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COAG Energy Council Secretariat
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COAG Energy Council - Stand-Alone Power Systems Legislative Amendments

Essential Energy welcomes the opportunity to provide a submission in response to the *COAG Energy Council's Stand-Alone Power Systems Legislative Amendments Consultation Package* (the amendments). Energy Networks Australia has also made a submission, which Essential Energy supports.

Distribution network service providers (DNSPs) have a vital role to play in the transition of customers to off-grid supply and the adoption of stand-alone power systems (SAPS) represents a significant opportunity to reduce network costs for all energy consumers. Essential Energy has constructively supported this view through engagement with various stakeholders in the development of the Australian Energy Market Commission's (AEMC) SAPS model.

Nonetheless, Essential Energy has concerns that the proposed final framework may hinder the efficient implementation of SAPS units to the detriment of all network users as DNSPs will be unable to provide customers with integrated SAPS solutions without the reliance of multiple third party involvement and regulatory ring-fencing waivers.

In addition, there are issues with the proposed legislative amendments which appear to make the inclusion of SAPS in the NEM legislative framework narrower than the AEMC intended and which would likely make it more difficult for Essential Energy to roll-out SAPS solutions for customers.

For these reasons, Essential Energy would encourage the COAG Energy Council to adopt a post-implementation review to ensure the proposed SAPS implementation package is operating as intended and delivering efficient outcomes for all SAPS stakeholders.

These points are outlined in further detail below. If you have any questions in relation to this submission, please contact me on 0406 534 682 or Anders Sangkuhl, Regulatory Strategy Manager via anders.sangkuhl@essentialenergy.com.au or via phone 0409 968 326.

Yours sincerely,

Chantelle Bramley
General Manager, Strategy, Regulation and Corporate Affairs

Essential Energy submission to the Legislative Amendments

General comments and concerns

There are significant benefits for both DNSPs and customers in deploying SAPS in remote locations as a way of reducing costs for all network users and minimising existing network cross subsidies. SAPS can provide a more cost-effective method of supply to the traditional network and can also reduce bushfire risk and improve reliability outcomes for edge of grid customers. Ultimately, Essential Energy would like to supply SAPS to customers when it is efficient to do so, and in response to emergency events under a DNSP-led SAPS framework.

Nonetheless, Essential Energy considers the involvement of retailers and wholesale pricing within the AEMC SAPS model to be unnecessary and convoluted. While we have not provided detailed comments on those sections, we believe they will introduce significant complexity for all stakeholders, resulting in restrictions for both networks and customers:

- Whilst the AEMC model does allow for SAPS to be owned and operated by DNSPs in remote locations with no active SAPS market, networks will only be allowed to own, operate and/or maintain SAPS generation assets with an AER waiver from ring-fencing obligations.
- The model otherwise envisages that all SAPS services, including fault and emergency, are provided by the competitive market in most locations. This means many SAPS options will be subject to existing network planning requirements.
- The framework assumes there will be a market for provision of SAPS, ongoing maintenance and fault and emergency response. However, in some of the remote areas Essential Energy services this will be highly challenging. In some instances, Essential Energy is the only service provider nearby.
- There is a risk for detrimental customer outcomes if DNSPs cannot directly resolve issues with the SAPS generating unit due to ring fencing barriers. As such, customers may not be comfortable transitioning to a SAPS without the ongoing support and backing of Essential Energy.
- The proposed payment and settlement operations of the model is highly complex and involves multiple parties including retailers, DNSPs and an AEMO administrated price, despite there being no linkage between a SAPS system and the wider wholesale market.
- Between now and the introduction of the new SAPS framework the regulatory treatment of SAPS is uncertain. Many existing sites may need to be transitioned to the new framework once introduced.

For these reasons, Essential Energy is concerned that the proposed regulatory framework may lead to a lower SAPS uptake than would otherwise have occurred.

Whilst Essential Energy does not wish to re-prosecute the case for integrated DNSP-led SAPS solutions in this submission, it is worth raising these points in the context of legislative amendments to flag that several DNSP participants are considering jurisdictional-specific amendments, or NER derogations to reflect what they consider as appropriate deviations to support network customers and operations. It also raises the importance of the AER's upcoming Distribution Ring Fencing Guideline review which will outline the design and implementation of waiver exemptions.

Post implementation review

Due to the concerns outlined above, Essential Energy would encourage the COAG Energy Council to adopt a post-implementation review to ensure the proposed SAPS implementation package is operating as intended and delivering efficient outcomes for all SAPS stakeholders. Such a review

could consider qualitative metrics of SAPS uptake, jurisdictional amendments to the national framework and importantly a detailed assessment of customer experiences.

In the context of the bushfire recovery process and the rapid uptake of DER across the network, Essential Energy suggests that such an implementation review should occur one year after the national framework has been adopted, leaving sufficient time to undertake the review and propose recommendations to the framework if required.

Legislative Amendments

Essential Energy has identified a number of issues which appear to make the inclusion of SAPS in the NEM legislative framework narrower than the AEMC intended and which would likely make it more difficult for Essential Energy to roll-out SAPS solutions for customers.

On this basis, Essential Energy suggests the removal of the words "*which consists of a distribution system*" from both 6B(1)(a) and (b) and to address the specificity of the drafting in clause 6B(6).

Issues identified through Essential Energy's review are provided within the table below:

1. Opt-in provisions and local regulations

1.1 The proposed amendments allow for each participating jurisdiction to retain control over the inclusion of SAPS in the national electricity system in that jurisdiction by including an "opt-in" framework in proposed new section 6B of the NEL. The drafting of the amendments means the SAPS inclusions will only be activated if a local regulation contains provisions to that effect. What is not clear, based on the current drafting of section 6B, is the breadth of local discretion permitted.

1.2 Section 6B allows each participating jurisdiction to:

(1) make jurisdiction-specific regulations which may or may not provide that '*regulated stand-alone power systems*' form part of the national electricity system;

(2) by way of the local regulation, make a particular "*stand-alone power system*", or class thereof, part of the national electricity system by reference to geographic area, operator or compliance with the NER; and

(3) modify the application of a specific provision of the NEL or NER with respect to '*regulated stand-alone power systems'*, or class thereof.

The definition of "*regulated stand-alone power system*" (**regulated SAPS**) is set out in section 6B(1). It is a crucial part of the COAG Amendments, which include "*regulated SAPS*" in the key definitions underpinning distributors' operations in the National Electricity Market (NEM), notably:

(1) the definitions "*distribution system*" and "*national electricity system*", but both only to the extent provided by the NER (i.e. at the discretion of each participating jurisdiction); and

(2) the definition of "*network service provider*".

The inclusion will extend:

(1) the NEM to electricity supplied by regulated SAPS;

(2) the National Electricity Objective to include regulated SAPS;

(3) the AEMC and the Reliability Panel's powers to regulated SAPS; and

(4) the AER's economic regulatory function and powers to regulated SAPS,

each only to the extent decided by each participating jurisdiction.

2. Lack of clarity in definition of "regulated SAPS"

2.1 Circularity and narrowness of section 6B(1)

The key issue arising from the COAG Amendments is the lack of clarity within section 6B about how "regulated SAPS" is defined. The drafting of section 6B(1) suffers circularity and narrowness. That section provides that:

> *The regulations under the application Act of a participating jurisdiction (a local regulation) may provide that the following form part of the national electricity system (a regulated stand-alone power system) –*
>
> *a) A particular "stand-alone power system" which consists of a distribution system controlled, owned or operated, or proposed to be owned, controlled or operated, by a regulated distribution system operator;*
>
> b) *A "stand-alone power system", which consists of a distribution system controlled, owned or operated, or proposed to be owned, controlled or operated, by a regulated distribution system operator, that belongs to a particular class of stand-alone power systems.*

"*Stand alone power system*" is defined as "*a system that generates, stores and distributes electricity (for example, by means of solar panels) that does not form part of the interconnection national electricity system)*."

The underlined words in section 6B(1) set out above present the issue. Including the term "*distribution system*" within the definition of regulated SAPS is circular, since the new definition of "distribution system" will include "a regulated SAPS to the extent provided by the Rules".

We assume it is intended to reference the existing part of the definition, i.e. "*the apparatus, electric lines, equipment, plant and buildings used to convey or control the conveyance of electricity that the Rules specify as, or as forming part of, a distribution system.*" This limits the definition of "*regulated SAPS*" to only that part of a stand-alone power system that conveys or controls the conveyance of the electricity – that is, the network equipment.

2.2 Lack of clarity around impact of section 6B(2)

Section 6B(2) is expressed to not limit section 6B(1). Section 6B(2) permits the local regulation to provide that a particular SAPS, or class thereof, forms part of the national electricity system. It does not limit the power to the "*distribution system*" component of a SAPS. However, since the definition of "*regulated SAPS*", which underpins all other amendments, is contained within section 6B(1) only, it is not clear whether the definition of regulated SAPS would expand to include all aspects of the SAPS (including generation, storage etc), if a local regulation acted under the section 6B(2) power. We would argue the definition should be so expanded.

3. Inconsistency of narrow approach with other instruments

3.1 If the definition of regulated SAPS is limited in the manner of the current drafting, the AEMC's intention is arguably not achieved in so far as it would mean all the inclusions of SAPS in the NEM only extend to the network equipment that makes up a SAPS.

Of particular concern is that, based on this construction, any parts of a SAPS that are not network equipment (such as the generating system) would not fall within the distribution system and hence would not be included in the AER's regulatory determination process.

This position would arguably also be contrary to the AEMC's Final Report – Review of the regulatory frameworks for stand-alone power systems – Priority 1 (30 May 2019) (2019 Report), which proposed amendments to the NEL including the following definitions:

Regulated stand-alone power system	A "stand-alone power system" (or any part of it) that: • is owned, operated or controlled by a regulated distribution system operator who also owns, operates or controls a distribution system forming part of the interconnected national electricity system; and • the NER specify as a regulated stand-alone power system.
Stand-alone power system	A "stand-alone distribution system" and the generating systems and other facilities connected to the standalone distribution system.
Stand-alone distribution system	A distribution system: • any part of which is in an adoptive SAPS jurisdiction; and • that does not form part of the interconnected national electricity system.

The underlined words in the definition of "stand-alone power system" in the above table are key. It extends the relevant NEL and NER concepts to the entire SAPS, not just the network equipment. This makes sense since it is the generation equipment that is fundamental to the utility of SAPS.

The proposed rule change package for the NER , which accompanies the 2020 Report proposes to add new definitions to the NER which are consistent with those summarised in the above table, and therefore also (arguably, on the apparent construction) inconsistent with the COAG Amendments.

4. Definition of "stand-alone power system"

4.1 A further drafting issue is presented by proposed section 6B(6), which defines "stand-alone power system" as comprising a system that generates, stores and distributes electricity. This drafting is problematic in case one or more systems does not contain all of these components (e.g. certain SAPS infrastructure may not include storage, depending upon the load pattern of the customer). There would be various ways to improve this drafting to provide for flexibility for variances in the components of a SAPS.