

Contact Officer: Laura Considine
[REDACTED]

2 April 2025

Ms Trudy Fraser
A/Executive General Manager Regulation
Energy Queensland Limited
[REDACTED]

Dear Ms Fraser

Re: Ergon Energy Corporation Limited (Ergon Energy) ring-fencing waiver application for providing field services to and on behalf of Powerlink

Thank you for the application received on 14 October 2024 for a waiver from the obligations in clauses 3.1(b) and 4.2 of the Ring-fencing Guideline for Electricity Distribution (the Guideline), to enable Ergon Energy to continue providing field services to and on behalf of Powerlink.

Ergon Energy's proposal

Ergon Energy is seeking to renew an existing waiver which allows it to provide field services to and on behalf of Powerlink. These field services include operating, maintaining, constructing, and refurbishing Powerlink owned or controlled transmission assets in Queensland, which are located in regional and remote areas (within Ergon Energy's distribution area). This service provision will support Powerlink's prescribed and negotiated transmission services, which are regulated by the AER and are not contestable. The existing waiver that allows Ergon Energy to provide these services will expire on 30 June 2025.¹

Ergon Energy provided the AER with an addendum letter on 27 February 2025, in addition to their application on 14 October 2024. In this addendum letter, Ergon Energy requested that the new or renewed waiver should expire on 30 June 2040. Ergon Energy provided this letter following an update to the Guideline which removed the current maximum term duration for waivers, with appropriate term lengths to be assessed on a case-by-case basis..²

AER assessment and decision

Under clause 5.3.2 of the Guideline, before granting a waiver the AER must have regard to the National Electricity Objective (NEO), the potential for a distribution network to engage in cross-subsidisation of services and discriminatory behaviour, and whether the costs of compliance with the Guideline outweigh the benefit to consumers of that compliance, including in relation to impacts on competition.

¹ AER, 'Final decision Ergon Energy ring-fencing waiver – provision of field services to Powerlink', May 2020, accessed 13 March 2025. <https://www.aer.gov.au/documents/aer-final-decision-ergon-energy-ring-fencing-waiver-may-2020>

² AER, Ring-fencing guideline (electricity distribution, version 4), February 2025, accessed 13 March 2025. <https://www.aer.gov.au/documents/ring-fencing-guideline-electricity-distribution-version-4-0>

Our decision is to grant a new waiver to Ergon Energy from clauses 3.1(b) and 4.2 of the Guideline to enable Ergon Energy to provide field services to and on behalf of Powerlink. This waiver will expire on 30 June 2040, unless varied or revoked sooner.

Alignment with the National Electricity Objective

We consider that the proposed waiver is likely to contribute to the NEO as it would allow Powerlink to continue to leverage the efficiency of Ergon Energy's presence and skilled labour in regional Queensland, to perform the support services Powerlink needs to deliver safe and efficient operation of its transmission networks. The alternatives would be either employing multiple, other service providers or upskilling for Powerlink to provide these services, both of which the application has indicated would be more costly options. Granting this waiver aligns with the NEO in that it serves the long-term interest of consumers of electricity with respect to the quality, safety, reliability and security of supply of electricity.

The application indicates that Ergon Energy can deliver the required services efficiently in regional and remote areas where it has operated for decades, leveraging their local knowledge of the terrain and operating environment, and established relationships with landowners and other stakeholders. This arrangement between Ergon Energy and Powerlink has existed since the 1990s, with the field services being confined to Ergon Energy's distribution area which covers regional Queensland.³ Powerlink has conducted market testing which found that there are limited alternative providers across those areas, and there is significant value to Powerlink in being able to draw upon Ergon Energy as a service provider given Ergon Energy's presence and scale of operations.

The scope of Ergon Energy's operations would also include Powerlink's new transmission infrastructure projects associated with the renewable energy transition. The market for field services, which the waiver will allow Ergon to participate in, is fully contestable, and we consider that this market is likely to grow relative to when the original waiver was granted. However, Powerlink currently uses several external providers to deliver the required support services, with Ergon Energy being one of the providers, and the proportion of maintenance services allocated to Ergon Energy currently equates to approximately 35% of total maintenance works.

Without this waiver, Ergon Energy would be unable to provide field services to Powerlink. It may lead to high costs for field services for Powerlink, which would be passed on to consumers via transmission network charges. Ergon Energy's ability to be a provider of field services to, and on behalf of, Powerlink ensures that Powerlink can access specialised support services it needs in a cost-effective and safe manner, to the long-term benefit of customers.

The AER publicly consulted on this application from 9 December 2024 to 24 January 2025, including on the potential for a longer-term waiver to be granted. We did not receive any stakeholder submissions in response to our consultation process, nor did any parties raise concerns about this proposal.

Cross-subsidisation and discrimination matters

We consider that granting this waiver to Ergon Energy will have minimal, if any, impact on market competition. Furthermore, we consider the risk of cross-subsidisation is adequately addressed by Ergon Energy's Cost Allocation Method (CAM) that is approved by the AER. We note that Ergon Energy maintains separate accounts for its regulated distribution

³ Ergon Energy's application indicates these areas are outside of the South-East Queensland area where Energex operates, and includes urban centres like Gladstone and Townsville.

services, unregulated distribution services, and non-distribution services in accordance with the principles and policies of its CAM. The CAM ensures Ergon Energy would not cross-subsidise the provision of the support services to Powerlink. We also do not consider there is an opportunity for Ergon Energy to use information it gains through this waiver to advantage an affiliate.

We concluded that there is minimal (if any) benefit to consumers in requiring Ergon Energy to comply with clauses 3.1(b) and 4.2 of the Ring-fencing Guideline in this instance, and that these would be outweighed by the costs of compliance for Ergon Energy. We consider that the two main harms ring-fencing aims to prevent (the risk of cross-subsidisation and discrimination) are adequately addressed. In the absence of a waiver, Ergon Energy would be unable to provide field services to or on behalf of Powerlink, and Powerlink would not have the option of utilising Ergon Energy's services in remote Queensland to perform the required field services. This would likely result in higher costs to customers.

For these reasons, the AER has decided to grant a new waiver to Ergon Energy from clauses 3.1(b) and 4.2 of the Guideline to enable Ergon Energy to provide field services on behalf of Powerlink.

Waiver duration

The AER now has discretion to set waiver durations on a case by case basis without a maximum term length under the Ring-fencing guideline, including terms beyond the next regulatory control period, where it is appropriate. This flexibility allows the AER to ensure the term for each waiver is appropriate and to cater for circumstances where there may be little benefit to limiting the length of a waiver to two regulatory periods. In this instance, a longer-term waiver gives greater certainty for Powerlink that it can continue to access specialised support services in a cost-effective and safe manner over a longer period, to the long-term benefit of customers. We are granting this waiver with an expiry on 30 June 2040, which is the first waiver of this duration we have issued. We consider it is appropriate given the stability of the service arrangements over many years (since the 1990s), and the lack of concerns raised in response to consultation on this application or when the existing waiver was granted.

We consider the waiver application satisfies the required evidence for granting a waiver of a longer duration. Namely:

- the level of viable competition (that is, alternative service providers) is limited in the remote parts of Queensland where Ergon Energy operates. This is supported by the market testing Powerlink has undertaken to seek other providers, which found few viable alternatives in remote Queensland; and
- granting this waiver will not be permitting an exclusive arrangement for Ergon Energy to provide field services. Ergon Energy supplies 35% of total maintenance works required by Powerlink, with the balance being sourced from other providers. Granting a waiver for a longer duration gives Powerlink longer term certainty that they can access Ergon Energy as one of the options for field services, and it is up to Powerlink to decide which service provider to use over that period of time.

In all, we consider that a longer-term waiver in this instance supports a more stable long-term relationship being formed and be maintained between Ergon Energy and Powerlink, which is conducive to the efficient and safe delivery of operations and services to customers. It ensures Powerlink can rapidly respond to resolving power outages, including in response to natural disaster events. A longer-term waiver provides the greatest certainty for Ergon Energy and Powerlink to form new contractual arrangements on a longer-term basis,

supporting Powerlink's ability to deliver services in the most secure and cost-effective manner.

Granting this waiver for the requested duration up to 30 June 2040 is in the long-term interest of customers given the relatively low risk and high benefit of Ergon Energy's participation in delivering field services to and on behalf of Powerlink. This aligns with the NEO in that, granting a longer duration for this waiver serves in the long-term interest of consumers of electricity with respect to the quality, safety, reliability and security of supply of electricity.

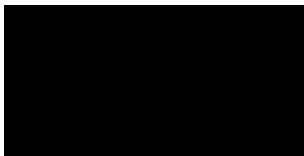
Compliance and review matters

The AER has broad discretion to review and revoke ring-fencing waivers that it grants, at any time on its own initiative if there are grounds to do so. Pursuant to section 5.5 of the Guideline, in deciding whether to vary or revoke the waiver, the AER will have regard to the same matters for granting the waiver under clause 5.3.2 of the Guideline. A minimum of 40 days' notice will be given to Ergon Energy that the AER is considering a variation or revocation of this waiver.

We also remind Ergon Energy that under clause 6.3. of the Guideline, Ergon Energy is required to notify the AER in writing within 15 days of becoming aware of a breach of its obligations under the Guideline.

If you would like to discuss this matter further, or have any questions, please contact Laura Considine, Director, New Markets and Innovation, on [AERringfencing@aer.gov.au](mailto:AERringfencing@ aer.gov.au) in the first instance.

Yours sincerely



Jarrod Ball
AER Board Member

Sent by email on: 02.04.2025