16 June 2023

Utilities Commission of the Northern Territory
By email: utilities.commission@nt.gov.au

Dear Colleagues,

Submission: Draft decisions and reasoning for proposed changes to the scope and design of the electricity supply licensing regime

This is a submission on the Commission's draft decision, and we confirm that we agree to this submission being made publicly available on the Commission's website (https://utilicom.nt.gov.au/).

Compliance Quarter provides compliance support for energy businesses operating in Australia (https://www.compliancequarter.com.au/). We assist businesses in commencing operations as energy retailers, in establishing compliance frameworks, and in the review of existing compliance frameworks. We work with some of the world's most innovative energy businesses, and we have a particular interest in applying regulatory frameworks in the transition of the energy sector to one centred around renewable generation.

Compliance Quarter supports the Commission's proposals to take a risk-based approach in determining whether an activity requires a licence or can operate under an exemption. A risk-based approach aligns regulation with the potential impacts of a particular activity and avoids imposing unnecessary obligations and costs.

We support the Commission's statement that '*The application of licences (and exemptions) needs to facilitate entry of emerging technologies and business models (alternative supply models) while still ensuring customers (or prospective customers) of those services are sufficiently protected, and power systems continue to operate safely, securely and reliably*.'

We agree with the Commission's view that *a class exemption should cover the distribution (network) and selling of electricity by EV recharging stations.* This is a correct approach given that EV charging does differ substantially from traditional energy supply.

We understand that the Commission proposes that all energy storage systems be classified as generation and require a generation licence under section 87. We support a standing exemption for small energy storage systems to facilitate uptake, given the potential of such systems to benefit consumers and reduce their overall energy costs. As the costs of energy

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storage systems reduce over time, demand from consumers will increase. A standing exemption will ensure that the inevitable demand can be met.

In relation to power purchase agreements (**PPAs**) for small-scale solar PV systems and battery storage systems owned by persons other than the relevant site owner, Compliance Quarter submits that these operations should be exempt from licensing requirements. Our reasons for this view are:

1. PPAs provide a supplemental service as customers retain their connection to the main electricity grid and the ability to source energy from a licensed retailer. PPAs offer an alternative that customers can choose from, but electricity supply remains accessible even if supply under a PPA is curtailed.

2. Exempting PPAs would align with the approaches taken in other Australian jurisdictions, including New South Wales, Queensland, South Australia, Australian Capital Territory, Tasmania, and Victoria. Consistency across jurisdictions reduces confusion and uncertainty for businesses looking to operate nationally.

3. There are very few risks to consumers from PPAs and they can be managed easily. PPAs can be regulated under appropriate exemption conditions.[i] Such conditions should apply to ensure that PPAs are available to consumers in the Northern Territory. Generic consumer protections under Australian Consumer Law also apply to PPAs.

4. The costs of licensing PPAs outweigh the likely benefits. Licensing imposes fees and compliance costs on providers that may discourage the uptake of emerging technologies and business models. The experience in other jurisdictions clearly indicates a desire by consumers to enter into alternative arrangements such as PPAs.[ii] A licence requirement will be a barrier for those businesses looking to offer PPAs to consumers in the Northern Territory – resulting in fewer options for consumers. Any risks associated with PPAs can be addressed through a condition that providers comply with electrical safety requirements.

It is our submission that the existing small-scale renewable energy (**SSRE**) operations exemption, issued under s 87 of the Act, should be amended to note that the exemption applies to the sale and supply of electricity to occupants of a site by either the owner or operator of a renewable energy generator. We further submit that condition 3 (b) should be amended to require that any excess energy be supplied to a licensed electricity retailer or exempt operator. The existing requirement for there to be a 'contract' may be interpreted to require a separate contract for exported energy, whereas this may already be covered under a supply contract that allows for exported energy.

We do not agree that the existing SSRE should be amended to incorporate non-renewable generation activities. Non-renewable generators pose their own unique set of risks that should be separately considered, particularly around installation and safety. A 2MW solar system is very different from a 2MW diesel generator, including in relation to asphyxiation

and other physical risks.[iii] While there are clearly many situations where, for example, backup diesel generators should be permitted, the exemptions that do apply to their operation and use should tie into appropriate installation and safety regulations.

Compliance Quarter submits that exempting PPAs from licensing requirements adopts an approach proportionate to the risks, reduces barriers to emerging technologies, and aligns with arrangements in other jurisdictions. An exemption with conditions to comply with technical and safety requirements should sufficiently protect customers while enabling them to benefit from PPAs as an alternative source of energy supply.

If you have any questions on the above, please contact me.

Yours faithfully,

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[i] Australian Energy Regulator (2022) Review of consumer protections for future energy services (see https://www.aer.gov.au/retail-markets/guidelines-reviews/review-of-consumer-protections-for-future-energy-services)

[ii] For example, regarding on market, corporate and retail PPAs: Business Renewables Centre-Australia (2021) Corporate Renewable Power Purchase
Agreements: State of the Market 2021 (see https://arena.gov.au/assets/2021/12/corporate-renewable-power-purchase-agreements-in-australia-state-of-the-market.pdf)
Behind the meter PPAs: Sustainability Victoria, Power Purchase Agreement (behind the meter) for business, https://www.sustainability.vic.gov.au/energy-efficiency-and-reducing-emissions/in-a-business/finance-energy-upgrades-in-you-business/power-purchase-agreement-behind-the-meter-for-business

[iii] Griffin SM, Ward MK, Terrell AR, Stewart D. Diesel fumes do kill: a case of fatal carbon monoxide poisoning directly attributed to diesel fuel exhaust with a 10-year retrospective case and literature review*. J Forensic Sci. 2008 Sep;53(5):1206-11. doi: 10.1111/j.1556-4029.2008.00804.x. Epub 2008 Jul 17. PMID: 18643868.