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Email: AERringfencing@aer.gov.au

3 November 2023

Ms Nicola Roscoe
A/Executive General Manager Regulation
Energy Queensland

Sent by email to: [REDACTED]

Dear Nicola

Re: Ergon Energy ring-fencing waiver application for MIST facility services

Thank you for your email dated 25 July 2023 and the attached application from Ergon Energy for a waiver from the obligations in clauses 3.1(b) and 4.2.3 of the Ring-fencing Guideline for Electricity Distribution (the Guideline).

Ergon Energy's proposal

We understand Ergon Energy is seeking the relevant waivers to enable it to use its Microgrid and Isolated Systems Test (MIST) facility to provide contestable electricity services to:

- recipients of funding grants under the Queensland Government's Microgrid Pilot Fund (the Microgrid Fund) to support delivery of the Microgrid Fund as required by the Queensland Government
- recipients of funding grants under the Australian Government's Regional and Remote Communities Reliability Fund - Microgrids (the Reliability Fund), and
- other entities across Australia who have specific commercial or research interests in the development of fringe-of-grid network supply, standalone powers systems and microgrids.

As part of the application, Ergon Energy requested that the AER grant an interim waiver under clause 5.3.3 of the Guideline so it can provide the same services as soon as possible.

AER's decision to grant a limited interim waiver

The AER has decided to grant a limited interim waiver while we consider and assess Ergon Energy's waiver application. Specifically, the AER has decided, under clause 5.3.3 of the Guideline, to grant a limited interim waiver from the obligations in clauses 3.1(b) (legal separation) and 4.2.3 (branding and cross-promotion) of the Guideline for Ergon Energy to use its MIST facility to provide contestable electricity services to:

- recipients of funding grants under the Microgrid Fund
- recipients of funding grants under the Reliability Fund

only to the extent required to fulfil the purpose of those grants.

The limited interim waiver does not extend to the use of the MIST facility by other entities not in receipt of the specified grant funding.

The limited interim waiver will be in force from the date of this notice until the AER makes a further decision to grant or refuse to grant the waiver.

Reasons for granting the limited interim waiver

Under clause 5.3.3 of the Guideline the AER may, in its absolute discretion, grant an interim waiver without having regard to any of the matters (specified in clause 5.3.2 of the Guideline) that the AER must or may consider when assessing a waiver application. The AER has nonetheless been guided by the matters in clause 5.3.2 of the Guideline in deciding to grant the limited interim waiver.

While the AER considers that further assessment and public consultation is necessary before the AER can decide whether to grant or refuse the waiver set out in Ergon Energy's application, granting an interim waiver limited to the purposes described above until the AER makes its decision on the waiver application:

- is unlikely to negatively impact on competition for equivalent services as there are only a small number of potential users related to the Microgrid Fund and the Reliability Fund
- will ensure Ergon Energy is not non-compliant with the Guideline when it provides services to recipients of grants under the Microgrid Fund and the Reliability Fund (both of which are time-limited). The Reliability Fund requires that grant funding be expended by 30 June 2024. Similarly, the Microgrid Fund is a two-year program and, importantly, the Queensland Government has supported recipients of those grants to lease the MIST facility to demonstrate that their projects can be connected to the Ergon Energy network. This leasing of the MIST facility is included in eligible activities covered by grants from the Microgrid Fund.

Next steps

Before making a decision on the full waiver application, the AER will undertake public consultation and seek submissions from stakeholders. Public consultation will commence following publication of a notice on the AER's website formally seeking stakeholder comments on Ergon Energy's application. Submissions received by the AER will inform its consideration of the waiver application.

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 or on [REDACTED] in the first instance.

Yours sincerely



Mark Feather
General Manager, Strategic Policy and Energy Systems Innovation

Sent by email on: 03.11.2023