



**Government  
of South Australia**

Department for  
Energy and Mining

Our Ref: D19058902

Susie Black  
Director, Adjudication Branch  
Australian Competition and Consumer Commission  
23 Marcus Clarke Street  
Canberra ACT 2601

Via email: [adjudication@acc.gov.au](mailto:adjudication@acc.gov.au)

Dear Ms Black

The Department for Energy and Mining (DEM) welcomes the opportunity to comment on the ACCC's consultation for the draft New Energy Tech Consumer Code (the draft Code).

DEM supports the draft Code.

DEM notes that the draft Code has been developed by the Behind the Meter Working Group (Working Group) in response to a request from the Council of Australian Governments (COAG) Energy Council.

The Working Group comprises a range of industry bodies to ensure different perspectives have been brought to bear on the intent and content of the draft Code. In particular, the inclusion of Energy Consumers Australia has ensured that the interests of residential and small business customers have been considered.

DEM welcomes the adoption of a Consumer Code supported by all peak industry bodies that sets out and strengthens consumer protections in relation to established and emerging new energy technology. Often, energy technology is complex and multifaceted, and can be a fraught area for consumers to navigate. The Code is a valuable tool to help consumers understand and protect their own interests, whilst making informed decisions.

The COAG Energy Council, in its original request, indicated its clear preference for a voluntary code developed collaboratively by industry to give consumers these outcomes, rather than a regulatory response. DEM does not consider that the proposed Code would diminish competition or otherwise result in adverse conduct. As with the Clean Energy Council's existing Solar Retailer Code of Conduct, which is authorised by the ACCC, this New Energy Tech Code would also be voluntary and seek to provide consumers with choice and an improved customer experience.

Chief Executive

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DEM has a particular interest in the draft Code as it relates to the South Australian government's Home Battery Scheme (HBS). The HBS, administered by DEM, is designed to support the installation of home battery systems on 40,000 South Australian households through \$100 million in State Government subsidies and a \$100 million Clean Energy Finance Corporation investment to provide low interest loans.

DEM has sought to leverage the Government's significant investment in home energy systems to drive good practice and consumer protections. When designing the HBS, the South Australian government considered the CEC Solar Retailer Code of Conduct to be the only existing Code of Conduct in Australia that would meet the HBS consumer protection requirements.

To become a qualified system provider under the HBS, businesses are required (amongst other things) to be an approved Clean Energy Council Solar Retailer, or committed to an acceptable equivalent Code of Conduct that has been authorised by the ACCC.

The Solar Retailer Code of Conduct ensured that the CEC was able to regulate the sales and marketing practices of the CEC Solar Retailers, which was critical to the HBS. The Solar Retailer Code of Conduct also included a requirement that written contracts disclose all assumptions regarding the return on investment or anticipated savings expected to result from the installation of a system, as set out in Clause 2.1.6:

*(j) Full disclosure of all assumptions made in relation to systems and finance offerings including:*

*(i) system design, performance and output assumptions;*

*(ii) financial savings including STC financial incentives, savings relating to return on investment, income and energy prices;*

After reviewing the draft Code, DEM considers that the drafting of Clause 14 could be improved and strengthened to ensure that:

- it supports full transparency when providing information to customers, and
- all necessary information is provided to customers to assist with sound decision-making.

It is suggested that information regarding a return on investment or projected financial savings (or otherwise) should be outlined for all quotes (not only those where the signatory claims a favourable return). To achieve this it is suggested that Clause 14 be amended to remove the qualifier at the beginning of the sentence: "If we make a claim that you are likely to achieve a favourable return on your investment".

DEM also suggests the applicants consider whether the requirements relating to strata title properties in Clause 8n) and Clause 48 could be extended to cover consents from landlords for rental properties.







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The broader focus of the New Energy Tech Consumer Code on energy technologies is expected to enhance consumer protections under the HBS. Having been developed by a coalition of industry bodies, the New Energy Tech Consumer Code also has the potential for wider uptake by new energy technology businesses, strengthening consumer's confidence in their purchase decisions and promoting better consumer outcomes.

As such, DEM looks forward to the adoption of the Code as soon as possible.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Paul Heithersay'.

Paul Heithersay  
**CHIEF EXECUTIVE**

31/5/2019

