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Ring-fencing class waiver - Batteries funded under the Commonwealth Government's Community Batteries for Household Solar Program

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AGL Energy (AGL) welcomes the opportunity to provide feedback to the Australian Energy Regulator's (AER) proposed Ring-fencing class waiver for distribution businesses seeking to apply for funding under the Commonwealth Government's Community Batteries for Household Solar Program

AGL is one of Australia's largest energy-led multi-service retailers, providing over 4.2 million electricity, gas and telco services to our customers. We operate Australia's largest electricity generation portfolio, with an operated generation capacity of over 11GW, which accounts for approximately 20% of the total generation capacity within Australia's National Electricity Market. AGL is a market leader in the development of innovative energy products and services, including our leading-edge Virtual Power Plant through which we orchestrate hundreds of behind-the-meter battery systems installed in homes and businesses to provide energy and market services to the grid while rewarding customers for their participation.

AGL's feedback is based on our ongoing involvement in various community battery working groups, and our experiences through the AGL Mornington Peninsula Distribution Scale Battery Feasibility Study and providing network services for the ACT 2.5 MW/5 MWh Distribution Scale Battery.

Ring-fencing Guideline Class Waiver Proposal

The AER is proposing a pre-emptive ring-fencing class waiver that will allow DNSPs to lease excess capacity to third parties from batteries funded under the Community Batteries for Household Solar Program where the project is either wholly not allocated to the DNSP's Revenue Asset Base (RAB) (Class A) or partially allocated to the RAB (Class B).

AGL does not support the proposed ring-fencing class waiver under both the Class A and Class B scenarios. We do not believe the AER has substantiated a case for winding back competitive market protections, especially during this crucial, formative stage for the funding scheme and prospective participants. The implementation of such a ring-fencing class waiver is premature and inappropriate, particularly as the volume of DNSP-led community battery projects and whether a blanket class waiver will be required is unknown and not evidenced to the market.

The proposal is visibly biased and signals to other market parties interested in participating in the Community Batteries for Household Solar Program that DNSP project proposals will be favoured over other participants, which will likely exacerbate barriers for organisations who seek to compete against DNSPs for community battery grants and creates a high risk of inefficient investment outcomes which will ultimately be worn by consumers.

It is important that the AER fully appreciate the extent to which monopoly, regulated electricity businesses have an inherent advantage over competitive market players with respect to access to their network, data, technical expertise, and capital to develop and deploy community battery projects. These advantages are becoming particularly pronounced in the context of information asymmetry between DNSPs and prospective organisations seeking to undertake community battery projects. Due to the nature of DNSP functions in the energy system, they are privy to access to data that other participants may not be, relating to network conditions and optimal locations for the installation of community batteries. The barriers of this information asymmetry often manifest subtly in the form of slow responses to data requests, delays, and poor communication with third parties. This has a profound, detrimental effect on the timeliness and viability of establishing the community battery for other market participants. We anticipate that further incentivising DNSPs by providing an additional revenue stream without having to undertake an open and transparent tender process to procure network services from the market will exacerbate these less-than-optimal consumer outcomes.

AGL's view is that pre-emptively implementing the ring-fencing class waiver for the predominant benefit of DNSPs is both premature in terms of what stage the Community Batteries for Household Solar Program is up to and potentially negatively impacts a robust tender program across many and varied market participants. This may facilitate inefficient network investments and/or situations where DNSPs favour investment proposals from affiliated ring-fenced entities and sends a signal to other participants seeking funding under the Community Batteries for Household Program that DNSPs, above other parties, are likely to be the main recipients of the grant funding. This perception has a real potential to discourage other participants from putting forward project proposals to Department of Climate Change, Energy, the Environment and Water (DCCEEW) and/or the Australian Renewable Energy Agency (ARENA).

The class waiver proposal is stark departure from the AER's previous commentary during the 'Draft electricity distribution Ring-fencing Guideline Version 3' consultation, that the established waiver process is "robust and timely" and would allow "DNSPs to explore the use and benefits of batteries, while at the same time guarding against the potential threats to competition in these emerging market". [1]

The AER emphasised during the Ring-fencing Guideline Version 3 consultation, that in granting individual waivers it would carefully consider the merits and harms of the DNSP leasing excess capacity to third parties or providing other contestable services. However, in this current consultation, the AER is already presupposing that it will receive hundreds of DNSP applications for ring-fencing waivers to lease spare capacity for batteries under the Community Batteries for Household Solar Program and that it would be unable to process them within 20 business days. However, there is no evidence to date to substantiate this

[1] Australian Energy Regulator, Draft electricity distribution Ring-fencing Guideline, Explanatory Statement, Draft Guideline – Version 3, May 2021, p30-31.

outcome. In this context, granting an overarching class waiver implies that the AER would otherwise have approved each and all of these individual waiver applications, presumably without fully analysing or weighing up the benefits and costs associated with the uniqueness of each application.

AGL has concerns that the testing of the competitive market and evidencing whether and how DNSPs have sought solutions from participants in the market is already being undermined. Instances of DNSPs not appropriately assessing opportunities put to them by competitive market participants are already prevalent. AGL would welcome further discussion with the AER on our observations and experiences.

Alternative waiver process

At this stage, we believe the current Ring-fencing Guideline is the most appropriate mechanism for the AER to grant waivers to lease excess capacity to third parties on a case-by-case basis for each tender put forward by the DNSP to procure funding from DCCEEW and/or ARENA, with the AER assessing each waiver proposal on its merits.

However, if the AER elects to grant the class waiver, particularly where it relates to Class B projects which are partially allocated to the RAB, we recommend that additional safeguards be established to require DNSPs to attempt to procure equivalent services, up to the value proposed to be apportioned to the RAB, from the competitive market. The ring-fencing waiver should only apply in circumstances where no viable offers were made in response to the DNSP tender, and this has been confirmed by an independent assessment of no viable other option being available.

In our response to the Draft electricity distribution Ring-fencing Guideline – Version 3, AGL recommended that the Ring-fencing Guideline establish standardised network service procurement obligations to provide the market with the best prospect of being able to service network needs in a cost competitive manner. We consider that network service opportunities could be published to market in a Statement of Opportunity through an AER administered registry, providing the market with an 8–12-week consultation window for interested parties to put forward a tender. The published Statement of Opportunity should set out, at a minimum, the following information to maximise the potential for the most cost competitive solutions:

- Solution statement;
- Modelling assumptions;
- Access;
- DUOS charges; and
- Practical location information. [2]

AGL recommends that the AER implement this safeguard mechanism prior to DNSPs being able to access the class waiver.

[2] AGL, Response to the AER's Draft electricity distribution Ring-fencing Guideline – Version 3, May 2021, 8 July 2021, p5.

If you would like to discuss any aspect of AGL's submission, please contact Valeriya Kalpakidis at vkalpakidis@agl.com.au.

Yours sincerely,

Con Hristodoulidis

Senior Manager, Regulatory Strategy

AGL Energy