

GRANT ACQUITTAL REPORT

This Report will be provided to the Board

PROJECT OVERVIEW			
Grant no	AP7768	Date of report	<u>20/11/ 2015</u>
Grant recipient	Total Environment Centre		
Project title	Amicus curiae application to Federal Court in SAPN v AER in support of solar consumers		
PROJECT OUTCOMES: <i>outline the project outcomes during the reporting period</i>			
Describe the intended project outcome/s, and whether they were met. Where the outcomes were different from those proposed in the grant application, explain the			
<p><i>Intended outcomes</i></p> <ol style="list-style-type: none"> 1. South Australia's ~175,000 solar households will benefit by no solar tariff being introduced in SA by SAPN for 2015-16 or thereafter. 2. The Federal Court will effectively send a message to other networks that they cannot discriminate against Australia's 1.4 million solar households. 3. SAPN and other networks will avoid long term reputational damage among solar consumers & will instead focus on introducing non-technology discriminatory cost reflective network tariffs that solar households are able to take advantage of. <p><i>Actual outcomes</i></p> <p>At the time of writing the judgement has not been published. However, TEC's submissions were accepted by Mansfield J. While supporting the AER decision they clearly made a different case. We are confident of the AER's rejection of SAPN's proposed solar tariff being upheld by the Court. Meanwhile TEC received widespread media coverage (print, TV, radio and online) on the first day of the hearing, emphasising the reputational damage issue to SAPN and sending a message to other networks about the risks of attempting to introduce a tariff which discriminates against solar customers.</p>			
PROJECT OUTPUTS: <i>list the main outputs during the reporting period</i>			
Outline the project outputs. Where the outputs were different from those proposed in the grant application, explain the reasons for the variation.			
<p>Output: TEC application to Federal Court for amicus curiae status in SAPN V AER.</p> <p>Variation 1: ECA approved an additional \$2000 for a barrister to help prepare our submissions and to support them in court (although this was not required on the day thanks to a deal with SAPN whereby they would not oppose our application in return for TEC relying only on its written submissions.)</p> <p>Variation 2: ECA approved TEC reallocating ~\$750 of its grant allocated to staff costs for travel expenses to attend the hearings and engage with local media.</p>			

Energy Consumers Australia

Please provide an assessment of the project's effectiveness - did the project meet its key success indicators?

The project has been highly effective in several respects:

- It was the first time a consumer group had applied to join litigation to protect South Australia's 185,000 and Australia's 1.4 million solar households.
- TEC's amicus curiae application was accepted by Mansfield J as the first order of business on the first day of the hearing.
- If TEC's submissions are persuasive they will clarify the interpretation of Clause 6.18.4(a)(3) of the NER as prohibiting technology-specific discrimination, which in our view the AER's decision and evidence did not adequately do.
- Widespread media coverage on the first day of the hearing brought a much higher level of public awareness of the issue at stake in the state with the highest PV penetration.
- All this was achieved without exposing TEC or ECA to costs orders.

Do you have any other comments on the project?

TEC would like to thank ECA for its invaluable ongoing engagement and support in relation to this litigation. This is an important test case, success in which will send a clear message to other networks not to consider introducing discriminatory tariffs.

We also appreciate the ongoing assistance of Clayton Utz at a greatly reduced rate, in view of their support for our position.

Please note that this acquittal is being submitted prior to judgement being delivered in the case as there is no telling how long that will take. However, TEC is committed to putting out a media release and writing an op ed for the energy media when the judgement is delivered.

Also note that Solar Citizens could not be recognised as a co-applicant but was included in our submission.

Do you have any comments/feedback on the Panel's procedures?

The process ECA went through before approving this grant, including obtaining independent legal advice and involving local SA energy consumer advocates, was unique but appropriate under the circumstances.

Please list any attachments to the report (reports, submissions, media releases, etc) - please identify any that should not be posted on the website.

TEC submissions (with redactions).

Article from TEC newsletter November 2015.

Screenshot from *Adelaide Advertiser* 16/11/15.

Solar Citizens MR, 16 November 2015.

Other media stories included:

<http://www.abc.net.au/news/2015-11-16/court-hears-challenge-on-sa-solar-penalty-tariff-proposal/6944870>

<http://www.businessspectator.com.au/article/2015/11/16/policy-politics/david-vs-goliath-monopoly-utility>

ABC Adelaide [news:http://iview.abc.net.au/programs/abc-news-sa/NC1535S274S00#playing](http://iview.abc.net.au/programs/abc-news-sa/NC1535S274S00#playing) (story starts around 29:57 for 1:40).

<http://reneweconomy.com.au/2015/consumer-groups-join-court-fight-against-utility-over-solar->

PROJECT EXPENDITURE

The Funding Agreement (clause 3.3) requires you to provide a detailed breakdown of the costs and expenses associated with the grant - attach that to this report.