

22 December 2020

Arek Gulbenkoglu
Acting General Manager, Consumers and Markets
Australian Energy Regulator

Sent via email



Dear Mr Gulbenkoglu,

Submission to AER ring-fencing issues paper

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit legal centre based in New South Wales. Established in 1982, PIAC tackles systemic issues that have a significant impact upon people who are marginalised and facing disadvantage. We ensure basic rights are enjoyed across the community through litigation, public policy development, communication and training. The Energy + Water Consumers' Advocacy Program represents the interests of low-income and other residential consumers, developing policy and advocating in energy and water markets.

PIAC welcomes the opportunity to respond to the AER's issues paper on updating the ring-fencing guideline for Stand-Alone Power Systems (SAPS) and energy storage devices.

Exemptions are needed for DNSP-led SAPS

PIAC supports the use of ring-fencing exemptions for DNSP-led SAPS.

PIAC supports allowing Distribution Network Service Providers (DNSPs) being able to transfer existing customers onto SAPS supply where it is a more efficient and preferable option to retaining traditional grid-connected supply. It will be an important tool to enable lower network prices for all consumers as well as improving the reliability and resilience of the customers being transitioned.

However, PIAC is concerned that the AEMC's proposed model and the separation of the generation and network components of a SAPS compromises the practicality and workability of the reforms. Submitting and reviewing numerous ring-fencing waivers to allow prudent SAPS installations to proceed under this model would represent a substantial and unproductive resource drain for the DNSPs, the AER and stakeholders. It is clearly against the long-term interests of consumers if this complexity and burden prevents or delays otherwise efficient SAPS installations from proceeding.

The potential harm arising from DNSPs providing the generation component of a SAPS is trivial compared to the potential harm (to both the quality of supply received by the customer to be transitioned to a SAPS and network costs for all customers) from not being able to efficiently transition customers to SAPS.

Record-keeping and reporting of DNSP-led SAPS is needed

It is essential that DNSPs keep and publish registers of when and why any SAPS exemptions are used, to provide a useful record of installations and any relevant conditions or arrangements. The lack of such records for embedded networks has been a cause of considerable consumer harm and a stumbling block in implementing reforms to address them.

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It will also provide the AER, state regulators and other stakeholders with clear and transparent evidence of how and where SAPS are being used which can then help identify opportunities to refine and amend the regulatory frameworks.

Both generic and specific SAPS exemptions should be used

PIAC considers a combination of generic exemption thresholds and exemptions for specific circumstances represents a practical and pragmatic solution.

PIAC supports introducing an exemption to allow DNSPs to earn revenue from SAPS up to a specified percentage of their total revenue cap. A similar exemption threshold has been used in the ring-fencing guideline for transmission businesses and we consider it a relatively straightforward approach for stakeholders to understand and for networks and the AER to implement.

There are also a number of particular circumstances PIAC considers it essential that DNSPs must have exemptions:

- To allow a DNSP to act as a provider of last resort for DNSP-led transition to a SAPS where there are no third-party providers for the generating systems or where they are materially more expensive than what the DNSP can offer. PIAC has seen this is already an issue for some consumers in regional areas with private power poles where remediation work for safety reasons but the local DNSP is prohibited from providing them. In some cases, the lack of third-party service providers in regional areas means the customer is unable to get a competitive price and must pay significantly more than what the local DNSP would have charged.
- To allow a DNSP to take over a system for a DNSP-led transition to a SAPS should the current owner leave the market. This is critical to ensure SAPS customers continue to be supported and receive essential energy supply. PIAC disagrees with the AER's suggestion that this be for a limited period such as 12 months. We recommend this exemption should apply for the remaining life of the SAPS.
- To allow a DNSP to use SAPS for emergency supply restoration such as following a storm or bushfire. This should include either for temporary supply while the grid supply is being repaired or if it is determined to be more efficient and preferable to provide an enduring SAPS instead of reinstating the previous grid connection.
- To allow a DNSP to maintain supply to customers during planned network outages. This may allow DNSPs more flexibility to plan and carry out network augmentations, inspections or repairs more efficiently whilst minimising supply disruptions for consumers.
- To allow a DNSP to perform emergency repairs on a SAPS generating system including, where necessary, replacing components. While third-party SAPS providers will typically be able to conduct scheduled maintenance, the local DNSP's field staff may be the best option to provide unscheduled or emergency response for remote customers in a timely manner.

To ensure that the ring-fencing obligations do not prevent the efficient use of SAPS by DNSPs, PIAC considers that any revenue earned under exemptions for the specific circumstance listed above should not count towards the broad revenue threshold exemption. The specific circumstance listed above relate to scenarios where it is impractical or highly unlikely for third-parties to provide the necessary services.

In any case, the potential harm to the contestable market for SAPS provision is immaterial.

PIAC does not consider using a measure of remoteness or population density, as considered in the Issues Paper, to be appropriate.

A post-implementation review of the SAPS framework is needed

PIAC notes that there are opportunities to refine the conditions or threshold for any SAPS exemptions over time as there is unlikely to be a sudden rush of SAPS transitions immediately. Instead, the AER can revise and refine the exemptions and reporting obligations as needed in response to evidence of how effectively the SAPS framework is (or is not) acting in the long-term interests of consumers. This can form part of a broader post-implementation review of the complete SAPS framework.

This post-implementation review should be triggered by either: a specified period (at most, two years) after the SAPS framework is implemented; an unexpectedly high number of SAPS installations; an unexpectedly low number of SAPS installations; or the emergence of an unexpected issue that materially impacts outcomes for energy consumers.

Storage systems

Storage systems will play an important role in the future of the NEM, and regulated networks can help enable and accelerate this transition.

In addition to the benefits noted in the Issues Paper, allowing network businesses to provide other services from storage devices can help accelerate roll-out and share benefits across more consumers. Unlike a third-party provider, a DNSP can make investments based on the potential to lower the overall costs of the supply chain. This captures more potential sources of value from the supply chain and can help improve the business case for investment. Further, lowering overall network and supply chain costs will be passed on through lower network tariffs and bills to all consumers – helping to share the benefit of better storage use to many consumers who may not be able to invest in storage or other DER themselves.

PIAC agrees with the potential harms and risks identified in the Issues Paper. While these are important issues to consider, they can be managed through a range of control measures of which the ring-fencing guidelines is just one. For instance, some concerns regarding handling of sensitive information or the potential to unfairly discriminate between potential uses is a matter of access and control, rather than ownership, of storage systems. Restricting or preventing regulated networks from owning grid-connected storage systems would be overzealous, and risk missing out on opportunities to accelerate prudent investment in storage systems.

Continued engagement

PIAC would welcome the opportunity to meet with the AER and other stakeholders to discuss these issues in more depth.

Yours sincerely,

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