

11 November, 2017



ABN 36 078 771 650

Power System Engineering &  
Energy Advisory Services

Ms Michelle Groves  
Chief Executive Officer  
Australian Energy Regulator  
GPO Box 520  
Melbourne VIC, 3001

Dear Ms Groves,

**Electricity Distribution Ring Fencing Guideline (DRAFT)  
Essential Energy Waiver Application – Provider Of Last Resort**

Energyserve operates as a Level 3 Electricity Network Connections Designer, based in Dubbo, central NSW (Accreditation No. 2452). We are a small business with a team of 3 staff, and have been operating in the NSW contestable works arena for over 10 years. We operate almost exclusively in the footprint of Essential Energy's service area. We prepare design works for several small businesses providing Level 1, connection services as well as directly for customers seeking new connection works under the contestable works regime administered by Essential Energy.

We would like to submit our comments in respect of Essential Energy's Waiver Application "Provider of Last Resort" dated September 2017, and the Australian Energy Regulator's (AER's) draft response of October 2017.

The core of Essential Energy's application for waiver of ring fencing requirements in relation to legal and functional separation is based on the following premises, as set out in their waiver application

- **ACCESS TO SERVICES** - There is a reasonable likelihood customers may not have access to connection services in more remote areas of Essential Energy's network footprint.
- **LEVEL PLAYING FIELD** - There would be no potential for discrimination given Essential Energy is only proposing to offer this service where the market does not meet customer requirements.

**ACCESS TO SERVICES**

It is our view that the above premises are not a reflection of the actual market situation based on our experience over the last ten years. As such the waivers should not be allowed. We would strongly urge the AER to reconsider its view that there is a "prima facie case for the services that were to be covered by a provider of last resort waiver to be reclassified as alternative control services".

It is our experience that there is no “weak or non-existent competitive market” for connection work services in any area of NSW including the more remote areas. In fact over the last ten years since Essential Energy’s (and its predecessor Country Energy) actively withdrew from the market, the market competition and efficiency has grown significantly, along with service levels to the extent that it was Essential Energy struggling to provide associated administration regulated monopoly services to keep up with market demand (evidenced by delays in provision of design information and design certifications over the last few years) .

Energyserve is unaware of any circumstances in western NSW, or other areas where connection services have not been able to be provided by the existing private service providers, and several Level 1 service providers will attest to the same situation. To a large degree it has been the withdrawal of Essential Energy from the market that has driven the expansion of private small businesses over the last few years in the provision of network connection services.

Essential Energy have provided no supporting evidence in their submission that speaks to the likelihood of customers not being able to obtain a service from the established contestable works market. Essential Energy has always been free to compete in the competitive market in accordance with any regulatory guidelines applicable but they have actively chosen not too. It has been the private small businesses who have picked up the needs of customers in more remote areas when Essential Energy withdrew its services for connection works approximately ten years ago. It would seem opportune now to seek a waiver from compliance with guidelines, for reasons of being a provider of last resort, when this was clearly has not been a concern to date, and clearly the private accredited operators have filled any void i.e. It is the private sector that has provided the safety net left by the withdrawal of Essential Energy from any such role.

Provision of a service of last resort itself should be contestable, if it was perceived as being required (we believe not). We would propose that it should be regulated by the AER, or existing state based body. There is no particular reason that Essential Energy hold the last resort provider obligation, rather than a selected private operator.

As Essential Energy continue to reduce staff and close depots in more remote communities across western NSW, it will be the private operators that will continue to be better placed to provide network connection services.

#### **LEVEL PLAYING FIELD**

The intent of the ring fencing guidelines is to ensure that if a Distribution Network Service Provider wishes to be accredited as a Level 1 or Level 3 network service provider they must meet certain business arrangements to clearly avoid cross subsidising market based business units with regulated business units. If Essential Energy is not bound to these requirements, then the market is immediately corrupted by cross subsidies from the regulated business, and/or activity on the customer side to obtain last resort status.

We do not hold confidence that Essential Energy’s motives are purely customer focused in relation to seeking the waiver,

- as they have never previously sought waivers in respect of operating in the contestable works market when they could have previously
- Essential Energy, whilst maintaining accreditation to operate in the NSW Market has actively taken a position to withdraw.
- Essential Energy have not reasonably established that a last resort provider is required
- The market has operated for over 10years without a last resort provider
- We are unaware of any circumstances where Essential Energy has stepped in to provide a service as a provider of last resort previously.

**SUMMARY**

Energyserve would strongly urge the AER to reconsider its draft position of considering a waiver by Essential Energy on the grounds that Essential Energy have not been able to support their claims with reasonable evidence of the need for a non-market based provider of last resort

It is our view that the Ring fencing guidelines be applied fully to Essential Energy if they are to obtain Level 1 or Level 3 accreditation in NSW.

In closing, we thank you for the opportunity to provide comment on the DRAFT Electricity Distribution Ring Fencing Guidelines, and invite you to contact us if you require clarification on any of the above

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'M McDonald', written in a cursive style.

Mark McDonald  
Energy Serve  
Director