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Ref: CP/GF

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Mr Chris Pattas
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Dear Mr Pattas

Ring-Fencing Guidelines Regulatory Reporting Obligations

The Australian Energy Regulator (AER) is currently in discussions with Ergon Energy Corporation Limited (Ergon Energy) and other Distribution Network Service Providers (DNSPs) regarding a proposed Regulatory Information Notice (RIN) that will prescribe the AER's annual regulatory reporting requirements for at least 2010-11 and 2011-12.

The AER's Queensland Distribution Determination 2010-11 to 2014-15 (May 2010) foreshadowed that the AER would engage with the Queensland DNSPs in preparing this RIN, and in particular, would discuss the transition from the Queensland Competition Authority's previously applicable *Electricity Distribution: Ring-Fencing Guidelines (September 2000)* and associated *Electricity Distribution: Regulatory Reporting Guidelines (November 2005)*, *Electricity Distribution: Regulatory Accounting Templates* and also the *Electricity Distribution: Service Quality Reporting Guidelines (August 2005)*.

Specifically, the AER's May 2010 Distribution Determination stated:

"However Ergon Energy noted that the current guidelines were developed by the QCA to allow it to perform its functions as a jurisdictional regulator. Ergon Energy suggested that the reporting guidelines should be amended to reflect the regulatory framework under the NEL and the NER and in reporting back to the AER against its distribution determination for the current regulatory control period."¹

¹ AER: Queensland Distribution Determination 2010-11 to 2014-15 (May 2010) – clause 4.2.2 page 18.

“Ergon Energy stated that it wished to consult with the AER on reporting requirements, including matters related to the development of compliance templates associated with the regulatory reporting guidelines.”²

“The AER acknowledges that the reporting guidelines developed by the QCA will require some refinement to better reflect the regulatory framework under the NEL and NER. The AER will engage with the Qld DNSPs on how certain words and phrases in the guidelines (including those phrases highlighted by Energex in its submission on the draft decision) should be interpreted going forward. The AER also intends to review the reporting requirements during the next regulatory control period and will consult with the Qld DNSPs over any changes to the reporting requirements, including the development of compliance templates.”³

Ergon Energy is concerned that, as it stands, obligations to prepare regulatory reporting statements under the QCA’s various guidelines remain in force and thus give rise to the following issues:

- The QCA’s various guidelines relate to “prescribed distribution services” and “excluded distribution services”, neither of which have existed since 1 July 2010 when the AER’s Distribution Determination commenced. That is, Ergon Energy does not provide nor maintain information about these previous services. Instead Ergon Energy provides services and maintains information in accordance with the AER’s classification of services for Ergon Energy of “direct control services” (i.e. “standard control services” and “alternative control services”) and “unregulated services”;
- It is understood that the AER’s RIN is intended to supersede the financial and some non-financial (e.g. service quality) reporting requirements that were previously embodied in the QCA’s various guidelines. Ergon Energy therefore considers it appropriate to ensure, as part of the transition from the QCA’s requirements to the AER’s requirements under the RIN, that any obsolete obligations be rescinded and that duplication should not occur; and
- If the Ergon Energy is not relieved of the obligations under the QCA’s guidelines, it will need to report by 31 October each year and simultaneously be preparing and reporting under the AER’s RIN by 15 November each year (or any other date agreed with the AER) for all matters except DMIS which is due by 28 February each year.

Ergon Energy’s proposition to the AER is for the AER, as part of introducing its RIN for annual reporting, and as discussed in its May 2010 Distribution Determination, amend the QCA’s *Electricity Distribution: Ring-Fencing Guidelines (September 2000)* to relieve Ergon Energy from the obsolete obligations under clauses:

- 1(c) establish and maintain a separate set of accounts in respect of the prescribed distribution services;
- 1(d) establish and maintain a separate consolidated set of accounts in respect of the entire business of the DNSP, including establishing and maintaining a separate set of accounts in respect of the excluded services provided by the DNSP;
- 2 In complying 1 with 1(c), (d) and (e)⁴, a DNSP must:
 - (a) if the QCA has published general accounting guidelines for DNSPs which apply to the accounts being prepared, comply with those guidelines; or

² AER: Queensland Distribution Determination 2010-11 to 2014-15 (May 2010) – clause 4.2.2 page 19.

³ AER: Queensland Distribution Determination 2010-11 to 2014-15 (May 2010) – clause 4.2.6 page 25.

⁴ Clause 1(e) relates to cost allocations for the set of accounts described in (c) – it is therefore ineffective if there is relief from 1(c).

- (b) if the QCA has not published such guidelines, comply with the guidelines prepared by the DNSP and approved by the QCA, or if there are no such guidelines, comply with such guidelines (if any) as the QCA advises the DNSP apply to that DNSP from time to time.

Such guidelines may, among other things, require the accounts to contain sufficient information and to be presented in such a manner, as would enable the verification by the QCA of the calculation of distribution use of system charges.

If the AER is not amenable to itself making amendments to the QCA's *Electricity Distribution: Ring-Fencing Guidelines (September 2000)*, in the alternative, Ergon Energy makes application for an ongoing Ring-Fencing Waiver from clauses 1(c), 1(d) and 2 to remove any doubt or ambiguity surrounding the ongoing applicability of the above-mentioned requirements in the current regulatory control period. It is envisaged that the AER will at some time in the short to medium term develop its own Ring-Fencing Guidelines which, together with other instruments such as the RIN, fully supersede QCA's guidelines and the Ring-Fencing Waiver applied for here should be able to be rescinded at that time.

Under both options, the AER is required by the QCA's *Electricity Distribution: Ring-Fencing Guidelines (September 2000)* to undertaking a specified consultation process. It is understood that this may not be completed prior to the date the obligations first materialise i.e. 31 October 2011, and certainly after the time when Ergon Energy would need to commence data gathering and report preparation (i.e. well in advance of 31 October 2011). Therefore Ergon Energy requests that the AER take no enforcement action in relation to the obligations that arise from clauses 1(c), 1(d) and 2, and confirms this with a "no action" letter.

Ergon Energy recognises and supports the AER's need to gather information in order to fulfil its obligations, and to not have gaps during the transition period from previous arrangements. If we can provide any further assistance in this matter, please do not hesitate to contact me on (07) 4121 9545.

Yours sincerely



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