



19 February 2016

Mr Chris Pattas  
General Manager – Network Investment and Pricing  
Australian Energy Regulator  
GPO Box 520  
Melbourne VIC 3000

Dear Mr Pattas

**RE: AER DRAFT DECISION ON ENERGEX APPLICATION FOR A RING-FENCING WAIVER**

Origin Energy (Origin) appreciates the opportunity to provide input to the Australian Energy Regulator's (AER) assessment of an application submitted by Energex for a waiver from section 1(b) of the Electricity Distribution Ring-fencing Guidelines issued by the Queensland Competition Authority (QCA).

Origin is disappointed in the AER's decision to grant a temporary and conditional waiver from section 1(b) of the Ring-fencing Guidelines. We disagree with the AER's determination of costs and benefits and feel this decision creates uncertainty for potential entrants to the emerging market for energy storage services.

As noted by the AER, section 21 of the Guidelines allows a waiver to be granted provided that the AER is satisfied that the network business can demonstrate that the administrative cost of complying with the ring-fencing obligation outweighs the benefit, or any likely benefit, to the public.

Energex did not initially submit its expected costs of ring fencing its BESS domestic pilot project. These costs were submitted subsequent to its initial application with Energex claiming confidentiality. As a result, Energex's proposed costs were not visible to stakeholders.

The AER noted the views put forward in submissions regarding competitive neutrality. However, it stated that it must consider Energex's waiver application on the basis of the existing Queensland regulatory arrangements as established by the Guidelines. In addition, the AER stated that it recognised that the potential provision of services from batteries will be subject to further policy direction from the Council of Australian Governments (COAG), the COAG Energy Council and the Australian Energy Market Commission (AEMC).

The AER accepted that Energex's domestic BESS pilot project is to be undertaken for research purposes and noted that there is a materiality consideration. The AER concluded that even though the administrative costs of Energex ring fencing the project would be relatively minor compared to Energex's total revenues, they outweigh any potential benefit. As a result, the AER considered that there are unlikely to be material benefits to consumers from requiring Energex to undertake ring-fencing in this instance.

We agree that the AER must assess Energex's application according to the QCA's Guidelines and that materiality is a consideration in this assessment. However, a determination of materiality must be made in the context of its impact on the broader market for the service in question. In this regard, it is not apparent what judgments the AER has applied to determine the public detriment of allowing this waiver and in particular what impact, perceived or otherwise, Energex's direct participation will have on market entry and competition in this emerging market.

Furthermore, we also note the views of the AEMC from its recent report *Integration of Energy Storage*. In particular, the AEMC concluded:<sup>1</sup>

Network businesses should use energy storage where it substitutes for traditional network (not behind the meter), where it is efficient to do so, so long as it does not significantly displace competitive energy services

And in addition:<sup>2</sup>

It is not appropriate for network businesses to own or directly control storage behind the meter except through a ring-fenced entity. If storage behind the meter is of value to network businesses, then they should contract with consumers, retailers or third parties to gain services, or create price signals or offer rebates that would reward consumers for operating storage in the desired way

As we have argued previously, the objectives of the QCA's Ring-fencing Guidelines are to create an environment where competitive and potentially competitive markets are not compromised by the participation of a regulated distribution network.

The market for storage solutions is immature but is emerging. The AER has the ability to send a strong signal that it will foster a level playing field that will allow the market to mature and grow and provide confidence to new entrants that they will be able to compete on a fair and equal basis.

We maintain our view that there has been insufficient consideration of the potential detriments to competition by allowing Energex to operate in behind the meter activities and we encourage the AER to reconsider its decision to accept Energex's application for waiver.

If you have any questions regarding this submission please contact Sean Greenup in the first instance on (07) 3867 0620.

Yours sincerely



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<sup>1</sup> AEMC, *Integration of Energy Storage, Regulatory Implications*, December 2015, p. 6.

<sup>2</sup> AEMC, *Integration of Energy Storage, Regulatory Implications*, December 2015, p. 6.