

## National Energy Retail Law (NERL) Review - Final Decision on Methodology for Review - March 2014

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

A copy of the Final Decision paper is available at:  
<http://www.escosa.sa.gov.au/projects/204/nerl-review.aspx>.

### WHY RELEASE THIS PAPER NOW?

The Final Decision confirms a clear methodology, sets a baseline for the review and explains the key factors that will be monitored in the period leading up to the review.

In accordance with the legislative requirements the Commission will not commence the review until February 2015; however, it is important that:

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

### WHAT IS THE NERL?

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

### WHAT IS THE COVERAGE OF THE REVIEW?

The terms of reference for the Review are contained in section 30 of the National Energy Retail Law (South Australia) Act 2011.

Under the terms of reference, the Commission is required to:

- make a finding as to whether overall the operation of the NERL has furthered the interests of South Australian energy consumers;
- assess whether the NERL has resulted in increased efficiencies; and
- assess whether the NERL has adversely affected customer protection in pursuit of national consistency.

In undertaking the review, the Commission will utilise public sources of data and information held by other regulators as much as possible, only requesting information from retailers and distributors where information necessary for the review is not otherwise available.

The Commission will review trends in customer protection indicators against a set of external indicators, as well as the interaction of customer protection indicators with each other (e.g., comparing trends in disconnection rates with trends in the number of hardship customers).

A broad economic interpretation of the term "efficiency" will be applied in the review. This means that in addition to assessing any impact on energy company operating costs, the review will also consider other efficiency aspects, such as the level of competitiveness of the South Australian energy retail market.

The performance of the customer protection regulatory framework will be assessed within the context of the market it operates within at the time of the review – a competitive market with deregulated energy retail prices.

Assessing retail energy pricing outcomes is integral to the NERL Review as an explanatory variable. For example, if there were an increase in the number of hardship customers and disconnections during a period of price decreases then it may raise concerns about the customer protection framework.

Assessing energy price movements is also important in assessing the effective competitiveness of the South Australian energy retail market. Competition is not an end in itself but, where effective, is most likely to deliver prices that are in the long term interests of consumers.

The Final Decision contains a template for retailers to provide the Commission with a limited set of relevant data, as well as advice from retailers and distributors on actions taken and savings associated with the (progressive) adoption of NECF nationally.

## REPORTING TIMETABLE

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

Advice from members of the community on the operation of the NERL in South Australia will be important to the success of the NERL Review. The Commission will invite public submissions early in 2015, in addition to inviting submissions on the draft NERL Review report in late 2015. Input from members of the community at any time on matters associated with the Terms of Reference is welcomed.

## FURTHER INFORMATION

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

- Mike Philipson, Principal Advisor

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