



Energy & Water
Ombudsman NSW
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9 October 2018

Ms Anne Pearson
Chief Executive
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Dear Anne

AEMC Reference EMO0037 – Review of the regulatory frameworks for stand-alone power systems

Thank you for the opportunity to comment on the issues paper ‘Review of the regulatory frameworks for stand-alone power systems’.

The Energy & Water Ombudsman NSW (EWON) investigates and resolves complaints from customers of electricity and gas providers in NSW, and some water providers. Our comments are informed by these complaints and from our community outreach and stakeholder engagement activities. We have only responded to those questions that align with issues customers raise with EWON.

In general, EWON supports the establishment of stand-alone power systems (SAPS), provided there are overall short-term and long-term benefits to the customers within them, and essential consumer protections, including access to ombudsman schemes, are not eroded.

Section 3: Transition to off-grid supply

Question 3: Consumer consent provisions

The level of consumer consent required for the transition to a SAPS will critically depend on whether those consumers will be provided with protections to ensure that they will not be worse-off when compared to grid connected customers. EWON receives complaints, particularly from small business customers, about being pressured to consent to transition into an embedded network as part of a brownfield conversion. These customers are often frustrated at being asked to consent when the decision to undertake a brownfield conversion appears to have already been made or the customer has not been presented with a practical or affordable alternative.

We therefore strongly believe that there are two threshold issues to consider when developing a consent framework for customers in proposed SAPS. First, consent must be meaningful and established before any decision is taken. Second, we support PIAC’s view in its initial submission to the Alternatives to Grid-supplied Network Services Rule Change, about the importance of ensuring customers understand the differences between living with a grid connection and living with a SAPS connection. Without that understanding, explicit informed consent will not be achieved.

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EWON supports, in principle, the development of an appropriate threshold consent model for small business and residential consumers. In such a model, where it is demonstrated that the benefits to networks and customers are significant and substantiated, the proportion of customers required to consent before the establishment of a SAPS would be lower than a proposed SAPS where the benefits were marginal and unable to be substantiated.

Question 4: Regulatory oversight role

Any increase in the development in SAPS, particularly microgrids, will raise similar consumer protection issues to those that currently exist in embedded networks. The AER currently has an important oversight role for exempt entities (networks and retailers) and we believe this role should be extended to cover SAPS which service any small business or residential customers. As the AEMC is currently reviewing the regulatory frameworks for embedded networks, it would seem opportune to align the regulatory oversight frameworks.

Section 4: Allocation of roles and responsibilities

Question 9: Provision of retail services

Energy consumers living in embedded networks have the right to access retail competition. In practice this access to retail competition is limited since few authorised retailers have tailored energy plans available to customers living an exempt network.

It is critical that off-grid customers maintain access to retail offers from authorised energy retailers. Further, unless the model for providing retail competition to off-grid customers is designed to be simple and cost effective for retailers to implement, off-grid customers will similarly have limited access to retail offers and the benefits of a competitive market.

Section 5: Application of consumer protections

Question 13: Retail price protections

It is critical that where access to retail competition is reduced, energy consumers are covered by adequate retail price protections.

The AEMC notes that the pricing condition contained in the AER's retail exempt selling guideline is that customers supplied by the exempt person must not be charged "tariffs higher than the standing offer price that would be charged by the relevant local area retailer for new connections".

This approach to price protection has left many vulnerable energy consumers paying the maximum price available in the energy market. However, EWON would support a retail price protection for SAPS customers in NSW based on a similar principle to the protection contained in the exempt selling guideline, on the basis that the standing offer was replaced with an effective 'default market offer' or 'basic services offer', as recently proposed by the ACCC.

Question 14: Other national energy-specific consumer protections

All energy consumers should be provided with the energy specific consumer protections identified by the AEMC, that is:

- rights to access energy services and obligations to supply
- informed consent requirements

- dispute resolution procedures
- minimum contractual standards
- billing, tariff and payment minimum requirements, and
- protections for vulnerable customers.

The protections for customers facing disconnection are also critical and should be added to the list as a discrete protection. Based on our experience of complaints from customers in embedded networks, the energy specific consumer protections contained in the NERL and NERR should be extended directly to customers in SAPS.

Question 15: Consumer protections specific to SAPS customers

Currently, the AER exemption guidelines (retail and network) require operators of embedded networks, and exempt sellers, to disclose certain information to customers about the differences between embedded network and standard grid connections. However, these protections fall short of providing customers with information about embedded networks at the time they are making the decision to buy a home or accept a tenancy in an embedded network. Customers are often frustrated at finding out that they are a customer of an exempt seller sometime after their initial decision to move into the development. This issue is noted in the AEMC's final report on the Review of regulatory arrangements for embedded networks².

Current information disclosure protections for exempt customers provided through the AER exemption guidelines should be extended to customers of SAPS. Further there should be regulation that provides consumers with information about SAPS at the time that they are making decisions about whether to move into communities or developments which are supplied energy via a SAPS.

In our submission to the COAG Energy Council consultation, we also noted that the Retailer of Last Resort provisions in NERL ensure continuation of supply for customers in the traditional energy market³. A guarantee of continuation of supply also needs to be developed for customers connected to SAPS, depending on the regulatory model developed via this review.

Question 16: Options for providing electricity-specific consumer protections

Amending the jurisdictional Acts adopting the NERL, as well as amending the NERL and NERR would be the most efficient approach to providing electricity-specific consumer protections to SAPS customers. Any final decision about the most efficient approach should be consistent with the final recommendations of the AEMC's 'Updating the regulatory frameworks for embedded networks' review.

Question 17: Reliability, security and quality

EWON supports extending the current Performance and reliability standards imposed on distributors to customers living in DNSP-led SAPS. EWON also supports extending the same Guaranteed Service Level Schemes that apply in each jurisdiction for grid-connected customers to DNSP-led SAPS customers. As noted in our submission to the COAG Energy Council's consultation on SAPS in the

² AEMC, Review of regulatory arrangements for embedded networks, Final Report, 28 November 2017, p153

³ EWON, Submission to COAG Energy Council's 'Stand-alone energy systems in the Electricity Market: Consultation on regulatory implications', 4 October 2016, p4

Electricity Market, the most important are the obligations the Distribution Network Service Providers have with respect to customers with life support equipment⁴.

Question 18: Other jurisdictional consumer protection considerations

Access to jurisdictional concessions and rebates is a critical protection for vulnerable energy consumers. There will need to be further consideration of how concession and rebate schemes could be made available to customers of DNSP-led SAPS. In NSW, changes may be required to the NSW Government's Social Programs for Energy Code before the rebate scheme could be extended to customers of DNSP-led SAPS and this should be raised with the NSW Government.

If you would like to discuss this matter further, please contact me or Rory Campbell, Manager Policy and Research, on (02) 8218 5266.

Yours sincerely



Janine Young
Ombudsman
Energy & Water Ombudsman NSW

⁴ EWON, Submission to COAG Energy Council's 'Stand-alone energy systems in the Electricity Market: Consultation on regulatory implications', 4 October 2016, p3