

AEMC  
PO Box A2449  
Sydney South NSW 1235.

Submitted online to <https://www.aemc.gov.au/contact-us/lodge-submission>

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### **Review of the regulatory frameworks for stand-alone power systems (SAPS)**

The Australian Energy Council (the Energy Council) welcomes the opportunity to make a submission to the review of the regulatory frameworks for stand-alone power systems (SAPS).

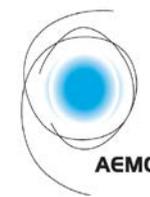
The Energy Council is the industry body representing 21 electricity and downstream natural gas businesses operating in the competitive wholesale and retail energy markets. These businesses collectively generate the overwhelming majority of electricity in Australia and sell gas and electricity to over 10 million homes and businesses.

The attached document provides responses to a number of the matters raised by the AEMC in its review.

Any questions about our submission should be addressed to David Markham, Corporate Affairs by email to [david.markham@energycouncil.com.au](mailto:david.markham@energycouncil.com.au) or by telephone on (03) 9205 3107.

Yours sincerely,

**David Markham**  
Corporate Affairs  
Australian Energy Council



## Attachment 1 Stakeholder feedback template

The template below has been developed to enable stakeholders to provide their feedback on the questions posed in this paper and any other issues that they would like to provide feedback on. The AEMC encourages stakeholders to use this template to assist it to consider the views expressed by stakeholders on each issue. Stakeholders should not feel obliged to answer each question, but rather address those issues of particular interest or concern. Further context for the questions can be found in the consultation paper.

Organisation: Australian Energy Council

Contact name: David Markham

Contact details (email / phone): [david.markham@energycouncil.com.au](mailto:david.markham@energycouncil.com.au) 0419 523 351

Questions		Feedback
<b>Question 1 – Jurisdictional opt-in provisions</b>		
(a)	Should the arrangements supporting the transition to off-grid supply include an explicit mechanism to enable jurisdictions to determine when the national framework for SAPS would come into effect for DNSPs in their jurisdiction?	Yes
(b)	Should this mechanism provide jurisdictions with the flexibility to opt-in to the national framework on a more bespoke basis e.g. on a regional or distribution area basis, rather than state or territory wide?	Yes
<b>Question 2 – Efficiency pre-condition</b>		
(a)	Is the RIT-D and supporting consultation process appropriate in the context of SAPS, including in respect of the different models of SAPS supply (that is, microgrids and IPS)?	For these smaller models of SAPS supply, the RIT –D threshold must be reduced from \$5 million for distribution network investments to \$50,000 to capture the potential for lower cost opportunities.

Questions		Feedback
(b)	<p>To ensure they remain fit-for-purpose in the context of SAPS, what (if any) amendments may be required to:</p> <ul style="list-style-type: none"> <li>the RIT-D test (including to the classes of market benefits and costs)</li> <li>the RIT-D consultation process and information requirements (including in relation to the non-networks options report), and</li> <li>the AER's application guidelines?</li> </ul>	<p>The RIT –D threshold must be reduced from \$5 million for distribution network investments to \$50,000 to capture the potential for lower cost opportunities.</p> <p>Energy generation creates an unregulated revenue stream then that should be undertaken as a competitive activity. Competitive markets are the best way to allocate all resources.</p> <p>We do not assess the costs of a suitably lower RIT-D threshold to be material. The business just needs to list the SAPS proposal, its location, and its annualised cost on a website in reasonable advance of it having to be replaced/augmented.</p>
(c)	<p>Is there a need to develop a light handed, targeted test to apply where the RIT-D is either not applicable or not proportionate? What might this test and/or assessment process look like?</p>	<p>The above threshold test is easiest.</p>
<p><b>Question 3 – Consumer consent provisions</b></p>		
(a)	<p>Is a requirement for customer consent necessary? If existing consumer protections can be maintained for SAPS customers, is consent necessary? If so, should this be based on a unanimous or majority consent model? What are the implications and issues associated with each model?</p>	<p>If existing consumer protections can be maintained for SAPS customers, consent is not necessary. However customers exporting to the grid on FiT arrangements needs to be considered.</p>
(b)	<p>Are customers equipped to make informed decisions, particularly with respect to understanding what they are agreeing to in terms of reliability and security, and potentially price, outcomes? Should explicit informed consent be required before DNSPs transition customers from the grid to supply via a SAPS?</p>	<p>It's interesting to observe that where a technology fascination pervades energy policy, that customer comprehension is often deemed or assumed by policy makers to be greater than it is when economic factors are at play. Customers are routinely deemed by regulators not to be able to make informed decisions about tariffs for example. This is why schemes such as the BSO continue to be perpetuated as a proxy for informed customer choice. By this benchmark, ie that a customer cannot exercise a rational price choice, then matters such as reliability and security of supply created by transferring off grid are by</p>

Questions		Feedback
		logical extension, we must assume, too complex for all but the most sophisticated of customers.
(c)	Where consent is considered appropriate, could incentives be offered by DNSPs to secure the consent of affected customers? What might these be (and could the benefits of a SAPS be shared)?	As per the above, customers are routinely deemed by regulators not to be able to make informed decisions, or to understand the most basic of risk/benefit trade-offs (such as pay on time discounts). There needs to be some consistency here. Incentives within the benefits of SAPS would likely be more complex than those already disallowed by retail regulation.
(d)	What alternative mechanism(s) could be used to ensure the long-term interests of affected customers are met?	Given the above context, a regulated basic service offering would be required to put a floor under customers on SAPS.
<b>Question 4 – Regulatory oversight role</b>		
(a)	Is there a need to incorporate a formal oversight and/or approval role by the AER (or other appropriate body) in relation to the transition arrangements for DNSP-led SAPS?	Yes
(b)	Who would be best placed to perform such a role?	The AER
(c)	If the AER is the appropriate body, what additional benefits might be provided by giving the AER additional powers in relation to SAPS, given it is already responsible for monitoring, investigating and enforcing compliance with various aspects of the energy laws and rules?	The AER is already responsible for monitoring, investigating and enforcing compliance with various aspects of the energy laws and rules. Compliance with the energy laws and guidelines as the rule—not the exception, is likely all that is required.

Questions		Feedback
<b>Question 5 – Grid-connection pre-condition</b>		
(a)	Should new customers or developments without an existing grid-connection be eligible for SAPS provision facilitated by a DNSP? Why or why not?	<p>No. Direct investment by DNSPs in energy storage and generation (SAPS) is a form of vertical integration. Vertical integration is generally more likely to result in the exercise of market power if at least one of the segments of the integrated entity is a monopoly. NSPs in such circumstances are much more likely to have the incentives and ability to leverage the monopoly power they have to restrict competition in the other market.</p> <p>Rules to protect competition against this kind of vertical integration in transmission and generation already exist in the cross ownership law. Our view is that this principle needs to be applied rigorously to DNSP SAPS investments.</p>
(b)	Would new customers always have a financial incentive to obtain SAPS from the competitive market? Could implementation of a SAPS for a new customer or group of customers by a DNSP result in network savings?	<p>The long term interests of consumers is best met through the development of competitive markets in services which are or should be contestable. Presupposing that the market will not provide these services, or that competition will not pass through savings to the network, is unproductive without substantiation. Network savings are plausible because the DNSP can in practice access the network support benefits far more easily than other participants in the market, allowing them to offer the customer services at a lower cost, at least initially. This may not however be in the interests of the NEO.</p>
(c)	Would enabling DNSPs to consider and potentially implement a SAPS solution as an efficient alternative to grid connection for new customers damage the competitive market for SAPS? In answering this question, consider new customers located in remote areas where a competitive market for SAPS may not be established.	<p>The long term interests of consumers is best met through the development of competitive markets in services which are or should be contestable. Presupposing that the market will not provide these services, or that competition will not pass through savings to the network, is unproductive without substantiation. There is no "local" market for SAPS. Theoretically, the only way that the DNSP could beat competitive markets is there was discriminatory access. Therefore it is essential that there is</p>

Questions		Feedback
		non-discriminatory access to these markets.
(d)	What are the potential issues associated with DNSP obligations to connect where SAPS are regulated under the national framework?	
<b>Question 6 – Right of reconnection</b>		
(a)	Should existing reconnection rights apply unchanged to DNSP-SAPS customers wishing to seek reconnection to the grid? Alternatively, should the SAPS arrangements include special rights for DNSP-SAPS customers seeking to reconnect/revert?	The right of consumer initiated grid reconnection should not be relevant. Presumably these SAPS are either community supply, or have passed some prior better off overall test. The edge of grid may be fluid, and over time the efficient answer may be grid connection. Again a better off overall (BOO) test would be logical.
(b)	Should the reconnection rights of DNSP-SAPS customers who have provided consent (where applicable), or new customers, differ from the rights of customers who have not provided their consent to be moved?	
(c)	What might a “return to grid process”, including charges, look like for DNSP-SAPS customers	
(d)	Would a mechanism need to be designed to avoid any potential to burden other customers with the costs of reconnection?	Yes
<b>Question 7 – Defining the SAPS system service(s)</b>		
(a)	Should the national framework be designed around one model of SAPS service provision which could accommodate various circumstances? What might this model look like?	
(b)	If the answer to the previous question is no, should this review focus on establishing a framework that allows DNSPs to pursue a variety of approaches to SAPS service provision, depending on the circumstances at hand? Why or why not?	

Questions		Feedback
(c)	In what circumstances (if any) might it be appropriate for a DNSP to own/operate a vertically integrated SAPS solution?	
(d)	When (that is, at what stage point in the process) would contestability in the provision of SAPS be tested and by who?	
<b>Question 8 - Role of the distributor</b>		
(a)	Are the issues identified in the contestability of energy services rule change applicable in the context of SAPS?	Yes absolutely. Robust competition for the provision of SAPS will in turn allow the network to deliver its services at the most efficient cost.
(b)	Is it necessary and appropriate to restrict the ability for DNSPs to earn a regulated return on behind-the-meter and/or in-front-of-the-meter assets specifically associated with the provision of SAPS? Why or why not?	<p>Is it neither necessary nor appropriate for DNSPs to have the ability to earn a regulated return on behind-the-meter and/or in-front-of-the-meter assets specifically associated with the provision of SAPS.</p> <p>When DNSPs supply and/or own these assets, competitive neutrality in the provision of these services to customers is compromised. This is because the DNSP can in practice access the network support benefits far more easily than other participants in the market, allowing them to offer the customer services at a lower cost. Over time, this could allow DNSPs to dominate the market for behind or before the meter services in their own service area, which would deny customers the dynamic benefits of effective competition. This is not least because the DNSP will seek to retain as much of the value as possible, so any price differential will only be just enough to keep other competitors out. These dynamic benefits outweigh any short-term gains to customers from obtaining DNSP provided services slightly more cheaply in the near term; over time the dynamic efficiency benefit would be expected to overtake the DNSP provision benefit.</p>

Questions		Feedback
(c)	In what circumstances (if any) might it be appropriate for a DNSP to own/operate a vertically integrated SAPS solution (that is, to seek an exemption (where relevant) from restrictions on asset ownership)?	None. This is not arguing that NSPs should not have access to the benefits that SAPS can offer. In fact it is essential that they do so in order to achieve a lowest cost system for the benefit of customers. But they should be required to procure them from the competitive market, which may of course include an appropriately ring-fenced affiliate of the NSP.
<b>Question 9 – Provision of retail services</b>		
(a)	Is it likely to be feasible to design arrangements to provide SAPS customers with access to retail competition? What might these arrangements look like?	<p>This is a question of scale. However it is important to have arrangements that provide robust competition for the provision of SAPS.</p> <p>SAPS with &gt; 1 customer should always retain a retailing function. Otherwise, this could allow DNSP to build SAPS and introduce a vertically integrated model of supply and in effect hostage retail customers.</p> <p>Hence, we should always be trying to work with SAPS models that include a retail supply function.</p> <p>Large scale SAPS may be subject to a form of access like contract carriage to enable multi retailer participation. They may also be considered somewhat analogous to embedded networks.</p>
(b)	What specific retail services would need to be provided to customers supplied via a SAPS model of supply?	
(c)	Is there a need for a separate retailer role (distinct from the provision of other services) within the SAPS model of supply? Why/why not?	
(d)	Should retail services be managed by an authorised retailer?	Given that this protection is deemed universal in current arrangements, then some form of authorisation is required.

Questions		Feedback
<b>Question 10 – Other roles/responsibilities specific to stand-alone power system provision</b>		
	Who are the key stakeholders within a SAPS model of supply (other than the DNSP and the retailer) and, specifically, what would be their key roles and responsibilities?	
<b>Question 11 – Treatment of existing market participants</b>		
(a)	Which existing market participants (if any) may be impacted by a DNSP's decision to transition a customer (or group of customers) to a SAPS model of supply?	Retailers.
(b)	Should DNSPs be required to consider the impact of transitioning a customer (or group of customers) to a SAPS on these participants? Why or why not? Via what mechanism?	
(c)	Is it necessary to put in place special arrangements for market participants, including embedded generators or retailers, who may be affected by a DNSP's decision to transition customers to a SAPS model of supply? What might these arrangements involve?	Where a DNSP led SAPS delivers a single vertically integrated supply model that leads to a loss of retail customers, then retailers should recover the full and fair value of their customers.
<b>Question 12 – Roles of AEMO and the AER</b>		
(a)	What role could/should the AEMO play within the framework for SAPS provision by a DNSP?	
(b)	What role could/should the AER play within the framework for SAPS provision by a DNSP?	
<b>Question 13 – Retail price protections</b>		
(a)	If retail competition is not possible in SAPS, what alternative protections may be appropriate (e.g. retail price controls) for customers receiving supply via SAPS?	

Questions		Feedback
(b)	Would applying the pricing condition from the AER's retail exempt selling guideline to not charge more than the standing offer price that would be charged by the local retailer be appropriate for SAPS, if retail competition does not apply? Is there an alternative price control that would be more appropriate?	
(c)	In the areas that currently have price regulation, is extending that price regulation to customers in SAPS an appropriate approach?	
<b>Question 14 – Other national energy-specific consumer protections</b>		
(a)	The Commission has suggested a general principle that energy-specific consumer protections for customers being supplied via a DNSP-led SAPS should be equivalent to those for grid-connected customers. Are there any significant provisions that wouldn't apply, or would require amendment for customers under a DNSP-led SAPS model of supply?	
<b>Question 15 – Consumer protections specific to SAPS customers</b>		
(a)	Are there any additional consumer protections that may be necessary for SAPS customers?	
(b)	In relation to detailed product information for the SAPS, what are the minimum provisions that should apply (if any)?	
<b>Question 16 – Options for providing electricity-specific consumer protections</b>		
	To provide equivalent protections for consumers receiving electricity supply via SAPS is the most efficient approach to amend the jurisdictional Acts adopting the NERL, as well as amending the NERL and NERR? Is there an alternative approach which may be more effective?	

Questions		Feedback
<b>Question 17 – Reliability, security and quality</b>		
(a)	What reliability, security and quality standards are appropriate for DNSP-led SAPS? Should the same reliability and service quality levels apply as for grid-connected customers?	
(b)	Are there any existing network reliability, security and quality standards that would be difficult to comply with for SAPS? For example SAIDI and SAIFI requirements may have equivalent principles, but the practice for determining them may be different in SAPS.	
(c)	Should GSLs be determined for DNSP-led SAPS? If so, should the same standards apply as for grid-connected customers (why/why not)?	
<b>Question 18 – Other jurisdictional consumer protection considerations</b>		
(a)	Are the other jurisdictional issues presented in section 5.6 less likely to be a concern for DNSP-led SAPS (why/why not)?	
(b)	Should any of these issues be examined in greater detail in relation to DNSP-led SAPS?	
<b>Question 19 – Third party stand-alone power systems – decision making framework</b>		
(a)	Which party should make the decision to transition customers to a SAPS and which party/ies should approve the decision	
(b)	What should be the grounds for deciding to transition customers to a third party SAPS?	
(c)	Which mechanisms should be employed to seek approval and/or consent?	
(d)	If the consent of transitioned customers is sought, what is the proportion of customers that should provide their consent? Should consent factors be defined, and what should they be?	

Questions		Feedback
(e)	Should transitioned customers, either individually or collectively (in the case of a microgrid), retain the right to reconnect to the grid?	
<b>Question 20 – Third party stand-alone power systems –asset transfer and stranded assets</b>		
(a)	Is there a role for the AER, jurisdictional regulator or other body in setting or approving asset values and pricing methodologies as a result of the transfer?	
(b)	How should asset transfers be treated in the DNSP RAB?	
(c)	How should stranded assets be treated in the DNSP RAB?	
(d)	Should corresponding fees be charged to the transitioned customers and customers left behind on the grid?	
(e)	Is a dispute resolution framework design required for asset transfer and stranded assets? What are the key elements of the design?	
<b>Other comments on the review or consultation paper</b>		
	Do you have any other comments on the rule change request or the consultation paper?	