

8 July 2021

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Via electronic lodgement

To whom it may concern

RE: Draft electricity distribution Ring-fencing Guideline (Version 3)

We welcome the opportunity to make this submission on the AER's draft electricity distribution ring fencing guideline. This proposes changes to reflect the changing nature of services offered by Distribution Network Service Providers (**DNSPs**), including generation services related to stand-alone power systems (**SAPS**) and contestable services from batteries.

Proposals to update the distribution ring-fencing guideline, notably the SAPS Resource Provider allowance within the generation revenue cap, are welcome but we have concerns with several other aspects of the proposal. Specifically, we are concerned with the consequences of not allowing other legal entities to use a DNSP's battery.

The AER's proposal to limit the ability of other legal entities to use DNSPs' batteries (notwithstanding the scope for a waiver to be granted) may:

- Stifle progress in developing battery-based solutions that will better facilitate bidirectional distribution networks; and
- Prevent DNSPs from installing market metering on new and existing network batteries, as required by the recent Global Settlements rule changes. This is because the net revenue from a battery may constitute a right of use.

We are also concerned that the proposed obligation to notify the AER of all breaches within 15 business days, irrespective of their materiality, is unduly burdensome. It is an insufficient amount of time to fully assess and perform the necessary quality assurances prior to submitting information to the AER. We address these issues in further detail below.

SAPS

We broadly support the proposed amendments with respect to SAPS. This includes the exemption for DNSPs to provide generation services to DNSP-led SAPs up to a 'generation revenue cap'.

We also support the exclusion of temporary SAPS – that is, SAPS that are used to respond to natural disasters and emergencies that are 'beyond a DNSP's reasonable control' – from the generation revenue cap. Given our recent experiences of devastating storms and bushfires, we know that communities living on the edge of the grid may actively seek support from their DNSP to transition to SAPS supplies. Where these transformations are financially justified, then we agree that ring fencing should not present barriers to rolling out SAPs.

While we see benefit in using a tiered generation revenue cap to set an upper limit on a DNSP's provision of SAPS, we agree with Energy Networks Australia (ENA) that the caps are too conservative. We, therefore, support ENA's proposal to apply revenue cap thresholds based on the proportion of a DNSP's route line that is classified as rural.

The ENA's proposed re-categorisation will better enable the roll-out of DNSP-led SAPs and will ensure that the right signals are sent to DNSPs to better meet community expectations for more reliable edge of grid supplies. In addition, given the expected growth in the number of operational SAPS, opportunities for third party SAPS resource providers will continue to grow.

Batteries

We agree that utilising batteries throughout our network could realise multiple customer benefits, and that there are a range of ownership and control models that could be used to extract the full value from batteries. We expect that batteries will be a particularly important element in creating bidirectional distribution networks that are robust and efficient. For these reasons, we do not support the AER's proposed amendments.

The AER's proposed approach does not strike an appropriate balance between allowing DNSPs to explore the use and benefits of batteries and guarding against the potential threats to competition in emerging markets. Rather, the AER's proposal is likely to slow down the deployment of batteries on the distribution network, hinder innovation and hinder the development of competition.

We are particularly concerned with the proposal to remove batteries from the scope of the exception, such that a DNSP is not allowed to supply excess battery capacity to third parties. While we will continue to actively look for viable non-network options to address network challenges, the AER's proposed approach may result in batteries becoming a less viable non-network option in certain circumstances. As generation sources are becoming increasingly sourced from non-registered generators on the distribution network, and distribution networks are becoming bidirectional, we urge the AER to retain flexibility in the framework so as to not constrain early market developments.

While the AER recognises that there may be exemptions to this rule, the proposed waiver process risks becoming a significant disincentive for businesses to consider batteries as a viable option. We would, therefore, welcome the AER's reconsideration of this process.

Given our concerns, we support the more flexible, proportionate and more pragmatic approach to batteries that has been proposed by the ENA. We consider that the ENA's proposal is a more effective regulatory response to the potential harm faced by consumers.

The proposed prohibition on granting other legal entities the right to use DNSP batteries may also cause DNSPs to refrain from installing market metering on new and existing network batteries.¹ This is despite recent rule changes to establish Global Settlements that require every connection point to have metering.² The assignment of the net revenue from a battery (the connection point) to a financial responsible Market Participant (FRMP) may constitute a right of use in favour of the FRMP. Consequently, DNSPs may need to apply for a waiver from the Ring Fencing Guidelines for every new battery installed on their network solely for network purposes, as each battery could be viewed as conferring a right of use on the FRMP.

We would appreciate clarification of whether the assignment of incidental revenue from metered batteries constitutes the granting of a right to use DNSP batteries to other legal entities.

Other 'minor' amendments

We are concerned with the additional regulatory burden that will result from the amendments the AER has grouped under 'minor amendments'.

We are particularly concerned with the amendment that will require us to notify the AER of all breaches, irrespective of their materiality, within 15 business days. In the current Ring-fencing Guideline, DNSPs have five business days to report material breaches and, for all non-material breaches, four months from the end of the regulatory year to submit compliance reports. The AER's proposed change constitutes an average reduction in the time to report a non-material breach by 160 days. Such a significant change that is not supported by evidence of systemic

¹ In most circumstances, network batteries will be charging when wholesale market prices are low and discharging when wholesale market prices are high. This will result in wholesale market revenue for the assigned financial responsible Market Participant.

² Prior to the introduction of Global Settlements, the NER allowed the entirety of generation to be purchased by, and consumption from franchise loads allocated to, the Local Retailer. After the Global Settlement rule changes come into effect on 1 October 2021, all generation must be metered due to changes to clause 2.2.5.

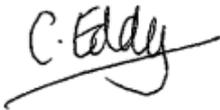
under-reporting, or actual (rather than theoretical) harm to consumers from non-trivial breaches that were not reported within five business days. One immediate consequence of the proposed change is that DNSPs will not have sufficient time to assess information relating to the breach or to carry out appropriate quality assurance reviews prior to submitting material to the AER.

Reporting requirements should also be consistent with businesses management processes and avoid overlapping expectations with critical periods of high activity (disaster response) or head office shut down periods (typically, mid-December to mid-January). Importantly, businesses need adequate time to properly investigate and assess a potential breach to provide a fulsome description of the conduct and any relevant factors. Therefore, the requirement to report all breaches should be set to be no less frequent than monthly and, more reasonably, quarterly. Amending the AER's proposal in this way, noting that a comprehensive annual ring-fencing compliance report will still be produced, strikes a more appropriate balance between transparency, compliance and regulatory burden.

We encourage the AER to reconsider the proposals presented in response to the Issues Paper to identify a solution that strikes a more workable balance between the threat of harm to consumers and the need for accurate, practicable breach reporting obligations on DNSPs.

We look forward to continuing to work with the AER on issues that impact the consumer-driven transition that is currently underway. If you have any questions regarding this submission, please contact Justin Betlehem by email on justin.betlehem@ausnetservices.com.au.

Yours sincerely

A handwritten signature in black ink that reads "C. Eddy". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Charlotte Eddy
Manager Economic Regulation