



Clean Energy Council submission to the Australian Energy Regulator Issues Paper: Updating the Ring-fencing Guidelines for Stand-Alone Power Systems and Energy Storage Devices

The Clean Energy Council (CEC) welcomes the opportunity to provide feedback on the Australian Energy Regulator (AER) Issues Paper on the ring-fencing guidelines for stand-alone power systems (SAPS) and energy storage devices.

The Clean Energy Council is the peak body for the clean energy industry in Australia. We represent and work with Australia's leading renewable energy and energy storage businesses, as well as rooftop solar installers, to further the development of clean energy in Australia. We are committed to accelerating the transformation of Australia's energy system to one that is smarter and cleaner.

The CEC strongly supports use of SAPS where that is cheaper, safer and more reliable than 'poles and wires'. Rather than relying on a prescriptive exemptions approach, we propose a generic exemption approach supported by a framework of reporting and review. The reporting and review framework should aim to ensure that the market is competitive without being overly arduous or prescriptive.

The CEC also strongly supports use of energy storage on networks as a means of reducing electricity costs for consumers. However, we are concerned that there is a potential for a conflict of interest (real and perceived) if distribution network service providers (DNSPs) can participate in competitive markets for the services provided by energy storage at the same time as they set rules for energy storage behind the meter as a condition of grid connection.

There is an urgent need to review DNSPs' powers to set prescriptive rules on distributed energy resources (DER) behind the meter. A monopoly service provider should not be allowed to operate in competitive markets and be allowed to set the rules for its competition. DNSPs should either decide that they do not want to operate in competitive markets or give over their control of grid connection approval processes to an independent authority.

We would be happy to discuss these issues in further detail with representatives of the AER. We look forward to contributing further to this important area for policy development.

RESPONSES TO QUESTIONS FOR STAKEHOLDERS

Q1: Do stakeholders agree that in some circumstances an exemption would be preferable to requiring DNSPs to apply for a ring-fencing waiver?

Yes. We support the view that for some types of SAPS the time and cost necessary to apply for a waiver would be disproportionate and wasteful.

As noted in the Issues Paper (p.19), “A generic exemption would give a DNSP more discretion and flexibility in getting a SAPS generation service up and running. However, this approach would give a DNSP far greater latitude to deploy its own SAPS generation systems. This might hamper opportunities for alternative providers of SAPS generation systems.”

Delays in the development of the policy framework for third-party SAPS (priority 2) are preventing alternative providers of SAPS from being able to compete directly with distributor-led SAPS. The long-term interests of consumers will be best satisfied when demand for SAPS (as well as the generating systems SAPS require) is met using a competitive, transparent process.

Q2: Are there any other types of exemptions we should consider?

Use of SAPS by DNSPs is likely to start with relatively small numbers of installations, with numbers growing over time as the technology is better understood and as the economics improve. The difficulty with setting prescriptive exemptions now is that they are not based on experience and there is very little real-world data on which to base decisions. Rather than beginning with a large set of narrowly defined exemptions, we recommend a generic exemption approach supported by a framework of reporting and review. This would enable the regulator to review the impact of DNSP decisions on competition and whether changes to the exemptions are needed. This would also allow time for the Australian Energy Market Commission (AEMC) to continue the development of the policy framework for third-party SAPS (priority 2). The delays in progressing the reforms for third-party SAPS are likely to be a more material barrier to competition than the thresholds for exemptions.

Q3: In regard to the exemptions above, or any others, what is an appropriate threshold?

Rather than focusing on where to set exemption thresholds, the focus should be on the processes that DNSPs use for procurement of SAPS-related goods and services. In a future review process, it would be helpful to have the following information:

- How many SAPS has each DNSP installed, what was the total value and average cost per system?
- What selection criteria were used to identify suitable locations for DNSP-led SAPS?
- What were the procurement processes used? Was any of the work awarded to the DNSP's affiliated entity? If so, what proportion?
- What was the rationale for the selection of procurement process?
- How competitive was the process and what plans are there to open the process to more competition?

Q4: Should exemptions for SAPS be defined in specific detail or are generic exemptions, which would apply more broadly, preferable?

The aim of the SAPS policy and regulatory framework should be to enable use of SAPS wherever they are economic. Regulation should aim to enable competitive provision of SAPS wherever possible, but the rules should not be so prescriptive or arduous to discourage DNSPs from using SAPS.

As outlined above, it may be more effective to achieve this through a commitment to regular review of barriers to competitive provision of goods and services to DNSP-led SAPS, as well as the barriers to third-party SAPS.

Transparency of the exemptions will be important. We recommend the AER publish details of all exemptions and commit to a review of progress at a fixed future date.

Q5: How can we be sure that DNSPs using exemptions are complying with the Distribution Guideline?

The AER should ensure compliance by establishing a reporting framework and a commitment to regular review of the barriers to competitive provision of goods and services to DNSP-led SAPS, as well as the barriers to third-party SAPS.

Q6: In the above criteria do the exemption thresholds satisfy the Distribution Guideline criteria of benefits outweighing costs?

This question is very difficult to answer in the absence of experience and real-world data. It would be more practical to answer this question in about two years from now, drawing on data available from a reporting framework established for the purpose of the review.

Inertia by policy makers seems to be the biggest problem with SAPS reforms. The reforms have been under consideration for more than four years. The progress with the reforms remains unclear. We understand that the South Australian (SA) Parliament was expected to pass the required legislation by mid-2020 and that has still not taken place. State and territory governments are prevented from adopting the new framework until the changes to the National Energy Laws (NEL) are passed by the SA Parliament. Meanwhile, consumers in bushfire-prone areas do not have access to safer, more reliable, more resilient, and cheaper sources of electricity supply due to the failure of policy makers.

Q7: What other benefits, harms and risks should we consider?

Storage on the network will compete with storage behind the meter. There would be a clear conflict if DNSPs are able to participate in competitive markets for the services provided by energy storage at the same time as they set rules for energy storage behind the meter as a condition of grid connection. For example, the CEC has received reports of one DNSP issuing “special operating conditions” that prevent consumers using their battery to serve household energy needs between 10am and 3pm. The only thing they can do with their storage during that time is charge their battery. This applies, even though there is already a generation limit and an export limit in place.

There is an urgent need to review DNSPs’ powers to set prescriptive rules on DER behind the meter. This is even more important if DNSPs propose to compete with the services that could be provided by DER. A monopoly service provider should not be allowed to operate in competitive markets while it is able to set the rules for its competition. DNSPs should either decide that they do not want to operate in competitive markets or give over their control of grid connection approval processes to an independent authority.

Q8: If NSPs use storage devices to offer services in contestable markets, how can any potential harms be managed?

If DNSPs are permitted to offer services in contestable markets they should be prevented from using grid connection approval processes as a barrier to their competitors by giving responsibility for grid connection approval to an independent authority.

Q9: How should we weigh these benefits and harms to determine if a waiver should be granted? What are the priorities?

The priority should be to ensure that energy storage can be deployed to reduce costs to consumers and that DNSPs are unable to use their privileged position to exclude competition. DNSPs have powers akin to those of a regulator by virtue of their ability to set rules on prosumers as a condition of grid connection. The situation will become more urgent in 2021, with DNSPs expected to approach the AER for approval of new grid connection requirements such as:

- The new standard for inverters, AS/NZS 4777.2:202x,
- Power quality settings, also known as Volt-Watt and Volt-var settings,
- Dynamic operating envelopes,
- Export limitations,
- Capacity limits behind the meter, including whether solar inverter and battery inverter capacity is additive for the purposes of the capacity limit,
- Battery ramp rates,
- Requirements for multiple element smart meters,
- Wiring guidelines,
- Internet connectivity,
- Ability to remotely disconnect and reconnect,
- Appointment of a 'Relevant Agent',
- Testing procedures for short duration under voltage ride through,
- Verification of firmware,
- Limits on the ability to self-consume energy from batteries,
- SCADA (supervisory control and data acquisition), and
- Three phase balancing.

At an absolute minimum, there should be a public consultation process for grid connection rules. DNSPs should not be allowed to participate in competitive markets using energy storage unless they are willing to give up their power to set rules or their competition through the grid connection approval process.

Q10: Should we distinguish between direct and indirect uses of storage devices?

The competitive issues arising from DNSPs' ability to regulate competition using grid connection approval rules remain, regardless of whether the DNSP participates in competitive markets directly or indirectly.

Q11: Should we clarify the scope of clause 3.1(d) of the Distribution Guideline?

A core principle should be that where DNSPs can participate in competitive markets, they are prevented from regulating their competition. One way to achieve that would be to prevent them from participating in competitive markets, possibly by clarifying the scope of Distribution Guidelines. This approach might have negative economic impacts if it prevents use of energy storage devices to reduce electricity costs for consumers. A preferable approach might be to remove DNSPs' abilities to control potential competition. Taking away DNSPs' ability to control competition using the grid connection approval process would be a very good place to start.

Q12: Can improved staff sharing registers provide the transparency of staff sharing that is needed?

We support the proposal to improve transparency of staff sharing by improving staff sharing registers.

Q13: Will changing the term 'confidential information' to 'ringfenced information', make ring-fencing obligations in relation to information sharing clearer?

Simply changing the description of information from 'confidential' to 'ring fenced' might make a small difference but does not address the core issue. As noted in the Issues Paper, accredited service providers have expressed concern about DNSPs withholding information on the basis that it is defined confidential.

It would be more constructive if the AER could define what is the information that accredited service providers should expect to be able to receive from DNSPs, the process for them to obtain the information and how DNSPs will demonstrate that their affiliated entities must undertake the same application process to obtain the same information.

Q14: Will reporting all breaches in relation to substantive Distribution Guideline clauses in 10 business days improve the overall timeliness of breach reporting and reduce the administrative burden on DNSPs?

If it is true that "reporting breaches to the AER is not a simple process" and if DNSPs are genuinely struggling to navigate the AER breach reporting process, then it may be appropriate to allow ten days instead of five days. Alternatively, the difficulties that DNSPs say they are facing could be addressed. The Issues Paper does not explain why DNSPs are unable to report breaches within five days, so it is difficult to suggest how the system could be improved to enable more timely reporting.

Q15: Will calendar year compliance reporting minimise the administrative burden on DNSPs?

We would support proposals to shift the timing of compliance reporting to reduce unnecessary administrative burden with interim arrangements in the transition period, provided this does not lead to a reduction in transparency and timeliness of reporting over the long term.

Q16: Are the current Distribution Guideline obligations, in relation to branding and cross promotion, proportional to the potential harms? If so, how might the branding and cross-promotion obligations in the Distribution Guideline be amended to make them more targeted?

We support the restrictions on branding and cross promotion to avoid confusing customers regarding services offered by a DNSP and those offered by an affiliate. The Issues Paper cites one example of how the restrictions may be too broad, namely that staff working in the DNSP and the affiliated company on the same day might need to change their uniform. This is a trivial example and is not a sufficient basis to revisit the branding and cross promotional obligations. We recommend that DNSPs consider allowing staff to wear casual clothes if this is really a problem adding costs to consumers. Frankly, it might be more reasonable to question whether consumers should be footing the bill for branded uniforms. In most industries, workers are expected to buy their own clothes.