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21 November 2022

Mr Mark Feather  
General Manager  
Australian Energy Regulator  
GPO Box 520  
Melbourne VIC 3001

Submitted via email to: [AERringfencing@aer.gov.au](mailto:AERringfencing@aer.gov.au)

Dear Mr Feather,

**Re: Reliability and Emergency Reserve Trader (RERT) via voltage management - Ring-fencing class waiver - November 2022**

Red Energy and Lumo Energy (Red and Lumo) welcome the opportunity to comment on the Australian Energy Regulator's (AER) assessment of a class waiver under clause 5.3A of the electricity distribution ring-fencing guideline. The class waiver is being sought to allow Distribution Network Service Providers (networks) to contract with the Australian Energy Market Operator (AEMO) to provide Reliability and Emergency Reserve Trader (RERT) services through voltage management.

Red and Lumo oppose the AER granting a class waiver to allow networks to contract with AEMO to provide RERT services. It is inappropriate for the network to reduce voltage on their network and offer that energy into the market, at the expense of customers being able to have access to energy. Networks, unlike generators and retailers, do not own the energy that is supplied to consumers and are not participants in the wholesale market nor ancillary service markets. This waiver contradicts competitive neutrality, the foundation for the national competition policy applied to the electricity market as a result of the Hilmer Review.

We note that AEMO raises concerns specifically around the months of January, February and March 2023. *If* there is an issue that the current contestable participants can not solve during these three months, then the AER could consider granting a limited time, emergency waiver to monopoly businesses for that short period only. And only as a last resort in instances where AEMO is unable to contract for sufficient reserve. Granting a 5 year class waiver reduces the incentives for the competitive market to respond to the documented reliability gaps longer term, in whatever form that might take (e.g. demand response). Furthermore, the current Shared Asset Guideline will only result in customers benefiting from their network's involvement where the RERT revenue exceeds 1% of the network's regulated revenue. The unintended consequence of allowing monopoly businesses to participate in this space will result in reduced

competition and inefficient market outcomes, increasing prices rather than decreasing them as suggested in the AER's initiation notice.

We consider that the competition issues surrounding every specific waiver application are unique and the application of class waivers under the guideline en masse seriously increases the risk of regulatory error. This is particularly the case when the market is undergoing changes to market design in line with the Energy Security Board's post-2025 project that seeks to encourage competition and innovation in the supply of energy and ancillary services. As a result, should the AER grant this class waiver for 5 years there is an increased chance that the assessment process may miss some important current and future competition issues.

There is limited information published by the AER (and AEMO) in relation to this class waiver to the ring-fencing guidelines. Red and Lumo have consistently raised concerns that the process of granting class waivers under the ring-fencing guideline could increase the risk of regulatory error. While understanding that class waivers are intended to reduce the complexity of dealing with multiple waiver applications, this sets a concerning precedent. To preserve the integrity of the ring-fencing guideline and competition in the NEM, waivers should be the exception not the norm.

#### **About Red and Lumo**

We are 100% Australian owned subsidiaries of Snowy Hydro Limited. Collectively, we retail gas and electricity in Victoria, New South Wales, Queensland, South Australia and in the ACT to over 1.2 million customers.

Should you wish to discuss this submission or have any further enquiries, please contact me on

[REDACTED]

Yours sincerely

[REDACTED]

**Stefanie Monaco**

Manager - Regulatory Affairs

**Red Energy Pty Ltd**

**Lumo Energy (Australia) Pty Ltd**