a number of key initiatives to achieve that goal. The introduction of a feed-in scheme sits within the broader Target T3.5 which states: "Greenhouse gas emissions reduction (existing – modified): achieve the Kyoto target by limiting the State's greenhouse gas emissions to 108% of 1990 levels during 2008-2012, as a first step towards reducing emissions by 60% (to 40% of 1990 levels) by 2050" and Target T3.12 which stated: "Support the development of renewable energy so that it comprises 20% of the State's electricity production and consumption by 2014". Refer <http://saplan.org.au/>

⁶ Government of South Australia, *South Australia's Feed-in Mechanism for Residential Small-Scale Solar Photovoltaic Installations*, Discussion Paper, February 2007.

⁷ While the feed-in scheme was originally proposed to apply only to residential customers, the scheme was extended to all "small customers" (that is, those customers consuming less than 160MWh of electricity annually) during the Bill's passage through the Parliament.

that time of the electricity standing contract), for all electricity returned to the grid after supplying the household's own consumption needs at any point in time.

Qualification for the D-FiT

Eligibility for the D-FiT is subject to the following conditions:

- ▲ D-FiT credits are limited to the first 45 kWh/day of electricity exported into the distribution network;
- ▲ D-FiT credits are limited to one PV unit per PV customer; and
- ▲ PV units are excluded from the scheme if they are operated primarily for the purpose of generating a profit from receiving the D-FiT credit (with SA Power Networks being responsible for determination of this matter).

Payments under the D-FiT

D-FiT credits are paid by the electricity distributor, SA Power Networks, at a value which is set under the Electricity Act: either 44c/kWh or 16c/kWh, depending on the time of installation of the relevant PV units, summarised in **Table 1-1**.

Table 1-1: D-FiT payment and term by PV unit class

PV UNIT INSTALLATION/ APPROVAL DATE	D-FIT CREDITS	DURATION OF D-FIT
Class 1 Before 1 October 2011	44 cents/kWh	Until 30 June 2028
Class 2 1 October 2011 to 30 September 2013	16 cents /kWh	Until 30 September 2016
Class 3 From 1 October 2013	0.0 cents /kWh	N/A

Closure of the D-FiT to new PV customers

Of note, after 30 September 2013, new PV customers will not be entitled to receive D-FiT payments – the D-FiT scheme will be closed to new entrants and will be, in effect, a run-off scheme.

The decision to close the scheme was consistent with the original intention of the Government when the scheme was introduced. As noted in the report prepared for the South Australian Government in 2010 by Consulting Partners, *South Australian Feed-in Tariff Review – Final Report*:⁸

During the Second Reading Speech for the Bill the Government committed to undertaking a review of the solar feed-in scheme after 2.5 years or when a total of 10 megawatts (MW) of small grid connected solar electricity

⁸ Consulting Partners, *South Australian Feed-in Tariff Review – Final Report*, 2010, page 6.

systems were installed in South Australia. Data from the Federal Department of Climate Change indicated that 10MW of installed capacity was reached around May 2009.

In 2011, when introducing into Parliament the Government's proposed Bill to give effect to the closure of the D-FiT, the Minister for Energy noted that there was already approximately 50MW of installed PV unit capacity in South Australia. The Minister went on to state that:⁹

To strike the right balance between the availability of the scheme and the overall cost to all electricity customers, the government proposed to close the scheme to new entrants when an installed capacity of 60 MW is reached. I advise honourable members that customer uptake of the feed-in scheme has been strong since the Premier's announcement.

In order to provide an adequate implementation period, the government proposes to close the scheme to new entrants from 1 October 2011.

D-FiT funding arrangements

While paid by SA Power Networks to PV customers, the costs of the D-FiT payments are borne by all South Australian electricity customers through their electricity distribution charges.

Based on information provided to it by SA Power Networks, the Commission understands that, in 2012, customers contributed \$69 million in D-FiT payments through electricity distribution charges, anticipated to rise to \$104 million in 2013 and then to approximately \$125 million for each year of the period 2014 to 2016. After that time the costs are expected to fall to approximately \$90 million each year until the end of the scheme in 2028.

Based on SA Power Network's electricity distribution prices, the impact of the D-FiT on a typical average annual residential electricity customers bill in 2013/14 is \$98 (inclusive of GST), or approximately 5 percent.¹⁰

Based on the costs above, it is anticipated that the total value of D-FiT payments which will be collected from all South Australian customers through electricity distribution charges during the life of the scheme (to 2028) will be approximately \$1.64 billion.

1.1.2 The R-FiT

The R-FiT scheme is set out in section 36AD of the Electricity Act and commenced in January 2012.

The R-FiT, which is currently set at 9.8c/kWh, must be paid by electricity retailers to PV customers at or above the *minimum* value (if any) set by the Commission from time to time.

⁹ House of Assembly Hansard, House of Assembly - Wednesday, 6 April 2011, Page 3234, Minister for Energy, the Hon. M. O'Brien M.P.; available at www.parliament.sa.gov.au

¹⁰ SA Power Networks, *Annual Pricing Proposal 2012-13*, May 2013; available at <http://www.aer.gov.au/sites/default/files/SA%20Power%20Networks%20-%202013-14%20Annual%20pricing%20proposal%20-%20revised%2024%20May%202013.pdf>

Background to the R-FiT

Prior to the commencement of the D-FiT scheme in 2008, only three of the eleven electricity retailers operating in South Australia, AGL SA, TRUenergy (now EnergyAustralia) and Origin Energy were making voluntary FiT payments to customers. Of note, the combined market share of those retailers at that time was 87.4%, with AGL SA holding 63%, Origin Energy 16% and TRUenergy (now Energy Australia) 8.4%.¹¹

Following commencement of the D-FiT, those electricity retailers significantly reduced the amount of those voluntary FiT offerings, as shown in the following table.

Table 1-2: Electricity retailer voluntary FiT payments prior to and post D-FiT commencement

ELECTRICITY RETAILER	PRIOR TO D-FiT (2008)	POST D-FiT
AGL SA	One-for-one (based on retail consumption tariff)	July 2008 – Oct. 2009: 0c/kWh From 1 Nov. 2009: 8c/kWh
TRUenergy	18c/kWh	July 2008 – Aug. 2009: 18c/kWh From Aug. 2009: 6c/kWh
Origin Energy	20c/kWh	6c/kWh

This led to community concerns that electricity retailers, in reducing or removing their voluntary FiT payments, were making windfall financial gains. Those gains could arise as a result of the PV electricity fed into the distribution system reducing the amount of electricity required to be purchased from the National Electricity Market (**NEM**) and hence electricity retailers' costs. In that sense, the fed-in PV electricity was valuable and the central concern was the electricity retailers may have been retaining that value at the cost of those producing the PV electricity.

The Commission notes that prior to the commencement of the R-FiT regime, when the only mandatory payment was the D-FiT (described above), at least three electricity retailers were making voluntary payments to PV customers, generally of around 6 to 8c/kWh.

In the second-reading speech for the Bill which ultimately gave effect to the R-FiT regime, the then Minister for Energy noted that:¹²

*The government's proposal will oblige retailers, who choose to contract with solar customers, to pay **at least a minimum retail rate**, which would be*

¹¹ Essential Services Commission, *Annual Performance Reports – Time Series Data*; available at <http://www.escosa.sa.gov.au/electricity-overview/reporting-and-compliance/annual-performance-reports.aspx>

¹² *House of Assembly Hansard*, Wednesday 6 April 2011, page 3238; available at: http://hansard.parliament.sa.gov.au/docloader/House%20of%20Assembly/2011_04_06/Daily/House%20of%20Assembly_C_Daily_DIST_2011_04_06_v20.pdf

determined by ESCOSA, for the power received from solar panels. The retailer payment will apply to power exported by all small-scale solar photovoltaic generators, regardless of whether or not the power exported is also eligible for the premium feed-in tariff.

*The mandated minimum retailer payment will continue to apply beyond the feed-in scheme's expiry in 2028 to ensure that **retailers pay customers for the value they receive from power exported to the grid**. This minimum rate will not be subject to the new eligibility criteria of the daily cap, and the exclusion of multiple and dedicated generators.*

(emphasis added)

The R-FiT came into effect from January 2012. The amendments to the Electricity Act which gave effect to the R-FiT provided, consistent with the Government's policy intentions, that the Commission was required to make an initial price determination under the ESC Act at that time, to set an R-FiT value.

The requirement under the Electricity Act to make a price determination only applied to the initial price determination. The Commission has a discretion as to whether or not to make a subsequent R-FiT price determinations; however, if the Commission chooses to do so, it is required to take into account a set of statutory factors (as explained in Chapter 2) in reaching its decision.

Two important matters arise in respect of the R-FiT as established under the Electricity Act.

First, any value determined by the Commission is intended to be only a *minimum* amount paid by electricity retailers. Second, the value may vary over time (as determined by the Commission) reflecting matters such as changing market conditions.

These are important considerations, along with other statutory factors set out in the Electricity and ESC Acts, which inform the Commission when making an R-FiT price determination.

A further consideration is that, under the Electricity Act, the Commission *may* make such an R-FiT determination: for example, when it considers doing so best protects the long-term interests of South Australian electricity consumers - which is the Commission's primary statutory objective under the ESC Act; however, it is not *required* to do so.

If the Commission forms the view, having regard to all relevant statutory factors, that it would not be in South Australian electricity consumers' long-term interests for it to make an R-FiT price determination then it will not do so.

Qualification for the R-FiT

To qualify for an R-FiT, a PV customer has to install a *qualifying* PV unit (as described in section 1.1 above). Unlike the D-FiT scheme, there is no time by which a qualifying PV unit must be installed and no time restriction on the payment of R-FiTs – the R-FiT scheme continues in perpetuity (albeit that there is the potential for the Commission to not set an R-FiT value) or until repealed by the Parliament.

The purpose of the R-FiT is to recognise that there may be an economic value for any electricity which is fed into the distribution network, albeit that the economic value may vary over time. The Electricity Act therefore requires electricity retailers to recognise that economic value through payments to PV customers.

Payments under the R-FiT

The current *minimum* value of the R-FiT is 9.8c/kWh, set by the Commission under an initial price determination made in 2012. That price determination was originally made for a three-year period and provided three separate prices within that period, as follows:

- ▲ January to June 2012 at 7.1c/kWh;
- ▲ July 2012 to June 2013 at 9.8c/kWh; and
- ▲ July 2013 to June 2014 at 11.2c/kWh.

In June 2013, the Commission varied that determination to hold the value at 9.8c/kWh from 1 July 2013, rather than allowing it to increase to 11.2 c/kWh. That decision reflected the Commission's view that there had been some reduction in the value of wholesale electricity relative to that forecast in early 2012. The Commission also changed the term of the initial R-FiT price determination such that it will cease to have effect on 31 December 2013 (six months early). At the same time, the Commission commenced this review into the future regulatory approach for the R-FiT.

As outlined above, in mandating payments of this nature under the Electricity Act, there was an assumption that economic value was not being delivered, or not being delivered consistently, by electricity retailers to PV customers (noting that some retailers were voluntarily making R-FiT payments prior to the commencement of the R-FiT scheme). One of the questions for the Commission is whether or not such an assumption is sustainable at the current time.

1.1.3 Summary of amounts payable to PV customers under the FiT arrangements

Overall, the FiT scheme comprises two elements – the D-FiT and the *minimum* R-FiT (currently 9.8c/kWh). The Electricity Act determines a small customer's entitlement to and the period for which he or she will receive one or both of those payments based on the time at which the relevant PV unit was connected, or approved for connection, to the network, as follows:

Table 1-3: Amount and period of FiT payments (as at August 2013)

PV UNIT INSTALLATION/ APPROVAL DATE	CREDIT AMOUNT	PERIOD PAYABLE
Before 1 October 2011	R-FiT + 44c/kWh D-FiT	Ongoing + Until 30 June 2028
1 October 2011 to 30 September 2013	R-FiT + 16c/kWh D-FiT	Ongoing + Until 30 September 2016
From 1 October 2013	R-FiT	Ongoing

Note: the R-FiT is currently set at 9.8c/kWh for the period up until 31 December 2013, with the subsequent value (if any) to be determined by the Commission under the Electricity Act and the ESC Act.

1.2 The Commission's review

At the same time as the Commission varied the R-FiT price determination in June 2013, it also commenced a review to further explore the need for, and nature of, future price regulation of the R-FiT.¹³

The Commission did so having particular regard to the South Australian Government's decision to remove price regulation in the electricity and gas retail markets from 1 February 2013.

To assist members of the community in responding to the review, in June the Commission released an Issues Paper setting out key issues and matters for consideration. The key questions raised for community consideration in the Issues Paper were as follows:

- ▲ Is it in the long-term interests of consumers for the Commission to continue to regulate the R-FiT beyond 1 January 2014?
- ▲ In the absence of a regulated R-FiT, are there likely to be any difference in the extent to which consumers could exercise choice between electricity retailers providing R-FiTs, as distinct from electricity retailers selling electricity to end-users more generally?
- ▲ Is there sufficient competition in the relevant market (however defined) to ensure that consumer interests can be promoted without the need for direct price regulation?
- ▲ Do the benefits of setting an R-FiT outweigh the costs?
- ▲ Are there other regulatory approaches that should be adopted by the Commission rather than directly determining the regulated R-FiT?

¹³ Details of this review generally may be found on the *Review of the Solar Feed-in Premium* page of the Commission's website at <http://www.escosa.sa.gov.au/projects/200/review-of-the-solar-feed-in-tariff-premium.aspx>

Submissions on the Issues Paper closed on 26 July 2013. There was significant interest in the review, with the Commission receiving 27 submissions, including one submission enclosing a petition signed by 1,420 South Australians.

Written submissions were received from:

- ▲ AGL Energy Ltd (**AGL**);
- ▲ Alinta Energy;
- ▲ SA branch of the Australian Solar Energy Society;
- ▲ Business SA;
- ▲ Clean Energy Council;
- ▲ Conservation Council SA;
- ▲ EnergyAustralia;
- ▲ Energy Retailers Association of Australia;
- ▲ Energy Supply Association of Australia;
- ▲ Lumo Energy;
- ▲ Mark Parnell MLC;
- ▲ Origin Energy;
- ▲ South Australian Council of Social Services (**SACOSS**);
- ▲ Simply Energy;
- ▲ Solar Citizens (enclosing a petition);
- ▲ Tindo Solar;
- ▲ Zen Energy Systems; and
- ▲ 10 Private Individuals.

All submissions, with the exception of the petition contained in the Solar Citizens' submission, can be accessed on the Commission's website.¹⁴ The Commission is unable to publish the petition contained in the Solar Citizens group submission due to its privacy policy; however, the Commission has published the petition template as a part of the Solar Citizens' submission.

In preparing this Draft Price Determination, the Commission has considered each of the submissions received. Where appropriate, the Commission has, either by direct quotation or

¹⁴ Submissions are available at <http://www.escosa.sa.gov.au/projects/200/review-of-the-solar-feed-in-tariff-premium.aspx>.

by reference to themes or arguments, mentioned certain arguments and submissions in the text to assist stakeholders to understand the positions it has reached; however, a failure to reference an argument or submission does not mean that the Commission has not taken that argument or submission into account in its deliberations.

The Commission is seeking further submissions from all members of the community on this Draft Price Determination, with submissions due on or before **Friday 1 November 2013**. All submissions will be placed on the Commission's website, subject to any confidential material being excluded.

The Commission intends to release a Final Decision in early December 2013. If the Commission elects to make a Price Determination (whether or not on the same terms as this Draft Price Determination) as a result of its Final Decision, then that determination will take effect from 1 January 2014.

2. LEGISLATIVE FRAMEWORK

Both the decision to make and the making of an R-FiT price determination occur within a statutory framework. This Chapter provides an overview of the legislative regime within which the Commission works and the specific provisions which relate to R-FiT price determinations.

2.1 *The Commission*

The Commission is a statutory authority, established under the ESC Act as a general regulator of essential services in South Australia, including the essential service of electricity supply.

Section 5 of the Act provides the Commission with a set of statutory functions.

5—Functions

The Commission has the following functions:

- (a) to regulate prices and perform licensing and other functions under relevant industry regulation Acts;*
- (b) to monitor and enforce compliance with and promote improvement in standards and conditions of service and supply under relevant industry regulation Acts;*
- (c) to make, monitor the operation of, and review from time to time, codes and rules relating to the conduct or operations of a regulated industry or regulated entities;*
- (d) to provide and require consumer consultation processes in regulated industries and to assist consumers and others with information and other services;*
- (e) to advise the Minister on matters relating to the economic regulation of regulated industries, including reliability issues and service standards;*
- (f) to advise the Minister on any matter referred by the Minister;*
- (g) to administer this Act;*
- (h) to perform functions assigned to the Commission under this or any other Act;*
- (i) in appropriate cases, to prosecute offences against this Act or a relevant industry regulation Act.*

In the performance of those functions, the Commission is required to meet the statutory objectives set out at section 6 of the ESC Act, which includes a paramount statutory objective:

6—Objectives

In performing the Commission's functions, the Commission must—

- (a) have as its primary objective protection of the long term interests of South Australian consumers with respect to the price, quality and reliability of essential services; and*
- (b) at the same time, have regard to the need to—*
 - (i) promote competitive and fair market conduct; and*
 - (ii) prevent misuse of monopoly or market power; and*
 - (iii) facilitate entry into relevant markets; and*
 - (iv) promote economic efficiency; and*
 - (v) ensure consumers benefit from competition and efficiency; and*
 - (vi) facilitate maintenance of the financial viability of regulated industries and the incentive for long term investment; and*
 - (vii) promote consistency in regulation with other jurisdictions.*

Together, these sections set out the broad scope of the Commission's role and a framework for its performance of that role. As can be seen from the provisions of section 5(a), the ESC Act expressly contemplates that other Acts, such as the Electricity Act in the case of setting R-FiT amounts, will at times call up the Commission's powers and functions.

2.2 R-FiT provisions of the Electricity Act

In section 1.1.2 above, the Commission examined the scope and purpose of the R-FiT; this section focuses on the detailed statutory arrangements for the R-FiT.

2.2.1 The R-FiT obligation and amount

Under section 36AD(1) of the Electricity Act:¹⁵

It is a condition of the licence of the electricity entity that has the relevant contract to sell electricity as a retailer to a qualifying customer who feeds electricity generated by a qualifying generator into a distribution network, other than an excluded network, that the retailer will, after taking into account any requirements prescribed by the regulations—

¹⁵ Section 36AD of the Electricity Act 1996 refers to the obligation to pay the minimum R-FiT as a "condition of licence". Since the commencement of the National Energy Retail Law in South Australia from 1 February 2013 there is no longer an obligation for electricity retailers (other than those retailing in "off-grid" areas of the State) to hold a licence; electricity retailers now hold "authorisations" issued by the Australian Energy Regulator and are termed "NERL retailers". Section 36AD still applies to NERL retailers however, pursuant to section 14E(2) of that Act, which provides that section 36AD "... applies to a NERL retailer (despite the fact that it does not hold a licence under this Act)".

(a) credit against the charges payable by the qualifying customer for the sale of electricity to the qualifying customer the prescribed amount, or an amount determined by the retailer, being an amount greater than the prescribed amount, for electricity fed into the network in excess of the electricity used by the qualifying customer

The Commission would again emphasise the *minimum* nature of the regulated R-FiT envisaged under the Electricity Act. The *prescribed amount* set by the Commission is intended to operate as a floor price, with electricity retailers able to determine amounts greater than that which they may offer to PV customers.

For the purposes of that section, the *prescribed amount* is the amount determined by the Commission from time to time through a price determination made in accordance with section 35A of the Electricity Act.¹⁶

Of note, section 36AD(1) imposes a statutory, rather than a contractual, obligation on an electricity retailer to make R-FiT payments to its PV customers. This has three key consequences.

First, all electricity retailers operating in the NEM are now required, under the National Energy Retail Law, to have available a Standing Offer for small customers, including PV customers. To the extent that any PV customer is entitled to be sold electricity by an electricity retailer under a Standing Offer, then section 36AD(1) will require that electricity retailer to make R-FiT payments, even if the terms of the Standing Offer make no provision for such payments to be made.

Second, in the case of Market Offers, electricity retailers are not obliged to provide those offers to all small customers – they may elect to refrain from making Market Offers available to particular customers or customer classes.

Third, even though an electricity retailer might actively seek to avoid PV customers, it may not be possible for it to do so. Under the terms of the R-FiT regime, if a customer on that “non-PV” electricity retailer’s Market Offer installs a qualifying PV unit during the life of that contract (and assuming that the installation of a PV unit does not bring the contract to an end under the terms of the Market Offer) then on and from the date of connection of that PV unit the customer will be entitled to receive R-FiT payments. This is so notwithstanding that the terms of the Market Offer make no provision for such payments to be made.

2.2.2 The Commission’s authority to make an R-FiT determination

Section 35A provides, in turn, that:

(1) The Commission may make a determination under the Essential Services Commission Act 2002 regulating prices, conditions relating to prices and price-fixing factors for—

¹⁶ Electricity Act 1996, section 36AC(1).

(ba) the feeding-in of electricity into a distribution network under Division 3AB;

While 35A(1)(ba) is expressed in general terms (prices, conditions relating to prices and price-fixing factors) it needs to be construed alongside the terms of section 36AD, which require the Commission to determine *an amount*.

This means that for any determination of the prescribed amount, a particular amount (an ascertainable value) must be set. This includes setting zero as the amount.

In this sense, the R-FiT operates in a similar manner to the former electricity standing contract price determination provisions of the Electricity Act, which required the Commission to *fix* a standing contract price, notwithstanding that its general price determination powers ordinarily permit it to make determinations by other means (e.g., using methods such as prices, conditions relating to prices and price-fixing factors).¹⁷

That does not, however, mean that the Commission is prevented from including additional and complementary price control mechanisms within an R-FiT price determination – provided the determination at least fixes an amount it can also impose other forms of price control, such as price monitoring.¹⁸

2.2.3 Factors specified in the Electricity Act

As is explained in more detail below, when making a price determination the Commission is required under the ESC Act to “have regard to” various factors. Those factors include any factors set out in the industry regulation Act providing the authority for the price determination to be made – in this instance the Electricity Act.

Section 35A(2a) of the Electricity Act provides that:

(2a) In addition to the requirements of section 25(4) of the Essential Services Commission Act 2002, the Commission must, in acting under subsection (1)(ba), have regard to the fair and reasonable value to a retailer of electricity fed into the network by qualifying customers within the meaning of Division 3AB.

While section 6A(4) provides that:

(4) In performing functions under this Act, the Commission must (in addition to having regard to factors specified in this Act or the Essential Services Commission Act 2002) have regard to the provisions of the National Electricity Rules and National Energy Retail Rules and the need to avoid

¹⁷ See generally, Essential Services Commission, *Review of Energy Retail Price Setting Methodology, Discussion Paper*, October 2009, section 3.7 pages 22 to 25; available at <http://www.escosa.sa.gov.au/library/091023-RetailPriceMethodologyReview-DiscussionPaper.pdf>

¹⁸ Essential Services Commission Act 2002, section 25(3).

duplication of, or inconsistency with, regulatory requirements under those Rules.

The first of these additional factors is very important in the context of this review and Draft Price Determination and is considered in detail in Chapter 3. In summary, however, the effect of section 35A(2a) is to require the Commission to focus on the value of fed-in energy to electricity retailers, rather than to PV customers.

The second factor requiring the Commission to have regard to the National Electricity Rules and National Energy Retail Rules is not relevant to the making of an R-FiT price determination.

2.3 Price determination powers under the ESC Act

As section 35A(1)(ba) permits the Commission to make a price determination under the ESC Act, it is useful to consider that price determination regime.

Section 25 of the ESC Act permits the Commission to make a price determination¹⁹ but only in cases where it is authorised to do so under a relevant industry regulation Act²⁰ (the Electricity Act is a relevant industry regulation Act).²¹

In this case, as shown above, the Commission is empowered under the Electricity Act to make an R-FiT price determination under the ESC Act should it choose to do so (subject to consideration of all statutory factors, as explained below).

2.3.1 Price regulation methodologies

Section 25(3) of the ESC Act sets out a non-exhaustive list of price regulation methodologies which the Commission may choose to implement in a price determination, including

- (a) fixing a price or the rate of increase or decrease in a price;*
- (b) fixing a maximum price or maximum rate of increase or minimum rate of decrease in a maximum price;*
- (c) fixing an average price for specified goods or services or an average rate of increase or decrease in an average price;*
- (d) specifying pricing policies or principles;*
- (e) specifying an amount determined by reference to a general price index, the cost of production, a rate of return on assets employed or any other specified factor;*
- (f) specifying an amount determined by reference to quantity, location, period or other specified factor relevant to the supply of goods or services;*

¹⁹ Essential Services Commission Act 2002, section 25(1).

²⁰ Essential Services Commission Act 2002, section 25(2).

²¹ Electricity Act 1996, section 14D.

- (g) *fixing a maximum average revenue, or maximum rate of increase or minimum rate of decrease in maximum average revenue, in relation to specified goods or services;*
- (h) *monitoring the price levels of specified goods and services.*

Under section 25(6) of the ESC Act, this general power to select a price regulation methodology can be constrained by the terms of the authorising Act. In this case, as explained in section 2.2.2, the R-FiT provisions of the Electricity Act mean that the Commission must determine a prescribed amount.

As noted earlier, however, while the Commission must determine a prescribed amount (as opposed to a price range for example), subject to it doing so there is nothing in the statutory scheme which would prevent the Commission from also implementing complementary arrangements, such as price monitoring to assess the effectiveness of the prescribed amount.

2.3.2 *Factors to take into account and matters to ensure*

Section 25(4) of the ESC Act sets out a range of factors to which the Commission must have regard when making a price determination. That section provides that, in addition to the general factors set out in section 6 of the ESC Act (refer section 2.1 above), the Commission must also have regard to:

- (a) *the particular circumstances of the regulated industry and the goods and services for which the determination is being made;*
- (b) *the costs of making, producing or supplying the goods or services;*
- (c) *the costs of complying with laws or regulatory requirements;*
- (d) *the return on assets in the regulated industry;*
- (e) *any relevant interstate and international benchmarks for prices, costs and return on assets in comparable industries;*
- (f) *the financial implications of the determination;*
- (g) *any factors specified by a relevant industry regulation Act or by regulation under this Act;*
- (h) *any other factors that the Commission considers relevant.*

As noted in section 2.2.3 above, two additional factors – the requirement to have regard to the fair and reasonable value to an electricity retailer and the requirement to have regard to the National Electricity Rules and National Energy Retail Rules – are contained in the Electricity Act and must, under section 25(4)(g) be considered by the Commission.

In addition to those factors, section 25(5) of the ESC Act provides that the Commission must ensure that:

- (a) *wherever possible the costs of regulation do not exceed the benefits; and*

- (b) *the decision takes into account and clearly articulates any trade-off between costs and service standards.*

It is the Commission's role to consider how best to have regard to these matters and how much weight to give each. Ultimately, the Commission is guided by its primary statutory objective – the protection of the long-term interests of South Australian consumers with respect to the price, quality and reliability of essential services.

In Chapter 3, the Commission reviews all of these factors in deciding how it will proceed in relation to the R-FiT post-31 December 2013.

2.4 *Special provisions for the initial R-FiT price determination in 2012*

Before commencing its review of the factors, however, the Commission would note that, for the initial R-FiT price determination in 2012, the foregoing decision-making framework did not apply.

Under the transitional provisions of the Electricity Act, the Commission was required to make that initial price determination (that is, unlike the case now, it did not have a discretion as to whether or not it would make a determination) and, in making that determination could adopt whatever process it thought fit and could base the determination on such principles, policies and other factors as it felt appropriate.²²

Noting that to be the case, the Commission nevertheless proceeded on the basis that it would generally adopt the Electricity Act and ESC Act price determination framework, stating:²³

Despite this displacement of the requirements of the ESC Act in respect of the initial FiT premium determination to be made by the Commission, the Commission believes that the objectives and factors set out in the ESC Act are still relevant to the determination of the FiT premium, and should still be considered as guiding principles. In particular, the Commission's primary objective, which is to protect the long-term interests of South Australian consumers with respect to the price, quality and reliability of essential services, is as relevant to this determination as it is to the Commission's other price determination functions.

Accordingly, in addition to the reasons outlined above, it is prudent for the Commission to take into account the objectives and factors set out in the ESC Act and the Electricity Act in making the initial FiT premium determination to ensure consistency between FiT premium determinations and to mitigate the risk of any future price shocks to consumers or retailers.

²² Electricity (Miscellaneous) Amendment Act 2011, schedule 1 – transitional provisions, clause 4.

²³ Essential Services Commission, *2012 Determination of Solar Feed-in Tariff Premium*, January 2012, page 10; available at <http://www.escosa.sa.gov.au/library/120125-SolarFeedinTariffPremium-FinalDecision.pdf>

The initial approach adopted by the Commission has assisted in ensuring consistency between R-FiT price determinations.

3. CONSIDERING THE FACTORS

This Chapter sets out the Commission's consideration of factors to be considered in the making of an R-FiT price determination, as required under the Electricity Act and the ESC Act. Where a factor is not expressly considered in this Chapter, it is used in Chapter 4 in explaining how the Commission has weighed the factors overall.

The Commission's consideration of the factors has been undertaken in the context of five themes:

- ▲ definition of the R-FiT market;
- ▲ the fair and reasonable value of PV electricity to electricity retailers;
- ▲ promotion of competition, efficiency and fair market conduct;
- ▲ evidence on R-FiT equivalents from other jurisdictions; and
- ▲ deregulation and the costs of regulating.

To the extent that there are residual factors under the Electricity Act or ESC Act not captured within those thematic groups, those are considered separately at the end of this Chapter.

3.1 Definition of the R-FiT market

Section 25(4)(a) of the ESC Act requires the Commission to have regard to the particular circumstances of the relevant regulated industry and goods and services.

The overview of the R-FiT scheme and the statutory provisions in the previous Chapters set out the Commission's consideration of the broad circumstances of the matters within section 25(4)(a). In the context of this review, however, a further key consideration for the purposes of section 25(4)(a) is the extent of competition for PV customers by electricity retailers.

3.1.1 Submissions

Those submissions that addressed this matter put the view that competition for PV customers is a part of the broader retail electricity market, rather than being a functionally distinct market in its own right.

AGL Energy Ltd (**AGL**) put the view that:²⁴

No retailer currently operates to serve solar PV customers only. Retailers who provide solar PV offers do so only as a part of their general retail offers.

EnergyAustralia made a similar submission but went on to note that:²⁵

²⁴ AGL Energy Ltd, *Submission to the 2013 Determination of solar feed-in tariff premium – Draft Determination*, 26 July 2013, page 1; available at <http://www.escosa.sa.gov.au/projects/200/review-of-the-solar-feed-in-tariff-premium.aspx#stage-list=1>

... the relevant market should be viewed as a combination of the electricity and solar FiT markets as retailers may try to attract customers on the basis of the competitiveness of both their solar FiT and their electricity (usage) offer.

Simply Energy submitted that consideration of the broader small customer retail electricity market in South Australia is relevant in determining extent of competition for PV customers, supported by the high penetration of rooftop PV units in South Australia. Simply Energy also noted that a PV customer will generally seek to maximise the net return over both components, rather than from one or the other. That is, an offer with the highest R-FiT may not be the best available if it is offset by a higher offer on the electricity purchase charges.²⁶

3.1.2 Discussion

The Commission notes the potential for a stand-alone market to exist for the sale of PV electricity by PV customers to electricity retailers; however, as identified in submissions, that market structure has yet to emerge in South Australia.

This is in part because, as explained in Chapter 2, the R-FiT is a statutory regime, existing and operating within bounds and parameters established by the Parliament under the Electricity Act. Under that regime, electricity retailers are obliged to make R-FiT payments to their PV customers.

Another likely reason for the lack of a stand-alone market at this time is that there is little incentive for a PV customer to have a retail electricity contract with one electricity retailer for the purchase of electricity and, at the same time, a separate arrangement with another electricity retailer for the sale of electricity. From that customer's perspective, the overall value of its contract with an electricity retailer selling energy and purchasing fed-in energy will be a product of both the tariffs for imported energy and the R-FiT.

In relation to Simply Energy's position on maximising the net return over electricity purchase charges and R-FiT, the Commission would note that, if there is sufficient competition in both the overall market and the market for PV customers, retail electricity prices will reflect costs and R-FiT payments will reflect value.

3.1.3 Consideration

The Commission considers that the R-FiT is best characterised as a discretionary add-on to an existing product within the broader electricity small customer retail market; the question

²⁵ EnergyAustralia, *Response to the Issues Paper for the Review of the Solar Feed-in Tariff Premium*, 26 July 2013, page 3; available at <http://www.escosa.sa.gov.au/projects/200/review-of-the-solar-feed-in-tariff-premium.aspx#stage-list=1>

²⁶ Simply Energy, *Simply Energy's submission to the Review of the Solar Feed-In Tariff Premium – Issues Paper*, 23 July 2013, page 2; available at <http://www.escosa.sa.gov.au/projects/200/review-of-the-solar-feed-in-tariff-premium.aspx#stage-list=1>

to be addressed in making an R-FiT determination is whether or not there is – or would be under a low R-FiT – sufficient competition for PV customers by electricity retailers?

3.2 *The fair and reasonable value of PV electricity to electricity retailers*

Under section 35A(2a) of the Electricity Act, the Commission must have regard to the fair and reasonable value to an electricity retailer of electricity fed into the network by PV customers.

It is important to emphasise at the outset the fact that section 35A(2a) is focussed on value *to an electricity retailer*, not on the value of R-FiT payments to PV customers.

3.2.1 *Submissions*

The SA Branch of the Australian Solar Energy Society (**AuSES**) submitted that, while it agreed that customers should receive the fair and reasonable value to an electricity retailer, that value should also be influenced by additional factors:²⁷

*The purpose of the regulation of FiTs is to ensure that all customers that are small embedded renewable generators, e.g. owners of residential PV systems, should receive a fair price that reflects the value of the electricity they export to the grid and **provides sufficient incentive for new customers to install systems in a competitive electricity market.***

(emphasis added)

The Clean Energy Council also submitted that the value of fed-in energy should be open to technologies other than PV and argued that the value should be dependent on location (reflecting localised network capacity constraints) and time (reflecting changes in the value of wholesale energy over time).²⁸

All other submissions received by the Commission either indicated support for the Commission's approach in focussing, as required by the Electricity Act, on the fair and reasonable value of PV electricity to an electricity retailer or did not comment on the matter specifically.

3.2.2 *Discussion*

There are two major considerations for the Commission in determining a fair and reasonable value to a retailer of exported PV output.

²⁷ SA Branch of the Australian Solar Energy Society, *Submission to the Review of the Solar Feed-in Tariff Premium – Issues Paper*, 26 July 2013, page 1; available at <http://www.escosa.sa.gov.au/projects/200/review-of-the-solar-feed-in-tariff-premium.aspx#stage-list=1>

²⁸ Clean Energy Council, *Submission to the ESCoSA Issues Paper: Review of the Solar Feed-in Tariff Premium*, July 2013; available at <http://www.escosa.sa.gov.au/projects/200/review-of-the-solar-feed-in-tariff-premium.aspx>

Determining value by reference to electricity retailers

In relation to the AuSES submission that the fair and reasonable value should include an element of incentive for the uptake of PV units by new customers, the Commission does not agree with that proposition.

The requirement to have regard to fair and reasonable value to a retailer is a stand-alone factor of some twenty factors to which the Commission must have regard. The incentive provided to encourage new customers to install PV units is a separate consideration and one which the Commission does not consider falls within any of the other mandatory considerations in the relevant Acts. This is consistent with the approach adopted by the Commission in its review of the Electricity Standing Contract Price in 2012, where it focussed on the costs incurred by electricity retailers in providing standing contracts, not the incentives for generation investment.²⁹

While the Commission does have the duty under section 25(4)(h) of the ESC Act to consider other factors it considers relevant to the making of an R-FiT price determination, it is of the view that providing incentives to encourage new customers to install PV units is not a matter to which it should have regard under that section.

Further, although the Commission can provide various economic incentives to encourage consumers to behave in ways which maximise efficiency in consumers' long-term interests, for example, through price structures, the Commission does not have a mandate to promote specific technology types over others.

In that regard, the Commission does not rely upon the Clean Energy Council's suggestion that the R-FiT be applied to other forms of technology; the Commission must make its determination within the requirements of the FiT scheme set out in the Electricity Act, which applies to PV only.

The Commission therefore does not accept that, for the purposes of having regard to the fair and reasonable value of PV electricity to an electricity retailer, it should have regard to the incentives provided for customers to install new PV units.

Deriving a fair and reasonable value

Consistent with the Commission's previous approach to reviewing and determining R-FiT values, it engaged an independent expert consultant, AAC, to provide advice on forecast expected market values to an electricity retailer of PV electricity fed into the distribution network.

In its previous R-FiT determinations, the Commission was careful to define its approach in this area by quantifying net benefits to an electricity retailer of the electricity exported from PV units.

²⁹ Essential Services Commission, *Electricity Standing Contract – Wholesale Electricity Costs*, 2013; available at <http://www.escosa.sa.gov.au/projects/178/electricity-standing-contract-wholesale-electricity-costs.aspx#stage-list=2>

The Commission position, as adopted in both its 2012 initial R-FiT price determination and again in its 2013 variation price determination, is that there are three key matters to consider in establishing the value to a retailer of exported PV electricity.

First, electricity retailers buy electricity at the wholesale level and sell it to small customers.³⁰ When electricity retailers receive exported PV electricity, the amount of electricity they must buy on the wholesale electricity market is reduced. This is the most significant impact that exported PV electricity has on electricity retailers.

Second, exported PV electricity allows electricity retailers to avoid network losses involved in delivering electricity from remote generation sources.

Third, and finally, exported PV electricity allows electricity retailers to avoid NEM fees and costs associated with the provision of ancillary services.

A number of other factors are often also raised as possible contributors to the value to an electricity retailer of exported PV electricity, including:

- ▲ the impact of hedge contracts;
- ▲ changes in the retailer's wholesale electricity forward contract position;
- ▲ the retailer's operating costs;
- ▲ "green schemes";
- ▲ the impact on the wholesale price of electricity; and
- ▲ the impact on network loss factors.

Those matters were considered in detail as a part of the Commission's 2012 R-FiT price determination.³¹ The Commission, after carefully considering each, reached the position that while they may provide benefit to retailers collectively or to other parties, they do not provide value to a PV customers' own electricity retailer as contemplated by the terms of section 36AD(1). Hence, the Commission has excluded those matters from its assessment of the fair and reasonable value to a retailer of exported PV output.

It is the Commission's view that the value to a retailer of exported PV electricity is calculated by:

- ▲ estimating the wholesale spot price of electricity;
- ▲ *weighted by* the net system load profile;

³⁰ Electricity retailers also supply large customers (those consuming 160MWh or more of electricity annually) but those customers are not eligible for FiT payments under the Electricity Act. Large customers are thus not relevant to this analysis. However, large customers are free to negotiate with electricity retailers to seek a FiT specific to their circumstances.

³¹ Essential Services Commission, *2012 Determination of Solar Feed-In Tariff Premium, Final Price Determination*, January 2012, pages 37 to 40; available at <http://www.escosa.sa.gov.au/library/120125-SolarFeedinTariffPremium-FinalDecision.pdf>

- ▲ *adjusted for* distribution losses; and
- ▲ *adjusted for* market and ancillary service fees.

Therefore, to derive the value to a retailer of exported PV electricity, projections of each of these parameters should be undertaken.

The Commission notes that the resulting projections will apply at a statewide level, given that the wholesale price of electricity in South Australia is determined under NEM arrangements for a single "Regional Reference Node" (**RRN**). The RRN for South Australia is at the Torrens Island Power Station and an electricity retailer's liability for wholesale electricity (including losses) is calculated at the RRN rather than at the customer's meter box.

This means that an electricity retailer buys a quantity of electricity at the RRN which then flows through to customers. The Clean Energy Council's argument for a location-based R-FiT is therefore not accepted for the purposes of this review.

As explained previously, the Commission places significant weight on the requirement to have regard to benefits to electricity retailers (rather than distributors). In any event, there is no clear evidence to suggest that fed-in PV electricity necessarily results in deferred network augmentation; on the contrary, there is some evidence to suggest that PV systems may actually increase network costs.³²

The Commission notes that any network costs or benefits (distribution or transmission), will be assessed as part of the Australian Energy Regulator's (**AER**) price regulation function for those businesses and passed through to customers through amended distribution charges.

The Commission also notes that the value of fed-in energy will vary at different times of the day, due to wholesale energy prices changing over time. However, passing on that time-based price signal to customers requires time-of-use metering, which few small customers have in South Australia.

While the Commission acknowledges that there may be benefits of time-of-use pricing (including for R-FiT payments), those benefits need to be traded off against the associated infrastructure costs. Given the absence of time-of-use metering in South Australia, the Commission therefore does not support the suggestion from the Clean Energy Council for time-varying R-FiT values at this stage.

In previous reviews, AAC provided to the Commission point-estimates of its expected value for that PV electricity. The Commission took that advice into account in setting the *minimum* R-FiT value in its price determinations.

³² ACIL Tasman, *The fair and reasonable value of exported PV output*, December 2011, page 34; available at <http://www.escosa.sa.gov.au/library/120103-SolarFeedinTariff-SupplementaryReport-ACILTasman.pdf>

Details of the methodology used to determine the value of PV electricity are contained in the methodology report prepared by AAC for the Commission.³³ In summary, that methodology involves:

- ▲ forecasting wholesale spot prices of electricity, based on electricity demand forecasts (energy and peak demand) published by AEMO and using AAC's PowerMark national electricity market model;
- ▲ projecting the Net System Load Profile (**NSLP**) for South Australia, based on recent observations of the NSLP as published by AEMO and estimating the relationship between the NSLP load and the South Australian load using regression analysis;
- ▲ projecting the total installed capacity and effective generation of PV units in South Australia;
- ▲ combining the wholesale spot price forecasts with the projected NSLP to determine an NSLP-weighted spot price forecast;
- ▲ adding the value of avoided network losses, obtained by analysing historic distribution loss factors for South Australia as published by AEMO; and
- ▲ deducting the cost of NEM market and ancillary service fees, based on the most recent actual fees published in AEMO's annual budget.

For this review, in addition to those steps, the Commission sought further advice from AAC as to a plausible reasonable range of R-FiT values which might be used for regulatory purposes. The Commission did so on the basis of the potential for modelling uncertainty in adopting a single point-estimate value in the electricity market.

AAC had previously estimated the fair and reasonable value of exported PV output on a single projection "base case" of the wholesale spot price of electricity. AAC therefore provided the Commission with a single-point estimate R-FiT value.

On this occasion, the Commission asked that the base case projection be supplemented with a stochastic analysis of key drivers of uncertainty in the wholesale spot price of electricity in South Australia. AAC therefore calculated the 2014 NSLP-weighted South Australian price from 463 scenarios, to determine the possible distribution of those prices.

In summary, AAC's advice (rounded to one decimal place) is that:

- ▲ the 10th percentile value projected for PV electricity is 13.4c/kWh; and
- ▲ the 90th percentile value projected for PV electricity is 7.6c/kWh.

³³ ACIL Allen Consulting, *Estimated Value of PV Exports - Calendar year 2014 estimate from market modelling*, September 2013; available from the Commission's website at: <http://www.escosa.sa.gov.au/projects/200/review-of-the-solar-feed-in-tariff-premium.aspx#stage-list=0>

3.2.3 Considerations

The Commission's two key considerations in respect of the fair and reasonable value of PV electricity to an electricity retailer are as follows.

Determining value by reference to electricity retailers

When PV customers generate electricity that is fed back into the network it means electricity retailers need to buy less electricity from other generation sources. When considering the value to an electricity retailer, the Commission has consistently adopted an approach which is focussed on avoided direct costs, with sources of value to an electricity retailer being measureable and ascribed to PV electricity.

At the same time, while the Commission also accepts that PV electricity or the penetration of PV units in South Australia may also provide indirect benefits to the market overall, it is of the view that those indirect benefits cannot be easily or reliably attributed to PV electricity and are not included within the Commission's consideration of value.

The Commission therefore considers that, whatever value or values are estimated for the value to an electricity retailer of fed-in PV electricity, that value will always be lower than the retail price of electricity.

Estimating a fair and reasonable value

Based on those principles, the Commission engaged AAC to provide it with independent expert advice on the value of fed-in electricity to an electricity retailer.

As set out above, AAC's advice identifies a range of values which might be adopted for the purpose of making an R-FiT price determination. The Commission accepts AAC's range of between 7.6 and 13.4c/kWh as being a reasonable range of values from which to determine the fair and reasonable value to an electricity of PV electricity fed into the distribution network.

3.3 Promotion of competition, efficiency and fair market conduct

As a general principle, the Commission holds the view that, if a market is sufficiently competitive, price setting is a matter best determined by that market rather than by a regulator. That proposition is consistent with a number of factors specified in section 6 of the ESC Act, which focus the need to:

- ▲ promote competitive and fair market conduct - section 6(b)(i);
- ▲ prevent misuse of monopoly or market power - section 6(b)(ii);
- ▲ facilitate entry into relevant markets - section 6(b)(iii);
- ▲ promote economic efficiency - section 6(b)(iv); and

- ▲ ensure consumers benefit from competition and efficiency - section 6(b)(v).

The Commission holds the view that effective competition is in the long-term interests of consumers, as effective competition is best able to deliver efficient prices and services. The Commission would caution at the outset, however, that even where an overall finding of market competitiveness is made, subject to the *degree* of competition found it may be the case that, at least on a transitional basis, that a transitional form of regulation remains appropriate.

The competition assessment set out in the following sections is built upon previous similar assessments carried out by the Commission and the Australian Energy Market Commission. Both assessments found that the overall South Australian electricity retail market exhibited reasonably competitive characteristics, as evidenced by, amongst other things, rivalry between retailers and willingness of consumers to participate in the competitive market by switching retailers.

The Commission also understands that the South Australian Government's decision to deregulate energy retail prices in February 2013 was made on the basis that it considered the small customer retail electricity (and gas) market to be sufficiently competitive to allow the market to determine prices.³⁴ As the Commission has noted publicly, both at that time and previously, it supports the removal of energy retail price regulation in the South Australian retail energy market.

Accordingly, the Commission has not undertaken a full competition assessment of the overall market for this review. Rather, its consideration is limited to examining whether or not there is any evidence which indicates that the extent of competition for PV customers is different to non-PV customers.

3.3.1 Submissions

In general, submissions received from electricity retailers highlighted their view that the overall South Australian electricity retail market for small customers is competitive and that, as a sub-set of that market, the market for PV customers is also competitive.

The Energy Supply Association of Australia submitted that:³⁵

With increasing customer switching rates in South Australia, and 81 per cent of SA electricity customers on market contracts the retail electricity market is showing strong signs of competition. In a competitive retail market, competition will tend to drive market offers for solar PV FITs towards the efficient rate.

³⁴ Minister for Mineral Resources and Energy, the Hon. T. Koutsantonis M.P., *South Australia enters new era of energy deregulation*, 31 January 2013; available at http://www.premier.sa.gov.au/images/news_releases/13_01Jan/necf_launch.pdf

³⁵ Energy Supply Association of Australia, *Submission to Review of the Solar Feed-in Tariff Premium Issues Paper*, 26 July 2013, page 2; available at <http://www.escosa.sa.gov.au/projects/200/review-of-the-solar-feed-in-tariff-premium.aspx>

Submissions from other respondents put different views however.

The Clean Energy Council submitted that:³⁶

Competition in the South Australian electricity market is far weaker than in NSW. Deregulation [of the R-FiT] in South Australia is therefore likely to be even less successful than the NSW experience.

Similarly, AuSES submitted that:³⁷

Competition in the South Australian electricity market is far weaker than in NSW and there is not sufficient market pressure to ensure a fair unregulated price.

The Conservation Council of South Australia, taking a slightly different position focusing on the household renewables sector (rather than the electricity retail market more broadly), argued that:³⁸

The current market framework is simply not sufficiently mature to prevent market failure for the household renewables sector.

In making that submission, the Conservation Council drew to the Commission's attention its concerns over information and related practices, noting that they

... remain unacceptably complex and non-transparent, particularly when it comes to the complicated parts of a bill such as rebates, carbon emissions, carbon pass-through costs, and GreenPower components.

3.3.2 Discussion

There are a number of matters to take into account in considering issues of competition, efficiency and fair market conduct, as explained below.

Market concentration

As at August 2013, there were 12 electricity retailers offering to sell electricity to South Australian residential and small business customers.

In terms of concentration, the retail energy market update performance report recently released by the AER shows that the South Australian electricity retail market remains concentrated, with three retailers, AGL SA, Origin Energy and EnergyAustralia having a

³⁶ Clean Energy Council, *Clean Energy Council submission to the ESCoSA Issues Paper; Review of the Solar Feed-in Tariff Premium*, July 2013, page 4; available at <http://www.escosa.sa.gov.au/projects/200/review-of-the-solar-feed-in-tariff-premium.aspx>

³⁷ Australian Solar Energy Society, *Submission from the SA Branch of the Australian Solar Energy Society (AuSES) to the ESCOSA Issues Paper: Review of the Solar Feed-in Tariff Premium – Issues Paper*, 26 July 2013, page 2; available at <http://www.escosa.sa.gov.au/projects/200/review-of-the-solar-feed-in-tariff-premium.aspx>

³⁸ Conservation Council SA, *Submission re Review of the Solar Feed-in Tariff Premium – Issues Paper*, 29 July 2013, pages 2 and 3; available at <http://www.escosa.sa.gov.au/projects/200/review-of-the-solar-feed-in-tariff-premium.aspx>

combined South Australian residential market share of 80%, holding 49%, 20% and 11% of the market respectively. However, smaller retailers have been building a market presence in South Australia.³⁹

Standing Offers versus Market Offers and the R-FiT payment: price and service mix

Under the provisions of the National Energy Retail Law, there are two forms of retail sale contracts used by energy retailers: Standing Offers and Market Offers.

Standing offers and the R-FiT

The Standing Offer regime is a part of the National Energy Customer Framework, arising under the National Energy Retail Law. Under that regime, each electricity retailer must have a Standing Offer available to small customers on request. The price of Standing Offers is set by the electricity retailers.

The Standing Offer obligation arises in respect of a particular electricity retailer where:

- ▲ a new customer seeks an offer at premises where that retailer was the last retailer to have sold electricity to a customer; or
- ▲ an existing customer at a premises wishes to return to the Standing Offer from a Market Offer.

That is, there is no general obligation to sell electricity under Standing Offer terms and conditions to any small customer at any premises on request; the obligation only arises where the electricity retailer sold electricity to the immediately preceding customer (or the same customer) at the same premises.

As the R-FiT provisions of section 36AD(1) of the Electricity Act oblige electricity retailers to make *minimum* R-FiT payments to PV customers, and given that under the Standing Offer regime an electricity retailer may not refuse to supply based on the fact that a customer has a PV unit installed, then it follows that all 12 electricity retailers must offer at least the *minimum* R-FiT to Standing Offer PV customers.

It should be noted that the Standing Offer prices tend to be the highest available prices in the market. This means that the total value to a PV customer of the *minimum* R-FiT and the Standing Offer price will generally be lower than the total value to a PV customer of the *minimum* R-FiT and Market Offer price: a Market Offer should provide an overall “better deal”.

³⁹ Australian Energy Regulator, *Retail Energy Market Update January to March 2013*, 3 July 2013; available at: <http://www.aer.gov.au/node/21052>.

Figure 3-1: Proportion of South Australian small customers on Standing and Market offers



Source: Commission annual performance reports and AER

Market Offers and the R-FiT

A Market Offer, on the other hand, is any retail electricity sale arrangement other than a Standing Offer. Electricity retailers generally offer a range of Market Offers; each may have different terms, conditions and prices including discounts, bonuses, different billing periods, different payment options, fixed contract terms and early termination fees. As with Standing Offers, prices under Market Offers are set by electricity retailers.

Electricity retailers provide customers with a range of Market Offers with different price and service mixes. In a competitive market, an electricity retailer has discretion regarding discounts and benefits applied to all market contracts it offers. This applies to both customers who have PV units and those who do not.

Electricity retailers generally use the flexibility of Market Offers to differentiate their products and compete for market share. The proportion of customers on such offers is therefore a key indicator of the extent of competition in the energy market. Figure 3-1 shows that the proportion of small customers on a Market Offers continues to increase in South Australia. Due to data limitations, the Commission is unable to differentiate the proportion of PV customers on Market Offers from the overall market.

As is the case for a Standing Offer, section 36AD(1) of the Electricity Act means that, even if an electricity retailer does not wish to retail to a PV customer and make R-FiT payments, if a customer installs a PV unit during the term of a Market Offer then it is entitled to receive at least the *minimum* R-FiT payments. An exception to that situation would be where the terms of the Market Offer are such that it comes to an end if the customer installs a PV unit.

Level of the R-FiT under Market Offers

At present, only one electricity retailer, Sanctuary Energy, is offering an R-FiT payment in excess of the minimum R-FiT set by the Commission. The Commission does not place significant weight on Sanctuary Energy's offer as that offer is conditional upon the purchase of a PV unit from a specified partner, is only applicable to a primary place of residence and is limited to PV units up to 3.3kW on a minimum three-year contract.

All other electricity retailers currently offer only the mandatory 9.8c/kWh minimum rate (refer Table 3.1 below). While electricity retailers have, in the past, offered higher amounts as a part of competitive market offering (as discussed in section 1.1.2, Table 1.2 above), since the introduction of the statutory D and R-FiT regimes there does not appear to have been the same competitive focus in terms of the value of FiT payments offered to PV customers. This could be, in part, because the D-FiT value has historically been set at a level above the market value of fed-in electricity.

Incidence of Market Offers available to PV customers

A further point to consider is the incidence of Market Offers which are available to PV customers. While, as noted above, electricity retailers are obliged to make R-FiT payments, for the purposes of reviewing levels of competition it is the extent to which electricity retailers are actively seeking out PV customers' business that is relevant.

One way to assess that is by considering the extent to which electricity retailers make their best-priced Market Offers available to PV customers. The Commission notes at the outset that there are two possible reasons why electricity retailers may not make those offers available to PV customers. First, there may be additional costs involved with serving PV customers. Second, there may be insufficient competition for PV customers.

As shown in Table 3.1,⁴⁰ of the 12 electricity retailers (with the residential market share of each as at 30 June 2013 shown in brackets below):

- ▲ 7 electricity retailers, Diamond Energy (0.02%), EnergyAustralia (11.0%), Lumo Energy (5.9%), Momentum Energy (0.5%), Origin Energy (19.9%), Sanctuary Energy (0.08%) and Simply Energy (8.9%), (in total 46.2%) make their best-priced generally available Market Offer available to PV customers;
- ▲ 3 electricity retailers (AGL SA (49.5%), Alinta Energy (1.8%) and PowerDirect (2.0%) in total (53.3%)) do not make their best-priced generally available Market Offer available to PV customers – with the best-priced Market Offerings to PV customers being \$50 (AGL SA), \$266 (Alinta Energy) and \$86 (PowerDirect) above those electricity retailer's best-priced generally available Market Offers; and
- ▲ the remaining 2 electricity retailers, QEnergy (0.002%) and Red Energy (0.5%) (in total 0.5%), do not actively market to PV customers.

⁴⁰ Note that the figures in Table 3.1, sourced from the Energy Made Easy website, include GST and all conditional and non-conditional discounts for a typical residential customer who uses 5,000 kWh per annum but exclude off-peak and green energy as at September 2013.

Further, Energy Made Easy also provides evidence to suggest that:

- ▲ 41 out of the 56 electricity Market Offers are available to PV customers;
- ▲ electricity retailers are offering a variety of incentives to PV customers (e.g. pay on time and direct debit discounts);
- ▲ the discounts offered by electricity retailers to residential PV customers ranged from 0% to 15% as compared with the available discounts to non-PV customers of between 3% to 15%; and
- ▲ the early termination fees associated with PV and non-PV Market Offers do not appear to be significantly different, with fees generally set based on the term of the contract.

A further matter considered by the Commission is the market shares of the largest electricity retailers operating in South Australia and the extent to which they are offering R-FiT tariffs either above the *minimum* R-FiT or are making the *minimum* R-FiT available on their best-priced Market Offers.

As set out above, the largest electricity retailers by market share in South Australia are AGL SA (49%), Origin Energy (20%) and EnergyAustralia (11%). As can be seen from Table 3.1, while none of those electricity retailers offers an R-FiT in excess of the minimum, both Origin Energy and EnergyAustralia make their best Market Offer prices available to PV customers alongside the *minimum* R-FiT payments, while AGL SA's best-priced Market Offer for PV customers is \$50 per annum greater than its best-priced generally available Market Offer.

On that basis, under the current R-FiT regime, while best-priced Market Offers are made available to existing and potential new PV customers by seven electricity retailers in this State (with a combined market share of 46.2%), the best-priced Market Offers of the other five retailers (with 53.9% combined market share) are not..

A final matter to note is that, while at least ten of the twelve active electricity retailers are seeking to sell Market Offers to PV customers, only one electricity retailer, Sanctuary Energy, is currently offering an R-FiT amount higher than the minimum set by the Commission. However, the Commission notes that, as at the end of December 2012, Sanctuary Energy had a residential customer market share of less than 0.1% and that its 30c/kWh voluntary R-FiT is tied to the purchase of a PV unit. As explained above, the Commission does not place significant weight on Sanctuary Energy's offer for the purposes of this review.

Table 3-1: Price based comparison of electricity offers

	BEST-PRICED MARKET OFFER			BEST-PRICED MARKET OFFER FOR PV CUSTOMERS		
	Product Name	Estimated Annual Cost	Available to PV Customers?	Product Name	Estimated Annual Cost	R-Fit
AGL SA	Select 8% South Australia residential electricity market offer	\$1,778	✘	Advantage 7% South Australia residential electricity market offer	\$1,828	9.8 cents/kWh
Alinta Energy	Fair Go 15	\$1,783	✘	Standing Offer	\$2,049	9.8 cents/kWh
Diamond Energy	DE Residential Single Rate	\$1,787	✓	DE Residential Single Rate Solar	\$1,787	9.8 cents/kWh
EnergyAustralia	Everyday Saver - Home - Peak Only (online offer)	\$1,807	✓	Everyday Saver - Home - Peak Only (online offer)	\$1,807	9.8 cents/kWh
Lumo Energy	Lumo Advantage	\$1,711	✓	Lumo Advantage	\$1,711	9.8 cents/kWh
Momentum Energy	Momentum SmilePower GD\QRSR\MRSR	\$1,920	✓	Momentum SmilePower GD\QRSR\MRSR	\$1,920	9.8 cents/kWh
Origin Energy	eSaver up to 18% electricity usage discount (Single rate)	\$1,770	✓	eSaver up to 18% electricity usage discount (Single rate)	\$1,770	9.8 cents/kWh
Powerdirect	Powerdirect 12% South Australia residential electricity market offer	\$1,782	✘	Powerdirect 7% South Australia residential electricity market offer	\$1,868	9.8 cents/kWh
Qenergy	Flexi Home	\$1,841	✘	N/A	N/A	N/A
Red Energy	Living Energy Saver - Residential	\$1,814	✘	N/A	N/A	N/A
Sanctuary Energy	30c Feed In Tariff	\$1,891	✓	30c Feed In Tariff	\$1,891	30 cents/kWh
Simply Energy	SA Super Saver 17/10 DD EB	\$1,759	✓	SA Super Saver 17/10 DD EB	\$1,759	9.8 cents/kWh

Barriers to entry and expansion

The Commission considers that barriers to entry and expansion for electricity retailers are low in the PV element of electricity retail market in South Australia.

For electricity retailers already selling electricity to customers, there are no entry barriers preventing them from seeking to also sell to PV customers, with retailer authorisation under National Energy Retail Law primarily aimed at ensuring competency to operate in the NEM.

Providing that a business meets the three entry criteria set out in the National Energy Retail Law (organisational and technical capacity, financial resources and suitability), there are minimal entry barriers for new entrant to the market. Accordingly, this creates a credible threat of competition for PV customers from new or existing electricity retailers in the market.

Information and transaction costs

All consumers are able to enter into Market Offers with an electricity retailer of their choice (although the range of Market Offers available to a particular customer will be subject to the entry terms and conditions set by electricity retailers).

Consumers play an important role in encouraging the efficient operation of markets. Through their choices, consumers encourage businesses to compete and innovate. If consumers do not have access to information – in a clear and accessible form - to understand the products on offer, then effective consumer participation will not occur.

Consumers are currently able to access a price comparison tool to compare different electricity retail products and make informed choices about electricity Standing and Market Offers. Further, electricity retailers are under the National Electricity Retail Law to provide an Energy Price Sheet – a summary of the features, terms and conditions of each of their Standing and Market Offers.

To examine the accessibility and relevance of the information available to PV consumers, the Commission undertook a desktop review of the information on the Energy Made Easy website operated by the AER, electricity retailers' energy pricing fact sheets and electricity retailers' websites.

The Commission found that, while information to facilitate informed decision-making is generally available to consumers, there are gaps as between different sources and discrepancies in how information is disclosed to PV customers. For example, an online search of electricity retailers' websites reveals that some were not quoting prices for PV customers through that medium, requiring potential PV customers to contact their sales teams via telephone instead.

For some electricity retailers, there were also discrepancies between the information supplied by those electricity retailers to be uploaded to Energy Made Easy and those advertised on their websites (e.g., number of available electricity offers).

The Commission considers that these issues indicate that there continues to be some inadequacies in terms of information and customer service provision for PV customers.

PV customer switching rates

The rate of PV customer switching between electricity retailers provides the key indicator of the intensity of competition for those PV customers.

The Commission notes that there may be greater impediments to PV customer switching as compared with the market generally. For example, as shown above, some electricity retailers do not make Market Offers available to PV customers (which may be due to increased administrative costs associated with those customers). Further, in some cases there may be a lack of, or complexity involved with, information for PV customers about switching,

However, at this stage, the Commission does not have sufficient data to differentiate between switching rates for PV and non-PV customers. The Commission will seek further evidence on this point prior to making a Final Decision, including from the AEMO, SA Power Networks and electricity retailers.

The Commission therefore invites evidence from any member of the community on this matter and will further consider this key issue in making its Final Decision.

Levels of competition for PV customers relative to New South Wales

The Commission notes the submissions made by AuSES, the Clean Energy Council and others, that the level of competition in New South Wales is relatively greater than in South Australia.

The Commission understands the argument to be that South Australia is likely to experience lower levels of competition for PV customers (as compared with current levels) if the R-FiT become unregulated. That argument is based on the following premises:

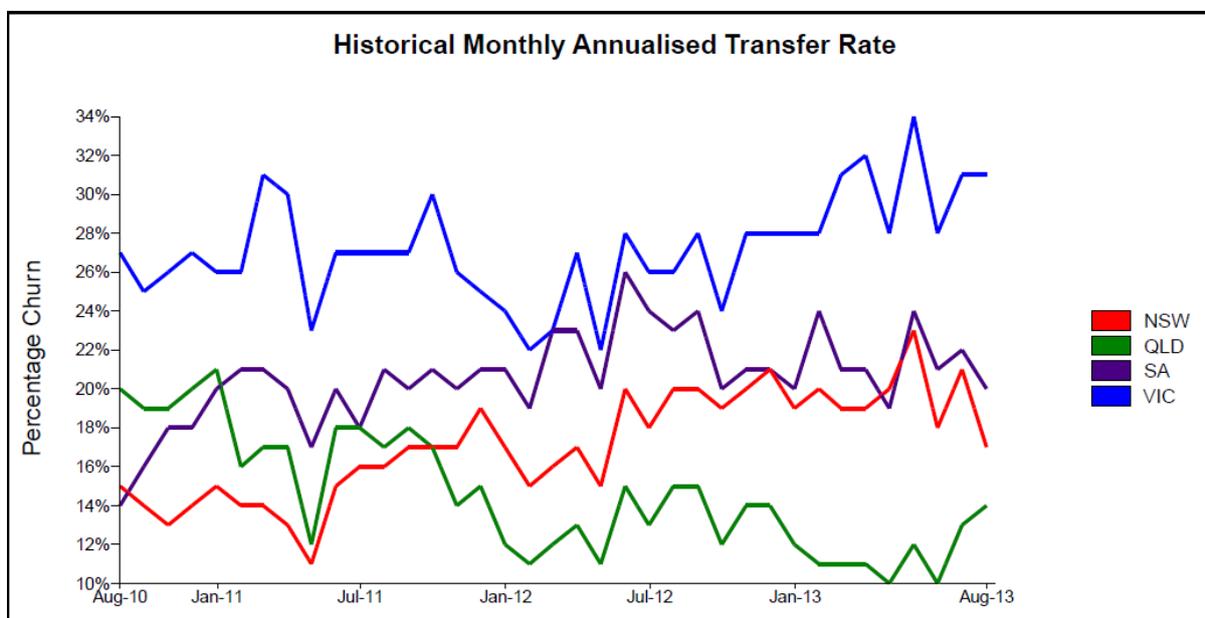
- ▲ the voluntary R-FiT element of the New South Wales retail electricity market is not competitive, even though the broader retail electricity market may be; and
- ▲ in any event, the broader retail electricity market in New South Wales is more competitive than in South Australia.

The Commission does not accept the second of those premises and therefore does not accept the argument put in submissions as sound; however, the evidence from New South Wales suggests that there may be some inefficiency in the R-FiT element of the market.

In making that conclusion, the Commission notes four matters:

- ▲ Historical monthly transfer rate data for each NEM jurisdiction published by AEMO indicates that South Australia continues to have a high transfer rate as compared to New South Wales, as shown below.⁴¹

Figure 3-2: AEMO comparative monthly transfer rates



- ▲ Independent reports published by vaasaETT continue to show that South Australia remains a world-leading electricity retail market in terms of competition – in 2011 South Australia was the third-ranked market (behind Victoria and New Zealand), while New South Wales was the tenth-ranked market.
- ▲ Analysis of retail competition by the AEMC also suggests that the New South Wales retail electricity market for small customers is even more concentrated than the South Australian market. In particular, of the 11 active retailers, the top 3 retailers hold 94% of the market share. In addition, around 40% of customers in NSW remain on the regulated tariff.⁴² These indicators suggest lower levels of retail competition in NSW relative to South Australia.
- ▲ The South Australian retail electricity market for small customers is no longer regulated as to price, whereas that market is price regulated in New South Wales.

⁴¹ Australian Energy Market Operator, *NEM Monthly Retail Transfer Statistics - August 2013*, page 2; available at <http://www.aemo.com.au/Electricity/Data/Metering/Retail-Transfer-Statistical-Data>

⁴² Australian Energy Markets Commission, *AEMC Review of Competition in the Retail Electricity and Natural Gas Markets in New South Wales: Draft Report*, May 2013, pages 37 to 38; available at <http://www.aemc.gov.au/Market-Reviews/Open/nsw-retail-competition-review.html>

3.3.3 Consideration

Having reviewed the foregoing matters, the Commission considers that the evidence to support the proposition that the South Australian overall small customer retail electricity market is reasonably competitive outweighs the evidence to the contrary.

However, as set out above, the evidence as to the degree of competition between electricity retailers for PV customer is more uncertain. First, only one electricity retailer pays more than the minimum R-FiT (although that offer is not considered relevant in the present context, (given its specific terms and conditions): no other electricity retailer makes payments in excess of the minimum. Second, PV customers appear not to have the same access as non-PV customers to best-priced Market Offers. Finally, there may be some impediments to PV customer switching in terms of information and transaction costs but it is not presently possible to determine whether or not switching rates for PV customers differ from those of non-PV customers.

This Commission will continue to review, and invites comments from members of the community on, this matter leading up to its Final Decision.

3.4 Evidence on R-FiT equivalents from other jurisdictions

The ESC Act requires the Commission to have regard to interstate evidence when making price determinations:

- ▲ section 25(4)(e) requires the Commission to have regard to any relevant interstate and international benchmarks for prices; and
- ▲ section 6(b)(vii) requires the Commission to have regard to the need to promote consistency in regulation with other jurisdictions.

The Commission has therefore reviewed R-FiT-equivalent arrangements in Victoria, New South Wales and Queensland, whether existing or proposed, on the basis that those States are the largest in the NEM. Those arrangements are summarised below. For the sake of completeness, the Commission has also summarised the R-FiT equivalent regimes in all States and Territories, including the ranges of R-FiTs available.

3.4.1 Submissions

Views put in submissions as to the interstate evidence and the use to which it could be put fell into two, distinct, groups.

Many electricity retailers' submissions urged the Commission to have regard to the findings of both IPART and QCA in their respective reports and put views as to the effectiveness of the IPART benchmarking regime. AGL submitted that it:⁴³

⁴³ AGL Energy Ltd, *Submission to the 2013 Determination of solar feed-in tariff premium – Draft Determination*, 26 July 2013, page 1; available at <http://www.escosa.sa.gov.au/projects/200/review-of-the-solar-feed-in-tariff-premium.aspx#stage-list=1>

... agrees with IPART and QCA's views and, given that standing contract prices in South Australia are no longer regulated, the continued regulation of a subset of this market could lead to market inefficiencies in the form of cross subsidies and regulatory costs.

EnergyAustralia submitted that:⁴⁴

We note that IPART recently updated their benchmark range for 2013/14 to 6.6-11.2c/kWh, and that half (six of the twelve residential) retailers in NSW are offering retailer-funded solar FiTs to customers. The range of FiTs being offered by retailers exceeds both ends of the benchmark range. Notably, the combined NSW electricity market share of the six retailers that do offer voluntary solar FiTs makes up a very large proportion of the NSW customer base.

While Origin Energy submitted that:⁴⁵

Given the Victorian Competition and Efficiency Commission recommendation to review regulated retailer-funded FiTs with a view to move to their determination on a market-basis in the near future and the fact that in New South Wales FiT contributions paid by retailers to non Solar Bonus Scheme customers are presently deregulated, Origin believes that from 2014, the regulated minimum FiT premium should be removed to support national consistency of FiT regulation. The trend in relation to oversight in this area is clearly to reduce oversight.

Submissions from other respondents put entirely different views on the evidence from other States. AuSES submitted that:⁴⁶

New South Wales (NSW) is the only Australian state to have deregulated feed-in tariff payments to customers. This has led to not one electricity retailer in NSW paying the amount that the Independent Pricing and Regulatory Tribunal (IPART) has determined is the financial value to Standard Retailers for the electricity produced. As of June 2013 eight of the fourteen NSW electricity retailers offered no feed-in tariff whatsoever and only one retailer (AGL Sales), offered a feed-in tariff that was above the lower bound of IPART's estimate of the financial gain to Standard Retailers.

Hence in New South Wales owners of PV systems have suffered from deregulation of the feed-in tariff.

The Clean Energy Council made a submission in similar terms and also submitted that:

⁴⁴ EnergyAustralia, *Response to the Issues Paper for the Review of the Solar Feed-in Tariff Premium*, 26 July 2013, pages 2 to 3; available at <http://www.escosa.sa.gov.au/projects/200/review-of-the-solar-feed-in-tariff-premium.aspx#stage-list=1>

⁴⁵ Origin Energy, *Submission to Review of the Solar Feed-in Tariff Premium – Issues Paper*, 26 July 2013, page 2; available at <http://www.escosa.sa.gov.au/projects/200/review-of-the-solar-feed-in-tariff-premium.aspx#stage-list=1>

⁴⁶ SA Branch of the Australian Solar Energy Society, *Submission to the Review of the Solar Feed-in Tariff Premium – Issues Paper*, 26 July 2013, page 1; available at <http://www.escosa.sa.gov.au/projects/200/review-of-the-solar-feed-in-tariff-premium.aspx#stage-list=1>

New South Wales consumers have fared poorly from the New South Wales experiment to deregulate feed-in tariffs. Solar consumers have suffered from a lack of consumer protection. Other consumers have suffered because investment could have been directed more efficiently, in a way likely to reduce electricity prices.

Finally, submissions from various private individuals, including the terms of the petition submitted to the Commission by Solar Citizens, stated that:⁴⁷

The evidence in NSW shows that deregulated feed-in tariffs reduce choice for consumers and competition between retailers – leaving consumers at the mercy of retailers.

3.4.2 Discussion

New South Wales

In New South Wales, electricity retailers are not required to make any mandatory R-FiT equivalent payments. Under the scheme in that State, the Independent Pricing and Regulatory Tribunal (**IPART**) publishes an annual benchmark range for R-FiT to provide guidance on the likely value of PV electricity, to assist PV customers in assessing electricity retailers' offers.⁴⁸

IPART determined that a subsidy-free feed-in tariff is in the range of 6.6 to 11.2 c/kWh for 2013/14. In making that determination, IPART noted that:⁴⁹

The benchmark range is not mandatory and is intended as a guide for retailers and customers. We consider that the competitive market is the best way for customers to get the best deal, having regard to their electricity usage and exports. Several retailers, but not all, are voluntarily offering unsubsidised feed-in tariffs therefore customers can access these feed-in tariffs. The value of PV customer's exports is also difficult to determine and its value can differ for different retailers and customers. If mandatory feed-in tariffs are set too high, retailers would be required to subsidise their customers. This would make it less attractive to serve these customers. If mandatory feed-in tariffs are set too low, these customers would not receive the full value of their exported energy.

⁴⁷ Copies of those various submissions may be accessed from the Commission's website at <http://www.escosa.sa.gov.au/projects/200/review-of-the-solar-feed-in-tariff-premium.aspx#stage-list=1>

⁴⁸ Independent Pricing and Regulatory Tribunal, *Solar feed-in tariffs: The subsidy-free value of electricity from small-scale solar PV units from 1 July 2013 – Final Report*, June 2013; available at http://www.ipart.nsw.gov.au/Home/Industries/Electricity/Reviews/Retail_Pricing/Solar_feed-in_tariffs_2013_to_2014

⁴⁹ Independent Pricing and Regulatory Tribunal, *Solar feed-in tariffs: The subsidy-free value of electricity from small-scale solar PV units from 1 July 2013 – Final Report*, June 2013, page 5; available at http://www.ipart.nsw.gov.au/Home/Industries/Electricity/Reviews/Retail_Pricing/Solar_feed-in_tariffs_2013_to_2014

The Commission notes, for the New South Wales residential electricity retail market as at 30 June 2012 as reported by IPART, the incidence and level of R-FiT payments offered to PV customers was as set out in Table 3.2 below.

Table 3-2: New South Wales R-FiT offers and market shares⁵⁰

R-FiT STATUS	ELECTRICITY RETAILER MARKET SHARE AND R-FiT PRICE			TOTAL MARKET SHARE
Not selling to PV customers	Click Energy	<1%	n/a	approx. 1%
	Qenergy	<1%	n/a	
Selling to PV customers but not offering FiT	Momentum Energy	<1%	n/a	approx. 36%
	DoDo Power and Gas	<1%	n/a	
	EnergyAustralia	34%	n/a	
	Australia Power & Gas	<2%	n/a	
Selling to PV customers below IPART range	Red Energy	1%	5c/kWh	approx. 43%
	Origin Energy (inc. Country Energy & Integral Energy)	42%	6c/kWh	
Selling to PV customers within IPART range	AGL	19%	8c/kWh	approx. 20%
	Lumo Energy	<1%	6.6c/kWh	
	Powerdirect	<1%	7.7c/kWh	

As can be seen, of the 11 electricity retailers operating in New South Wales:

- ▲ six, with a combined market share of 37%, make no voluntary R-FiT payments;
- ▲ five make voluntary R-FiT payments and, of those:
 - two (with a combined market share of 43%) lie below the lower bound of IPART's benchmark range; and
 - three (with a combined total market share of approximately 20%) lie within IPART's benchmark range.⁵¹

The Commission notes that no electricity retailers offered R-FiT payments above 8c/kWh.

The Commission has also had regard to the market shares of those electricity retailers.⁵²

⁵⁰ While Sanctuary Energy offers an R-FiT of 30c/kWh in New South Wales, as noted in section 3.3.2, the Commission does not rely on Sanctuary Energy's voluntary FiT payment as it is conditional upon the purchase of a PV unit from a specified partner, only applicable to the primary residence (which must be occupied full time), and is limited to systems up to 3.3 kW on a minimum 3 year contract.

⁵¹ The Commission notes that, to the extent that some submissions put the view that no electricity retailer in New South Wales offers voluntary R-FiT payments within IPART's range, those submissions are in error and the Commission has had no regard to that aspect of those submissions.

Based on those data and the information presented in Table 3.3, the Commission notes that, of the three largest electricity retailers in New South Wales (with a combined market share of 95%), only AGL (19%) makes a voluntary R-FiT available to PV customers within IPART's recommended range, with the State's largest electricity retailer Origin Energy (42%) offering a value below the lower bound of that range and EnergyAustralia (34%) not making a voluntary R-FiT available at all.

In summary, in New South Wales:

- ▲ eight electricity retailers, holding a combined 80% market share, offer an R-FiT of 6c/kWh or less (lower than the lower bound of IPART's range), with six of those retailers not offering an R-FiT at all; and
- ▲ only three electricity retailers, holding a combined 20% market share, offer an R-FiT within IPART's range, with the highest-price R-FiT at 8c/kWh.

Queensland

At present in Queensland there is no mandatory R-FiT equivalent regime (although there is a now-closed D-FiT equivalent regime).

However, in August 2012 the Queensland Competition Authority (**QCA**) was referred an Inquiry by the Minister for Energy and Water Supply to investigate and report on, among other things:

- ▲ a fair and reasonable value for energy generated by small scale PV units and exported to the Queensland electricity grid; and
- ▲ the mechanisms by which a fair and reasonable value or values could be implemented in Queensland.

In its March 2013 Final Report, the QCA found, among other things that:⁵³

- ▲ any future feed-in tariff schemes should be funded by electricity retailers, rather than regulated network businesses, to avoid cross-subsidies and the inequitable recovery of costs from those customers least able to afford them;
- ▲ the fair and reasonable value of exported PV energy should generally reflect the direct financial benefit that a retailer receives when it on-sells electricity exported by its PV customers;
- ▲ based on retail prices in Queensland for 2013-14, the QCA estimated that value to be 7.55c/kWh;

⁵² Australian Energy Market Commission, *Draft Report on its Review of Competition in the Retail Electricity and Natural Gas Markets in New South Wales*, May 2013, page 141; available at <http://www.aemc.gov.au/market-reviews/open/nsw-retail-competition-review.html>

⁵³ Queensland Competition Authority, *Estimating a Fair and Reasonable Solar Feed-in Tariff for Queensland – Final Report*, March 2013, page iv; available at http://www.qca.org.au/electricity-retail/Review_Of_Solar_Feed/FinalReport.php

- ▲ based on the prevailing level of competition, there was no compelling evidence to support a regulated, mandatory minimum R-FiT for customers in the south-east Queensland retail electricity market; and
- ▲ based on the absence of competitive pressures in the Ergon Energy network area, there was compelling evidence to support a regulated, mandatory minimum R-FiT of 7.06c/kWh and 14.05c/kWh, reflecting the differing costs in supplying energy across that area.

The Queensland Government is yet to implement the QCA's findings.

Based on information published in the QCA in March 2013, voluntary R-FiT payments were offered in Queensland in March 2013 by electricity retailers as shown in Table 3.4.

Table 3-3: Queensland voluntary R-FiT payments at March 2013

ELECTRICITY RETAILER	VOLUNTARY R-FIT
AGL	8c/kWh
Click Energy	10c/kWh
Diamond Energy	4c/kWh
EnergyAustralia	8c/kWh
Lumo Energy	6c/kWh
Origin Energy	6c/kWh
Powerdirect	6c/kWh

As shown below, eight of the eleven electricity retailers make their best Market Offer prices available to PV customers (the Commission notes that it was not able to obtain data as to Integral Energy's offer).

Table 3-4: Queensland best Market Offer availability to PV customers

RETAILER	OFFER	ESTIMATED ANNUAL COST	AVAILABLE TO PV CUSTOMERS
AGL	AGL Select 7 (11)	\$1,539	✘
Australian Power & Gas	AP&G Simplicity Plus (11)	\$1,571	✓
ClickEnergy	ClickEasy Monthly (T11)	\$1,555	✓
DoDo Power & Gas	Dodo - 1 Year Fixed Term 10% POTD (11)	\$1,517	✓
EnergyAustralia	EnergyAustralia - 10% + \$50 Discount Offer	\$1,247	✓
Integral Energy	Integral Energy - INhome Smart Saver 10%	\$1,237	n/a
Lumo Energy	Lumo Express	\$1,369	✓
Origin Energy	ORIGIN - DailySaver (T11)	\$1,554	✓
Powerdirect	Powerdirect 8% discount (11)	\$1,554	✓
QEnergy	QEnergy	\$1,374	✓
Simply Energy	Simply Energy - Simply RACQ 12	\$1,222	✘

The Commission notes that market share data are not available for Queensland and that this makes it more difficult to assess the strength of the evidence for that State for the purposes of this Draft Price Determination.

Victoria

All electricity retailers in Victoria are required to offer a minimum R-FiT of 8c/kWh for 2013 and 2014 (the former value being mandated in statute; the latter having been determined by the Essential Services Commission of Victoria in August 2013).

The Victorian R-FiT does not need to be applied to every offer and electricity retailers have the discretion to offer different terms and conditions; however, if an offer (Market or Standing) is open to PV customers, an electricity retailer must pay a minimum FiT premium of 8 cents/kWh to those customers (as is the case in South Australia).

Summary of interstate R-FiT and D-FiT arrangements

Table 3.5 sets out a summary of R-FiT and D-FiT arrangements in Australian jurisdictions as at August 2013.

Table 3-5: Jurisdictional comparison of FiT arrangements

JURISDICTION	DISTRIBUTOR FIT (CENTS/KWH)	RETAILER FIT (CENTS/KWH)
Australia Capital Territory	30.16 - 50.05 cents nil from 14 July 2011	7.5 cents (voluntary)
New South Wales	20 - 60 cents nil from 29 April 2011	0 - 11.2 cents (voluntary)
Northern Territory	25.91 cents from 1 July 2013	Nil
Queensland	8 - 44 cents nil from 1 July 2014	0 - 10 cents (voluntary)
South Australia	16 - 44 cents nil from 1 October 2013	9.8 cents (mandatory)
Tasmania	Nil	8 cents (mandatory)
Victoria	25 - 60 cents nil from 1 January 2013	8 cents (mandatory)
Western Australia	40 - 60 cents nil from 1 August 2011	Synergy: 8.8529 cents
		Horizon Power (location specific) 10 - 50 cents

3.4.3 Considerations

Having carefully reviewed all of the submissions put to it on this matter, the Commission has formed the view that the two groups of submissions are irreconcilable; the Commission's role is not, however, to reconcile the two groups but rather to make an independent decision based on its consideration of the matters they have raised.

Both groups have utilised or drawn from broadly the same evidence as to the experience in New South Wales and come to completely opposing conclusions. To that extent, while they are helpful in identifying the differing uses to which the evidence may be put, the Commission is nevertheless not able to rely to any great extent on those submissions. Instead, it has reviewed the primary evidence from New South Wales and Queensland.

Turning first to the principle adopted by both IPART and the QCA in relation to setting R-FiT values – that, where sufficient competition exists, it is better left to the market – as emphasised earlier, the Commission broadly agrees with that principle.

As noted by the QCA, however, there may be instances where the level of competition is insufficient at a point in time to permit that to occur. Again, the Commission agrees that this is the case.

In terms of the experience in New South Wales, where IPART has determined a benchmark R-FiT in the range of 6.6 to 11.2 c/kWh for 2013/14, the Commission observes that both the

number of electricity retailers offering voluntary R-FiTs and the value of the voluntary R-FiTs which are offered is low.

The available evidence from New South Wales does not provide sufficient support to conclude that reasonable competition for PV customers exists.

The Commission has formed the same conclusion on the evidence available from Queensland, particularly due to the lack of market share data available for that State, noting that the QCA has recommended the introduction of a mandatory R-FiT for some areas of that State.

3.5 *Deregulation and the costs of regulating*

Under the ESC Act, the Commission is required, in making a price determination, to have regard to the following factors:

- ▲ the costs of making, producing or supplying the goods or services: section 25(4)(b);
- ▲ the costs of complying with laws or regulatory requirements: section 25(4)(c); and
- ▲ facilitate maintenance of the financial viability of regulated industries and the incentive for long term investment: section 6(b)(vi).

In the current context, it is the Commission's view that these factors relate to the arguments as to "deregulation" of the R-FiT in the context of the costs of regulation under the R-FiT. Given the scheme of the R-FiT, deregulation means the circumstance where the Commission either decides not to make an R-FiT price determination at all or does so but sets the prescribed minimum amount at zero.

In considering these factors, the Commission notes that there is a difference between the costs of regulation overall (i.e., administration of the R-FiT) and the actual costs of serving PV customers. In that latter context, in the absence of evidence that the costs of serving PV customers is related to kWh of PV electricity fed-in to the distribution network then those costs should not affect the c/kWh determined for the R-FiT (although those costs may explain such outcomes as electricity retailers not making their best-priced Market Offers available to PV customers).

3.5.1 *Submissions*

Alinta Energy, Origin Energy and EnergyAustralia made submissions on this matter.

Alinta Energy submitted that there are high administrative costs involved in managing customer accounts where there is a FiT applied, with the implication that "deregulation" of the R-FiT would remove those costs.⁵⁴

⁵⁴ Alinta Energy, *Submission to Review of the Solar Feed-in Tariff Premium – Issues Paper*, 24 July 2012, page 2; available at <http://www.escosa.sa.gov.au/projects/200/review-of-the-solar-feed-in-tariff-premium.aspx#stage-list=1>

Similarly, Origin Energy highlighted its view that there are ongoing administrative costs associated with the R-FiT.⁵⁵

EnergyAustralia submitted that:⁵⁶

... costs associated with continued regulation include:

- *costs of conducting and responding to regulatory reviews*
- *costs associated with lost opportunities for retailers to innovate their offers and services*
- *costs of making last minute system changes to update the minimum FiT to a regulatory timetable*

All of these costs are passed on to customers under a price-regulated regime. Under full deregulation of the FiT, these costs would either disappear or be minimised (e.g. system changes will still have to be made at times).

As neither Alinta Energy nor Origin Energy had described or quantified the incidence of the administrative costs identified in their submissions, in September 2013 the Commission sought further information from both.

In its response, Alinta Energy identified the following additional administrative cost drivers, although it did not quantify the amount of likely cost associated with them.⁵⁷

When billing system, price and tariff changes are made, additional regression testing is required for feed-in tariff customers in relation to billing to ensure the ongoing accuracy of solar customer bills. This relates to additional test scenarios to account for customers with solar.

There is also a need to manage the additional pricing structures required for solar customers, this includes the additional customer collateral required for these customers specifically relating to adjustments to feed-in tariff rates.

In dealing with customer billing enquiries where solar is involved there is a higher level of training and education required for agents required to be able to adequately deal with what are potentially more complex issues and discussions, relating to the application and practical operation of feed-in tariff schemes.

As is often the case with customer billing enquiries, metering arrangements and configurations come into play and there is a need to liaise with the

⁵⁵ Origin Energy, *Submission to Review of the Solar Feed-in Tariff Premium – Issues Paper*, 26 July 2012, page 3; available at <http://www.escosa.sa.gov.au/projects/200/review-of-the-solar-feed-in-tariff-premium.aspx#stage-list=1>

⁵⁶ EnergyAustralia, *Response to the Issues Paper for the Review of the Solar Feed-in Tariff Premium*, 26 July 2012, page 5; available at <http://www.escosa.sa.gov.au/projects/200/review-of-the-solar-feed-in-tariff-premium.aspx#stage-list=1>

⁵⁷ Alinta Energy, *Re: ESCOSA – R-FiT Review – Alinta submission 24/07/13 – Cost to serve information*, email to Commission, Friday 13 September 2013.

[distribution network businesses]. *These type of enquiries where solar is involved are generally more complex in nature due to metering set up etc. and therefore will in most cases require a greater level of administrative involvement to resolve.*

Origin Energy also provided further information to the Commission, identifying the additional administrative costs suggested in its original submission, as follows:⁵⁸

Engaging in consultation to determine the level of the minimum FIT premium;

Communicating the final decision throughout various parts of the retail business;

Preparing and submitting system change requests to update the amount of the minimum R-FiT (for example, the R-FiT may be higher than the valuation a retailer may have previously applied- this occurred in Origin's case when the retailer contribution was made mandatory);

Updating customer collateral and information as required (website, hardcopy, call centre scripts etc);

Fielding customer inquiries about changes in the level of the regulated R-FiT; and

The opportunity cost of these activities to the business incurred by deploying resources to this task rather than to alternatives.

Origin Energy went on to note that:

In terms of costs, it is difficult to provide an accurate estimate. Industry wide however, a material number of FTE hours would be committed to this activity...

The incremental cost for retailers who do not choose to make additional premium FIT offers is 100%. For a retailer such as Origin (who would maintain a market determined FiT premium as we do in NSW), the reduction in cost would be between 60-80% (less external engagement, more stable pricing and so on).

Even if price changes occurred more frequently than under the current regulated model, due to competitive pressure from other retailers, this would be a more efficient outcome than regulating, since the costs are a result of competitive market activity- retailers responding to price movements and competition from their peers would incur these costs in the knowledge that they wish to maintain market share, profitability etc (whatever their business goal may be). In this case, the level of cost retailers would incur would be determined by them based on the price signals in the market, not because they were fulfilling a regulatory or license obligation.

⁵⁸ Origin Energy, Re: ESCOSA – R-FiT Review –submission of 26 July – administrative costs, email to Commission, Wednesday 11 September 2013

The Commission acknowledges the assistance of both Alinta Energy and Origin Energy in providing this additional information.

3.5.2 Discussion

Given the evidence that energy retailers are not able to distinguish quantitatively the operating costs associated with PV customers from other customers, the Commission assumes that retailers are recovering all operating costs, including those associated with PV customers, either by not making their best-priced Market Offers available to PV customers and/or through Market Offer and Standing Offer prices generally. There may be additional administrative costs associated with the regulated *minimum* R-FiT and that for some electricity retailers the incremental costs arising from the R-FiT may be significant (on the basis that those electricity retailers would otherwise not offer an R-FiT to their customers).

3.5.3 Considerations

The Commission accepts that there may be additional administrative costs associated with the regulated *minimum* R-FiT and that those costs are relevant to the making of an R-FiT price determination. In reaching this position, the Commission has had regard to the costs of supplying R-FiT services, complying with R-FiT laws and regulatory requirements and the incentive for long term investment.

Of those factors, the first two are considered to have greater weight, as, in respect of the last matter, it is unlikely that a potential new entrant retailer would avoid market entry merely on the basis of the R-FiT.

A difficulty for the Commission at this stage is the quantification of the administrative costs raised in submissions and no evidence to support the proposition that administrative costs vary in relation to PV electricity fed into the distribution network. All members of the community are invited to provide further comment on this matter.

3.6 Other factors

The Commission also notes that section 25(4)(g) of the ESC Act requires the Commission to have regard to any factors specified by a relevant industry regulation Act. There are two such factors set out in the Electricity Act:

- ▲ section 35A(2a) - *have regard to the fair and reasonable value to an electricity retailer of electricity fed into the network by PV customers*: this was considered by the Commission at section 3.2 above; and
- ▲ section 6A(4) - *have regard to the provisions of the National Electricity Rules and National Energy Retail Rules and the need to avoid duplication of, or inconsistency with, regulatory requirements under those Rules*: that factor is not relevant in respect of an R-FiT price determination and is not further considered.

4. DRAFT DECISIONS

Having reviewed the relevant factors under the ESC Act and the Electricity Act (noting that some factors, such as the Commission's primary objective under section 6(a) of the ESC Act will be considered in this Chapter), the Commission's task is now to review and balance those considerations.

4.1 *The draft decision to make a price determination*

Under section 35A of the Electricity Act, the Commission has a discretion as to whether or not it will make an R-FiT price determination at all.

In exercising that discretion, the Commission is guided by statutory factors under the Electricity and ESC Acts.

In this case, the Commission has decided that it will make a price determination of the *minimum* R-FiT, for the following reasons.

4.1.1 *Uncertainties*

The extent to which electricity retailers will compete for PV customers and provide R-FiT payments in the absence of a regulated *minimum* R-FiT is a key uncertainty.

At present, the Commission has no direct evidence as to PV customers switching rates in South Australia. While not determinative, that is a good indicator of likely levels of competition for PV customers. The Commission will continue to explore that line of inquiry in making a Final Decision on this matter.

The best available evidence the Commission has at this stage as to the likelihood that electricity retailers will vigorously compete in the absence of a regulated *minimum* R-FiT is the evidence arising in New South Wales and Queensland.

As noted in section 3.4.3 above, the evidence from New South Wales does not provide sufficient support to conclude that reasonable competition for PV customers exists. In that State, IPART has established a non-binding benchmark range of 6.6 to 11.2c/kWh for 2012/13, representing its best estimate of the value to electricity retailers of fed in PV electricity.

While five of the eleven electricity retailers operating in that State do provide a voluntary R-FiT, only three (with a combined market share of approximately 20%, noting that one of those three, AGL, alone holds 19%) provide one within the indicative range established by IPART.

Only one of those three, AGL, with a market share of 19%, sits within the group of electricity retailers which, combined, have a 95% market share. Of the other two, EnergyAustralia (34% market share) does not offer a voluntary R-FiT and Origin Energy (42% market share – the largest) offers a voluntary R-FiT of 6c/kWh.

Those three electricity retailers also hold the largest market shares in South Australia.

The evidence from Queensland, however, is slightly stronger, with nine of eleven electricity retailers making their best-priced Market Offers available to small customers and seven electricity retailers offering a voluntary R-FiT within the range of 4 to 10c/kWh (with most offering either 6 or 8c/kWh).

Nevertheless, it is the Commission's view that it is problematic to draw direct conclusions for South Australia in 2014 from that evidence. There is sufficient uncertainty, particularly having regard to the findings in respect of the three largest electricity retailers in New South Wales who are also the three largest electricity retailers in South Australia, to suggest that an immediate transition to deregulation is not warranted at this time in South Australia.

4.1.2 Increased flexibility

That said, it may be that price monitoring in South Australia and further evidence from other jurisdictions will produce sufficient evidence to support deregulation of the South Australian R-FiT in the future, possibly as early as one year's time.

In that regard, making a price determination will provide greater flexibility to the Commission to formally monitor the R-FiT, including the extent and incidence of voluntary R-FiT price offerings above any prescribed amount set by the Commission.

If the Commission does not make a price determination, its monitoring powers will be significantly reduced; if it does make a price determination (even one setting the minimum R-FiT value at zero), the ESC Act permits the Commission to invoke complementary price monitoring arrangements.

Using those powers will provide the Commission with evidence as to the incidence and extent of such voluntary payments and will assist in any future decision as to whether or not to make an R-FiT price determination

4.2 The value of the minimum R-FiT under the proposed price determination

Having decided that it will make an R-FiT price determination, the next matter for the Commission is to determine the level at which the R-FiT will be set. As was shown earlier, the level of the R-FiT is also a matter of uncertainty – and one which presents both up and down-side risks.

4.2.1 Factors given weight by the Commission

In determining the R-FiT value, the following matters have been given particular weight by the Commission:

- ▲ The fair and reasonable value to electricity retailers of electricity fed into the network for 2014 has been estimated by the Commission (relying on expert advice provided by AAC) to fall within a range of 7.6 to 13.4c/kWh.
- ▲ The risk that, if the Commission's determination of the *minimum* R-FiT value is higher than the fair and reasonable value to them, electricity retailers may increase Standing Offer and Market Offer prices to subsidise the R-FiT, to the detriment of all South Australian electricity consumers and/ or stop marketing to PV customers (if the market is not sufficiently competitive). In both cases, this is contrary to the Commission's objectives of promoting competition and efficiency and, most importantly, promoting the long-term interests of consumers.
- ▲ The risk that, if the Commission's determination of the *minimum* R-FiT value is lower than the fair and reasonable value to electricity retailers, then if the market for PV customers is not sufficiently competitive PV customers will not realise that value.

Having regard to those risks, and recognising that, in principle, if markets are sufficiently competitive they are better than regulators at price discovery, the Commission has also considered the extent to which the market for PV customers is competitive and could therefore be relied upon to set an appropriate R-FiT value.

While accepting that, for the purposes of this Draft Price Determination, the South Australian small customer retail electricity market is reasonably competitive, the Commission notes that there is significant uncertainty as to how competitive the market for PV customers would be if the R-FiT was set below the fair and reasonable value to electricity retailers (or at zero). Noting this, to assist it in forming a forward-looking view of the potential for the market to deliver fair and reasonable R-FiT value for the future, the Commission has reviewed R-FiT equivalent arrangements and market outcomes in other jurisdictions.

Through its review, the Commission has concluded that there is sufficient uncertainty at this time to conclude that there is a risk that the South Australian retail market will not price feed-in energy at an appropriate level for all PV customers. In the Commission's view, this risk is such as to warrant the Commission continuing to set a prescribed R-FiT amount supported by a price monitoring regime.

Having regard to these matters, the Commission's overall position is that, while it accepts that markets, if sufficiently competitive, will generally find efficient prices more readily than can a regulator, at this stage it would be premature to cease determining the R-FiT value.

4.2.2 *Setting a minimum R-FiT*

Trading-off the fact that the Commission does not consider full deregulation appropriate at this time and the fact that the Commission accepts, in principle, that regulators setting prices is a second-best outcome if markets are sufficiently competitive, the Commission considers that setting a *minimum* R-FiT prescribed value at the lower bound of a reasonable range of expected 2014 R-FiT values is appropriate.

This is because a *minimum* R-FiT set in that way will provide sufficient headroom for electricity retailers to compete above that floor and thus for the market to determine the efficient price.

Based on the advice of AAC, the Commission has determined that the reasonable range of expected 2014 R-FiT values is between 7.6c/kWh and 13.4 c/kWh. Based on the principle outlined above, the Commission proposes to adopt 7.6c/kWh as the *minimum* R-FiT for 2014 under a one-year price determination.

The Commission also proposes to implement a formal price monitoring regime under the ESC Act to gain evidence of the extent, if any, to which electricity retailers might be paying amounts in excess of that value during 2014 (as discussed further below).

Based, in part, on the Commission’s findings through the price monitoring regime, it will reconsider its regulatory position through a subsequent review process in late 2014. As competition ought to be a dynamic process, the Commission would expect to see R-FiT offerings that reflect value to electricity retailers while, at the same time, not seeing any diminution in PV customers' ability to access electricity retail prices relative to those available to non PV customers (recognising at least some degree of additional cost to serve).

This represents a cautious and measured approach by the Commission, taking into account the broad range of factors set out in the Electricity and ESC Acts.

Recognising that the R-FiT is intended, under the Electricity Act, to be a minimum payment (with the anticipation that retailers will provide higher payments as a result of competitive forces) the Commission will set the prescribed amount at 7.6c/kWh (the lower bound end of the reasonable range of estimated fair and reasonable R-FiT values) with the expectation that, if sufficient, competition will drive electricity retailers to pay higher amounts.

4.3 Price monitoring

Price monitoring is a light-handed form of price regulation whereby the regulator observes certain aspects of the regulated business, such as prices and/or costs.

In this instance, having regard to the purposes proposed for the complementary price-monitoring regime, the Commission proposes that it will rely generally on publicly available data for this element of the price determination, noting, however, that it may seek other information from electricity retailers if required.

The key matters which the Commission’s price-monitoring will focus on are as set out in Table 4.1.

Table 4-1: Proposed indicators

INDICATORS	COMMENT
Innovation in solar offers	Examining whether PV customers have a good range of offers to choose from
Number of solar offers	Examining whether PV customers have a good range of offers to choose from

Number of retailers selling to PV customers	Examining whether PV customers have a good range of offers to choose from, and thereby putting pressure on retailers to compete for market share through competitive and innovative offers
Terms and conditions of solar offers	Examining whether there are any impediments to customers switching between contracts and/or retailers (e.g. exit fees and terms on contract)
Level and accessibility of reliable information provided by retailers	Examining whether consumers have access to consistent and reliable information through different information sources to facilitate informed decision making (e.g. pricing fact sheets or retailers' websites)
Customer switching rates: PV and non- PV	Examining the rate of PV customer switching from one electricity retailer to another, with the rate of non- PV customer switching

5. NEXT STEPS

The Commission invites submissions from all members of the community on this Draft Price Determination, with submissions due on or before **Friday 1 November 2013**. All submissions will be placed on the Commission's website, subject to any confidential material being excluded.

The Commission intends to release a Final Decision in early December 2013. If the Commission elects to make a Price Determination (whether or not on the same terms as this Draft Price Determination) as a result of its Final Decision, then that determination will take effect from 1 January 2014.



The Essential Services Commission of South Australia

Level 8, 50 Pirie Street Adelaide SA 5000

GPO Box 2605 Adelaide SA 5001

T 08 8463 4444 | F 08 8463 4449

E escosa@escosa.sa.gov.au | W www.escosa.sa.gov.au

