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Ring-fencing guideline (electricity distribution) – Draft of proposed guideline (version 4) and draft explanatory statement

AGL Energy (**AGL**) welcomes the opportunity to provide responses to the Australian Energy Regulator's (**AER**) consultation on the abovementioned guideline and explanatory statement.

Proudly Australian for more than 185 years, AGL supplies around 4.1 million energy services. AGL's strategy is to connect every customer to a sustainable future. AGL is innovating on a broad suite of products & services to drive distributed energy resources (DER) adoption and deliver value for customers. As of FY24 AGL had 1.25 GW of decentralised assets under orchestration, with a FY27 target of 1.6 GW. Most of these assets are installed behind the connection point, and include residential batteries and solar, as well as flexible loads and backup generation systems at commercial and industrial customer sites. AGL has also invested significantly in innovative consumer energy resources (CER) pilots and trials since 2016 and is now investing in scaling these up. Solutions include AGL's Peak Energy Rewards program of 160,000 members, hot water orchestration programs of 40,000 controlled load hot water systems, and EV plans with over 22,000 customers in FY24.

Distribution ring-fencing is critical to promote the development of competitive markets in the electricity sector, due to the inherent advantages distribution network service providers (DNSPs) have as regulated monopolies over other competitive market players. These advantages include access to their network, data, technical expertise, and capital within their regulated business. Ring-fencing is necessary to protect the customer benefits of competitive markets. This framework is essential to avoid cross-subsidisation with the regulated business and to prevent the discrimination of competitors.

Maximum periods for ring-fencing waivers

AGL does not support the AER's proposal to amend the guideline to remove the maximum waiver period currently stipulated in clause 5.3.4(b). AGL acknowledges ring-fencing waivers are an important enabler for industry trials on emerging technologies and business models. However, these trials can and should be conducted under limited timeframes, and within clear boundaries, to ensure that they do not lock in a particular technology or impede the ability of competitors to offer alternative solutions. The current framework does not preclude projects that have the potential to progress beyond the maximum waiver period as the DNSP can apply for a subsequent waiver. The set time frames provide an important layer of accountability and transparency in the current framework.

The AER's consultation paper notes that "technology used by the energy sector is continuously changing and the market itself is rapidly evolving", and therefore the limit imposed by the current clause 5.3.4(b) will not be appropriate in all cases. AGL's view is that this rapid evolution of the technology landscape is one of the main reasons why it is imperative to ensure that the distribution ring-fencing guideline is appropriately structured to maximise market competition and the options available to consumers. The current time limit of "part or all of the DNSP's current regulatory control period, next regulatory control period, or both periods" should be sufficient time for DNSPs and their partners to test the viability and impact of innovative business models, and for other parties to evaluate the impact of these arrangements on their own service offerings. This evidence should then inform whether it is suitable to extend a waiver.



A large proportion of innovation undertaken by industry pertains to solutions for CER integration and to maximise the value of CER for consumers. CER is, and will continue to be, a core feature of the energy system and the types of products and services available for consumers should be driven by their needs and preferences. These needs and preferences will change over time and will be influenced by changes in technology. DNSPs play a critical role in enabling consumers to connect to the distribution network, to access reliable electricity with high quality of supply, and to export their surplus electricity into the grid. However, they are also incentivised to prioritise uniform longer-term technology solutions to achieve economies of scale. This approach can limit innovation and consumer choice, in comparison to the diversity of solutions which can be developed by a competitive market. This risk to innovation and choice is exacerbated when considering DNSPs' advantages as a regulated monopoly, and the potential for discrimination against external parties seeking to compete against network-driven solutions.

If the AER were to gather evidence that a particular activity or asset class is a suitable candidate for a longer waiver period, then the AER could consult on further amendments to the guidelines to include another exception under clause 5.3.4(c). AGL's view is that the exception should continue to apply only to regulated stand-alone power systems and energy storage devices, unless the case can be made for another category under separate consultation.

Sign-offs for DNSP Annual Compliance Reports

AGL supports the AER's proposal to amend the guideline to introduce a requirement that annual ring-fencing compliance reports must be submitted to the AER with an accompanying cover letter which has been signed by the DNSPs' most senior executive. AGL agrees this change would ensure all DNSPs are consistent in the level of review of sign-off.

Notification and consultation of ring-fencing waiver applications

The AER currently has discretion on whether to publicly consult on a ring-fencing waiver application. While AGL acknowledges the AER receives a high volume of applications, public awareness is an important measure to support transparency and to assess the potential impact of these waivers on competition.

AGL encourages the AER to consider changes to its ring-fencing guidelines to require consultation of all ring-fencing applications, or those applications that meet certain criteria (e.g., duration of the waiver, a certain asset class, etc). At a minimum, the AER could consider implementing a process where all waiver applications are published shortly after being submitted and industry is notified of the application, regardless of whether consultation will occur.

AGL looks forward to engaging with the AER on future consultations on ring-fencing arrangements. If you have any queries about this submission, please contact Andrea Espinosa on 0422 165 705 or aespinosa2@agl.com.au.

Yours sincerely,

Kyle Auret

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