Ring-Fencing Guideline: Compliance Strategy

31 July 2017

NETWORK

Contents

Glossary of terms

Defined term	Definition
Affiliated Entity	In relation to a DNSP, means a legal entity: a) which is a direct or indirect shareholder in the DNSP or otherwise has a direct or indirect legal or equitable interest in the DNSP; b) in which the DNSP is a direct or indirect shareholder or otherwise has a direct or indirect legal or equitable interest; or c) in which a legal entity referred to in paragraph (a) or (b) is a direct or indirect shareholder or otherwise has a direct or indirect legal or equitable interest.
Alternative control service (ACS)	A distribution service that is a direct control service but not a standard control service.
Compliance Strategy	The document that sets out the strategic approach that Ergon Energy is taking to compliance with the Guideline.
Contestable electricity services (CES)	Other distribution services and other electricity services.
Direct Control Service (DCS)	An electricity network service which the National Electricity Rules (NER) specify as a service, the price for which the AER specifies in an Ergon Energy determination as a service the price for which, or the revenue to be earned from which, must be regulated under the Ergon Energy determination.
Distribution Network Service Provider (DNSP)	A person who engages in the activity of owning, controlling, or operating a distribution system (i.e. Ergon Energy) and is registered as a network service provider.
Distribution service	A service provided by means of, or in connection with, a distribution system.
Electricity services	Services that are necessary or incidental to the supply of electricity to consumers of electricity, including the generation of electricity; electricity network services; the sale of electricity (relevant to definition of electricity information).
Implementation Plan	The plan submitted to the AER in April 2017, which sets out the steps Ergon Energy proposed to undertake to achieve compliance by 1 January 2018.
Other distribution services (ODS)	A distribution services other than direct control services. Note: As Ergon Energy does not provide negotiated distribution services this applies only to distribution services that are not classified (i.e. unclassified distribution services).
Other Electricity Services (OES)	Services for the supply of electricity or that are necessary or incidental to the supply of electricity, other than transmission services or distribution services.
Other Services	Services other than transmission services or distribution services.
Related Electricity Service Provider (RESP)	In relation to a DNSP, includes an Affiliated Entity of the DNSP; and the part of the DNSP that provides contestable electricity services.
Standard Control Service (SCS)	A direct control service that is subject to a control mechanism based on Ergon Energy's total revenue requirement.
Unclassified Distribution Service (UDS)	This is not a defined term in the National Electricity Law (NEL) or Rules, or through the AER's Framework and Approach. However, an unclassified distribution service is a distribution service that is not classified as a direct control service or a negotiated distribution service by the AER.

1 Overview

1.1 Compliance commitment

This Compliance Strategy demonstrates Ergon Energy's commitment to compliance with the Ring-Fencing Guideline (Guideline) and achieving the outcomes it seeks to realise. In developing this Compliance Strategy, Ergon Energy has considered the impact of different implementation options on its customers and the wider regional Queensland community. This has resulted in a Compliance Strategy that minimises costs through a pragmatic approach to implementation while still achieving compliance with the Guideline's requirements and objectives. Striking this balance means Ergon Energy will be able to minimise the impact on customers and the community.

> *We are committed to delivering on our purpose – 'to safely deliver secure, affordable and sustainable energy solutions with our communities and customers'.*

In addition to demonstrating Ergon Energy's commitment to compliance to the Australian Energy Regulator (AER), this Compliance Strategy provides information to external stakeholders on how Ergon Energy is addressing concerns about the impact of potential discrimination or cross-subsidisation on competition in the market. Ergon Energy will also use this Compliance Strategy as its roadmap for undertaking the compliance actions identified in it.

Ergon Energy will continue to engage with the AER and other key stakeholders as its ring-fencing arrangements continue to evolve during the implementation phase to take into account any unanticipated developments. Avenues that Ergon Energy may use include the Ergon Energy Customer Council[1], regular meetings with the AER, periodic reporting on progress and the annual compliance reports.

Any queries regarding this Compliance Strategy should be provided in writing to:

General Manager Regulation and Pricing
Energy Queensland
E: ringfencing@energyq.com.au

1.2 Background

In late 2016, the AER published the final Guideline, which places a number of obligations on distribution network service providers (DNSPs) with regards to:

- Legal separation
- Establishing and maintaining separate accounts
- Setting an obligation not to discriminate
- Physical separation/co-location
- Staff sharing
- Branding and cross-promotion
- Protection of confidential information

[1] https://www.ergon.com.au/about-us/who-we-are/our-company/customer-council

- Disclosure and sharing of information.

The overall purpose of the Guideline is to promote the National Electricity Objective and competition by introducing measures that reduce the potential for cross-subsidisation and discrimination. The impact of the obligations, mapped against types of services, is set out in Figure 1-1:

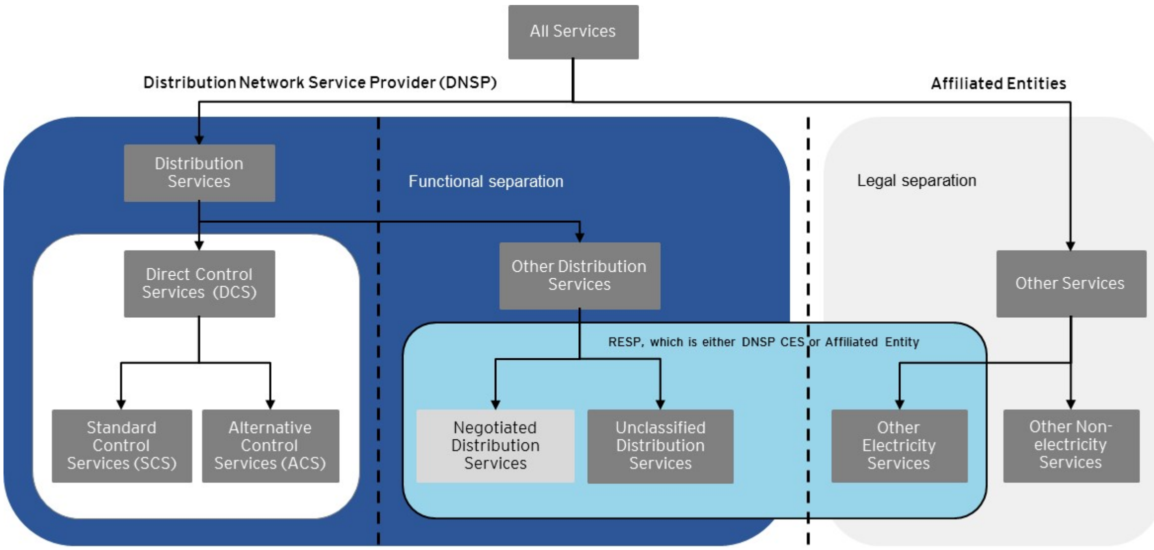

Figure 1-1 Diagram of the impact of the ring-fencing obligations on Ergon Energy

On 28 April 2017, Ergon Energy submitted a draft Implementation Plan to the AER setting out the proposed process for implementing the Guideline obligations, including reviewing its activities and services and identifying impacted services and assets that would require legal separation (i.e. be transferred to Affiliated Entities) or functional separation to be applied to them. Ergon Energy also submitted a draft list of the waivers that would potentially be sought in order to enable compliance by 1 January 2018. Following feedback from the AER and further consideration internally, Ergon Energy has identified a final suite of waivers that will be submitted to the AER alongside this Compliance Strategy. The waivers are summarised in section 3 and set out in detail in the accompanying Waiver Applications document.

On 4 July 2017, the AER released a draft amended Guideline for consultation, which proposes, among other things, changes to clarify definitions and the application of the Guideline during declared emergencies.

Ergon Energy is supportive of all the proposed amendments reflected in the draft amended Guideline, with particular support for those that provide exemptions from branding (clause 4.2.3(b)(iv)) and disclosure of information (clause 4.3.3(e)) where they relate to provision of assistance to another network service provider. This is because the geographic diversity of Ergon Energy's network means that it is subject to cyclones and other extreme weather events that cause damage that requires support from other DNSPs to rectify. However, Ergon Energy will seek an extension to these exemptions to allow a DNSP's related electricity service provider to assist a DNSP in response to an event (such as an emergency) in its submission on the amended ring-fencing guideline. Ergon Energy will also propose an amendment to the definition of 'regional office' to mean an office that has less than 25,000 connection points within a 100 kilometre radius of that office or where there is no locally located alternative service provider. Extending the definition in this regard will allow DNSPs to assist customers where there is market failure, similar to the role of the retailer of last resort. Ergon Energy's Compliance Strategy assumes that the proposed amendments in the draft amended Guideline will be implemented in full.

1.3 Operating environment in Queensland

In December 2015, the Queensland Government announced that it would merge its two government owned electricity corporations (GOCs), Ergon Energy and Energex. On 1 July 2016, the Queensland Government established Energy Queensland (EQL) as a sole parent company, with Ergon Energy and Energex as subsidiary companies of EQL. These reforms were implemented to create a corporate structure that achieves operational efficiencies, provides customers with greater choice, more control over their energy usage and access to innovative technology, and delivers more stable energy bills.

In addition to the recent corporate changes, there are a range of factors that combine to create Ergon Energy's unique operating environment:

- Ergon Energy's network area covers 97% of Queensland (around 1.7 million square kilometres) and covers a diverse range of areas – costal, rural, remote outback and the Torres Strait.
- Ergon Energy's electricity network consists of approximately 160,000 kilometres of powerlines and one million power poles, along with associated infrastructure such as major substations and power transformers. Ergon Energy also owns and operates 34 isolated networks and 33 isolated generators (referred to together as isolated systems) that supply isolated communities across Queensland which are not connected to the main electricity network.
- Ergon Energy Queensland (EEQ) is a non-competing retailer servicing non-market customers in Ergon Energy's distribution area. EEQ is unable to actively attempt to acquire new customers or provide them with services pursuant to a market contract (i.e. EEQ's retail customers may only be supplied on the terms and conditions of the standard retail contract under the National Energy Retail Rules). EEQ is required to charge its customers notified prices, which are set by the Queensland Competition Authority (QCA) in accordance with the requirements of the delegation of the Minister for Energy, Biofuels and Water Supply.
- EEQ receives community service obligation (CSO) payments in support of its delivery of the Queensland Government's uniform tariff policy (UTP). The UTP is intended to provide that, wherever possible, small standard retail contract customers and large non-market customers of the same class should pay no more for their electricity, regardless of their geographic location in regional Queensland. The CSO underpins the UTP and compensates EEQ for the additional costs of supplying electricity customers in regional Queensland. Without the CSO, EEQ would operate at a loss.

Ergon Energy previously operated under the QCA's Ring-Fencing Guideline (RFG), which was first introduced in 2000 and included obligations that addressed the following:

- Not carrying on a related business within the legal entity
- Establishing and maintaining separate accounts and allocating shared costs in accordance with a methodology approved by the QCA
- Ensuring that confidential information provided by a customer is only used for the purpose for which the information was provided and is not disclosed without the customer's consent
- Not providing distribution network access to a related business on more favourable terms than those it provides to any other customer or energy market participant.

The fact that Ergon Energy has operated under a RFG since 2000 means that it has a demonstrated history of applying ring-fencing principles to a number of areas of its business (e.g. EEQ), including establishing a monitoring and reporting framework to ensure compliance with its ring-fencing obligations. Ergon Energy's strong understanding of the practical impacts of ring-fencing in a continuously evolving market have been demonstrated over time, including through the submission of waiver applications to the QCA, and, more recently, the AER, when the business has identified activities which would achieve clear customer benefits and therefore should be subject to alternative compliance arrangements.

1.4 Corporate structure

On 1 July 2016, EQL was officially created as a GOC and parent company of Ergon Energy, which is a subsidiary alongside Energex. EQL carries out administrative, corporate and management functions for Ergon Energy but will not provide distribution services.

The proposed corporate structure for EQL is set out below in Figure 1-2. It should be noted that this structure is subject to Board and shareholding Ministers' approval.

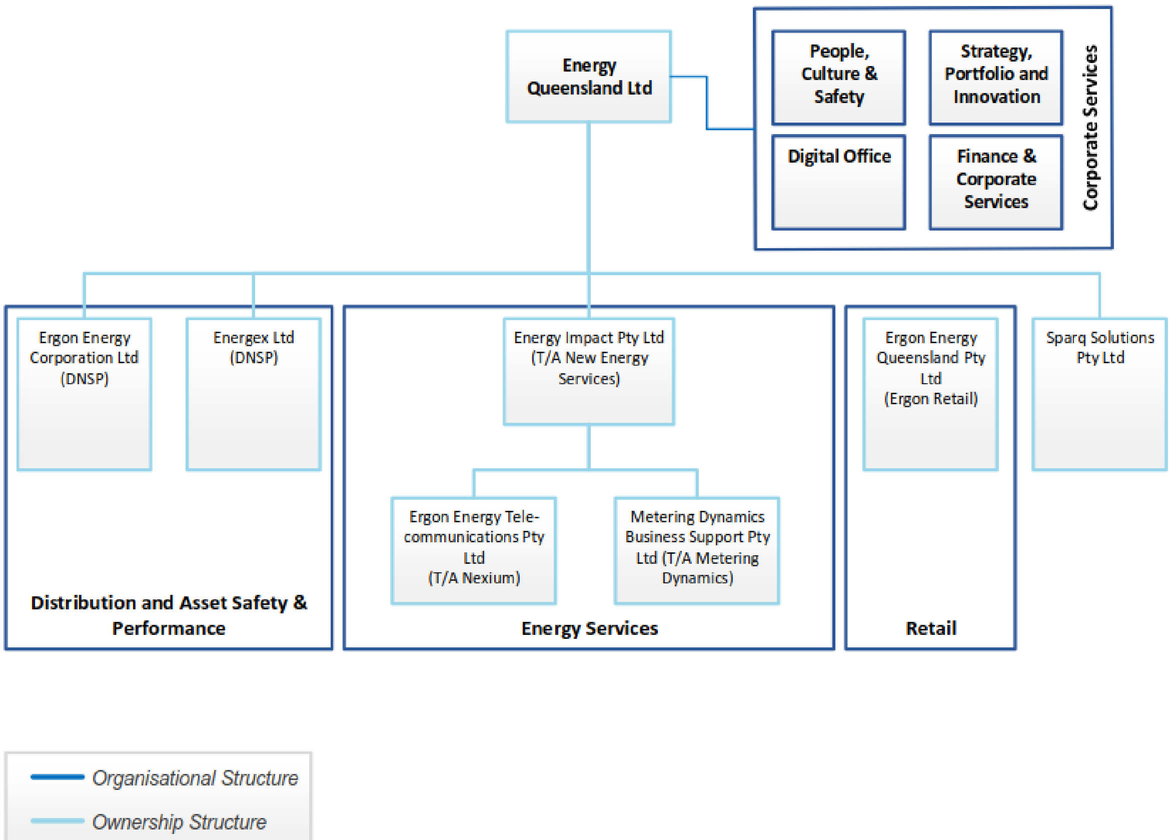

Figure 1-2 Proposed EQL corporate structure

As set out in Ergon Energy's Implementation Plan, the decision on the final corporate structure will set out the structure of the Affiliated Entities and finalisation of the services, assets and contracts to be transferred to them. Although subject to approvals, Ergon Energy anticipates that the following functions will be carried out by each EQL business unit:

- **Finance & Corporate Services** – responsibility for managing the financial aspects for the Group, as well as the roles of Company Secretary and General Counsel, enterprise information and reporting, major procurement, and the provision of property and corporate shared services.
- **People, Culture & Safety** – responsibility for the people-related functions of the Group, including people strategy and change, health, safety and environment, industrial relations, and human resource services and systems.
- **Digital Office** – responsibility for the portfolio's digital strategy (incorporating ICT), previously delivered under the joint venture SPARQ Solutions.
- **Strategy, Portfolio & Innovation** – responsibility for corporate and customer strategy, risk and compliance, driving business innovation, regulation and pricing, and the portfolio's customer, community and other stakeholder engagement.
- **Asset Safety & Performance** – responsibility for the safe and efficient management of Energex's and Ergon Energy's electricity distribution networks, including asset standards, maintenance and performance, non-network alternatives and future of intelligent grid solutions, as well as asset investment and works program governance.
- **Distribution** – responsibility for the operations of the electricity distribution systems, including delivering the program of works, field delivery of customer service activities, management of contract resources, provision of customer and market operations, and developing and implementing the emergency response capability.
- **Retail** – responsibility for the electricity retailing business, Ergon Energy Retail, including managing wholesale energy procurement.
- **Energy Services** – responsibility for delivery of products and services other than distribution services.

The approach Ergon Energy is taking to achieving compliance with the Guideline by the implementation date, including progress to date, is discussed in section 2.

2 Approach to compliance

2.1 Key assumptions

Ergon Energy fully supports the outcomes the Guideline seeks to achieve and is undertaking a range of actions to achieve compliance no later than 1 January 2018. Ergon Energy has identified a series of implementation assumptions that support the development and delivery of its implementation program:

- Ergon Energy will be compliant by 1 January 2018, subject to receiving AER approval for the waivers submitted alongside this Compliance Strategy
- EQL only provides corporate and administrative services (i.e. it does not provide direct control services (DCS) or contestable electricity services (CES)), which can continue to be provided to Ergon Energy
- Where staff sharing is permitted under the Guideline, contractual arrangements or service level agreements will be established which recognise Ergon Energy's ring-fencing obligations
- All regional office exemptions will be applied to offices that meet the criteria in the Guideline
- The AER's draft amendments to the Guideline, which are currently open for consultation, will be accepted in full
- All Ergon Energy's proposed waivers will be accepted by the AER
- Ergon Energy will balance cost and other impacts to customers and the community against the measures undertaken to achieve compliance by 1 January 2018
- Ergon Energy is not proposing to submit a cost pass through application at this point in time, but reserves its ability to do so at a later point in time once the outcomes from the next phase of analysis and the AER's decisions on Ergon Energy's wavier applications are known.

2.1.1 Impact on customers and community

Ergon Energy's Compliance Strategy has been informed by the potential impact on both customers and the community, including costs of compliance, timeliness and availability of services in regional Queensland, and consequences of non-compliance. Ergon Energy is applying a pragmatic and cost effective approach to compliance, in order to minimise the impact on customers and the community.

For example, Ergon Energy has identified that the depots at Mareeba and Charters Towers do not meet the regional office criteria because the definition of a regional office captures connection points located within other depot boundaries. However, Ergon Energy considers that the remote locations and small, disparate customer bases serviced by these depots mean that the costs to implement functional separation and the inconvenience to customers of waiting significant periods of time for an alternative crew to arrive at a site would not be outweighed by a possible increase in competition. On this basis, Ergon Energy is seeking a waiver from the functional separation and branding obligations so that the Mareeba and Charters Towers depots would be considered regional offices under the Guideline. This approach to compliance will achieve the most efficient and cost effective outcomes for regional customers in these areas. Ergon Energy is continuing to review its depot boundaries against this definition and may need to revisit the issue of its regional depots with the AER at a later date, but prior to 1 January 2018.

Ergon Energy is providing DCS (e.g. connection services) to support EEQ with delivering customer trials, which have been requested by the Queensland Government. The trials that will still be running on 1 January 2018 are Solar for Public Housing[2] and the Agricultural Tariff Trial[3]. It is expected that the Queensland Government will require Ergon Energy's support with delivering future trials, which seek to identify innovative products and other measures that will assist customers with taking control of their energy usage. Should any future trials require Ergon Energy to provide services that are not DCS, the business will seek a waiver from the AER.

2.1.2 Regional office exemption

Ergon Energy has identified a number of depots that meet the Guideline's regional office exemption criteria, which means that staff are able to carry out both DCS and CES, be co-located and operate under the Ergon Energy brand. Ergon Energy considers that the regional office exemption also applies when staff from other offices are based in a regional office to provide short term support (e.g. during a major service of an asset). This does not have an impact on competition, as treatment of these staff for ring-fencing purposes is consistent with other staff at that location and the exemption would cease to apply when those staff return to their home office.

2.1.3 Electricity information exemption

Under the Guideline, Ergon Energy is required to implement functional separation between staff providing DCS and UDS, unless impacted staff do not have access to electricity information or the opportunity to use it to discriminate or access it to perform services that are not electricity services. Ergon Energy is progressively assessing its services and identifying those where the exemptions apply.

One of these UDS is services provided on the 220kV line in Mount Isa, which connects the Mica Creek power station with large industrial customers. Ergon Energy considers that, although DCS staff who work on the assets have access to electricity information, they do not have an opportunity to use it to discriminate, noting that Ergon Energy has only one 220kV network line and does not propose to compete in this market.

2.2 Overview of compliance approach

2.2.1 Impact assessment

Ergon Energy undertook a review of its business units and the services they deliver to identify those that were potentially impacted by the Guideline and therefore required further investigation as they might require changes to comply with the Guideline obligations. Ergon Energy has started applying the following assessment process to the business units identified as impacted during the initial review of services:

- Analyse the service and identify actions that would achieve compliance (i.e. whether staff can be shared/co-located, whether corporate systems are used to deliver the service)
- Assess compliance options against agreed criteria (e.g. ability to deliver, cost, customer impact and compliance risk).

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[2] https://www.dews.qld.gov.au/electricity/solar/solar-future/public-housing
[3] https://www.ergon.com.au/retail/business/tariffs-and-prices/agricultural-tariff-trial

Ergon Energy has identified a number of compliance actions that can be undertaken by the impacted business units to achieve compliance:

- Transfer services to an Affiliated Entity
- Restrict staff to providing only DCS or CES by duplicating roles, as required
- Share staff under secondments or staff sharing exemptions
- Restrict access to electricity information such that staff are only able to access information required to carry out their work and that they do not have an opportunity to use it to discriminate
- Remove access to information systems containing electricity information for staff who do not require it to carry out their work
- Cease providing the service
- Seek waivers to allow time for implementation (e.g. a waiver from the Guideline obligations, until service classifications are settled for the 2020-25 regulatory control period).

Ergon Energy will support impacted business units when undertaking the process of assessment identified above and in determining the impact and suitability of the different compliance actions. This will support the development of an informed and consistent approach, and provide a holistic perspective on whole of business impacts. Although implementation will be the responsibility of the impacted business units, where there are significant business, customer or community impacts, the final decision on the appropriate action will be made by the executive leadership team (ELT), or the EQL Board, as required.

2.3 Progress to date

As discussed above, EQL's corporate structure is currently being finalised. The proposed structure will be compliant with the Guideline requirements, including creating Affiliated Entities, which will carry out contestable works.

EQL has established governance arrangements with a ring-fencing implementation working group consisting of representatives across the business to take a strategic view of the Guideline and how it impacts Ergon Energy. The working group makes recommendations for endorsement to the executive leadership team and the Board. Interdependencies with the corporate structure project are managed through representation by key personnel on the working group and importantly both projects have a shared executive project sponsor.

Ergon Energy has undertaken operational analysis, which identified the service areas that carry out both DCS and CES. Ergon Energy will undertake a further assessment to identify whether the staff in each impacted service area work on both DCS and CES, have access to electricity information and the opportunity that exists to use it to discriminate.

Ergon Energy has undertaken an assessment of the offices and depots across its distribution area to identify those that meet the criteria for a regional office exemption.

A strategic decision has been made that all new contestable services will be delivered by an Affiliated Entity.

Ergon Energy has created staff and office registers and is populating them progressively, as the Guideline is implemented across the business units (e.g. identified corporate shared staff and offices).

The Property Services team has reviewed the services provided by staff at each of its locations to identify those that will require changes to achieve compliance with the Guideline. These include transferring staff to different locations and installing swipe card access. The extent of staff and office changes will be informed by further analysis discussed in section 3.

Several of Ergon Energy's related electricity service providers (EEQ and Metering Dynamics) already have brands and EQL has established a strategy for introducing the branding across the affected services.

EQL has implemented a program of briefings and educational sessions to increase understanding of ring-fencing across the business and ensure that staff consider the implications when making decisions (e.g. signing new contracts).

As identified in section 1, Ergon Energy was previously subject to the QCA's RFG, which required separation of certain services, including distribution and retail services. This means that EEQ is already largely ring-fenced from the distribution business. Ergon Energy has reviewed these arrangements and re-confirmed they largely meet the Guideline's staff and location sharing obligations (noting that EEQ is an Affiliated Entity for the purposes of the Guideline).

3 Assessment against the Guideline

As identified in section 2, Ergon Energy impacted business units are carrying out the additional analysis that will identify the number of staff affected by the Guideline and determine the appropriate compliance actions to be undertaken.

3.1 Legal separation

EQL proposes to designate Affiliated Entities within the Energy Queensland Group that will provide other electricity services (OES) and other non-electricity services (ONES). Ergon Energy will cease to provide these services and they will be delivered by the Affiliated Entities instead.

Some staff (predominantly in the Retail and Energy Services business units) will be solely dedicated to the provision of OES and ONES through the Affiliated Entities. Ergon Energy is also exploring the potential for sharing some staff that carry out DCS functions with the Affiliated Entities under service level agreements. These agreements would be underpinned by Ergon Energy's cost allocation methodology (CAM) to ensure the Affiliated Entities incur cost reflective charges to utilise shared staff. Where staff sharing is not permitted, staff secondments may be considered, subject to Ergon Energy establishing protocols to ensure compliance with the Guideline (e.g. staff would be unable to access DCS information while they are seconded).

The ring-fencing working group is collaborating with senior management to identify any staff eligible for a staff sharing arrangement (subject to the Guideline), with a view to achieving functional separation by the implementation date.

3.1.1 Waiver applications

Ergon Energy's initial analysis identified several services that are UDS and non-distribution services (i.e. OES) under its current Framework and Approach. Ergon Energy will seek to have some OES reclassified for the 2020-25 regulatory control period because it considers they should be more appropriately treated as distribution services under the Guideline.

Ergon Energy owns and operates isolated systems, which provide electricity to remote regions of Queensland, such as Thursday Island. Under the Guideline, the generation component of the isolated systems is considered to be an OES and must be provided by an Affiliated Entity. Ergon Energy is seeking a waiver from the legal and functional separation and branding requirements to allow it to continue to provide generation as part of the isolated systems. The waiver application also includes the functional separation requirements to allow staff who provide DCS to also work on the isolated systems.

To achieve compliance with the Guideline, Ergon Energy will cease carrying out non-distribution services, which will be delivered by the Energy Services business unit through an Affiliated Entity. Energy Impact Pty Ltd (Energy Impact) has been identified as the preferred Affiliated Entity to provide the majority of OES and ONES. Energy Impact's constitution requires amendment, before Ergon Energy is able to novate its full suite of contracts relating to OES and ONES. The time required to amend Energy Impact's constitution, in addition to the contractual negotiations required, means that Ergon Energy is unlikely to be able to novate all of the relevant contracts to Energy Impact by the implementation date. To ensure compliance, Ergon Energy is seeking a six month waiver until 30 June 2018 to allow time for all affected contracts to be novated.

3.2 Establish and maintain separate accounts

Ergon Energy is currently reviewing its internal accounting procedures and will implement any amendments required to ensure that it can demonstrate to the AER the extent and nature of transactions it carries out with Affiliated Entities. Changes are likely to include the development of a new Charts of Accounts and are expected to be implemented by 1 January 2018.

Ergon Energy's CAM already identifies that the business allocates costs to unregulated services in the same manner that it allocates them to regulated services.

3.3 Obligation to not discriminate

Ergon Energy is committed to achieving the Guideline outcomes, including preventing discrimination in the provision of services. As identified above, Ergon Energy has previously operated under the QCA's RFG, which means that some separation has been in place for a significant period of time. For example, EEQ is already largely functionally separated from the distribution business.

In addition to implementing the changes required to achieve functional separation in affected business units, as described below, Ergon Energy has started to review and update training manuals and policies and procedures to ensure ongoing compliance with the Guideline. Key stakeholders such as the Board, the executive leadership team and impacted groups across the business have been briefed on the key obligations, likely impacts and compliance approach. Guidance material for the business has been prepared and published internally including an interim branding guideline (while the branding strategy is deployed) and the sharing of information guideline to assist staff as Ergon Energy transitions to compliance. Awareness of ring-fencing compliance issues has increased with a high volume of requests for advice across the business in recent months.

3.4 Offices, staff, branding and promotions

3.4.1 Physical separation/co-location

As noted above, the Property Services team is assessing the options for ensuring compliance with the physical separation obligation, including transferring staff to separate floors and installing swipe card access to restricted areas that will be utilised by staff providing CES.

3.4.2 Waiver applications

Ergon Energy provides services to Barcaldine and the isolated systems, using staff that also provide DCS and are not located in regional offices. These staff travel to the locations from their home offices. Due to the nature of the services and the location of the assets, Ergon Energy does not consider there to be competition. This means the benefits to customers will not outweigh the costs to comply with the functional separation obligations (location, staff sharing and branding). In addition, due to the specialist nature of the services these staff provide, they would not be fully utilised, if they were solely dedicated to CES. On this basis, Ergon Energy is seeking waivers for services to Barcaldine and isolated systems to allow staff to continue to provide DCS and CES.

Ergon Energy is also seeking a waiver from the functional separation obligations that apply to the Mareeba and Charters Towers depots. The remote location and the small number of customers means there is very little likelihood of effective competition developing in those regions and so any costs incurred would not be outweighed by benefits to customers.

3.4.3 Staff sharing

Ergon Energy staff currently provide DCS, UDS, OES and ONES, with a number of staff providing more than one type of service. As such these services are impacted by the staff sharing obligations. Ergon Energy is currently undertaking an assessment to identify the number of impacted staff in each business unit and the compliance options (e.g. reallocate activities so staff can be assigned solely to DCS or CES). Ergon Energy anticipates that some staff sharing will still occur, subject to compliance with the exemptions in the Guideline. Ergon Energy will ensure that appropriate controls are implemented to ensure compliance.

3.4.4 Waiver applications

As noted above, Ergon Energy is seeking waivers from the functional separation obligations for services to Barcaldine and isolated networks, which are located in regional Queensland. As some of the relevant staff are based in offices that do not qualify for regional office exemptions, Ergon Energy would need to incur costs to implement functional separation if the waivers are not approved. Due to the specialist nature of some of the work DCS or CES dedicated staff would not be fully utilised if they were located in the regional offices.

3.4.5 Branding and cross-promotion

Under the Guideline, Ergon Energy must deliver DCS under a different brand from those used by the part of the DNSP providing CES and Affiliated Entities such that they cannot be identified as being related. Ergon Energy has developed interim branding guidelines to ensure compliance with the Guideline obligations, which have been disseminated across the business.

As part of its compliance activities, Ergon Energy has identified that, subject to AER approval of its service reclassification waiver, it will only have a small number of services that need to be delivered by a RESP. Of these, isolated systems and Barcaldine are already the subject of applications seeking waivers from legal, staffing, office and branding separation obligations (as applicable), on the basis that there will not be an impact on competition to deliver the services in those regions. In addition, the Mount Isa 220kV line qualifies for a regional office exemption from branding obligations and the AER's draft amendments to the Guideline mean that the provision of shared assets does not need to be offered under a separate brand.

Ergon Energy has determined that the small number of remaining services means that it is not cost effective to create a separate brand for the RESP. It will therefore seek a waiver from branding obligations under the Guideline to enable those services to be provided under the Ergon Energy brand.

3.4.6 Waiver applications

Ergon Energy is seeking a waiver from the branding obligations to enable EEQ to continue operating under the same brand. Ergon Energy does not consider that there is a risk to competition, as EEQ is a non-competing retailer and is unable to actively seek to attract customers or enter into market contracts, meaning EEQ can only charge notified prices. On this basis, Ergon Energy considers that the cost to re-brand EEQ (estimated to be upwards of $7 million) will not deliver any benefit in terms of increased competition given the current legislative framework removes EEQ's ability to compete.

Although the final structure of the Affiliated Entities is subject to Board and shareholding Minsters' approval, it is expected that they will be EEQ, Ergon Energy Telecommunication (T/A Nexium), Energy Impact and Metering Dynamics. EQL has commenced developing a branding architecture to differentiate the Affiliated Entities' brands and expects to implement branding across the majority of areas (e.g. billing, website and other media) by the implementation date. However, Ergon Energy has identified a range of practical challenges and constraints with implementing branding changes to uniforms and trucks that will require a temporary waiver. To achieve compliance, Ergon Energy is seeking a temporary waiver to allow staff to provide DCS and CES service under its brand, until the new uniforms and signage for trucks are able to be rolled out.

3.4.7 Office and staff registers

Ergon Energy has established registers to identify the classes of offices which are not subject to the functional separation obligations and the nature of the staff positions that are not subject to staff sharing restrictions, due to exemptions under the Guideline. These registers will be updated based on the outcomes of the further assessment of staff and office sharing.

3.5 Information access and disclosure

Ergon Energy has requested its IT service provider (i.e. EQL's Digital Office business unit) to provide advice on current compliance and support an assessment of options to address any gaps. Some of the longer term and higher cost solutions will take some time to implement and therefore Ergon Energy has identified interim solutions to achieve compliance in the short term. These measures will restrict access to information for impacted staff and highlight instances where staff have attempted to access confidential information (noting this does not assume intentional non-compliance).

As Ergon Energy's information systems reach the end of their useful lives, replacement systems will have access rights and other restrictions embedded. The Digital Office is optimising its replacement program to ensure cost effective and compliant solutions are delivered. Ergon Energy has adopted this approach to achieving compliance in order to mitigate the impact on customers who would face increased costs if Ergon Energy replaced its IT systems in advance of the end of their useful lives.

3.5.1 Disclosure of information

Ergon Energy takes very seriously the protection of confidential information and already has in place system controls to ensure it is stored securely. Ergon Energy is reviewing its procedures to confirm they reflect the Guideline requirements for disclosure of information (e.g. records are maintained as evidence that a customer has given explicit informed consent to disclosure of information).

3.5.2 Sharing of information

Ergon Energy's approach to sharing information with its RESPs and other legal entities will vary across business units from those which will assume no disclosure of information as a starting point to those which are prepared to share information provided to RESPs with other unrelated legal entities. The ring-fencing working group is collaborating with business units to identify their approach and ensure there are robust controls in place to ensure confidential information is protected.

Ergon Energy has prepared an information sharing protocol to ensure staff remain aware of the potential impact of the ring-fencing obligations on information they share with colleagues and external stakeholders. The protocol also directs readers to ring-fencing subject matter experts, who have a detailed understanding of the Guideline and will be able to provide advice to staff.

3.6 Waiver applications

This Compliance Strategy demonstrates Ergon Energy’s commitment to implementing changes required to achieve the outcomes sought by the Guideline. However, in order to achieve compliance by 1 January 2018, Ergon Energy is seeking waivers in respect of some services and for specific obligations. These are described in detail in Ergon Energy’s separate Waiver Applications document.

The proposed waiver applications have been identified during the analysis undertaken to date. The additional analysis underway may reveal that further waivers are required. Ergon Energy will advise the AER of such waivers, as they are identified.

4 Ongoing compliance

Ergon Energy was previously subject to the RFG and so already has in place governance arrangements and established procedures to ensure compliance with the RFG. The following sections describe the current arrangements, which Ergon Energy will review to ensure they also achieve compliance with the more stringent Guideline.

Ergon Energy already has a robust compliance framework, which was established under the RFG. Ergon Energy manages ongoing compliance with the obligations to ensure the business remains compliant. Any queries from the business units are directed to the Regulation and Pricing team who have a detailed understanding of the obligations and are able to provide assistance to the business units. All enquiries are documented by the Regulation and Pricing team in an enquiries register. Ergon Energy will review the current governance framework to ensure it is detailed enough to capture the more stringent requirements under the Guideline.

4.1 Compliance monitoring

Section 16 of the RFG required Ergon Energy to provide annual reports on the measures taken to ensure compliance. These reports separately identified Ergon Energy's compliance with each obligation, including its interpretation of the Guideline, its application and a description of any actions taken (e.g. obtained a waiver). Ergon Energy will review the process established to undertake compliance monitoring under the RFG and will update it, where necessary, to ensure compliance with the Guideline. For example, to report on the purpose of all transactions between Ergon Energy and Affiliated Entities, which will be captured under the accounting procedures identified in section 3.2.

4.2 Reporting breaches

Ergon Energy already has established procedures for addressing breaches:

- Business units can raise potential or actual breaches with the compliance team. The compliance team may also identify potential or actual breaches.
- When breaches are raised, they are entered into a breach notification register.
- Each instance is assigned to a compliance team member to investigate and this assignment is entered into a breach investigation register.
- The compliance team member must complete the investigation, including making any recommendations on remedial actions, and enter details of their investigation into the investigation register.

Ergon Energy will update its procedures to include a process to notify the AER in writing within five days of becoming aware of a material breach.