



Ergon Energy Ring Fencing Waiver Application

Other Services in Isolated Systems
4 March 2025



Part of Energy Queensland

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1. INTRODUCTION

Ergon Energy Corporation Limited (Ergon Energy) is a distribution network service provider (DNSP) that operates an electricity distribution network in Queensland. Ergon Energy is a subsidiary of Energy Queensland Limited (Energy Queensland), which is a Queensland Government Owned Corporation under the *Government Owned Corporations Act 1993* (Qld). Ergon Energy builds, operates and maintains an electricity distribution network and supplies electricity to more than 760,000 customers over a vast operating area covering one million square kilometres – around 97 per cent of the state of Queensland.

Ergon Energy's supply area covers the expanding coastal and rural population centres to the remote communities of outback Queensland and the Torres Strait. There are over 160,000 kilometres of power lines and approximately one million power poles in the Ergon Energy distribution network, along with associated infrastructure such as major substations and power transformers.

Ergon Energy also owns and operates 33 isolated power stations that provide generation services to 39 communities across far western Queensland, through the cape and across 16 islands of the Torres Strait. Ergon Energy also has 35 stand-alone networks (including the Mount Isa-Cloncurry 220 kV distribution network)¹, not connected to the National Electricity Market (NEM), that provide distribution services. *Figure 1* shows the remote locations of the isolated power stations owned and operated by Ergon Energy.



Figure 1 – Ergon Energy's Isolated systems²

¹ Although not NEM connected, the 66 kV Mt Isa-Cloncurry distribution network is economically regulated by the AER under Chapter 6 of the NER, pursuant to section 10 of the *Electricity – National Scheme (Queensland) Act 1997*. Section 10 also deems that distribution services provided in the 66 kV network are 'distribution services' for the purposes of the NER and the Guideline. However, distribution services in the Mt Isa-Cloncurry 220 kV network are not considered to be 'distribution services' under the NER and Guideline and are therefore considered 'other services' as defined in the Guideline.

² The Mt Isa-Cloncurry 220 kV distribution system is not represented on this map, however, as stated at footnote 1 above, it is an isolated distribution system operated by Ergon Energy. It should, therefore, be considered within the scope of this waiver application.

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As a DNSP, the National Electricity Rules (NER) require Ergon Energy to comply with the Australian Energy Regulator's (AER) Ring-fencing Guideline Electricity Distribution (the Guideline).³ Ergon Energy is committed to compliance with the Guideline, though is supportive of the grant of waivers by the AER where appropriate.

On 18 December 2017, the AER granted Ergon Energy a waiver from the legal and functional separation obligations, under clauses 3.1 and 4.2 of the Guideline, to allow Ergon Energy to continue to provide distribution and generation services in the stand-alone networks not connected to the NEM using Ergon Energy offices, staff and branding until 30 June 2025, or until there was a change in regulatory arrangements such that the basis upon which services are provided in isolated systems are no longer determined by the Queensland Government.⁴

Given the regulatory arrangements and Queensland Government electricity policy settings have not changed since 2017, Ergon Energy is seeking the AER grant a new waiver, commencing 1 July 2025 and expiring upon a change in regulatory arrangements such that the basis upon which services are provided in isolated systems are no longer determined by the Queensland Government.

Although complementary, this waiver application is distinct to Ergon Energy's behind-the-meter waiver application submitted in 2023.⁵ That application, that the AER approved, is to allow Ergon Energy to install, own, operate and maintain distributed energy resources behind-the-meter, with the customer's consent. More information on the behind-the-meter waiver is contained in **Appendix A**. This waiver relates to existing generation assets that have been owned by Ergon Energy or its predecessors for decades, and in some cases as far back at the 1970s. These 33 isolated generators are used to provide generation services to the 39 communities and ensure their continued energy requirements.

Under clause 5.3.3 of the Guideline, the AER may, in its absolute discretion, grant an interim waiver. Ergon Energy would appreciate the AER exercising this option should the timeframe for a decision approach the expiry date of the existing waiver. This would ensure that Ergon Energy could continue to provide distribution and generation services in the isolated systems, without breaching ring-fencing obligations, until such time as the AER's decision making process is finalised.

2. DESCRIPTION OF WAIVERS BEING SOUGHT

2.1 Obligation subject of the waiver

Ergon Energy is seeking a waiver of the legal separation obligation under clause 3.1(b), and the offices, staff, branding and promotions obligations under clause 4.2, in order to continue to provide distribution and generation services ('other services' under the Guideline) in the isolated systems.

2.2 Reasons for seeking a waiver

As a DNSP, Ergon Energy may provide 'distribution services' but is prohibited, under clause 3.1(b) of the Guideline, from providing 'other services'. Since the early 2000s, Ergon Energy has provided distribution and generation services, under the Ergon Energy Network brand, in isolated, non-NEM connected communities across regional Queensland. These services do not meet the definition of

³ Version 3, which was published in November 2021.

⁴ [AER Ring-fencing waiver applications final decision - December 2017 13.pdf](#)

⁵ Initiation | Australian Energy Regulator (AER)

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'distribution services' and are therefore 'other services' for the purposes of the Guideline.⁶ As such, a ring-fencing waiver is required for Ergon Energy to continue to provide these services and to continue to use Ergon Energy offices, staff and branding in doing so.

For reasons of equity, and to support economic prosperity and growth, the Queensland Competition Authority (QCA) sets notified prices that determine how Ergon Energy Retail (a subsidiary of Energy Queensland) sells electricity to customers in regional Queensland, including the isolated systems.⁷ The Queensland Government's Uniform Tariff Policy (UTP) provides that customers of the same class should pay no more for their electricity, and should pay via similar price structures, regardless of their geographic location. This means that the notified prices which Ergon Energy Retail must charge its retail customers are set below the actual cost of supply. It is because of this Government policy that Energy Queensland receives a community service obligation (CSO) payment from the Queensland Government representing the amount of this revenue shortfall.

As stated above, Ergon Energy provides generation and distribution services to customers in remote areas of Queensland. These services are, with one exception, not regulated by the AER under Chapter 6 of the NER⁸ and are not provided on a competitive basis as the Queensland Government subsidises the cost of providing these services through CSO payments to Energy Queensland. Until there is a change in regulatory arrangements, such that the basis upon which these services are no longer determined by the Queensland Government, Ergon Energy will continue to require a waiver of ring-fencing obligations in order to provide these critical distribution and generation services.

2.3 Details of services for which the waiver is being sought

The services for which the waiver is being sought are other services⁹ provided by Ergon Energy in remote, non-NEM connected, communities across regional Queensland. These services are provided by 33 isolated power stations, currently predominantly diesel fired, that support 39 communities. Ergon Energy also has 35 stand-alone networks that provide distribution services for isolated communities.

2.4 Proposed waiver commencement date and expiry date

Ergon Energy proposes that the waiver commence immediately after the expiration of the existing waiver, on 1 July 2025. It is requested that the AER grant the waiver without an expiry date on the condition that Ergon Energy notify the AER upon any change in Queensland Government policy that would affect the waiver, such as a change in Queensland Government policy that the basis upon which services are provided in isolated systems are no longer determined by the Queensland Government. This would reduce ongoing administrative burden on both Ergon Energy and the AER.

⁶ The definition of 'distribution services' is found in Chapter 10 of the NER. A 'distribution service' is defined as a service provided by means of, or in connection with, a 'distribution system'. A 'distribution system' is a distribution network connected to another transmission system or distribution system or a stand-alone distribution system in a regulated stand-alone power system (SAPS). Queensland has not currently made regulations under which any SAPS form part of the national electricity system. As such, the isolated systems, in which Ergon Energy provides distribution and generation services, do not meet the definition of distribution systems and therefore are considered 'other services' for the purpose of the Guideline.

⁷ With the exception of customers connected to the Mt Isa-Cloncurry 66 kV distribution network – see footnote 1 above.

⁸ The 66 kV Mt Isa-Cloncurry distribution network being the exception - see footnote 1 above.

⁹ As stated above, these are distribution and generation services.

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2.5 Potential costs if the waiver application is not granted

If the waiver application is not granted, the costs associated with complying with the ring-fencing requirements would include the establishment of a new legal entity, or entities, to provide the distribution and generation services in the isolated systems. This would increase the costs of providing these services. Any increase in costs would likely flow through to an increase in the Queensland Government's CSO payment. The costs of this would ultimately be borne by Queenslanders.

Any change in entity, to provide these services, would be at the discretion of the Queensland Government. Ergon Energy is not aware of any intention to do so.

2.6 Regulatory control periods to which the waiver would apply

The waiver would apply for the regulatory control period 2025-2030 and any number of future regulatory control periods, depending on the AER's determination of an expiry date for the waiver.

2.7 Reasons why Ergon Energy considers the waiver should be granted

Clause 5.3.2(a) of the Guideline provides that the AER, in assessing a waiver application and deciding whether to grant a waiver or refuse to grant a waiver, must have regard to:

- i. The NEO;
- ii. The potential for cross-subsidisation and discrimination if the waiver is granted or refused; and
- iii. Whether the benefit, or likely benefit, to electricity consumers of the DNSP complying with the obligation (including any benefit, or likely benefit, from increased competition) would be outweighed by the cost to the DNSP of complying with that obligation.

National Electricity Objective

The National Electricity Law provides that the NEO is to promote efficient investment in, and efficient operation and use of, electricity services for the long-term interests of consumers of electricity with respect to:

- price, quality, safety and reliability and security of supply of electricity;
- the reliability, safety and security of the national electricity system; and
- the achievement of targets set by a participating jurisdiction:
 - for reducing Australia's greenhouse gas emissions; or
 - that are likely to contribute to reducing Australia's greenhouse gas emissions.¹⁰

Each of the elements of the NEO are of importance in considering this waiver application. In examining whether an application for a waiver is appropriate and aligned with the NEO, the impacts on consumers must be at the core of the decision-making process.

¹⁰ Section 7, *National Electricity (Queensland) Law*.

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The granting of this waiver would be consistent with the NEO because it would continue to promote the efficient operation, and use of, electricity services for the long-term interests of customers in the isolated systems, with a particular focus on quality, safety, reliability and security of supply. Ergon Energy already has the infrastructure and skills required to continue to provide the generation and distribution services in the isolated systems, therefore, the most efficient outcome is to grant the waiver to continue to allow Ergon Energy to provide these services.

Ergon Energy's sustainable energy solution efforts in the isolated systems, which are dependent on the granting of the waiver, are directly aligned with the recent incorporation of an emissions reduction objective into the NEO.

Further, in the AER's Final Decision, dated December 2017, to grant Ergon Energy the existing waiver to provide these services in isolated systems, the AER stated that the granting of the waiver supported the NEO in terms of price and security of supply for retail customers in these isolated systems.¹¹

Cross-subsidisation

Ergon Energy submits that there is, and will continue to be, no cross-subsidisation between its AER regulated distribution services and the other services it would provide (and currently provides) in isolated systems. Ergon Energy maintains separate accounts in accordance with the principles and policies of its AER approved Cost Allocation Methodology. No costs associated with the provision of other services in isolated systems will be allocated to regulated distribution services and accounts will be maintained to ensure clear and transparent demonstration of this to the AER.

Discrimination

The Guideline imposes obligations that aim to prevent discrimination. Ergon Energy submits that there is no discrimination in continuing to provide distribution and generation services in the isolated systems.

Ergon Energy has been providing these services in Queensland's isolated communities since the QCA granted a waiver to operate these systems in the early 2000s.

Ergon Energy has established distribution and generation infrastructure and the remote locations, high cost, and lack of incremental demand associated with the isolated systems, would create a high barrier of entry. If Ergon Energy were restricted from providing these services, it may jeopardise the security of supply to electricity customers in the isolated systems.

As stated above, the provision of these services by Ergon Energy in isolated systems is not provided on a competitive basis, as the Queensland Government subsidises the cost of providing these services through CSO payments to Energy Queensland.

Further, in the AER's Final Decision for the existing waiver, it stated that:

- as these services are regulated monopolies, harm to potential competitors is not a relevant consideration

¹¹ [AER Ring-fencing waiver applications final decision - December 2017_13.pdf](#)

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- there appears to be few, if any, benefits from imposing the ring-fencing obligations for legal and functional separation on these isolated systems.¹²

Benefits

Ergon Energy considers that the costs of complying with the relevant obligations, that is the creation of a new entity or entities, would increase the costs of providing distribution and generation services to customers in the isolated systems. As the provision of these services by Ergon Energy has occurred since the early 2000s, it is submitted that there would be no benefit to customers in the isolated communities in requiring Ergon Energy to comply with the relevant ring-fencing obligations. Further, as noted above, any change in entity would be at the discretion of the Queensland Government and Ergon Energy is not aware of any intention to do so.

3. CONCLUSION

Ergon Energy submits that the proposal in this ring-fencing waiver application supports the key goals of ring-fencing, which are to prevent regulated businesses from favouring their own competitive activities to the disadvantage of other competitors, and using revenue earned from regulated services to cross-subsidise the provision of other services.

In assessing the waiver, Ergon Energy submits that the AER should be satisfied that there is no benefit in requiring Ergon Energy to comply with the legal and functional separation obligations of the Guideline.

If the AER grants a waiver as proposed, Ergon Energy also considers that there will be no harm to electricity consumers. Rather, the proposal will promote achievement of the NEO in terms of efficient investment in and operation of electricity services, with the communities in these remote locations continuing to benefit from reliable electricity supply arrangements and regulated retail prices set below costs under the UTP.

¹² [AER Ring-fencing waiver applications final decision - December 2017_13.pdf](#)