



21 December 2020

General Manager, Consumers and Markets Branch
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

Email: AERringfencing@aer.gov.au

Dear Sir or Madam,

RE: UPDATING THE RING-FENCING GUIDELINE FOR STAND-ALONE POWER SYSTEMS AND ENERGY STORAGE DEVICES – ISSUES PAPER

Origin Energy appreciates the opportunity to provide a submission to the Australian Energy Regulator's (AER) update of its electricity distribution ring-fencing guideline (the guideline).

Origin considers that effective ring-fencing of distribution network service providers (DNSPs) and their affiliates operating in competitive environments is essential to promoting the long-term interest of consumers. Accordingly, Origin is supportive of the AER updating the guidelines where appropriate.

Origin supports the use of stand-alone power systems (SAPS) where these provide increased reliability and network security and offer a cheaper alternative to traditional network solutions. We agree that streamlining the ring-fencing waiver process for SAPS via an exemption process could potentially provide a more cost-effective and expedient means of providing SAPS services to customers in certain circumstances. A generic exemption process is likely to be appropriate in the first instance with ongoing assessment to determine effectiveness and potential refinements. We would expect any threshold for exemption to be set high initially with the AER continuing to assess waiver applications until such time as appropriate thresholds can be identified. In particular, it is important to ensure that the exemption process does not inhibit the provision of SAPS by third-party service providers.

We agree with the AER that storage devices may offer significant efficiencies compared to traditional network investment and that the market for these devices is expected to increase significantly over time. However, we do not support the proposal for current ring-fencing arrangements to be relaxed to allow a DNSP to offer these services in contestable markets if it obtains a ring-fencing waiver. With an active and growing market for competitive provision of storage devices, we consider there is limited rationale for direct DNSP involvement. More importantly, we consider that DNSPs have a conflict of interest since they set the rules for energy storage behind the meter as a condition of network connection. Where a DNSP has influence over the competitive market for example through dictating connection policy, it is inappropriate for the DNSP to act as a service provider in that market and likely to compromise long-term customer benefits.

In addition, we believe that the guidelines should be clarified to ensure their application to "shared asset" only as defined in the shared asset guideline. The shared asset provision of the guidelines should not provide an indirect avenue for the provision of storage devices in competitive markets by DNSPs.

Our response to selected stakeholder questions is provided below.

Stand-alone Power Systems

Do stakeholders agree that in some circumstances an exemption would be preferable to requiring DNSPs to apply for a ring-fencing waiver?

In certain instances, we agree that a well-designed exemption process will provide benefits to both DNSPs and customers by providing certainty and clarity to DNSPs and expediting potential service provision to customers.

Are there other types of exemptions we should consider?

We consider a generic exemption process to be appropriate in the first instance, underpinned by monitoring and review to ensure the process is operating as intended and does not inhibit the provision of SAPS services by third-party providers.

The default position for developing exemptions should reflect situations where third party provision of SAPS is either infeasible or cost prohibitive. We consider that the AER's preliminary list of exemptions represents a good starting point for developing an exemption process.

In regard to the exemptions above, or any others, what is an appropriate threshold?

Thresholds are inherently difficult to determine and we would expect these to be set reasonably high in the first instance and refined over time as waiver applications are assessed and processed. While this means that many applications will continue to go through the traditional waiver process, it is important to ensure that potential third-party provision of SAPS services is not inhibited. Setting thresholds too low will potentially preclude provision by third-party providers. We would expect the appropriate thresholds to become more apparent as the AER gains experience in assessing SAPS applications. We consider that third-party provision of SAPS services should be encouraged to the greatest extent with DNSP provision only in those situations where third party provision of SAPS is either infeasible or cost prohibitive.

Should exemptions for SAPS be defined in specific detail or are generic exemptions, which would apply more broadly, preferable?

As above, we consider that a generic exemptions process is preferable in the early stages with high thresholds set and this can be refined over time as the AER becomes more experienced in assessing SAPS applications. This would involve regular reporting and monitoring to ensure that the process does not provide a barrier for third-party provision of SAPS.

How can we be sure that DNSPs using exemptions are complying with the Distribution Guideline?

DNSPs should be required to report any SAPS project expected to be exempt to the AER including demonstrating how the SAPS project satisfies the exemption criteria. We would expect that the AER would verify that the criteria have been satisfied before the project could proceed. As suggested by the AER, it may be appropriate for DNSPs to maintain a register with detailed information on the SAPS generation services being provided under an exemption. The AER may also conduct a review of exempt SAPS projects to ensure these comply with the exemption criteria and in particular that any options for third-party provision of SAPS have been adequately considered and assessed.

In the above criteria do the exemption thresholds satisfy the Distribution Guideline criteria of benefits outweighing costs?

We expect that any assessment of the costs and benefits of exemption thresholds will require an examination of data associated with SAPS exemptions. Until the exemption program has been underway for some time, there is unlikely to be sufficient data to conduct this assessment.

Storage devices

What other benefits, harms or risks should we consider?

We consider that the risks of relaxing the ring-fencing guidelines outweigh the potential benefits. In particular, we are concerned at the potential adverse impacts to the competitive provision of storage devices which could undermine consumer outcomes. We consider there is the potential for significant growth in the use of storage devices and an active and growing market for competitive provision of storage devices. There is limited rationale for DNSP involvement in this market. For example, to the extent DNSPs have a better understanding of network needs and possible site options for storage devices etc, these could be included in competitive tenders and the like. We are not convinced that there is a clear consumer benefit for DNSPs to provide storage devices in these markets.

More importantly, we consider that DNSPs have a conflict of interest since they effectively set the rules for energy storage behind the meter as a condition of network connection; storage on the network will compete with storage behind the meter. Where a DNSP has influence over the competitive market for example, through dictating aspects of connection policy, it is inappropriate for the DNSP to act as a service provider in the market as the DNSPs local monopoly and quasi regulatory role over connection gives them an unfair advantage.

The potential for significant growth in the use of storage devices means that the AER needs to be mindful of the future role of storage devices in the network and consider how services can best be provided to maximise consumer benefit. We consider that policy aimed at developing the competitive market and encouraging third-party provision ensures the most cost-efficient service and maximises consumer benefits.

Rather than investing in assets in their regulatory asset base whose functionality can only be partially realised through network benefits, DNSPs should be encouraged to procure the benefits of storage devices as services from the contestable market. We note that United Energy adopted an approach with one of their trials where they purchased the batteries, reserved priority use of them for network support for 5 or 10 days per annum at their call, then were proposing to auction the remaining use of the batteries to retailers. We consider this to be a workable model.

Conversely, we oppose the Ausgrid approach, which was to buy a network battery and then use the excess capacity to sell services direct to customers.

If NSPs use storage devices to offer services in contestable markets, how can any potential harms be managed?

Notwithstanding our opposition to DNSPs providing storage devices in contestable markets, the principle opposition relates to the DNSPs influence over aspects of network connection policy and the associated conflict of interest. If DNSPs were permitted to offer services in contestable markets, we consider that, at a minimum, DNSPs should be required to relinquish these responsibilities to an independent regulator.

How should we weigh these benefits and harms to determine if a waiver should be granted? What are the priorities?

The key priority should be the efficient provision of storage devices that maximise customer benefits. To the extent that DNSPs are able to cross-subsidise contestable services, consumer benefits will be compromised. The AER acknowledges that there are considerable difficulties in identifying the incidence and extent of cross-subsidisation between regulated and unregulated activities due to limitations on its information gathering powers. We consider that third-party provision of storage devices will ensure that services are provided to customers at an efficient cost. The key policy underpinning should therefore be the development of the competitive market to facilitate third-party provision of storage devices.

Should we distinguish between direct and indirect uses of storage devices?

We consider that issues exist under both direct and indirect uses of storage devices, particularly with respect to the potential for cross-subsidisation. In addition, the DNSPs influence over aspects of connection policy are likely to influence third-party provision under both scenarios.

Should we clarify the scope of clause 3.1(d)I of the Distribution Guideline?

The shared asset provision in the ring-fencing guidelines should be clarified to ensure their application to “shared asset” only as defined in the shared asset guideline. The shared asset rules only apply to assets that were acquired for regulated purposes but that are subsequently found to have excess capacity. The rules should not provide an indirect avenue for DNSPs to enter a competitive market.

Origin look forward to further participating in the AER’s review of the ring-fencing guideline. If you have any questions regarding this submission, please contact Gary Davies in the first instance at gary.davies@originenergy.com.au.

Yours sincerely



Sean Greenup
Group Manager Regulatory Policy
(07) 3867 0620 sean.greenup@originenergy.com.au