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Mark Feather  
General Manager, Strategic Policy & Energy Systems Innovation  
Australian Energy Regulator  
GPO Box 3131  
CANBERRA ACT 2601  
Lodged by email to: [AERringfencing@aer.gov.au](mailto:AERringfencing@aer.gov.au)

Dear Mark,

**Response to *Ring-fencing Guideline Electricity Transmission – Version 4***

Tilt Renewables welcomes the opportunity to comment on the Australian Energy Regulator's (AER) latest version of the above guidelines.

Tilt Renewables is committed to continue playing a lead role in accelerating Australia's transition to clean energy. Tilt is the largest owner and operator of wind and solar generation in Australia, with 1.3 GW of renewable generation capacity across nine wind and solar farms operating, or in the final stages of commissioning, and another 396MW wind farm (Rye Park in NSW) under construction. In addition, Tilt Renewables has a development pipeline of over 3.5GW including the 1.5GW Liverpool Wind Farm development project in NSW's CWO REZ as well as several energy storage projects.

Tilt welcomes the AER's continued position that the Ring Fencing Guidelines must be updated and provisions strengthened to minimise, or hopefully eliminate, the potential of a Battery Storage Energy System (BESS) owned by an TNSP, or an affiliate, gaining an unfair advantage over competing projects and/or causing inefficient outcomes in the market for consumers.

Tilt Renewables supports the majority of amendments in the draft Guidelines and commends the AER for appreciating stakeholders concerns that the following is a very serious issue:

*“TNSPs favouring themselves or an affiliate in relation to batteries, particularly favourable terms and conditions for connecting their own batteries to the transmission network.”* (p. ix of Explanatory Statement)

As a general note, we consider that the AER should appreciate the significantly different circumstances between primary TNSPs that own the transmission network and Declared Transmission System Operators (DTSO) who are not the TNSP. For example, if an Independent Power Producer (IPP) becomes a DTSO to connect one of its wind farms, then the Ring Fence Regulations should recognise this significant difference and not treat the IPP like a TNSP. The ability of the IPP/DTSO to discriminate against competitive battery projects in the connection process is basically non-existent. Therefore, most, if not all, of the provisions of the ring fencing guidelines should not apply to the IPP/DTSO. Likewise, in Victoria, AEMO is the TNSP, so there should be different ring fencing provisions considered for Ausnet Services as well.

While Tilt Renewables agrees with the majority of amendments in the Guidelines, we do have some suggestions for improvements as well as responses to some of the questions raised in the Explanatory Statement.

### **TNSPs favouring themselves or an affiliate in relation to batteries**

Tilt Renewables' primary concern to be addressed by Ring Fencing is the potential for TNSPs to unfairly advantage their own, or an affiliate's, BESS in the connection process. There are many ways a TNSP could unfairly assist their own projects including more lenient grid connection standards, easier grid connection process (such as 'skipping' system strength FIA studies) and prioritising work on their own BESS ahead of competitor's projects. Tilt Renewables understands this may already be occurring.

This is not an easy issue to comprehensively address as the grid connection process is commercially sensitive and very few details are provided to the market until after a Transmission Connection Agreement (TCA) is signed---by which time it's too late. Some potential steps that could be taken to mitigate this discrimination are stated below.

### **Negotiated Service Rule Change**

As pointed out in the Explanatory Notes, the AER does not have the authority to utilise its ring fencing regulatory powers for negotiated services---which cover the connection of new batteries and generators to the network. Therefore, Tilt Renewables strongly supports the AER

*“pursuing a rule change request that would seek to expand our ring-fencing powers to include the ability to specifically ring-fence negotiated transmission services, in addition to prescribed transmission services.” (p. 27 Explanatory Paper)*

The existing provisions to discourage discriminatory tactics are inadequate and very difficult to enforce.

### Civil Penalties

As pointed out in Section 7.2 of the Explanatory Paper, the AER cannot currently impose civil penalties on TNSPs for breaches of the Ring Fencing Provisions (even though they have this power in the distribution network). As the AER correctly states, the potential for civil penalties is an important deterrent, so we completely agree with the AER's 'inclination' to request Energy Ministers for a change of Law to enable the AER to implement civil penalties for breaches of the Ring Fence Provisions in the transmission network.

### Increased Transparency

As previously stated, the connection process for intending batteries (and generators) is commercially sensitive and thereby, understandably, lacks transparency. Therefore, the question necessarily arises as to how the AER is going to be able to discover discriminatory favourable treatment of a TNSP's, or affiliate's, BESS. How is the AER going to learn that a TNSP's BESS has been provided more favourable grid connection standards, a simpler grid connection process, or has been 'prioritised' ahead of competitors' projects? One mitigation option might be to force more transparency for the connection process of a TNSP's, or affiliate's, BESS. While such details are usually not made public, perhaps this should be the 'price of doing business' for a TNSP investing in BESS projects thereby 'pushing the boundaries of the Ring Fence'.

### **Waivers**

Tilt Renewables does not oppose the removal of the 5% revenue cap in favour of waivers as long as the waiver application process is transparent, rigorous and undertaken in consultation with industry. However, the draft Guidelines state in Section 5.3.2 that:

"In assessing a waiver application and deciding whether to grant a waiver (subject to any conditions) or refuse to grant a waiver", the AER *may* invite public submissions.

Tilt Renewables considers there is no reason why public submissions should not be taken for **all** waivers. Market Participants will have valuable insights and points to raise to the AER with respect to proposed waivers and the AER should have this information, rather than just the TNSP's arguments as why their waiver should be granted, before making their decisions. Having a register of waivers that have already been granted will be a source of great frustration and controversy if market participants have no ability to participate in the process of these waivers being granted.

Therefore, in the interests of transparency and an improved decision making process, Tilt Renewables suggest that 5.3.2 of the Guidelines be revised to state the AER will invite public submissions for **all** waiver applications.

With regards to leasing spare battery capacity, we support the AER's position that leasing should only be allowed by waiver to mitigate cross subsidisation and discrimination.

Tilt Renewables is also concerned that, as written, the Guidelines have the potential for Interim Waivers to be used as an 'end run' around the normal waiver process. The potential of a situation arising, potentially on purpose, to 'force' the AER to grant an interim waiver to avoid a non-compliance that then effectively becomes a fait accompli when the normal waiver process is eventually undertaken must be prevented. Mandating short expiry dates on interim waivers would be one way to reduce the chances of this occurring.

Last, for the reasons the AER provided in Section 5.2.7 of the Explanatory Paper, Tilt Renewables does not support any sort of streamlined evaluation of waivers for battery projects in the transmission network. These waivers should be the exception, rather than the rule, and each waiver needs to be very carefully evaluated in a robust assessment process.

### **Obligation not to Discriminate**

Tilt Renewables supports the AER's position to amend the transmission ring-fencing guideline to replicate the non-discrimination obligations which apply to DNSPs under the distribution ring-fencing guideline. We consider that explicit and clear requirements in this regard are necessary and will provide better market outcomes.

### **Provision of Network Services**

As a general point, If a TNSP considers a battery in a particular area of the network could provide an essential network service, the TNSP could conduct a competitive tender process for private (and unaffiliated) companies to build, own and operate the battery to provide the needed service. The TNSP, or an affiliate, do not have to own the battery; they just need to secure provision of the service. Such a process would likely be far more successful minimising, or eliminating, discrimination concerns. There are existing precedents for this with the NSW Government tendering for essential network services to be provided by the Waratah Super Battery and AEMO procuring system strength for the Western Victorian network via a tendering process with privately owned Synchronous Condensers. If a TNSP has made no effort to tender for such services, then serious consideration of this should be included in any waiver requests.

Thank you for the opportunity to provide a submission on the draft Guidelines. If you would like to discuss any of the issues raised in this submission further, please contact the undersigned at [REDACTED].

Yours sincerely,

A black rectangular box redacting the signature of Jonathan Upson.

Jonathan Upson  
Head of Policy & Regulatory Affairs