Clean Energy Council submission to the Australian Energy Regulator Draft Electricity Distribution Ring-fencing Guideline

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 CEC 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'. We support the AER's proposed approach to generation services associated with DNSP-led SAPS, which will utilise a generic exemption framework with reporting obligations on DNSPs to provide transparency.

The CEC strongly supports use of energy storage on networks as a means of facilitating more renewables onto the grid, supporting system security and reducing pressure on electricity prices by meeting peaks in demand. We support the policy of ring-fencing separating regulated and contestable services. The proposed waiver process will enable the AER to arrive at a more informed understanding of the issues, however it is unlikely to be an appropriate long-term policy framework because of the time and delays involved in case-by-case consideration. In the long term, we believe it would be preferable to reconsider the ringfencing policy framework. This could be undertaken as a broad AEMC review or possibly as part of the Framework and Approach stage of the forthcoming Regulatory Reset processes for DNSPs.

We understand that DNSPs have concerns that the proposed waiver framework would be too onerous and have suggested an exemption framework instead. We are sympathetic to DNSPs' desire to minimise their administrative burden however, allowing DNSPs to use energy storage to provide contestable services from a battery under an exemption framework would be a very significant change and would be more appropriately considered by the Australian Energy Market Commission (AEMC) as part of a broader review of the ring-fencing framework or in response to the Energy Security Board (ESB) post-2025 Market Design Project or possibly as part of the Framework and Approach stage of the forthcoming Regulatory Reset processes for DNSPs. We encourage the AER to consider ways of streamlining its waiver process to reduce the administrative burden on DNSPs without undermining the policy intent of the ring-fencing framework and to ensure that deployment of battery storage on distribution networks can be facilitated efficiently.

We have elaborated on our response in the remainder of this submission. 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.

Generation services associated with DNSP-led SAPS

The CEC strongly supports use of SAPS where that is cheaper, safer and more reliable than 'poles and wires'. We support the AER's proposed approach to generation services associated with DNSP-led SAPS, which will utilise an exemption framework with reporting obligations on DNSPs to provide transparency, and information to prospective third-party providers that may assist market development for these services.

We support the AER's draft policy position to introduce a generic exemption approach supported by a framework of reporting and review rather than a more prescriptive exemptions approach.

Most of Australia's DNSPs are CEC members and we are aware that some DNSPs feel that their revenue cap has been set too low. The draft decision to set a generation revenue cap based on 75 per cent of the forecast SAPS proposed for deployment by DNSPs strikes a reasonable balance, however we understand that some DNSPs would argue that the estimate of 4,000 DNSP-led SAPS is too low.

The CEC has not undertaken its own analysis of how many DNSP-led SAPS are likely to eventuate. However, we would not be opposed to the AER increasing the proposed revenue caps based on the 75 per cent threshold combined with an increased estimate of the number of anticipated DNSP-led SAPS likely to be built by a DNSP, provided that DNSP can substantiate a projected number of DNSP-led SAPS that is higher than the estimates used by the AER in its Draft Guidelines.

It could also be helpful for the AER to consider whether treatment should vary according to the size of the SAPS. A SAPS can range in size from an individual power system servicing one household to a large microgrid such as the one in Carnarvon, Western Australia which services a population of about 5,000. Clearly, a generic exemption process is appropriate for small systems. A more sophisticated approach could be warranted for larger systems that service entire townships.

We support the proposal that temporary SAPS used in response to natural disasters and other events that are beyond a DNSP's reasonable control should not be included in the DNSP's revenue cap.

Contestable services using batteries

The CEC strongly supports use of energy storage on networks as a means of facilitating more renewables onto the grid, supporting system security, and reducing pressure on electricity prices by meeting peaks in demand. Storage at all scales is critical to the energy transition. The commercial case for ownership and operation of batteries by DNSPs is still in early development and in some cases must overcome biases against non-network solutions. We support the policy objectives of ring-fencing separating regulated and contestable services. Batteries challenge this model, and it is important for the AER to continue to encourage DNSPs to explore the benefits that battery storage can provide. This should include incentives to trial the use of energy storage on distribution networks in a controlled and transparent manner, so that lessons learned can inform any reviews of the ring-fencing framework that may take place in future.

The proposed waiver process as a temporary measure where a DNSP wants to supply excess capacity of a battery to a third party. It will enable the AER to arrive at a more informed understanding of the issues involved in regulation of new business models that utilise energy storage on distribution networks. However, it is unlikely to be an appropriate long-term policy framework because of the time and delays involved in case-by-case consideration. We support the AER's statement that its objective is not to slow down or direct the deployment of batteries, but rather "to guard against the risk that opportunities for new entry and competition in these emerging markets could be foreclosed if DNSPs are permitted to use batteries to provide contestable services without a process to ensure that the costs of such activities are outweighed by the benefits". The waiver process should require disclosure of contractual arrangements with third parties. This is particularly important to ensure probity where there are contractual arrangements between a DNSP and its affiliated entities.

In the long term, we believe it would be preferable to reconsider the ringfencing policy framework. This could be undertaken as a broad AEMC review or possibly as part of the Framework and Approach stage of the forthcoming Regulatory Reset processes for DNSPs.

We understand that DNSPs have concerns that the proposed waiver framework would be too onerous and would prefer an exemption framework instead. Allowing DNSPs to use energy storage to provide contestable services from a battery under an exemption framework would be a significant change to the ring-fencing framework. While there might be merit in this proposal, we are of the view that such a significant change would be better contemplated by the AEMC as part of a broader review of the ring-fencing framework or possibly as part of the Framework and Approach stage of the forthcoming Regulatory Reset processes for DNSPs. As the AER has noted, the AEMC is considering a potential integrated energy storage systems rule change and a review of emerging issues with community-scale batteries, and this review process could be the most appropriate forum to address other aspects of the use of batteries under the framework of the National Electricity Law (NEL) and National Electricity Rules (NER).

We are sympathetic to DNSPs' desire to minimise their administrative burden. We encourage the AER to consider ways of streamlining its waiver process to reduce the administrative burden on DNSPs without undermining the policy intent of the ring-fencing framework.

We very strongly support the AER's position that energy storage assets owned by a DNSP must be exposed to the same network tariffs as other energy storage assets connected to the distribution network. It would be hypocritical and anti-competitive for DNSPs to advocate export charges for household DER while also advocating that grid-scale batteries they own should be exempt from network tariffs. However, we note that some jurisdictions have indicated that they are unlikely to allow export tariffs for DER in the coming regulatory reset period. Where jurisdictions prevent export charging for DER it would be reasonable to also allow DNSPs to be shielded from paying Distribution Use of System (DUoS) charges twice.

We welcome the AER's recognition that a DNSP's battery could obtain an unfair competitive advantage over household batteries through their power to set the operating terms for household batteries using the rules they set for grid connection approval.

We strongly support the proposal to insert a new clause, in addition to the current non-discrimination requirements, to prevent a DNSP from discriminating between two parties on the basis of the use by one or both of those legal entities of assets owned, operated or otherwise controlled (in whole or in part) by the DNSP.

The Federal Labour Party has announced that it will facilitate the installation of four hundred 'community batteries' in suburbs to help cut power bills if it wins the next election. It would be unfortunate if the AER approval procedure were to present an insurmountable barrier to the implementation of the 'community battery' policy of an incoming Federal Labour Government. However, we note that the proposed community battery policy does not mandate ownership by DNSPs, and ring-fencing is only relevant for community-scale batteries where a DNSP owns or operates the battery.