

Ring-fencing Guideline Electricity Transmission Issues Paper

Attachment 1 Stakeholder feedback template

The template below has been developed to enable stakeholders to provide their feedback on the questions posed in the Ring-fencing Guideline Electricity Transmission Issues Paper and any other issues that they would like to provide feedback on. The AER encourages stakeholders to use this template and to provide reasons for stakeholders' views to assist the AER in considering the views expressed by stakeholders on each issue. Stakeholders should not feel obliged to answer each question, but rather address those issues of particular interest or concern. Further context for the questions can be found in the issues paper.

Submitter details

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Section 2.1 – Preventing cross-subsidies – Activities versus services

AER Question	Stakeholder feedback
1. What are the potential harms and benefits of the guideline referring to services, rather than activities?	<p>Transgrid supports the guideline referring to services rather than activities.</p> <p>The reference to services rather than activities will support and reflect current and emerging services that Transmission Network Service Providers (TNSPs) provide rather than focusing on activities and technologies.</p> <p>It is noted that transmission services are not as clearly defined as distribution services, for instance. Therefore, the AER needs provide clear guidance with examples of services that may or may not be able to be provided by a TNSP.</p>

Section 2.2.2 – Legal separation – Scope of services

AER Question	Stakeholder feedback
2. What are the potential harms and benefits for consumers, the market and TNSPs of requiring TNSPs to legally separate transmission and non-transmission services?	<p>Transgrid has two main non-electricity services offered to third parties on a commercial market terms. These services include leasing of passive real estate assets and telecommunication services.</p> <p>If legal separation and/or functional separation is required, Transgrid will cease to provide some or all of those services because:</p> <ul style="list-style-type: none"> the services cannot be provided by a fully functionally separated business such as in cases where the

	<p>services rely on the use of shared assets that are required to provide prescribed transmission services, or</p> <ul style="list-style-type: none"> the services are relatively infrequent, bespoke, and are unlikely to generate enough revenue to justify the costs associated with a separate business being established on a completely standalone basis. <p>We make the following key observations:</p> <ol style="list-style-type: none"> 1. Cross-subsidisation concerns are addressed through rigorous cost allocation practices in accordance with Transgrid's approved cost allocation methodology and compliance with the shared asset guidelines. 2. There is strong competition in these markets (such as real estate and telecommunication sectors). In fact, by offering these non-transmission services, TNSP's increase the level of competition in those markets. 3. In the case of using prescribed assets to generate non-prescribed revenue, TNSPs are reducing prescribed transmission prices in accordance with the shared asset guidelines, which will ultimately bring value back to consumers.
<p>3. How would the definitions for transmission services set out in Chapter 10 of the NER cover these new and emerging electricity services?</p>	<p>Transgrid believe the definition as outlined in chapter 10 of the National Electricity Rules (NER) are sufficiently broad to include both new and emerging technologies.</p>
<p>4. What is the appropriate range of services TNSPs should be able to provide without legal separation? For example:</p> <ol style="list-style-type: none"> a) Distribution services; b) Contestable electricity services; and c) Non-electricity services. <p>What are the possible harms and benefits to consumers and the market from TNSPs offering these services?</p>	<p>As stated above in question 2, TNSPs should be able to provide services that are deemed to provide consumer benefits given there are already safeguards in place to protect against cross subsidisation.</p> <p>In our view, given TNSPs are currently providing contestable and non-electricity services, we encourage the AER to demonstrate and provide evidence that there is actual harm being created with this given consumers are benefiting from this through the shared assets guidelines and facilitating the path to a renewable National Electricity Market (NEM) given their unique expertise in providing and/or assisting contestable services whilst adhering to the cost allocation methodology.</p> <p>The ring fencing guidelines were primarily created to prevent cross subsidisation between prescribed and unregulated services and to manage the risk of discrimination. They were not defined to restrict TNSPs from conducting business that has proven to benefit consumers and utilise the expertise of specialised engineers.</p> <p>If the AER were determined to apply legal separation, then care should be taken to ensure there are no unintended consequences of the requirements. For example, we would recommend TNSPs without prescribed revenue be excluded from any new obligations. There is no need for a TNSP without prescribed revenue to set up legal separation between its non-prescribed TNSP services and (for example) its battery-related services.</p>
<p>5. In the case of TNSP-owned batteries, should TNSPs be able to lease excess capacity to third parties? What are the potential harms and benefits</p>	<p>TNSPs should be able to lease out excess capacity to third parties given that the benefits are clear yet the potential harms and risks have not been proven or are clear.</p> <p>Batteries offer new ways to maintain system security and reliability. They provide a number of services that allows TNSPs to maintain system reliability and security more</p>

<p>to consumers, the market and TNSPs of this?</p>	<p>efficiently and at lower cost to consumers than alternative technologies that only provide network services (such as synchronous condensers).</p> <p>Batteries offer multiple value streams including network services, generation and retail services. This benefits consumers as it allows the costs of the technologies to be efficiently shared between TNSPs and wholesale market participants.</p> <p>As such they provide efficiencies that benefit consumers as it utilises stored energy in a greater and dynamic way.</p> <p>In our view, we do not see any harms in value stacking given it is only the portion of the battery that is offering network services that is being recouped from consumers at the least cost possible. Furthermore, given that investment in batteries is relatively nascent in Australia, we encourage the AER to provide TNSPs with the flexibility the market requires to develop the appropriate value stacking whilst complying with cost allocation methodologies and shared asset guidelines.</p>
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Section 2.2.4 – Legal separation – Exceptions to legal separation

AER Question	Stakeholder feedback
<p>6. In relation to non-transmission services, what would be the harms and benefits to consumers, the market and TNSPs of moving to a waiver approach rather than a revenue cap?</p>	<p>A waiver approach to non-transmission activities would only add an administrative task to the process that has no clear benefits to consumers given there are numerous safe guards in place to restrict cross-subsidisations and discrimination. We encourage the AER to clearly outline the harms it is trying to mitigate by the introduction of a waiver mechanism.</p>
<p>7. If a revenue cap approach was maintained, what would be the appropriate form and magnitude of that cap?</p>	<p>We believe the currently 5% cap on generation and retail is reasonable, justified and sufficient. The technologies expand and have increasingly more capabilities, it is important to ensure that TNSPs are in a position to deliver the best outcome for consumers.</p> <p>Transgrid currently has two Diesel Generators registered with Australian Energy Market Operator (AEMO) as non-scheduled, market generators for the supply of electricity to Broken Hill for the sole purpose of supplying electricity to the region when the single line that supplies the region with electricity, Line X2, is out of service. These are generating units that will receive revenue that is classified from generation activities. However these are necessary to ensure that electricity supply to Broken Hill is not interrupted beyond a reasonable level.</p> <p>We would support a waiver mechanism for additional revenue above the 5% threshold.</p>

Section 2.2.5 – Legal separation – Grandfathering arrangements

AER Question	Stakeholder feedback
<p>8. If legal separation is applied, how should existing services be treated?</p>	<p>If it was proven that there are benefits to legal separation of non-prescribed services then we encourage the AER to have transitional arrangements in place and also only apply it on a prospective basis.</p>

Section 3.1 – Preventing discrimination – Obligation not to discriminate

AER Question	Stakeholder feedback
9. What are the key potential harms and risks that an obligation not to discriminate should target?	Transgrid supports the need to compete fairly and to not discriminate. We believe it is important that consumers are confident that the regulatory framework is effective in allowing TNSPs to make the optimal investment decisions whilst preventing discrimination. It is important to note that harmful discrimination is already prevented by competition laws.
10. What are the potential harms and benefits to consumers, the market and TNSPs of strengthening the obligation not to discriminate?	Transgrid fully supports the requirement for TNSPs not to discriminate in favour of an affiliate. TNSPs take this obligation seriously and recognise that there are substantial non-discrimination legal obligations in place above those in the ring-fencing guidelines. As a TNSPs we have appropriate processes in place in order to adhere to our regulatory and legal obligations, and ensure that we do not discriminate in favour of our affiliates.

Section 3.2 – Preventing discrimination – Functional separation

AER Question	Stakeholder feedback
11. What are the potential harms and benefits to consumers, the market and TNSPs of introducing additional functional separation obligations for: <ol style="list-style-type: none"> staff sharing; office sharing; and branding and cross-promotion? 	<p>Transgrid encourages the AER to identify the market-based evidence that shows additional obligations are needed to protect consumers from harm. Transgrid understands that the market may need clarity as to the brands of regulated TNSPs and their contestable affiliates.</p> <p>Consideration need to be given as to the degree of functional separation necessary. Where the AER sees it fit for additional functional separation, we would recommend the AER to work with TNSPs to ensure all stakeholders are aware of the changes and subsequent risks the proposed obligations would have before the draft guidelines are written and released.</p>
12. Should any new functional separation obligations apply to all contestable services? Should any exceptions apply, and if so, why?	<p>We do not believe functional separation is required given there are guidelines and laws in place to prevent cross-subsidisation and discrimination.</p> <p>The AER needs to be clear as to what contestable services should be separated and the harms that will be mitigated through separation of those services.</p> <p>Transmission businesses can make a positive contribution to the Australian energy market (and consumers) through contestable services:</p> <ul style="list-style-type: none"> • Allowing transmission businesses to provide these services can help to catalyst nascent industries by leveraging economies of scale and scope as well as by overcoming initial barriers of investment cost. • Allowing transmission businesses to continue to provide non-transmission services can also allow innovation in regulated transmission services and lead to lower costs to consumers overall. • Examples can be taken from other jurisdictions such as California and New York State where regulated network businesses are encouraged to increase the uptake of storage services, demand management and other emerging technologies.

Section 3.3 – Preventing discrimination – Information access and disclosure

AER Question	Stakeholder feedback
<p>13. What are the potential harms and benefits to consumers, the market and TNSPs of aligning the transmission and distribution guidelines in relation to information access and disclosure?</p>	<p>We support greater information access and disclosure if they are relevant and appropriate to TNSP and is subject to appropriate exclusions, for example information that could pose a national security risk or where the disclosure would conflict with other existing laws.</p> <p>We encourage the AER to focus of on the harms that need to be mitigated. With distribution, information access requirements protect against the use of consumer information (e.g. metering data) by the contestable business to generate services. There are no clear similar equivalent in the transmission area that is not already managed through NER confidentiality requirements on planning, operational or customer information.</p> <p>There are extensive information obligations on TNSPs in the current rules, 5.2A.5 and S5.10 of the NER, to prevent discrimination and that it is available to all market participants. Furthermore, the Confidentiality rule (S5.3.8 of the NER) limits use (and value) of non-contestable information.</p> <p>So we would recommend that the AER rely on these rule based requirements in their guidelines.</p>
<p>14. Are there any potential inconsistencies with the Transmission Connections and Planning Arrangements rule change we need to consider?</p>	<p>The Transmission Connections and Planning Arrangements (TCAPA) set out in the NER clearly allows primary TNSP to bid for and win contestable work as the primary TNSP. TCAPA also has confidentiality requirements on the handling of customer information during the enquiry phase. Any restrictions or changes to this would require a rule change.</p>

Section 3.4 – Preventing discrimination – Requirement for service providers to comply

AER Question	Stakeholder feedback
<p>15. What are the potential harms and benefits to consumers, the market and TNSPs of aligning the transmission and distribution guidelines in relation to obligations on third party service providers that support the provision of prescribed transmission services?</p>	<p>Transgrid has no objection to this however Transgrid would need to manage its agreements such that service providers must ensure Transgrid's compliance. This may require TNSPs provide third parties training at the cost to consumers. Given this, we recommend the AER careful outline the harms it is attempting to mitigate.</p>

Section 4 – Compliance

AER Question	Stakeholder feedback
<p>16. What are the potential harms and benefits to consumers, the market and TNSPs of expanding the scope of compliance reporting?</p>	<p>We understand the importance of reporting to providing the AER oversight of compliance performance and consumers visibility that increases consumer confidence. However, reporting and compliance obligations should be risk-based to focus on areas where the greatest harms may occur.</p>
<p>17. Should the timeframe for reporting all breaches be extended to 15 days?</p>	<p>Yes, we support this change.</p>

Section 5.1 – Other issues - Waivers

AER Question	Stakeholder feedback
18. Would there be benefit in the AER providing more clarity on the application and assessment process for waivers?	Transgrid would encourage the AER to clearly undertake a risk and benefit analysis when prescribing to a waiver regime. Relying on waivers in this way is counter to the principle that the threshold for imposing regulation is high given the costs it can impose. Imposing overly onerous regulation would serve only to embed inefficiencies in the market given businesses organise their operations based on the regulations that exist rather than the potential that a waiver would be provided.
19. Do you agree with the AER's initial views that certain clauses should not be subject to waivers (e.g. the obligation not to discriminate and information access and sharing)? Please explain your reasons.	We support the view that there are certain aspects the guidelines that require no waiver exception such as the obligation not to discriminate. However in regards to information access and sharing we caution the AER in allowing third party access to transmission infrastructure information that may pose legitimate transmission reliability issues or potentially even national security concerns. We would be keen to work with the AER on any final recommendations to determine the legal and security consequences of any information sharing outside of the NER requirements.
20. Which elements of the assessment criteria used to assess waiver applications by DNSPs would be appropriate for transmission?	We encourage the AER to make clear the need for any waiver requirements.
21. What factors should we take into account in considering the duration of waivers?	If waivers were to be used the following factors would need to be consider: <ul style="list-style-type: none"> - The duration of contracts the TNSP enters into - The life of an asset or duration of the service is needed for. <p>Transgrid recommends that the AER provides TNSPs with sufficient flexibility so that they are not required to submit waivers when contracts or activities are not substantially changed.</p> <p>In addition, waivers should not be revocable.</p>
22. Are there any circumstances where class waivers may be appropriate for transmission?	Transgrid supports the inclusion of class waivers for those industry wide issues that emerge where immediate action is required and a change to the guideline would be too slow.

Section 5.3 – Other issues – Additional ring-fencing obligations

AER Question	Stakeholder feedback
23. What are the potential harms and benefits to consumers, the market and TNSPs of removing the ability of the AER to impose additional obligations on a TNSP (clauses 9 and 10 of the guideline)?	Any additional obligations on TNSPs would need to clearly show to have benefits to consumers, and not just an attempt at over policing/regulation. We would recommend the AER show clear evidence of discrimination and cross-subsidisation in the current framework to justify to consumers the need for additional ring fencing obligations that may cost consumers money and access to emerging technologies.

<p>24. Are there any other issues in relation to this review that you would like the AER to consider?</p>	
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