



Part of Energy Queensland

8 July 2021

Mr Mark Feather  
General Manager  
Australian Energy Regulator  
GPO Box 520  
Melbourne, Victoria, 3001

Dear Mr Feather

**Draft Electricity Distribution Ring-fencing Guideline Version 3**

Ergon Energy Corporation Limited (Ergon Energy) and Energex Limited (Energex) appreciate the opportunity to provide a submission to the Australian Energy Regulator (AER) on its *Draft Electricity Ring-fencing Guideline* (Draft Guideline) and supporting *Explanatory Statement Version 3*.

While Ergon Energy and Energex acknowledge the positive steps taken by the AER in the Draft Guideline and Explanatory Statement as they relate to stand-alone power systems, we are not supportive of the proposed approach for batteries. The attached submission outlines our key messages in more detail.

Should the AER require additional information or wish to discuss any aspect of this submission, please contact either myself, on 0467 782 350 or Alena Christmas on 0429 394 855.

Yours sincerely

A handwritten signature in cursive script, reading 'Trudy Fraser', enclosed in a thin black rectangular border.

Trudy Fraser  
**Manager Regulation**

Telephone: 0467 782 350  
Email: [trudy.fraser@energyq.com.au](mailto:trudy.fraser@energyq.com.au)



# Draft Ring-fencing Guideline – Electricity Distribution Version 3

Joint response to the  
Australian Energy Regulator  
8 July 2021



Part of Energy Queensland

---

## ABOUT ERGON ENERGY

Ergon Energy Corporation Limited (Ergon Energy) is part of Energy Queensland and manages an electricity distribution network which supplies electricity to more than 740,000 customers. Our vast operating area covers over one million square kilometres – around 97% of the state of Queensland – from the expanding coastal and rural population centres to the remote communities of outback Queensland and the Torres Strait.

Our electricity network consists of approximately 160,000 kilometres of powerlines and one million power poles, along with associated infrastructure such as major substations and power transformers.

We also own and operate 33 stand-alone power stations that provide supply to isolated communities across Queensland which are not connected to the main electricity grid.

## ABOUT ENERGEX

Energex Limited (Energex) is part of Energy Queensland and manages an electricity distribution network delivering world-class energy products and services to one of Australia's fastest growing communities – the South-East Queensland region.

We have been supplying electricity to Queenslanders for more than 100 years and today provide distribution services to almost 1.4 million domestic and business connections, delivering electricity to a population base of around 3.4 million people via 52,000km of overhead and underground network.

## Contact details

Energy Queensland Limited  
Trudy Fraser  
Phone: 0467 782 350  
Email: [trudy.fraser@energyq.com.au](mailto:trudy.fraser@energyq.com.au)

PO Box 1090, Townsville QLD 4810  
Level 6, 420 Flinders Street, Townsville QLD 4810  
[www.energyq.com.au](http://www.energyq.com.au)

Energy Queensland Limited ABN 96 612 535 583

© Energy Queensland Limited 2020

This work is copyright. Material contained in this document may be reproduced for personal, in-house or non-commercial use, without formal permission or charge, provided there is due acknowledgement of Energy Queensland Limited as the source. Requests and enquiries concerning reproduction and rights for a purpose other than personal, in-house or non-commercial use, should be addressed to the General Counsel, Energy Queensland, PO Box 1090, Townsville QLD 4810.

---

# CONTENTS

1	Introduction and Key Messages .....	1
2	Specific comments .....	2
2.1	Stand-alone Power Systems (SAPS) .....	2
2.2	Batteries .....	4
2.3	Minor Amendments .....	9

---

## 1 INTRODUCTION AND KEY MESSAGES

Ergon Energy Corporation Limited (Ergon Energy) and Energex Limited (Energex) welcome the opportunity to provide comment to the Australian Energy Regulator (AER) on its *Draft Electricity Distribution Ring-fencing Guideline Version 3* (the Draft Guideline) and supporting Explanatory Statement.

The Draft Guideline and Explanatory Statement outlines the AER's proposals in relation to the following matters:

- Generation services associated with DNSP-led SAPS
- DNSPs providing contestable services using batteries
- Enhancements to improve the Ring-fencing Guideline.

The AER has not asked any specific questions. As such, Ergon Energy's and Energex's response considers the AER's proposed amendments in the Draft Guideline in detail. Our comments are articulated in section 2 below. However, our key messages in relation to the AER's proposals for the DNSP-led SAPS framework and contestable services provided by DNSP-owned batteries can be summarised as:

- Ergon Energy and Energex supports the positive steps taken by the AER in proposing a broad-based exemption framework for DNSP-led SAPS.
- We are concerned that the generation revenue cap threshold as proposed is too low for category three.
- DNSPs who have not provided any forecast figures for SAPS rollout will be disadvantaged.
- Evidence-based data, which in our view has not been presented, should be relied on to support the AER's perception that DNSPs will crowd out competition if they own and lease excess battery capacity to a third party. The market in its current state has sufficient capacity for all parties to have a role, therefore ensuring the most economic and optimal outcome for customers.
- Both Ergon Energy and Energex have not yet contracted any energy service providers as network support under the regulatory investment test for distribution (RIT-D).
- Where a DNSP owns a battery, it is first and foremost utilised to ensure a safe secure supply with other drivers being secondary, whilst third party battery owners will likely preference revenue over distribution support.

- 
- The Shared Asset Guideline should be amended to ensure that DNSPs are not excluded from utilising innovative technologies that offer multiple services. Particularly when there is no evidence that DNSP owned value stacked storage is not an efficient model that delivers genuine value to the market.
  - While it is Ergon Energy's and Energex's preference that batteries are included within the scope of the Shared Asset Guideline, to the extent this approach is rejected by the AER, a broad-based exemption framework should be applied in relation to DNSPs owning batteries based on a percentage of revenue.

Ergon Energy and Energex are available to discuss this submission or provide further detail regarding the issues raised, should the AER require.

## 2 SPECIFIC COMMENTS

### 2.1 Stand-alone Power Systems (SAPS)

#### Exemption framework

Ergon Energy and Energex welcome the AER's proposed exemption framework. Under the proposal, DNSPs would be allowed to provide the generation services of a SAPS up to a threshold, a "generation revenue cap". We agree with the AER that this arrangement will allow DNSPs to deploy SAPS in a more timely and efficient manner. This also benefits customers, since DNSPs will not be required to go through timely and costly ring-fencing waiver applications, where competition may not exist, or natural disasters require alternative arrangements to traditional poles and wires solutions. It creates regulatory certainty for the entire SAPS supply chain and ultimately the end use customer.

#### Revenue cap thresholds

In relation to the proposed thresholds, while we note that the AER has determined this based on a 75 percent of the forecast of the SAPS proposed for deployment by DNSPs, we do not consider that this arbitrary approach achieves the best outcome. In its Explanatory Statement, the AER states that 'we received limited evidence that third party providers are currently willing or able to

---

offer SAPS services'.<sup>1</sup> The DNSP figures were provided to the AEMC in a more general context and not on the understanding that these forecasts would become a defining factor in calculating a generation revenue cap threshold. This approach has inadvertently disadvantaged DNSPs who provided no forecasts. The very low threshold could also mean that some DNSPs will meet their cap within a month. There has been sufficient evidence provided that the market has not yet developed, and as such, the cap should be higher for the conservatively low thresholds provided for category three.

### **Certainty for SAPS assets – term of waiver**

The AER's proposal to grant a SAPS waiver for a term that is not linked to the DNSP's current or next regulatory control period is supported. However, the flexibility as intended should also provide certainty when referring to a waiver period to the end of "asset life". This is because the SAPS generation services may include a combination of solar and batteries. The batteries may have an asset life of 10 years, while the solar panels may have a 25-year life. In addition, given the very nature of some of the locations where DNSPs are seeking to deploy SAPS, these SAPS could be an ongoing permanent arrangement. As such, a DNSP should not be required to seek another waiver where, for example, the SAPS is installed in a very remote and hard to access location and in such circumstances the waiver should be granted indefinitely.

### **Reporting requirements**

Ergon Energy and Energex support, in principle, a requirement for DNSPs to maintain a register outlining the circumstances where they provide SAPS generation services. Furthermore, making this register publicly available is supported with a requirement to update this quarterly. However, we have some suggestions to ensure this requirement meets its intended objective. For example, instead of the number of premises served by the SAPS, we think it should be based on the number of connections. Additionally, we query whether, in providing customer load in terms of maximum demand and aggregated annual average energy consumption, the information will be able to be shared because of privacy issues.

---

<sup>1</sup> Refer to page 18.

---

## Review period

The AER has agreed with the principle of having a review period but has not proposed one given some SAPS framework implementation issues. Ergon Energy and Energex welcome this approach by the AER. Ergon Energy and Energex did not support the AER's initial proposal of three years and instead recommended a review period in the vicinity of five to 10 years. It is important to strike an appropriate balance that drives regulatory and investment certainty thereby allowing DNSPs the opportunity to implement the SAPS framework, so it becomes "business as usual". It also allows sufficient time to share learnings which ultimately can influence positive changes to frameworks if they are not deemed fit-for-purpose.

## SAPS deployed in response to disasters/emergencies

SAPS provided in response to a disaster/emergency should be carved out of the revenue cap threshold. Ergon Energy, after Cyclone Yasi, used approximately 110 generators to supply approximately 5000 customers. For most customers, supply from the National Electricity Market (NEM) is reinstated after a natural disaster, including cyclones and floods, within a few weeks. However, in some circumstances it can take longer to reinstate NEM supply to customers, which can be up to hundreds of customers depending on the scale and impact of the natural disaster. In these circumstances, where a grid-connection is not deemed economic and a SAPS is a more efficient outcome for the customer and the networks, they should be excluded from the revenue cap threshold. If the AER is not supportive of such an approach, then a bulk waiver application in these circumstances would be an appropriate approach after two years has lapsed.

## 2.2 Batteries

In response to the AER's Issues Paper, we indicated support for a waiver where the DNSP provides an "other service". Additionally, we also stated that the current Shared Asset Guideline already provides a mechanism whereby a DNSP is not required to seek a waiver and can ultimately share with customers the benefits of using regulated assets to provide contestable services. We are disappointed that the AER in its Draft Guideline, intends to make it explicit that batteries are excluded from this exception. In our opinion, the Shared Asset Guideline is still the appropriate mechanism and we would encourage the AER to conduct a review so as to ensure that DNSPs are not prevented from investing in batteries which can provide multiple services in the long term. The Shared Asset Guideline should be a forward-looking document that captures and reflects the financial flows to ensure that regulated customers are only paying for the services that the battery asset provides, while still allowing DNSPs to recover other costs related to under-utilisation of battery assets.

---



---

During discussions with the AER and on reading the Explanatory Statement, it is clear that there is a perception that, if DNSPs are permitted to use batteries to provide contestable services without a process, then DNSPs could crowd out the competitive market for delivery of batteries. It's surprising that this view exists, given the size of some of the distribution networks. Both Ergon Energy and Energex each have over 1000 feeders on their networks. In our view, there is so much opportunity for all ownership models to be tested, given the size of the networks. Ergon Energy and Energex consider that, similar to SAPS, the competitive market for batteries at a grid utility-scale is not yet fully realised where DNSPs have the opportunity to use a battery for network purposes and lease excess capacity.

Putting barriers in place without any underlying evidence as to why DNSPs may impede competition if they are allowed to provide contestable services with a battery, assumes that there is a well-established deep and liquid market for the supply of these services. The challenge facing the market is that the economic signals and the price stacking related to the provision of batteries is lacking. The costs are not equitable across the supply chain. DNSPs should similarly be able to harness the value stack of batteries.

The view that DNSPs will harm the competitive market is untested, given that only one DNSP has applied for a ring-fencing waiver in relation to the provision of "other services". In addition, Renew Economy has developed a "big storage map of Australia".<sup>2</sup> This map shows the number of big batteries (10MW or greater) that are operational, under construction, announced and proposed. In Queensland, there are no operational batteries 10MW or greater currently in the market.<sup>3</sup> There is one under construction at Wandoan South, with a capacity of 100MW/150MWh. Vena Energy owns the battery and has contracted it to AGL. It could therefore be argued that the market is starting to develop on its own, and DNSPs have not crowded out competition given the low numbers in Queensland which are DNSP owned. The Distributed Energy Resources Register also shows that there are 7,589 batteries in Queensland, totalling 84 MWh, sitting behind the meter. This includes residential and larger scale. In Queensland this demonstrates that the market is still very much developing and the benefits of DNSPs owning batteries is yet untested.

---

<sup>2</sup> <http://reneweconomy.com.au/big-battery-storage-map-of-australia/>

<sup>3</sup> Refer to <http://reneweconomy.com.au/big-battery-storage-map-of-australia/> for more information on big battery storage map of Australia. This map highlights batteries that are operational, under construction, announced and proposed.

---

Both Ergon Energy and Energex have repeatedly tried to engage the market via mechanisms such as our incentive maps.<sup>4</sup> Furthermore, we have engaged the market directly via our respective Demand Side Engagement Strategy and Register in a request for non-network services where the investment falls below the RIT-D threshold. This included 28 Energex feeders and 20 Ergon Energy feeders. The expression of interest process was designed to be simpler, faster and easier for proponents to respond to as compared to the formal RIT-D process as the investments were smaller. While some market response was received, we were unable to contract any energy storage due to a combination of lack of interest; commercial value; the targeted nature of the distribution needs; and network requirements. This request for proposal is still active in market.<sup>5</sup>

In relation to Energex's seven RIT-Ds and Ergon Energy's 11 RIT-Ds, only two non-network options that are currently being considered include energy storage which may be competitive. However, to date, neither distributor has contracted any energy storage options. Notwithstanding this, both Ergon Energy and Energex, similar to their other demand management initiatives, are willing and open to engaging with the market for the provision of energy storage or other services in circumstances where the market can deliver.

Similar to what has been proposed for the DNSP-led SAPS rollout, the framework for batteries should create regulatory and investment certainty. DNSPs should not be required to submit a complex waiver application well in advance of securing finance for a long-term investment project whose primary objective is for network support. The proposed ring-fencing framework should achieve a level of certainty and consistency in how it is interpreted and applied. If the AER is not supportive of amending the Shared Asset Guideline to ensure it applies to batteries, then an alternative model could be the development of an exemption framework based on a percentage of revenue. Under this model, DNSPs would undertake to publicly report on findings and learnings and share with the market. In addition, DNSPs would be required to address the harms that ring-fencing aims to avoid.

---

<sup>4</sup> <https://www.ergon.com.au/network/manage-your-energy/reward-programs/cashback-rewards/search-incentives> and <https://www.energex.com.au/home/control-your-energy/cashback-rewards-program/cashback-rewards-for-business/eligible-areas>

<sup>5</sup> [https://www.energex.com.au/\\_\\_data/assets/pdf\\_file/0005/899654/Various-locations.pdf](https://www.energex.com.au/__data/assets/pdf_file/0005/899654/Various-locations.pdf) and [https://www.ergon.com.au/\\_\\_data/assets/pdf\\_file/0005/899654/Various-locations.pdf](https://www.ergon.com.au/__data/assets/pdf_file/0005/899654/Various-locations.pdf)

---

## Benefits of DNSPs owning batteries

It is clearly known that energy storage can generate much more value when multiple, stacked services are provided by the same device or fleet of devices. Batteries deployed for a single primary service do not maximise the overall benefit that could be realised by both customers and the market in general. The rationale for value stacking becomes increasingly a more viable option. In nearly every case where a DNSP owns a battery, it is being used to ensure safe and secure supply. Batteries sitting unused or underutilised for well over half of the system's lifetime is a bad outcome for all parties. Therefore, the ring-fencing framework should support the principle of value stacking for DNSP owned storage investments.

If a DNSP owns a battery, it is firstly utilised to ensure safe secure supply with other drivers being secondary, while third party ownership will preference revenue maximisation over distribution network support. This is key. As has been documented above, Ergon Energy and Energex have been unable to contract any battery providers for network support to date. This will become a key issue for both distributors in the near term.

In addition to distribution connected batteries, Energex has attempted to engage with the market for the supply of behind-the-meter services, which include energy storage. The project was funded by the demand management innovation allowance. It included procuring and contracting behind the meter demand response via market mechanisms. Energex was only able to contract eight customers from a total customer base of 16,120, or put another way, a 0.05% success rate. This project shows that there is no material behind-the-meter market services and, as such, the deployment of energy storage connected directly into the distribution network will have no material impact on the development of a behind-the-meter battery market which tends to be dominated by tariff arbitrage.

The energy transition is well underway, primarily driven by customers' desire to take up solar PV. This is creating a broad range of urgent risks that need to be addressed, some of which can be addressed by energy storage. Very low minimum demand creates system security challenges across the electricity supply system, culminating in an inability to maintain the secure operation of the electricity system. Queensland's high level of solar uptake is driving this issue, which means that Ergon Energy and Energex will look to maximise the amount of energy storage in the market, of which DNSP-owned directly connected storage will be just a small part of the solution. As such, the regulatory framework should not slow down the market and the deployment of DNSP-led batteries given inaccurate perceptions that DNSPs will hamper competition.

---

---

The AER's assessment of the extent to which DNSPs would be able to monopolise the market is unreasonable. In order for the volume of energy storage to be installed in the NEM to support minimum demand and the Queensland Government's transition to 50% renewables, energy storage will be required from all participants right across the supply chain. To address minimum demand issues and renewable targets, all ownership models should be encouraged, as this will drive competition and innovation. If the market evolves differently than anticipated, the AER has the power to amend the Ring-fencing Guideline.

### **Potential harms of DNSPs owning batteries**

There has been much discussion on the potential harms of DNSPs owning batteries. However, in Ergon Energy's and Energex's opinion, these unproven harms can be mitigated.

**Access arrangements and preferential use** – DNSPs must already comply with the discrimination provisions under the Ring-fencing Guideline meaning any concern with preferential access would be determined via an independent ring-fencing audit. Where the DNSP has an underutilised battery and seeks to lease this excess to a third party, that contract would be purely commercial and negotiated at arm's length.

Concerns raised around a DNSP's operating envelopes seems only theoretical at this stage. The AER has said that this could raise a 'potential conflict' where a DNSP could have an incentive to improve access to its own battery. Ergon Energy's and Energex's operating envelopes are published on the internet; therefore, the market has clear visibility of how these envelopes are controlled and when access is provided.

The AER should focus on what is known rather than perceptions about DNSPs negatively impacting the growth of emerging batteries and whether this will harm competition. Evidence to support this must be documented so as not to create a framework with no regulatory certainty and which may hamper innovation by excluding DNSPs, ultimately to the detriment of customers.

**Tariffs and charges** – As the current regime is technology neutral, DNSPs cannot apply preferential DUOS charges for their own assets and the fact that the AER approves tariffs suggests that there is sufficient regulatory oversight to mitigate any perceived harms.

**Cost allocation and cross subsidisation concerns** – The AER approves each DNSP's cost allocation method (CAM), which sets out its approach in attributing direct costs and the allocation of indirect costs between different categories of distribution services, that is, between direct control services (standard control services and alternative control services) and unregulated distribution

---

---

services. As such, the services provided by a DNSP-owned battery would be accounted for in terms of whether the service is a direct control service or unregulated service.

In addition, DNSPs prepare and submit annual ring-fencing compliance reports to the AER which include an independent assessment of compliance. Further, DNSPs submit regulatory information notices that include detailed expenditure information which must also be externally audited. Finally, given the AER's recent (came into effect 29 January 2021) amendments to the civil penalty regime which gives the AER broader powers and increases the maximum penalties, there is an additional incentive for DNSPs to comply.

Based on the above, Ergon Energy and Energex do not envisage the same concerns about cross-subsidisation that the AER appears to perceive. Both distributors would only recover from regulated customers the costs associated with the battery providing regulated network services. Any 'other services' provided by the battery would sit outside regulated accounts, would not be funded by grid-connected customers and would be reported in an open and transparent manner.

## 2.3 Minor Amendments

### Staff sharing

Ergon Energy and Energex support, in principle, the proposed amendments in the Draft Guideline that would require more detailed reporting in relation to staff sharing arrangements between the DNSPs and their RESPs. Our DNSPs have already adopted similar measures for internal purposes. However, we do not support the proposal that the registers are updated quarterly, which includes information to be current to the end of the previous calendar month. This proposal is disproportionate to the value anticipated. The basis for this enhancement is to provide some tighter controls around ensuring that "shared staff" do not have an opportunity to use confidential electricity information and to provide greater transparency of staff sharing arrangements. Reporting quarterly is onerous. Ergon Energy and Energex consider that the same objectives can be met if the register is updated half yearly and, as such, recommend that the AER consider this timing as an alternative.

### Information access and disclosure

Replacing the term 'confidential information' with the term 'ring-fenced information' is supported. We consider that this would assist in the confusion over confidentiality, privacy and privileged discussions. We also support the proposal to amend the Guideline to expressly allow a DNSP to share ring-fenced information with a legal entity where it has requested disclosure of ring-fenced

---

---

information. However, we seek clarity from the AER that, in using the term ‘legal entity’, this does that include a DNSP’s affiliated entity.

### **Materiality of breaches**

Ergon Energy and Energex do not support the AER’s proposal that all breaches, regardless of materiality are reported within 15 business days. This will be administratively onerous with very little value. However, we do support the AER’s proposal to increase the number of days to report on material breaches to 15 business days.

### **Timing of annual compliance reports**

While Ergon Energy and Energex support this proposal, from our perspective the current timeframe can be difficult given competing end of financial year priorities. However, we seek confirmation from the AER that, to support this proposal, the implementation of a transitional period will mean that DNSPs are not required to submit their first annual compliance report until 30 April 2022.