28 January 2025

General Manager - Policy
Australian Energy Regulator
GPO Box 3131
Canberra ACT 2601

By email: AERringfencing@aer.gov.au

Dear General Manager,

Distribution Ring-fencing Guideline Review – Submission

CitiPower, Powercor, and United Energy (networks) welcome the opportunity to provide feedback on the proposed updates to the ***Ring-fencing guideline (electricity distribution) (the guideline)***. We support the AER's efforts to enhance administrative efficiency and flexibility through the two proposed changes outlined in the consultation paper. Additionally, we welcome the invitation to provide views on prospective changes to the guideline.

We believe the proposed changes to waiver term durations and senior executive compliance signoffs will provide improvements to the guideline's operation, as detailed below in the body of this paper. Furthermore, we highlight key considerations for how the guideline could evolve to accommodate emerging energy services in future reviews.

Our submission discusses more broadly the impact the guidelines are having on contestable markets. We believe the administration of the guideline is prohibiting the exercise of economies of scale and scope by networks that could lower network costs for customers, and lower costs for customers in emerging markets. Other market players are using the guidelines to maintain what we consider inefficient charges for customers by using them to block network entry to these markets.

If you have any questions, please do not hesitate to contact Simran Kaur on [redacted] or at [redacted]

Yours sincerely,

[redacted]

Brent Cleeve
Head of Regulatory Policy and Compliance
CitiPower, Powercor and United Energy

Supporting the proposed changes to the AER ring-fencing guideline

1. Removing the maximum term duration for waivers

We support the removal of the current maximum term for waivers, with term lengths assessed on a case-by-case basis. This change will:

- enhance administrative efficiency by reducing the frequency of renewals, and
- provide businesses with greater operational certainty, enabling long-term planning.

2. Modifying annual compliance reporting requirements

We endorse the proposal for senior executive sign-off for compliance reporting. This measure will:

- promote accountability at the highest levels of governance, and
- elevate compliance as a strategic priority across organisations.

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Prospective changes to the guideline

Considering the energy transition, we recommend that future updates to the guideline consider the following emerging services:

1. Electric vehicle (EV) charging

EV charging infrastructure is essential for supporting the energy transition and encouraging the adoption of sustainable transportation. Networks are uniquely positioned to leverage their existing infrastructure and expertise to efficiently deploy EV charging networks, particularly in areas underserved by private investment.

Barriers: regulatory constraints

Ring-fencing provisions, particularly Clause 3.1 (Legal Separation) and Clause 4.2 (Functional Separation – offices, staff, branding, and promotions), pose significant barriers to networks directly offering EV charging services. These regulations prevent networks from leveraging their existing assets and resources to efficiently deploy EV charging infrastructure resulting in detriment to both EV and non-EV customers who would otherwise be able to share in the benefits of economies of scale and scope.

While there are many successful global examples where networks have implemented EV charging facilities to enhance accessibility and convenience, similar initiatives in Victoria have been constrained by regulatory restrictions, especially the ring-fencing guideline.

Cost versus benefits

Compliance with ring-fencing requirements creates administrative burdens (high upfront costs associated with building and maintaining charging networks) and limits networks ability to deliver cost-effective solutions through exploitation of economies of scope and scale. The exclusion of networks in Australia we believe has resulted in EV customers paying higher costs for public EV charging and reduced availability. Conversely, existing network customers have missed the opportunity for additional shared asset revenue to be earnt lowering network charges.

Recommendation

To address these challenges, the framework should incorporate flexible mechanisms, such as exemptions from specific clauses, allowing networks to actively compete in the rollout of EV

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charging infrastructure. This approach aligns with the long-term interests of consumers and supports broader energy transition goals.

2. Hot water load control (HWLC) service

Networks have the opportunity to utilise existing flexible hot water load control (HWLC) to provide load control services to the market. Retailers or other market participants could provide daily schedules, which networks could administer through existing systems, enabling efficient and flexible operation. Through this service, retailers or other market participants could:

- orchestrate customer fleets,
- minimise evening peak demands,
- address midday minimum demands, and
- mitigate wholesale market risks.

Several major retailers have approached us for this service, recognising its potential to enhance their energy arbitrage capabilities and highlighting the growing demand for more flexible and innovative energy solutions.

It is noted again that the ring-fencing guideline prohibits networks utilising the economies of scale and scope in hot water management. This has the impact, all else being equal, of raising wholesale market prices for customers and secondly, another missed opportunity for customers to share in lower network charges through shared asset revenue.

Barriers: regulatory constraints

Like EV charging services, HWLC services are restricted by ring-fencing provisions, specifically clauses 3.1 (legal separation) and 4.2 (functional separation), requiring networks to seek waivers to offer these services.

While networks are uniquely positioned to deliver HWLC services using their established systems and processes, the current ring fencing guideline prohibits such activities, requiring networks to pursue exemptions.

Cost versus benefits

The beauty of this opportunity is that it can be delivered through established systems and processes. The internal effort required to support these services is minimal with no upfront investment required. The benefits to customers are significant, including greater use of solar energy in their consumption mix and reduced energy bills, which supports a more sustainable lifestyle.

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However, the ring-fencing provisions hinder networks from delivering such innovative services like HWLC, necessitating waiver applications.

Recommendation

Given that no amendments to the common distribution service grouping have been requested by distributors and these services align with the *AER - Distribution Service Classification Guideline – August 2022*, we recommend that HWLC services be classified as 'direct control services' under the *Distribution Service Classification Guideline*. This classification would eliminate the need for waivers, enabling DNSPs to deliver these services efficiently while maximising customer benefits and supporting broader energy transition goals.

3. Network ancillary services

Ancillary services share common characteristics. They are provided to individual customers on an 'as needs' basis, such as meter testing, temporary supply, moving mains, and alteration or relocation of public lighting assets. These services are classified as alternative control services, with costs directly attributed to the requesting customer.

Barriers: regulatory constraints

The current ring-fencing restrictions prevent networks leveraging existing functionality to develop innovative services. This represents a missed opportunity, as ancillary services provide significant benefits to customers and often involve offerings that no other entity is equipped or willing to deliver. Despite having the systems and processes in place to support these services, regulatory limitations prevent networks from utilising them fully. This not only creates inefficiencies in addressing customer demands but also restricts the ability to offer critical services, leaving gaps that could negatively impact customers. Without network involvement, many of these services would likely remain unavailable.

Cost versus benefits

The classification of services into groupings rather than individually offers significant benefits. By defining service clusters, services with similar characteristics can be grouped, enabling a new service with similar features to be added to the group without requiring individual classification.

This approach reduces administrative burdens while providing networks with the flexibility to modify service specifications (but not their nature) during a regulatory period. Such flexibility streamlines service delivery and improves responsiveness to customer needs.

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Recommendation

To address these challenges and unlock the potential benefits of ancillary services, we recommend the following:

- establish clear exemptions for network ancillary services under the ring-fencing guideline
- a review of ring-fencing provisions to ensure alignment with customer interests, focusing on reducing unnecessary restrictions that hinder service delivery.

Conclusion

The proposed changes to the guideline are crucial for ensuring networks can support the energy transition effectively and provide innovative, customer-focused services. By leveraging their existing infrastructure, expertise, and systems, networks are uniquely positioned to deliver critical services such as EV charging infrastructure (EVCI), hot water load control (HWLC), and network ancillary services.

To address the challenges highlighted above, we strongly recommend introducing flexible mechanisms within the guideline to:

- provide exemptions for DNSPs to deliver these critical services efficiently
- classify services such as HWLC as 'direct control services' under the *Distribution Service Classification Guideline*
- review and streamline ring-fencing provisions to align with customer interests and the broader goals of the energy transition.

By embracing these recommendations, the guideline can better balance regulatory safeguards with the urgent need for innovation, ensuring the best outcomes for consumers and supporting the evolving energy landscape.

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