

National Electrical and Communications Association - Submission

*Submission to the Australian Energy Regulator regarding
proposed amendments to the Ring-Fencing Guideline
(Distribution) in March 2025*

Jan 2025

Introduction

The National Electrical and Communications Association (NECA) provide this submission in response to the request for submissions regarding proposed amendments to the current Ring-Fencing Guideline (Distribution).

NECA have been attempting to engage with the AER for some time now to highlight how the current guidelines are fundamentally flawed with respect to constraining Distribution Network Service Providers (DNSP's) from participating unfairly in contestable markets and to the detriment of competitors. This included **formal correspondence to the AER in September 2024 requesting an urgent review** of specific sections of the guidelines to prevent exploitation of simplistic and/or ineffective barriers to DNSP's/RESP's undermining the objectives of the guidelines themselves. The correspondence also provided suggestions on amendments to specific parts of the guidelines to improve both the suitability of the constraints on DNSP's and the reporting requirements to provide for adequate regulation and transparency.

Other than receiving acknowledgement of receipt, as of the date of this submission NECA has not received a response to our correspondence. We were therefore somewhat disappointed that the AER have proceeded to draft and propose superficial amendments to the guidelines without engaging in any meaningful attempt to understand the economic implications of the existing and evolving misuse of DNSP resources to compete in unregulated electricity service markets. The failure to consult or respond to concerns from the electrotechnology sector, key stakeholders, key service providers and industry associations directly impacted by the ringfencing guidelines has caused major concerns and a loss of confidence to our sector.

We will re-iterate our concerns in this submission as suggested by the AER's Explanatory Statement for the draft guideline.

Overview

NECA is the peak body for Australia's electrical and communications industry, which employs 344,370 people and turns over more than \$82bn annually. NECA represents over 6,500 businesses performing works including the design, installation, and maintenance of electrical and electronic equipment in the construction, mining, air

conditioning, refrigeration, manufacturing, communications, security, automation, and renewable energy sectors.

NECA has advocated on behalf of the electrotechnology industry for over 100 years and helps its members and industry operate in an efficient, safe, and regulatorily compliant manner. NECA represents the interests of electrical and communication businesses to all levels of government and in regulatory, legislative and industry development forums.

NECA members make an essential economic contribution – connecting businesses, homes, and infrastructure – encouraging investment, improving reliability and energy security, and delivering affordable, environmentally sustainable outcomes. The safety and reputation of the electrical industry is critical to tradespeople, consumers, and the community.

NECA also plays an integral role in the development of the next generation of Australia's electrical and communications tradespeople and contractors. Through its associated Group Training Organisations (GTOs) and Registered Training Organisations (RTOs), NECA offers employment and trade training to some over 2000 apprentices and tradespeople nationally.

Submission

Amendments proposed by the AER

Term of waivers

NECA is not necessarily opposed to the amendment to providing for greater flexibility in determining the term or duration of waivers.

NECA is concerned, in the absence of other amendments to clause 5 of the Ring-Fencing Guideline, that proposals made by DNSP's (or their RESP's) to permit specific activities on their behalf are not sufficiently scrutinised or examined to ensure that the waiver does not undermine competitive markets and/or permit the DNSP's to arbitrage opportunities arising from the waiver in favour of their RESP.

NECA would strongly suggest that this amendment should be accompanied by amendments to cl 5.2 and cl 5.3 to assess

- the suitability of alternative solutions

- the ability/inability of competitive markets to provide alternative solutions,
- the impact to existing market solutions

As such, NECA suggests that the proposed amendments be delayed until these complementary amendments are drafted and the ability of RESP's to access DNSP resources is appropriately constrained and made transparent by amendments to clause 4.2 of the guidelines.

Standardisation of the way in which DNSPs submit annual compliance reports.

NECA is not opposed to the amendment to require an accompanying letter signed by the most senior executive officer of the DNSP attesting to the accuracy of the compliance report.

NECA would however recommend compliance reports be required to include additional detail about the extent of resource sharing and/or corresponding reports from/about the RESP's with respect to resourcing for major projects and/or ratios of permanent to shared staff/hours etc. NECA considers these requirements to be necessary in the interest of appropriate regulation and transparency.

Other prospective changes

As indicated in the introduction, NECA have previously advised and articulated to the AER how the construction of clause 4 of the guidelines is ineffective in developing or protecting competitive markets for **contestable electricity services** or supporting the National Electricity Objective.

NECA have put forward initial proposals for drafting changes, contained in the correspondence of 9th September 2024, and would refer the AER to that correspondence in response to the invitation in part 1.3 of the explanatory statement to make submissions on other prospective changes to the guidelines.

Summary

In conclusion, NECA recommends that –

1. proposal 1 should be suspended until additional drafting is undertaken to clauses 4 and 5 of the guideline to prevent waivers undermining alternative solutions and/or competition

2. proposal 2 should proceed, with further amendments of the guideline to expand the content of the annual compliance reports to provide for genuine transparency,
3. the AER urgently address the issues raised by NECA's correspondence dated 9th Sep 2024

We appreciate the opportunity to comment on the proposed amendments and look forward to engaging further with the AER to improve the fairness and appropriateness of the regulatory environment to achieve the National Electricity Objectives

To arrange NECA's further participation discuss any matter relating to the impact of energy network regulation on the electrotechnology industry, please contact NECA's Head of Government Relations and Regulatory Affairs, Kent Johns, at

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Yours sincerely

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Oliver Judd
Chief Executive Officer
National Electrical and Communications Association