

25 October 2024

Department for Energy and Mining  
GPO Box 320  
Adelaide SA 5001

Submitted via email: [dem.consultation@sa.gov.au](mailto:dem.consultation@sa.gov.au)

## RE: SA NERL Regulations review

### About Shell Energy and Powershop in Australia

Shell Energy delivers business energy solutions and innovation across a portfolio of electricity, gas, environmental products and energy productivity for commercial and industrial customers, while our residential energy retailing business Powershop, acquired in 2022, serves households and small business customers in Australia.

As one of the largest electricity providers to commercial and industrial businesses in Australia,<sup>1</sup> Shell Energy offers integrated solutions and market-leading<sup>2</sup> customer satisfaction, built on industry expertise and personalised service. Our generation assets include 662 megawatts of gas-fired peaking power stations in Western Australia and Queensland, to provide back-up for rising levels of renewable energy, and the 120-megawatt Gangarri solar energy development in Queensland. Shell Energy also operates the 60MW Riverina Storage System 1 in NSW.

Shell Energy Australia Pty Ltd and its subsidiaries trade as Shell Energy, while Powershop Australia Pty Ltd trades as Powershop. Further information about Shell Energy and our operations can be found on our website [here](#).

### General Comments

Powershop welcomes the opportunity to respond to the Department for Energy and Mining's (DEM) review of the *National Energy Retail Law (Local Provisions) Regulations 2013*. We consider that it is important to ensure that our energy legal frameworks remain relevant and support customer protections while not hindering the efficient and effective operation of a competitive retail market. Given it has been a decade since South Australia adopted the National Energy Customer Framework (NECF) this review is timely and Powershop supports the removal of any red tape that creates undue regulatory burden on retail businesses and in turn puts pressure on prices for South Australian small customers.

Powershop largely supports the policy positions outlined by DEM in its consultation paper. However, there are several Regulations, which we have outlined below, that need further consideration by DEM. **Appendix A** captures our remaining comments regarding the consultation paper.

### Regulation 5 – Consumption thresholds

While Powershop supports harmonisation of the NECF across NEM jurisdictions, we agree with DEM that the **160MWh per annum threshold should be retained**. Over the past decade, with the adoption of the NECF, retailers have invested in their business operations and embedded the necessary processes to comply with the regulatory requirements for the different customer classes.

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<sup>1</sup> By load, based on Shell Energy analysis of publicly available data.

<sup>2</sup> Utility Market Intelligence (UMI) survey of large commercial and industrial electricity customers of major electricity retailers, including ERM Power (now known as Shell Energy) by independent research company NTF Group in 2011-2021.

Our Shell Energy business specialises in business energy with the customer base broadly comprising small- to medium-sized enterprise multi-site customers and commercial and industrial customers. Shell Energy has undertaken significant investment to ensure that we understand, and can provide, the services that this class of business customer requires. It is important to recognise that these customers have a different level of maturity in how they engage with a retailer than small energy customers. Energy is seen as another input cost treated like a tax invoice and often contracted via sophisticated contract negotiations process using third party brokers, direct submissions, or tender requirements. Often the processes include legal negotiations around pricing, contract terms and conditions. As such, the customer protections in the NECF, while essential for small energy customers, are not relevant for customers who meet the upper consumption threshold.

Any shift away from the current upper customer threshold is a significant change and may have an impact on customers in South Australia. There is no cost benefit analysis or regulatory impact statement on the options outlined in the consultation paper, nor has DEM identified a market failure that would require any changes. We would strongly encourage DEM to do further work around what the impact would be on the energy retail market in South Australia before any consideration is given to moving away from an upper threshold of 160MWh per annum.

### Regulation 6A - Tariff structures

Powershop does not support DEM's proposal to amend Regulation 6A by prescribing:

- for residential customers – a time of use tariff structure based on the residential time of use network tariff structure published by SA Power Networks and a single-rate tariff structure.
- for small business customers – a small business time of use tariff structure based on a time of use network tariff structure published by SA Power Networks and a single-rate tariff structure.

Rather, Powershop supports **omitting Regulation 6A altogether and no longer prescribing tariff structures** in rules or regulations. Both retailers and distribution networks have roles and responsibilities for a customer's pricing experience especially where this relates to the underlying tariff. Generally, network tariffs typically represent the largest component of retail tariffs and to sufficiently recoup costs, retailers will rightly attempt to structure their tariffs to match the underlying network tariff.

It is imperative that any changes to rules or regulations do not exacerbate a mismatch between what a distributor charges a retailer, and what a retailer can charge a customer. Any misalignment between retail and network tariffs can mean retailers are unable to recover costs for the duration of the misalignment. With network tariffs typically representing the greatest component of retail tariffs, the impact of this could be significant. If retailers are required to implement or keep a prescribed retail tariff for a customer, it is essential that the underlying network tariff must reflect this as well or retailers will be unreasonably required to absorb costs associated with tariff mismatch, which will inevitably be passed on to customers via a risk premium.

Complex network tariffs add to the difficulty of educating customers on already complex tariff and pricing structures and likely increase customer confusion and reduce engagement.

Powershop notes that DEM will consider the work currently being undertaken by the Australian Energy Market Commission to progress its Accelerating Smart Meter Deployment Rule Change.<sup>3</sup> A more customer-centric approach would be for opt-in/opt-out tariff reassignment, following the example of Victoria's Advanced Metering Infrastructure (Retail and Network Tariffs) Order.<sup>4</sup> Powershop proposes that distribution networks should have a flat tariff available for customers that have a smart meter installed. Further, distributors should not be permitted to change a customer tariff or tariff structure within a specific period of time unless at the customer's request (opt in). Distributors must assign or reassign the network tariff to a flat tariff on the request of a retailer (driven by the customer) and the timeframe to fulfil this assignment request should be minimal (opt out).

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<sup>3</sup> AEMC, [Accelerating Smart Meter Deployment](#) rule change

<sup>4</sup> [Advanced Metering Infrastructure \(AMI Tariffs\) Order \[2013\]](#)

## Regulation 7 - Minimum customer service standards

Powershop recommends that **Regulation 7 be omitted**.

DEM notes that some customers could be adversely affected by removing this Regulation, however Powershop disagrees with this assumption. Retailers should be responsive to small customers, who place high value on their time. However, it has not been demonstrated that there would be additional consumer protection or that the cost would outweigh the benefit from prescribed targets of 'responding to 95 per cent of written enquiries' and 'answering 85 per cent of telephone calls within 30 seconds between 8am and 6pm' compared to small customers in other NECF jurisdictions who don't have these targets. Any dissatisfaction with the quality of service will result in market churn.

Given the minimum customer service standards were a feature of protection in South Australia pre-NECF, the proposal is outdated, redundant and somewhat duplicative to the NECF and Australian Energy Regulator Performance Reporting Guidelines<sup>5</sup>. There are also a number of difficulties in reporting against these targets which act more as an arbitrary blunt tool to assess retailer performance than a true customer protection. For example, retailers do not necessarily have the ability to split out call centre statistics by state, so are reporting at a national level to the Australian Energy Regulator. Powershop considers it is more imperative that customers receive quality of service to enable one-call resolutions rather than enforcing strict average handling times. This may impact average wait time over the year, but delivers a better customer experience.

## Regulation 8 - Extreme weather events

Regulation 8 defines an extreme weather event as a heatwave, where the average of the minimum and maximum temperature for each day equals or exceeds 28° Celsius over a three-day period.<sup>6</sup> Powershop supports the protection for small customers against disconnection for non-payment of a bill during a heatwave and agrees that this protection should be retained. However, the current **definition should be amended** to align with more recent information around what is considered a heatwave. For example, SA Health describes a heatwave as 'more than just 'hotter than usual' weather' and notes that 35° Celsius is likely to increase the likelihood of heat related conditions.<sup>7</sup>

## Regulation 11 - Prepayment meter systems

DEM proposes to retain Regulation 11 which permits the use of prepayment meter systems for small customers in South Australia. While DEM recognises that the use of prepayment meters for grid-connected customers has not been taken up in South Australia, DEM proposes to retain Regulation 11. Given it has been a decade since this Regulation was made and no prepayment meters have been installed, Powershop considers that **Regulation 11 should be omitted** due to it being obsolete.

Powershop thanks DEM for the opportunity to provide comment on this matter. If you would like to discuss any part of this submission, please contact Carmel Forbes at [REDACTED]

Yours sincerely

[signed]

Libby Hawker

General Manager - Regulatory Affairs and Compliance

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<sup>5</sup> [AER Performance Reporting Procedures and Guidelines Version 4 \[28 August 2024\]](#) requires retailers to report the number of calls forwarded to an operator that are answered within 30 seconds; average times before an operator answers a call; and the number and percentage of calls abandoned before being answered by an operator.

<sup>6</sup> Regulation 8, *National Energy Retail Law (Local Provisions) Regulations 2013*

<sup>7</sup> Government of South Australia - SA Health website, [What is a heatwave? | SA Health](#)

## Appendix A

Regulation	DEM Policy Proposal	Powershop comments
Regulation 3 – Interpretation	Retain in its current form	Support
Regulation 4 – Application of NERL (SA) to Cockburn	Retain in its current form	Support
Regulation 5 – Consumption thresholds	Retain the current upper consumption threshold for small customers	Support the retention of the upper consumption threshold of 160Mwh per annum
Regulation 5A – Natural gas equivalent	Retain in its current form	Support
Regulation 6 – Local area retailers	Re-make nominating AGL (for electricity) and Origin (for natural gas and natural gas equivalents)	Support
Regulation 6A – Tariff structures	Amend by prescribing: <ul style="list-style-type: none"> <li>• for residential customers – a time of use tariff structure based on the residential time of use network tariff structure published by SA Power Networks and a single rate tariff structure.</li> <li>• for small business customers – a small business time of use tariff structure based on a time of use network tariff structure published by SA Power Networks and a single rate tariff structure</li> </ul>	Omit Regulation 6A altogether and no longer prescribe tariff structures
Regulation 7 – Minimum customer service standards	Retain in its current form	Omit Regulation 7
Regulation 8 – Extreme weather events	Retain in its current form	Retain but amend definition
Regulation 9 – Reenergisation after deenergisation for non-payment	Retain in its current form	Support
Regulation 10 – Immunity in relation to electricity supply failure	Retain in its current form	Support
Regulation 11 – Prepayment meter systems	Retain in its current form	Omit Regulation 11
Regulation 12 – Price comparator	Retain in its current form	Support
Regulation 13 – Gas RoLR procedures	Discontinue as transitional arrangement	Support
Regulation 14(a) – Small market offer customers	Retain in its current form	Support

Regulation	DEM Policy Proposal	Powershop comments
Regulation 14(b) and (d) - Notice of planned interruptions	Discontinue this derogation by not re-making regulation 14(b) and (d) which means SAPN would need to provide customers with four business days' notice of any planned interruption, no matter its duration.	Support
Regulation 14(c) - Liability cap for electricity distributor	Any change to this regulation will be guided by the outcome of the review of regulation 10	N/A
Regulation 15 – Variation of National Gas Rules	Discontinue as transitional arrangement	Support
Regulation 16 – Standing offers	Discontinue as transitional arrangement	Support