28 September 2016

Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

Sent by email

Submission on draft Ring-Fencing Guideline Electricity Distribution August 2016 (Ring- Fencing Guideline)

Energy Queensland Limited (EQL) welcomes the opportunity to provide comment to the Australian Energy Regulator (AER) on its Draft Ring-Fencing Guideline Electricity Distribution (Draft Guideline) and associated Explanatory Statement. This submission is provided by EQL, in its capacity as parent company of, and service provider to, Energex Limited (Energex) and Ergon Energy Corporation Limited (Ergon Energy). EQL is a recently established Queensland Government Owned Corporation that operates a portfolio of businesses providing energy services across Queensland, including:

- distribution network service providers (DNSPs), Energex and Ergon Energy; and
- a regional service delivery retailer, Ergon Energy Queensland Pty Ltd (EEQ), limited in its scope of operations by jurisdictional legislation.

EQL's vision is to "be at the core of how Queenslanders choose to use electricity" and it is focused on working across its portfolio of activities to deliver customers:

- Lower, more predictable, power bills while maintaining a safe and reliable supply;
- A great customer service experience;
- Greater control over their energy consumption; and
- Access to the next wave of energy linked innovative technologies and renewables.

EQL recognises that appropriately targeted ring-fencing arrangements play an important role in fostering competition in the market, particularly for new and emerging energy technologies, and it supports the principle of establishing a framework that supports this objective.

In being supportive of the overall objectives of benefits for customers, EQL is concerned that a number of the ring-fencing obligations proposed by the AER in the Draft Guideline will result in adverse customer outcomes, including a disproportionate imposition of costs. EQL believes that it is crucial that developments of the market framework and operations enhance the confidence of our customers and stakeholders, particularly through delivering lower costs for all customers. EQL encourages a critical assessment of the impact of the Draft Guideline to ensure it will deliver the market benefits and protections the AER is seeking to achieve.

Specifically, EQL highlights the following issues for energy customers directly and in relation to the objectives of EQL, the attainment of efficiencies across its portfolio:

- Increased costs driven by obligations requiring physical and staffing separation, the potential need to establish new or duplicate systems and system controls, and to establish new entities;
- Increased costs as a consequence of transactions required to re-arrange distribution business assets that are used in the provision of both distribution and non-distribution services within the EQL portfolio;
- Limitations on the ability to realise many of the anticipated cost savings and benefits of a shared service provision model;
- A lack of continuity in the provision of services and an inability to deliver certain services via one entity (i.e. Energex or Ergon Energy);
- A need to build customer knowledge and trust in a new related body corporate providing services previously provided by Energex or Ergon Energy; and
- Safety concerns if network service providers are impeded in their ability to provide services to one another, particularly during emergency events.

The following sections further expand on EQL's key concerns including proposed transitional arrangements which will assist in mitigating the impact of a number of these concerns.

Classification of services

The AER classifies the regulated services provided by a DNSP through the regulatory determination process, for the purposes of determining the level of economic regulation to be applied to those services. EQL notes that Energex's and Ergon Energy's classification of services for the current regulatory control period (2015-2020) were not determined with regard to the proposed ring-fencing framework, and the impacts of a given classification on the services provided have not been assessed in this context. The proposed blanket prohibition on DNSPs providing non-distribution services will therefore result in a range of adverse customer impacts from a ring-fencing perspective. These customer impacts include:

- additional costs and a lack in service continuity, for example, as a result of the potential need to introduce two truck rolls and similar duplications in service provision (particularly in the regional and remote areas);
- costs and safety concerns where Energex and Ergon Energy are not able to provide services to each other or other network service providers during emergency events; and
- the discontinuation of services to customers where a related body corporate is unable to cost effectively continue to provide that service due to a lack of economies of scope and scale.

Discrimination

EQL considers that there is 'no harm' in Ergon Energy and EEQ sharing the same branding given that EEQ is not able to operate outside of regional Queensland and is further limited in its operations by jurisdictional legislation. There is a strong customer affiliation in regional Queensland with the Ergon Energy brand, a trusted brand that is used by both Ergon Energy and EEQ. Independent and separate branding would result in unnecessary customer confusion regarding the roles of DNSP and retailers in

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regional Queensland in addition to increased cost for little or no benefit for customers. EQL considers that the discrimination provisions should make provision for waivers, and that a waiver should be considered for EEQ on the basis that it is limited in its operations by jurisdictional legislation.

Physical separation

The cost burden and logistical impacts of the proposed requirements relating to physical separation are a key concern to EQL, both in its capacity as a parent company, and also as a service provider to Energex and Ergon Energy. Cost impacts will include inefficiencies in duplicating office accommodation, moving staff and exiting lease agreements.

Logistical impacts, will include carrying out compliance activities such as: negotiating new tenancy leases; identifying new offices (which can be limited in regional areas); and providing other property services to undertake required employee relocations for Energex, Ergon Energy and related bodies corporate.

Information access and disclosure

The proposed information access and disclosure obligations are critically restrictive and will erode many of the intended efficiencies of EQL's service delivery model. The EQL organisational structure allows for efficiencies to be achieved through the provision, by EQL, of services to the companies within its portfolio. These services will include a range of strategic and corporate functions across the portfolio and the provision of common support to Energex and Ergon Energy for their delivery of distribution services, such as network and connections planning, customer relations and network billing. EQL will need access to a range of information to provide these services to Energex and Ergon Energy, including information obtained by these businesses in providing direct control services.

EQL considers that the National Electricity Rules contain a suite of long-standing and robust provisions relating to confidentiality, and that to duplicate and tighten these provisions for the purpose of ring-fencing will lead to an overly complex and burdensome regulatory framework.

Accordingly, EQL considers that the National Electricity Rules provisions are appropriate and that obligations relating to protection and disclosure of information should be removed entirely from the Draft Guideline.

Waivers

Cost and customer impacts associated with DNSP compliance are anticipated to be complex and significant, with compliance costs likely to outweigh benefits in many circumstances. Accordingly, EQL proposes that a waiver should be available for all provisions of the Guideline, in particular as a transition mechanism. As an example of the value of a waiver provision, in relation to our service delivery retailer, the sharing of facilitaties, staff, information or branding is an efficient method of operating the EQL portfolio of businesses at lower cost for the ultimate benefit of customers.

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The AER's proposed assessment process for waivers is unreasonably compressed, providing insufficient time for DNSPs to consider individual waiver requirements in the context of the Final Guideline. EQL recommends that the waiver assessment process commence once the Final Guideline is released, and be conducted during the transitional period (which should be extended as discussed below).

Transitional arrangements

EQL considers that in general, a transitional period of 12 months should apply to all provisions. However, exceptions to this would be for obligations relating to accounts and most of the general discrimination provisions, which could be complied with within three months, and the branding and advertising obligations which would require 12-18 months for compliance. This is because the Draft Guideline presents a suite of obligations that are complex and have far reaching impacts for DNSPs and their related bodies corporate.

The proposed amended timeframes will allow time for matters such as communicating with customers, communicating the transition of services to a related body corporate, planning cost-effective compliance measures, negotiating and novating contracts, and planning for the smooth transition of any services such that there is minimal customer interruption. Importantly, this will allow DNSPs adequate time to comply with the measures, thus avoiding unnecessary compliance breaches.

If the AER determines that a waiver provision should not apply to the non-discrimination provisions, Ergon Energy and EEQ would require a transitional period of 12-18 months to allow the businesses to unwind the Ergon Energy brand. This duration is driven by the fact that branding changes cannot commence until after storm season (December to March), due to customer safety concerns throughout this period and ensuring that customers are aware of who to contact in an emergency. Following the storm season, a period of at least 12 months would then be required to undertake activities such as rebranding customer communications, separating web content and implementing necessary digital and social media programs.

Please direct any questions or enquiries to myself on (07) 3811 1719.

Yours Sincerely

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