

Consultation on the regulation of On-site Power Supply Arrangements

Consultation paper submission form

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Question number	Section reference in Consultation Paper	Questions for consultation	Your comments
1.	<p>Section 4.1. Customer protections suitable for OPISA customers</p>	<p>What types of information should be required to be disclosed to customers in their OPS contract, and what subset of this information should be set out in a clear disclosure statement given to customers before they sign a contract?</p>	<p>The ECP supports the adoption of 4.1 and 4.2 in full. In addition, ECP suggest that the following should be included in:</p> <p><u>Disclosure Statement</u></p> <ul style="list-style-type: none"> ● Business registration and two methods of contact. ● Provide details of the Energy and Water Ombudsman and details of the applicable Australian Consumer Law. ● Two methods of contact for complaints and dispute resolution ● Fees or tariffs for the current financial year. ● For all services entry and exit fees, servicing fees, schedule of tariff or fee price reviews. ● For membership-based or subscription-based services early exit rules, period of notice and cancellation fees. ● Availability of family violence policies, financial hardship policies and life support policies. ● Access to property for installation, maintenance and upkeep.

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			<ul style="list-style-type: none"> ● Responsibility for, and cost of care, and maintenance of OPS system. ● Term (i.e. length) of the agreement. ● Data privacy and use of data. ● Parties who have control of output. ● Termination, exit and hardware removal processes. ● Distinction that this service is auxiliary to Synergy/Horizon power supply and statement if the service provides backup power. ● Responsibilities for the OPS Service Provider, Synergy/Horizon and Western Power. <p>Additional terms not identified in 4.2 that should be included in the OPS contract include:</p> <ul style="list-style-type: none"> ● In the case of the OPS system, the size of the solar PV system (kW) and inverter (kW), and/or battery (kW and kWh capacity) ● Summary of data provided, process and cost to request data. ● Companies and/or individuals that the consumers energy data will be

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			<p>shared with, either identified or unidentified.</p> <ul style="list-style-type: none"> ● Billing format ● Remote control of the system ● Contact details for fault report and/or repair, and the party responsible for payment. <p>Exiting a membership-based OPSA can be challenging due to the unclear exit processes. We suggest that the exit process be clearly outlined in the disclosure statement, with two forms of contact provided for cancelling memberships or services. Furthermore, it is advisable to establish a clear timeframe for exiting the agreement and the responsibilities of both parties to ensure the cancellation.</p> <p>We feel that strong disclosure statements are ultimately beneficial to both the consumer and the OPSA supplier. Comprehensive disclosure statements may help customers avoid financial hardship and associated programs, as they are able to assess fully the costs of the OPSA and choose appropriate energy services.</p>
2.		The draft obligations provide residential OPSA customers with hardship and/or family violence and some life support protections from their OPS service provider. Noting OPSA customers continue to have a contract with a licensed retailer	The ECP supports hardship and family violence protections and believes that it is crucial to establish these policies in OPS service providers.

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		<p>and access to grid-supplied electricity, are these protections necessary? Why/why not?</p>	<p>The ECP notes that customers under OPISA deserve the same rights as customers of established energy companies. Additionally, OPISA customers face some unique risks of disconnection including:</p> <ul style="list-style-type: none"> ● Membership fees are charged on a monthly basis regardless of usage; therefore customers are unable to reduce their bills through energy efficiency. ● The extended duration of contracts, up to 10 years, means that any disconnection or exit from the agreement could have lasting repercussions for an extended period of time. ● Re-entry fees may apply in the event of disconnection, which could potentially hinder re-entry into the multiyear OPISA. <p>ECP supports obligations as detailed in Section 4.1 to provide assistance to people experiencing hardship and family violence, and also considers inclusion of:</p> <ul style="list-style-type: none"> ● Assistance in transferring account names or details without incurring fees. ● Flexibility in payment plans and flexibility in incurrance of late fees

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			<ul style="list-style-type: none"> ● Security of personal data and information ● Establishment of a secure method of communication as dictated by the customer, within reason. <p>Regarding ongoing power supply, the ECP acknowledges that Synergy and Horizon provide energy as an essential service and OSP are auxiliary services. Despite the non-essential energy supply, offering accommodations and protections to customers, particularly those experiencing hardship, family violence or who require life support equipment, can enhance financial stability and increase well-being, contributing to an ongoing and mutually beneficial relationship between customer and service provider.</p> <p>The ECP also acknowledges that Synergy/Horizon is the designated energy provider and has greater responsibility to ensure an uninterrupted power supply for life support equipment.</p>
3.		Do you have any other comments on the proposed OPSA code obligations?	Customers procuring batteries, including those through an OPS, often do so with the goal or belief that they will maintain power supply in instances of a power outage. In the case of a customer on life support this may result in false security. OPSA disclosure

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			<p>statements should disclose and detail if the OPS provides independent power in the event of a grid outage and include this information in FAQs.</p> <p>The ECP suggests that it is appropriate to introduce a prohibition of excessive exit fees for all customers. We consider appropriate exit fees to be:</p> <ul style="list-style-type: none"> ● The cost of removing the hardware ● The reasonable administrative costs to arrange removal and close the account. <p>We do not consider recovering income foregone by the customer no longer purchasing the service to be a reasonable exit fee.</p>
4.	Section 5.2. Option 2: Licensing	Is licensing a suitable option to address some of the issues raised in Section 3 – Problem statement, particularly given that it will only cover some OPSA business models?	<p>The current exemption and licensing system (Option 1 and Option 2) is evidently not conducive for OPSA as new services are not being introduced to the market. The Services described, such as Solar Power Purchase Agreements, are of strategic importance and support aims to decarbonise the grid while maintaining stability. The ECP considers Option 2 not a suitable framework for attracting these businesses to participate in the market.</p> <p>Furthermore, the ECP believes that consumer protection is a fundamental right for every energy consumer in OPSAs, and that all consumers</p>

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			deserve equal rights as enjoyed by others.
5.		Are the costs of licensing OPS service providers proportional to the benefits?	<p>Achieving a balance between strict licensing requirements and cost is crucial, as these costs are ultimately passed on to consumers. While rigorous licensing offers the highest level of quality control, it can be financially burdensome and impractical for small or growing businesses.</p> <p>Larger organisations may have the resources to comply with full licensing requirements (Option 2). Implementing a licensing process could be based on reaching certain benchmarks, such as a specific number of customers or revenue threshold. This could help ensure that the cost per customer remains reasonable and potentially even provides added value to consumers. However, any changes to existing licensing procedures or the creation of a new framework would be necessary to safeguard consumer interests.</p>
6.		What transitional arrangements are appropriate to provide for exempt SPPA providers if licensing is the preferred option for the future regulation of OPS service providers?	The ECP advises that all customers of exempt SPPA providers should be included in the new arrangement to ensure customer protection. Given the extended length of SPPA contracts, which can last up to 10 years, it is not acceptable to make these consumers

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			<p>wait until the end of their contract for the new protections to take effect.</p> <p>The ECP recommends that exempt SPPA providers accelerate the implementation of certain licensing obligations, such as hardship programs, participation in the Ombudsman Program, and dispute resolution. These tasks require minimal technology or program development and should be in place within months of a new regulatory framework being introduced. More complex responsibilities, like auditing and reporting, will necessitate a longer timeframe and could be phased in over a period of up to two years.</p>
7.	<p>Section 5.4. Option 4: AES framework – leverage New Energy Technology Customer Code</p>	<p>Is the AES registration framework a suitable option to address some of the issues raised in Section 3 – Problem statement? <i>(relevant to Options 3 and 4)</i></p>	<p>Option 4 (NETCC) offers solutions to most concerns outlined in the Problem Statement. This proposal presents a strategic approach that considers cost and benefits for consumers.</p> <p>However, we believe that pursuing Option 3, which creates a customised code that applies to all services provided by AES and all consumers, would result in better outcomes for consumers. Specifically, the limitations of NETCC in safeguarding customers involved in an OPSA where the hardware is not owned by the consumer do not address the existing issue effectively.</p>

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8.		<p>Are the costs of requiring OPS service providers to register under the AES registration framework proportional to the benefits? <i>(relevant to Options 3 and 4)</i></p>	<p>The ECP advocates for the implementation of a registration framework, particularly favouring Option 3, as beneficial for both consumers and the industry. During the initial stages of the transition to renewable energy, “solar cowboys” engaged in unethical practices, which resulted in a loss of trust and the sale of substandard products. To avoid a repeat of such incidents in OPS, it is imperative to establish a framework and mandate registration under a prescribed code. This will contribute to the creation of a regulated and functional OPSA industry in Western Australia.</p> <p>Considering the potential challenges and costs associated with implementing such a system, both options strike a reasonable balance. Although Option 3 will increase administrative tasks, it offers a clear pathway for OPSA to enter the market and provides the necessary stability and assurance for the industry to flourish in Western Australia. It is reasonable to expect certain costs to be incurred in the process, but these expenses are:</p> <ul style="list-style-type: none"> ● justified by ensuring customer protection; and ● offset by improved industry credibility, which reduces consumer disputes (which incur costs) and attracts more customers, creating a critical mass

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			for the industry and achieving economies of scale.
9.		Do you consider Option 3 (tailored code obligations) or Option 4 (leveraging the NETCC) to be more preferable for applying the AES registration framework to OPS services? Please provide justification for your position.	<p>Option 3 (tailored code obligations) is preferred, as it enhances protections offered under Option 3. The standards offered by NETCC can be embedded in the tailored code obligations (Option 3).</p> <p>Justification for the cost and expense of the code is noted in responses to question 7 and 8.</p>
10.	Section 6. Policy questions under the AES registration framework – Public interest test and public consultation	Do you support use of the 'fast track' route to assess OPS service provider registration applications? Why/why not?	<p>The ECP considers that the 'fast track' criteria proposed may lack sufficient scrutiny to ensure the safety and security of consumers and the credibility of the market.</p> <p>We propose that the 'fast track' route be adjusted to include:</p> <ul style="list-style-type: none"> • A review by the ERA of relevant registers where the business is listed, • An assessment of the company directors through ASIC Director ID • An examination of any complaints against the company (or companies associated with any of its directors) in other jurisdictions.
11.	Section 6. Policy questions under the AES registration	What matters should be included on the ERA's public register about OPS service providers?	The ECP acknowledges that the introduction of new services and business models to the consumer market, such as OSPA, may be met

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	<p>framework – ERA public register</p>		<p>with scepticism and in some instances be perceived as a scam. We recommend that the public register contain comprehensive information to build trust and discourage unethical behaviour from OSPA services. Information that can help achieve this goal is:</p> <ul style="list-style-type: none"> ● Year of establishment of the company ● Trading years ● Past revocations or suspensions of licence, in WA or other Australian states/territories ● Types of AES services offered ● Licence types or exemptions (in the case of the transitional period, or if exemptions continue in some circumstances) ● In the transitional period, date for full adoption of the register ● Two forms of contact for enquiries and complaints ● Area/region the business services (note: this is to assist people using the register to find suitable businesses within their local area, rather than a consumer protection function).

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12.	<p>Section 6. Policy questions under the AES registration framework – Requirement for retail licensees to register</p>	<p>Should licensed electricity retailers be permitted to operate as an OPS service provider under authorisation of their licences (with additional licence conditions), or should they be required to also hold an AES registration as an OPS service provider? Please provide justification for your position.</p>	<p>The ECP does not have a definitive position on the process for current retailers to participate in the OPS market. ECP believes it is essential for consumer rights to be safeguarded uniformly, regardless of the OPS service provider. If existing retailers are allowed to operate under their current licenses the additional licence conditions should match the protections and benefits afforded by the AES registration. Key issues include, but are not limited to:</p> <ul style="list-style-type: none"> ● Rights regarding ownership or transfer of ownership of the OPS system. ● Rights to access to property, surveying and maintenance. ● Control of the system. <p>Companies operating an OPS under an existing licence should disclose their OPS services on the ERA public register.</p>
13.	<p>Section 6. Policy questions under the AES registration framework –Transitional arrangements</p>	<p>What circumstances should be considered for transitional arrangements?</p>	<p>It is in the best interest of consumers and the AES industry that existing service providers do not exit the market or face suspension due to difficulties in meeting the registration requirements.</p> <p>The wide range of industries and developing companies in the OPS market may present challenges for OPS providers to transition, compared</p>

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			<p>to those in more established markets. It is essential to stage a transitional period with the time and resources necessary to navigate these challenges effectively.</p> <p>A transitional arrangement that provides this assurance to OSP, while maximising consumer outcomes is recommended. These recommendations are contained in response to Q14.</p>
14.		<p>What types of obligations on OPS service providers should be subject to transitional arrangements?</p>	<p>In order to ensure a smooth transition, it is necessary to allocate sufficient time to develop the materials and skills required. The ECP recommends that:</p> <ul style="list-style-type: none"> ● Registration with the Energy and Water Ombudsman should take effect immediately and not be subject to transitional arrangements. ● That service providers should inform consumers to changes to their rights and existing services at the earliest possible opportunity. ● It is reasonable that development of policies, documentation and are subject to a transitional period.

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			<p>The ECP again notes that new obligations should extend to customers under existing agreements.</p>
15.	<p>Section 6. Policy questions under the AES registration framework –Interactions between OPSA and embedded networks</p>	<p>Please provide your views on circumstances where OPSA interact with embedded network operations and whether additional regulation is required to ensure consumers are informed about existing contracts with OPS service providers when they buy and/or rent a property.</p>	<p>The ECP acknowledges that embedded networks and OPSA systems play a significant role in reducing carbon emissions and enhancing the resilience of the energy grid. There are potential benefits of utilising both systems and introducing some regulation may enable this to occur more often.</p> <p>The ECP recommends that:</p> <ul style="list-style-type: none"> ● Information regarding embedded networks and OPSA should be disclosed either before or within the sales or lease contract. The details of the operator of the embedded network and/or OPSA should be provided, along with guidance on how to obtain a disclosure statement. ● If an embedded network prohibits residents from using OPSA services this should be disclosed, ● Regulation makes clear which party is responsible for disclosing the presence of an embedded network to a prospective builder, buyer or lessee. There have been reports to ECP members by

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			<p>individuals who have unknowingly moved into or purchased homes within an embedded network.</p> <ul style="list-style-type: none"> • Where both an embedded network and an OPSPA operate, disclosure statements and contracts should clearly outline the responsibilities of each party involved, ensuring a clear distribution of duties and obligations. • Where both an embedded network and an OPSPA operate, bills should contain sufficient information so that customers can see that they are not being charged for duplicate services.
16.	Section 8. Implementation	What is the best means of accessing all relevant audiences for OPS service provider educational materials?	The most comprehensive means to educate future builder/buyer/leasee would be to install a requirement on real estate agents and developers to inform prospective builder/buyer/leasee that the property is covered by ENS arrangements. This information should be provided in standard template (similar to Basic Plan Information & Electricity Price Fact Sheets that offered in the NEM).
17.		What materials and resources would be most suitable to help both OPS service providers and their customers to transition to the AES registration framework?	<p>The ECP suggests the following would be of help to consumers:</p> <ul style="list-style-type: none"> • A glossary of OPS terminology.

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			<ul style="list-style-type: none"> ● A guide on how to tell if you're on an OPSA and what type of OPSA you're on would assist consumers to identify their rights. ● Information about the minimum details that must be disclosed on bills, payment plans and family violence accommodations. ● A fact sheet about the Energy and Water Ombudsman. ● A fact sheet about the registration framework.