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Contact Officer: Jacque Shannon
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3/11/2023

Hilary Priest
Acting Head of Regulatory Affairs
Essential Energy

Sent by email to: [REDACTED]

Dear Ms Priest

Re: Application by Essential Energy for a waiver from the Distribution Ring-fencing Guideline - Essential Water

Thank you for the application of January 2023 from Essential Energy for a waiver from clause 3.1(b) and clauses 4.2 and 4.4.1(a) of the Ring-fencing Guideline for Electricity Distribution (the Guideline), to allow Essential Energy to continue owning and operating Essential Water under section 116 of the *Water Management (General) Regulation 2018* (NSW).

Essential Energy's Proposal

The AER understands that Essential Water is operated by Essential Energy under NSW legislation.¹ The AER notes that Essential Water supplies water and sewerage services to approximately 10,000 customers in and around Broken Hill. Essential Water is a monopoly provider, its prices are regulated by the NSW Independent Pricing and Regulatory Tribunal. An existing waiver allowing Essential Energy to operate Essential Water was granted on 18 December 2017, and is due to expire on 30 June 2024.

AER Assessment and Decision

The Guideline specifies that, in assessing a waiver application, the AER must have regard to the National Electricity Objective; the potential for cross-subsidisation and discrimination; and the benefit, or likely benefit, to consumers from the distribution network service provider (DNSP) complying with the obligation, relative to the cost to consumers from the DNSP complying with the obligation.

Essential Energy has explained that the requirement to comply with functional and legal separation obligations imposed by the Guideline would ultimately result in excessive costs, and that these costs would have to be passed on to customers. Essential Energy notes that there are no competitors in the region and has pointed to the fact that Essential Water is

already regulated by the Independent Pricing and Regulatory Tribunal (IPART). Finally, Essential Energy notes that it maintains separate accounting practices and regulatory accounts for Essential Water.

The AER notes Essential Water provides a regulated monopoly service to a small number of customers under the jurisdiction of IPART. The Guideline aims to promote competition. However, the AER must also be satisfied that the benefits to competition from requiring compliance with the Guideline outweigh the costs to consumers. The AER is not aware of any complaints to date regarding the waiver that was granted for the same purpose in 2017.

The AER has decided to grant a waiver of Essential Energy's obligation to comply with clause 3.1 (b) of the Guideline from 1 July 2024 to 30 June 2029 to allow Essential Energy to continue to own and operate Essential Water.

The AER also grants a waiver of Essential Energy's obligation to comply with clause 4.2 and 4.4.1(a) of the Guideline from 1 July 2024 to 30 June 2029 to allow Essential Energy to share offices, staff and branding with Essential Water. The AER expects Essential Energy to comply with the Guideline in all other circumstances, and in all other respects.

Essential Energy is required by clause 5.7 of the Guideline to include this waiver on its waiver register, which must be publicly available on Essential Energy's website.

Yours sincerely

A solid black rectangular box used to redact the signature of Jarrod Ball.

Jarrod Ball
AER Board Member

Sent by email on: 03.11.2023
