

4 April 2024

Ms Anna Collyer
Chair
Australian Energy Market Commission
GPO Box 2603
Sydney NSW 2001

Ref: ERC0371

Draft Determination - Expanding the Transmission Ring Fencing Framework

Dear Ms Collyer,

Energy Networks Australia (ENA) welcomes the opportunity to make this submission in response to the Australian Energy Market Commission's (AEMC's) Draft Determination on Expanding the Transmission Ring Fencing Framework.

ENA represents Australia's electricity transmission and distribution and gas distribution networks. Our members provide more than 16 million electricity and gas connections to almost every home and business across Australia. This submission is on behalf of transmission members.

This submission focuses on the scope of the Australian Energy Regulator's (AER's) powers within the transmission ring-fencing framework. We also note that in the context of a rapidly transforming power system, there is merit in the future consideration of the scope and shape of the distribution ring-fencing framework. Distribution businesses are increasingly connecting larger generators to the system and the nature of the services they could efficiently provide to the system is also evolving. Fit for purpose ring-fencing frameworks, at both the transmission and distribution level, are essential to ensure positive customer outcomes.

ENA supports timely and efficient connections in general and particularly in the context of the current energy transition to achieve net zero. It is also important to note that the National Electricity Rules currently provide connection applicants with the option to use a third party to design and build connections assets should they consider this would result in a more timely and cost-effective project delivery overall. ENA also considers that in the context of the rapid energy transition, there is a need for the regulatory framework to enable greater, rather than less flexibility.

Supportive of flexibility in the context of the energy transition

As the AEMC notes, both Transmission Network Service Providers (TNSPs) and the Clean Energy Council recognised the potential for restrictive ring-fencing to slow down the connection process, and that any potential future obligations should not slow down this process.

ENA concurs with the AEMC that more restrictive ring-fencing could significantly increase the costs on TNSPs to provide contestable connection services and the costs of extensive ring-fencing obligations may outweigh the benefits under specific circumstances¹. Ultimately, the costs of more restrictive arrangements will be borne by electricity consumers.

ENA recognises that the AEMC's draft position is to empower the AER with expanded Transmission Ring-Fencing capability in respect of negotiated transmission services. ENA notes that the AEMC intends that the AER has flexibility in the application of this power to address the risk of discriminatory conduct that hinders effective competition. The AEMC has not found direct evidence of discrimination by TNSPs, and considers that a perceived risk by itself is enough to justify the rule change. ENA's transmission members fundamentally disagree that negotiated transmission services should be ring-fenced given the arrangements available to connection proponents under the Rules.

The energy transition needs timely and efficient investment and connections

ENA supports timely and efficient connections in the current transition. Connection applicants currently have the option to use a third party to design and build connection assets under the contestable connection framework set in the Rules². ENA acknowledges that connections at the transmission level may well be smaller generation connections than in the past. However, the businesses behind those connections are still large multi-national companies, and are well able to make the decision on how they wish to proceed with connection asset delivery and can take action under the current rules on any behaviour they consider discriminatory.

As the AEMC notes, despite supporting competition, there are additional processes that are added into the connection process which may not be well understood. The power system is becoming more dynamic and complex to operate, these processes are detailed and take time to ensure reliability and system security under a broad range of conditions.

Guideline review needs to be evidence based to ensure it is in consumers interests

The AEMC suggests the need for the AER to develop bespoke fit-for-purpose obligations for the provision of negotiated transmission services. A further review by the AER over the next 12 months and potentially a further transitional period should not adversely impact in-flight connections. Nor should processes be reliant on uncertain duration waivers. ENA notes the rules/processes on foot trying to streamline the connection process and ensure that standards and models are fit for

¹ AEMC Draft Rule Determination (2024), p7.

the transition. Any restrictive ring-fencing arrangements would appear at odds with the desire to facilitate more timely connections.

ENA strongly supports the AEMC's acknowledgement that the AER needs to undertake a rigorous cost/benefit of any amendments before imposing any changes and that these will be targeted, evidence based and verified. Consumers will ultimately pay for the costs of more restrictive ring-fencing arrangements. It is important that any savings from measures aimed at increasing competition are realised and exceed the costs.

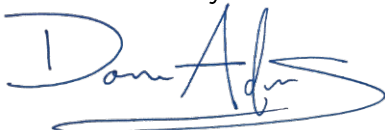
Need to recognise the differences between transmission and distribution

ENA supports the AEMC's view that the AER needs to consider the operating and policy environments in the specific context in which it is regulating. When undertaking its role the AER should recognise the differences between transmission and distribution, and take these differences into account in any amendments it may undertake.

It is important to ensure appropriate regulatory practices are in place for transmission. ENA recommends that clause 6A.21.2 (c) (2), which relates to the consistency between transmission and distribution ring-fencing guidelines, be removed, as the regulatory frameworks and customers are different. This clause may have restricted previous consideration of the issues that are solely relevant to transmission. It hinders the ability to properly consider the differences between the regulatory frameworks, types of connection and size of connection applicants.

If you would like to discuss this submission, please contact Verity Watson (vwatson@energynetworks.com.au) in the first instance.

Yours sincerely



Dominic Adams

General Manager - Networks