Mr Chris Pattas
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Australian Energy Regulator
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16 November 2016

Dear Mr Pattas

Ring-Fencing Guideline Exposure Draft

CitiPower, Powercor and South Australian Power Networks (**the Businesses**) welcome the opportunity to respond to the Australian Energy Regulator's (**AER**) Ring-fencing Guideline Exposure Draft, albeit in a very short time frame of five business days. Below we provide comments on the following three matters:

1. Functional separation;
2. Transition arrangements; and
3. Regional offices.

1. Functional separation

The AER proposes to functionally separate direct control services from other distribution services and other electricity services. The AER's reason for this change from the draft guideline is to ring-fence distributors from contestable metering services. The effect, however, is that it will prohibit distributors, unless waivers are granted, from using their staff and offices to provide a wide range of services where no actual or potential harm occurs and efficiencies for regulated and unregulated customers are realised. The Businesses make the following specific observations based on our current understanding of the guideline:

- SA Power Networks is unique in the NEM as having many services currently classified as **negotiated services**, whereas many of these same services are direct control services in other jurisdictions and therefore will not be subject to the proposed functional separation requirements. Examples include public lighting services, asset relocation works and many other 'fee services' or 'quoted services'. SA Power

Networks will need to apply for waivers for each of these services just to be ring-fenced on an equal basis as other distributors;

- CitiPower and Powercor expect to provide **Smart City services**. These may be unregulated distribution services provided to local councils and government agencies (such as assisting the Bureau of Meteorology to transmit weather data). Allowing distributors to provide these services reduces their cost and the electricity network cost to our customers through the Shared Asset Guideline (**SAG**). CitiPower and Powercor will need to apply for waivers to provide these services;
- **leasing ducts and poles to telecommunication businesses**. Providing these unregulated distribution services reduces costs to telecommunication and electricity consumers through the SAG. Waivers will be required to continue to realise these efficiencies; and
- **shared call centres**. CitiPower and Powercor provide unregulated call centre services to SA Power Networks. As an unclassified distribution service, this would not be allowed under ring-fencing and so the call centre will need to be duplicated unless a waiver is granted.

We note this is not a complete list of lost efficiencies.

Waivers

Distributors may seek waivers for these services, however:

- waivers may be revoked by the AER at its discretion with 40 days notification. This does not foster the necessary conditions to invest. To offer services distributors need to purchase stock and enter into contracts, which is not possible knowing the AER could block a distributor’s service provision at any time. If the AER was to unexpectedly revoke a waiver, distributors could be left in breach of either their third party contracts or the ring-fencing guideline. These are risks no other market participants face. Further, it would not be possible to transition out of a service within 40 days as it would require changing processes, re-allocating staff and selling stock[1];
- between CitiPower, Powercor and SA Power Networks, we have identified the potential need for around 50 waivers. This, however, assumes that waiver applications are not locational specific. If a waiver is needed for each depot, for example, hundreds will be sought. This is a significant burden on distributors, the AER and third parties trying to understand which services distributors can provide;
- the AER's proposed consultation on waiver applications would alert competitors to distributors' intentions in unregulated markets, undermining their competitiveness;
- the ability to respond to consumer demands and market pressures would be slower and less flexible resulting in lost opportunity and choice for consumers; and
- waivers will need to be granted for distributors to continue to offer a range of existing services, which brings risk and uncertainty to our investors.

1 A minimum of three months would be needed.

These issues have been raised with the AER previously. From the AER's August 2016 Explanatory Statement, it is not evident the AER has considered our submission in respect to these points.

Proposed scope

The AER could have restricted distributors from providing contestable metering services via the definition of 'energy related' services (a minor change) as proposed in our response to the draft guideline. Instead the AER has overhauled the guideline by changing the services and efficiencies that can be provided by distributors. The AER has provided stakeholders with only 5 business days to respond.

We propose the AER ring fence distribution services rather than direct control services as per the draft guideline and make a specific provision for contestable metering services. This could be achieved by adopting our proposed definition of 'energy related services' outlined in our response to the draft guideline.

The AER must remove its 'absolute discretion' to revoke waivers 'at any time'.

2. Transitional arrangements

The AER proposes up to allowed 13 months to comply with legal separation, branding, staff sharing and staff location restrictions for existing services. Other obligations commence on 1 December 2016.

It is not feasible to achieve compliance by 1 December 2016 for the obligations not subject to transitional arrangements. For example, it will take time to establish an information sharing protocol and we may need new IT controls (even identifying what controls are needed will take time). We request at least six months to comply with information access and disclosure provisions.

3. Regional offices

The AER has exempt regional offices from functional separation, unless that exemption has been revoked. Regional offices are those with less than 50,000 people living within a 100 km radius.

Powercor is Victoria's largest distribution network, covering approximately 61% of Victoria's area. Nevertheless, our preliminary assessment is that we *may* have one regional office.[2] An initial assessment by SA Power Networks suggests maybe only 7-9 depots out of 29 state-wide depots may be exempted by this definition and the following depots would not qualify for exemption: Kingscote on Kangaroo Island, Murray Bridge, Clare, Port Augusta, Port Pirie, Naracoorte and Yorketown).

We expect the AER's revised Explanatory Statement will explain and justify the rationale for the selected threshold. While we have not been privy to this explanation, we nevertheless strongly question whether the AER's policy intent is met if only one of Powercor's offices is a regional office.

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2 We have not been able to fully investigate populations within the consultation timeframe. Our Warrnambool office may meet the criteria although on balance we consider it probably will not.

If you have any queries on this submission, please contact Renate Vogt on (03) 9683 4082 or RVogt@powercor.com.au.

Regards

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