

8 July 2021

Mr Mark Feather
General Manager
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

Via email to AERringfencing@aer.gov.au

Dear Mr Feather,

Re: Draft ring-fencing guideline version 3 (electricity distribution)

Simply Energy welcomes the opportunity to provide feedback on the Australian Energy Regulator's (AER) draft electricity distribution ring-fencing guideline.

Simply Energy is a leading energy retailer with over 750,000 customer accounts across Victoria, New South Wales, South Australia, Queensland and Western Australia. As a leading retailer focused on continual growth and development, Simply Energy supports the development of effective regulation to facilitate competition and positive consumer outcomes in the market.

Simply Energy does not support the AER's proposal to require a ring-fencing waiver for the leasing of distribution network service provider (DNSP) owned energy storage devices to third parties. The need to obtain a ring-fencing waiver would add time, cost and regulatory uncertainty to community-scale storage projects. The potential risks of allowing DNSPs to lease excess battery capacity to third parties would be more appropriately dealt with through measures separate to the ring-fencing guideline.

Simply Energy has also separately prepared a joint submission with the Public Interest Advocacy Centre and Ausgrid that highlights our shared concern with the AER's proposal.

Requiring a ring-fencing waiver would constrain the benefits of DNSP-owned batteries

DNSP-owned batteries can play an important role in the energy market transition

Simply Energy has invested significantly in a virtual power plant trial in South Australia and believes battery energy storage will play a critical role in supporting the transition to an energy system with increased dependence on renewable energy. In particular, Simply Energy sees significant opportunities in exploring innovative business models that can offer consumers access to lower cost alternatives to residential energy storage systems, specifically via distribution connected community batteries.

DNSPs can play an important role in facilitating the energy market transition by investing in innovative energy services that provide network benefits to consumers. While investments in grid-scale batteries can displace the need for costly network expansion, these storage systems will not be required for regulated purposes 100 per cent of the time. Enabling that excess capacity to be leased by market participants to provide innovative services would lead to more efficient use of

that storage capacity and would reduce the regulated costs that are ultimately paid by all consumers.

Enabling DNSPs to invest in batteries would likely expand retail market competition, as smaller retailers that cannot invest in grid-scale batteries themselves will be provided opportunities to obtain battery capacity through these leasing arrangements. Through competitive tender processes, DNSPs can provide the market with energy storage services at an efficient cost and on a non-discriminatory basis.

The ring-fencing waiver application process would create investment uncertainty

The requirement to obtain a ring-fencing waiver would delay investments in community battery projects and significantly increase the regulatory uncertainty and costs for potential third-party market participants that would lease the excess capacity. For example, the maximum length of a regulatory waiver is significantly shorter than the expected useful life of a battery and raises risks for DNSPs that the excess capacity of the battery will not be able to be leased for the full length of its life.

Although some stakeholders have raised general concerns with the concept of DNSP-ownership of batteries, there does not appear to be any evidence of harm to consumers. In that context, Simply Energy suggests that imposing a requirement to obtain a ring-fencing waiver is not a targeted or proportionate regulatory response to the evidenced risks of DNSP-owned batteries.

Simply Energy does not consider that the additional guidance provided in the explanatory statement will materially reduce the uncertainty involved in the ring-fencing waiver application process.

As a result of the uncertainty involved in obtaining a waiver, DNSPs will likely be discouraged from making investments in batteries. Simply Energy does not agree that permitting DNSPs to lease batteries to other market participants for contestable services would foreclose new entry and competition in emerging markets. The regulatory framework incentivises DNSPs to procure the lowest-cost solutions, which could be through expansions to the network, investments in batteries, or procurement of capacity from third-party batteries.

Simply Energy is currently collaborating with several DNSPs regarding opportunities for network owned, retailer leased, community batteries. These solutions will effectively value stack the battery storage system and provide network benefits that can be passed through to local customers via a community storage retail offer. This is a win-win-win solution for the network, retailer, and the customer. Community storage provides customers with an affordable alternative to investing in a residential battery storage system.

These trial concepts are in their infancy and will no doubt reveal many lessons regarding how to refine this business model and the regulations required to support its development. However, Simply Energy believes that placing onerous constraints on DNSPs at this stage would unnecessarily stifle the development of this business model.

Necessary safeguards are more appropriately provided outside of the ring-fencing guideline

A key purpose of the ring-fencing guideline is to ensure that DNSPs do not give preferential treatment to their related parties. The ring-fencing guideline already provides this protection without adding an additional barrier to the competitive market leasing the excess capacity of DNSP-owned batteries. Simply Energy supports strong controls remaining in place to ensure that DNSPs provide equal opportunity and access to all parties. For that reason, Simply Energy supports the AER's proposed clause 4.1(d), as this would strengthen the requirements for DNSPs not to discriminate between parties in relation to contestable electricity services.

Simply Energy acknowledges that there are potential risks of allowing DNSP's to own and lease grid-scale battery storage, such as cross-subsidisation risks. While these risks should be mitigated, Simply Energy considers that these can be addressed without adding the requirement to obtain a ring-fencing waiver. Examples of these additional measures were provided in our March 2021 joint-submission with the Public Interest Advocacy Centre and Ausgrid. In relation to cross-subsidisation risks, due to the importance of appropriately allocating costs between regulated and non-regulated activities, Simply Energy would prefer that the AER developed a consistent cost allocation methodology or principles rather than relying on waiver applicants to propose their own methodologies.

Simply Energy urges the AER to take a more nuanced approach to addressing the potential harms of DNSP-owned batteries, rather than the current blunt proposal to assess each project on a case-by-case basis through the ring-fencing waiver process. The current trial concepts, and government-run programs such as Victoria's Neighbourhood Battery Initiative, are critical to informing proportionate and effective regulatory reform. Simply Energy considers that these trials should be used to test the risks raised by stakeholders through real-life experience, operating data and customer outcomes. If the risks are shown to be material, the AER will then be able to take more targeted action.

Simply Energy contends that it is premature to place specific limitations on this ownership and operational model before it can be fully tested and trialled.

Concluding remarks

Simply Energy looks forward to continuing to work actively with the AER to ensure that the final ring-fencing guideline does not restrict the further development of DNSP-owned batteries.

Simply Energy welcomes further discussion in relation to this submission. To arrange a discussion or if you have any questions please contact Matthew Giampiccolo, Senior Regulatory Adviser, at matthew.giampiccolo@simplyenergy.com.au.

Yours sincerely

A handwritten signature in black ink that reads "James Barton". The signature is written in a cursive, slightly slanted style.

James Barton
General Manager, Regulation
Simply Energy