



public interest
ADVOCACY CENTRE

Submission to the AER discussion paper on Electricity Transmission Ring-fencing

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About the Public Interest Advocacy Centre

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit legal centre based in Sydney.

Established in 1982, PIAC tackles barriers to justice and fairness experienced by people who are vulnerable or facing disadvantage. We ensure basic rights are enjoyed across the community through legal assistance and strategic litigation, public policy development, communication and training.

Energy and Water Consumers' Advocacy Program

The Energy and Water Consumers' Advocacy Program (EWCAP) represents the interests of low-income and other residential consumers of electricity, gas and water in New South Wales. The program develops policy and advocates in the interests of low-income and other residential consumers in the NSW energy and water markets. PIAC receives input from a community-based reference group whose members include:

- NSW Council of Social Service;
- Combined Pensioners and Superannuants Association of NSW;
- Ethnic Communities Council NSW;
- Salvation Army;
- Physical Disability Council NSW;
- St Vincent de Paul NSW;
- Good Shepherd Microfinance;
- Affiliated Residential Park Residents Association NSW;
- Tenants Union;
- Solar Citizens; and
- The Sydney Alliance.

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The Public Interest Advocacy Centre office is located on the land of the Gadigal of the Eora Nation.

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Harm-based framework for protections

PIAC supports the provision of protections, and imposition of restrictions that are commensurate to the potential harm consumers may face – the higher the potential harm, the stronger the protections and restrictions.

PIAC agrees that, in general, there are two distinct forms of harm that ring-fencing of both transmission and distribution network businesses should prevent:

- Cross-subsidisation by attributing costs incurred in providing unregulated activities to regulated activities; and
- Discrimination by providing the part of the business or affiliate providing unregulated services with preferential treatment in business dealings and/or privileged information.

This may manifest most obviously in network connections where there are contestable (or less regulated) connection services in addition to the monopoly provision of other services including connection approval powers. As noted in the AER's discussion paper, there are other areas where this has also manifest, such as the sharing of transmission assets between regulated and unregulated or non-transmission services.

Difference between distribution and transmission

The type and scale of consequences that relate to ring-fencing arrangements is different in the context of transmission and distribution businesses.

Firstly, the direct customers of transmission services tend to be larger and more sophisticated than those of distribution services. For instance, a customer seeking connection to the transmission network would tend to be a generator, generation project developer, or an existing or intended large industrial or other load. In contrast, many of those seeking to connect to a distribution network may be significantly smaller such as a household or small business (noting however that many generation projects and larger loads do still connect to the distribution network). As such, it can be expected that direct customers of transmission services, such as connections, are better able to negotiate on equal terms with a provider of services, and seek necessary legal or commercial advice before entering agreements.

Secondly, the potential competitors for unregulated or non-energy services that a transmission business may provide also tend to be larger and more sophisticated than those of a distributor. For instance, competitors for contestable transmission connection services would almost exclusively be large construction companies, whereas competitors for contestable distribution connection services may be smaller, sole-trader solar installers. The same is true of customers and potential competitors for backhaul telecommunications services provided by some transmission businesses as unregulated revenue.

There are also greater potential benefits to be gained for all consumers by leveraging the economies of scale that a Transmission Network Service Provider (TNSP) can bring to using, procuring and providing electricity services. For instance, overly restrictive ring-fencing obligations could result in multiple, separate investments by connecting generators to alleviate system

strength or inertia issues instead of a larger, more efficient, single investment by the TNSP and thereby missing out on the most efficient system. This is discussed further in the following section.

As a result of the difference in potential adverse impacts to consumers between transmission and distribution services as described above, the level of protection provided and restrictions imposed must be proportionate.

Recommendation

PIAC recommends that, while there the ring-fencing principles can be aligned between transmission and distribution ring-fencing guidelines, the way they are applied must be commensurate to the type and scale of potential consumer harms in each.

Providing new and emerging electricity services

As the NEM transforms with increasing levels of both flexible and decentralised generation, new services will continue to develop, emerge and become integrated into the NEM's operation. While many of these services may be contestable and a robust market may develop to provide these, PIAC supports TNSPs also being able to deliver these services where it is efficient and appropriate that they do so. There are potential economies of scale and scope that can be exploited by allowing TNSPs to play a part in providing services.

As noted before, overly restrictive ring-fencing obligations could result in multiple, separate investments by connecting generators to alleviate system strength or inertia issues instead of a larger, more efficient, single investment by the TNSP and thereby missing out on the most efficient system.

Therefore, the AER should be mindful that the scope of services possible in the future may be much broader than the range of services envisaged when the current transmission ring-fencing guideline was developed.

Grid-scale storage

ElectraNet's ESCRI project is a good example of this, where the physical asset and infrastructure benefit from the physical economies of scale and scope a regulated TNSP can provide, while contracting away the control over the battery's dispatch allows potential harms to be mitigated.

Building a market for demand response

Another potential example is in creating a centralised pool of demand response (DR) providers within a NEM region that can be readily called upon for a range of uses such as alleviating transmission or distribution constraints, responding to system security issues, or for wholesale reliability shortfalls.

Distributed energy resources (DER) including demand management can provide a wide range of potential services to the energy system. This includes responding to wholesale spot prices, alleviating network constraints and minimising a customer's draw from the grid through self-consumption. Making as many of these potential value streams as possible available to providers is key to realising the full benefit of DER and demand management. Accordingly, a rational trade-off will often need to be made where providing multiple services is in conflict.

PIAC considers there is a need to proactively build a large, diverse and readily accessible pool of DR throughout each NEM region (including both by directly contracting with customers or via an intermediary such as an aggregator or retailer). By such 'market building' procurement, the collective pool could be called on to meet other potential value streams of DR far more efficiently and reliably than the current un-coordinated arrangements. This would develop a greater pool of cost-effective resources for the future, and expand the range of options for future market design and system operation strategies.¹

PIAC considers that a TNSPs and DNSPs, are well-placed to proactively build, or at least be obligated to facilitate, such a pool of DR that is also deployed in the market context.

¹ PIAC, *Submission to DMIS and DMIA for TNSPs draft determination*, October 2019, 2.