



18 January 2023

Ms Gillian Gout
Director, Strategic Policy and Energy Systems Innovation
Australian Energy Regulator

Via email: AERringfencing@aer.gov.au

Dear Gillian

Re: Ring-fencing class waiver – Commonwealth Government’s Community Batteries for Households program

CitiPower, Powercor and United Energy welcome the opportunity to respond to the Australian Energy Regulator’s (AER) ring-fencing class waiver initiation notice for projects funded under the Commonwealth Government’s Community Batteries for Households program.

As a distribution business we are leading the industry in the application of distributed energy storage to multiple benefit streams, including network, customer, and wholesale benefits and notably we have:

- Trialled Powercor owning, operating and maintaining a 120kW/360kWh ground-mounted neighbourhood battery in the Tarneit area in our Powercor network.
- Partnered with the Yarra Energy Foundation’s (YEF) community battery project through which the first 284kWh battery was unveiled in Fitzroy North on our CitiPower network.
- Engaged in a program to deploy pole top batteries in 40 locations across the Mornington Peninsula and south-east Melbourne suburbs in our United Energy network.
- Published the “Powerful Neighbours” report¹ which was developed with 12 council and community energy organisations which gives guidance on how to pursue neighbourhood or community battery projects and trialled a geospatial tool with these partners.

Distribution businesses will be a key delivery partner with respect to these programs, and it is critical that barriers under the current regulatory framework are removed to ensure maximum benefits for customers are realised.

In the absence of a class-waiver being granted, distribution businesses would be required to undertake individual waiver applications that are complex and lengthy, which provide no guarantee planned investment can go ahead, and will slow progress in achieving government emission targets and the roll out of the Commonwealth Government’s Community Batteries for Households program.

We also highlight that the Victorian Government has announced a state storage target of at least 2.6GW by 2030 and at least 6.3GW by 2035 and indicated they expect distributed batteries to be part of achieving this target. For example, a further 100 neighbourhood battery projects will be funded by the Victorian government and the interaction of all these various related policies needs to be considered by the AER.

The proposed class waiver will allow us to continue to deliver and build upon innovative energy storage solutions contributing to beneficial customer outcomes.

In this submission, we highlight:

1. We are committed to sharing knowledge and learnings with respect to community batteries.

¹ See https://www.powercor.com.au/static/2609a8f0a2496b19fe2616ee94805b0d/12011-Powercor_Powerful-Neighbours-Report-and-Guide_WEB_FA.pdf

2. We endeavour to form partnerships with third parties and other community groups.
3. Distributors can play a beneficial role with respect to community batteries and energy storage.

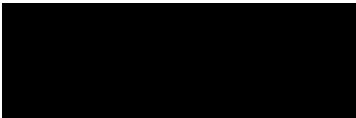
However, we are concerned by the following elements of the AER's class waiver:

4. The waiver is too narrow in scope.
5. The waiver length needs to be extended.
6. We consider the proposed RAB cost allocation approach complex and propose a simpler approach.
7. Other matters.

We discuss these issues in further detail in attachment below.

We would be happy to meet with you to discuss any elements of our submission. Should you have any queries please do not hesitate to contact Trent Gibson on [REDACTED] or [REDACTED].

Regards



Renate Vogt
General Manager Regulation
CitiPower, Powercor and United Energy

Attachment

1. We are committed to sharing knowledge and learnings with respect to community batteries.

As a business we have been committed to sharing our insights and learnings on community batteries and we believe that we are fortunate that there are multiple battery ownership models. In some circumstances it will be optimal for a distributor to own batteries and in other circumstances for them to be owned by third parties such as retailers or community groups. We are fully committed to supporting all ownership models through knowledge and data sharing.

An example occurred in 2021, CitiPower and Powercor received funding from the Victorian Government's Neighbourhood Battery Initiative to lead a feasibility study (known as the Electric Avenue Feasibility Study) into community batteries. We conducted this study with every council and community group that approached us as part of the first NBI funding (a total of 12 councils and community energy groups).

The Electric Avenue Feasibility Study covered regions across 65 per cent of Victoria to identify 30 preferred locations for neighbourhood batteries and in the process, identified insights into their location, design and planning that could benefit future projects.

This study culminated in the publication of our Powerful Neighbours report (which can be found on the CitiPower website). This report provides interested stakeholders with a guide for how to pursue community / neighbourhood batteries in Victoria.

It also provides a recommended process and methodology to evaluate locational, environmental, community and distribution network factors when determining a suitable battery location, which can be used by any organisation looking to implement a neighbourhood battery project.

We are committed to sharing information on the network to facilitate third parties installing batteries and to this end we have:

- Published a dedicated low-voltage community battery tariff across CitiPower, Powercor and United Energy.
- Developed a trial community network visualisation portal for an approved list of users (such as our NBI partners, including YEF and the Department of Energy, Environment and Climate Action (DEECA)). The tool shares data on levels of solar, potential network load constraints, as well as visibility to network assets and related data in a geospatial format. It should be noted that we are undertaking further work to explore the broader publishing of data/network mapping.
- Supported third party owned community batteries – for example by funding the connection and providing land for the YEF battery in Fitzroy North.

Our insights on community batteries are being shared through various industry forums, conference presentations and with DEECA.

For example, we publish regular progress report to DEECA on the Tarneit project, have held an industry forum for our United Energy pole top battery project and have hosted numerous working sessions with our community energy and council partners for the NBI feasibility study and presented at various industry conferences.

We appreciate that if this knowledge is not shared with community and market participants there will be an inherent advantage to distributors when choosing the location to install a battery.

This why we have made significant efforts to increase the visibility of network constraint data (through our network visualisation portal) to all interested third parties which will better foster competition in the long-term.

2. We endeavour to form partnerships with third parties and other community groups.

In the community battery projects we have been involved with, community and third-party partnerships, have been of the utmost importance, and we agree with the Victorian Government, that projects should be developed with input from the community to best enable their chance of success.²

We are currently trialling Powercor owning, operating and maintaining a 120kW/360kWh ground-mounted neighbourhood battery in the Tarneit area, a suburb with the highest level of residential solar supported by the Victorian “Solar Homes” program.

This project has involved significant community partnership and we partnered with a retailer to lease the excess storage and had a ring-fencing waiver approved by the AER. We also partnered with the Wyndham City Council with support from the Western Alliance for Greenhouse Action, to execute a comprehensive engagement plan. The objective of this plan is to increase community awareness of community batteries including how the community can participate in the trial as well as considering community perspectives on the final site location.

We have also partnered with YEF to develop their battery project, Victoria’s first inner-urban community battery was unveiled in Fitzroy North in June 2022.

YEF is an independent, not-for-profit organisation that along with its partners, owns and operates the battery and has plans to develop a network of batteries across inner-urban suburbs of Melbourne.

The project’s purpose is focused on both environmental outcomes and financial sustainability. We allowed YEF to situate the battery on our zone substation at Fitzroy North and shared extensive insights and data. The YEF project highlights our support for third party led projects as well as distributor led models.

Under all models, partnering with the community is key to ensuring the full customer value associated with batteries can be unlocked.

3. Distributors can play a beneficial role with respect to community batteries and energy storage.

Distributors are best placed to understand the nature and severity of constraints in their networks.

This includes the management of operational challenges such as maximum and minimum demand, solar hosting, voltage management, reducing outages and providing system strength.

It is important to recognise there is nothing preventing a distribution business owning and operating a battery for network support, the prohibition is only on leasing the excess battery capacity (the competitive electricity service).

By waiving ring-fencing requirements (which can discourage distributors from leasing the excess battery capacity to retailers), distributors will be encouraged to unlock the full value stuck of the battery which will in turn benefit customers. Our vision is that the lease of this storage will be done competitively with multiple retailers participating in the process.

We do not believe the AERs proposed ring-fencing waiver will impede upon the ability for other market participants to competitively engage in the community battery space. Rather, we believe that encouraging distributors to participate will lead to better system and customer outcomes as the battery projects funded will be more likely to target multiple benefit streams. This will ultimately allow for the available grant funding to achieve more and support a future transition to where grant funding is minimal or is even eventually not needed.

We agree with the AER that the safeguards which exist under the regulatory framework and ring-fencing guideline such as the obligations not to discriminate, together with cost allocation restrictions will be sufficient to address any fears around anti-competitive practices.

To that end, we consider it is appropriate to waive clause 3.1 of the Guideline, which prevents distributors from leasing excess capacity of any new energy storage devices to third parties to deploy in competitive markets. In

² Victorian Government’s Neighbourhood Battery Initiative, Industry and Community Consultation Report (2022)

addition, clauses 4.2.1 and 4.2.2, respectively, which require distributors, in providing direct control services, to use offices and staff that are separate from any offices or staff that are used by a related electricity service provider in the provision of contestable electricity services.

4. The waiver is too narrow in scope

The waiver should be extended to cover other jurisdictional schemes, and in particular the Victorian Government Neighbourhood Battery Initiative, especially given a commitment to fund a further 100 Victorian neighbourhood batteries has been made.

Inclusion of both Commonwealth and State/Territory community battery programs will ensure that government funding for community batteries, irrespective of whether it is led by the Commonwealth or jurisdictional governments, is treated on a consistent basis under the same class waiver and will reduce the regulatory burden for distributors.

However, whether a battery is funded by a government program should not impact on whether a waiver is granted. Creating separate classes of specific ring-fencing obligations depending on whether an asset is government subsidised seems an arbitrary way of seeking competitive neutrality.

The absence of government funding should not prevent distributors from leasing excess battery capacity to a third party. The rationale to treat these batteries differently to other batteries on the network is unclear. Regardless of funding source the benefits for competition in batteries should be unlocked for customers.

The class waiver should be extended to apply to all community batteries if the AER has comfort that potential harms of discrimination and cross subsidisation have been accounted for.

5. The waiver length needs to be extended

We seek for the class waiver to be extended to the greatest length possible, and for at least the life of the asset.

There are already several factors which restrict our ability to maximise leasing value as:

- Projects only have 5-year certainty on network tariffs (battery projects would ideally have network tariff certainty for the life of the asset).
- Currently battery warranties are for 10 years.

Increasing the length of the waiver is a simply way to positively impact the returns that can be gained from any leasing arrangements. In turn, maximising the lease value will allow us to return the greatest benefits to customers. Failure to do so means, lease agreements will need to factor in commercial terms to manage this risk and these are likely to include lease agreements structured as a 5-year term with a 5 year option to extend and clauses which may allow for the lease to be abandoned after 5 years.

6. We consider the proposed RAB cost allocation approach complex and propose a simpler approach.

We support the AER's proposed approach to dealing with battery projects that have no allocation to a DNSP's Regulatory Asset Base (RAB). We understand that under this arrangement any lease revenue is kept by the distributor.

However, we have concerns with the AER's proposed cost allocation approach to dealing with projects that have an allocation to a DNSP's RAB and we agree with the ENA's position that it will be complex to apply. This is because there will be a high degree of uncertainty when forecasting unregulated revenue in the relatively new competitive market.

Instead, we propose that what is allocated to the DNSP's RAB will be equal to the quantified regulated customer benefits with a maximum ceiling that the RAB allocation cannot be more than the residual cost of the asset, where:

- The regulated customer benefit is equal to the quantified benefit derived from the deployment of the asset for *direct control services*, calculated with reference to the AER's DER Integration Expenditure

Guidance Note and in particular, the benefit streams identified therein and any future eligible benefit streams³.

- The residual cost of the asset is equal to the cost of the asset net of any government funding received by the DNSP.

For any unregulated revenue received by the DNSP:

- If there is a shortfall between residual cost incurred by the DNSP and the amount allocated to the RAB, then the DNSP should be allowed to retain this unregulated revenue to make up the shortfall because this revenue does not contribute to the DNSP net benefit. This is the exact approach we have pursued in our ring-fencing waiver application for the United Energy poletop battery program and the Tarneit neighbourhood battery, both of which were approved by the AER. This goes to the heart of “value stacking” where all available benefit streams are used to fund the project, including a lease value. This means the battery has more utility than it would otherwise.
- If there is no shortfall, or once any shortfall is funded by unregulated revenue, the remaining unregulated revenue be shared on a 10% sharing ratio with customers consistent with the shared asset guideline.
- Distributors should be permitted to enter alternative revenue sharing arrangements with customers such as in the form of direct community benefits (and not just through the regulatory/tariff processes).

We understand this approach is like the approach put forward by the ENA and assumes:

- Any government funding is treated as a zero-dollar capital contribution to the RAB, and
- When quantifying the regulated customer benefits, the ‘other benefits’ value stream in the AER’s DER Integration Expenditure Guidance Note could include items such as the Demand Management Innovation Allowance Mechanism (DMIAM) and innovation funding, with the onus being on the distributor to justify any DMIAM related investment.

However, where the ENA proposal requires distributors to develop a revenue sharing arrangement to ensure that regulated electricity customers share in any benefits, the revenue sharing arrangement under our proposal is fixed at 10%. This ensures there is clarity with respect to the lease revenue being shared with customers.

Our proposed allocation approach also removes any potential for third parties to form views that distributors may be ‘gaming the system’ to under forecast lease revenue and maximise lease returns, which could eventuate under the method put forward by the AER.

7. Other matters

We seek to comment on the following:

- We have no issue with complying with the relevant cost allocation principles.
- We have no issue with providing the AER as part of the regular ring-fencing compliance report the information outlined in item 2 of the initiation notice.
- We have no issue with providing the AER information as to the terms and conditions of the contracts entered with third parties for the leasing of battery capacity. However, we seek that this information be provided to the AER in confidence, and no earlier than 20 business days from such time as the lease is finalised and with the agreement of the lease counter-party.

³ 5 AER, DER Integration Expenditure Guidance Note, June 2022.