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15 September 2021

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

Submitted via email to AERringfencing@aer.gov.au

Dear Mr Feather,

Re: Draft Electricity Ring-fencing Guidelines: Consultation note for further minor change Electricity Distribution Version 3

Red Energy and Lumo Energy (Red and Lumo) welcome the opportunity to provide a submission to the proposed minor changes to the Draft Ring-fencing Guideline Electricity Distribution Version 3 (draft guideline).

The Australian Energy Regulator (AER) is seeking comments on some minor amendments to the draft guideline related to the information sharing provisions and a proposal for class waivers following stakeholder comments. In general, we support adjustments to the draft guideline that clarify and improve certain obligations.

We support the proposed amendments to the draft guideline that improve the clarity of the information sharing provisions, however, we do not support the introduction of class waivers.

Information sharing

The information sharing requirements in the guideline are not working as intended. In particular, a third party must first request information that is being shared between a Distribution Network Service Provider (DNSP) and a related electricity service provider (RESP) before it is disclosed on the information sharing register. The information sharing provisions in the guideline were intended to provide total transparency on information shared between a DNSP and a RESP. We therefore consider the current arrangements are inappropriate and support the proposed changes to the draft Guideline that will ensure that this occurs.

Class waiver mechanism

The AER also intends to introduce a 'class waiver' mechanism that would be used in situations where the waiver was for the same purpose. A new clause in this regard would not be in the long term interests of consumers and detrimental to competition in the market for contestable energy services. While the intention of class waivers would be to reduce the administrative complexity of dealing with multiple waiver applications, it would set a concerning precedent. We consider the competition issues surrounding every specific waiver application are unique and the treatment of waiver applications under the guideline en masse seriously increases the risk of regulatory error.

To preserve the integrity of the draft guideline, waivers should be the exception and not the norm. There is no doubt that the AER's decision to introduce exemptions for DNSPs to provide generation services for DNSP-led SAPS changes this. However, adjusting the draft guideline to allow class waivers will be detrimental to competition in the contestable energy services markets in the long run.

About Red and Lumo

Red and Lumo are 100% Australian owned subsidiaries of Snowy Hydro Limited. Collectively, we retail gas and electricity in Victoria, New South Wales, South Australia, Queensland, and the ACT to over 1.1 million customers.

We consider that the AER is undertaking a thorough consultation on this important matter. Should the AER wish to discuss or have any enquiries regarding this submission, please contact Con Noutso, Regulatory Manager on 0481 013 988.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Ramy Soussou". The signature is stylized with loops and a long horizontal stroke at the end.

Ramy Soussou

General Manager Regulatory Affairs & Stakeholder Relations

Red Energy Pty Ltd

Lumo Energy (Australia) Pty Ltd