

22 July 2022

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Dear Mr. Feather,

### **Ring-fencing guideline (electricity transmission) review**

Jemena Electricity Networks (Vic) Ltd (**JEN, we or us**) welcomes the opportunity to respond to the transmission ring-fencing guideline (**Guideline**) review consultation. JEN is an electricity distribution network that incorporates a 6,500 km network of poles, transformers and wires that delivers electricity to more than 350,000 homes and businesses in north-west Melbourne, Victoria. As a Distribution Network Service Provider (**DNSP**) subject to the ringfencing rules contained in the AER's Distribution Ring-fencing Guideline, JEN has an in depth understanding of the role ringfencing frameworks play in regulating and developing competitive markets.

When the Distribution Ring-fencing Guideline was introduced, a key concern was the perception that competitive markets could not develop due to the incumbent DNSP's position in the industry. Despite the fundamental reforms to transmission investment and transmission services, incumbent Transmission Network Service Provider's (**TNSP**) continue to hold a competitive advantage in the development of transmission networks and are increasingly leveraging this advantage in down stream and other related markets. This risk is only expected to increase given the scale of transmission investment planned for the next decade.

JEN welcomes the AER's review of transmission ringfencing arrangements and supports a Guideline that includes proportional regulatory controls on TNSPs that promote competitive outcomes.

In particular, appropriate separation controls must:

- Ensure a level playing field between TNSPs and DNSPs when competing to connect large customers. Connecting customers should be able to benefit from these tensions without concern that other customers are potentially cross-subsidising these solutions.
- Establish clear competitive neutrality or non-discrimination rules that prevent vertical integration where TNSPs can leverage their transmission advantage in related markets. For example, regulated service providers in gas markets must meet the associate contact provisions when entering into arrangements with upstream or downstream related providers.

Essential for this level playing field and supporting the best outcomes for customers would be for the Guideline to include:

- Cost allocation accountabilities and requirements similar to DNSPs, to give greater confidence that the appropriate customers are charged for the costs incurred; both for incumbent and new TNSP services.
- A general non-discrimination principle, including restrictions on cross-promotion consistent with those applied to DNSPs—in particular, controls that prevent TNSPs and their affiliates jointly approaching, or bundling their products and marketing those products to, the customer are essential for competitive outcomes. Ideally, TNSP affiliates would be unable to leverage their relationship with the TNSP for customers who have a choice between transmission and distribution solutions more than DNSP affiliates can with the DNSP.
- Auditing—consistent with DNSP requirements—to drive transparency and accountability.

We also caution on the need for TNSPs to be able to provide distribution services if the only compelling basis is the desire to mirror the Distribution Ring-fencing Guideline. When TNSPs undertake distribution services (without any separation arrangements), they are equipped to further extend their market power in the conveyance of electricity through networks. The size and scale of transmission networks and the substitutable nature of transmission services for distribution services particularly in relation to large customers, gives TNSPs an unfair advantage, undermining the role of distribution networks in the supply chain. Such an outcome prevents innovation in the delivery of distribution services, and fails to protect or facilitate competition.

Enabling TNSPs to provide distribution services also places at risk the end use customer protections which DNSPs (and not TNSPs) are required to implement—particularly for smaller and vulnerable customers. For example, there are no equivalents to:

- Electricity Distribution Code of Review – Guaranteed Service Levels (GSL) obligations and life support obligations

- Service Target Performance Incentive Scheme requirements – customer experience incentives, such as GSLs.

If you have any questions regarding this letter, please contact Chris Stewart on 02 9867 7290 or [christopher.stewart@jemena.com.au](mailto:christopher.stewart@jemena.com.au).

Kind regards,



Ana Dijanosic

General Manager, Regulation

Jemena