



PO Box 4136  
East Richmond VIC 3121  
**T** 131 806  
**F** 1300 661 086  
**W** redenergy.com.au

PO Box 632  
Collins St West VIC 8007  
**T** 1300 115 866  
**F** 1300 136 891  
**W** lumoenery.com.au



21 June 2017

Mr Chris Pattas  
General Manager, Network Regulation  
Australian Energy Regulator  
GPO Box 520  
Melbourne VIC 3001

Submitted electronically

Dear Chris,

## **Re: CitiPower and Powercor Ring Fencing Waiver Application - May 2017**

### **Introduction**

Red Energy (Red) and Lumo Energy (Lumo) welcome the opportunity to respond to the Australian Energy Regulator's (AER) consultation regarding the application for a waiver from the Ring-Fencing Guideline (Guideline) lodged by CitiPower and Powercor.

CitiPower and Powercor have requested a waiver under Section 5 of the Guideline in relation to the:

- restrictions around the provision of negotiated and unclassified services;
- use of the Powercor Network Services brand (which includes the term 'Powercor') when it undertakes unregulated services for large commercial and industrial customers;
- use of the CitiPower and Powercor brand in the provision of unregulated field services for large commercial and industrial customers; and
- application for a "No Action" letter for adopting a single business operating model.

Red and Lumo have reviewed the waiver application lodged by Power and CitiPower under Section 5 of the Guideline and we:

- are comfortable with the waiver from Section 4.2 (offices, staff, branding and promotions) of the Guideline for the seven negotiated and unclassified services on the condition it provides a net benefit to consumers;
- object to Powercor Networks Service's waiver application for the use of the Powercor brand when undertaking works for large industrial customers;
- object to the use of the CitiPower and Powercor brand in the provision of unregulated field services for large commercial and industrial customers; and
- will not object to the AER' to grant CitiPower and Powercor a No Action letter for adopting a single business operating model.

### **Waivers**

#### **Restrictions around the provision of negotiated and unclassified services**

Red and Lumo are comfortable with this waiver application on the basis that the waiver provides consumers with a net benefit and is unlikely to affect competition in the markets these services are offered in.

CitiPower and Powercor lodged the waiver application under Section 4.2.5 of the Guideline in response to the general obligations that would apply under Section 4.2 including clauses:

- 4.2.1 - physical separation/co-location;
- 4.2.2 - staff sharing; and
- 4.2.3 - branding and cross promotion for the broad range of negotiated and unclassified services described in this waiver application.

In general, we do not support waiver applications under the Guideline have some concerns regarding this application. However, following a more detailed examination of the application, we will not object to the waiver on the condition it provides consumers with a net benefit.

In practical terms this means:

- there is a strong probability that both of the negotiated and unclassified services in this waiver application will be reclassified as alternative control services at the next rate review; and
- the costs of avoiding the development of a new brand, branding materials and the need to relocate staff for the general obligations under Section 4.2 of the Guideline to an affiliate company at this time would be greater than the benefit of strict compliance with the Guideline.

We expect the AER will release the details of its cost benefit or qualitative analysis it undertakes under Section 5.3.2(iii) of the Guideline for this waiver application, highlighting the net benefit to consumers.

**Use of Powercor Network Services brand (which includes the term 'Powercor') when undertaking unregulated services for large commercial and industrial customers**

Red and Lumo do not support this waiver application.

Section 4.2.3(a)(i) of the Guideline makes it clear that a distribution network service provider (DNSP) needs to use separate branding for its direct control services from the other services it provides from a related electricity service provider. Powercor Network Services is clearly a related electricity service provider and its intended use of the Powercor brand is in direct violation of Section 4.2.3(a)(i) of the Guideline.

The size of the market for unregulated services for commercial and industrial customers is potentially large and profitable. As such, because Powercor Network Services have been active in this market, it will most likely to have developed brand awareness and potentially loyalty. Therefore, granting a waiver under this application is likely to prejudice the competitiveness of the market for unregulated services for commercial and industrial customers.

**Use of the CitiPower and Powercor brand in the provision of unregulated field services for large commercial and industrial customers**

Red and Lumo do not support this waiver application.

Section 4.2.3(a)(i) of the Guideline makes it clear that a DNSP needs to use separate branding for its direct control services from the services that it provides from a related electricity service provider.

The application for a waiver on the prohibition of the CitiPower and Powercor brand when performing field work for third parties (i.e. non direct control services) where the works are solely for large and industrial customers is in direct violation of Section 4.2.3(a)(i) of the Guideline.

Red and Lumo are convinced that there is currently a brand awareness and loyalty of the CitiPower and Powercor brand in this market. As such, allowing CitiPower and Powercor to use this brand may impact the competitive neutrality in the market for these services.

**“No Action” Letter for adopting a single business operating model for CitiPower and Powercor**

Red and Lumo do not object to this application for a No Action letter.

CitiPower and Powercor hold separate licenses but operate as a single business with shared management, employees and systems. This creates synergies that result in lower costs for direct control services provided by the both of these companies.

This arrangement may give rise to some areas of non-compliance with the Guideline. For example, CitiPower and Powercor having a single website could be deemed to be cross promoting services in contravention of Section 4.2.3(a)(iii) of the Guideline. However, the costs of separating out the operating model would cost consumers more than the benefit it provides. As such, we will not object to the AER should provide CitiPower and Powercor with a No Action letter in respect of the non-compliance arising from the single business model for the provision of monopoly distribution services.

**About Red and Lumo**

Red and Lumo are 100% Australian owned subsidiaries of Snowy Hydro Limited. Collectively, we retail gas and electricity in Victoria and New South Wales and electricity in South Australia and Queensland to approximately 1 million customers.

Should you have any further enquiries regarding this submission, please call Con Noutso, Regulatory Manager on 03 9976 5701.

Yours sincerely

A handwritten signature in black ink, appearing to read "Ramy Soussou".

**Ramy Soussou**  
General Manager Regulatory Affairs & Stakeholder Relations  
**Red Energy Pty Ltd**  
**Lumo Energy Australia Pty Ltd**