



F2019/000096

7 June 2019

Mr John Pierce  
Chairman  
Australian Energy Market Commission  
PO Box A2449  
SYDNEY SOUTH NSW 1235

***Review of the Regulatory Frameworks for Stand-alone Power Systems –  
Priority 2 Consultation Paper (EMO0037)***

Dear Mr Pierce

The Energy and Technical Regulation Division of the Department for Energy and Mining, South Australia (Division) welcomes the opportunity to comment on the Consultation Paper for the Review of the Regulatory Frameworks for Stand-Alone Power Systems (SAPS) – Priority 2 published by the Australian Energy Market Commission (AEMC).

Electricity is considered an essential service. As such, whilst a SAPS may only be small and include limited customers, the Division considers that there are key safety, technical and consumer risks which require management through regulation.

As noted previously in the Division's submission to the Priority 1 Draft Report, the Division supports jurisdictional opt-in provisions for any national framework for the regulation of SAPS.

This reflects the fact, as noted by the AEMC, that jurisdictions have a wide range of geographical and environmental factors to consider. In addition, there are considerable differences in the completeness of existing jurisdictional frameworks for SAPS. South Australia for example, has a well-developed framework administered by the Essential Services Commission of South Australia (ESCOSA) through licensing arrangements. The licensing framework allows for flexibility depending on the characteristics, size and purpose of the SAPS.

As such, it is important that jurisdictions can evaluate any future national framework for SAPS and determine if opting in is the most appropriate action, after considering local factors.

Views in this submission on specific aspects of SAPS regulatory frameworks are made in the context of microgrids, as the Division considers they are not relevant for individual power systems.

#### Registration and Licensing

There may not be a case to require registration for a SASP, noting there is unlikely to be a role for a system operator.

In South Australia, we have a robust licensing framework administered by ESCOSA.

ESCOSA's licensing framework, under the *Electricity Act 1996* (the Act), provides that a third party cannot operate as a generator, retailer, or transmission or distribution operator unless they are licensed under the Act. Unless eligible for an exemption, the licence conditions include audit, financial capacity, access, quality standards, insurance and safety obligations.

In terms of SAPS, a licensing framework is important to ensure that third party providers of SAPS have the capability to provide the ongoing supply of electricity and meet any regulatory obligations placed on them.

Whether such a framework is national or jurisdictional, is highly dependent on who is determined to be the appropriate regulator for a SAPS and what role licensing is intended to play for a SAPS.

We consider for a SAPS the role of licensing may include assessment of capacity of the potential SAPS operator as well as governing safety and emergency requirements.

Licensing can be used for a wider range of requirements, for example consumer protections, reliability and security, however this may depend of whether flexibility is required for local conditions or whether regulation can govern these requirements.

An important consideration to note, under many frameworks the costs associated with regulator activity are recovered through licensing fees.

The Division considers that whether the AEMC needs to develop an opt-in national framework for licensing of SAPS, will depend of whether the AER requires flexibility in arrangements that apply to a SAPS and whether an assessment of capacity of a proposed operator should be undertaken nationally.

We note however, even if a national framework existed, South Australia considers they would still require some level of local licensing to deal with safety and emergencies.

#### Third Party Access and Connections.

The Division supports a national framework including obligations on third party microgrid service providers to offer to connect and supply customers as this is likely to be more efficient than bespoke third party access arrangements applied to each SAPS.

Further, the Division considers that the framework could include reference terms and conditions to help facilitate negotiations between third party microgrid service providers and connecting parties.

### Economic Regulation

With regard to the need for economic regulation for SAPS customers, the Division considers that if all customers are required to provide explicit informed consent before transitioning from their grid connection to a third party SAPS, and that these customers are provided with an appropriate level of information, then a need for economic regulation is reduced, given the customer always has a right to reconnect to the DNSP grid, noting that this would be at some cost.

In some circumstances there may not be a need for economic regulation of a SAPS. For example, under a co-op model whereby multiple individuals or companies cooperatively own and manage the microgrid. Another potential business model which is unlikely to require economic regulation is where customers contract long term for energy supply from a SAPS when it is developed.

Initially, we consider that a SAPS model will be economically competitive. This is because a customer or group of customers, or even a municipal body like a Council, are not likely to make a decision to move to, or establish, a SAPS unless the cost of doing so was lower when compared to the standard supply model.

Once a SAPS is established, however, we consider in most circumstances it will become a natural monopoly given the right to reconnect to the grid may be economically prohibitive for customers and not all customers will have the space and financial capacity to implement a reliable individual SAPS.

The AEMC should consider whether a model which includes a test to determine whether economic regulation is required is necessary, for example as is done for gas pipelines.

We note that ESCOSA does not currently regulate SAPS pricing in South Australia, although it does review pricing information annually as part of information received from licensees. The regulatory framework does allow ESCOSA to regulate price should it deem necessary. This may also be an appropriate approach for AEMC to consider nationally.

### Consumer Protections

The AEMC's paper notes the comprehensive protections currently provided to South Australian customers of third party SAPS providers under ESCOSA's licence conditions. The Division considers these protections provide an appropriate balance between providing protections that are similar to those offered to grid connected consumers, while avoiding unnecessary costs for smaller SAPS providers. The Division encourages the AEMC to consider a similar approach.

Of particular importance is consideration of protections regarding consent and information provision, as well as protections for vulnerable customers and dispute resolution.

As noted in our submission to the Priority 1 Draft Report, the Division generally supports the third party obtaining the explicit informed consent of all relevant customers in written form prior to a move to a SAPS. The requirements of the consent should include detailed information about the third party, the potential SAPS solution, and additional conditions related to service delivery and outcomes under a third party SAPS supply model (including any scope or potential costs to reconnect to the grid).

The Division considers that effective explicit informed consent and information provisions are fundamental requirements for any alternative supply arrangements that lock customers in for a long term via the physical setup of the system or contractual arrangements, as would be the case in a third party SAPS.

Effective information requirements form the first line of consumer protection and assist in reducing the extent of any later consumer detriment. It is critical that all information provided to customers is easy to understand and targets the key features of the supply arrangement that are likely to matter to customers to assist in their decision making.

As some consumers are likely to assume there is a right to reconnect to the interconnected grid at little or no cost it will be important for any information provided to include what it means to disconnect from the grid and the potential costs to reconnect. This should be explicitly prescribed to provide clarity to consumers on the implications and their rights.

There should also be requirements to provide clear information for vulnerable customers. This would include information specific to those customers on life support arrangements or suffering hardship, and any potential implications of removing their connection to a grid supply.

This would also need to include information on any changes to the availability of relevant government or non-government energy rebates, concessions and relief schemes.

The Division supports existing concessions continuing to apply to SAPS customers. Currently, ESCOSA licence conditions require electricity entities to comply with the requirements of any scheme approved and funded by the Minister for the provision by the State of customer concessions or the performance of Community Service Obligations by electricity entities. We consider the provision of concessions should continue to apply to customers moving to a SAPS.

The ESCOSA license regime also provides obligations on the licensee regarding life support. The licensee must register the premise when advised of life support equipment being required at that site. It must also provide a faults and emergency contact number and importantly not arrange for disconnection. While the National Energy Retail Rules provides further requirements, many of these relate to the provision of information between an authorised retailer and distributor, which may not be required for a SAPS. The AEMC may determine however that further obligations are required, potentially regarding any potential supply interruptions, and that the customer would be notified of these and provided information to assist the customer to prepare a plan of action in the case of an unplanned interruption.

Current ESCOSA licences also require the licensee to participate in an Ombudsman scheme if requested by ESCOSA in writing. ESCOSA has previously advised that licensees have not been required to participate in Ombudsman schemes. ESCOSA would assist in the instance of any off-grid customers raising an issue or seeking dispute resolution.

The Division considers that customers in microgrids should have access to an Ombudsman scheme given other customers supplied by a 'grid' – whether it's an embedded network (from 1 January 2019), or the standard grid, have access to dispute resolution from an Ombudsman scheme.

Regarding hardship protections, the ESCOSA licensing regime requires the licensee to advise the customer of instalment plan options if the customer first informs the licensee of payment difficulties. It must also, where appropriate, advise of the right to have a bill redirected to a consenting third person and provide information on independent financial and other relevant counselling services.

While not as comprehensive as the hardship provisions under NECF, it would seem burdensome on both the SAPS provider and the AER to develop and review a full customer hardship policy for each SAPS. It would be particularly costly for smaller SAPS to develop processes to identify residential customers experiencing payment difficulties due to hardship, as NECF retailers are required. While the AEMC may determine further requirements to those identified by ESCOSA, we consider it should not be as onerous as the full NECF requirements, given the fact these customers have decided to leave the grid and the associated protections.

ESCOSA's current requirements related to billing may also be appropriate for future SAPS providers. These include provisions regarding bill contents, frequency, reviewing bills as well as under- and over-charging.

Finally, as noted elsewhere in this submission, arrangements for the continued energy supply to the stand-alone community in the event of supplier failure would need to be considered. While options may include contractual requirements to appoint a back-up provider for the system, or through a last resort supply safety net or consumer compensation fund, it will also be important for information to customers to include the potential for this to occur, the consequences and customer options.

The Division considers that the potential failure of third party SAPS service providers is a key risk that should be addressed and would support the development of options for an "operator of last resort" scheme to take over the ongoing operation of a SAPS in the event of failure of the provider/operator.

#### Reliability of Supply

The Australian Energy Market Agreement (AEMA) makes it clear that reliability of supply is a State/Territory matter. The Division considers that reliability standards for third party SAPS continue to remain enshrined in individual jurisdiction's legislative instruments.

South Australia considers that any framework for reliability should not necessarily require the same reliability outcomes for SAPS as grid connected customers. There

may be circumstances where groups of customers that are establishing a SAPS wish to trade off reliability for electricity costs reductions.

The AEMC should ensure in developing a national opt-in framework, that nothing results in a barrier to this outcome.

*Safety, Technical Standards and System Security*

The Division considers safety requirements for third party SAPS should be implemented through jurisdictional regulation. As the AEMC points out, most safety obligations placed on Distribution Network Service Providers are through jurisdictional safety Acts, Regulations and licence conditions and electricity safety is also regulated at a jurisdictional level.

As part of license conditions, in South Australia, ESCOSA requires licensees (third parties) to prepare a safety, reliability, maintenance and technical management plan. This plan covers how an entity will comply with the requirements of legislation as well as relevant standards and codes. These standards and codes form the technical framework for ensuring high levels of safety and reliability in the operation of the electricity, gas and water industry entities. It provides a mechanism to compare safety and reliability expectations with actual performance. It also provides an auditable quality approach to each industry's safety.

The Division looks forward to the AEMC's further consideration of these important matters over the remainder of the review.

Should you wish to discuss the submission in further detail, please contact Mr Mark Pedler, Principal Policy Officer, on (08) 8429 3361.

Yours sincerely



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