

4 April 2024

Ashwin Raj
Senior Advisor – Networks & Technical
Australian Energy Market Commission

By electronic lodgement: <https://www.aemc.gov.au/contact-us/lodge-submission>

Dear Ashwin

Re: Draft rule – Expanding the transmission ring-fencing framework

ElectraNet appreciates the opportunity to make this submission. ElectraNet also acknowledges and supports Energy Networks Australia's submission on this matter.

This supplementary submission addresses the draft rule from a South Australian perspective.

Ring fencing is intended to facilitate competition in the long term interests of consumers

The primary objective of the ring-fencing arrangements is to ensure that connecting parties, and ultimately consumers of electricity, benefit from competition in the market for contestable transmission services.

As with any regulatory intervention ring-fencing is not costless. If the draft rule leads, as seems likely, to more stringent ring-fencing requirements, businesses like ElectraNet will need to evaluate the merit of continuing to provide contestable transmission services. If they choose not to do so due to ring-fencing requirements, the ultimate objective will not be served and outcomes for consumers might in fact deteriorate.

In submissions to the AER in the earlier stages of the proposal to extend transmission ring-fencing the ENA has emphasised that the current transmission connections framework is intentionally designed to balance two objectives. That is, it safeguards competition while seeking to ensure that customers (connecting parties) can benefit from the experience of TNSPs to achieve the most efficient connection possible.

As the regulatory burden associated with providing contestable services increases so will the cost and the potential benefit to consumers of electricity will be eroded.

For this reason, ElectraNet has previously urged the AER to go beyond merely establishing that a notional risk of competitive harm occurs and has proposed that any rule change should be based on

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evidence of actual problems. To our knowledge, no such evidence has been discovered to date. None is given in the AER's rule change proposal nor in the draft determination.

It is also critically important to note that the businesses that have complained about the risk are very substantial businesses in their own right. In the AER's initial consultation on this issue the concerns were raised by Iberdrola, one of the world's largest energy businesses, and Tilt Renewables, which is part of a partnership between Commonwealth and State Government investment funds and AGL, one of Australia's largest and longest standing energy companies.

These are large, sophisticated operators with scope and scale economies deriving from their size and reach. Removing scale economies from the host TNSP can only disadvantage electricity consumers through the impact on timeliness and cost of new connections.

As the AEMC notes, the operating environment relevant to these issues is materially different than that applicable to distribution ring fencing.

Timely delivery of network connections is essential and additional regulatory burden will hinder this

The need for timeliness in transmission and renewable generation investment and connection to the network has never been greater. As Australia works through a once in a century energy transformation on the pathway to net zero effective regulatory frameworks are critical to ensuring that the long-term interests of customers are protected.

We remain concerned that excessive intervention through ring fencing would limit customer choice by depriving customers of the timing benefits inherent in the connection process the AEMC deliberately put in place through rule change processes.¹ In those rule changes, the AEMC established a process whereby the primary TNSP is ultimately responsible for the performance of the shared network. As such, it must review the detailed design of assets designed, and intended to be constructed, by another party, while assets it designs itself are not subject to such review.

The contestable provider/ connecting customer is protected in this arrangement by the mechanism for review by an Independent Engineer and, ultimately, by recourse to the AER. However, the process is inherently 'two speed'. To the extent that the concerns raised to date arise from additional time taken for contestably provided solutions, the AER should note that this is an underlying feature of the Rules that would not be altered by changes to the ring fencing regime.

Reducing the ability of the primary TNSP to provide timely and efficient connection to the transmission network through more restrictive ring fencing arrangements would only serve to increase connection timeframes, to the detriment of consumers of electricity.

The market in question is small

The volume and pace of renewable energy growth and penetration in South Australia continues to be world leading. Notwithstanding this, the number of new connection enquiries, applications and agreements reached remains comparatively small given the overall market/network capacity and size of these connections. The table below shows the number of connections agreements finalised in each recent year, and thus the number of businesses affected by the proposed arrangements in South Australia.

¹ In particular the Transmission Connection and Planning Arrangements and the Dedicated Connection assets rule changes.

FY	New Connection Agreements
2020	4
2021	2
2022	1
2023	3
2024(ytd)	5

The table shows that despite the significant scale of renewable energy development activity in South Australia the number of new customers for contestable transmission services each year, and therefore the market for those services, is small. The market is therefore unlikely to support a viable standalone business providing contestable works in South Australia.

The AEMC was acutely aware of this possibility when it considered the Transmission Connection and Planning Arrangements rule change. In its final decision on that process, it warned explicitly against an overly restrictive ring fencing regime. We are concerned that the proposed Rule runs contrary to this earlier view and jeopardises the delivery of connection services at a time when they are more important than ever before.

While the Rule change is not required, the AMEC’s more preferable Rule is an improvement

We note that, in itself, the draft rule would not change the ring fencing arrangements and that the opportunity for an evidence based approach exists at the AER’s guideline design stage. In this respect we strongly support the AEMC’s view that:²

the AER must exercise its power in a manner that will, or is likely to, contribute to the NEO [including by] conduct[ing] a rigorous consultation process to determine the cost and benefits of any amendments to the Guidelines [and must] consider the specific circumstances of the market for contestable connection services and evaluate the differences between the operating environments of distribution and transmission businesses, and not simply extend existing ring-fencing obligations to the provision of negotiated transmission services.

While we do not consider that the rule change is warranted due to the lack of evidence of an actual problem, we agree with the AEMC that, if a Rule is to be made, the flexibility included in the proposed Rule is preferable to the Rule as originally proposed. In particular, this flexibility will require the AER to consider the appropriate approach to take to ring-fencing, if any, in relation to the individual categories of negotiated transmission services separately. In doing this it will need to consider how the operating environment for each category differs from any parallel category at the distribution level. It will not be sufficient under the Rule as proposed to take a blanket approach to negotiated transmission services generally.

² Draft rule determination, p.13

ElectraNet would be happy to engage further on these issues or to provide any further information required. Should you have any questions regarding this submission please contact me in the first instance on [REDACTED]

Yours sincerely

[REDACTED]

Jeremy Tustin
Manager Regulation