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Australian Energy Regulator  
Lodged electronically to [AERringfencing@aer.gov.au](mailto:AERringfencing@aer.gov.au)

8 July 2021

## Review of AER Draft Ring Fencing Guideline Electricity Distribution – May 2021

Dear Mark,

The National Electrical and Communications Association (NECA) welcomes the opportunity to comment on the draft AER Ring Fencing Guideline Electricity Distribution – May 2021.

By definition the objective of this guideline is to:

- promote the National Electricity Objective by providing for the accounting and functional separation of the provision of direct control services by DNSPs from the provision of other services by them, or by their affiliated entities.
- promote competition in the provision of electricity services.

NECA is committed to ensuring these guidelines are focused on:

- the full and transparent separation of DNSP's direct control services from all contestable functions of their RESP
- allowing private enterprise, the opportunity to compete equally and confidently in these markets
- ensuring DNSPs are held accountable for all facets of the guideline
- providing customers and industry transparency and confidence that all breaches and complaints are fully and independently investigated by the AER.

To ensure this, NECA provides the following comments on the draft guidelines

### Stand Alone Power Systems (SAPS)

NECA supports the provision of SAPS in providing electricity to those in remote areas or areas following natural disasters.

NECA also supports the comprehensive reporting of the installation of SAPS. It will provide for greater transparency to consumers, private enterprise and the AER.

NECA firmly believes these are best provided by private enterprise engaged by DNSPs as the local supplier. If this is not possible DNSPs can provide these services as the "DNSP of last resort."

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### Contestable Services from Batteries

The evolution of renewable technologies and in particular battery technology has seen them become integral in supplementing the DNSPs local networks. This is also leading to other issues such as changes to Network stability and power generation being seen at a High Voltage level. This is why it is imperative that the DNSPs take more active roles in monitoring renewable penetration to avoid these issues.

Providing large scale community style batteries to consumers is the next step that allows for local solutions to a more global Network control issue.

NECA supports the AERs draft position below.

- *DNSPs are prohibited from providing contestable services with a battery (whether the service consists of the supply of excess capacity to third parties, or the provision of other contestable services themselves with the battery).*

NECA also believes that any waiver system must be robust and onerous. DNSP's already have an unfair advantage on any contestable market due to their "Network knowledge" of known supply issues. The waiver needs to ensure that DNSPs are not drawn to providing these contestable services as an "easy option" where they can be completed by private enterprise as a contestable service or subcontracted service to the DNSP.

NECA welcomes the requirement for DNSPs to provide additional reporting in relation to waivers received. We would welcome any information on how this may work in practice and would be happy to provide recommendation on the content requirements for such reporting.

### Improving the Guideline – Minor amendments

The review of Ring-Fencing guidelines presents an opportunity for the AER to instil greater confidence amongst the Australian public, member associations, consumer groups and private enterprise that the rules are being followed and a level playing field exists. Contrary to the title of these changes in the Explanatory Statement, NECA believes this is the area that requires greatest scrutiny.

In recent times NECA has been alerted to a number of alarming allegations including:

- staff of DNSPs sharing vehicles and cross subsidising of work
- reduced prices for equipment purchased from DNSP stores by RESPs
- reduced or subsidised prices for DNSP labour utilised by RESPs
- offering refurbished components (at reduced prices) to customers; components which are only available to a subsidiary company of a DNSP.

From NECA's perspective the responses provided back to complainants by the AER regarding these reports have been insufficient. We believe implementation of the following measures will help to build confidence amongst industry in the robustness of the process and reduce actual and perceived breaches.



#### *Clause 4.1 Staff Sharing*

The draft guideline proposes to increase reporting of staff sharing arrangements. These measures do not go far enough to provide a sufficient barrier to non-compliance perceived or otherwise.

NECA believes the AER should require RESPs to use the approved labour rates of shared staff as set out in each DNSP's AER approved price guidelines.

#### *4.2 Information access and disclosure*

NECA supports the AER's draft position below:

- *To give further effect to this clarification, we also propose amending the guideline to expressly allow a DNSP to share ring-fenced information with a legal entity where it has requested disclosure of the information. The current guideline allows a DNSP to share ring-fenced information with its RESP where requested (and provided it does so on an equal basis), but does not refer to sharing information with another legal entity. While we have not consulted on this proposed amendment to date, we consider it is necessary to give full effect to the purpose of this section of the guideline.*

Allowing uniform access to information across all legal entities is a positive step towards full parity and transparency in the industry. NECA would welcome any information on how this may work in practice and would be happy to assist in any development work in this area.

#### *4.3 Materiality of breaches*

NECA supports the AER's draft position below to increase the level of breach reporting, and believe these breaches should be made public for full transparency.

- *We propose amending the guideline so that all breaches must be reported to us within 15 business days, irrespective of materiality.*

In light of NECA's responses to 4.1 - 4.3 above, NECA believes the AER must employ more staff with greater investigative powers to respond to the concerns raised by industry. These should include:

- powers to demand specific documentation when carrying out investigations
- powers to determine who audits DNSP information provided to the AER
- tighter controls on who carries out reporting and self-auditing of DNSPs
- outcomes of investigations to be published or provided to the complainant.

#### *Other concerns*

In NSW there are concerns regarding the overlapping of responsibilities and jurisdictional requirements between the ASP Scheme and Ring-fencing Guidelines. In particular the Service Provider of Last Resort (POLR) scheme and the ownership of legacy underground service cables in older residential areas.



The scope of the POLR appears to be expanding beyond what was established and DNSPs are now over servicing the market. This creates confusion within local communities regarding who has the ability or legislative right to perform certain works.

Legacy direct buried paper lead service cable in older parts of the NSW distribution network are failing and DNSPs are continually dismissing their ownership of these cables and passing them onto private enterprise to rectify often sighting "ring-fencing" as their reason for not replacing their faulty Network.

DNSPs are interpreting these rules to suit their individual resourcing constraints, creating confusion in the industry, there needs to be clearer delineation between contestable services and AER requirements to avoid these unnecessary breaches or confusion between customers, private enterprise and stakeholders.

### Conclusion

Electrical contracting businesses make a significant investment to train and accredit staff, develop best-practice safety systems and design and price contestable work on electricity networks.

It's well publicised through pricing determinations and public commentary that DNSPs face a rising challenge to deliver network infrastructure and services more efficiently. In many states, this drives pressure on RESPs by shareholders to increase growth and profitability.

Tightening the perceived loopholes and more robust, transparent and timely investigation of issues raised with the AER would be a big step toward growing confidence in ring-fencing compliance amongst private enterprise and providing certainty a level playing field exists.

NECA thanks the AER for inviting us to be part of the review process. We acknowledge some of the proposed changes require more consultation prior to implementation and we would welcome the opportunity to participate in that work.

Should you have any questions, or wish to discuss this submission further, please contact Paul Brownlee, NECA Policy and Technical Advisor, at [paul.brownlee@neca.asn.au](mailto:paul.brownlee@neca.asn.au) or on 0419 294 033.

Yours faithfully

A handwritten signature in black ink, appearing to read 'O Judd', is written over a light blue horizontal line.

**Oliver Judd**  
Chief Executive Officer



## About NECA

The National Electrical and Communications Association (NECA) is the peak body for Australia's electrical and communications sector, which employs 170,000 workers<sup>1</sup> and turns over more than \$23bn annually.<sup>2</sup> We represent almost 5,500 businesses performing works including the design, installation and maintenance of electrical and electronic equipment in the building, construction, mining, air conditioning, refrigeration, manufacturing, communications and renewables sectors.

NECA has advocated on behalf of the electrotechnology industry for over 100 years. We help members and our industry operate their businesses more effectively, and represent their interests to all levels of government, regulators and other bodies such as the Australian Chamber of Commerce and Industry (ACCI) and Standards Australia.

NECA members make an essential economic contribution – connecting businesses, homes and infrastructure – encouraging investment, improving reliability and energy security, and delivering affordable, environmentally sustainable outcomes. The safety and reputation of our industry is critical to all tradespeople, consumers, and the community.

NECA is integral to the next generation of electrical contractors. Through our Registered Training Organisations (RTOs) and Group Training Organisations (GTOs), we offer employment and skills development to some 4,800 apprentices nationally. Our success is clear: we proudly boast 90% completion rates across our courses, with roughly one in three licensed electrical workers starting their career as a NECA apprentice.

NECA helps attract entrants to our industry through holistic, high-quality, industry-relevant programs including our scholarship program, the NECA Foundation, and the Women in Electrical Trades Roadmap. We proactively seek diverse workforces, supporting female, indigenous and mature aged apprentices, and promoting career paths for school students and school leavers. We also operate the industry-wide NECA Annual Excellence Awards, which acknowledge and celebrate achievements and distinguished electrotechnology projects, and NECA's Apprentice Awards, recognising future leaders in our industry.

NECA continues to monitor and respond to the Coronavirus (COVID-19) crisis on behalf of our members and the electrotechnology sector, and is working with industry, government and the community to achieve a COVID-19 safe economy and swift national recovery.

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<sup>1</sup> Australian Government 'Job Outlook'. (July 2020) (Telecommunications Trades Workers) <https://joboutlook.gov.au/Occupation?search=alpha&code=3424> and (Electricians) <https://joboutlook.gov.au/Occupation?search=alpha&code=3411>

<sup>2</sup> Ibis World 'Electrical services in Australia Industry Statistics (May 2020) <https://www.ibisworld.com/au/industry/electrical-services/325/>