

8 July 2021

Mr. Mark Feather

General Manager

AERringfencing@aer.gov.au

Dear Mr. Feather,

Re: Draft ring-fencing guideline

Flow Power welcomes the opportunity to make a submission in response to the AER's draft ring-fencing guideline.

Flow Power is an electricity retailer that works with business customers throughout the NEM. Our vision is to redefine how customers manage energy, putting them at the centre of the market and accelerating Australia's progression towards a net-zero future.

We empower our customers to take control of their energy usage, lower their bills and reduce their carbon footprint. We provide customers with:

- Transparent retail tariffs that reward demand flexibility and encourage electricity usage at times of plentiful renewable output.
- Hardware solutions that provide greater visibility and control over energy use.
- Access to renewable energy, either through distributed solar and storage installed on site, or through a virtual generation agreement with utility-scale wind and solar farms.

We believe that by equipping customers with these tools, we can lower costs for all energy users and support the transition to a net-zero carbon future.

Overview

The key points we would like to make regarding the draft ring fencing guideline are:

- **Separation of monopolies and competitive markets is fundamental to allowing competition and innovation to develop.** Allowing DNSPs direct or indirect access to contestable services or competitive services, particularly as a market is emerging, risks undermining its development. From our perspective, the prospect of DNSPs looking to provide services that the market can already provide, either directly or indirectly through

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ring-fenced affiliates, creates an investment risk that can deter future product development. We support the AER decision to reiterate that DNSPs cannot provide contestable services. We consider it crucial to the development of new markets (such as those relating to energy storage) that DNSPs are unable to give preferential treatment to their ring-fenced affiliates.

- **DNSPs building batteries could lead to socialisation of costs and privatisation of benefits.** Allowing DNSPs to build and own batteries, and outsource part of the battery capacity introduces significant uncertainty regarding efficient cost allocation. There is a risk that a ring-fenced affiliate can monetise a large portion of the battery while consumers pay for most of the capital costs through the DNSPs regulated asset base. This could be mitigated by either:
 - Having DNSPs procuring network services from a third party owning and operating a battery, which would in-turn be supported by more information from DNSPs on how they would prefer to purchase these network services from a battery.
 - Requiring a DNSP to offer the spare battery capacity to the market through a transparent tender process where there is no information advantage given to any ring-fenced affiliates.
- **We support the waiver process for considering contestable services from batteries.** We do not support a conditional exemption framework given the complexity and significance of DNSPs building and owning batteries with significant spare capacity. The waiver process appears to be robust and would allow DNSPs to apply for a waiver in the bespoke instances where the DNSP considers there is clearly greater benefits to consumers of selling spare battery capacity. The waiver process could also provide DNSPs with additional guidance on the factors the AER may consider when assessing a waiver application in relation to batteries to reduce the extent of the administrative burden. We think granting a waiver should be conditional on a demonstration from the network business has attempted to find a market-driven solution.
- **We support the AER's stance of breach reporting.** The materiality threshold has been unclear and removing this threshold improve stakeholder faith in the ring-fencing arrangements. The burden placed on DNSPs of this reporting threshold could be mitigated by processes being established to reduce the likelihood of a breach in the first instance.
- **The regulatory framework should foster innovation.** The ESB's post 2025 work program has looked at the development of distributed assets and found competition and innovation are key elements of a future two-sided market. Ring fencing arrangements that are too open or reactive risk creating barriers to entry and information asymmetries that would stifle this innovation, to the detriment of consumers over the long term.
- **Feel free to give us a call.** We are always available to discuss our views in more detail with the AER.

Flow Power is a member of the Clean Energy Council and the Australian Energy Council and we also support the CEC and AEC submissions.

If you have any queries about this submission, please contact me on (02) 9161 9068 or at Declan.Kelly@flowpower.com.au.

Yours sincerely,

Declan Kelly

Regulatory Policy Manager

Flow Power