

3 June 2016

Chris Pattas
General Manager, Networks
Australian Energy Regulator
Submitted to ringfencingguideline2016@aer.gov.au

Dear Chris,

Re: Electricity Ring-Fencing Guideline - Preliminary Positions

Thank you for the opportunity to provide comment on the Australian Energy Regulator's (AER's) Electricity Ring-Fencing Guideline - Preliminary Positions (positions paper). We note the positions paper draws out key issues in relation to the establishment of a national distribution ring-fencing guideline. We note the guideline, to be developed by the end of 2016, aims to

- Support the development of competitive markets in contestable markets
- Provide clarity and certainty in the market for new investment
- Provide a level playing field for all parties providing energy services
- Accelerate innovation and efficient investment

Stanwell supports the concept of a ring-fencing guideline only as a "second best" solution compared to the complete structural separation of contestable activities from Network Services Providers (NSPs). Until structural separation is mandatory, competitors will continue to be disadvantaged in contestable markets. Even the perception of NSPs having an unfair advantage could be enough to deter competition, to the detriment of customers. In addition, there are material costs in implementing and enforcing a ring-fencing guideline and these costs are likely to be recovered by NSPs from customers.

If ring-fencing is the only option, Stanwell supports the AER's goal to create a robust guideline which provides clarity of purpose, predictability, reasoned flexibility and the ability to be monitored and enforced¹.

Stanwell is concerned that in some cases it may be difficult to categorically classify services as regulated or contestable services. For example, consider the ring-fenced entity that utilises a Distributed Energy Resource (DER) to offer services into a contestable market or to its parent NSP². As the service offered in both cases is the same, (discharging the battery) and likely to occur at the same time (in response to high demand), it may be difficult to determine whether the service was used to provide a regulated or contestable service.

Stanwell is also concerned that a NSP may use its regulated opex allowance to purchase DER services and then inappropriately participate in the wholesale market, profiting from high spot prices under the guise of providing a regulated service. This is particularly concerning given the technological capability of individual household batteries to be aggregated across the network and centrally charged and discharged.

¹ Page 12

² Option 2, page 23

Breaches of the ring-fencing guideline may in some circumstances be very difficult to identify and prove. It is unlikely that the AER or participants will have the resources to pursue suspected breaches. This difficulty inadvertently maintains the monopoly advantage and power of the NSP.

Stanwell is also surprised to read that the AER cannot ring-fence an asset, only a service. It is likely that some asset types, such as energy storage devices and load control devices, should always be ring-fenced because of the potential to crowd out alternative service providers. With so much technological innovation happening in the energy markets, it is concerning that the AER does not have the authority to impose the structural separation of business activities within an NSP.

Thank you for your consideration of Stanwell's response to the position paper. If you would like to discuss any aspect of this submission, please contact Jennifer Tarr on 07 3228 4546.

Regards

Luke Van Boeckel
Manager Regulatory Strategy
Energy Trading and Commercial Strategy