

Contact Officer: Mark Feather  
Contact Phone: [REDACTED]



4 December 2023

Ms Nicola Roscoe  
Acting Executive General Manager Regulation  
Energy Queensland

Sent by email to: [REDACTED]

Dear Ms Roscoe

**Re: Ergon Energy ring-fencing waiver application for energy storage devices**

Thank you for your letter dated 13 October 2023 and the attached application from Ergon Energy for a waiver from the obligations in clause 3.1 of the Ring-fencing Guideline for Electricity Distribution (the Guideline) in respect of nine battery energy storage systems.

**Ergon's proposal**

We understand that Ergon Energy intends to install nine batteries at various locations where there is a high forecast of local distributed energy resource (DER) penetration and is seeking the relevant waiver to enable it to lease part of the capacity of these batteries to a third-party for participation in wholesale energy arbitrage, ancillary services, and other emerging markets. We note that Ergon Energy has advised that this third-party was engaged following a competitive commercial process and has requested that the name of this third-party provider remain confidential.

**AER assessment and decision**

The Guideline specifies that in assessing a waiver application, the AER will have regard to the National Electricity Objective; the potential for cross-subsidisation and discrimination; and the benefit, or likely benefit, to consumers from a DNSP complying with the obligation, relative to the cost to consumers from a DNSP complying with the obligation.

We note that these batteries are intended for a trial which assesses the potential for innovation and market learnings that Ergon Energy will use in managing its network.

The application states that the batteries are fully funded by Energy Queensland Ltd and that the batteries will be excluded from Ergon Energy's regulatory asset base (RAB). In addition, the entire project is to be funded from unregulated project funding. This means that there is unlikely to be potential for cross-subsidisation. However, the AER may monitor the use of the battery for network services and expects that data on battery use will inform future cost allocation approaches to energy storage devices.

The Guideline has a number of obligations to prevent discriminatory behaviour in favour of a particular entity (namely those obligations are set out in clauses 4.1 and 4.3). These obligations cannot be waived. To ensure ongoing compliance with this clause, as a condition of this waiver, Ergon Energy is required to share with the AER information on the contractual relationship between itself and its retail partner. This will provide ongoing comfort that Ergon Energy is complying with its obligations as set out in clause 4.

We have decided to grant a waiver from clause 3.1(d)(i) of the Guideline to allow Ergon Energy to install, own, and operate nine batteries. The waiver is provided until 30 June 2038. The waiver is granted on the basis that the assets and associated costs remain excluded from Ergon Energy's RAB and subject to the conditions below.

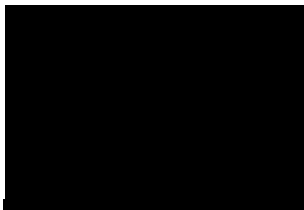
### Conditions

The following conditions apply with this waiver approval:

- Providing the AER with information on the contractual relationship between Ergon Energy and its retail partner. This information includes the contractual terms, conditions and payments. This information should be provided to [AERringfencing@aer.gov.au](mailto:AERringfencing@ aer.gov.au) within 20 business days of the contract being finalised. Where there are changes in this contractual arrangement, the AER should be notified within 20 business days. We acknowledge the commercially sensitive nature of this information and will treat this information, accordingly, noting our policies regarding information privacy and disclosure of information.
- Ex-post public sharing of information about the battery (e.g., location(s), size, status of the project (trial or full scale roll out), intended purposes and uses, a key contact for external stakeholders if they wish to discuss the project further) and any useful learnings from the battery usage that will support the battery market.
- Provision on an annual basis of a year-to-year comparison of the uses (volume and frequency) of the battery and an explanation of significant differences if observed from one year to another. The independent assessor, as part of annual ring-fencing compliance assessment, to confirm the annual usage values are accurate.

If you would like to discuss this matter further, or have any questions, please contact Jacquie Shannon, Director New Markets & Innovation by email at [AERringfencing@aer.gov.au](mailto:AERringfencing@ aer.gov.au) or on [REDACTED] in the first instance.

Yours sincerely



Jarrold Ball  
AER Board Member

Sent by email on: 04.12.2023