

14<sup>th</sup> August 2017

Australian Energy Regulator  
GPO Box 520  
Melbourne VIC 3001

**Attention: Mr. Chris Pattas, General Manager, Networks**

**Re: AER Ringfencing Guidelines**

Dear Sir,

Thank you for the opportunity of making this submission for which we detail below for your consideration.

Sicame Australia is an Australian manufacturer of low voltage overhead and underground powerline equipment. Our products are involved in the contestable market for connecting houses and commercial buildings to the network. We supply our products to the following types of customers:

- Public Utilities
- Private Utilities
- Authorized Territory Distributors
- Authorized Territory Resellers
- Electrical Wholesalers
- Electrical Contractors

We wish to raise two main points regarding these guidelines:

1. After review, the Guidelines seem to mainly refer to the provision of services. Do they in fact apply to the provision of products and equipment? As a supplier of products, this is not clear to us and we seek your advice as to whether Ringfencing Guidelines apply or not to provision of equipment?
2. If Ringfencing Guidelines are in fact applicable to the supply of equipment, we submit that from a manufacturers standpoint they are inadequate in that they fall well short in comparison to what manufacturers normally require from their existing or prospective authorized distributors or resellers.

For many years now, the whole issue of Contestability and Ringfencing etc. has caused much conflict amongst our customers regarding the supply and re-sale of our products. In an effort to achieve adequate market coverage and accommodate our various types of customers, we have worked hard at



developing and maintaining a workable pricing structure to keep them involved in the supply chain. However, since Utilities / DSNP's intervened in this chain, our authorized distributors and resellers are disadvantaged by this interference in the market process as they are uncompetitive against large utilities with huge buying power and struggle to sell to their traditional contractor market.

Under normal circumstances, when a Manufacturer / Reseller relationship is made, one will usually approach the other to instigate negotiations about how such a relationship would work. Various commercial and technical issues including Territory, Pricing, Terms and Conditions of Sale including Warranties and Returns etc. are agreed to. Technical Product support, Training and proper installation techniques etc. all form part of the agreement which is detailed in a written Memorandum of Agreement.

In contrast, what happens when a Utility decides to start re-selling or re-supplying equipment they have purchased from a manufacturer? The answer in our experience is nothing, they just go ahead and do it. One might say they have bought and paid for this equipment so they can do what they like with it? However, the problem with this practice creates numerous commercial and competitive issues:

- No negotiation or agreement with their supplier regarding commercial and technical obligations involving the equipment they are on-selling. This creates a very grey area regarding product liability and respective obligations.
- When we ourselves or our authorized resellers supply our own customers, we offer free product installation training to ensure at least some level of basic instruction so that our products are installed safely and correctly. We have no idea what Utilities do? Some may only supply their authorized contactors but others will sell anything to anyone who walks in off the street to make a sale?
- Regardless of Ring Fencing requirements or their actual effectiveness, utilities visualize an opportunity to profit by entering the market for supply of materials and equipment. This comes at the expense of existing commercial suppliers who are authorized by their Principals.
- Ringfencing regulations have not deterred Utilities from moving into existing suppliers designated territory and capturing significant market share that would normally be supplied through commercial suppliers.
- This intervention affects numerous Australian companies in the market place and threatens their viability and places the jobs of their employees at risk.



- As some Public owned Utilities have become acquired by Private owners who may be even more attracted to profit opportunities by participating in this market process, what effect will they have on the market place and existing suppliers?
- The DSNP commercial business may have access to stock and pricing procured by the Utility monopoly business on high volume contracts used for general network use which their competitors, (ASP'S) do not. This places them, (ASP's) at an unfair disadvantage.
- In consideration of the above, we believe a level playing field should exist. Any business unit of a monopoly utility wanting to re-sell or supply materials and equipment and compete in an open market should be ring fenced in the same way a provider of services is. This would involve:
  - ❖ Legal, Financial and Functional separation
  - ❖ Separate Branding and Warehouse Facilities
  - ❖ Separate Supply Contracts with manufacturers and suppliers
- When multiple alternative products exist, a monopoly Utility should not be allowed to have a policy where only a single product is approved for use on their network. This excludes manufacturers and suppliers of alternative products and materials that are perfectly fit for purpose from the market place which is highly restrictive.

I am available to discuss or clarify any of the above points with you should it be considered necessary? Alternatively, we look forward to the AER Ring Fencing Guidelines being amended to address those issues and market situations outlined above.

Yours sincerely



**Rory Solomon**  
**Managing Director**  
**Sicame Australia P/L**