



6 November 2024

General Manager - Policy
Australian Energy Regulator
GPO Box 3131
Canberra ACT 2601

By email: AERringfencing@aer.gov.au

Dear General Manager,

Transmission Ring-fencing Guideline Review - Submission

We welcome the opportunity to provide feedback on the *Ring-Fencing Guideline (Electricity Transmission): Issues Paper - October 2024*. We support extending ring-fencing provisions to negotiated transmission services and endorse the Australian Energy Regulator's (AER) direction. Expanding ring-fencing obligations is an essential mechanism to ensure a fair and reasonable access to the transmission network, benefiting customers through lower charges and better service.

The regulatory framework supporting transmission is the most complex and opaque in the National Electricity Market. This complexity has ironically worked to the advantage of incumbents who have used it to manipulate and confuse arrangements with customers. In our case, this ultimately motivated us to pursue our own transmission licence rather than continue to navigate the regulatory framework. However, in the future we hope these changes will obviate the need for other customers to follow our lead and be able to get better access to fair and reasonable transmission connection offers from transmission network service provider (TNSP).

We appreciate the AER's consultative approach to addressing potential discrimination and cross-subsidisation risks in negotiated transmission services. Please find our comments on key issues raised in the issues paper in the body of this submission.

We look forward to the next stage of the consultation process and are available to provide further input.

If you have any questions, please do not hesitate to contact Simran Kaur on [REDACTED] or at [REDACTED]

Yours sincerely,

[REDACTED]
Brent Cleeve
Head of Regulatory Policy and Compliance
CitiPower, Powercor and United Energy

Supporting the extension of ring-fencing obligations to negotiated services

1. Scope of ring-fencing for negotiated services

The ring-fencing guideline should apply to all negotiated transmission services. Extending ring-fencing obligations to these services is essential for the efficient and fair provision of transmission connection services. In Victoria, nearly all transmission connections are treated by the incumbent TNSP as negotiated services hence this extension of ring-fencing arrangements closes a major gap in the current regulatory framework.

The fact that negotiated services have been outside of ring-fencing arrangements has resulted in connection arrangements being in place that appear to strongly favour related entities of TNSPs or information that was passed by our network to the TNSP making its way to its related entity.

Benefit: By addressing potential conflicts of interest where TNSPs provide both negotiated and contestable services, this extension will help level the playing field and provide greater transparency and certainty to customers and connecting parties participating in the energy market.

2. Expanding the definition of 'ring-fenced information'

We support the proposal to broaden the definition of 'ring-fenced information' to include all information obtained by a TNSP through negotiated services. This change is crucial to safeguarding customer confidentiality and preventing the inappropriate use of sensitive information by TNSPs or their related entities. To avoid doubt, this must include all information provided to the TNSP as part of a connection application by a network such as Powercor.

Benefit: With clear restrictions on data sharing, this expansion will promote fairer competition and help mitigate perceptions of bias or favouritism in favour of TNSP's related entities.

3. Additional reporting on negotiated services delivery

We support the required additional public reporting on the delivery of negotiated services. This will enhance market transparency and strengthen compliance. Reporting metrics such as connection times, service rates, provider selection, and service delivery timelines will provide critical insights for stakeholders and maintain accountability within the market.

Benefit: Increased transparency will assist the AER in monitoring the effectiveness of ring-fencing and help ensure that negotiated services are provided in an impartial manner. It will also provide greater confidence in the users of transmission network whose faith in the regulatory framework in recent years has been undermined.

4. Staff separation obligations

We support expanding current obligations for staff separation to include marketing and operational roles involved in negotiated services.

Benefit: Ensuring that employees involved in negotiated services operate separately from those engaged in contestable services will minimise any actual or perceived conflicts of interest, strengthening confidence in the impartiality of TNSPs. We would encourage the AER to strongly consider locational separation in addition to legal and functional separation.

5. Restrictions on cross-branding and promotions

Introducing cross-branding and promotional restrictions between TNSPs and related entities will further reduce potential market distortion. This is particularly relevant given the increasing number of smaller renewable energy providers entering the market, who may lack the resources to address potential biases from TNSPs.

Benefit: Restricting joint branding will help avoid confusion among customers and reinforce that TNSPs operate impartially in both negotiated and contestable service offerings. In our experience in Victoria, customers have often struggled to distinguish between the TNSP and its related entities, as dual-branded representations frequently blur the distinct roles of each business.

Conclusion

In conclusion, we support the proposed changes and commend the AER's commitment to strengthening the ring-fencing framework to meet the evolving needs of the energy market. Transmission investment has become an integral part of the energy transition and as such, users of the system need to have confidence that services are being provided on a fair and reasonable basis.

These changes will improve market confidence, mitigate anti-competitive behaviour, and ensure TNSPs conduct business fairly and transparently.