

29 March 2019

Mr John Pierce
Chairman
Australian Energy Market Commission (AEMC)
PO Box A2449
Sydney South NSW 1235

Dear Mr Pierce

CONSULTATION PAPER: REVIEW OF THE REGULATORY FRAMEWORKS FOR STAND-ALONE POWER SYSTEMS (SAPS) – PRIORITY 2

Endeavour Energy appreciates the opportunity to provide this response to the AEMC's consultation paper on the regulatory framework for third-party SAPS. The consultation paper identifies several issues a national framework would need to address to deliver effective and consistent regulation throughout the NEM. Our views on the key issues are outlined in this response.

A dependable electricity supply is an essential service, irrespective of the supplier. It is therefore important that customers receive a requisite level of protections around the affordability, security, safety and reliability of supply. The regulatory framework for third-party SAPS should seek to apply a proportionate level of regulation that will facilitate customer choice and competition for SAPS services.

Information Disclosure Requirements

Third-party providers should be required to provide information that allows customers to compare the SAPS proposal against the network alternative. This may include the price of SAPS supply and method of cost recovery, minimum reliability and supply quality standards, the dispute resolution process and arrangements in the event of provider failure.

This would enable customers to make efficient decisions and reduce the likelihood of consumer remorse. Given the relatively riskier proposition of receiving supply through a third-party, we suggest the information disclosure and consultation requirements should be no less stringent than required of DNSPs when transitioning grid customers to a SAPS supply as outlined under Priority 1 of this review.

It may also be appropriate for there to be ongoing reporting requirements for SAPS providers in certain circumstances (e.g. large providers as defined by a set threshold or criteria). This would allow customers to compare reliability performance and service outcomes against standards agreed to with the SAPS provider and make them accountable for any claims or guarantees included in the terms of supply.

Negotiated Service Outcomes

SAPS customers may choose to accept supply on different terms than the equivalent distribution network service. For instance, customers may be offered reduced reliability in exchange for a lower supply cost. Whilst we support empowering customers to negotiate with providers to achieve beneficial outcomes, we are concerned that some customers may not be well equipped to assess the impact of reduced standards and obligations prior to giving consent.

The consequences of agreeing to reduced consumer protections could be particularly harmful. This could limit a customer's ability to access affordable dispute resolution services or seek recourse in the event the agreed service does not meet expectations. In extreme cases, customers may be required to fund remedial work or otherwise be forced to endure a sub-standard service.

On this basis, we believe third-party SAPS providers should be permitted to negotiate service outcomes with customers but be prohibited from negotiating lower consumer protections and safety standards relative to those available to network customers.

Providing third-party SAPS customers with the same energy-specific protections that apply to grid customers would help customers avoid poor outcomes. We do not believe forgoing protections provided through the NERL and NERR is likely to deliver offsetting benefits to SAPS customers or promote the NEO.

In contrast, customers could benefit from allowing third-parties to negotiate service standards and supply arrangements provided information disclosure and consultation requirements have been met. This would encourage SAPS providers to develop innovative service models which would improve the efficiency of the SAPS supply and potentially lower the price paid by customers.

We note that opportunities for DNSPs to develop similar innovative arrangements are limited in the “consistency model” outlined in Priority 1 of this review. This is because the model requires the DNSP to retain and replicate the existing NEM relationships and billing processes given customer consent is not required for a DNSP-led SAPS transition.

Allowing third-parties to negotiate service outcomes recognises that the most efficient outcomes can be achieved by tailoring a SAPS delivery model to suit the customer's needs and effectively permits third-parties to apply the “integrated model” discussed in Priority 1. We believe network customers could also benefit from allowing DNSPs the same flexibility as third-parties. This could be achieved by applying the “consistency model” as the default model for DNSP-led SAPS with the “integrated model” available to DNSPs on the condition that explicit informed customer consent is obtained.

Eligibility Criteria

To limit the risk of provider failure, we believe the framework should require SAPS proponents to satisfy an eligibility criterion which demonstrates their capacity to deliver supply under the terms proposed and agreed to by customers.

Introducing minimum licencing or registration requirements would provide a barrier to entry preventing SAPS from being offered by parties that do not have the financial, technical or operational capabilities necessary to deliver services in the long-term interest of customers. We suggest these requirements should be similar to those required of parties providing grid services, noting this is the approach adopted in South Australia which the AEMC acknowledges as the NEM jurisdiction with the most comprehensive licensing regime for off-grid providers.

However, in the case of individual power systems (IPS) compliance with the full set of licensing and registration requirements could be overly burdensome and potentially discourage the emergence of capable third-party providers and competitive tension in the IPS market. Given the impact of a failed microgrid would likely be greater than the inconvenience caused by a failed IPS, we support relaxing the eligibility criteria for IPS proponents to a level proportionate to the risk and cost of IPS failure.

There may also be a case for scalable licensing and registration requirements for microgrids. However, it would be difficult to establish appropriate thresholds for different requirements to take effect. In the absence of suitably robust thresholds (whether they are associated with system capacity or the number of connected customers), the resulting requirements may not be proportionate to the risk of microgrid failure in all circumstances.

Operator of Last Resort (OoLR)

Although we have some reservations on how an OoLR scheme might dampen the incentive of proponents to prudently manage the SAPS, we believe the long-term interests of customers are best served by introducing an OoLR scheme for third-party SAPS.

Stepping in to manage a failed SAPS could be a costly and complicated task, potentially more so than establishing the SAPS. We believe it is important that the nominated OoLR have the requisite

resources and skills to effectively act as a guarantor of supply irrespective of the expense and effort required to maintain or restore supply.

In many cases it may be difficult for SAPS providers to find a suitably qualified and willing party to act as the OoLR. Furthermore, customers may exhibit distrust towards third-party providers following a SAPS failure and express a strong preference for the relative security of a network supply.

We consider many of these complexities could be resolved by assigning the local network service provider to act as the OoLR. The size and demonstrated expertise of the network business to provide, maintain and restore supply to customers under a range of scenarios would provide the comfort and assurance needed for an effective OoLR scheme.

Given third-party SAPS failures are not influenced by the actions of network customers, we believe an OoLR scheme should not add to the costs paid by network customers. Third-party SAPS operators and their customers should be required to fund the OoLR scheme, possibly through insurance-type payments to the DNSP. If financial support is not available or inadequate, a DNSP will be required to absorb or pass these costs through to network customers. Similar to a retailer insolvency event, we consider a SAPS OoLR event should be a prescribed pass-through event to which the materiality threshold does not apply.

Whilst DNSP's are well placed to be the OoLR, it would mean network customers bear the risk of third-party SAPS failure. We believe the impact of SAPS failures on network customers could be reduced by attaching certain conditions that would allow the scheme to operate more effectively. Some of these conditions include:

- DNSPs should not be bound to the supply standards and conditions agreed to by the SAPS provider and customers if they differ from those provided to network customers;
- DNSP should have discretion to determine whether supply is most efficiently provided through the existing SAPS, a replacement SAPS or via the grid;
- If the supply is provided through an inherited SAPS, the assets should be gifted to the DNSP;
- All services provided in the event of SAPS failure should be considered distribution services with customers of the failed SAPS to be treated as network customers;
- DNSPs should not be required to act as an interim operator to facilitate a re-entry of an alternate third-party.

To support a timely transition during an OoLR event, SAPS operators (potentially of a certain size) could be required to provide up-to-date details of the system configuration and condition of installed assets. This would improve the preparedness of the OoLR and reduce the likelihood of prolonged and costly remedial works.

The design of an OoLR scheme should be cognisant of the potential issues facing OoLRs. It should aim to encourage early and effective collaboration between providers and the OoLR on the design, build and maintenance of the SAPS to reduce the risk of system failure and limit the impediments to maintaining supply continuity once responsibility for the SAPS is transferred.

Our response to the questions in the consultation paper are provided in Attachment 1. If you have any queries or wish to discuss this matter further please contact Joe Romiti, Regulatory Analyst at Endeavour Energy on (02) 9853 6232 or via email at joseph.romiti@endeavourenergy.com.au.



Jon Hocking
Manager Network Regulation

Attachment 1 – Response to the questions in the Consultation Paper

QUESTION 1: SHOULD WE REGULATE THIRD-PARTY STAND-ALONE POWER SYSTEMS?

(a) Is there a need for regulation of a third-party SAPS? Why or why not?

Third-party SAPS should be regulated to protect customers against poor service outcomes and high supply charges. It is likely that competition for SAPS services will not (at least initially) be at a level to provide the discipline needed to deliver innovative and low-cost services. Without effective regulation third-party proponents may not be adequately incentivised to manage the SAPS efficiently and in the long-term interest of customers.

Regulation of SAPS services would likely be valued by customers given that if the SAPS service fails to meet their expectations, they may not be able to easily access affordable supply alternatives. The level of regulation should be sufficient to protect customers from the inconvenience of prolonged supply loss or sub-standard service caused by factors they have no control over.

Regulation would also promote participation in SAPS by clearly outlining the roles and responsibilities of service providers. An understandable set of rules would help SAPS providers to deliver services successfully and would provide confidence among prospective SAPS customers that off-grid technology can satisfy their supply needs.

(b) If there is a need for regulation, is this sufficiently provided for via the existing broad-based regulatory framework (for example, the Australian Consumer Law)? Why or why not?

The general consumer protections provided via the Australian Consumer Law (ACL) would be sufficient for customers who have purchased a SAPS for their exclusive use. Individual customers seeking to become self-sufficient and not reliant on the grid or other third-parties for their energy supply would have sufficient avenues to seek recourse for failed equipment or poor installation of their SAPS through the ACL. These customers need not be catered for under third-party SAPS regulations.

Where a third-party is involved in the supply of energy services through a SAPS, there is a potential for customers to be adversely impacted by the (in)actions of other parties of which the customer has no control. The ACL would not provide sufficient protection as it fails to distinguish energy as an essential service from other non-essential services.

(c) If the existing broad-based regulatory framework is insufficient for the purposes of regulating a third-party SAPS, which additional regulations are needed? Should these additional regulations be national or jurisdictional?

We broadly support the AEMC's consideration of this issue in the consultation paper. Our views on each of the key areas of regulation are as follows:

- **Consumer protection:** regulation for third-party SAPS should be largely consistent with those for NEM-connected customers and proposed for DNSP-led SAPS. The energy-specific consumer protections provided to other customers through the NERL/NERR should extend to all third-party SAPS and not be negotiable between customers and service providers.
- **Reliability:** as an essential service it is important that there is some level of regulation. However, there should also be scope for customers to negotiate reliability standards with their SAPS provider if they choose. The national framework, particularly the Service Target Performance Incentive Scheme, is unlikely to be appropriate for third party SAPS providers. Jurisdictional regulators are best placed to regulate the reliability performance of third party SAPS services as the primary regulator of network reliability currently.
- **Network operation and system security:** System security regulation will most likely only be required in the case of large microgrid operators and will most likely need to be tailored. We

consider technical standards, ensuring Australian Standards are adhered to should be given effect to by either national or jurisdictional regulation depending on which regulatory body is best placed to manage registration/licensing and compliance monitoring functions. Metering and settlement requirements will need to be tailored to SAPS and should be national for consistency.

(d) Do the seven dimensions identified by the Commission capture all the potential areas for regulation of a third-party SAPS? If not, which areas are not covered?

The proposed dimensions are appropriate.

(e) Should the regulatory framework for a third-party SAPS distinguish between an IPS and a microgrid? Why or why not?

Consistent consumer protections should be provided to all electricity consumers irrespective of whether their supply is provided through an IPS, microgrid, embedded network or interconnected grid.

However, we recognise it may be appropriate to require IPS providers to comply with fewer or reduced obligations than required of microgrid operators with respect to network operation and system security. From a licensing and registration perspective, IPS operators could find opportunities within the IPS market commercially attractive but onerous regulatory requirements could deter them from offering efficient IPS services.

Given the scale an IPS, we believe it is appropriate to apply lower regulatory requirements that are proportional to the risk and cost of failure.

(f) Should the regulatory framework for a third-party SAPS distinguish between microgrids based on size or some other criteria? If so, what might these criteria be?

The failure of a 4,000 customer microgrid would have a much larger negative impact than a failure of a four customer microgrid. If practicable, different (or increasing) requirements for microgrids are reasonable to reflect the relative risk and cost of failure. The number of connected customers, system capacity or geographical spread would be possible measures to distinguish microgrids and determine the regulatory requirements that would take effect.

However, it could be difficult to establish suitable thresholds that trigger regulatory requirements that are in all cases proportionate to the risk of microgrid failure. Also, we note the AEMC's draft report into the regulatory framework for embedded networks does not seek to modify regulations based on the size of the embedded network. Given the similarities between embedded networks and third-party SAPS as private, non-DNSP networks, we understand that consistency and simplicity may be preferable than implementing a different approach for SAPS.

(g) Should the regulatory framework for third-party SAPS address large customers as well as small customers? Why or why not?

Large customers are better able to negotiate satisfactory outcomes with energy providers than small customers. Therefore, the framework should have a particular focus on promoting a safe and reliable supply to small customers.

QUESTION 2: PROPOSED ASSESSMENT CRITERIA FOR A THIRD-PARTY SAPS

(a) Are there assessment criteria included that should not be? If so, what are these?

The assessment criteria consider a broad range of issues relevant to third-party SAPS and is appropriate.

(b) What should be the broad objectives under the Commission’s assessment of a third-party SAPS regulatory framework?

The regulatory framework for third-party SAPS should foremost seek to promote the NEO. Delivering efficient outcomes is a key element of achieving this objective and in the context of third-party SAPS, several efficiency issues may need to be considered when designing the framework. From a network perspective, some of these include:

- Efficient customer choice: Allowing customers to choose between a network and third-party SAPS supply could risk duplication of investment and services which would be more economically efficient if provided through a monopoly provider. For instance, a decision by a customer to access a grid supply from within close proximity to a microgrid would require the DNSP to cater for the connection (and maintain on an ongoing basis) which could be more efficiently catered for by the microgrid.
- Planning for SAPS failures: The prospect of SAPS failures could make it difficult for efficient network planning to proceed without having to consider the potential need in the future to cater for return-to-grid connection requests.
- Maintaining downward price pressures for the customer base: Defection of low cost to serve grid customers would increase the share of costs paid by remaining network customers. The impact of “network flight” would be further exacerbated if third-party SAPS proponents were allowed to negotiate service standards and develop innovative arrangements that networks are restricted from offering.

Secondly, the framework should empower customers moving to a third-party SAPS. This could be achieved by allowing the customers and providers the flexibility to negotiate on some aspects of their service standards and supply arrangements. This would encourage providers to develop innovative and efficient “customer-centric” service offerings bounded by clear and consistent consumer protections.

In exercising choice, it would be important to ensure that customers are informed. Specifically, customers should be able to clearly understand any differences from their previous network arrangements and the risks, costs and consequences of a SAPS supply. This will mean developing consultation and information disclosure requirements to equip customers to make an informed decision.

QUESTION 3: NATIONAL AND JURISDICTIONAL REGULATORY FRAMEWORKS FOR A THIRD-PARTY SAPS

(a) What, in your view, are the advantages for jurisdictions to allow some parts of the interconnected grid to transition to a community SAPS regulated under a jurisdictional framework?

Jurisdictional regulators have experience in developing and managing regulations with respect to reliability, safety and security via licence conditions, certification programs and various schemes. They are therefore well placed to manage similar issues with respect to SAPS systems. It may be inefficient for regulatory oversight to differ based on a change in supply model.

(b) What, in your view, are the advantages for jurisdictions to regulate some or all SAPS under a national framework?

National regulation promotes regulatory consistency and would reduce the effort required to manage multiple jurisdictional frameworks. A national framework would make it easier for SAPS providers to operate across the NEM. However, in light of the established national and jurisdictional regulatory frameworks in Australia it may be more practicable for SAPS to be regulated on a similar basis.

(c) Which do you think are the advantages of maintaining multiple SAPS frameworks within and across jurisdictions?

Jurisdictions can access multiple frameworks to tailor regulations and develop fit-for-purpose requirements to achieve a desired outcome.

(d) Which do you think are the disadvantages of maintaining multiple SAPS frameworks within and across jurisdictions?

Multiple frameworks could make compliance challenging for SAPS providers and this could be exacerbated over time as changes are implemented on an inconsistent or piecemeal basis across jurisdictions.

(e) Which elements of third-party SAPS regulation should fall under a national framework and which ones should fall under jurisdictional frameworks? Why?

We believe the framework would be most workable if regulation was generally consistent with arrangements for grid connected and DNSP-led SAPS customers.

- Jurisdictional frameworks may apply to reliability performance and safety standards; and
- National framework may apply to licensing and registration, third-party access and connection obligations, consumer protections, economic regulation and network operation and system security.

QUESTION 4: REGISTRATION AND LICENSING

(a) Would it be appropriate to apply either a licensing regime or a registration regime (or both) for third-party SAPS?

For many prospective SAPS customers, a large barrier to accepting a SAPS would be the uncertainty surrounding the capabilities of less-established third-party providers and the risk of supply disruption in the event of provider failure. To limit these concerns, we believe SAPS proponents should be required to satisfy an eligibility criterion which demonstrates their capacity to deliver supply under the terms proposed and agreed to by customers. This will add confidence that SAPS can deliver the services expected by customers and credibility to the SAPS market.

Introducing minimum licensing or registration requirements would prevent the entry of opportunistic third- parties that do not have the financial, technical or operational capabilities necessary to deliver services in the long-term interest of customers.

(b) Does the justification for a licensing or registration regime for third-party SAPS differ for microgrids and IPSs?

We believe there is scope to reduce the burden for IPSs and potentially smaller SAPS.

In the case of individual power systems (IPS) compliance with the full set of licensing and registration requirements could be overly burdensome and potentially discourage the emergence of capable third-party providers and competitive tension in the IPS market.

(c) Does the justification for a licensing or registration regime for third-party SAPS differ based on microgrid size? Why or why not?

Scalable licensing and registration requirements for different microgrids may also be appropriate for the reasons explained in 4(b). However, as explained in 1(f) it may be difficult to establish appropriate thresholds for different regulatory requirements to take effect. There is a risk any proposed licensing or registration threshold may not be proportionate to the risk of microgrid failure in all circumstances.

(d) Should any licensing or registration regime for third-party SAPS be applied solely at a jurisdictional level, or a national level where this is consistent with NEM arrangements?

Satisfying the requirements of a single national licencing/registration regime avoids the need for SAPS proponents to satisfy multiple and potentially different eligibility requirements across jurisdictions and may better facilitate SAPS provision. It may also be a condition of any agreement for an OoLR scheme to have suitably licenced/registered provider deliver the SAPS. Given the close ties between these two aspects of the framework, a national framework for both licensing and OoLR scheme may be most appropriate.

(e) Is there a requirement for specific arrangements to be developed to maintain the continuity of supply in the event of the failure of a third-party SAPS service provider? How might an operator of last resort (OoLR) be selected and funded?

SAPS proponents should be required to detail how supply would be maintained following a SAPS failure prior to giving their consent to a third-party SAPS supply. Introducing an OoLR scheme that details contingency arrangements would likely encourage the take up of SAPS and limit the reputational damage that the SAPS provider or sector more broadly might otherwise incur following a SAPS failure.

Under an OoLR scheme, the SAPS proponent would contract with another party who accepts responsibility for operating the SAPS in the event of failure and receives payment for effectively underwriting the SAPS service. The amount of this insurance-type payment would reflect cost to the OoLR of stepping in to operate the SAPS and may be in addition to any insurance taken out protecting against the key risks that may lead to a SAPS failure.

However, given third-party providers would often be competitors, it may be difficult for SAPS providers to find a suitably authorised and willing party to act as the OoLR. This could result in providers nominating OoLRs that are not adequately equipped to perform this function. Also, an OoLR scheme may also dampen the incentive of third-party SAPS providers to prudently manage the SAPS in the long-term interest of customers, knowing supply will continue to be provided even if they became insolvent and exit the SAPS.

If an OoLR scheme is adopted, it would be important to minimise the risk of subsequent operator failure. Given the resources and expertise of network businesses and the comprehensive regulatory regime under which they operate, we believe DNSPs are well placed to be the OoLR. We also expect customers would more likely be receptive to SAPS proposals if their third-party supply was backed by the DNSP.

The costs of operating an OoLR scheme should be funded by the SAPS proponent as the party best able to manage the risk of SAPS failure. The cost of accepting this risk would be reflected in payments to the OoLR and could be paid either directly by the SAPS proponent or passed through to SAPS customers.

It would not be appropriate to burden remaining network customers with the cost of restoring or maintaining supply to a failed SAPS. However, if this financial support is not available or inadequate a DNSP will be required to absorb or pass these costs through to network customers. Therefore, a SAPS OoLR event may need to be included as a prescribed pass-through event to which the materiality threshold does not apply, similar to a retailer insolvency event.

(f) Are there any other issues related to eligibility criteria and arrangements for maintaining the continuity of supply that the Commission should consider?

Although an OoLR scheme would facilitate the provision of third-party SAPS, we caution that a failure-initiated transition may not be seamless and supply continuity cannot be assured. The design of an

OoLR scheme should be cognisant of the issues facing prospective OoLRs and implement processes that reduce the impediments to maintaining supply continuity to SAPS customers once responsibility for the SAPS is transferred.

For instance, restoring or maintaining a safe supply to a failed SAPS could be complicated by a lack of understanding of the system configuration and uncertainty of the functional capability of unfamiliar or poorly maintained SAPS assets. It could also be problematic to use the existing assets if it became difficult to access spare parts or maintenance and repair procedures required expertise not readily available to the OoLR. In these situations, it would be reasonable to expect customer supply to be impacted whilst undertaking necessary remedial works.

To reduce these complexities and improve the preparedness of the OoLR, the SAPS operator should be required to provide the OoLR with information on the configuration of the system and other technical information likely to be important to the maintain supply should the OoLR be required to take over the system.

Collaboration between SAPS proponents and the OoLR on the design, build and maintenance of the system could further reduce operational disruptions during and after an OoLR transition.

(g) Should any regulation address both large industrial customers and small customers?

Regulation should focus on small customers for the reasons outlined in 1(g).

QUESTION 5: THIRD PARTY ACCESS TO THIRD-PARTY MICROGRIDS

(a) Should third-party microgrids be subject to a third-party access regime?

Yes, as this would facilitate customer choice and lead to efficient and beneficial consumer outcomes.

There are many similarities between microgrids and embedded networks and we believe third-party access issues raised in the AEMC's embedded network framework review provides a useful and relevant reference on how they might also apply in the context of SAPS. We note the AEMC propose to expand obligations to offer third party access by requiring ENSPs to allow all authorised retailers access to their networks, as is currently the case for DNSPs.

We do not believe customers could benefit from being denied third-party access to microgrids and on this basis believe microgrid providers should also have the same obligation to provide third-party access as ENSPs and DNSPs.

(b) Should only third-party microgrids above a certain size be subject to a third-party access regime?

We cannot identify any benefits to customers from applying different third-party access obligations between microgrids.

(c) Should third-party microgrid service providers be obliged to offer to supply or connect customers? Should these obligations address small customers only or both small customers and large industrial customers?

Yes. Economic efficiency would be improved by requiring microgrid providers to offer to supply or connect customers.

From a connection perspective, it is possible that new customers within close proximity to a microgrid supply could be more efficiently connected to and serviced by the microgrid rather than by the local distribution network via the grid. This would especially be the case where the microgrid is located at a significant distance from existing network infrastructure.

Without the obligation to connect, customers may be forced to seek a more expensive IPS or grid connection. This is also an issue for new customers within embedded networks. We note that the AEMC have recently proposed for ENSPs to be required to make offers to connect customers, recognising it would be impractical for new customers within an embedded network area to seek a grid connection. New grid connections may also be impractical where established microgrids exist.

Given, the shared concerns of microgrid and embedded network customers, we encourage the AEMC to consider the merit of adopting the concept of a "microgrid area". This could achieve the same purpose as the proposed "embedded network area" as a defined geographical area in which the microgrid provider is considered the monopoly network service provider and is obligated to offer a connection to the microgrid.

(d) To the extent that it would be appropriate to place obligations on operators of third-party microgrids to offer third-party access and/or to offer to supply new customers, should these obligations be applied through national or jurisdictional legislation?

National legislation may be more appropriate in line with the existing National Third Party Access Regime.

(e) Do the concepts of third-party access or supply and connection obligations have any relevance for individual power systems?

The concepts are most relevant where the SAPS is designed to be shared between multiple customers.

IPS are likely to be tailored supply solutions designed to meet only the expectations of the individual customer. It is not likely that the system would have the capacity to accommodate additional connections at a lower cost than establishing a new IPS to meet the needs of that customer.

(f) Are there any other issues relating to third-party access or supply and connection obligations that the Commission should consider?

None identified.

QUESTION 6: ECONOMIC REGULATION

(a) Should third-party SAPS be economically regulated and what should the scope of regulation be?

Economic regulation should apply as competitive pressures for SAPS service may be weak and customers may as a result end up paying more than if provided in a market where effective competition existed. The scope of regulation should be commensurate with the issue being addressed.

(b) Should a different approach be taken for an IPS compared to a microgrid, or for different sized microgrids? If so, why? If not, why not?

Generally, a "no" to "light handed" approach would be appropriate for IPS as a proportionate response to the limited potential for providers to exercise market power. Microgrids should be subject to "light handed" to "full regulation" regulation as they can supply many customers and may have a larger incentive to take advantage of their market power (e.g. to increase prices) at the expense of customers.

(c) Which of 'full', 'light', or 'no' economic regulation is most appropriate for a third-party SAPS? Why?

See 6(b). No economic regulation would be required for customer owned IPS.

(d) Are there other more appropriate approaches to economic regulation of a third-party SAPS not discussed above?

None identified.

(e) Should economic regulation of third-party SAPS be undertaken at a national or jurisdictional level?

The efficiencies and regulatory consistencies delivered through national regulation could make it more desirable.

QUESTION 7: CONSUMER PROTECTIONS

(a) Is it appropriate to apply the full suite of energy-specific consumer protections (national and jurisdictional) to third-party SAPS? Are there any consumer protections which would not be appropriate and proportionate for third-party SAPS?

Third-party SAPS customers should be entitled to the same energy-specific protections afforded to other customers. Relevantly, we note the AEMC have recently recommended extending the protections under the NERL and NERR to customers in new embedded networks. We consider it would also be appropriate to also extend these to third-party SAPS and remove any inconsistencies across alternate electricity supply models.

(b) Are there any additional SAPS-specific consumer protection provisions which should apply to third-party SAPS? If so, what are they?

None identified.

(c) Is there a justification for the consumer protection provisions applied to third-party SAPS differing between microgrids and IPSs? or between microgrids of different sizes?

We do not consider customers could benefit from inconsistent consumer protections and believe negotiating lower consumer protections should be restricted.

(d) Should consumer protections generally be applied to third-party SAPS on a national basis (excluding concessions and rebates and ombudsman schemes), or a jurisdictional basis?

Preferably national.

(e) Are there any other consumer protection issues the Commission should consider?

None identified.

QUESTION 8: RELIABILITY

(a) Would it be appropriate to apply some form of regulatory reliability protections to third-party SAPS? If so, how might such protections be specified?

Unless they have negotiated specific reliability standards with SAPS providers, SAPS customers should expect to receive the same jurisdictional reliability protections that apply to network customers. Details of how negotiated reliability performance will be measured and reported, and any compensation should performance not meet the agreed standards would need to be disclosed by the proponent prior to gaining consent (and potentially subject to jurisdictional regulation).

(b) Should IPSs be subject to any reliability standards, targets or benchmarks? If so, what may be appropriate?

Yes, consistent with the standards that would apply had the customer been connected to the grid unless otherwise agreed.

(c) Should reliability standards for third-party SAPS be governed under jurisdictional frameworks, consistent with the existing governance for network reliability? Is there a case for having any element of reliability protections specified or developed at a national level?

Preserving the ability for jurisdictions to set their expectation of reliability remains appropriate.

(d) Are there any circumstances under which customers should be able to determine an acceptable level of reliability in consultation with the third-party SAPS provider? If so, what are those circumstances, and would any additional protections or information requirements be needed in relation to that negotiation?

There is scope for negotiating reliability standards for IPS and microgrids to achieve cost savings for the proponent and lower prices for the customer. Acceptance of negotiated standards should only be permitted on the condition the SAPS proponent undertakes extensive engagement and discloses all relevant information that will allow the customer to make an informed decision.

SAPS providers should be subject to reporting requirements so that customers can assess the reliability performance against the standards negotiated with the provider. Reporting requirements could be expanded to include a range of service measures regardless of whether they were negotiated or not. This would allow future prospective SAPS customers to compare SAPS providers.

(e) Are there any other issues related to the reliability of third-party SAPS that the Commission should consider?

Under an OoLR scenario, we believe the OoLR should not be obliged to satisfy any standards or conditions agreed to between the customer and SAPS provider if they differ from what is provided to network customers.

QUESTION 9: NETWORK OPERATIONS

(a) What are the key system security and technical standards that should be applied to all third-party microgrids at a minimum? Are there any minimum system security and technical standards that should apply to IPSs?

Existing technical and system standards should apply to allow microgrid customers to have the same experience as when or if they were connected to the grid. There may be an opportunity to negotiate different standards if customers consent, but this would require extensive and detailed consultation. Minimum standards (aside from relevant safety and electrical installation standards) may not be required for IPS given the customer would be provided a tailored service which they have negotiated and accepted.

(b) Should there be a system operator role for large third-party SAPS? If so, what party would be most appropriate to perform this role, and what SAPS size threshold should trigger the need for this role?

Potentially, we consider distribution networks or AEMO would be best placed to undertake this role. This issue should be considered further, potentially as part of the ENA/AEMO 'Open Networks' initiative.

(c) What are the key metering and settlement obligations that should be applied to all third-party microgrids at a minimum? Are there any metering or settlement requirements that would be relevant for IPS?

Metering and settlement obligations would largely depend on the SAPS delivery model and arrangements agreed to by customers. A model resembling the "consistency model" in Priority 1 would utilise NEM settlement arrangements. Otherwise the microgrid would need to establish its own settlement processes which should be disclosed to customers.

(d) Should the regulatory frameworks for system security and metering and settlement be national or jurisdictional, or a combination of both?

The efficiencies and regulatory consistencies delivered through a national framework make it more desirable.

(e) Are there any other issues related to system security, technical standards or metering and settlement that the Commission should consider in respect of third-party SAPS?

The Priority 1 draft report provides a general outline of how asset transfers to a third-party SAPS provider would be managed. We welcome further clarity from the AEMC over whether it may be appropriate to develop a list of conditions or considerations (such as adverse impact on network system security) that would permit DNSP's from denying network asset transfers to a third-party SAPS provider.

QUESTION 10: SAFETY

(a) Is it appropriate to apply the current jurisdictional safety obligations that are imposed on DNSPs on third-party SAPS? Are there any provisions which would not be proportionate for third-party SAPS?

Irrespective of how electricity is delivered to customers, all customers should be assured that their supply system is safe. It would be appropriate to apply the same obligations as DNSP-led SAPS and prohibit providers from negotiating lower safety standards.

(b) What are the key safety obligations that should be applied to all third-party microgrids at a minimum? What are the minimum safety obligations for IPS?

The safety requirements and standards set for DNSP-led SAPS should also apply for third-party SAPS. It may be appropriate to require microgrids to develop safety management systems and report safety incidents.

(c) What compliance, monitoring and enforcement powers relating to safety are appropriate for third-party SAPS?

As jurisdictions determine safety standards, it would be appropriate that they also be responsible for monitoring and enforcing compliance with these standards.

(d) Are there any other issues related to safety that the Commission should consider?

None identified.

