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Australian Energy Market Commission

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Expanding the transmission ring-fencing framework

AGL Energy (AGL) welcomes the opportunity to respond to the Australian Energy Market Commission (AEMC) Expanding the transmission ring-fencing framework draft determination.

About AGL

Proudly Australian for more than 185 years, AGL supplies around 4.3 million energy and telecommunications customer services. AGL is committed to providing our customers simple, fair and accessible essential services as they decarbonise and electrify the way they live, work and move.

AGL operates Australia's largest private electricity generation portfolio within the National Electricity Market, comprising coal and gas-fired generation, renewable energy sources such as wind, hydro and solar, batteries and other firming technology, and gas production and storage assets. We are building on our history as one of Australia's leading private investors in renewable energy to now lead the business of transition to a lower emissions, affordable and smart energy future in line with the goals of our Climate Transition Action Plan.

The draft rule

The draft rule gives the Australian Energy Regulator (AER) the power to impose ringfencing obligations on transmission network service providers (TNSPs) in regard to negotiated transmission services by broadening the scope of the AER's Transmission Ring-Fencing Guidelines from just prescribed transmission services.

AGL supports the draft rule as it gives the AER the power to minimise the risk that TNSPs use their exclusive right to provide non-contestable connection services to discriminate in favour of themselves or an affiliate in the contestable connections market. While the rule enables ring fencing in regard to negotiated transmission services other than non-contestable connection services, we are not currently aware of issues in the provision of these services.

In our response to the AER's Transmission ring-fencing framework consultation we noted that connecting generators to transmission is a long slow complex process which is prone to delays that can greatly increase costs for connecting parties and that in many cases there is a lack of transparency in negotiations for the provision of connection services. In negotiations with TNSPs on the cost of contestable connection services TNSPs will often bundle the costs as a package which includes both contestable and non-contestable services and it can be difficult to determine which costs apply to which. Where third-party alternatives exist the prices offered can sometimes be less than that offered by the TNSP at first instance. While sometimes this competitive pressure can be used to negotiate with the TNSP, third-party alternatives will not always result in an equivalent outcome, for reasons including that they need to engage with the TNSP. We support the draft rule as we consider it will give the AER the power to alleviate some of these issues and hope that it will enhance competition and efficiency in the provision of connection services.

The AER's rule change request proposed prescribed ringfencing obligations for TNSPs under the National Electricity Rules (NER), while the draft rule instead just broadens the scope of the AER's Transmission Ring-Fencing Guidelines and gives the AER the option to ringfence TNSPs in regard to some or all negotiated transmission services where it considers there is a risk of discriminatory conduct. We agree with the AEMC that this will give the AER greater flexibility to respond to changes in market conditions and consider the AEMC's preferred rule is unlikely to be significantly different in practice to the rule requested by the AER, especially since the AER has indicated a desire to address the issues identified in the contestable



connections market. We suggest the AER's objective in choosing how to implement ring-fencing should be to grow meaningful participation by third-party providers in as many areas of contestable connections services as possible, as this will be the best indicator of effective competition.

The draft determination notes that TNSPs are bound by obligations under Chapter 5 of the NER which restrict their ability to engage in discriminatory conduct. We agree with the AEMC's assessment that these obligations do not fully mitigate the risk of discriminatory conduct and note that they are merely behavioural obligations which means their effectiveness will be very limited in comparison to structural measures such as ringfencing. We consider the same limitations would also exist with the compliance reporting obligations option which the AEMC has considered and was unpopular with non-TNSP stakeholders.

Timing

The AEMC has proposed 30 May 2024 as the commencement date for the final rule and included a requirement in the draft rule that the AER update its guidelines within 12 months of this date. AGL and other stakeholders supported a quicker timeframe in the recent AEMC forum on this rule change, and while the AEMC noted that 12 months was already shorter than the 18 months that the AER suggested was appropriate to update the guidelines, we still support a quicker timeframe given the importance of connection efficiency while the system is in a rapid state of transition. We suggest six months is appropriate, however if this is deemed unworkable, we suggest 9 months.

If you have queries re this submission, please contact Anton King on (03) 8633 6102 or aking6@agl.com.au.

Yours sincerely,

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