

28 September 2016



positive energy

Mr Chris Pattas  
General Manager  
Network Pricing, Policy and Compliance Branch  
Australian Energy Regulator  
GPO Box 520  
Melbourne Vic 3001

Dear Mr Pattas,

Energex Limited (Energex) welcomes the opportunity to provide a submission in response to the Australian Energy Regulator's (AER) Draft Ring-fencing Guideline for Electricity Distribution (the Draft Guideline).

Energex is fully supportive of the need for a national ring-fencing guideline in the context of rapidly changing innovative technologies and the emergence of new products, services and market participants which will deliver benefits for both customers and industry. Energex considers that the distribution ring-fencing arrangements, if carefully crafted, will be integral to ensuring the distribution services provided by Distribution Network Service Providers (DNSPs) are delivered efficiently in accordance with the National Electricity Objective and that competition is allowed to develop where feasible elsewhere in the electricity supply chain.

Energex supports increased contestability, with the expectation that two key criteria are met: that DNSPs are not excluded from participating in these markets and that the ring-fencing arrangements meet the necessity principle. Energex agrees in principle with the AER's revised ring-fencing objectives of addressing the two specific potential harms posed by DNSPs of cross-subsidisation and discrimination. In developing the Draft Guideline, the AER has had regard to the Council of Australian Governments (COAG) best practice regulation principles. While the COAG best practice regulation principles provide a constructive framework, Energex considers that key principles of predictability, proportionality, targeted approach and promoting confidence could be better met by refining the approach currently outlined in the Draft Guideline.

This submission sets out in detail Energex's key concerns regarding the Draft Guideline namely the:

- Ambiguity around obligations and interaction with other regulatory instruments
- Disproportionality of obligations to the harm that is being addressed
- Transitional arrangements which see obligations commence too quickly.

**Enquiries**

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Alternative drafting to address these concerns is proposed by Energex at Appendix 1 of this submission. These proposed amendments:

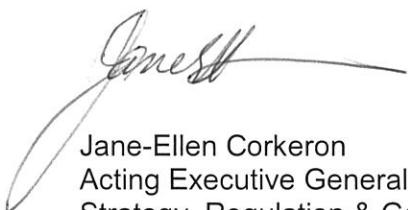
- provide greater clarity around the scope of services and the ring-fencing obligations to apply
- limit the legal and functional separation obligations to be more proportionate to the potential harm the AER is seeking to address
- provide a minimum 12 month transitional period for legal and functional separation obligations as well as branding obligations and a 3 month period for separate accounts/cost allocation and general non-discrimination obligations.

Energex acknowledges the task of developing a national ring-fencing guideline is challenging and acknowledges the AER has made a number of material changes from the preliminary positions paper to address stakeholder concerns. It is critical that this first national ring-fencing guideline is effective from the outset given metering contestability commences on 1 December 2017, new services such as battery storage services are not currently classified and there is the likelihood of reclassification of a number of services in the next distribution determination process. In addition, industry is aware of the upcoming Australian Energy Market Commission (AEMC) rule change proposal on contestability of energy services initiated by COAG. Given the criticality of having effective ring-fencing guidelines in place, Energex requests the AER to release an early exposure draft prior to the final guidelines being published on 30 November 2016.

Energex values the opportunity to continue to work with the AER and other stakeholders in developing a guideline that is effective in achieving the ring-fencing objectives without imposing unnecessary compliance costs on the industry and ultimately customers.

Please find attached Energex's submission to the Draft Guideline. If you have any queries in relation to this submission, please do not hesitate to contact Leigh Henderson, Acting Network Regulation Manager on (07) 3664 4118.

Yours sincerely



Jane-Ellen Corkeron  
Acting Executive General Manager,  
Strategy, Regulation & Governance