

**CitiPower and Powercor
Ring fencing information
sharing protocol
December 2017**

This page is intentionally left blank.

Table of Contents

1	INTRODUCTION	4
1.1	Background and purpose.....	4
1.2	Scope	4
2	WHAT INFORMATION WILL WE MAKE AVAILABLE?.....	6
2.1	Public information	6
2.2	General and personal information	6
2.3	Network connection electricity information	7
2.4	Confidential electricity information	8
2.5	Competitor information	11
3	INFORMATION REGISTER	12
3.1	Operation of the information register.....	12
3.2	How to apply	12
A	CONFIDENTIALITY UNDERTAKING	13

1 Introduction

1.1 Background and purpose

In October 2017, the Australian Energy Regulator (**AER**) released its Ring Fencing Guideline Version 2 (**guideline**). The guideline seeks to prevent distributors from providing their affiliates operating in unregulated markets from having an unfair advantage. The guideline includes provisions in the following three broad areas:

- cross-subsidisation—preventing distributors from using regulated revenues to subsidise activities in unregulated markets
- discrimination—ensuring distributors treat affiliates and third parties equally
- information sharing—providing electricity information to all parties on an equal basis.

In accordance with the information sharing provisions, the guideline requires CitiPower and Powercor (**us and we**) to develop an information sharing protocol. This protocol outlines the circumstances under which we will provide information to affiliates and other legal entities.¹

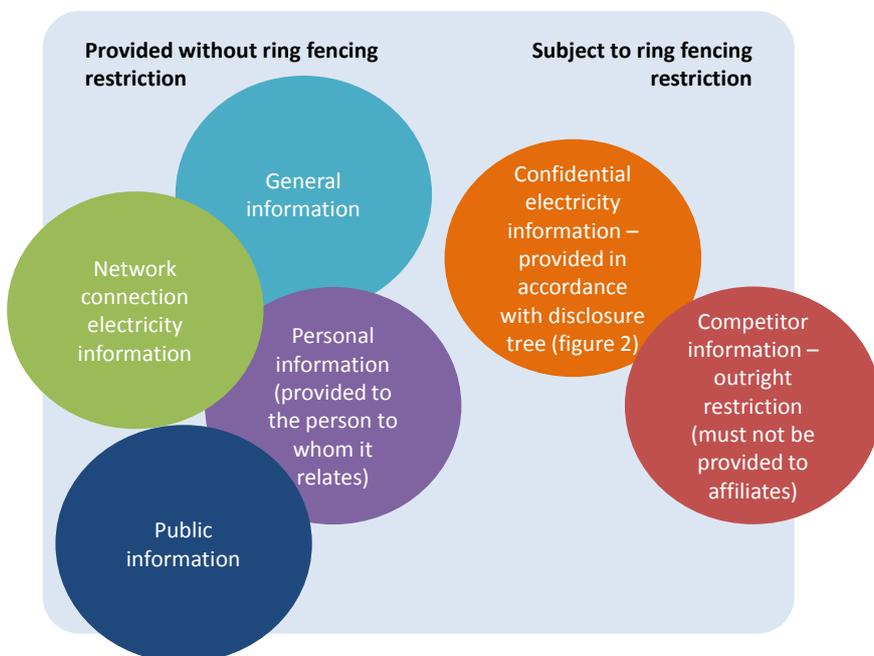
We must also develop an information register to give effect to the principle of equal access to information. The operation of the register is described in this protocol.

1.2 Scope

In this protocol we discuss the circumstances under which we will make various types of information available in accordance with the ring-fencing guideline. It also provides general guidance on seeking information from us.

The figure below provides a summary of information types and the impact of the guideline on our provision of it.

Figure 1 – types of information



¹ AER, Ring fencing guideline version 2, October 2017, 4.3.4(c). For the purpose of this protocol, affiliates are 'related electricity service providers' as defined in the guideline.

1.2.1 Limitations of this protocol

This protocol's primary purpose is to outline the ring fencing implications to our provision of information and is not a complete guide on the circumstances under which information will be provided. In particular, this protocol does not:

- outline or change ongoing obligations to comply with other laws, rules, regulations and instruments (e.g. the *Privacy Act 1988 (Cth)*) when collecting, using, storing, disclosing or transferring protected information²
- discuss the circumstances under which fees for information may apply—this is outlined in our process documents on our website or in offers we make to you
- require that we provide information to you (unless it is required by the operation of our information register)
- respecify or replace existing procedures for providing information.

Further information on these limitations is available on our website.

² Except where complying with this guideline is an exception to, and therefore practically changes, those obligations.

2 What information will we make available?

2.1 Public information

We make a range of information about us and our network publicly available and we are continually seeking to expand on this. The provision of public information will not be impacted by the guideline. For reference, below we have provided links to a selection of this information:

- **Zone substation data** – historical load data on our zone substations <https://www.powercor.com.au/about-us/electricity-networks/zone-substation-reports/>
- **Distribution Annual Planning Report** – actual and forecast network constraints and details of these constraints for the forward planning period <https://www.powercor.com.au/about-us/electricity-networks/network-planning/>
- **Transmission Connection Planning Report** – a high-level indication of the balance between capacity and demand at each terminal station. This report provides preliminary information on potential opportunities to prospective proponents of alternatives to network augmentations at terminal stations <https://www.powercor.com.au/about-us/electricity-networks/network-planning/>
- **Sub-transmission generation capacity map** – for developers of large-scale renewable energy projects to check the generation capacity of the sub-transmission network via an online map <https://www.powercor.com.au/our-services/electricity-connections/solar-and-other-generation/connecting-larger-embedded-generator-systems/>
- **Network limitations** – reports on planned network projects valued over \$5 million. In part this webpage serves to notify providers of non-network solutions of proposed projects to remove network constraints to see if other credible options exist <https://www.powercor.com.au/about-us/electricity-networks/network-planning/network-limitations/#CC-NR>
- **Real time outage information** – <https://www.powercor.com.au/power-outages/>
- **Tariffs** – network tariff rates and tariff eligibility criteria <https://www.powercor.com.au/about-us/electricity-networks/network-tariffs-and-charges/>
- **Network standards** – network technical standards, work practices, environment, and health and safety standards are available to contractors and suppliers that have involvement with our network <https://www.powercor.com.au/working-with-us/suppliers/technical-standards-and-work-practices/>
- **Dial before you dig** – plans and information about the location of our underground cables in the network <https://www.powercor.com.au/keeping-you-safe/safety-around-our-networks/dial-before-you-dig/>
- **Regulatory Information Notices** – we provide network financial, physical network and reliability information to the AER for publication [https://www.aer.gov.au/networks-pipelines/network-performance?f\[0\]=field_accr_aer_report_type%3A1495](https://www.aer.gov.au/networks-pipelines/network-performance?f[0]=field_accr_aer_report_type%3A1495)
- **Performance reports** – we provide network performance information to the AER, which develops performance reports [https://www.aer.gov.au/networks-pipelines/network-performance?f\[0\]=field_accr_aer_sector%3A4&f\[1\]=field_accr_aer_report_type%3A317&order=field_accr_aer_report_relea_date&sort=desc](https://www.aer.gov.au/networks-pipelines/network-performance?f[0]=field_accr_aer_sector%3A4&f[1]=field_accr_aer_report_type%3A317&order=field_accr_aer_report_relea_date&sort=desc)

2.2 General and personal information

The guideline does not affect our disclosure of general and personal information (to the person to whom the information relates). This includes information provided in relation to:

- general enquiries

- service difficulties
- network outages and faults
- emergency faults
- personal account information and complaints / complaint handling procedures (to whom the information relates).

We will continue to provide this information to all parties where appropriate and it will not be included on the information register.

The Contact Centre is the first point of contact for parties seeking these types of information. You can contact us in a number of ways as outlined on our website <https://www.powercor.com.au/contact-us/>.

On our 'myEnergy' portal, our customers can also access up to two years of historical personal consumption information. This includes energy use and (if applicable) the amount of solar energy exported into the network. It is available at <https://www.powercor.com.au/our-services/myenergy/>.

2.3 Network connection electricity information

As described in section 2.4, the guideline requires that we make 'confidential electricity information' available via the information register in certain circumstances. There is a subset of this information, however, which we have termed 'network connection electricity information' that, on request, we will provide to any party with a legitimate interest in receiving it without it being made available via the information register.

Network connection electricity information is information about the network required by load or generator developers (or their representatives) to facilitate their network connection. Developers typically need this information to design their developments and ensure they can comply with regulatory and technical requirements. This information includes:

- network constraint information and information on required augmentations—this is provided to prospective registered generators with a capacity greater than 5MW
- 66kV model data—this is required by prospective 66kV generation proponents (such as wind and solar farms) to develop a 'model package' that must be submitted to the Australian Energy Market Operator in accordance with the National Electricity Rules.³ This information typically includes localised;
 - line lengths and impedances
 - transformer impedances
 - system loads
 - voltage control scheme detail
 - scenarios for evaluation.

Network connection electricity information will not be made available via the information register because:

- it is only needed by, and often paid for by, the connection proponent or its representative. The information is piecemeal and only relates to network assets at a particular location, and is unlikely to be useful to parties not involved in the connection

³ AEMO, <<https://www.aemo.com.au/Electricity/National-Electricity-Market-NEM/Network-connections/Modelling-requirements>>

- notifying all parties on the register that the information has been requested, and then providing the information to all registered parties, could interfere with closed or confidential connection tender processes
- we have a well-established process for providing this information which does not discriminate between parties⁴
- this information is provided often (with 100's of connections being made each year) and sharing it in accordance with the register will be administratively burdensome.

Therefore we will provide this information to any party who requests it and has a legitimate interest in receiving it, without notification being placed on the public register. This is consistent with our current practice.

2.4 Confidential electricity information

The guideline ensures confidential electricity information is provided to affiliates and other entities equitably.

Confidential electricity information is defined in the guideline in two parts, as follows:

'confidential information' means **electricity information**, acquired or generated by a **DNSP** in connection with its provision of **direct control services**, that is not already publicly available, and includes **electricity information**:

(a) that the **DNSP** derives from that information; or

(b) provided to the **DNSP** by or in relation to a customer or prospective customer of **direct control services**.

Electricity information is defined as:

'electricity information' means information about electricity networks, electricity customers or **electricity services**, other than:

(a) aggregated financial information; or

(b) other service performance information;

that does not relate to an identifiable customer or class of customer

The term 'confidential' is not used to describe information that is confidential in accordance with, for example, the *Privacy Act 1988 (Cth)* or the National Electricity Rules. Rather it refers to information that is not already publicly available.

Given its broad definition, we have provided examples of confidential electricity information to clarify its meaning. Confidential electricity information includes non-public:

- network quality information—frequency stability, voltage stability, power factor and harmonic levels
- network asset loadings downstream of zone substations (zone substation loading information is published in the distribution annual planning report)
- customer consumption profiles (individual or aggregated for a customer class)

⁴ Powercor <<https://www.powercor.com.au/our-services/electricity-connections/solar-and-other-generation/connecting-larger-embedded-generator-systems/>>

- customers' tariff assignments (unless you are seeking information on your own tariff, which is personal information).

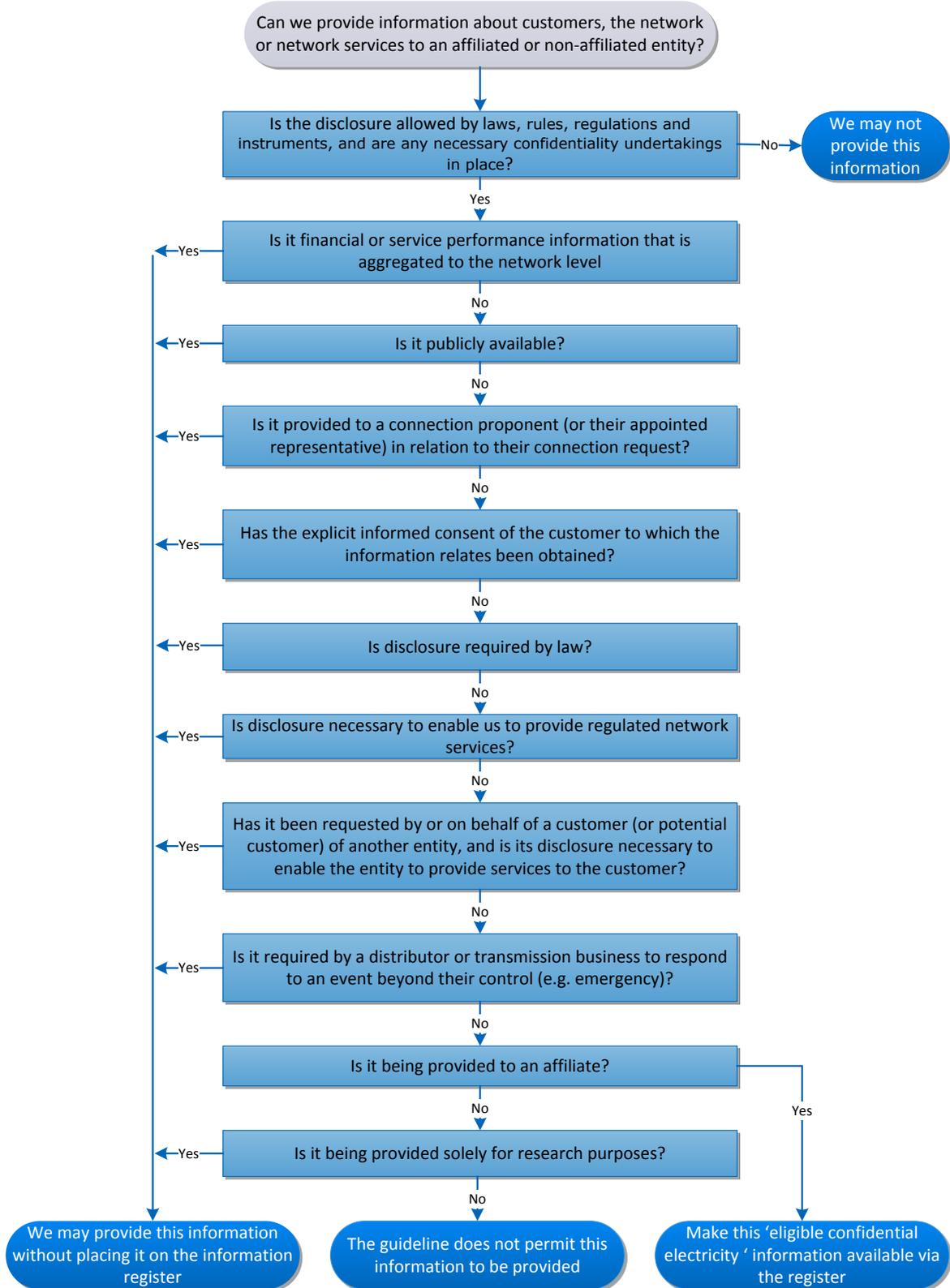
Confidential electricity information excludes financial or service performance information that is aggregated to the network level.

The guideline outlines specific circumstances under which confidential electricity information may be shared with third parties and affiliates. In some cases where we share this information with affiliates, we must also make it available to other parties via the information registers.⁵ We have termed information that must be made available via the information register **eligible confidential electricity information**.

The following information tree outlines the guideline's treatment of confidential electricity information. We will use this tree to determine the circumstances under which information will be made available.

⁵ AER, Ring fencing guideline version 2, October 2017, clause 4.3.4.

Figure 2.1 Information disclosure tree



2.5 Competitor information

Competitor information is described in the guideline as information we have obtained through our dealings with a competitor (or potential competitor) of affiliates where disclosure would, or would be likely to provide an advantage to the affiliate.⁶

We will not disclose competitor information to any party because doing so could undermine the competitiveness of markets and parties' competitive advantages.

⁶ AER, Ring fencing guideline, 4.1(c)(iv).

3 Information register

3.1 Operation of the information register

The information register is one of the guideline's mechanisms to ensure we provide eligible confidential electricity information to affiliates and third parties on an equal basis. Consistent with the guideline, our register operates in the following way:

- affiliates, and non-affiliated entities that compete or are seeking to compete with our affiliates, who request access to confidential electricity information will be placed on the register (**registered parties**)⁷
- registered parties must provide us with a description of the kind and purpose of confidential electricity information they would like to receive⁸
- if an affiliate requests (and is provided with) information that matches the kind and purpose of information described by non-affiliated registered parties, that information will be provided to those non-affiliated registered parties on an equal basis⁹
- if an affiliate has paid a fee to receive eligible confidential electricity information (in accordance with rules or procedures), then other registered party will receive a notification that they can receive the same information if the same fee is paid
- information will be provided to registered parties on terms and conditions that require them to comply with the obligation to protect the information and to only disclose it to third parties (including affiliates) only on the basis of clause 4.3.2 and 4.3.3 (a)-(d) of the guideline.¹⁰

3.2 How to apply

Parties may apply for the information register by emailing ringfencing@powercor.com.au or ringfencing@citipower.com.au. You will need to provide:

- a business name and ABN
- the market(s) in which you compete or are seeking to compete with an affiliate of ours
- a description of the kind and purpose of information you would like to receive, should the information be provided to an affiliate
- an email address to receive the eligible confidential electricity information
- a completed Confidentiality Undertaking which outlines terms and conditions relating to the use, storage and disclosure of any information received through the register (attached to this protocol and the information register available on our website).

Other than the completed Confidentiality Undertaking, this information will be made public on the register.

⁷ AER, Ring fencing guideline version 2, October 2017, clauses 4.3.4(b) & 4.3.5(a).

⁸ AER, Ring fencing guideline version 2, October 2017, clause 4.3.5(b).

⁹ To this end we may require the non-affiliated registered parties to agree to additional terms and conditions by way of variation to their Confidentiality Undertaking.

¹⁰ AER, Ring fencing guideline version 2, October 2017, clause 4.3.4(e).

A Confidentiality undertaking

See form below.

CitiPower and Powercor: Information Register (Confidentiality Undertaking)

Details

Parties	us and you	
Us	Name	CitiPower Pty Ltd (ACN 064 651 056) Powercor Australia Ltd (ACN 064 651 109)
	Address	Level 8, 40 Market Street Melbourne Victoria 8001
	Fax	N/A
	Email	ringfencing@powercor.com.au
You	Name	
	ABN	
	Address	
	Telephone	
	Fax	
	Email	
	Attention	

Execution

EXECUTED AS A DEED POLL on

SIGNED SEALED AND DELIVERED)	
for and on behalf of YOU by)	
.....)	
(print name))	
YOUR duly authorised signatory in the)	
presence of:)
.....)	By executing this deed poll the signatory
(Signature of Witness))	warrants that the signatory is duly
.....)	authorised to execute this deed poll on
(Print name of Witness))	behalf of YOU
)	
)	

CitiPower and Powercor: Information Register (Confidentiality Undertaking)

General terms

1 Terms and Conditions

1.1 Acceptance

- (a) By registering on Our Information Register, you agree to be bound by these Terms and Conditions.
- (b) By receiving or requesting Confidential Information pursuant to Our Information Register at any time, you will be deemed to do so on and subject to these Terms and Conditions.
- (c) This clause 1.1 applies whether or not you have signed and returned these Terms and Conditions.

1.2 Variations

- (a) To the maximum extent permitted by law:
 - (i) we may vary or replace these Terms and Conditions (including the Permitted Purposes, Special Conditions and any other terms and conditions incorporated into these Terms and Conditions) from time to time by written notice to you 2 Business Days in advance; and
 - (ii) we may vary or replace Our Information Register and/or Our Information Sharing Protocol from time to time by publishing the revised version on our Website, by written notice to you or as otherwise permitted by law.
- (b) You may end your registration and these Terms and Conditions at any time in accordance with clause 2.4(b), in which case clause 4 will apply.
- (c) Accordingly, if following notification of a variation or replacement under clause 1.2(a) you do not terminate your registration or otherwise continue to receive, request or use Confidential Information pursuant to Our Information Register you agree to be bound by any such variation or replacement.

1.3 Compliance

We may request evidence of your compliance with these Terms and Conditions from time to

time. If we do so, you must provide such evidence promptly and within 5 Business Days of our request for you to do so.

2 Registration

2.1 Application

To register and continue to be registered on Our Information Register, you must at all relevant times:

- (a) be eligible to register on Our Information Register;
- (b) submit and maintain all your required details and information; and
- (c) accept and comply with these Terms and Conditions,

in accordance with these Terms and Conditions, Our Information Sharing Protocol and the Guideline.

2.2 Application approval

- (a) If we accept your registration, we will confirm our acceptance by email, on Our Information Register or as otherwise permitted.
- (b) We may require you to submit further information or to satisfy additional eligibility criteria or other pre-conditions in order for your registration to be accepted (as appropriate in the circumstances).
- (c) We may also only accept your registration in part or on and subject to further terms and conditions (as appropriate in the circumstances).

2.3 Your information

- (a) It is solely your responsibility to keep all your details and information provided to us up-to-date, complete and correct at all times.
- (b) Any changes to any such details and information must be provided to us by written notice at least 15 Business Days in advance of the change.
- (c) You represent and warrant that, all time times, all information and material directly or indirectly provided or disclosed by you in your registration or in connection with

these Terms and Conditions or the Information Register:

- (i) is true and correct and not misleading in any way;
 - (ii) is your own information, material and intellectual property and will not infringe any person's intellectual property, privacy or confidentiality rights;
 - (iii) does not contain any defamatory, discriminatory or inappropriate material or content and is free from any virus or harmful code; and
 - (iv) complies with all applicable laws and any obligations that you owe to us or any other third party, and would not cause us to fail to comply with any applicable laws.
- (d) You must immediately notify us if you cease (or may cease) to be eligible for registration or any Confidential Information or if you do not (or may not) comply with any of these Terms or Conditions at any time.

2.4 Cancellation

- (a) To the maximum extent permitted by law we reserve the right, at any time and for any reason without notice, liability or explanation, to amend or cancel your registration and/or terminate these Terms and Conditions, including if (at any time):
- (i) you fail to comply with these Terms and Conditions or we have reasonable grounds to believe that you have or are likely to fail to comply with these Terms and Conditions;
 - (ii) you cease to be, or we have reasonable grounds to believe that you have ceased or are likely to cease to be, eligible to be registered on Our Information Register or entitled to receive Confidential Information under the Guideline; or
 - (iii) we are no longer required to maintain Our Information Register or provide Confidential Information to you under the Guideline.
- (b) If you no longer wish to be registered on Our Information Register and wish to terminate these Terms and Conditions,

you may cancel your registration by written notice to us (effective upon our receipt of your notice).

- (c) On cancellation or rejection of your registration, these Terms and Conditions will automatically terminate.
- (d) On termination of these Terms and Conditions, your registration will automatically be cancelled (unless we specify otherwise).
- (e) Termination of these Terms and Conditions does not affect any causes of action or rights or remedies that we have accrued prior to termination. Your obligations and our rights under these Terms and Conditions survive termination (to the extent applicable).
- (f) Please note that we may take approximately 15 Business Days to remove your information from Our Information Register after the termination of your registration. We have no liability to you in relation to this, and any delay in this occurring does not change the status of your registration otherwise notified to you.

2.5 Your privacy

- (a) We (and our Permitted Persons) will have access to and collect Personal Information and other information about you and your Permitted Persons in connection with, and for the purposes of, the Approved Purposes.
- (b) We are committed to the responsible handling and management of Personal Information. We will use, disclose and deal with such Personal Information in accordance with Our Privacy Policy (as applicable) and these Terms and Conditions.
- (c) You may have a right to access certain Personal Information that we collect and hold about you as set out in Our Privacy Policy or the Privacy Laws.

2.6 Our communications

- (a) You agree that we (and our Permitted Persons) may contact you in connection with, or for the purposes of, the Approved Purposes ("**Our Communications**") via email or any other contact details or address that you have provided to us.

- (b) If you wish to opt out of receiving Our Communications you may do so by cancelling your registration in accordance with clause 2.4(b).

3 Your obligation of confidence

3.1 Use and confidentiality

You agree to:

- (a) keep the Confidential Information confidential;
- (b) not use the Confidential Information for any purpose other than the Permitted Purpose;
- (c) not disclose any of the Confidential Information to any person other than as permitted under clause 3.2;
- (d) comply with clause 4.3.2 and 4.3.3(a) to (d) of the Guideline in relation to the Confidential Information as if you were a distribution network service provider (and any other similar requirement as we may prescribe or be required to prescribe from time to time);
- (e) establish and maintain effective security measures to safeguard the Confidential Information from unauthorised access, use, copying or disclosure;
- (f) promptly notify us on becoming aware of any potential, suspected or actual breach of these Terms and Conditions by you or your Permitted Persons; and
- (g) do anything reasonably required by us to prevent, restrain or mitigate the consequences of a breach, or any potential or suspected breach of these Terms and Conditions.

3.2 No Disclosure

You may only disclose the Confidential Information:

- (a) with our prior written consent (and subject to any conditions we impose on in giving our consent);
- (b) to your Permitted Persons on a need-to-know basis solely for the Permitted Purpose; or
- (c) if required by any law, regulation, order of any Government Agency or court of

competent jurisdiction, or the rules of any stock exchange a party is listed on,

provided that in doing so you comply with your other obligations under these Terms and Conditions (including but not limited to clause 3.1(d)).

3.3 Conditions of disclosure

- (a) Before disclosing any Confidential Information under clause 3.2(b), you must procure that the relevant Permitted Person has agreed to be bound by obligations of confidentiality at least as restrictive as those in these Terms and Conditions in relation to the Confidential Information.
- (b) You will be responsible for each act and omission of your Permitted Persons to whom you disclose any Confidential Information under clause 3.2(b) as if it was an act or omission by you under these Terms and Conditions.
- (c) You must promptly notify us on becoming aware of any requirement to disclose Confidential Information under clause 3.2(c) or otherwise and must:
 - (i) cooperate with and provide any reasonable assistance requested by us to restrict or limit the extent of the disclosure required;
 - (ii) at the time that the Confidential Information is disclosed, state to the person to whom the Confidential Information is disclosed that it is of a confidential or commercially-sensitive nature; and
 - (iii) prior to disclosing the Confidential Information, use your best endeavours to require the person to whom the Confidential Information is to be disclosed to provide a confidentiality undertaking to us in similar terms to these Terms and Conditions.

3.4 Commencement of this deed

This deed commences on the earlier of execution and the Start Date.

3.5 Compliance with Guideline

You must not do or omit to do anything which may cause us or our Permitted Persons to fail

to comply with clause 4.3 of the Guideline or Our Information Sharing Protocol.

4 Return of Confidential Information

4.1 Return and destruction

Prior to the End Date, at our request, or if you no longer need the Confidential Information for the Permitted Purpose, you must cease using the Confidential Information and, at our option, return or permanently delete or destroy all copies of the Confidential Information, in any form, that are then in your possession or control and ensure that all of your Permitted Persons do the same.

4.2 Exceptions

Nothing in clause 4.1 requires you to delete, destroy or return any Confidential Information to the extent:

- (a) doing so would be:
 - (i) prohibited by any law, regulation, order of any Government Agency or court of competent jurisdiction, or the rules of any stock exchange; or
 - (ii) inconsistent with prudent corporate governance policies applying to you or your Permitted Persons; or
- (b) the Confidential Information is embedded in computer backup archives that are impracticable to delete or destroy.

4.3 Ongoing obligations

Nothing in this clause 4 releases or discharges you from your continuing obligations in these Terms and Conditions.

5 Privacy and Data Security

5.1 Privacy

Without limitation to your other obligations under these Terms and Conditions, if the Confidential Information contains any Personal Information, you must, with respect to that Personal Information:

- (a) comply with the Privacy Act 1988 (Cth), and any other Privacy Laws by which you are bound;
- (b) comply with Our Privacy Policy and any privacy code or policy which has been adopted by us and notified to you (copies

available on request) as if you were bound by that code or policy;

- (c) not disclose or transfer the Personal Information outside Australia without prior written consent from us;
- (d) immediately notify us of any Data Incident, providing full and frank disclosure;
- (e) not disclose to any third party the existence or circumstances surrounding the Data Incident, or otherwise deal with a third party in relation to the Data Incident, without our prior written approval (unless otherwise required by law);
- (f) retain system logs and other information that may be relevant to the Data Incident, or to assessing the cause or impact of the Data Incident;
- (g) provide all information and access to your premises, staff, processes and systems reasonably requested by us for the purpose of investigating the Data Incident and otherwise cooperate with any investigation or resolution of the Data Incident by us; and
- (h) immediately take all action reasonably necessary to:
 - (i) mitigate the impact of the Data Incident (including to restore or recover any lost data); and
 - (ii) prevent any repeat of the Data Incident in the future, including by complying with any of our reasonable directions, and keeping us informed at all times of any actions that you take or propose to take under this clause.

5.2 Security of Protected Information

- (a) You must ensure that all Protected Information remains stored only within Australia, is accessible and maintained only from within Australia and may not be taken outside of Australia except in circumstances where:
 - (i) it is required to be accessed from outside Australia for the express purpose of continuation of electricity services;

- (ii) it is required to be accessed in order to comply with any law of the Commonwealth of Australia, or any of its States and Territories; or
 - (iii) it is aggregated (with removal of any information that would enable identification of Personal Information) before being accessed for any corporate and financial reporting purpose.
- (b) Where Customer Data is stored in the cloud, you must ensure that you use a cloud provider that is listed on the ASD Certified Cloud Services List and Gateway Services that are certified by ASD.
 - (c) This clause 5.2 applies notwithstanding anything to the contrary in these Terms and Conditions. However, it does not limit your other obligations under these Terms and Conditions (for example, you must also obtain our consent under clause 5.1(c) even if an exception under clause 5.2(a) applies).

6 Acknowledgments and disclaimers

6.1 Injunctive relief

You acknowledge that:

- (a) a breach of these Terms and Conditions by you would be harmful to us or our Permitted Persons (or both) or our respective assigns or successors;
- (b) monetary damages may not be a sufficient remedy for any breach of these Terms and Conditions; and
- (c) we will be entitled to equitable relief, including injunction and specific performance, as a remedy for such breach.

6.2 Warranties

We make or give no representation, guarantee or warranty, express or implied, that the Confidential Information (or any other information or data which is acquired or accessible by you or your Permitted Persons under or in connection with these Terms and Conditions or Our Information Register) is or will be complete, accurate, up-to-date or suitable for use for any particular purpose or

that it has been or will be independently verified or updated at any time.

6.3 No liability

- (a) To the extent permitted by law, we exclude all liability, whether under statute, contract, tort (including negligence) or otherwise, for any loss or damage suffered or incurred by you or any third party resulting from:

- (i) that person using or relying on; or
- (ii) any act or omission by us in connection with,

the Confidential Information (or any other information or data which is acquired or accessible by you or your Permitted Persons under or in connection with these Terms and Conditions or Our Information Register).

- (b) To the extent permitted by law, we will not be liable for any indirect, incidental, special or consequential loss in any circumstances.
- (c) Any tax, liability, duty, costs or charges incurred by you or your Permitted Persons in connection with these Terms and Conditions or Our Information Register are solely your responsibility.

6.4 No interest

- (a) Nothing in these Terms and Conditions may be construed as granting you or your Permitted Persons any title, right, licence proprietary or other interest in or to the Confidential Information or our intellectual property rights in respect thereof.
- (b) You acknowledge that:
 - (i) these Terms and Conditions do not grant you any entitlement, in any way, to any Confidential Information; and
 - (ii) any entitlement that you may have to any Confidential Information is solely as mandatorily provided for in the Guideline, as limited by these Terms and Conditions and Our Information Sharing Protocol to the extent permitted by law.

7 Intellectual Property

7.1 General

(a) As between you and us, all rights to the Confidential Information are owned by us (and at all times remain our property). The Confidential Information is subject to copyright and may contain or relate our other intellectual property (whether owned or licenced by us).

(b) You must not:

- (i) reverse engineer, decompile or disassemble any Confidential Information;
- (ii) manufacture, produce or sell any product, provide any service, or use any process, formula or method, based on the Confidential Information;
- (iii) use any aspect of any Confidential Information for the purpose of contracting or attempting to contract with any our (or our Permitted Person's) employees, customers or counterparties; or
- (iv) otherwise commercialise or commercially exploit any Confidential Information,

without our prior written agreement expressly and specifically authorising you to do so.

(c) You may only copy or reproduce Confidential Information with our prior written consent and subject to any conditions we impose on that consent.

(d) You must not do or permit any act to be done which infringes upon our existing copyright or other intellectual property rights in relation to the Confidential Information.

7.2 New intellectual property

Subject to clause 7.3:

(a) any intellectual property first lawfully created by a party in the course of undertaking the Permitted Purpose under and in accordance with these Terms and Conditions shall be owned by the party who first created it; and

(b) the parties acknowledge that these Terms and Conditions do not convey any interest of a proprietary nature, and in particular but without limitation, does not transfer any interest in any intellectual property,

unless the parties otherwise expressly agree in writing.

7.3 Background IP

Notwithstanding anything to the contrary in these Terms and Conditions:

- (a) a party's intellectual property rights owned or licenced by it prior to the Start Date or independently of these Terms and Conditions, shall remain the property of that party ("**Background IP**"); and
- (b) any intellectual property rights in respect of any improvement to, or any intellectual property derived from, or any material to the extent it contains, comprises or incorporates a party's Confidential Information (or other intellectual property) by any other party, shall vest in the first-mentioned party upon creation except to the extent it comprises that other party's own Background IP.

7.4 Special conditions

This clause 7 does not limit our right to prescribe Special Conditions contrary to that clause as a pre-condition of our disclosure of certain Confidential Information.

8 Special Conditions

8.1 General

To the maximum extent permitted by law, we may provide all or specified parts of the Confidential Information to you subject to any additional conditions or restrictions that we think necessary by advance written notice to you ("**Special Conditions**"). The Special Conditions may but need not include:

- (a) a condition that the Confidential Information may be inspected but not copied;
- (b) the time and location at which the Confidential Information may be inspected;
- (c) whether, how and to what extent, copies or notes of the Confidential Information may be made;

- (d) the period for which the Confidential Information is provided;
- (e) whether, when and how the Confidential Information is to be returned or destroyed by you;
- (f) any other condition we think necessary.

We will do so in accordance with Our Information Sharing Protocol and the Guideline, as required by law.

8.2 Inconsistencies

You must comply with the Special Conditions as contemplated by clause **Error! Reference source not found.**, and the Special Conditions prevail over the other provisions of these Terms and Conditions to the extent of any inconsistency (to the extent permitted by law).

9 Indemnity

You indemnify us against all loss, damage, liability, claims, cost or expense (including legal expenses on a full indemnity basis) resulting directly or indirectly from:

- (a) a breach of these Terms and Conditions by you or your Permitted Persons; or
- (b) any unauthorised use or disclosure by a person who received the Confidential Information from you or your Permitted Persons.

10 Notices

10.1 Service

All notices made under these Terms and Conditions must be in writing, and signed by a person duly authorised by the sender and hand delivered or sent by registered mail, fax or email to the recipient's address in the Details (or an alternative address notified by the recipient to the sender in writing at least 2 Business Days' in advance).

10.2 Effective on receipt

A notice given in accordance with clause 10.1 takes effect when it is taken to be received (or at a later time specified in it), and is taken to be received:

- (a) if hand delivered, on delivery;
- (b) if sent by registered post, on the third Business Day after the date of posting (or

on the seventh Business Day after the date of posting if posted to or from a place outside Australia);

- (c) if it is sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax number;
- (d) if it is sent by email, upon the earlier of acknowledgement of receipt by the party to whom it is sent or four (4) hours after sending (unless the sender received an automated response advising the email was not delivered or received by the intended recipient),

provided that if the delivery or receipt is not on a Business Day or is after 5.00pm on a Business Day, the notice is taken to be received at 9.00am on the next Business Day.

11 General

- (a) These Terms and Conditions are governed by the law in force in the State of Victoria. Each party submits to the non-exclusive jurisdiction of the courts of that place and courts of appeal from them.
- (b) A party may exercise a right or remedy or give or refuse its consent in any way it considers appropriate (including by imposing conditions), unless these Terms and Conditions expressly state otherwise.
- (c) If a party does not exercise a right or remedy fully or at a given time, the party may still exercise it later.
- (d) A party is not liable for loss caused by the exercise or attempted exercise of, failure to exercise, or delay in exercising a right or remedy under these Terms and Conditions.
- (e) By giving its approval or consent a party does not make or give any warranty or representation as to any circumstance relating to the subject matter of the consent or approval.
- (f) The rights and remedies provided in these Terms and Conditions are in addition to other rights and remedies given by law independently of these Terms and Conditions.

- (g) Each indemnity in these Terms and Conditions is a continuing obligation, independent from your other obligations under these Terms and Conditions and continue after these Terms and Conditions end. It is not necessary for us to incur expense or make payment before enforcing a right of indemnity under these Terms and Conditions.
- (h) A provision of these Terms and Conditions or a right created under them, may not be waived or varied except in writing, signed by the party or parties to be bound.
- (i) The parties acknowledge and agree that these Terms and Conditions and the performance of these Terms and Conditions do not represent or imply a partnership, agency, fiduciary relationship, joint venture, distribution or any other category of commercial or personal relationship between the parties recognised at law or in equity as giving rise to forms of specific rights and obligations.
- (j) These Terms and Conditions may be executed in counterparts and need not be signed by us in order to be binding on you. All counterparts when taken together are to be taken to constitute one instrument.
- (k) If any provision of these Terms and Conditions is void, voidable, unenforceable or illegal, then it is to be severed from these Terms and Conditions and the remainder of these Terms and Conditions will continue with full force and effect. We may modify or amend any provision of these Terms and Conditions so that it is no longer void, voidable, unenforceable or illegal to place the parties in as similar a position as possible if the provision was not void, voidable, unenforceable or illegal.
- (l) You may not assign any of your rights under these Terms and Conditions without our prior written consent.

12 Definitions

12.1 Definitions

In these Terms and Conditions (unless the context otherwise requires):

ADS means the Australian Signals Directorate.

Affiliated Entity means:

- (a) United Energy Distribution Pty Limited (ACN 064 651 029);
- (b) CitiPower Pty Ltd (ACN 064 651 056);
- (c) Powercor Australia Limited (ACN 064 651 109);
- (d) Multinet Gas (DB No 1) Pty Ltd (ABN 66 086 026 986) and Multinet Gas (DB No 2) Pty Ltd (ABN 57 086 230 122) trading as Multinet Gas Distribution Partnership (ABN 53 634 214 009);
- (e) UE & Multinet Pty Ltd (ABN 31 093 273 851);
- (f) Powercor Network Services Pty Ltd (ACN 123 230 240);
- (g) Energy Solutions Pty Ltd (ACN 610 914 059);
- (h) CHED Services Pty Ltd (ACN 112 304 622);
- (i) any other 'Related Body Corporate' or 'Related Entity' (within the meaning of the Corporations Act) of the ours or of any other Affiliated Entity, in Australia or New Zealand;
- (j) any member of the Cheung Kong Infrastructure Limited group of companies; and
- (k) any member of the Power Assets Holdings Limited group of companies.

Approved Purposes means for the purposes of these Terms and Conditions, Our Information Register, Our Information Sharing Protocol, the Guideline or other reasonable or incidental purposes, including as contemplated in Our Privacy Policy and for the purposes of administering, performing or complying with the foregoing.

Background IP has the meaning given to that term in clause 7.3(a).

Business Day means any day other than a Saturday, Sunday or public holiday in Victoria.

Certified Cloud Services List means the list of "ASD Certified Cloud Services" or its equivalent as published periodically by the Australian Government Department of Defence, ASD.

Confidential Information means all information (regardless of form) disclosed or otherwise made available by us or our Permitted Persons (on our behalf) to you or your Permitted Persons in connection with these Terms and Conditions or Our Information Register, whether before, on or after the date of these Terms and Conditions, including (without limitation):

- (a) 'Confidential Information' within the meaning of clause 4.3 of the Guideline or Our Information Sharing Protocol; and
- (b) other information so made available (including information derived from other Confidential Information) other than information:
 - (i) which is in or becomes part of the public domain other than through a breach of these Terms and Conditions or an obligation of confidentiality owed to you or any of your Permitted Persons;
 - (ii) which you can prove by contemporaneous written documentation was already known to you (unless such knowledge arose from a breach of an obligation of confidentiality owed to us or any of our Permitted Persons);
 - (iii) which was developed by you independently of any information disclosed or made available by us or our Permitted Persons; or
 - (iv) which you acquire from a third party entitled to disclose it, free of any obligations of confidentiality to us or our Permitted Persons.

For the avoidance of doubt, the above definition of Confidential Information does not extend our obligations, or your rights, under the Guideline or Our Information Sharing Protocol in respect of 'Confidential Information' (within the meaning of clause 4.3 of the Guideline) to Confidential Information within the meaning of these Terms and Conditions.

Customer Data means information relating to a Relevant Company's customers or end users (including metered data and Personal Information) and other data maintained or used by a Related Company in its business which is acquired or accessible by you or your Permitted Persons under or in connection with

these Terms and Conditions or Our Information Register.

Data Incident means any actual or suspected:

- (a) breach of your obligations relating to protection of Protected Information under these Terms and Conditions;
- (b) unauthorised access to, or unauthorised disclosure of, any Protected Information;
- (c) loss of Protected Information, including where Protected Information is damaged or corrupted so that it becomes unusable; or
- (d) any complaint or investigation under, or relating to, any of the laws, codes or policies referred to in clauses 5.1(a) or 5.1(b).

Corporations Act means the *Corporations Act 2001* (Cth).

Details mean the section of these Terms and Conditions titled "Details".

End Date means the earlier of:

- (a) the cancellation of your registration on Our Information Register; or
- (b) (if you received the Confidential Information pursuant to an entitlement to it under clause 4.3 of the Guideline or Our Information Sharing Protocol) when your entitlement to, or your Permitted Purpose for, that Confidential Information ends.

Gateway Services means services that are certified by the Australian Government Department of Defence, ASD.

Government Agency means any governmental, semi-governmental, administrative, fiscal, judicial or quasi-judicial body, department, commission, authority, tribunal, agency or entity.

Guideline means the AER Ring Fencing Guideline (Electricity Distribution) version 2 October 2017, as varied or replaced from time to time.

Our Communications has the meaning given to that term in clause 2.6(a).

Our Information Register means the information register maintained by us in accordance with Our Information Sharing Protocol and the Guideline.

Our Information Sharing Protocol means the information sharing protocol maintained by us in accordance with the Guideline and published on our Website (as amended or replaced by us from time to time).

Our Privacy Policy means our privacy policy available on our Website (as amended or replaced by us from time to time).

party means each of you and us.

Permitted Persons of a party means:

- (a) in respect of you: your officers, employees, representatives and professional advisers; and
- (b) in respect of us: an Affiliated Entity or our (or our Affiliated Entities') officers, employees, representatives and professional advisers.

Permitted Purpose means the purposes expressly identified by us by notice in writing to you from time to time (in accordance with the Guideline and Our Information Sharing Protocol) as the purpose for which you may use the relevant Confidential Information at a specified point in time, which:

- (a) is subject to the Special Conditions and these Terms and Conditions; and
- (b) excludes any purpose that is not expressly identified in your registration on Our Information Register as your purpose for that Confidential Information.

For the avoidance of doubt, the Permitted Purpose does not include the purposes identified in your registration on Our Information Register, unless:

- (c) we are mandatorily required by the Guideline to allow you use the relevant Confidential Information for that purpose at the relevant time; or
- (d) that purpose is expressly identified by us by notice in writing to you as a Permitted Purpose for the relevant Confidential Information at the relevant time.

Personal Information has the meaning given in the *Privacy Act 1988* (Cth).

Privacy Laws means the *Privacy Act 1988* (Cth) and any other legally binding requirement under Australian law, industry code, policy or statement relating to the handling of Personal Information.

Protected Information means all:

- (a) Customer Data;
- (b) Personal Information; and
- (c) data as to the quantum of electricity delivered (both historical and current load demand) from or to any one or more sites (or their connection points),

relating to or obtained in connection with a Relevant Company's operations (which is acquired or accessible by you or your Permitted Persons under or in connection with these Terms and Conditions or Our Information Register).

Relevant Company means each of:

- (a) United Energy Distribution Pty Limited (ACN 064 651 029);
- (b) Powercor Australia Ltd (ACN 064 651 109);
- (c) SA Power Networks (ABN 13 332 330 749); and
- (d) CitiPower Pty Ltd (ACN 064 651 056).

Special Conditions has the meaning given to that term in clause 8.1.

Start Date means the earlier of your request to be registered on Our Information Register and when Confidential Information is first provided or made available by us to you in connection with these Terms and Conditions or Our Information Register.

Terms and Conditions means this deed poll (including the Permitted Purpose, Special Conditions and any other terms and conditions incorporated into or forming part of this deed poll from time to time) as amended or replaced by us from time to time.

us means the parties identified as "us" in the Details (except that one such party shall not be liable for obligations, acts or omissions of the other), and **we** and **our** have corresponding meanings.

Website means our website at:
<https://www.powercor.com.au/>

you means the party identified as “you” in the Details (and if no party is so specified, or the party so specified is inconsistent with the party otherwise nominated in your registration on Our Information Register, **you** shall only mean the party specified in your approved registration on Our Information Register), and **your** has the corresponding meaning.

12.2 Interpretation

Unless the contrary intention appears, a reference in these Terms and Conditions to:

- (a) **(variations or replacement)** a document (including these Terms and Conditions) includes any variation or replacement of it;
- (b) **(clauses, annexures and schedules)** a clause, annexure or schedule is a reference to a clause in or annexure or schedule to these Terms and Conditions;
- (c) **(law)** law means common law, principles of equity, and laws made by parliament (and laws made by parliament include State, Territory and Commonwealth laws and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them);
- (d) **(singular includes plural)** the singular includes the plural and vice versa;
- (e) **(person)** the word “person” will include any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or succession in law of the person;
- (f) **(two or more persons)** an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and each of them individually and an agreement, representation or warranty made by two or more persons binds each of them jointly and each of them individually;
- (g) **(reference to a group of persons)** a group of persons or things is a reference to any two or more of them jointly and to each of them individually (unless otherwise specified in these Terms and Conditions);
- (h) **(calculation of time)** a period of time dating from a given day or the day of an act or event, is to be calculated exclusive of that day;
- (i) **(meaning not limited)** the words “including”, “for example” or “such as” when introducing an example, does not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
- (j) **(deed poll)** you acknowledge and agree that this deed poll is given in favour and for the benefit of us and our Permitted Persons, and may be enforced by us, by us on their behalf and/or directly by them (as permitted by us).

12.3 Headings

Headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of these Terms and Conditions.

EXECUTED as a DEED POLL