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Dear Ms Gout

### **Draft Ring-Fencing Guideline for Electricity Transmission - Interim Review**

Ausgrid welcomes the opportunity to comment on the Australian Energy Regulator's (AER) draft Ring-Fencing Guideline for Electricity Transmission version 3 (**Guideline**). Ausgrid's response addresses the AER's request for stakeholder comments as to whether the 2003 permanent waiver granted under a previous version of the Guideline to EnergyAustralia (which now applies to Ausgrid) should remain based on Ausgrid's transmission and distribution services and assets.

This response outlines why that waiver should remain, or alternatively provides a suggestion for how the draft Guideline could distinguish between 'prescribed ring-fenced services' and 'dual-function assets' such that a waiver is no longer required.

As the AER is aware, Ausgrid operates certain assets that are treated as 'dual function assets' under the National Electricity Rules (NER). These assets operate in parallel, and provide support to, the higher voltage transmission network. They are used to provide shared transmission services to customers directly connected to the transmission network and connected network service providers.

Ausgrid understands that the Draft Guideline is not intended to restrict distribution network service providers' (DNSPs) ability to provide shared transmission services using dual function assets. This would be consistent with Ausgrid being able to operate these assets under the current Guideline (and subject to a permanent waiver), without any need for legal separation or staff separation measures and under the current Ring-Fencing (Distribution) Guideline.

However, we are concerned that there may be some ambiguity around the application of the Draft Guideline to dual function assets. If the AER is not minded to retain Ausgrid's current waiver, we would alternatively propose a small modification to one of the Draft Guideline definitions – as set out below – to clarify the scope of its application.

#### **Uncertainty regarding application of the Draft Guideline**

Under the Draft Guideline, the key obligations (including the prohibition on conducting 'related businesses') apply to a transmission network service provider (TNSP) that is supplying or providing 'ring-fenced services'. Ring-fenced services means 'prescribed transmission services', picking up the NER definition of that term.

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Ausgrid would potentially be subject to these obligations, on the basis that:

- Ausgrid is a TNSP (i.e. it owns, controls and operates network infrastructure with the relevant voltage characteristics); and
- Ausgrid provides 'prescribed transmission services' (as those services are defined in Chapter 10 of the NER) using its dual function assets.

Ausgrid notes that under clause 6.24.2(d) of the NER, for the purposes of Chapters 6 and 6A, references to prescribed transmission services do not include a service provided by means of, or in connection with, a dual function asset.

However, it is not clear that this applies to the term 'prescribed transmission services' as it appears in the Draft Guideline. Clause 6.24.2(d) only amends the scope of 'prescribed transmission services' *for the purposes of Chapters 6 and 6A*. One reading of this is that it only applies to references to 'prescribed transmission services' *within* Chapter 6 and 6A, and does not apply to references in other instruments such as a transmission or distribution ring-fencing guideline. In the Draft Guideline, 'prescribed transmission services' is a bolded expression which has the meaning given to it in the NER – it appears to pick up the general Chapter 10 definition, rather than the definition as amended by cl 6.24.2(d).

Under clause 6A.21.1, *all* TNSPs (including Ausgrid) are required to comply with the Ring-fencing (Transmission) Guideline. This NER obligation is not restricted to TNSPs that provide 'prescribed transmission services' (as those services are defined for the purposes of Chapters 6 and 6A).

There is therefore a risk that DNSPs operating dual function assets could be captured by the relevant Draft Guideline obligations.

### **Proposed solution**

Ausgrid would propose a modification to the definition of 'ring-fenced services' in the Draft Guideline to address this issue. This definition could be amended by inserting the underlined text as follows:

**ring-fenced services** means **prescribed transmission services**, but does not include a service provided by means of, or in connection with, a **dual function asset**.

This amendment would clarify that the guideline will not apply to DNSPs operating dual function assets, consistent with the current position.

Please contact Naomi Wynn, Manager Regulatory Policy at [naomi.wynn@ausgrid.com.au](mailto:naomi.wynn@ausgrid.com.au) if you would like to discuss this matter further.

Regards,



Alex McPherson  
Head of Regulation