

Initiation notice – Ergon Energy application for a waiver to provide competitive services from its Microgrid and Isolated Systems Test (MIST) Facility

Ergon Energy has applied for a waiver from certain obligations in the AER's *Distribution Ring-fencing Guideline* (the Guideline) to lease its Microgrid and Isolated Systems Test (MIST) Facility to other entities. The AER is considering whether to grant a waiver from the obligations in clauses 3.1(b) (legal separation) and 4.2.3 (branding and cross-promotion) of the Guideline. Before deciding whether to grant such a waiver, we invite submissions from interested stakeholders. We invite your **submissions by 31 January 2024**.

Background

The AER is the regulator for electricity and gas networks in every state and territory in Australia except Western Australia.

Ring-fencing, in relation to distribution network service providers (DNSPs), refers to the separation of distribution services provided by a DNSP from the provision of unregulated or contestable services by a DNSP, or an affiliated entity. Ring-fencing operates to separate regulated activities from competitive business activities to support competitive markets. The Guideline:

- Prevents DNSPs providing unregulated or contestable services that could be cross-subsidised by its distribution services;
- Prevents DNSPs discriminating in contestable markets in favour of themselves or affiliated entities;
- Ensures DNSPs handle ring-fenced information appropriately.

Why is the AER considering granting a waiver?

On 25 July 2023, Ergon Energy applied for a waiver from the obligations in clauses 3.1(b) and 4.2.3 of the Guideline to allow the use of its MIST Facility to provide unregulated or contestable services to entities seeking to connect microgrids and other distributed generation to electricity networks.

The MIST facility was intended to operate as a research and development hub, to facilitate the testing/simulation of large-scale systems including community scale solar PV generation, batteries, microgrids, and standalone power systems. Ergon Energy already uses the MIST Facility to provide unregulated or contestable services, under an [existing ring-fencing waiver](#). This waiver

permits Ergon Energy to provide generation services to regional and remote communities via 33 isolated network systems in Queensland.

In its application, Ergon Energy stated that the MIST Facility would support the roll-out of small-scale renewable generation and the integration of those assets with electricity distribution networks.

Such a waiver would enable Ergon Energy to use the MIST Facility to provide unregulated or contestable services across Australia. Ergon Energy has asked for the waiver to apply until 30 June 2035.

AER has granted an interim waiver

As part of its application, Ergon Energy is seeking to use the MIST Facility to provide unregulated or contestable services to parties with grant funding for microgrids under the following programs:

- [Queensland Government's Microgrid Pilot Fund](#), and
- [Australian Government's Regional and Remote Communities Reliability Fund](#)

The AER has decided to grant a limited interim waiver for Ergon Energy to use the MIST Facility to provide services to recipients of funding grants from those programs (only to the extent required to fulfil the purpose of those grants). The interim waiver will allow the AER to consult on and assess Ergon Energy's full waiver application, including enabling Ergon to provide contestable services to other entities across Australia.

Importantly, the interim waiver will remain in force only until the AER makes a further decision to grant or refuse to grant the full waiver.¹

¹ The AER's decision to grant the limited interim waiver is available on the AER's website at [AER Ring-fencing Waivers](#).

Why is the AER seeking stakeholder views?

Before making a further decision on the application from Ergon Energy, the AER is seeking the views of stakeholders on these matters and any other matters stakeholders consider are relevant to the AER's assessment of the application.

A key objective of the Guideline is to promote competition in the provision of electricity services. Before granting a waiver, the AER must consider the matters specified in clause 5.3.2 of the Guideline. These include the National Electricity Objective, the potential for cross-subsidisation and discrimination if the waiver is granted or refused, and a comparison between the costs to DNSPs and the benefits to consumers of the DNSP complying with the obligations.

In particular, we are interested in views and evidence from stakeholders concerning the:

- potential impact on competition of a waiver allowing Ergon Energy to lease the MIST Facility to other entities from anywhere across Australia, and
- length of time such a waiver (if granted) should remain in force.

A copy of the waiver application can be [found here](#) on the AER website.

Stakeholders are invited to provide written submissions to AERringfencing@ aer.gov.au by **Wednesday 31 January 2024**.

We prefer that all written submissions be publicly available to facilitate an informed and transparent consultative process. Submissions will be treated as public documents unless otherwise requested.

Parties wishing to submit confidential information should:

- clearly identify the information that is the subject of the confidentiality claim, and
- provide a non-confidential version of the submission in a form suitable for publication.

All non-confidential submissions will be placed on our website.

Timing

The proposed timing for our decision is:

5 December 2023	Publish Initiation notice
31 January 2024	Submissions close
April 2024	AER issues decision and statement of reasons

For more information

Information on the AER's role for distribution ring-fencing is available on our website: www.aer.gov.au

Emails to the AER ring-fencing team should be sent to AERringfencing@ aer.gov.au