

Decision

Transmission ring-fencing waiver Tasmanian Networks Pty Ltd (TasNetworks)

July 2022

© Commonwealth of Australia 2022

This work is copyright. In addition to any use permitted under the Copyright Act 1968 all material contained within this work is provided under a Creative Commons Attributions 3.0 Australia licence with the exception of:

- the Commonwealth Coat of Arms
- the ACCC and AER logos
- any illustration diagram, photograph or graphic over which the Australian Competition and Consumer Commission does not hold copyright but which may be part of or contained within this publication.

The details of the relevant licence conditions are available on the Creative Commons website as is the full legal code for the CC BY 3.0 AU licence.

Inquiries about this publication should be addressed to:

Australian Energy Regulator

GPO Box 520

Melbourne VIC 3001

Tel: 1300 585 165

AER Reference: 13823841.2

Shortened forms

Shortened Form	Extended Form
AER	Australian Energy Regulator
Guideline	Transmission Ring-Fencing Guideline
NEM	National Electricity Market
NEO	National Electricity Objective
NER	National Electricity Rules
TasNetworks	Tasmanian Networks Pty Ltd
TNSP	Transmission Network Service Provider

Contents

1	Executive summary	1
2	Background	2
2.1	What is ring-fencing?	2
2.2	TasNetwork’s application.....	2
3	Assessment & Decision	3
3.1	Public consultation	3
3.2	Decision	3

1 Executive summary

As part of a full review of the Ring-fencing Guideline (Electricity Transmission) (the **Guideline**) which commenced in 2019, the AER identified an enforceability issue with version 2 of the Guideline. On 6 July 2022, the AER released an interim final Guideline (version 3) and explanatory statement to address this enforceability issue.¹ As a result of version 2 of the Guideline not being in force, any previous transmission ring-fencing waivers issued during the period of 30 November 2006 to 14 April 2022 need to be re-considered under the new interim Guideline (version 3). The AER consulted with the holders of transmission ring-fencing waivers and other stakeholders during the consultation period for the interim draft Guideline and explanatory statement that was released by the AER on 14 April 2022. Stakeholders did not oppose the AER's proposed approach of reissuing any waivers that were published under version 2 of the Guideline in the same form.

On 27 April 2022, Tasmanian Networks Pty Ltd (**TasNetworks**) wrote to the AER requesting that its transmission ring-fencing waiver issued in 2014 be reissued in substantially the same form as the waiver issued in 2014. TasNetworks is seeking a waiver from clause 7.1(a)(ii) of the Guideline. Clause 7.1(a)(ii) of the Guideline requires that a transmission network service provider (**TNSP**) that provides ring-fenced services must not carry on a related business, including electricity distribution.

Since the circumstances surrounding the waiver granted in 2014 have not changed, our reasoning for granting the waiver in 2014 also remains unchanged. As a result, our decision is to re-issue a waiver to TasNetworks for clause 7.1(a)(ii) of the Guideline in the same form as the waiver that was granted by the AER on 9 May 2014.

¹ AER, Ring-fencing guideline (Electricity transmission) interim: <https://www.aer.gov.au/networks-pipelines/guidelines-schemes-models-reviews/ring-fencing-guideline-electricity-transmission-interim>.

2 Background

2.1 What is ring-fencing?

Ring-fencing refers to the separation of regulated services provided by a TNSP (for example, installation/maintenance of poles and wires) from the provision of contestable services by a TNSP or an affiliated entity (for example, generation and retail services).

The objective of ring-fencing is to provide a regulatory framework that promotes competitive markets. It does this by providing a level playing field for providers in markets for contestable services. Effective ring-fencing arrangements are important for more competitive outcomes, better choice and prices for consumers.

The current guideline governs the extent to which TNSPs can provide contestable services. The Guideline requires a TNSP to establish arrangements to segregate (ring-fence) its business of providing regulated transmission network services from other services. The aim is to prevent cross-subsidisation and discriminatory behaviour, by separating as far as possible the monopoly powers of TNSPs from the contestable activities of generation and retail supply.

2.2 TasNetwork's application

On 27 April 2022, TasNetworks applied for a waiver from clause 7.1(a)(ii) of the Guideline – requirement that a TNSP that provides ring-fenced services must not carry on a related business, including electricity distribution.

TasNetworks is the merger of the former TNSP, Transend Networks Pty Ltd, and distribution network service provider (**DNSP**) Aurora Energy (Networks). The integration of the two Tasmanian network businesses was one of a number of reforms to the Tasmanian electricity supply industry announced by the Tasmanian Government on 15 May 2012. TasNetworks applied to the AER and was granted a waiver from Clause 7.1(a)(ii) of the Guideline on 9 May 2014, prior to the merger of the two businesses.

TasNetworks is seeking a reissuance of the waiver from the requirement to separate any part of TasNetworks' business providing regulated transmission services from any part of the business that provides distribution services.

3 Assessment & Decision

Clause 7 of the Guideline sets out the minimum ring-fencing obligations imposed on TNSPs. TNSPs may seek a waiver from these obligations under clause 11 of the Guideline. Clause 11 states:

The AER may, by notice to the TNSP, waive any of the TNSP's obligations under clause 7 provided that the AER is satisfied that the benefit, or any likely benefit, to the public is outweighed by the administrative cost to the TNSP and its associates of complying with the obligation.

TasNetworks remains both a TNSP and a DNSP, therefore the reasons for the waiver given by the AER in 2014 remain valid. In addition, the circumstances surrounding the waiver including the potential benefits and harms to consumers and the market remain unchanged from 2014. Therefore, our reasons for granting the waiver remain in line with those provided in 2014. For detailed reasoning on the granting of the waiver to TasNetworks, please refer to the [2014 waiver](#).²

3.1 Public consultation

As part of the interim draft Guideline and explanatory statement that was released by the AER on 14 April 2022, the AER sought stakeholder comments on the proposed approach of reissuing any waivers that were published under the Guideline during the period of 30 November 2006 to 14 April 2022 in the same form at the same time as the publication of the final version 3 of the Guideline. No submissions were received as part of this consultation.

3.2 Decision

Having considered the matters above the AER has decided to grant a waiver to TasNetworks of ring-fencing obligations in respect of clause 7.1(a)(ii) of the Guideline (requirement that a TNSP that supplies ring-fenced services not carry on a related business).

Duration: This is a permanent waiver and does not expire.

² AER, TasNetworks – Ring-fencing waiver 2014: <https://www.aer.gov.au/networks-pipelines/ring-fencing/ring-fencing-waivers/tasnetworks-ring-fencing-waiver-2014>.