



INDEPENDENT PRICING AND REGULATORY TRIBUNAL
OF NEW SOUTH WALES

DISTRIBUTION RING FENCING GUIDELINES

Made under clause 6.20 of the *National Electricity Code*.



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OF NEW SOUTH WALES

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 *DNISP* 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 *DNISP* 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 *DNISP*.]

4.2 Notifying customers that they have choice

4.2.1 If a *DNISP* communicates to a *customer* located in that *DNISP'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 *DNISP* 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 *DNISP* must:

- (a) ensure that *DNISP staff* involved in *customer service* (including *DNISP 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 *DNISP staff* involved in *customer service* (including *DNISP staff* at a call centre) with training sufficient to ensure compliance with Part 4 of these *Guidelines*; and
- (c) provide *DNISP 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 *DNISP 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 *DNISP* must ensure that the offices from which *DNISP staff* provide *specified services* (the “first offices”) are separate from the offices from which *DNISP 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 *DNISP* must implement reasonable security measures to ensure that *DNISP staff* that provide *contestable services* are unable to access (including access by means of shared computer systems) information of or derived from *DNISP 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 *DNISP staff separation*

- 5.4.1 A *DNISP* must ensure that *DNISP staff* that provide *specified services* do not also provide *contestable services*.
- 5.4.2 If a member of *DNISP 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 *DNISP* may request in writing that the *Tribunal* waive a provision of these *Guidelines* in relation to the *DNISP*. The request must specify:

- (a) the reason that the *DNISP* 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 *DNISP* 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 *DNISP'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 *DNISP'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 *DNISP* under clause 6.2, the *Tribunal*

- (a) may have regard to:
 - (i) the administrative costs of the *DNISP* complying with the provision of the *Guidelines* in relation to which the waiver is sought;
 - (ii) the *DNISP'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 *DNISP* require that a *DNISP* 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 *DNISP* may engage another person to provide *specified services* and *contestable services*.
- 7.2.2 Clause 7.2.1 does not relieve a *DNISP* 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	<i>Electricity Supply Act 1995 (NSW)</i>
Code	The National Electricity Code, referred to in section 3 of the <i>National Electricity (NSW) Law</i> .
Code Consultation Procedures	The procedures for consultation as set out in clause 8.9 of the <i>Code</i> .
contestable services	A contestable service as defined in the <i>Electricity Supply (General) Regulation 2001 (NSW)</i> . [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 <i>DNISP</i> , is a person who has a customer connection contract under which customer connection services are provided to the person by the <i>DNISP</i> . [Note: In the <i>Act</i> a customer connection contract and customer connection services include those services provided by a <i>DNISP</i> to connect the customer’s premises to the distribution system.]
distribution district	The distribution district listed in Schedule 3 of the <i>Act</i> applying to the <i>DNISP</i> so listed.
distribution service	A distribution service as defined in the <i>Code</i> . [Note: In the <i>Code</i> 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.]
DNISP	A distribution network service provider as defined in the <i>Code</i> . [Note: In the <i>Code</i> a distribution network service provider means a person who engages in the activity of owning, controlling, or operating a distribution system.]
DNISP staff	An employee of a <i>DNISP</i> or any other person who has a

	contract with a <i>DNSP</i> for the provision of professional services to the <i>DNSP</i> .
excluded distribution service	An excluded distribution service as defined in the <i>Code</i> . [Note: In the <i>Code</i> 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 <i>Electricity Supply (General) Regulation 2001 (NSW)</i> , not being <i>DNSP staff</i> .
National Electricity (NSW) Law	The provisions applying because of section 6 of the <i>National Electricity (New South Wales) Act 1997 (NSW)</i> .
prescribed distribution services	Distribution services deemed as prescribed distribution services by the <i>Tribunal</i> as Jurisdictional Regulator in a determination of the <i>Tribunal</i> under the <i>Code</i> .
specified services	Monopoly services referred to in the <i>Tribunal's</i> 'Rule 2000/1 Charges for Monopoly Services' (made under clause 6.10.1(f) of the <i>Code</i>). [Note: Examples of monopoly services provided under the <i>Tribunal's</i> Rule 2000/1 include inspection of projects undertaken by <i>independent accredited service providers</i> , provision of design information to <i>independent accredited service providers</i> , and authorisation of <i>independent accredited service providers</i> to carry out work in or near a <i>DNSP's</i> network.]
Tribunal	The Independent Pricing and Regulatory Tribunal, established under the <i>Independent Pricing and Regulatory Tribunal Act (NSW) 1992</i> .
workbook	The most recent version of the document " <i>Pro forma for Regulatory Financial Statements</i> " (or similarly titled) that is published by the <i>Tribunal</i> and that lists the regulatory financial information to be provided by a <i>DNSP</i> to the <i>Tribunal</i> .

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.