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16 June 2016

Mr Chris Pattas  
General Manager Networks Investment and Pricing  
Australian Energy Regulator  
GPO Box 520  
Melbourne VIC 3001

Submitted electronically

Dear Mr Pattas,

### **Re: Energex Ring Fencing Waiver Application – Education BESS Project**

Red Energy (Red) and Lumo Energy (Lumo) welcome the opportunity to respond to the Australian Energy Regulator (AER) on the Energex Ring-Fencing Waiver Application (the Application) for its Educational Battery Energy Storage System (BESS) project.

Red and Lumo are 100% Australian owned subsidiaries of Snowy Hydro Limited. Collectively, we retail gas and electricity in Victoria and New South Wales and electricity in South Australia and Queensland to approximately 1 million customers.

Red and Lumo strongly oppose the Application for a waiver. We consider that Energex has not provided sufficient transparency in the Application as to how the benefits to consumers of ring-fencing are outweighed by its costs. As such, Red and Lumo consider that the Application cannot satisfy section 21 of the Queensland Ring-fencing Guideline in its current state.

We are also concerned at the timing of the Application. Given the AER is currently in the process of developing an Electricity Distribution Ring-Fencing Guideline (the proposed Ring-fencing Guideline), we believe this application would be better served to wait until after the proposed Ring-fencing Guideline is finalised.

#### **Purpose of seeking a waiver**

In order to obtain a waiver under section 21 of the Queensland Ring Fencing Guideline, the AER must be satisfied that Energex's costs of ring-fencing outweigh any public benefits that arise from ring-fencing. Red and Lumo consider that in determining these public benefits, the AER must include accounting for any detriments to competitive markets caused by the activity.

Based on the information presented in the Application, Red and Lumo consider the detriment to competitive markets in providing a waiver for a project such as this to be significant. The Application appears likely to result in a significant marketing benefit for Energex regarding battery storage, to be funded by the Demand Management Innovation Allowance (DMIA) at the expense of competitive entities funding similar activities themselves.

Energex advises that the administrative costs of ring-fencing the activity would outweigh any benefits to consumers. Red and Lumo encourage the AER to rigorously investigate the validity of these costs, especially given Energex already has a legally separated subsidiary Energy Impact Pty Ltd in place to offer battery solutions for its proposed Eagle Farm BESS project. It is our expectation that ring-fencing the Educational BESS project under similar arrangements would not create significant additional costs to Energex.

### **Incentive Schemes**

Energex have stated that the DMIA will be utilised to fund the educational BESS project. While Red and Lumo understand that the AER consider the requirements of the DMIA allow distribution businesses a degree of autonomy as to how they choose to utilise their regulated allowance, we are concerned that the intent of the scheme when developed was not to fund projects of this nature.

Red and Lumo believe that for contestable markets to continue to develop unhindered, the AER must ensure that projects of this nature meet the strictest interpretation of the DMIA requirements in the National Electricity Rules.

### **Timing**

Red and Lumo strongly believe that the AER should withhold providing any waiver until after its Proposed Ring-fencing Guideline is released. Given the potential difficulties flagged in the Position Paper in dealing with legacy offerings<sup>1</sup>, we believe that these concerns will be mitigated by considering the waiver once the Guideline is finalised. The Application does not suggest that there would be any particular benefits to consumers lost by slightly delaying this waiver application.

Red and Lumo thank the AER for the opportunity to respond to this Application. Should you have any further enquiries regarding this submission, please call Ben Barnes, Regulatory Manager on 03 9425 0530.

Yours sincerely

A handwritten signature in black ink, appearing to read "Ramy Soussou". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

**Ramy Soussou**  
General Manager Regulatory Affairs & Stakeholder Relations  
**Red Energy Pty Ltd**  
**Lumo Energy Australia Pty Ltd**

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<sup>1</sup> Australian Energy Regulator, Electricity Ring Fencing Guideline – Preliminary Positions, April 2016, p32