

Australian Energy Market Commission
PO Box A2449
SYDNEY SOUTH NSW 1235

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Regulatory Arrangements for Stand Alone Power Systems Priority 2 - Draft Report

The Australian Energy Council welcomes the opportunity to make a submission to the AEMC draft report and recommendations to develop the regulatory framework for the provision of stand-alone power systems by distribution businesses.

The Australian Energy Council (AEC) is the industry body representing 23 electricity and downstream natural gas businesses operating in the competitive wholesale and retail energy markets. These businesses collectively generate the overwhelming majority of electricity in Australia and sell gas and electricity to over 10 million homes and businesses.

The AEC recognizes the role that the stand alone power system may take in efficient investment in the grid of the future. We agree that the regulatory frameworks must support stand-alone power systems as an economically efficient alternative to standard grid supply. We also broadly agree that the regulatory arrangements should ensure consumer protections comparable to those afforded to customers supplied via the interconnected grid.

Our detailed responses the key areas of the report are provided below.

A tiered framework for the regulation of third-party SAPS would allow appropriate protections in a proportionate manner.

The AEMC proposes to develop a three tiered framework.

Category 1

Category 1 would comprise very large microgrids, large enough to warrant regulatory determinations by the AER and to support effective retail competition. This category of microgrids would be regulated in an equivalent manner to standard supply customers, and DNSP-led SAPS, with the existing national laws and rules and relevant existing jurisdictional frameworks extending to apply to these systems. It is unlikely that many if any third-party SAPS would fall into category 1.

Customers of Category 1 microgrids.

The thresholds and obligations that should be used to determine category 1 customers include those that currently apply under Division 3 and Division 4 of the National Energy Retail Law (NERL)¹, and related regulations².

Category 2

Category 2 microgrids will range from those supplying smaller towns to those connecting more than a handful of customers. Microgrids under category 2 will generally be vertically integrated, with effective retail competition unrealistic and the AER revenue determination process to set network tariffs disproportionately burdensome. The flexibility and proportionality in a regulatory framework necessary to accommodate the potential breadth of circumstances is likely to be most effectively supported through jurisdictional regulation, with nationally consistent principles to minimise additional compliance costs for operators seeking to operate on a national basis.

The purpose of the NERR is to promote efficient investment in, and efficient operation and use of, energy services for the long term interests of consumers of energy with respect to price, quality, safety, reliability and security of supply of energy.³

Category 2 microgrids might be vulnerable to, for all practical purposes, arrangements comparable to those for customers of embedded networks *prior* to the recent AEMC determination on that matter. Many of these embedded network customers were locked into uncompetitive and uncompromising arrangements. If the AEMC are still of the view that everyone should have equal access to consumer protections on billing information, payment options, hardship support and notification of planned outages, no matter who they buy their electricity from⁴ then those minimum arrangements would clearly and necessarily apply to Category 2 microgrids. For these reasons, the principles (excluding access to competition) that apply to all customers that are established in the embedded networks decision should apply.

With regard to price setting, whilst a revenue determination process to set network tariffs may be disproportionately burdensome, principles to guide jurisdictional regulation in this regard would be beneficial in our view. The AEMC has previously written that equitable policy means that *costs do not fall disproportionately on groups that are less able to bear them (e.g. low-income households) and treats individuals or firms in similar situations the same*⁵. In Victoria the purpose of the VDO is to provide customers with universal access to a “fair” price.⁶ To this end, it may be appealing to use

¹ National Energy Retail Law (South Australia) Act, 2011 <https://www.aemc.gov.au/sites/default/files/2019-01/NRR%20-%20v17.PDF>

² National Electricity (South Australia) Regulations, Part 2 (22) Application of National Energy Retail Law in a participating jurisdiction [https://www.legislation.sa.gov.au/LZ/C/R/NATIONAL%20ELECTRICITY%20\(SOUTH%20AUSTRALIA\)%20REGULATIONS/CURRENT/1998.211.AUTH.PDF](https://www.legislation.sa.gov.au/LZ/C/R/NATIONAL%20ELECTRICITY%20(SOUTH%20AUSTRALIA)%20REGULATIONS/CURRENT/1998.211.AUTH.PDF)

³ National Energy Objectives, AEMC, <https://www.aemc.gov.au/regulation/regulation>

⁴ Protecting customers in private power networks <https://www.aemc.gov.au/news-centre/media-releases/protecting-customers-private-power-networks>

⁵ Towards the next generation: Delivering Affordable, Secure and Lower Emissions Power. AEMC and CCA, p.32 - Equity and distributional impacts on electricity customers. <https://www.aemc.gov.au/sites/default/files/content/Towards-the-next-generation-Delivering-affordable-secure-and-lower-emissions-power.pdf>

⁶ Victorian Default Offer to apply from 1 July 2019. Essential Services Commission Victoria Draft Advice <https://www.esc.vic.gov.au/sites/default/files/documents/Draft%20advice%20->

the regulated VDO⁷ or BDO⁸ as a benchmark for affordable energy in their relevant jurisdictions. However such an approach may ignore the true costs of supply to Category 2 microgrids. Whilst minimising compliance costs by not having regulatory price setting specific to individual Category 2 microgrids is a noble objective, in practice additional price setting principles that extend beyond treating those in similar circumstances as the same (such as VDO or BDO does) will be required.

Category 3

Category 3 would encompass very small microgrids with a handful of customers, microgrids which only supply large customers, and an individual power system where there is a sale of energy. These will likely have a much lower regulatory risk, with customers likely to have greater bargaining power and control over system specifications, and failure impacting a much smaller number of customers. A proportionate framework would have some minimum consumer protections, such as billing requirements, as well as energy-specific safety requirements, basic metering requirements and some technical standards, through jurisdictional license or exemption conditions to allow for flexibility and balance between risks and costs.

Customers will generally be making a choice to transition to third-party provision or to move to premises supplied by a third-party system. The AEC cautions that this must be a genuine third party system, and not one provided by the ring fenced affiliate of a network. This is because to be truly effective the category also needs to reinforce competitive neutrality and to maximise the scope for independent competitive providers in these services. This exclusion is the only way to provide confidence to the market that the ring fenced affiliate does not provide the service at a discounted price by using part of any benefit available to a network to do so. We do not assess that additional regulation beyond this is immediately required for this emergent market.

Regulations beyond that suggested above could create barriers to entry which may inhibit new entrant products and services that have the potential to benefit consumers and increase productivity and living standards across the economy. Regulatory burdens fall disproportionately on the economy's many small businesses, which lack the resources to deal with them.⁹ Tailoring regulation to limit the impact on small business and keeping regulatory costs down generally are essential if the 'engine room' of employment and economic growth is to prosper.¹⁰ Our view is that these smaller businesses will continue to be significant providers of smaller systems and the regulatory regime should not unintentionally impede this. We are therefore reluctant to see significant additional changes to regulation for Category 3.

Further information

[%20Victorian%20Default%20Offer%20to%20apply%20from%201%20July%202019%20%28for%20web%20publishing%29_0.pdf](#)

⁷ Victorian Default Offer (VDO) <https://www.energy.vic.gov.au/victoriandefaultoffer> or Basic Default Offer (BDO) <https://www.accc.gov.au/media-release/accc-releases-blueprint-to-reduce-electricity-prices>

⁸ Australian Energy Regulator: Final Determination Default Market Offer Prices 2019-20, April 2019 <https://www.aer.gov.au/system/files/AER%20Final%20Determination%20-%20Default%20Market%20Offer%20Prices%20-%20April%202019.pdf>

⁹ Regulation Taskforce 2006, Rethinking Regulation: Report of the Taskforce on Reducing Regulatory Burdens on Business, Report to the Prime Minister and the Treasurer, Canberra, January.

¹⁰ Ibid.

Any questions about our submission should be addressed to David Markham by email to david.markham@energycouncil.com.au or by telephone on (03) 9205 3107.

Yours sincerely,

David Markham
New Energy Technologies
Australian Energy Council