DISTRIBUTION RING FENCING GUIDELINES

Made under clause 6.20 of the National Electricity Code.
Part 1 Introduction

1.1 These Guidelines are made under clause 6.20.2 of the Code and apply to a DNSP by virtue of clause 6.20.1 of the Code and any applicable law.

1.2 These Guidelines commence on a date specified in a notice published by the Tribunal.

Part 2 Access Requirements

2.1 Access to services

2.1.1 A DNSP must provide a prescribed distribution service to an independent accredited service provider on terms that are no less favourable than the terms on which it provides that prescribed distribution service to that part of the DNSP’s business which provides contestable services.

[Note: Specified services are an example of a prescribed distribution service provided by a DNSP to an independent accredited service provider.]

2.1.2 A DNSP must not treat a customer more or less favourably than another because the customer engaged or elected not to engage the DNSP to provide it with contestable services.

2.2 Access to information

A DNSP must provide information relating to or derived from the provision of prescribed distribution services to an independent accredited service provider on terms that are no less favourable than the terms on which that information is made available to that part of the DNSP’s business that provides contestable services.

Part 3 Cost allocation requirements

3.1 A DNSP must ensure that an item referred to in the workbook that relates to a distribution service (including costs incurred and revenues derived) is fully allocated by the DNSP to either prescribed distribution services or excluded distribution services on a causation basis.

3.2 For the purposes of clause 3.1, causation basis means one of the following relationships:

(a) a directly traceable cause and effect relationship between the item and the provision of the service; or

(b) a verifiable relationship between the item and the provision of the service; or

(c) a direct relationship with a pool of common costs or revenue, with the allocation of that pool on the basis of a relevant, reliable and verifiable factor.
Part 4 Communication requirements

4.1 Communicating with customers

A DNSP must not, in the provision of prescribed distribution services to any person, whether a customer or otherwise, communicate with that person in a way that would favour the DNSP over an independent accredited service provider in the provision of contestable services to the person.

[Note: An example of the type of communication referred to in clause 4.1 is marketing by the DNSP.]

4.2 Notifying customers that they have choice

4.2.1 If a DNSP communicates to a customer located in that DNSP’s distribution district that it can provide contestable services to the customer, then it must (at or about the same time) also communicate to the customer that contestable services may also be obtained from an independent accredited service provider and inform the customer how to contact or locate an independent accredited service provider.

4.2.2 Without limiting clause 4.2.1, the requirement in that clause applies where a DNSP uses one website to communicate to customers about both its prescribed distribution services and its contestable services.

4.3 Requirements relating to customer support services

Without limiting Part 4, a DNSP must:

(a) ensure that DNSP staff involved in customer service (including DNSP staff at a call centre) correctly identify whether the primary purpose of a customer enquiry relates to prescribed distribution services or contestable services;
(b) provide DNSP staff involved in customer service (including DNSP staff at a call centre) with training sufficient to ensure compliance with Part 4 of these Guidelines; and
(c) provide DNSP staff at a call centre with established pro-forma responses for different types of enquiries.

Part 5 Functional separation requirements

5.1 Application only to operational staff

This Part applies only to DNSP staff involved in operational tasks (for example, construction and inspections) associated with the provision of specified or contestable services. Operational tasks do not include customer support services referred to in clause 4.3.

5.2 Physical separation of offices

5.2.1 A DNSP must ensure that the offices from which DNSP staff provide specified services (the “first offices”) are separate from the offices from which DNSP staff provide contestable services (the “second offices”).
5.2.2 For the purpose of clause 5.2.1 the first offices and second offices will be regarded as separate only if:

(a) the first offices and the second offices are in different buildings; or
(b) the first offices and the second offices are on different floors of the same building; or
(c) the first offices and the second offices are protected by a security system that prohibits occupants of the first offices from accessing the second offices and vice versa; or
(d) the Tribunal under Part 6 of these Guidelines has approved other measures to separate the first offices from the second offices.

5.3 Information separation

A DNSP must implement reasonable security measures to ensure that DNSP staff that provide contestable services are unable to access (including access by means of shared computer systems) information of or derived from DNSP staff that provide specified services which relate to an independent accredited service provider.

[Note: An example of the type of information referred to in clause 5.3 is information associated with the disciplinary records of an independent accredited service provider.]

5.4 DNSP staff separation

5.4.1 A DNSP must ensure that DNSP staff that provide specified services do not also provide contestable services.

5.4.2 If a member of DNSP staff that provides specified services is in attendance at a customer’s property because they have responded to a request for emergency services, clause 5.4.1 is suspended for such period as required for those emergency services to be provided.

Part 6 Adding to or Waiving the Guidelines

6.1 Waiver request

A DNSP may request in writing that the Tribunal waive a provision of these Guidelines in relation to the DNSP. The request must specify:

(a) the reason that the DNSP is requesting the waiver, and the nature of the issue that the waiver is sought to address;
(b) the costs associated with complying with the provision of the Guidelines in relation to which the waiver is sought;
(c) any alternative measures that the DNSP proposes to undertake in conjunction with the waiver; and
(d) why the waiver should be granted with reference to the matters set out in clause 6.3(a).
6.2 Granting or Refusal of Waiver

In relation to a DNSP’s request, the Tribunal may

(a) waive one or more provisions of these Guidelines, whether or not the waiver granted is in accordance with the DNSP’s request, and attach conditions to the grant of waiver; or

(b) refuse to grant the waiver.

6.3 Matters which the Tribunal must consider

In deciding whether or not to grant a waiver to a DNSP under clause 6.2, the Tribunal

(a) may have regard to:

(i) the administrative costs of the DNSP complying with the provision of the Guidelines in relation to which the waiver is sought;

(ii) the DNSP’s ability to achieve economies of scale;

(iii) the size of the relevant market;

(iv) the extent to which competition will be diminished or enhanced if the waiver is granted or refused; and

(v) any other factors the Tribunal considers relevant.

(b) must conduct such public consultation as it considers appropriate.

6.4 Adding to these Guidelines

The Tribunal may by notice to a DNSP require that a DNSP comply with such other matters as the Tribunal may specify under clause 6.20.2 of the Code, following a period of consultation that is the same as (or at least as extensive as) the Code Consultation Procedures.

Part 7 Implementing the Guidelines

7.1 Transitional arrangements

Despite clause 1.2:

(a) Part 2, Part 4 and Part 5 commence on a date that is six months after the commencement date provided in clause 1.2.

(b) clause 5.2 applies to Country Energy and Australian Inland on the later of:

(i) six months after the commencement date provided in clause 1.2; or

(ii) 1 July 2004.

(c) clause 5.4 applies to Australian Inland on the later of:

(i) six months after the commencement date provided in clause 1.2; or

(ii) 1 July 2004.
7.2 **Sub-contracting**

7.2.1 Subject to the Act and any other applicable law, a DNSP may engage another person to provide specified services and contestable services.

7.2.2 Clause 7.2.1 does not relieve a DNSP of its obligations to comply with these Guidelines as if it had not engaged another person to provide these services.

**Part 8 Definitions and interpretation**

8.1 **Definitions**

In these Guidelines the following words have the meaning given to them:

- **Act** Electricity Supply Act 1995 (NSW)
- **Code** The National Electricity Code, referred to in section 3 of the National Electricity (NSW) Law.
- **Code Consultation Procedures** The procedures for consultation as set out in clause 8.9 of the Code.
- **contestable services** A contestable service as defined in the Electricity Supply (General) Regulation 2001 (NSW).
  
  [Note: Clause 3 of the Regulation defines contestable services as “(a) any service provided for the purpose of complying with Division 4 Part 3 of the Act and (b) any service comprising work relating to an extension of a service provider’s distribution system or an increase in the capacity of a service provider’s distribution system.”]
- **customer** In relation to a DNSP, is a person who has a customer connection contract under which customer connection services are provided to the person by the DNSP.
  
  [Note: In the Act a customer connection contract and customer connection services include those services provided by a DNSP to connect the customer’s premises to the distribution system.]
- **distribution district** The distribution district listed in Schedule 3 of the Act applying to the DNSP so listed.
- **distribution service** A distribution service as defined in the Code.
  
  [Note: In the Code a distribution service means a service provided by a distribution system which are associated with the conveyance of electricity through the distribution system. Distribution services include entry services, distribution network use of system services, exit services and network services which are provided by part of a distribution system.]
- **DNSP** A distribution network service provider as defined in the Code.
  
  [Note: In the Code a distribution network service provider means a person who engages in the activity of owning, controlling, or operating a distribution system.]
- **DNSP staff** An employee of a DNSP or any other person who has a
contract with a DNSP for the provision of professional services to the DNSP.

excluded distribution service

An excluded distribution service as defined in the Code.

[Note: In the Code an excluded distribution service means distribution services the costs of and revenue for which are excluded from the revenue cap or price cap which applies to prescribed distribution services.]

Guidelines

These Distribution Ring Fencing Guidelines (Contestable Services).

independent accredited service provider

An accredited service provider, being a person accredited under Part 10 of the Electricity Supply (General) Regulation 2001 (NSW), not being DNSP staff.

National Electricity (NSW) Law

The provisions applying because of section 6 of the National Electricity (New South Wales) Act 1997 (NSW).

prescribed distribution services

Distribution services deemed as prescribed distribution services by the Tribunal as Jurisdictional Regulator in a determination of the Tribunal under the Code.

specified services

Monopoly services referred to in the Tribunal’s ‘Rule 2000/1 Charges for Monopoly Services’ (made under clause 6.10.1(f) of the Code).

[Note: Examples of monopoly services provided under the Tribunal’s Rule 2000/1 include inspection of projects undertaken by independent accredited service providers, provision of design information to independent accredited service providers, and authorisation of independent accredited service providers to carry out work in or near a DNSP’s network.]

Tribunal


workbook

The most recent version of the document “Pro forma for Regulatory Financial Statements” (or similarly titled) that is published by the Tribunal and that lists the regulatory financial information to be provided by a DNSP to the Tribunal.

8.2 Interpretation

8.2.1 Words and phrases used in these Guidelines that are not defined in clause 8.1 have the same meaning as words and phrases defined in the Act.

8.2.2 References to Parts or clauses within these Guidelines mean a part or a clause of these Guidelines identified by headings and clause numbers.

8.2.3 The singular includes the plural and vice versa.

8.2.4 A reference to an Act, law, regulation or guidelines, rules or instruments includes consolidations, amendments, variations or replacements of any of them.
8.2.5 Different grammatical forms of an expression have a corresponding meaning.

8.2.6 Communication includes communication by written, verbal or electronic means, for example use of a website on the Internet.

8.2.7 Italicised words and phrases are defined in these Guidelines.

8.2.8 The notes do not form part of these Guidelines, but may in the event of uncertainty be used for interpretation purposes.