

4 April 2024

Anna Collyer  
Chair  
Australian Energy Market Commission  
GPO Box 2603  
Sydney NSW 2000

Submitted via: <https://www.aemc.gov.au/contact-us/lodge-submission> (ERC0371)

Dear Ms Collyer,

### **Expanding the transmission ring-fencing framework: Draft Determination**

Nexa Advisory welcomes the opportunity to provide a submission on the AEMC's Draft Determination on the expanding the transmission ring-fencing framework rule change, proposed by the Australian Energy Regulator (AER), to address current gaps in the Electricity Transmission Ringfencing Guideline related to negotiated contestable services.

Australia's clean energy transition is not progressing as rapidly as is required to ensure emissions and renewable generation targets are met. Amongst many reasons for the delays, connecting new renewable generation and storage developments to the transmission network is a continuing problem. For storage in particular, the complexities of the connection process and the potential of having to compete directly with the regulated TNSP who is also deploying storage, is delaying the integration of a technology that provides many benefits to the evolving electricity power system<sup>1</sup>. Without cost and time efficient connections, clean electricity is not able to reach customers, potentially increasing bills.

While there are options for developers to seek connections competitively, through the small Dedicated Connection Asset (DCA) and Identified User Shared Asset (IUSA), the IUSA have not been widely adopted. Additionally, the reduction in competition resulting from the Designated Network Asset (DNA) rule change for large connection assets<sup>2</sup> has provided further opportunities for the regulated TNSP and their unregulated affiliate to discriminate against third-party providers.

We continue to strongly support the need for the AER to be able to enforce ring-fencing requirements for negotiated services provided by the regulated monopoly Transmission Network Service Provider (TNSP).

We welcome the recognition by the AEMC that the TNSPs may discriminate against third-party providers in a "subtle"<sup>3</sup> way that is difficult to evidence and that the monopoly provision of regulated connection services means that newly connecting projects are likely to be unwilling to raise concerns as it would prejudice the progress of their connection applications with the regulated TNSP, particularly in cases where the connection applicant has chosen a third-party to deliver contestable elements over the TNSP<sup>4</sup>.

We support the AEMC's draft determination that explicitly gives the AER the power to impose obligations (or not) on the TNSPs around negotiated services and for the AER to have discretion on

---

<sup>1</sup> <https://nexaadvisory.com.au/site/wp-content/uploads/2024/03/Nexa-Advisory-Energy-Storage-Financeability-in-Australian-March-2024.pdf>

<sup>2</sup> <https://www.aemc.gov.au/rule-changes/connection-dedicated-connection-assets>

<sup>3</sup> [https://www.aemc.gov.au/sites/default/files/2024-02/erc0371\\_draft\\_determination\\_-\\_transmission\\_ring-fencing\\_0.pdf](https://www.aemc.gov.au/sites/default/files/2024-02/erc0371_draft_determination_-_transmission_ring-fencing_0.pdf), page 4

<sup>4</sup> [https://www.aemc.gov.au/sites/default/files/2024-02/erc0371\\_draft\\_determination\\_-\\_transmission\\_ring-fencing\\_0.pdf](https://www.aemc.gov.au/sites/default/files/2024-02/erc0371_draft_determination_-_transmission_ring-fencing_0.pdf), page 17

the nature of those obligations. However, it is not clear whether the draft determination goes far enough in giving the AER the tools needed to manage the identified discrimination risk.

The AEMC indicate that it is not the policy intent to enforce legal or functional separation between prescribed and negotiated transmission services provided by the regulated TNSP. As the AEMC makes clear, the regulated TNSPs have the opportunity to leverage their monopoly position for prescribed services to subtly encourage regulated TNSPs to also use them or their unregulated business to deliver contestable elements:

“there is a risk of subtle and less obvious forms of discrimination to occur as a result of the primary TNSP having an exclusive right to provide non-contestable connection services, and being able to participate in the market for contestable connection services.”<sup>5</sup>

A number of submissions to the original AER consultation paper specifically called for separation<sup>6</sup> and therefore the Draft Determination does not go far enough in ensuring that the harms from TNSP discrimination can be mitigated by the AER. Therefore, we recommend AEMC include a provision that separates prescribed and negotiated services at the TNSP as well as the legal and/or functional separation of negotiated transmission services from the non-regulated business.

Additionally, third-party providers of contestable connections must also provide a control room, plus maintain and operate the non-shared network elements of a connection asset. The unregulated business affiliate of the regulated TNSP may leverage the regulated TNSP’s control room and operations and maintenance teams to limit the opportunity for competition in the connections space.

Expediting connections for renewable generation and storage is essential to accelerate the clean energy transition. It is equally important to ensure that competition in the transmission space for connections ensures that all the many new connections required are delivered at lowest cost, with open and genuine competition supporting time- and cost-efficient outcomes for consumers. The AER needs to be given the powers it seeks to ensure those beneficial outcomes for consumers.

Thank you for the opportunity to provide input on the Draft Determination, we would welcome the opportunity to directly discuss our concerns with this rule change and the resultant impacts on consumers if it does progress. Please contact me, if you need further information.

Yours Sincerely

Stephanie Bashir  
CEO and Principal  
**Nexa Advisory**

---

<sup>5</sup> [https://www.aemc.gov.au/sites/default/files/2024-02/erc0371\\_draft\\_determination\\_-\\_transmission\\_ring-fencing\\_0.pdf](https://www.aemc.gov.au/sites/default/files/2024-02/erc0371_draft_determination_-_transmission_ring-fencing_0.pdf), page 18

<sup>6</sup> <https://www.aer.gov.au/system/files/AER%20-%20Consultation%20Paper%20-%20Options%20to%20address%20gaps%20in%20the%20transmission%20ring-fencing%20framework%20-%20May%202023.pdf>