

12 January 2026

Andrew Bozin
Policy and Regulatory Reform Specialist
Energy Queensland

Sent by email to: [REDACTED]

Dear Mr Bozin

Re: Ergon ring-fencing waiver application for 24 BESS units

Thank you for your letter dated 10 November 2025 and the attached application from Ergon Energy Corporation Limited (Ergon) for a waiver from the obligations in clause 3.1 (legal separation) of the Ring-fencing Guideline for Electricity Distribution (the guideline) in respect of 24 Battery Energy Storage Systems (BESS).

Ergon's proposal

We understand that Ergon intends to install 24 BESS, which will be a combination of 30kW/60kWh, 40kW/80kWh and 60kW/120kWh systems mounted on poles. These BESS will connect to Ergon's distribution network in North Townsville at sites that have been determined based on a range of factors, including:

- a preference for network areas with fast-growing customer solar PV inverter capacity and falling minimum demand
- the ability to group BESS in an area to assist with load transfers
- there being no physical access or technical constraints
- the consideration of local impacts.

Ergon is seeking the waiver to enable it to lease these BESS to a third-party [REDACTED] for participation in wholesale market arbitrage, ancillary services and other emerging markets. However, [REDACTED] access to the BESS will be subject to conditions imposed by Ergon for network use, including:

- the ability for the network business to use on-call capacity of the BESS for demand response to reduce network risks
- BESS voltage performance for supporting network voltage management
- the BESS will be behind dynamic connections with monitoring and verification, so they cannot add to network capacity risks when operated by the retail partner.

We note that Ergon engaged [REDACTED] following a short evaluation process during which five major retailers were invited to provide expressions of interest and two retailers sent in submissions.

Assessment

Under clause 5.3.2 of the guideline, in deciding whether to grant a waiver, the AER must have regard to

- the National Electricity Objective (NEO)
- the potential for a distribution network to engage in cross-subsidisation of services and discriminatory behaviour, and
- whether the benefit to electricity consumers of the DNSP complying with the ring-fencing obligations would be outweighed by the cost to the DNSP of that compliance.

The AER considers that granting this waiver broadly aligns with the NEO because the BESS units can provide operational support to ensure reliable, affordable and safe functioning of overall power systems in future. The AER considers that BESS units can play an important role in reducing energy costs for consumers by participating in wholesale arbitrage, ancillary services and providing network support.

Given that these BESS units are wholly funded by the Queensland Government, the cross-subsidisation risk is adequately addressed. The AER is satisfied that, under the proposed model of BESS ownership and sharing capacity with leasing partners, compliance with the cost allocation methodology sufficiently safeguards against risk of cross-subsidy.

We also assessed the potential risk of discrimination through recovery of storage tariffs and providing timely connections for contestable BESS providers. We recognise that having transparency on storage tariffs and connection times would help to address these risks and therefore the AER has stipulated waiver conditions to report on large BESS connections and recovery of storage tariffs.

If the waiver is not granted to Ergon, the BESS units may only be used for network events to regulate demand and supply on the distribution network. This would mean that customers wouldn't benefit from accessing surplus capacity, limiting the overall benefit that could be delivered by the BESS units. While this would mitigate discrimination and cross-subsidisation risk, it will be a missed opportunity to understand a shared operational model for batteries and may also drive up the costs for customers in the long term. The AER considers that the benefit, or likely benefit, to electricity consumers of the AER requiring Ergon to comply with legal separation will likely be outweighed by the cost and foregone benefits to the DNSPs of being required to comply with that obligation.

Decision

Our decision is to grant Ergon a waiver from clause 3.1 of the guideline to enable Ergon to lease capacity of 24 BESS units (with a combination of 30kW/60kWh, 40kW/80kWh and 60kW/120kWh systems) under Stage 3 of Energy Queensland's Local Network Battery Plan.

The waiver is provided until 31 December 2042 because this aligns with the economic life of the BESS units.

The waiver is granted with the following conditions:

- Provide the AER with information on the contractual relationship between Ergon Energy and its retail partners. This information includes:
 1. the contractual terms and conditions and payments
 2. details of any priority access that the DNSP has to the BESS (such as in the event of a network contingency) and any requirements on the retail partner to maintain minimum charging of the BESS

3. details of any revenue sharing arrangements in relation to the BESS.

This information should be provided to AERringfencing@aer.gov.au within 20 business days of the contract being finalised. Where there are changes in this contractual arrangement, the AER should be notified within 20 business days. We acknowledge the commercially sensitive nature of this information and will treat this information, accordingly, noting our policies regarding information privacy and disclosure of information.

- Provide the AER with an estimated date of energisation of the BESS. This information should be provided to AERringfencing@aer.gov.au within 20 business days of the contract being finalised. Where there are changes in this estimated date, Ergon Energy should note this as part of their ring-fencing compliance reporting.
- Ex-post public sharing of information about the BESS (e.g., location(s), size, status of the project (trial or full scale roll out), intended purposes and uses, a key contact for external stakeholders if they wish to discuss the project further) and any useful learnings that will support the battery market.
- Provide, on an annual basis, a year-to-year comparison of the uses (volume and frequency) of the BESS and an explanation of significant differences if observed from one year to another. The independent assessor, as part of annual ring-fencing compliance assessment under clause 6.2 of the guideline, to confirm the annual usage and comparison values are accurate. This includes:
 - o The total quantified benefit derived from the deployment of the BESS from all services.
 - o The total quantified benefit derived from the deployment of the BESS from direct control services.
 - o The total quantified benefit derived from the deployment of the BESS from other distribution services and other services; and
 - o A comparison of uses (volume and frequency) of the BESS that confirms the usage by Ergon and by its contracted third party, including the initial proposed allocation as a baseline against which the actual usage of the BESS can be compared.

In addition, staff may request that Ergon makes available to the AER, information on the performance of the BESS participating in this trial, such as the split between network and market benefits, when this is sought by the AER staff at any time during the tenure of the waiver.

- Ergon must apply a tariff structure to its retail partners that are leasing BESS unit capacity that is no more favourable in aggregate than the tariff structure it applies to other distribution connected battery operators for a BESS of similar unit capacity having regard to the voltage and location of the connection. This includes, but is not limited to, storage tariffs and other charges for use of the distribution network. Where applicable, an identical tariff structure should be applied.
- Ergon must include in its ring-fencing compliance reporting, information on any high voltage third-party BESS connection application requests received, and the connection timeframes for those connections. This must include a brief description of the project, whether the request is for a new connection or for the modification of a connection, the location of the connection, and the dates (if any) of the connection enquiry, connection application, connection offer, and commissioning of the final connection. Where a new connection request or a request to modify an existing connection is denied or is only

agreed to by Ergon in a substantially modified form (i.e. >20% reduction in nominal capacity), an explanation of the grounds for denial or modification must be included.

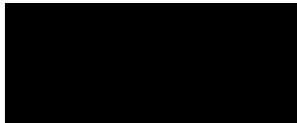
Compliance and review matters

The AER will use any data collected as part of waiver conditions among other things to monitor compliance with the waiver, gain insight into how these BESS are providing benefits to consumers and potentially inform further development of the contestable flexibility market. The AER has broad discretion to review and revoke ring-fencing waivers that it grants, at any time on its own initiative if there are grounds to do so. Pursuant to clause 5.5 of the guideline, in deciding whether to vary or revoke the waiver, the AER will have regard to the same matters for granting the waiver under clause 5.3.2 of the guideline. A minimum of 40 days' notice will be given to Ergon that the AER is considering a variation or revocation of this waiver.

Ergon is reminded that, under clause 6.3 of the guideline, Ergon is required to notify the AER in writing within 15 days of becoming aware of a breach of its obligations under the guideline.

If you would like to discuss this matter further, or have any questions, please contact Laura Considine, Director Ring-fencing by email at AERringfencing@aer.gov.au or on [REDACTED] in the first instance.

Yours sincerely



Jarrod Ball
AER Board Member

Sent by email on: 12 January 2026