

24 August 2017

Mr Chris Pattas
General Manager, Networks
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001



Dear Mr Pattas,

Ring-fencing waiver applications for NSW Distribution Network Service Providers

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit legal centre based in New South Wales. Established in 1982, PIAC tackles systemic issues that have a significant impact upon disadvantaged and marginalised people. We ensure basic rights are enjoyed across the community through litigation, public policy development, communication and training. The Energy + Water Consumers' Advocacy Program represents the interests of low-income and other residential consumers, developing policy and advocating in energy and water markets.

PIAC welcomes the opportunity to comment on the ring-fencing waiver applications.

PIAC has reviewed the applications from the three NSW Distribution Network Service Providers (DNSPs) – Ausgrid, Endeavour Energy and Essential Energy – and limits its comments to these three businesses.

PIAC does not oppose the waiver applications from Endeavour Energy and Essential Energy. PIAC also does not oppose two of the waivers applications from Ausgrid but does question the request for a 6-month waiver from legal separation.

Legal separation

PIAC does not consider that Ausgrid's proposed waiver would result in material harm and understands it is considered an upper bound for when it expects to be fully compliant. However, as we have noted in submissions to the AER's development of the ring-fencing guidelines, PIAC reinforces the importance of legal separation requirements to encourage new entrants to enter the market and ultimately to protect consumers' long-term interests. DNSPs should ensure compliance with the revised ring-fencing guidelines in a cost-effective manner – balancing their efficient implementation costs in the short-term against the benefits to the market of timely compliance in the medium- and long-term. Consistent with the rest of the regulatory framework, DNSPs should not be able to pass through any inefficient costs to consumers but should instead have to wear these costs.

In this context, PIAC recommends the waiver should only be granted in the case that Ausgrid's inability to set up and resource its Affiliated Entity is not the result of its own inefficiencies or poor decisions in implementing its compliance obligations. If the AER is satisfied that the inability to comply within the required timeframe has been, and continues to be, beyond Ausgrid's reasonable control, PIAC does not oppose the waiver being granted.

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Continued engagement

PIAC would welcome the opportunity to meet with the AER and other stakeholders to discuss these issues in more depth.

Yours sincerely,

Craig Memery

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Public Interest Advocacy Centre

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