

15 July 2021

Retailer Energy Productivity Scheme: Reporting Requirements Review
Essential Services Commission
GPO Box 2605 ADELAIDE SA 5001
Sent electronically to: reps@escosa.sa.gov.au

Attention: Simon Vine

Dear Sir,

Retailer Energy Productivity Scheme: Reporting Requirements.

The Australian Energy Council (AEC) welcomes the consultation opportunity in the Essential Services Commission (ESC) review of the Reporting Requirements for the Retailer Energy Productivity Scheme (REPS).

The AEC is the industry body representing 22 electricity and downstream natural gas businesses operating in the competitive wholesale and retail energy markets. These businesses collectively generate the overwhelming majority of electricity in Australia and sell gas and electricity to over 10 million homes and businesses.

Industry submissions on both the former Residential Energy Efficiency Scheme (REES) and its successor REPS have compared them to the Victoria Energy Upgrades program (VEU) certificate based scheme. In this context industry has consistently concluded that certificate based schemes provide lower cost outcomes and greater ease of regulatory oversight. Industry presumes that the decision to ignore national best practice and proceed with a stand alone type REPS scheme was based upon advice within Government that REPS costs were lower and the scheme had greater ease of administration, and that this assessment would be based upon an understanding of the general costs of activities. If that understanding was not sought, then we are concerned that costs have not been approximated correctly and that the new information being sought represents the first insights the Department has into the costs of activities. This apparent gathering of evidence after the decision would not seem prudent in policy making.

Broadly speaking competitive markets, and prudent procurement, require businesses to effectively test the market for cost competitive solutions. The market for REPS is in its early stages of development, and the procurement decisions by businesses could have serious consequences for both them and the consumers of REPS services over the long term. The oversimplification of competition to price ignores broader governance principles applied by businesses in the assessing of providers. Whilst the Department might be curious as to what these internal processes might be, they could look to their own procurement guidelines to understand the principles. For example the lowest tender may not be accepted, and often reliability, consistency, terms of trade and other less tangible factors will inform the choice of suppliers.

By comparison, even regulated businesses such as South Australia Power Networks (SAPN), who are not exposed to the review and disciplines of competition and instead are reviewed and disciplined by regulation, are not required to provide such a granularity of information about

suppliers. In the absence of either an observable market concentration, or of barriers (other than the structural barrier of REPS not being a certificate scheme) to entry being apparent, the information being sought in the proposal appears a significant overreach. The further proposal that industry provide information to the ESC on services that it does or may not even procure is an extension of this regulatory overreach that we have not seen before.

Contractual arrangements between sellers and buyers are generally made on a commercial in confidence basis, and any contravention of this in a readily identifiable or deductible form (given the number of retailers and suppliers) may prove a problem. Contractual arrangements will be for services for which there is both a demand and which competition will ensure are provided at an efficient cost. It has been suggested to industry that reporting on the costs of each type of activity is required for the regulator to understand the general costs of activities in the market, however it seems unreasonable to request activity costs for those activities that a retailer doesn't deliver. We assume, as noted in our introductory remarks, that these activity costs must have been approximated before the activities were approved.

We acknowledge that the ESC cannot ignore the direction it has been given, however poorly thought through we may assess the approach of that direction to be. However there is in our view no demonstrable need nor case made to further publish commercial information in the public domain. Whilst it is not clear what the detriment to consumer outcome being addressed here is we would also note that the unintended consequence that service providers may in fact increase their pricing in line with any published results is plausible. Notwithstanding our opposition, if this understanding is still required, then either of ESCOSA or the Department could determine these costs readily by directly approaching approved service providers. This would simplify arrangements for approximating costs and would not increase the compliance obligations onto every retailer.

We note the decision by the ESC to use data provided by each of SAPN, Australian Gas Networks (AGN) and the Australian Energy Market Operator (AEMO) to determine the retailer obligations under the REPS. This change will reduce compliance costs for retailers and is welcomed.

Any questions about this submission should be addressed to David Markham by email to david.markham@energycouncil.com.au or by telephone on (03) 9205 3107.

Yours sincerely,

David Markham
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Australian Energy Council