



TRUenergy Pty Ltd
ABN 99 086 014 968

Level 33, 385 Bourke Street
Melbourne Victoria 3000
Telephone +61 3 8628 1000
Facsimile +61 3 8628 1050

enq@truenergy.com.au
www.truenergy.com.au

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Mr Chris Pattas
General Manager
Australian Energy Regulator
GPO Box 520
Melbourne Victoria 3011

Email: AERInquiry@aer.gov.au

RE: Position paper Electricity Distribution Ring-fencing Guidelines

TRUenergy welcomes the opportunity to provide the following comments in relation to the Position Paper Electricity Distribution Ring-fencing Guidelines.

Given the emergence of new technologies in the electricity sector and the considerable evolution in the structure of the industry since the time that the existing jurisdictional ring-fencing arrangements were developed TRUenergy regards it as appropriate the arrangements be reviewed at this time.

Emerging Technologies

As highlighted in the issues paper, the nature of the electricity industry has changed considerably since the introduction of jurisdictional ring-fencing arrangements. Demand side response opportunities, electric vehicles and a range of other energy services have arisen to create new markets. Despite existing structural separations and ring-fencing arrangements, economic theory shows that natural monopolies (such as distribution businesses) will always seek to vertically integrate or control a related market if possible. TRUenergy welcomes new entrants to these markets to increase innovation, competition and consumer choice, however is mindful of the potential for distribution businesses to exploit their monopolistic nature to gain an advantage in these emerging markets should adequate ring-fencing arrangements not be applied. TRUenergy considers that the existing ring-fencing arrangements were not drafted with these emerging technologies being considered and consequently should be reviewed with this in mind.

Competitive Neutrality

With the exception of Victoria and South Australia, distribution networks in the NEM are Government owned. Competitive neutrality principles state that publicly owned businesses should not be advantaged due to their government owned status. Although controls such as pricing oversight, structural separation and corporatisation to ensure that these entities are subjected to the same taxation requirements as private businesses have been introduced to ensure competitive neutrality is maintained, there are questions as to whether these controls are effective. A national guideline should instil competitive neutrality as a key principle.

Similarly, although the Victorian and South Australian distributors are privately owned, TRUenergy is concerned that current ring-fencing arrangements do not provide adequate transparency and assurance that the regulated revenue stream is not used by businesses to undertake activities outside the scope of their regulated nature. More specifically, TRUenergy is concerned that the current ring fencing guidelines may not adequately restrict a distribution business from allocating costs associated with its non regulated activities to its regulated activities. In doing this, a distributor would get a clear competitive advantage in the non regulated market. In this regard, it is not clear whether a distributor providing metering services would be required to be ring fenced from its other regulated services. This could threaten competitive neutrality.

TRUenergy submits that additional clarity in ring-fencing arrangements is necessary to define the monopolistic aspects of the network businesses and identify and appropriately separate those aspects which are competitive to ensure that distribution, retail and third party businesses compete to provide these services on a level playing field.

National Distribution Ring-Fencing Guidelines

TRUenergy agrees that the development of a set of National Distribution Ring-Fencing Guidelines to provide a consistent basis for the way in which distributors can enter contestable markets is preferable to a review of the existing state base arrangements. National Guidelines will also recognise the fact that retailers, and other business who interact with, and potentially compete against distributors in these markets do so across a number of jurisdictions and consistent arrangements in this area will lead to more efficient outcomes than a range of incompatible frameworks.

In further reference to the competitive neutrality principle, National Guidelines will also be the most appropriate means of covering both public and private ownership of distributors as they will be required to address both scenarios from their inception, and will continue to accommodate all entities in light of any future moves which may see the privatisation of government owned distribution assets.

TRUenergy believes that a key component of any National Guidelines will be the inclusion of a firm list of distributor responsibilities. At the very least the guidelines must provide a set of principles that classify what is contestable to lessen confusion about matters such as which party "owns" the customer relationship, and which services can be offered by a distributor in its network services role, and which services must be conducted by a ring-fenced entity.

TRUenergy supports the AER's preferred position and awaits the development of the draft guideline.

Should you have any questions in relation to this submission please call me on (03) 8628 1731

Yours sincerely



Joe Kremzer
Regulatory Manager
TRUenergy