

28 September 2012

Mr Chris Pattas
General Manager, Network Operations and Development
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

Position Paper – Electricity Distribution Ring Fencing Guidelines

Dear Chris,

Metropolis Metering Assets Pty Ltd (Metropolis) agrees that a nationally consistent distribution ring fencing guideline is appropriate and thank-you for the opportunity to comment on the position paper and impending draft.

Metropolis considers that the current ring-fencing guidelines are inadequate as they are framed in the context of related *electricity retailing* businesses rather than related businesses more generally. As such there are no regulations that prevent Distribution businesses from discriminating against competitors in favour of a related businesses offering contestable services.

Metropolis can illustrate many examples where the boundaries are blurred between the Distribution businesses and their entities providing metering services.

SA Power Networks (ABN 13 332 330 749) promotes that its services include “installing, maintaining and reading meters”¹ and that consumers installing solar generation “are required to connect to the network through a special meter, called an import/export meter ...which will be supplied and installed by SA Power Networks”².

¹ see http://www.sapowernetworks.com.au/centric/corporate/about_sa_power_networks.jsp

² SA Power Networks brochure Planning for Solar PV? – available from http://www.sapowernetworks.com.au/centric/customers/installing_a_solar_pv_system.jsp - page 4

Nowhere on its website or in other published material does SA Power Networks inform consumers that metering is an *alternative control service* and that solutions are available through accredited service providers, such as Metropolis, or indeed that any competition in the metering services segment of the market exists at all.

SA Power Networks' metering services are in fact provided by its subsidiary Utilities Management Pty Ltd (ABN 25 090 664 878), which is accredited with AEMO as a Metering Provider³, and exclusively appoints its subsidiary as the Metering Provider in all cases that SA Power Networks is the Responsible Person, under Chapter 7 of the National Electricity Rules, to the exclusion of all competitors.

Given that Distributor web site development & maintenance, promotional materials, forms & brochures, and obligations as Responsible Person are operational costs subject to regulatory controls, it must be immutable that Distributors promote all metering services and providers on an equal basis, so that consumers have greater choice, not just the services provided through each of their own metering services subsidiaries or divisions.

Energex Limited (ABN 40 078 849 055) is undertaking a five-year trial to prepare for the future needs of the electricity grid. This includes the evaluation, by Energex, of advanced electronic meters and signalling performance⁴ – or smart meters – of the same make and model generally installed by Metropolis.

As an accredited Metering Provider in its own right, under the trading name of Metering Dynamics, Energex Limited provides contestable metering services across the National Electricity Market.

Energex Limited is evidently using its position as Responsible Person within its network area to develop new metering services capabilities in competition against us, the costs of which, including the purchase and deployment of metering assets and signalling equipment, and the development of data acquisition and management systems, is recovered through regulatory controls.

It must be immutable that Distributors not develop and enhance their contestable service capabilities while using their monopoly businesses to pass on the costs to electricity

³ Refer AEMO list of Accredited Metering Providers available at <http://www.aemo.com.au/Electricity/Retail-and-Metering/Metering-Services/Accredited-Metering-Providers-National-Electricity-Market-MP-cat-A-and-B-services>

⁴ See <http://www.energex.com.au/residential-and-business/contact-energex/frequently-asked-questions/network-improvement-technology-trial-faq#57905>

consumers while at the same time restricting the activities of competitors so that they cannot gain a foot hold in the market.

A derogation to the National Electricity Rules prevents Retailers from appointing themselves as Responsible Person for Victorian sites consuming less than 160 MWh of electricity per annum. But while the derogation makes the Victorian Distributors the exclusive Responsible Person it does not prevent them from appointing any AEMO accredited Metering Provider.

Nevertheless, like Energex Limited, the Victorian Distribution businesses have used the opportunity to develop their in-house metering services capabilities and have appointed themselves as Metering Provider rather than any competitor.

In fact the Victorian Distribution businesses have steadfastly refused to appoint Metropolis as Metering Provider in any circumstance, even where Metropolis has been able to provide smart metering services and the Distributor has not.

It is now commonplace that Victorian consumers installing solar generation are forced to pay for a bi-directional meter upgrade that does not meet the requirements of the advanced metering rollout. These consumers have paid hundreds of dollars in upfront charges over the last 5 years for a smart meter that has not yet been installed – simply because the Distribution businesses do not have smart meters with a bi-directional capability or do not have communications infrastructure yet deployed in the area – yet the Distributors will not allow Metropolis meters to be installed. Similarly, many small businesses are currently denied the opportunity to move to more attractive retail rates because they cannot get a smart installed on a contestable basis and have been forced to wait years under the Distributor rollout.

It must be immutable that Distributors acting as Responsible Person not force upon consumers inferior metering services at higher prices.

In March 2011 SA Power Networks amended rule A2.4.2.3 of the Service & Installation Rules (SIRs) so that, since 31 December 2011, all Metering Providers are required to install a meter isolation switch between the meter and the service fuse “where there is change of meter provider for a whole current metering installation”.

The requirement adds several hundred dollars to the cost of changing a meter, placing Metropolis and other entrants to the South Australian metering services market at a significant competitive disadvantage to SA Power Networks since, cast as it is, the same

requirement does not apply to SA Power Networks when its metering services subsidiary Utilities Management Pty Ltd (ABN 25 090 664 878) replaces its own meter.

In the case of a customer installing a solar generation system, for instance, the amendment to the SIRs requires that if Metropolis installs its bi-directional meter then a meter isolation switch must also be installed at additional cost, but if SA Power Networks subsidiary installs its bi-directional meter then there is no requirement for a meter isolation switch.

It must be immutable that Distributors not impose network access conditions that are designed to restrict competition in the metering services market by favouring their own metering services business activities while discriminating against Metropolis and other entrants to the metering services market.

Metropolis offers the following comments in relation to the proposed obligations to be imposed on Distributors:

Legal Separation

Distribution businesses must operate one legal entity responsible for the activities subject to the relevant Distribution license and one or more separate legal entities responsible for other services that are not subject to the Distribution license.

Any market activity, product, function or service involving electricity generation, electricity retailing, meter provision or meter data provision must only be provided through a separate legal entity.

Any market activity, product, function or service that is subject to contestability must only be provided through a separate legal entity.

The definition of *related business* needs to be broadened to include all legal entities providing services that are not subject to the Distribution license.

Related business entities must not operate under identities (eg. corporate names and brands) that may be confused with the Distribution business.

Accounting Separation

All related businesses must establish and maintain accounts entirely separate from the Distribution business.

Allocations of Costs

Distribution businesses must not incur costs on behalf of a related business.

Distribution businesses must not purchase goods or services for resale to or through a related business.

Distribution businesses must not cross-subsidise any related business for any period of time.

Limitations on the Flow of Information

Commercial information obtained and held by a Distribution business and a related business must be held separately and must not be shared between the parties unless otherwise required by law.

Any party that receives information from the other party may not use that information for commercial gain.

Physical, Staffing & Functional Separation

Related businesses must operate from premises physically separated from the Distribution business.

Directors, management and staff of a related business must not work for and/or be paid by the Distribution business on a concurrent basis in any capacity.

Business functions, including but not limited to sales, marketing, customer service, human resource management, and accounting, must not be shared or outsourced between a related business and the Distribution business.

Non-Discrimination

Distribution businesses must not discriminate against contestable service providers in favour of a related business.

Distribution businesses must not favour one contestable service provider over another and deal with them on an equal basis.

Distribution businesses must not promote, advertise or direct customers to a related business – or it must provide promotion, advertising and direction on an equal, non-discriminatory basis to all contestable service providers in that market.

Where a Distributor is responsible for the selection of contestable services providers it must make such a selection on a non-discriminatory, commercial basis.

Waiving of Ring-Fencing Obligations

There should be no scope to grant waivers. Put simply, if a service is not directly subject to a Distribution license then it should not be subject to any form of ring-fencing exemption.

Compliance

Non-compliance to be reported by impacted or interested parties to the AER for investigation and action.

In any regard, effective compliance requires enforcement and penalty provisions to ensure that monopoly businesses are suitably motivated to maintain ring-fencing protocols.

We thank you again for the opportunity to comment.

Sincerely,

Marco Bogaers
Chief Executive Officer

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