

# Stand-Alone Power Systems Priority 1 Legislative Amendments

---

Explanatory note for stakeholder consultation

July 2020

## Acronyms

AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
COAG	Council of Australian Governments
DNSP	Distribution Network Service Provider
NEL	National Electricity Law
NEM	National Electricity Market
NGL	National Gas Law
NER	National Electricity Rules
NERL	National Energy Retail Law
NERR	National Energy Retail Rules
SAPS	Stand-Alone Power System

## Table of contents

<b>ACRONYMS</b>	<b>I</b>
<b>TABLE OF CONTENTS</b>	<b>II</b>
<b>1. INTRODUCTION</b>	<b>1</b>
1.1. CONSULTATION	2
<b>2. INCLUDING SAPS IN THE ENERGY LAWS</b>	<b>3</b>
<b>3. OPT-IN PROVISIONS</b>	<b>3</b>
<b>4. AER'S ECONOMIC REGULATORY FUNCTIONS</b>	<b>4</b>
<b>5. POWER SYSTEM SECURITY OBLIGATIONS AND SUPPLY OF SENSITIVE LOADS</b>	<b>4</b>
<b>6. REGISTRATION OBLIGATIONS</b>	<b>4</b>
<b>7. CONSUMER PROTECTIONS</b>	<b>5</b>
<b>8. TRANSITIONALS</b>	<b>5</b>
<b>9. POWER TO MAKE INITIAL SETS OF RULES.</b>	<b>5</b>
<b>10. ISSUES FOR CONSULTATION</b>	<b>6</b>

## 1. Introduction

A Stand-Alone Power System (SAPS) is an electricity supply arrangement that is not physically connected to the national grid. This includes microgrids, which supply electricity to multiple customers, and individual power systems, which supply electricity to a single customer.

Technological developments, and the falling costs of renewable generation and batteries, are making SAPS an increasingly viable way of supplying customers. When parts of the distribution network need to be upgraded, it may now be more efficient to service a group of customers via a SAPS rather than proceed with the upgrade.

SAPS are not generally captured under the national electricity frameworks and are currently subject to jurisdictional legislative frameworks that vary in their comprehensiveness. This can result in a preference for network upgrades over SAPS, even where the SAPS may be the most efficient option.

In August 2018, the former Council of Australian Governments (COAG) Energy Council tasked the Australian Energy Market Commission (AEMC) with providing advice on the required regulatory framework to allow for SAPS to be used where it is economically efficient, while maintaining appropriate consumer protections and service standards.

The AEMC's review covered the electricity regulatory framework as set out in the National Electricity Law (NEL), National Energy Retail Law (NERL) and associated rules. The review was structured around two priorities:

- Priority 1 covered national requirements for SAPS operated by distribution network service providers (DNSPs).
- Priority 2 covered a national framework for stand-alone power systems operated by third parties.

On 30 May 2019, the AEMC published its final report for Priority 1, recommending a suite of changes to energy laws and rules to enable the use of SAPS by DNSPs.

The AEMC's recommendations in the final report aim to set out a national framework that facilitates the provision of SAPS by DNSPs to their existing customers, where these offer a lower cost substitute to investing in, and maintaining, traditional network solutions.

Under such arrangements, customers would not be disadvantaged where a DNSP determined it is more efficient to supply them through a SAPS. This includes preserving consumer protections comparable to those customers that are supplied by the interconnected network.

On 22 November 2019, the former COAG Energy Council considered the findings of the AEMC's Priority 1 final report and agreed to make a number of changes to national energy laws to support the efficient delivery of SAPS by DNSPs.

In progressing these reforms, senior officials have released the draft *National Energy Laws Amendment (Stand-Alone Power Systems) Draft Bill 2020* (Draft Bill).

Overall, the Draft Bill seeks to achieve the following intended outcomes:

- the National Electricity Market extends to electricity supplied by a regulated SAPS;
- the National Electricity Objective extends to matters relating to regulated SAPS;
- the rule making powers of the AEMC and the functions of the Reliability Panel will extend to regulated SAPS and
- the Australian Energy Regulator's (AER) economic regulatory functions and powers will extend to regulated SAPS.

The Draft Bill amends the following key energy legislation:

- the National Electricity Law (NEL) set out in the schedule to the *National Electricity (South Australia) Act 1996*
- the National Energy Retail Law (NERL) set out in the schedule to the *National Energy Retail Law (South Australia) Act 2011 (SA)*

The Draft Bill applies to Priority 1 of the AEMC Review only.

The Draft Bill is published alongside this consultation paper. These documents do not represent final government policy and have not been endorsed by Energy Ministers or any government participating in the national process at this stage.

## 1.1. Consultation

To assist in understanding the draft amendments, the key outcomes of the Draft Bill are outlined in further detail below. Stakeholders are encouraged to provide feedback, preferably through a written submission, on the draft amendments.

Submissions will be published on the COAG Energy Council website. If the submission contains confidential information (or a confidential attachment) please make this clear in writing what should or should not be published.

Submissions are requested to be provided by Friday 31 July 2020.

For more information, please contact the Secretariat:

- e-mail: [energycouncil@industry.gov.au](mailto:energycouncil@industry.gov.au)
- phone: (02) 6243 7844
- web: <http://www.coagenergycouncil.gov.au/contact-us/contact-us>

## **2. Including SAPS in the Energy Laws**

As noted above, Energy Ministers agreed to make a number of changes to national energy laws to support the efficient delivery of regulated SAPS by DNSPs.

The Draft Bill seeks to give effect to this policy position by ensuring legislative requirements in the NEL and NERL accommodate SAPS owned, controlled or operated by DNSPs.

The Draft Bill amends the definition of distribution system to include a regulated stand-alone power system to the extent provided by the Rules. This amendment provides for a regulated stand-alone power system to form part of a distribution system and for the Rules to implement the AEMC's recommended framework.

As the current NEL definitions of 'national electricity system' and 'network service provider' are limited to the interconnected national electricity system, the Draft Bill also extends these definitions to include regulated SAPS.

In the Draft Bill the meaning of a regulated stand-alone power system has the meaning given by the draft new section 6B Stand-alone power systems.

The meaning of a regulated stand-alone power system under section 6B recognises SAPS will be made up of a distribution system owned or operated by a regulated distribution system operator, or proposed to be owned, controlled or operated by a regulated distribution system operator, and does not form part of the interconnected national electricity system.

Further flexibility to account for unique local circumstances is also provided for in section 6B which provides for local regulation to modify the application of the NEL or the Rules with respect to a regulated stand-alone power system.

It should be noted, the Draft Bill does not consider SAPS that are owned, controlled or operated by parties other than DNSPs. A regulated stand-alone power system may, however, may have infrastructure connected to it that is owned, controlled or operated by a third party. The NEL registration and exemption requirements have therefore been extended to generators and networks which are owned, controlled or operated by third parties and are directly or indirectly connected to the regulated SAPS, as well as the regulated SAPS.

## **3. Opt-in provisions**

A fundamental principle of the policy is that each jurisdiction decides on under what circumstances they will allow a regulated SAPS under the NEL and NER.

In recognition of geographical and environmental diversity, the Draft Bill provides flexible opt-in arrangements for jurisdictions through Regulation so each jurisdiction can apply the whole framework or part of the framework to regulated SAPS in their jurisdiction that best suit their needs.

The new section 6B implements the policy intention for jurisdictions to make this decision by local regulation. Jurisdictions can do this by reference to geographic area, regulated distribution system operator or whether a stand-alone power system complies with any requirements specified in the Rules.

#### **4. AER's regulatory functions**

The AER works to protect the interests of energy consumers by enforcing the laws for the NEM.

The AER's economic regulatory functions include setting the amount of revenue that DNSPs can recover from customers for using their networks.

The policy intention of Energy Ministers is for the AER's economic regulatory functions and powers to extend to regulated SAPS.

Accordingly, the Draft Bill amends the definition of 'distribution system' to include a regulated SAPS, consequently confirming regulated SAPS are covered by the economic regulatory framework. The amendments allow flexibility when determining the regulatory treatment of a regulated SAPS in the NER.

This provides for a service provided by means of a regulated SAPS to be an electricity network service for the purposes of the NEL, NER and NERL. The intended outcome is that DNSPs will be subject to the usual investment tests before it can establish a regulated SAPS and will be able to recover revenue for services provided in relation to a regulated SAPS via regulated revenue.

Extending the application of an electricity network service to include a service provided by means of a regulated SAPS is also intended to cover the service of arranging for the generation of electricity within the regulated SAPS.

#### **5. Power System Security Obligations and Supply of Sensitive Loads**

Under the NEL, the Australian Energy Market Operator (AEMO) has power system security functions and powers for the safe scheduling and dispatch, operation and control of the national electricity system. It is also required to ensure the national electricity system is operated in a manner that maintains the supply to sensitive loads.

The Draft Bill amends the definition of 'power system security' and AEMO's requirement to ensure the maintenance of supply of sensitive loads such that these apply to regulated SAPS to the extent provided for by the Rules.

#### **6. Registration Obligations**

Obligations to register in the participation in the NEM under Part 2, Division 1 of the NEL refer to the interconnected national electricity system.

To ensure operators of generators, the regulated SAPS and networks connected to a regulated SAPS are registered where appropriate, the Draft Bill amends subsections 11(1) and 11(2) to extend registration to these operators.

The AER also has the function to exempt persons proposing to engage in the activity of owning, controlling or operating a transmission system or distribution system from being registered as Registered participants. The Draft Bill extends this AER function to cover operators of regulated SAPS and generators and networks connected directly or indirectly to a regulated SAPS.

## **7. Consumer protections**

Consumers in a SAPS should be afforded the same consumer protections as those consumers connected to the interconnected national electricity system.

The Bill amends key definitions in the NEL, such as *distribution system*, which are referred to in NERL definitions such as *distributor*. Accordingly, the Draft Bill extends the application of the full suite of energy specific consumer protections in the NERL to SAPS customers.

The consumer protection framework in Victoria applies to all licensed energy retailers. Victoria will consider whether any changes to the consumer protections framework is required.

## **8. Transitionals**

Customers of a declared regulated SAPS may not have a designated retailer for the purpose of the NERL. Under the NEL, where there is no connection, the designated retailer is the local area retailer for the relevant geographical area, premises or customer. For an existing connection the designated retailer is the financially responsible retailer for that premises.

Where a distribution network is transiting from being part of the interconnected grid to a regulated SAPS, many customers will have an existing connection. This may negate the assignment of the local area retailer as the designated retailer. However, the customers may not have a financially responsible retailer if the customers premises have not previously been covered by the NEL and NERL.

The Draft Bill includes a transitional to ensure that the designated retailer for customers of a declared regulated SAPS is the financially responsible retailer premises if one already exists. If there is no financially responsible retailer the local area retailer would be the designated retailer.

## **9. Power to make Initial Sets of Rules.**

The Draft Bill makes provision for the South Australian Minister to make an initial set of National Electricity Rules and National Energy Retail Rules associated with these amendments on regulated SAPS.

## **10. Issues for consultation**

In providing the draft Bill for comment, feedback is sought on the provisions as they are drafted. Specifically, comments are sought from stakeholders on whether the amendments will raise any practical implementation concerns.