

ABN 70 250 995 390
180 Thomas Street, Sydney
PO Box A1000 Sydney South
NSW 1235 Australia
T (02) 9284 3000
F (02) 9284 3456

Thursday, 4 April 2024

Ms Anna Collyer
Chair
Australian Energy Market Commission
Lodged online: www.aemc.gov.au

Project Ref: ERC0371

Dear Anna,

AEMC's Expanding the transmission ring-fencing framework draft determination

Transgrid welcomes the opportunity to respond to the Australian Energy Market Commission's (**AEMC**) Expanding the transmission ring-fencing framework draft determination. The AEMC's draft determination outlines the AEMC's response to the Australian Energy Regulator's (**AER**) rule change request, which proposes that additional ring-fencing obligations should be introduced in relation to the provision of negotiated transmission services by Transmission Network Service Providers (**TNSPs**).

The AEMC's draft determination provides the AER with the flexibility to introduce new obligations in respect of the provision of negotiated transmission services by a primary TNSP and exclude specific categories of negotiated transmission services from such obligations. Under the AEMC's draft Rule, the AER could introduce these new requirements in its ring-fencing guidelines, following a consideration of the costs of benefits of introducing those requirements. As explained below, while Transgrid welcomes the AEMC's decision not to introduce additional obligations in the Rules (and instead provide for the possibility of updated guidelines), we maintain our earlier view that no changes to the regulatory framework are warranted.

We do not support the draft determination's findings because:

1. **Existing connection processes are non-discriminatory.** In theory, the AEMC is correct in commenting that the absence of specific examples of discrimination does not necessarily prove that there is no discrimination. In our view, however, it is also important to review the existing connection process to examine how discrimination may arise and whether additional regulatory requirements are warranted. In Transgrid's case, our existing connection process already eliminates any risk of discrimination by following the Rules and existing competition laws, requirements and treating all connection enquiry information as confidential. Accordingly, Transgrid's existing connection processes facilitates competition in the provision of connection assets to the benefit of the connecting party.

2. **Efficient and timely connections deliver significant customer value.** We are concerned that placing additional regulatory requirements on TNSPs will delay connections and create additional costs for customers from having to deal with potentially multiple parties and agreements to deliver the same outcome. As these additional requirements are not warranted given it is addressing potential discrimination rather than actual discrimination, the net result would be a connection process that is less able to deliver the increased volume of connections in a timely and efficient manner.

We discuss each of these points in further detail below.

1. Existing connection processes are non-discriminatory.

Transgrid's submission to the AER's earlier consultation paper explained that, in Transgrid's case, contestable services are provided by Transgrid's affiliate entity, Lumea. Lumea operates as a standalone entity on commercial arm's length terms to Transgrid, using a shared services model. This separation between the provider of prescribed and negotiated transmission services is important in assessing the potential for discriminatory or anti-competitive practices.

Our submission to the AER explained that our existing connection process, set out below, provides an appropriate level of protection against discriminatory or anti-competitive behaviour:

- Enquiries and pre-connection enquiry information and discussions are managed by a Transgrid's dedicated connection enquiry team. At times, connecting parties may contact our affiliate first, in which they are directed to Transgrid. Work orders are established for each enquiry to capture revenue and costs in accordance with Transgrid's approved cost allocation methodology.
- The customer enquiry is conducted in accordance with the timeframes and processes specified in the Rules. Information regarding the customer enquiry or project information is not shared at any stage of the process with any affiliate or third party unless the customer specifically consents to it by signing a consent letter. Connection enquiry data is already published by AEMO hence all external parties have access to the same information,
- On completion of the connection enquiry process, the customer decides whether they want to proceed with the connection and with whom. Transgrid will only share the information with its affiliate or a third party if the connection applicant signs a consent letter authorising Transgrid to do so.
- A Connection Process Agreement (**CPA**) is then developed with the customer to facilitate the Application to Connect in accordance with the Rules. The CPA contains a detailed scope of work and timeframe for the required work to be undertaken by Transgrid in accordance with the customer's requirements for the negotiated connections works.

Transgrid considers that the above process minimises the risk of discrimination. The absence of specific examples of discrimination, coupled with a careful consideration of the above process, provides a compelling case for not imposing additional obligations on TNSPs.

2. Timely and efficient connections

TNSPs are playing a vital role in enabling the growth in renewables through their work in

connecting renewable generation to the network. Across the NEM, hundreds of new connections to the transmission system and thousands of new connections to the distribution system will be required to facilitate the growth in renewable generation and storage capacity. To deliver this volume of connections and to meet the project timeframes specified by the connecting parties, a smooth, frictionless connection process is required. In relation to the National Electricity Objective, achieving Australia's emission reduction targets also depends on the timely, low-cost connections of new generation and storage capacity.

If this rule change proceeds, then customers will no longer have the benefit of working with the single entity which can cover both negotiated and contestable connection works. There are savings in time and cost for a customer having to deal with only the one entity, as well as developing and executing a single set of connection agreements, and in engaging the one delivery partner to deliver both negotiated and connection scope. Some customers do already undertake their own tender process for contestable scope to determine if the combined negotiated/contestable scope is worthwhile. A customer then decides if the solution is merited.

As noted above, Transgrid's connection process already ensures that competition will not be undermined by discriminatory or anti-competitive practices. Our principal focus is to provide a connection process that meets our customers' needs as efficiently as possible. In this context, our concern is that introducing new ring-fencing obligations will inevitably lead to a less efficient process, leading to delays for customers and higher connection costs. From having to deal with multiple entities, multiple agreements, and multiple delivery interfaces.

We believe that the current structure has delivered better outcomes for customers, through dealing with a single entity for both negotiated and contestable connection works. The focus should be on ensuring that the process provides both timely and cost-efficient outcomes for all parties during increased volume of renewable energy connections that are required to meet energy targets. By placing restrictions on TNSPs, the process will not be expedited or simplified, nor will projects be reaching their financial investment decision, sooner.

Way forward

We encourage the AEMC to review the existing connection processes to determine if there are reasonable grounds for concluding that there is likely to be discrimination and not just potential for discrimination. In the absence of any material concerns, the most appropriate course of action is not to make this Rule change. We would welcome the AEMC's further consideration of this issue as it develops its final determination.

If the AEMC's final determination remains unchanged, we agree with the AEMC that the AER must ensure that the regulation of negotiated transmission services is fit for purpose. For example, the AEMC has noted the TNSPs' concerns that the draft rule should not simply result in an extension, or replication, of existing ring-fencing obligations for prescribed transmission services and distribution services to negotiated transmission services. Furthermore, we strongly support the AEMC's following observations which makes it

clear that further work is required to determine whether ring-fencing obligations would contribute to the NEO:¹

“In empowering the AER accordingly, the Commission notes that the AER must exercise its power in a manner that will, or is likely to, contribute to the NEO and the AER has stated that it would conduct a rigorous consultation process to determine the cost and benefits of any amendments to the Guidelines before deciding whether to specify any obligations. This would require it to consider the specific circumstances of the market for contestable connection services and evaluate the differences between the operating environments of distribution and transmission businesses, and not simply extend existing ring-fencing obligations to the provision of negotiated transmission services.”

Given the above observations, we do not consider it appropriate for the AER to be bound by clause 6A.21.2(c)(2), which imposes an obligation on the AER to consider the need, as far as practicable, for consistency between the Transmission Ring-Fencing Guidelines and Distribution Ring-Fencing Guidelines. We note that the AEMC’s draft determination correctly takes the contrary position that the transmission ring-fencing provisions should be fit for purpose, rather than mirroring other ring-fencing provisions. On that basis, we consider that clause 6A.21.2(c)(2) should not apply in relation to the AER’s consideration of ring-fencing provisions for negotiated transmission services and recommend it be deleted from the Rules.

If you or your staff require any further information or clarification on this submission, please contact Zainab Dirani at zainab.dirani@transgrid.com.au.

Yours faithfully



Maryanne Graham
Executive General Manager – Corporate and Stakeholder Affairs

¹ AEMC, National Electricity Amendment (Expanding the transmission ring-fencing framework) Rule 2024, Draft Determination, 22 February 2024, page 13.