



16 March 2011

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Dear Mr Anderson

**ERGON ENERGY CORPORATION LIMITED APPLICATION FOR A RING-FENCING WAIVER UNDER SECTION 21 OF THE ELECTRICITY DISTRIBUTION: RING-FENCING GUIDELINES**

Ergon Energy Corporation Limited (Ergon Energy) is writing to the Australian Energy Regulator (AER) to formally seek a waiver from Section 1(b) of the Queensland Competition Authority's Final Determination Electricity Distribution Ring-Fencing Guidelines, September 2000<sup>1</sup> (the Ring-Fencing Guidelines). Section 1(b) of the Ring-Fencing Guidelines provides:

*that a distribution network service provider that provides prescribed distribution services in Queensland must not carrying on a related business within that legal entity.*

The term "related business" includes producing electricity.

Clause 11.14.5(b)(3) of the *National Electricity Rules* (the Rules) provides that the Ring-Fencing Guidelines in force in a participating jurisdiction immediately before the Australian Energy Regulator's (AER) assumption of regulatory responsibility (transitional guidelines) continue in force for that jurisdiction subject to amendment, revocation or replacement by guidelines made under the new regulatory regime. Furthermore, the AER in the Queensland Final Distribution Determination 2010-2015 (released 6 May 2010), consistent with clause 11.14.5(c) of the Rules, confirmed that these transitional guidelines will be regarded as the AER's guidelines and any reference to the jurisdictional regulator will be considered as a reference to the AER until amended, revoked or otherwise replaced by the AER<sup>2</sup>.

This waiver application is for the existing photovoltaic (PV) installations on Ergon Energy buildings (Appendix 1, Table 1) and any future PV systems proposed to be installed on Ergon Energy buildings. Appendix 1, Table 2 contains Ergon Energy's forward planning works up and until 2011. However, Ergon Energy envisages that more PV installations on Ergon Energy buildings will occur in subsequent financial years and therefore seek that this waiver application capture all current and future PV system installations on Ergon Energy buildings.

***Background to this Application***

Ergon Energy has implemented a PV installation program for its depot and office portfolio. This program was initiated in support of the Queensland Government's *ClimateSmart 2050 Queensland climate change strategy 2007: a low carbon future*<sup>3</sup> Paper.

Ergon Energy takes its corporate social responsibility seriously and has made a commitment to playing its part in meeting targets to reduce greenhouse gas emissions. Ergon Energy's PV installation program is part of a long term strategy to deliver positive environmental benefits by diversifying the energy mix.

<sup>1</sup> <http://www.qca.org.au/files/ACF187C.pdf>

<sup>2</sup> p. 29

<sup>3</sup> [http://www.thepremier.qld.gov.au/library/pdf/initiatives/climate\\_change/ClimateSmart\\_2050.pdf](http://www.thepremier.qld.gov.au/library/pdf/initiatives/climate_change/ClimateSmart_2050.pdf)

As a government owned corporation, the initiatives that came out of the *ClimateSmart 2050 Strategy* impact Ergon Energy, including the initiative that Government office buildings will be carbon neutral by 2020 and achieve Australian Building Greenhouse Rating (ABGR) 4.5 stars. To support this initiative and government policy, Ergon Energy is committed to achieving the following ratings for its new and refurbished buildings:

- 5-Star Green Star Office Design and As-Built (Version 3); and
- 4.5-Star NABERS Energy.

To achieve these ratings in regional Queensland, Ergon Energy can include PV arrays in all refurbishments and new building constructions.

It should be noted that each PV is connected in the same manner as a PV on any other customer installation. That is, the PV is wired on the customer side of the connection point rather than directly to the distribution network. It is just that in this case, Ergon Energy is the “customer” as well as the Distribution Network Service Provider (DNSP).

### **Issues**

Obligation 1(b) of the Ring-Fencing Guidelines provides that a *distribution network service provider that provides prescribed distribution services in Queensland must not carry on a related business<sup>4</sup> within that legal entity*. Ergon Energy recognises that PVs produce electricity using solar cells to convert energy from the sun into electricity and therefore Ergon Energy’s PV installations fall within the definition of a related business. Strictly read, obligation 1(b) prevents Ergon Energy from owning generation assets unless a waiver is granted from the AER from complying with this obligation if the Ring-Fencing Guidelines.

### **Waiver Requirements**

Section 22 of the Ring-Fencing Guidelines states that a DNSP may apply to the AER requesting the AER to issue a notice under section 21. This provides that the AER may by notice to a DNSP, waive any of a DNSP’s obligations under section 1, provided that the AER is satisfied that the DNSP can demonstrate that the administrative cost to the DNSP and its associates of complying with the obligation outweighs the benefit or any likely benefit to the public.

### **Costs and Benefits in relation to meeting obligations 1(b) of the Ring-Fencing Guidelines**

To establish a separate subsidiary company to own and operate PV assets would require a lengthy consultation process involving the Office of Government Owned Corporations (OGOC). OGOC is hesitant about establishing new GOC companies, unless they can assess that there is both an absolute necessity at law and a net public benefit to be derived. The *Government Owned Corporations Act 1993*, sets out the mechanisms for creating GOCs. An approval for the establishment of a GOC Subsidiary Company is ultimately at the discretion of the Shareholding Ministers.

Based on historical experience, Ergon Energy estimates that the costs of establishing a new GOC subsidiary company to house these “generation assets” and the minimum associated budgeted annual operating costs to be \$11,700 and \$157,000 respectively (refer to Appendix 2 – Confidential).

The PV systems are part of Ergon Energy’s non-system regulated capex, and the additional costs involved with the establishment and operation of a new subsidiary would need to be passed onto customers. The costs associated with establishing a new subsidiary do not provide any benefits to customers.

Ergon Energy considers that the installation of PVs on Ergon Energy buildings:

- does not have a National Electricity Market impact;
- does not result in Ergon Energy entering the generation or retail markets, despite any excess generation going into the grid;

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<sup>4</sup> related business means the business of producing, purchasing or selling electricity



- are not of significant capacity such that it could be construed to be re-integrating the electricity industry functions; and
- does not interfere with Ergon Energy's legislative requirements.

Rather, it is considered that they satisfy Ergon Energy's corporate social responsibilities by reducing our carbon footprint. Furthermore, as a GOC Ergon Energy is committed to contributing to the Queensland Government's Carbon Reduction Strategy, to reduce energy consumption in government owned office buildings and the level of greenhouse emissions linked to these buildings<sup>5</sup>.

EECL submits that this waiver application is reasonable on the grounds that the additional costs, bureaucracy and complexity involved in order to maintain the PV assets in a separate legal entity is not commensurate with the benefits to be derived (if any) to the public. Ergon Energy considers that there are no legislative provisions that preclude Ergon Energy as a distributor from installing PVs on Ergon Energy owned buildings. Further, the use of these assets is consistent with Queensland Government policies and strategies and their installation reflects Ergon Energy's commitment to climate change.

Should you require further information, please contact Mrs Jenny Doyle, Manager Regulatory Affairs – Policy and Regulation on (07) 4092 9813.

Yours faithfully



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<sup>5</sup> [http://www.works.qld.gov.au/downloads/tdd/climate-smart-buildings\\_crs.pdf](http://www.works.qld.gov.au/downloads/tdd/climate-smart-buildings_crs.pdf), p.2

## APPENDIX 1

**Table 1: PV installation details**

Site Location	Building Type	System Size (kW)	Date of Installation	Estimated Annual generation (MWh)
Lake Street, Cairns	Office	3.12	21/04/08	6.3
Maryland St, Stanthorpe	Depot	1.925	22/07/08	3.9
Home Hill	Depot	1.925	28/07/08	3.9
Mareeba	Depot	3.075	14/08/08	6.2
Biloela	Depot	1.925	22/08/08	3.9
Mt Isa	Depot	1.62	29/10/09	3.3
ISES Townsville	Office	1.02	15/03/10	2.0
Hughenden	Depot	10.5	30/06/10	21.1
Ingham	Depot	10.08	30/06/10	20.02

**Table 2: Proposed PV installation details**

Site Location	Building Type	System Size (kW)	Date to be Installed	Estimated Annual Generation (MWh)
Glenmore Rd, Rockhampton	Depot	10	March 2011	21.1
Ness Street, Mackay	Office	15	TBA	30.1
Benaraby Rd, Gladstone	Office	10.5	TBA	21.1
Richardson Rd, Rockhampton	Depot	10.5	TBA	21.1
Charters Towers	Depot	10.5	TBA	21.1
Hervey Bay	Depot	10.5	TBA	21.1
Toowoomba	Office	10.5	TBA	21.1

