



8 June 2023

Australian Energy Regulator
By online submission

Proposed options to address gaps in transmission ringfencing network

Alinta Energy welcomes AER's decision to consult on this matter and commends the AER on the detail and clarity of this consultation paper. A competitive connections framework is key to facilitating an efficient electricity market in the long run.

Alinta Energy does not consider that additional reporting requirements for TNSPs alone will adequately address the incentive to engage in anti-competitive practices in the connections process. We note that there are many subtle ways in which such an incentive can manifest that would not likely be made transparent (or addressed) regardless of reforms to reporting requirements, and strongly support the AER pursuing Option 2. Our responses to the consultation paper questions are set out in the attachment.

Thank you for your consideration of Alinta Energy's submission. If you would like to discuss this further, please contact me at [REDACTED].

Yours sincerely,

Hugh Ridgway
Wholesale Regulation Manager

Attachment: Responses to consultation paper questions

Alinta Energy's response to consultation questions

- 1. Are there any other negotiated transmission services other than noncontestable connection services where a TNSP could potentially discriminate in favour of itself or an affiliate in providing those services?**

Yes, for example a Network Service Provider (NSP) could set onerous standards that are difficult for third parties to meet, and hinder visibility for contestable service suppliers to prevent such suppliers from providing a comparable alternative.

- 2. Is there any other evidence that TNSPs are discriminating in favour of themselves or an affiliate in providing contestable connection services? Are the issues encountered by connecting parties different in Victoria versus other jurisdictions and, if so, how?**

As noted in the consultation paper, evidence of discriminatory conduct should not be a condition precedent of reform in this area – it is sufficient if the incentive to engage in anti-competitive practices exists, regardless of whether that incentive is acted upon. Alinta Energy also notes that interested parties may be hesitant (or unable due to confidentiality requirements) to provide such evidence even where it exists.

The issues encountered by connecting parties in Victoria are not significantly different to those encountered in other jurisdictions. Victoria's planning function is not linked with the NSP.

- 3. Do the mitigating factors identified by Incenta sufficiently address the concerns raised about the ability of TNSPs to discriminate in favour of themselves or an affiliate in providing connection services? If not, why not? Are there any other mitigating factors?**

No comment.

- 4. Does the Victorian framework for contestable transmission limit the ability of the incumbent DTSO to discriminate in favour of itself or an affiliate? If not, why not? Are there any other mitigating factors?**

It does not – the Victorian framework still requires agreement by the NSP prior to connection.

- 5. Why do stakeholders consider that third party providers are not being engaged to provide contestable connection services? Is there any evidence available to identify the cause(s) of the apparent lack of third party providers being engaged to provide contestable connection services?**

The connections process doesn't facilitate competition. There is no incentive for NSPs to assist contestable service providers in the provision of services and they cannot compete with associated companies of the NSPs due to an asymmetry of information. Access to the information required to provide a contestable service may also not be provided in a timely manner.

6. **Are existing measures in the NER sufficient to prevent TNSPs from discriminating in favour of themselves or an affiliate in providing connection services? If not, why not? Are there barriers to a connecting party reporting non-compliance with specific rules or using the dispute resolution process to resolve concerns about discriminatory behaviour by TNSPs?**

Existing measures in the NER are insufficient. There is an imbalance of power between parties seeking to connect and NSPs, as time is of the essence for new projects, directly impacting project returns. There is no equivalent incentive on the part of an NSP to expedite connections. This imbalance leads to barriers to parties reporting non-compliance because of concerns around impacting the relationship with the relevant NSP and possible consequential delays to the connections process.

7. **Are there any benefits in the AER having the ability to impose functional separation between negotiated transmission services and non-regulated services where the costs of doing so are outweighed by the benefits? What are those benefits?**

Yes, unless there is a functional separation, there will always be an incentive for the NSP to drive applicants towards their associated entities and away from competitors.

8. **What measures do TNSPs currently take to ensure they are complying with their obligations in Chapter 5 that support contestability for connection services? How transparent are these measures?**

No comment.

9. **In Victoria, is the combination of the new information access and disclosure obligations under the Transmission Ring-fencing Guideline (Version 4) and the contestability framework in Victoria sufficient to curb any potential discriminatory behaviour by the incumbent DTSO in respect of information sharing? If not, why not? What gaps remain? Are there any concerns about the ability of an incumbent DTSO to discriminate in respect of other elements of a connection, such as delays to works that only the incumbent DTSO can perform, and costs associated with those works?**

No comment.

10. **Would Option 1 sufficiently address any concerns that TNSPs are using their market power to discriminate in favour of themselves or an affiliate in the provision of connection services? What clauses in Chapter 5 of the NER should TNSPs be required to report compliance with? Should Option 1 extend to requiring TNSPs to report certain connection information and, if so, what information should be required? How effective would this option be in addressing concerns about potential discriminatory behaviour in Victoria?**

No, the AER would still be unable to take sufficient action to address any issues discovered under the information reporting requirements of option 1. It is also likely that some forms of discrimination would not be discoverable even additional reporting requirements.

11. **Would Option 2 sufficiently address any concerns that TNSPs are using their market power to discriminate in favour of themselves or an affiliate in the provision of connection services? If this option were to be implemented, should clauses of the NER that currently address discriminatory behaviour in respect of connections, such as those relating to information access and disclosure be shifted to the Guideline?**

It is unclear whether Option 2 would be sufficient to fully address such concerns, however it would be an improvement over the status quo.

12. Are there any other options that we should consider? How would any additional options address the identified issue? Will additional transparency and/or functional separation address concerns with the contestability framework or are there other fundamental challenges with the framework that mean that competition will always be challenging to promote?

No comment.

13. How else would the two options contribute to the NEO compared to the status quo? Alternatively, what advantages in terms of the NEO does the status quo have compared to the two options identified?

Option 2 will encourage more efficient outcomes because the cost to connect should be based on a competitive market rather than a pseudo-monopolistic provider.

14. What other benefits could arise under either option that we have not identified here?

Option 2 should help to avoid unnecessary gold-plating of connections infrastructure as well as timelier and cost effective connections for new projects.

15. What other costs could be incurred under either option that we have not identified here? Would any other stakeholders incur costs? Can likely costs to TNSPs of each option be quantified?

While there will be material up front compliance costs associated with Option 2, these costs are likely to be orders of magnitude less than the existing, ongoing, cost of an inefficient connections framework for contestable services.

16. What other impacts could be incurred under either option that we have not identified here?

No comment.