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Dear Mr Pattas

Submission on the AER's Electricity Distribution Ring-Fencing Guidelines Review: Discussion Paper

Ergon Energy Corporation Limited (Ergon Energy) welcomes the opportunity to provide a submission to the Australian Energy Regulator (AER) on its Electricity Distribution Ring-Fencing Guidelines Review: Discussion Paper.

Ergon Energy welcomes this opportunity and the step taken by the AER in commencing these discussions and looks forward to providing continued assistance to the AER in the development of any Ring-Fencing Guidelines. Should you require additional information or wish to discuss any aspect of this submission, please do not hesitate to contact either myself on 07 4092 9813 or Alena Christmas on 07 3228 8272.

Yours sincerely



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Enc.: Ergon Energy's submission.

Ergon Energy Corporation Limited

Electricity Distribution

Ring-Fencing Guidelines Review

Discussion Paper

Australian Energy Regulator

24 February 2012





**Electricity Distribution Ring-Fencing
Guidelines Review - Discussion Paper
Australian Energy Regulator
24 February 2012**

This submission, which is available for publication, is made by:

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TABLE OF CONTENTS

1.	Introduction	3
2.	Ergon Energy Responses	4





1. Introduction

Ergon Energy Corporation Limited (Ergon Energy), in its capacity as a Distribution Network Service Provider (DNSP) operating in Queensland, welcomes the opportunity to provide comment to the Australian Energy Regulator (AER) on its *Electricity Distribution Ring-Fencing Guidelines Review – Discussion Paper* (the Discussion Paper).

Ergon Energy understands that the purpose of this Discussion Paper is to seek views from interested parties and stakeholders on whether the AER should develop nationally consistent Distribution Ring-Fencing Guidelines.

Ergon Energy welcomes this opportunity and step taken by the AER in commencing these discussions to ensure that future guidelines meet the current needs of distributors and customers. Ergon Energy recognises that there are concerns about misusing market power. However, we welcome the AER's view *that the installation of PV systems by a DNSP should be encouraged, insofar as these initiatives fall within its corporate responsibility*¹.

Ergon Energy's response to the questions raised by the AER is set out in following table under section 2. Please note, that Ergon Energy's responses to the questions are based on our experience under the Queensland framework, therefore the QCA developed Ring-Fencing Guidelines from September 2000 is the relevant instrument that triggers the debate.

Ergon Energy is available to discuss this submission or provide further detail regarding the issues raised should the AER require.

¹ AER Draft Decision – Ergon Energy Application for Waiver from Ring-Fencing Guidelines 21 April 2011, clause 3.1 4th paragraph



2. Ergon Energy Responses

Questions on which the AER seeks views:	Ergon Energy Response
Is ring-fencing an appropriate means of addressing the problems that vertical integration of DNSPs may give rise to? If not, what is an appropriate regulatory method?	Ergon Energy agrees with the AER that Ring-Fencing Guidelines should continue to operate to prevent anti-competitive effects that may arise out of vertical integration in a competitive market. However, Ergon Energy recommends that the Ring-Fencing Guidelines should adopt a light-handed approach to regulation.
Is a national set of Distribution Ring-Fencing Guidelines desirable under the current regulatory framework? Are the current guidelines and provisions of the CCA sufficient to deal with issues that vertical integration possess?	<p>Ergon Energy generally supports the development of nationally consistent Distribution Ring-Fencing Guidelines. However, such Guidelines should recognise legitimate jurisdictional differences and existing waiver arrangements. Further, any nationally consistent Guideline should not impose unnecessary costs on participants.</p> <p>In the event that the AER considers there is merit in pursuing this option, then Ergon Energy suggests that the AER ensure that there is not a heavy handed approach to Ring-Fencing. Ergon Energy is concerned that a heavy handed approach to Ring-Fencing will stifle innovation and the development of new ways of addressing problems currently being faced by DNSP's in meeting their customers' expectations in an economic and cost effective way.</p> <p>Ergon Energy considers that the current guidelines and provisions of the <i>Competition and Consumer Act 2010</i> (CCA) are sufficient. We also think that there are opportunities for Ring-Fencing Guidelines to provide a strong framework to deal with any anti-competitive effects that may arise.</p>
Are the current enforcement mechanisms sufficient to ensure effective compliance by DNSPs with their ring-fencing obligations?	Ergon Energy considers that the current enforcement mechanisms are effective and should not be amended.
Are the existing jurisdictional guidelines still appropriate in light of recent developments in the industry structure and the regulatory framework governing DNSPs? If not, why not?	Ergon Energy believes there is an opportunity to revise the Ring-Fencing Guidelines that apply in Queensland to reflect contemporary practices and streamline processes. Amendments are required as a result of changes in the industry structure and regulatory framework.
Are there matters that the Transmission Ring-Fencing Guidelines deal with that a national set of Distribution Ring-	Ergon Energy appreciates that the National Electricity Rules require that the AER have regard for consistency between Transmission and Distribution Ring-Fencing Guidelines. However,



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Fencing Guidelines should not?	at this point, Ergon Energy does not see any value in placing too much reliance on the Transmission Ring-Fencing Guidelines as these were developed by the ACCC in 2004, some 8 years prior to today's date.
What matters should distribution ring-fencing guidelines address and what is the appropriate way to deal with such matters?	Ring-Fencing Guidelines should deal with: <ul style="list-style-type: none"> • accounting separation; • cost allocation; and • legal separation – insofar as the definition of related business is clarified to ensure that for example any generation assets that a DNSP owns are excluded if they are used for network support.
Are there any problems with the content of the current jurisdictional guidelines? In what ways could they be improved?	The main issue identified by Ergon Energy is around the jurisdictional definition of a related business. Ergon Energy sought a waiver from complying with the Ring-Fencing obligations as they related to the ownership of PV systems in order to meet its corporate responsibilities and the Queensland Government's Climate Smart Strategy. This was necessary because the definition of a related business was potentially broad enough to capture the installation of such systems. The fact that Ergon Energy had to apply for a waiver for these types of activities appears to be inconsistent with the national economic regulatory framework that is designed to incentivise and encourage DNSPs to find innovative ways to reduce their on going costs, and thus end-users costs.
Should the AER work to develop a set of national guidelines that apply consistently across all participating jurisdictions?	See comments above.
If not how should the inconsistencies across jurisdictional guidelines be dealt with?	Ergon Energy provides no comment.
Does the current structure of the NEM mean that distribution ring-fencing guidelines are no longer necessary?	Ring-Fencing Guidelines should exist only to the extent that they enhance the national electricity objective and are within the realm of best practice regulation. They should not create regulatory uncertainty.
How should distribution ring-fencing guidelines be modified to account for changes in the electricity supply industry?	The Ring-fencing Guidelines should have regard to distribution obligations including the positive obligation (in Queensland) to consider both demand side and supply side options to provide supply (refer to <i>Electricity Act 1994</i> s42(d)). There needs to be recognition in the



Questions on which the AER seeks views:	Ergon Energy Response
	<p>Ring-Fencing Guidelines that DNSPs have this obligation both at a jurisdictional level and national level (Regulatory Test) to consider demand side and supply side options so that network services can be provided at a lower cost. Often this can include connecting a generator to the network as an alternative to a network augmentation.</p> <p>The Ring-Fencing Guidelines should be modified to reflect the positive impact of a DNSPs ability to use demand management initiatives, (including embedded generation) as a means of being a more prudent and efficient electricity service provider.</p>
<p>How should the generation of electricity by DNSPs to offset energy consumption be dealt with in any ring-fencing guidelines? Should there be an exception to allow such consumptions, should it be capped or should it be prohibited?</p>	<p>Ergon Energy considers that DNSPs that generate electricity to offset energy consumption should be given an automatic exemption. Ergon Energy also considers that there should be an exemption for DNSPs that engage in generation activities that support their entities corporate responsibilities generally, provide network support and/or meet jurisdictional requirements to connect customers who are in isolated regions.</p> <p>To allay concerns and depending on the size/value of the generation assets, the current Regulatory Test and the new RIT-D will demonstrate to the AER that any solution including DNSP owned generation was the most economically feasible solution. This new asset would undergo regulatory oversight through this process by the AER.</p>
<p>Do the current jurisdictional ring-fencing guidelines inhibit effective innovation in the market for new contestable services? If so, how could a revised set of ring-fencing guidelines address this?</p>	<p>A revised set of Ring-Fencing Guidelines needs to be flexible enough to allow the DNSP to pursue alternative solutions in its own right where there is not an effective market solution available, especially when DNSPs primary objective is to find the least cost solutions for customers.</p>