

Contact Officer: Danielle Chifley  
Contact Phone: [REDACTED]

1 July 2024

Mr Jason Howe  
Executive General Manager  
Customer Strategy and Regulation  
Power and Water Corporation

Sent by email to: [REDACTED]

Dear Mr Howe

**Re: Power & Water ring-fencing waiver application re publishing a register**

On 11 April 2024 Power & Water Corporation (PWC) submitted an application for a waiver from the obligations in clause 4.2.4 of the Ring-fencing Guideline for Electricity Distribution (the Guideline) and the requirement to maintain registers of offices and staff where relevant ring-fencing obligations have not been applied.

**Power & Water's proposal**

The application sought a new waiver to replace a waiver from clause 4.2.4 granted to PWC on 17 May 2022. The original waiver will expire on 30 June 2024. PWC's application explained that the existing waiver from clause 4.2.4 addressed an inconsistency between the Guideline and the Northern Territory National Electricity Rules (NT NER).

On the one hand, the NT NER has modified PWC's obligations under the Guideline so that PWC is not required to functionally separate its offices and staff in the provision of 'distribution services' and 'other services'. However, the Guideline requires a DNSP to maintain and publish a register that identifies instances where ring-fencing obligations for offices and staff have not been applied in circumstances defined in clauses 4.2.1 and 4.2.2 of the Guideline. As the AER noted when granting the original waiver, this creates a compliance burden for PWC with seemingly no benefit to consumers as the primary clauses targeting the possible harms are not applicable in the Northern Territory (NT).

**AER assessment and decision**

Under clause 5.3.2 of the Guideline, the AER must have regard to whether a waiver would support the National Electricity Objective (NEO), the potential for cross-subsidisation and discrimination if a waiver is granted and whether the costs of compliance with the Guideline outweigh the benefit to consumers of that compliance, including in relation to any benefits for competition.

In considering the application, we noted that there has been no change since May 2022 in the Northern Territory Electricity Ring-Fencing Code (made under the NT NER). In making its own Code, we consider that the Northern Territory has determined the most suitable arrangements for ring-fencing, including in relation to impacts on competition and the risk of cross-subsidy. As a result we have concluded that there is no additional risk in granting the

proposed waiver since, as we stated in our previous decision, the proposed waiver is largely for administrative efficiency purposes on the part of PWC.

We have decided to grant a waiver from Guideline clause 4.2.4 (office and staff registers) for PWC until 30 June 2034. A waiver of this length is consistent with the form of waiver the AER may grant as set out in clause 5.3.4 of the Guideline.

If you would like to discuss this matter further, or have any questions, please contact Danielle Chifley, Acting General Manager, Policy Branch, on [REDACTED] or [AERringfencing@er.gov.au](mailto:AERringfencing@er.gov.au) in the first instance.

Yours sincerely



**Jarrod Ball**  
**Board Member**

Sent by email on: 01.07.2024