

30 January 2020

Ms Sarah Proudfoot
General Manager, Consumers and Markets
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

Via email: ringfencing@aer.gov.au

Dear Ms Proudfoot

RE: Electricity Transmission Ring-fencing—a review of current arrangements

TasNetworks welcomes the opportunity to make a submission to the Australian Energy Regulator (**AER**) on the Electricity Transmission Ring-fencing discussion paper.

TasNetworks is both the Transmission Network Service Provider (**TNSP**) and Distribution Network Service Provider (**DNSP**) in Tasmania. TasNetworks is also the proponent assessing the business case for Marinus Link, a new National Electricity Market (**NEM**) interconnector between Tasmania and Victoria. The focus in these roles is to deliver safe and reliable electricity network services to Tasmanian and NEM customers at the lowest sustainable prices.

TasNetworks supports the intent behind ring-fencing arrangements. When appropriately applied, ring-fencing can benefit customers by ensuring the proper allocation of costs and the promotion of competition in the provision of electricity services. As a DNSP, TasNetworks has operated under the Electricity Distribution Ring-Fencing Guideline (**Distribution Guideline**) since 1 January 2018. While there are still areas of uncertainty with the application of the Distribution Guideline, TasNetworks appreciates the efforts made by the AER in providing clarity and the granting of waivers when required to protect customer interests. As a TNSP, TasNetworks considers the current arrangements, provided by the combination of the current Transmission Ring-Fencing Guidelines, National Electricity Rules obligations, cost allocation principles and broader competition law requirements, are

providing more than adequate protections to competition and therefore optimal customer outcomes. As a consequence, TasNetworks considers there is no need for material changes to the current transmission ring-fencing arrangements.

TasNetworks supports Energy Networks Australia's (ENA) submission and would like to make several further comments reflecting a Tasmanian perspective. The key points in this submission are:

- The need to ensure the application of ring-fencing is appropriate given local circumstances. In more isolated locations, competition is often limited and without the ability of the local network service provider to provide certain services, customers would often be left facing an unregulated monopoly provider or no provider at all. While this can be managed through the granting of waivers this does come with administrative costs to both the network business and the AER. TasNetworks encourages the AER to explore opportunities to draft the Guideline in such a way as to minimise the need for waivers to manage these situations.
- Ring-fencing should only be used to manage actual situations where there is evidence of the networks' behaviour having a detrimental impact on competition, rather than a perceived or theoretical impact.
- The need to provide clarity for businesses operating under both distribution and transmission ring-fencing Guidelines to ensure they are not placed at a competitive disadvantage by having to implement different corporate structures to provide the same services as other businesses.

Should you have any questions, please contact Tim Astley, NEM Strategy and Compliance Team Leader, via email (tim.astley@tasnetworks.com.au) or by phone on (03) 6271 6151.

Yours sincerely,



Chantal Hopwood
Leader Regulation

AER Question

Q1: Are the objectives and aims in the Electricity Distribution Ring-fencing Guideline relevant to transmission ring-fencing

TasNetworks Response

TasNetworks agrees that the objectives and aims in the Electricity Distribution Ring-fencing Guideline are relevant to transmission ring-fencing. TasNetworks does not consider that this should lead to a consistent approach in terms of implementation. As indicated in the ENA submission, TNSPs and DNSPs operate in different business environments. Therefore, while the Transmission Ring-fencing Guideline (**Transmission Guideline**) and Distribution Guideline could be based on shared objectives and principles, this does not justify aligning the specific details and the implementation of ring-fencing. The necessary differences in application can be managed through improved clarity on how businesses that are both a DNSP and a TNSP should manage their ring-fencing obligations.

Q2: What issues should we consider in our review with respect to non-regulated electricity services provided by TNSPs?

Further to the ENA's response, TasNetworks highlights the issues faced where competition is limited which is often the case in regional areas. To exclude TasNetworks from the ability to provide services (such as the construction of transmission lines connecting generators to the backbone of the grid or the fitting out of high voltage substations) will often leave customers with few if any alternative providers. While this can be managed through the granting of waivers this does come with administrative costs to both the network business and the AER. TasNetworks encourages the AER to explore opportunities to draft the Guideline in such a way as to minimise the need for waivers to manage situations where competition would actually be reduced by ring-fencing.

TasNetworks is also concerned about the impact on joint DNSP and TNSP businesses. As a DNSP the current Distribution Guideline prevents TasNetworks from undertaking non-regulated electricity services without establishing a fully legally and functionally separate business. However, if we were solely a TNSP we could provide non-regulated electricity services, and indeed other TNSPs do as indicated in the AER's discussion paper. This results in inconsistency in terms of TNSPs across the NEM.

Q3: With respect to non-electricity services provided by TNSPs, what issues should we consider in our review of transmission ring-fencing?

The current cost allocation arrangements, as applied by TasNetworks, and shared asset rules have proven adequate to address the issues associated with the provision of non-electricity services and TasNetworks is unaware of any reasons for additional ring fencing measures.

Q4: To prevent harm from cross-subsidies, can we rely on the TNSPs' application of cost allocation methods and audits of annual financial reports to the AER?

TasNetworks does not consider there are grounds to alter current arrangements. Indeed, the AER would need to provide evidence that the cost of any changes to the current arrangements were less than the benefits gained by customers.

Question 5: Should we align measures to prevent cross subsidies in transmission with the Electricity Distribution Ring-fencing Guideline?

As noted above, TasNetworks supports improved clarity on how a business that is both a DNSP and a TNSP should operate under two Guidelines. TasNetworks is aware that the AER is currently reviewing the Distribution Guideline and suggests that changes to that Guideline may be required in conjunction with changes to the Transmission Guideline to provide clarity for businesses such as TasNetworks.

Q6: The NER allows the AER to ring-fence prescribed services from any other service provided by the TNSP. For ring-fencing purposes, should negotiated services be treated as if they were prescribed services?

Yes, negotiated transmission services are monopoly services and there is no justification for them to be ring-fenced from prescribed transmission services.

Q7: In what ways could a TNSP discriminate in favour of part of the business or an affiliate providing non-regulated transmission services? To what extent does TCAPA address these harms?

TasNetworks supports the ENA's submission.

Q8. Should staff, office or branding restrictions be applied where a TNSP affiliated entity provides generation and retail services?

TasNetworks supports the ENA's submission.

Q9: The current Guideline permits a TNSPs to carry on a 'related business' if it earns revenue of less than or equal to 5 per cent of the TNSP's total annual revenue. Should this be retained in a new transmission Guideline?

TasNetworks proffers that the current cost allocation arrangements protect against cross subsidy concerns. If the threshold was reduced to zero then there would be material compliance and administrative costs with the establishment of separate businesses which would stymie innovation and lead to poorer customer outcomes. Therefore, TasNetworks considers there are no reasons to change the 5 per cent threshold but does seek clarity as how this would be applied in its specific circumstance as both a DNSP and TNSP.

TasNetworks questions why distribution is included under 'related business'. Given TasNetworks has been granted a waiver to allow this situation to occur and the lack of any obvious impacts on competition from one regulated business owning another regulated business there would be administrative benefit and transparency to remove the barrier to co-ownership.

Any additions to the list of 'related business' activities could impact TasNetworks if as a DNSP it can currently undertake those activities. TasNetworks would urge restraint on expanding the list of 'related business' as a way to manage competition concerns.

Q10: What ring-fencing controls (if any) should apply to TNSPs participation in new and emerging contestable electricity services? Can you provide some examples of TNSPs delivering these kinds of services, and any associated harms (or benefits)?

In addition to the ENA submission, TasNetworks is concerned that ring-fencing may hinder the development of new and emerging services as much helping it develop. Through the Demand Management Innovation Allowance (DMIA), networks are encouraged to foster innovation. If they are then excluded from providing these services there is a real chance TNSPs will actually be disincentivised from developing these new services. TasNetworks urges the AER to wait until there is evidence of a failure in competition developing before imposing arbitrary constraints on what services can be provided by TNSPs.

Q11: Are there particular aspects of the COGATI reforms and other reforms affecting transmission we should take into consideration in developing a new transmission ring-fencing guideline?

TasNetworks supports the ENA's submission.

Q12: Is regular compliance reporting and independent assessment of compliance with transmission ring-fencing required?

While supporting the ENA's submission, TasNetworks suggests, that to aid efficiency, if reporting and independent assessment is required, that consistent reporting timeframes and obligations be applied for businesses required to operate under both Guidelines.

Q13: Should we adopt a similar approach to waivers for transmission?

TasNetworks supports the ENA's submission.

Q14: What factors should the AER consider in determining a reasonable transition period?

TasNetworks supports the ENA's submission.