

ABN 70 250 995 390
180 Thomas Street, Sydney
PO Box A1000 Sydney South
NSW 1235 Australia
T (02) 9284 3000
F (02) 9284 3456

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General Manager Policy
Australian Energy Regulator
GPO Box 3131
Canberra ACT 260

Lodged via email: AERringfencing@aer.gov.au.

AER's Draft Ring-fencing guideline

Transgrid welcomes the opportunity to respond to the Australian Energy Regulator's (AER) Draft Ring-fencing Guideline - Electricity Transmission (Version 5) (Draft Guideline). The Draft Guideline will amend the current guideline (Version 4) to expand the scope of certain ring-fencing obligations to apply in respect of the provision of negotiated transmission services. This follows the AEMC's amendment to rule 6A.21.2 of the National Electricity Rules (NER).

In our role as the NSW and ACT transmission planner and operator for over 40 years, Transgrid has developed unique expertise and capability in managing one of the key parts of the Australian energy system. Our primary responsibility is to ensure the ongoing security and reliability of the electricity system as it transitions to higher renewables penetration to support Australia's 43% carbon reduction target from 2005 levels by 2030 and net zero by 2050.

Transgrid strongly supports several decisions made by the AER in their Draft Guideline.

- Separation of staff – We welcome the decision by the AER not to make any further changes to the staff separation requirements as we agree that the potential costs will not be offset by potential benefits. Anticipated costs, that would ultimately be levied on connection proponents, would include an increase in charges to cover the additional costs of the duplication of staff, equipment and ancillary expenses. It is also anticipated that the duplication of processes and people along with potential information flow duplication would result in delaying the connection process, from the initial connection request to final completion of a connection.
- Cross-branding and promotion – We welcome the decision by the AER not to make any further changes to branding and cross-promotion by TNSPs. We agree with the AER that separate branding between the TNSP's prescribed business, and their Related Electricity Service Provider (**RESP**) is not warranted.
- Waivers – We agree that the removal of maximum term for waivers will provide flexibility and minimise administrative burden on both the TNSP and the AER.

Transgrid has always advocated that any regulatory changes should:

- Not adversely affect or delay the renewable energy transition,

- Have clear net benefits which are backed up by clear evidence of no harm,
- Align with NER obligations,
- Promote competition, and
- Ensures system security and reliability are maintained.

We consider that some of the changes that have been put forward in the Draft Guideline do not promote competition, increase costs for all parties and have the potential to delay the transition. Furthermore, we have not seen appropriate cost and benefit analysis on the proposed changes. Our concerns are outlined below.

1. Expanding ring-fenced information

The AER is proposing to expand the definition of ring-fenced information to include information obtained by a TNSP during the provision of negotiated transmission services. The current definition only includes information related to prescribed transmission services.

We understand that this change would explicitly include that TNSPs would be prohibited from sharing any information obtained during the provision of negotiated transmission services with their RESPs, unless they have obtained explicit informed consent from the customer.

Transgrid and its RESP, Lumea, collaborate (with the customer's consent) in the delivery of negotiated transmission services and contestable electricity services to streamline the customer interface and create efficiencies in project delivery timelines. One of Lumea's key roles in this relationship is to present a single point of customer interface to coordinate the delivery of various negotiated transmission services and contestable electricity services required for customer connection. Transgrid only shares information in relation to the negotiated transmission services with its RESP when it has expressly received written consent to the disclosure.

In addition, the current connection process in the NER already provides adequate protection against discrimination and anti-competitive behaviour. Rule 8.6 of the NER mandates strict confidentiality for TNSPs regarding information from parties seeking negotiated transmission services. Additionally, the current connection process ensures that information is not shared with affiliates or third parties without the customer's explicit consent. This is sufficient to mitigate against the potential risk of discrimination.

2. Reporting on delivery of services

The AER proposes introducing new reporting requirements for TNSPs on contestable electricity services. The AER has outlined a number of reporting requirements that TNSPs will be required to report on in their annual compliance report.

Transgrid agrees that some reporting can be beneficial as it allows for transparency. Transgrid supports the AER's decision to not require reporting by TNSPs on costs for delivery of negotiated transmission services and contestable electricity services. The costs of these services are entirely dependent on the scope of the relevant service and surrounding factual circumstances (for example, equipment costs at the time), and are agreed between a TNSP and a customer on a case-by-case basis. In addition to being commercially sensitive, data on costs absent an understanding of how such costs were derived will not provide any meaningful measure to compare between the provision of these services.

There are, however, parts of the required information that will either duplicate existing information or be data that could be easily misinterpreted. Therefore, we encourage the AER to consider the following:

- The proposal to require TNSPs to report on the total number of connection applications received each calendar year is already compiled and published quarterly by AEMO in the key connection information.
- Reporting on the average connection times for projects with and without RESP involvement can be misleading. These connection projects are multi-year endeavours involving numerous stakeholders independent of the RESP that will often materially affect connection timeframes. There are also certain regulatory processes in the NER and AEMO procedures that proponents need to meet. When proponents do not meet these requirements, connections are delayed regardless of whether the RESP is involved.

Transgrid also believes that it's unnecessary for annual compliance reporting to include cover letters from the most senior executive. Transgrid itself remains liable for false and misleading statements under National Electricity Laws without this additional requirement.

3. Transitional arrangements

The AER has stated that it expects to finalise and publish the new Ring-fencing Guideline - Electricity Transmission (Version 5) by 24 February 2025 and proposes to have a transitional period of six months following publication. The new Guideline compliance date is anticipated to be 24 August 2025 and TNSPs must comply with the new Guideline no later than 24 August 2025.

The current Ring-Fencing guideline will continue to apply in relation to any connection application (including any agreement entered into by a TNSP for that connection) received prior to 24 February 2025. However, if a TNSP receives a connection application on or after 24 February 2025, the new Ring-Fencing Guideline will apply to that connection process on the new Ring-Fencing Guideline compliance date (unless the TNSP decides to comply earlier).

The AER has acknowledged the proposed six-month transitional period is significantly shorter than the 12-month transitional period proposed in the AER's previous issues paper.

We encourage the AER to reconsider the shortened timeframe. Transgrid welcomes the proposed grandfathering approach to connection applications received prior to 24 February 2025 and the six-month transitional period although we encourage the AER to consider a transitional period of between 12 and 18 months.

In order for TNSPs to comply with the new Ring-Fencing Guideline, TNSPs will need to undertake a wholesale compliance review and update of its entire operations across the provision of prescribed transmission services, negotiated transmission services and other contestable electricity services. Part of this will involve TNSPs considering whether, and the extent to which, its current practices in the provision of negotiated transmission services comply with the expanded non-discrimination practices, and develop and implement compliance, monitoring and reporting processes. While current practices may already comply with the non-discrimination obligation in practice, TNSPs do not actively manage compliance in the same way as for prescribed transmission services, which are expressly subject to the current guideline.

TNSPs may also need to recruit, onboard and train a significant number of new staff as part of the regulatory compliance team to ensure that these teams have sufficient human resources to undertake the implementation and continued monitoring of the updated guideline. As the AER appreciates, there is a tight labour market and limited number of candidates with the requisite skillset and experience.

In addition, if TNSPs need to engage external consultants to assist with the review and implementation, then there are limited-service providers across Australia who have the necessary expertise, experience and scale to provide this assistance. A short transitional period of six months is likely to result in TNSPs being unable to receive comprehensive external assistance, or any external assistance at all, in order to ensure that their internal systems, processes and people are adequately trained and prepared for full compliance with the updated guideline.

Transgrid looks forward to continuing to work with the AER to ensure the Guideline is fit-for-purpose. If you require any further information or clarification on this submission, please contact Zainab Dirani, Policy and Advocacy Manager, at zainab.dirani@transgrid.com.au.

Yours faithfully



Monika Moutos
General Manager of Regulation, Policy and Governance