

Draft Electricity Distribution Ring-Fencing Guidelines

Consultation note for further minor change

On 27 May 2021 the AER sought submissions on the draft electricity distribution ring-fencing guideline. In response to stakeholder comments, we are now seeking comments on two additional minor amendments to the guideline.

1. Clarifying the information sharing register provision

Submissions from the Clean Energy Council (CEC) and Enel X stated that the information sharing provisions in clause 4.3 are unclear. The submissions noted that a third party must first request the information being shared between a distributed network service provider (DNSP) and their related electricity service provider (RESP) before it is disclosed on the information sharing register. This means that the third party needs to be aware of information being shared between the DNSP and their RESP before they can request it.

The intention of the guideline provision was to provide transparency into the information being shared between DNSPs and their RESPs. This means that third parties also have access to the information being shared with a RESP.

As a result of these submissions we propose to amend the guideline to clarify this issue. The change is marked below.

4.3.4 Information register

*(b) For each legal entity **or related electricity service provider** that has requested that a DNSP provide access to information identified in clause 4.3.4(a), the DNSP's information register must:*

*i. identify the kind of information requested by the legal entity **or related electricity service provider** ; and*

*ii. describe the kind of information requested by the legal entity **or related electricity service provider** in sufficient detail to enable other legal entities to make an informed decision about whether to request that kind of information from the DNSP.*

The insertion of the words 'or RESP' clarifies that information a DNSP shares with a RESP must be identified on the information sharing register. i.e it is not only information requested by another third party legal entity that must be identified but information requested by the RESP must be identified as well. Although this was the initial intent of the guideline provision we believe this clarification is useful to remove any grey areas as pointed out by the CEC and Enel X.

2. Class Waivers

In the future it may be useful for a 'class waiver' mechanism to be available in the ring-fencing guideline. This would apply to situations where the waiver was for the same purpose. For example, to increase the SAPS generation revenue cap for all Category 1 DNSPs. Currently the guideline does allow multiple DNSPs to submit waivers together however it does not allow for the AER to trigger the process. A new clause may be inserted to give the AER the option to begin the process for a class waver. It would still follow the usual waiver consultation process however would be a simpler, more efficient solution in some circumstances.

Although it may not be immediately called upon, this additional flexibility built into the guideline might be useful in the future. We propose amending the guideline by inserting the clause below, subject to stakeholder feedback.

5.3A Class waivers

5.3A.1 *The AER may, on its own initiative, in its absolute discretion, and at any time, grant, vary or revoke a class waiver of an obligation under clauses 3.1, 4.3 and / or 4.4.1(a) of this Guideline:*

(a) for a term that the AER considers appropriate; and

(b) subject to any conditions the AER considers appropriate,

provided that, in the case of a variation or revocation, it has given at least 40 days' notice that it is considering doing so.

5.3A.2 *In deciding whether to grant, vary or revoke a class waiver, the AER:*

(a) must have regard to the matters set out in clause 5.3.2(a) of this Guideline;

(b) may have regard to any other matter it considers relevant;

(c) may request information from one or more DNSPs;

(d) may take the steps set out in clauses 5.3(b)(iii) and (iv) of this Guideline.

5.3A.3 *In this clause 5.3A, "class waiver" means a waiver applicable to more than one DNSP.*

Consultation

The AER is seeking your feedback on both amendments described above. Please submit any comments on the changes via email to AERring-fencing@ aer.gov.au by **14 September 2021**.