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Contact Officer: Chris Vaccaro
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9 April 2025

Richard Sibly
Head of Regulation
SA Power Networks
1 Anzac Highway
KESWICK SA 5001

By email: [REDACTED]

Dear Richard

Re: SA Power Networks' request to determine a jurisdictional scheme

I refer to your request of 13 March 2025 requesting the Australian Energy Regulator (AER) determine the Small Compensation Claim Regime set out in Part 7 of the *National Energy Retail Law (South Australia)*¹ and further prescribed for in section 13A of the *National Energy Retail Law (Local Provisions) Regulations 2013*, is a jurisdictional scheme.

The AER's assessment of SA Power Networks' request, the AER's determination and reasons for decision are set out in the **Attachment**. As set out in the Attachment, we have assessed the Small Compensation Claim Regime against the eligibility criteria for a jurisdictional scheme and are satisfied that it meets these criteria. Therefore, we have determined it to be a jurisdictional scheme

Should you wish to discuss any of the above, please contact Chris Vaccaro on [REDACTED] or [REDACTED].

Yours sincerely

[REDACTED]

Gavin Fox
General Manager
Network Pricing Branch

Sent by email on: 09.04.2025

¹ The *National Energy Retail Law (South Australia)* is contained in the Schedule to the *National Energy Retail Law (South Australia) Act 2011*.

ATTACHMENT

Background

South Australia experienced a series of voltage variations or power surges from October 2022, that damaged household electrical appliances in South Australian households, resulting in costs to households who were not at fault.

In response, the South Australian government has sought to enliven the Small Compensation Claims Regime (the Scheme) set out in Part 7 of the *National Energy Retail Law (South Australia)* (the NERL) to compensate small customers affected by a claimable incident. The Scheme sets out arrangements for a distribution network service provider (DNSP) to pay compensation to small customers (who the DNSP provides customer connection services to), for property damage caused by a claimable incident.

The *National Energy Retail Law (South Australia) (Small Compensation Claims Regime) Proclamation 2025* provided that for the purposes of section 22(2) of the *National Energy Retail Law (South Australia) Act 2011*², 13 March 2025 is fixed as the date from which Part 7 of the NERL will apply in South Australia. The South Australian *National Energy Retail Law (Local Provisions) Regulations 2013* (the Regulations) were amended on 13 March 2025 to include new section 13A which prescribes certain aspects of the small compensation claims regime as it applies to small customers in South Australia.

SA Power Network's request

On 13 March 2025, SA Power Networks submitted a request to the AER to determine that the Scheme set out in Part 7 of the NERL and further prescribed for in section 13A of the Regulations, is a jurisdictional scheme.

We are satisfied that the request from SA Power Networks contains the required information set out in clause 6.18.7A(g) of the National Electricity Rules (NER). The NER requires us to publish a request for a jurisdictional scheme determination as soon as practicable after its receipt.³ We published the request on our website on 19 March 2025.

We received one submission on SA Power Networks' request from Uniting Communities who noted that it did not oppose the scheme itself, and its benefits for consumers, but recommended that the costs are not passed onto consumers. Whilst we have noted the issues raised by Uniting Communities, the AER is required to make its decision having regard to the jurisdictional scheme eligibility criteria set out in the NER. As the issues raised by Uniting Communities do not relate to the AER's assessment of the Scheme against the jurisdictional scheme eligibility criteria, we have not been able to take into account the submission in making our determination.

AER's determination

Under the NER, we must only determine that the Scheme is a jurisdictional scheme if we consider it meets the jurisdictional scheme eligibility criteria set out in clause 6.18.7A(x) of the NER.⁴

² Under section 22(2) of the *National Energy Retail law (South Australia) Act 2011*, Part 7 of the NERL will apply in the jurisdiction of South Australia from a date fixed by proclamation.

³ Clause 6.18.7A(h) of the NER.

⁴ Clauses 6.18.7A(l) and 6.18.7A(n) of the NER.

We have assessed the Scheme against the jurisdictional scheme eligibility criteria and are satisfied that the Scheme meets the jurisdictional scheme eligibility criteria and therefore determine the Scheme to be a jurisdictional scheme.

Table 1 below sets out the AER's assessment of the Scheme against each of the jurisdictional scheme eligibility criteria.

Table 1. AER assessment of small compensation claims regime against jurisdictional scheme eligibility criteria

Eligibility Criteria – clause 6.18.7A(x)	AER Assessment
<p>(1) The jurisdictional scheme obligations⁵ require a DNSP to:</p> <ul style="list-style-type: none"> (i). Pay a person; (ii). Pay into a fund established under an Act of a participating jurisdiction; (iii). Credit against charges payable by a person; or (iv). Reimburse a person, <p>an amount specified in, or determined in accordance with, the jurisdictional scheme obligations;</p>	<p>We are satisfied this criterion is met.</p> <p>The jurisdictional scheme obligations imposed on SA Power Networks are contained in Part 7 of the NERL.⁶ The obligations require SA Power Networks to pay amounts to small customers for a claimable incident. Under the NERL, a 'customer' is a person to whom energy is sold for premises by a retailer; or who proposes to purchase energy for premises from a retailer.⁷ Also, under the NERL a 'small customer' is a customer who is a residential customer, or who is a business customer who consumes energy at business premises below the upper consumption threshold.⁸ The <i>National Electricity Law</i> defines a 'person' to include a body politic or body corporate as well as an individual. Small customers are therefore either individuals or bodies corporate and are considered 'persons'.</p> <p>The Scheme requires SA Power Networks to pay compensation in amounts ranging from \$100 to a maximum of \$15,000 per claim to small customers in respect of claimable incidents.</p>
<p>(2) The jurisdictional scheme obligations are imposed on a DNSP in its capacity as a DNSP;</p>	<p>We are satisfied this criterion is met.</p> <p>The obligations imposed on SA Power Networks under Part 7 of the NERL are imposed on SA Power Networks in its capacity as a DNSP.</p>
<p>(3) The amount referred to in subparagraph (1) is not in the nature of a fine, penalty or incentive payment for the DNSP; and</p>	<p>We are satisfied that this criterion is met.</p> <p>The amount payable by SA Power Networks is</p>

⁵ *Jurisdictional scheme obligation* is defined in the NER as "Obligations imposed on a Distribution Network Service Provider under (a) an Act of a participating jurisdiction or an instrument, direction or order made under an Act of a participating jurisdiction (other than the NEL and the Rules); or (b) a condition of a distribution license or authority held by a Distribution Network Service Provider in a participating jurisdiction."

⁶ Under section 9(1) of the NERL, South Australia is a participating jurisdiction for the purposes of the NERL.

⁷ Section 5(1) of the NERL

⁸ Section 5(2) of the NERL.

Eligibility Criteria – clause 6.18.7A(x)	AER Assessment
	compensation for property damage caused by a claimable incident. ⁹ This is not in the nature of a fine, penalty or incentive payment.
(4) Except as provided in the NER, the DNSP has no right to recover the amount referred to in subparagraph (1) from any person.	We are satisfied this criterion is met. Except as provided in the NER, SA Power Networks has no right to recover the compensation amounts paid to small customers for property damages caused by a claimable incident, from any person.

What this determination means for SA Power Networks and its electricity distribution determinations

The jurisdictional scheme applies to SA Power Networks in its role as a DNSP in South Australia. This determination will take effect from 9 April 2025. From that date, the compensation amounts paid to small customers will be passed on to customers as jurisdictional scheme amounts through SA Power Networks annual pricing proposals.

From year to year, adjustments to correct for any over- or under-recovery as part of those estimates will be made to ensure that only actual contributions are recovered.

⁹ The definition of 'claimable incident' is prescribed in section 13A of the Regulations.