

9 June 2023

Mark Feather
General Manager, Strategic Policy and Energy Systems Innovation
Australian Energy Regulator
GPO Box 520 Melbourne VIC 3001

Submitted electronically: AERringfencing@aer.gov.au

Dear Mr Feather,

Re: Issues paper: Options to address gaps in transmission ring fencing framework

The Snowy Hydro Group (Snowy) welcomes the opportunity to comment on the Australian Energy Regulator's (AER) consultation paper which is investigating whether changes to the National Electricity Rules (NER) are required to limit the ability of electricity transmission network service providers (TNSPs) to discriminate in favour of themselves or an affiliate when providing connection services.

The AER is undertaking this consultation in response to concerns that were raised by some stakeholders following its recent transmission ring fencing guideline review (Version 4) regarding the ability of TNSPs to discriminate against competitors in providing contestable connection services due to their monopoly role in providing the non-contestable elements of a connection.

A lack of competition in the market for connecting generation, the outcome of discriminatory behavior, has the potential to impact the costs of connections and increase the cost of energy to consumers in the long run. This is particularly concerning given the Australian Energy Market Operator (AEMO) estimates that there will be over 125GW of additional capacity of renewable generation connected by 2050. So it is important that there is a healthy level of competition in this market to ensure the efficient connection of generation.

In addressing the question of whether the AER should make the required regulatory changes to the NER to mitigate the discriminatory behavior by TNSPs in the connection process, the AER argues it does not require evidence that the TNSPs have engaged in discriminatory conduct to justify making these regulatory changes. But rather, that in the absence of these regulatory changes there is the potential for conduct to occur that will diminish competition in the connection process.

Our view is TNSPs would clearly be able to engage in discriminatory conduct in the connection process and diminish competition in the supply of contestable connection services without these regulatory changes. This is because:


- TNSPs currently have an exclusive right to provide both the non contestable part of a connection service as a negotiated service and the contestable connection services. This potentially allows them to share commercial information with a related electricity service provider in the connection process to get a commercial advantage over third parties.
- The AER currently lacks the power to require the accounting or functional separation of negotiated transmission services from the non-contestable services of a TNSP. Under clause 6A.21.2 (a) of the transmission ring fencing framework in the NER, it is not currently able to separate the supply of a TNSP's non contestable components of transmission connections from its the contestable.

Unlike the AER, we also have concerns regarding the potential for TNSPs to cross subsidize an affiliate. TNSPs have Cost Allocation Manuals (CAM) that require they implement the correct cost allocation between their different service categories. In our experience, the existing CAM's provide TNSPs with too much flexibility on how to allocate direct and shared costs between these services to prevent cross subsidization. Hence, without more prescriptive regulatory accounts one cannot be guaranteed that the existing CAMs can not prevent cross subsidization.

In terms of the potential solutions proposed by the AER to prevent discriminatory conduct by the TNSPs, we consider that both Options 1 - (Add compliance reporting requirements in chapter 5) and Option 2 - (include negotiated transmission services in the ring fencing framework) are appropriate. In general, we suggest that both of these options will likely lead to the improved reporting, transparency and oversight of the provision of contestable connection services.

However beyond reporting and compliance, Option 2 would also allow the AER to mitigate any discriminatory behavior by the TNSPs by taking direct action such as requiring functional separation of negotiated transmission services. In the end, the threat of this option would help to curb this behavior and promote competition in contestable connection services. We therefore consider Option 2 to be superior.

The bottom line is a generator should be able to connect to the grid in the full knowledge that it can do so at an efficient price. To ensure that this occurs, we consider that the AER should implement Option 2. By taking this action, third party providers will be able to supply contestable connection services for transmission on a competitively neutral basis and stimulate competition over the long term.



Snowy Hydro appreciates the opportunity to respond to the AER's consultation paper that reviews whether changes to the NER are required to limit any ability of TNSPs to discriminate in favour of themselves or an affiliate when providing connection services. Any questions about this submission should be addressed to [REDACTED].

Yours sincerely,



Geoff Hargreaves
Regulatory Manager
Snowy Hydro

