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Submitted via email: ringfencing@aer.gov.au

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SA Power Networks ring fencing waiver application

The Australian Energy Council (the Energy Council) welcomes the opportunity to make a submission to the Australian Energy Regulator's (AER) regarding the South Australia Power Network (SAPN) waiver application for its temporary generation project.

The Energy Council is the industry body representing 21 electricity and downstream natural gas businesses operating in the competitive wholesale and retail energy markets. These businesses collectively generate the overwhelming majority of electricity in Australia and sell gas and electricity to over 10 million homes and businesses.

Request for interim waiver

The Ring Fencing Guideline contemplates the circumstances in which a waiver may be legitimately required because of a jurisdictional requirement that compels a network to provide services that do not satisfy the definition of distribution services under the guideline.

Where such a community service obligation or other government direction or law exists, then to the extent that the AER ring fencing guideline is inconsistent with the obligation and the direction or law, the Energy Council has previously submitted that the threshold test has been met for a waiver to be made¹. These are very limited and entirely apparent cases. The Energy Council remains of the view that this threshold test should be the only circumstance in which a waiver application can be made or granted.

Branding and cross promotion

The Energy Council understands the waiver application for the functional separation requirements from Part 4.1, 4.3, and 4.4 of the Guideline. The requirements of 4.2 of the Guideline are also subject to the waiver application. The Energy Council does not support excepting the requirements of 4.2.3, those regarding branding and cross promotion, as part of the waiver. The requirements of 4.2.3 do not seem unreasonable or difficult to comply with in regard to the jurisdictional direction. The Energy Council view is that confusion as to SAPN's role in the merchant energy market can and should be avoided.

¹ Australian Energy Council, Response to AER Draft Ring Fencing Guideline- Exposure Draft, 16 November 2016

Legal separation

A waiver in respect to the legal separation requirements limited to clause 3.1 of the Guideline is appropriate.

Any questions about our submission should be addressed to David Markham, Corporate Affairs by email to david.markham@energycouncil.com.au or by telephone on (03) 9205 3111.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Sarah McNamara', with a large circular flourish at the start and a long horizontal stroke extending to the right.

Sarah McNamara

General Manager Corporate Affairs
Australian Energy Council