

Hi Distribution team

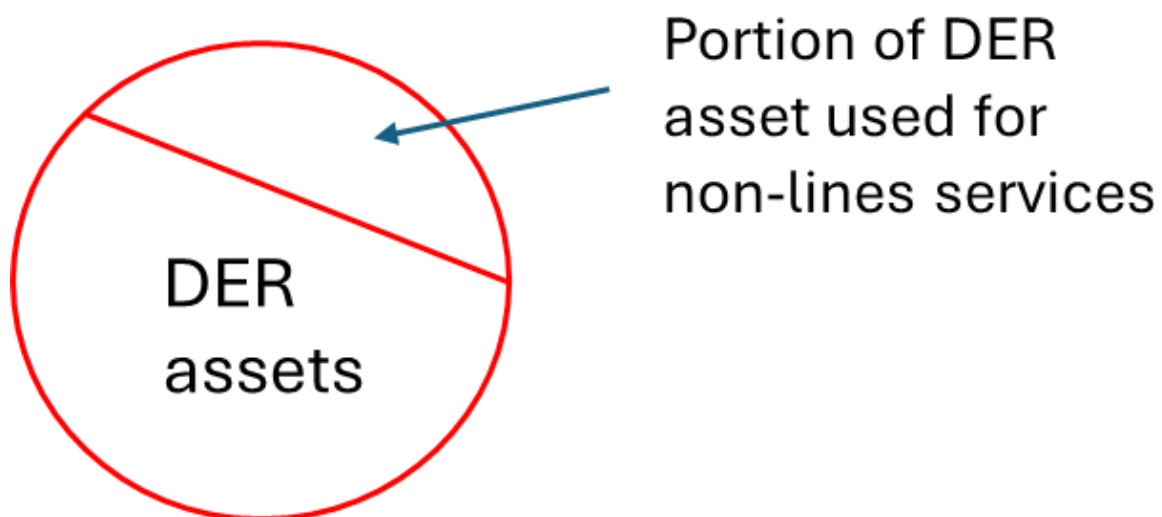
This is a joint provision of feedback from Contact Energy and Simply Energy. Overall, we commend the authority with a well thought out and comprehensive set of guidelines that provide clear boundaries.

As you have asked for feedback prior to the workshop, below are some general comments for consideration:

- **Implementation timeline:** Waiting until Q2 2026 feels too long to start monitoring performance. Given most of these principles would seem to be common sense for ensuring a competitive landscape, it would be great if this timeline was tightened to ensure the nascent state of the flexibility markets are not hindered. Even if formal assessment did not occur until 2026, having a "voluntary" reporting mechanism in place immediately, similar to what was done with the Consumer Care Guidelines for Retailers, would seem appropriate.
- **Information sharing/Lead generation:** We believe there should be segregation of roles and sharing of information within a Distributor business units and related parties. I.e. Restrict the ability of a New Connection team to directly pass information of new connections to their flexibility team upon receiving an application from a customer. This is in addition to Principle 5.
- **Review of existing arrangements:** How does the Authority plan to manage the existing situations that exist, where EDBs have either already invested significantly in software (DERMS), business units or DER assets that provide flexibility services? Will any existing long-term contracts between these related parties, signed prior to these guidelines coming into effect, be scrutinised to ensure that the competitive landscape is not harmed by non-even-handed legacy agreements?
- **Principle 1:** *The Authority further expects all material terms of commercial arrangements between distributors and related parties for the supply of flexibility services will be recorded in writing.* This should be publicly disclosed to ensure accountability and set a benchmark?
- **Principle 7:** We consider that principle 7 could be strengthened. The way it is currently worded will be very hard to enforce as you are seeking the absence of inefficiency, which is very hard to observe. How would a participant, or regulator, be able to know that competitive markets are not distorted by assets that have been funded or subsidised by regulated asset bases? This principle has the risk of creating an incentive for an EDB to self-supply a non-network solution via a battery, that can subsequently be used to create unregulated revenues in other markets, at the expense of other participants providing DER.
 - For example, our understanding is that an EDB that invests in a battery to relieve network congestion, can define that asset as a 'lines asset' and therefore fully allocate it to the RAB and recover all costs from consumers. They can then also receive revenue from offering that battery into the reserve or energy market. Because this is a lines asset, these revenues are not considered 'other regulated income' and are not netted off the Part 4 revenue allowance.
 - What this means is that it can be substantially cheaper for an EDB to self-supply DER in some cases, even if it is being less efficient overall than third party supply. This is shown in [Image 1](#) below. An EDB can charge the full circle to lines consumers, where as a third party will only charge the portion of the circle that relates to lines, with the remainder recovered from other revenue.

- It is our understanding that this is exactly what has occurred historically with ripple control - Full allocation to RAB as well as unregulated income in the reserves market.
- This principle, in its current wording, would effectively give legitimacy to this behaviour for any future investment by EDBs in Batteries, or EV control, or continued EDB control of hot water.
- In our view it would make more sense for the DER owned by the EDB to be completely removed from the RAB and "transferred" to a business unit within the EDB that is managing flexibility services. In doing so the EA may wish to give some guidance on appropriate proxies to use to allocate costs between DER assets and the RAB. That business unit (and asset) would then be bound by the principles in this guide to ensure it is a level playing field for all DER trying to access the EDB value stack? This adjustment would also remove any inherent incentive for an EDB to self-supply DER as a NNS, as a business case to self-supply DER would not be able to include assumptions about creating value in other markets (in keeping with Principle 7). It would also address any capex/opex bias that a particular lines company may have.

Image 1:



Regards,
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