

28 September 2012

Chris Pattas  
General Manager, Network Operations and Development  
Australian Energy Regulator  
GPO Box 520  
Melbourne VIC 3001

Dear Mr Pattas

### Position Paper -- Electricity Distribution Ring-fencing Guidelines

Australian Power & Gas (**APG**) welcomes the opportunity to respond to the Australian Energy Regulator's (**AER**) Position Paper on its review of Electricity Distribution Ring-fencing Guidelines (**Position Paper**). This letter follows on APG's 24 February 2012 submission on the AER's Discussion Paper on Electricity Distribution Ring-fencing Guidelines.

As effectively stated in the Position Paper, the energy market is undergoing a significant degree of change with the implementation of new technologies including smart meters. The availability of consumption data as a result of smart metering further opens the market to innovative services for consumers such as online consumption monitoring (e.g. web portals) and opportunity for demand side participation. While APG welcomes technology advances, these developments make the need for clear ring fencing of the contestable and non-contestable market sectors more important than ever to preserve competitive neutrality in the contestable areas of the market.

APG is supportive of the AER's preferred positions as articulated in the Position Paper, including the need to harmonise the ring-fencing guidelines to apply to all Distribution Network Service Providers (**DNSPs**) within the National Energy Market (**NEM**) rather than amending existing jurisdictional guidelines. As an energy retailer operating across multiple jurisdictions, APG supports the AER's efforts to implement national regulatory guidelines, provided there is not opportunity for states to derogate.

In the Position Paper, the AER raises the question whether a prescriptive or flexible approach to the ring fencing guidelines is preferable. While APG would normally advocate for a light-handed approach to regulatory intervention, we are concerned about the AER's proposed flexible approach whereby case by case consideration of whether a business activity of a DNSP needs to be undertaken by a ring-fenced entity. With the degree of change in the energy market currently underway and resulting uncertainty in the roles of market participants, case by case consideration of all circumstances where ring-fencing obligations may apply would result in inefficiencies and the potential for conflicting outcomes.

As a member of the Energy Retailers Association of Australia (**ERAA**), APG has supported the development of ERAA's conceptual framework which helps define energy management services that sit within the contestable ambit and those that may sit outside the contestable sphere.

# Australian Power & Gas

We understand that the ERAA has provided the AER with this framework as part of its submission on the Position Paper. Utilisation of such a framework by all market participants and regulators to better delineate what energy services are contestable and which are not will allow for all parties to have greater certainty in the market. This is especially important as the market develops and with the increasing number of players, such as third party service providers and aggregators, in the market. To allow for a degree of flexibility, DNSPs should be allowed to request the AER review their proposed activity if they believe that it falls within the non-contestable sphere or within their regulatory obligation to provide.

Through using the framework provided by the ERAA and appropriate ring fencing, consistent application of consumer protections by regulators both for the sale of energy and for the sale of energy services is also ensured. DNSPs operating in the contestable areas of the market should be subject to the same regulatory and compliance framework as retailers.

Thank you again for the opportunity to comment on the Position Paper, and we welcome the opportunity to discuss APG's comments further with the AER. Please do not hesitate to contact me on 02 8908 2714 or via email at [hpriest@auspg.com.au](mailto:hpriest@auspg.com.au).

Yours sincerely



**Hilary Priest**

Manager, Government and Regulatory Affairs