



First Nations Clean Energy Network

**Submission to the Australian Energy Regulator on Ergon
Energy's application for a waiver from clauses 3.1(b) and 4.2
of the Ring-fencing guideline (Electricity distribution)**

May 2025



Overview

The [First Nations Clean Energy Network](#) (the Network), welcomes the opportunity to provide a submission in response to the ring-fencing waiver application dated 4 March 2025 from Ergon Energy to the Australian Energy Regulator (AER).

In this waiver application, Ergon Energy is seeking a waiver from clauses 3.1(b) and 4.1 of the [Ring-fencing Guideline \(Electricity distribution\)](#) (the Guideline).

As noted by the AER on the [AER consultation page](#):

This waiver would allow Ergon Energy to continue providing distribution and generation services in non-NEM connected isolated communities, in remote areas of Queensland. These services are provided by 33 isolated power stations, currently predominantly diesel-fired, which support 39 communities. Ergon Energy also has 35 stand-alone networks that provide distribution services for isolated communities. Ergon Energy has provided a complete list of isolated networks in its application.

This submission sets out the range of reasons why the waiver should not be granted, and certainly not without an expiry date.

The Network [provided a submission in response in March 2024](#) to the related ring-fencing waiver application from Ergon Energy, and we refer the AER to that submission. Since that submission was provided there has been a change in the Queensland government. Accordingly, there remains uncertainty on the key energy policy objectives, but it is clear there will be a comprehensive divergence from the previous government's major policy priorities and strategic frameworks for the state's energy transition. A new Renewables Regulatory Framework is being considered in place of the previous government's Energy and Jobs Plan. The Queensland Energy Roadmap is expected to be released by close of 2025.

As noted in our March 2024 submission, the Network is collaborating with a number of remote First Nations communities in Queensland who will be directly impacted by the proposal outlined in the waiver application. The Network considers that further consideration should be given to the views of these communities (and consumers of electricity in these communities) before any approval is granted.

About the First Nations Clean Energy Network

The [First Nations Clean Energy Network](#) (Network) is made up of First Nations people, groups, community organisations, land councils, unions, academics, industry groups, technical advisors, legal experts, renewables companies and others - working in partnership to ensure that First Nations share in the benefits of Australia's clean energy transition.

The Network is led by a Steering Group of First Nations leaders.

Australia's rapid transition to renewable energy will require access to vast areas of land and waters, including for thousands of kilometres of new transmission infrastructure. Enabling and empowering First Nations to play a key and central role in Australia's renewable energy transition goes beyond just social licence issues - it presents a unique opportunity for Australia to design a system that is fair and just and which can also positively impact and result in other social and economic benefits for First Nations.

As a national, First Nations-led coalition, the Network aims to enable and empower First Nations to participate in, benefit from, respond to, and shape renewable energy projects that impact their communities, land, waters and Sea Country.

The First Nations Clean Energy Network's approach is built on three pillars:

- **Community** The First Nations Clean Energy Network supports First Nations communities to shape the design, development and implementation of clean energy projects at every scale
- **Industry partnerships** The First Nations Clean Energy Network acts as an innovation hub, promoting best practice standards and principles that companies should adopt and investors should require before committing capital to a clean energy project
- **Policy reform** The First Nations Clean Energy Network advocates to lift significant federal and state regulatory barriers and stoke government investment, removing regulatory barriers to energy security and clean energy generation

The important role of energy regulation in achieving better outcomes for consumers

The majority of Australians enjoy the benefits of highly developed electricity systems that are designed to protect the long-term interests of consumers in terms of safety, reliability, price and emissions. The regulatory and policy settings governing these systems have been continually adapted over several decades to meet consumers' evolving needs, such as introducing competition to give consumers choice, leveraging new technologies such as smart meters and distributed energy resources (DER), and ensuring adequate consumer protections are in place.

More recently, regulatory and policy changes have had particular regard to empowering consumers as part of Australia's energy transition.

Remote communities, however, represent a segment of society that has not benefited from these developments to the same extent, and the Network is concerned that ring-fencing waiver applications like that proposed by Ergon Energy - the subject of this submission - have significant

potential perpetuate the barriers that can inhibit remote First Nations communities from participating in the benefits of Australia's energy transition.

The energy systems in these remote communities are often reliant on ageing diesel generators which are expensive to operate (requiring subsidies from State and Federal Governments so the full cost is not passed on to consumers) and produce harmful particulate emissions.

Consumers in remote communities are typically not covered by – and therefore do not benefit from – the framework of regulation and policy that applies to urban and regional customers connected to one of Australia's core electricity systems, leading to significant disparities. By extension, this includes much of the policy and regulation specifically designed to guide Australia's energy transition, including consumers' role in it.

For example, in the National Electricity Market, the South West Interconnected System, the North West Interconnected system and the Northern Territory's core electricity system (the latter three all having similar regulatory frameworks to the NEM) have all benefitted from continuous and incremental regulatory changes and adjustments to better suit customers.

This sort of incremental and continuous improvement of regulatory changes and adjustments to better serve customers simply does not occur in remote communities. The Network is concerned in this regard that the ring-fencing waiver application appears to be more concerned about maintaining the status quo.

Risks to First Nations community-led and owned generation projects and First Nations economic participation by this ring-fencing waiver application

As noted in the AER's [Explanatory Statement for the Ring-fencing guideline \(electricity distribution\)](#):

The objective of ring-fencing is to provide a regulatory framework that promotes the development of competitive markets. It does this by trying to establish a level playing field for third party providers in new and existing markets for contestable services. Effective ring-fencing arrangements are an important mechanism for promoting market efficiency and more competitive outcomes in markets for energy services, ultimately leading to benefits to consumers.

The Network's earlier submission included examples of community-led and owned generation projects. There are numerous other emerging examples of similar community-led and owned generation projects across remote First Nations communities.

The grant of a ring-fencing waiver (particularly without an expiry date) has significant potential to curtail this sort of activity and innovation, and the economic, social, cultural - and consumer - benefits that flow.

Maintaining Ergon Energy as a vertically-integrated monopoly in these remote First Nations communities accordingly has the potential to disincentivise the development of more sustainable, cost-effective and First Nations-led solutions and disempowers First Nations communities from creating or partnering on alternatives that respect First Nations community control and aspirations.

This Network makes this comment in the context of advancing battery and renewable technologies, and a more supportive policy environment, particularly following the development of the First Nations Clean Energy Strategy and the endorsement of that Strategy by all State and Territory Energy Ministers on [6 December 2024](#).

Similarly, with Ergon Energy retaining control over both distribution and generation, the ring-fencing waiver has the potential to inhibit First Nations contractors, businesses and energy entrepreneurs from being locked out of delivering services.

Risks in delaying the clean energy transition through the ring-fencing waiver

Ergon Energy currently operates diesel-powered isolated networks in many remote First Nations communities in Queensland. The ring-fencing waiver application has the potential to entrench diesel generation by protecting Ergon Energy's control over generation.

If granted, the ring-fencing waiver should not be perpetual in nature

As noted in Ergon Energy's ring-fencing waiver application, the original waiver to meeting the obligations of clauses 3.1 and 4.2 of the Guideline was granted in 2017. Ergon Energy is seeking the new ring-fencing waiver on the basis that it would only expire *"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."*

This is vague and indeterminate and the Network considers that if a waiver becomes a permanent arrangement, it risks diminishing the incentives for Ergon Energy to invest in structural reform or alternative service models. A waiver with an indeterminate or that is perpetual in nature also reduces the ability of the AER to enforce its own long-term regulatory roadmap.

Our contact details

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