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By email to: ringfencing@aer.gov.au

Re: Electricity Transmission Ring-fencing – a review of current arrangements, Discussion paper

Spark Infrastructure welcomes the opportunity to respond to the AER's Discussion Paper on the ring-fencing arrangements for electricity transmission.

Spark Infrastructure is a provider of long-term equity capital into energy infrastructure investments in the National Electricity Market (**NEM**) including TransGrid, electricity distribution networks in SA and Victoria subject to the AER's Distribution Ring-fencing Guideline and the Bomen Solar Farm (under construction) in NSW. Therefore, we have experience with the objectives and requirements of ring-fencing arrangements. Further, the AER has explicitly referred to Spark Infrastructure and its Bomen Solar Farm in the Discussion Paper.

We wish to provide the following views on the issues raised in the Discussion Paper:

1. The costs and benefits of any new or revised obligations should be identified and tested through this consultation process
2. There are benefits to customers from enabling transmission service providers to share assets and removing barriers to new technologies that improve efficiency.
3. The existing requirements are effective in addressing any potential harm where an investor has an interest in both transmission and generation.

The costs and benefits of any new or revised obligations should be identified and tested through this consultation process

We support the review of the transmission ring-fencing arrangements given the length of time since they were last reviewed and the changing market conditions. We also support the objective to prevent harm to customers from inadvertently subsidising unregulated services or favourable discrimination to affiliates in contestable markets. However, there is the potential for new or revised measures to impose greater costs on customers and have minimal effect on outcomes. To avoid this situation, we recommend that the next phase of the consultation process clearly identify and specify:

- The reasons for determining that a measure is ineffective in preventing harm, and the harm it does not prevent;
- The new or revised measure and why it is more effective in preventing harm;
- The incremental cost and benefits of introducing new or revised measures, including quantifying the costs and benefits where possible.

This will ensure that the transmission ring-fencing requirements recognise the unique characteristics, services, customers and markets relevant to transmission and do not simply apply the same framework as that which applies to the Distribution Network Service Providers (**DNSPs**) without proper consideration of the costs, benefits and effectiveness of those arrangements.

Further, presenting this information is more likely to ensure that opportunities to improve the effectiveness of other instruments, such as the cost allocation and shared asset guidelines are identified and pursued directly before new measures are introduced, and any new measures supplement or replace existing provisions rather than duplicate them. This will support a predictable and stable regulatory framework.

We support the use of waivers to provide flexibility to respond to specific circumstances. However, the availability of a waiver is not an effective means of removing a barrier to achieving an objective. For example, the need for a waiver remains a barrier to developing a culture and operating model that pursues new technology because technology remains generally prohibited and increases compliance risk and administrative costs.

We also encourage the AER to test assumptions about the costs and benefits of impacts in potentially contestable markets against outcomes in other markets, for example, the metering services market and retail energy markets. Experience suggests that the outcomes in other markets have not always matched the assumed outcomes underpinning the initial decision.

There are benefits to customers from enabling transmission service providers to share assets and removing barriers to new technologies that improve efficiency

The cost allocation and shared asset guidelines are effective in reducing the potential for cross subsidisation and also allow for an additional benefit to customers where a TNSP provides additional services that utilise existing assets. This approach and these benefits should be retained.

We support enabling providers of regulated services to pursue and adopt new approaches and technologies that reduce the cost of those services to customers without removing customer protections. We understand the concerns about impacts on potential markets. However, these should be assessed and weighed against the potential for improvements in the efficiency and effectiveness of transmission services and the role of networks in stimulating new markets through the adoption and utilisation of new technologies and services that support greater choice and empowerment for customer. The use of stand-alone power systems to provide regulated energy delivery services and the installation of advanced interval meters is an example of how networks can stimulate new and emerging technologies and services that can improve efficiency and benefit customers.

We consider the AER has an opportunity to incorporate the outcomes and recommendations of other reviews and reforms underway in revising ring-fencing arrangements. For example, the ring-fencing arrangements could remove prohibitions on the adoption of new and emerging technologies that reduce costs to customers, such as storage, in providing regulated transmission services without affecting customer protections. This is consistent with the AEMC's recommendations in relation to the use of standalone power systems in providing a regulated distribution service.

The existing requirements are effective in addressing any potential harm where an investor has an interest in both transmission and generation.

Over time, changing technology, markets and risk has led to more private energy market investors diversifying across the energy supply chain. This has become more apparent with the increase in private

ownership of regulated energy networks, however, government ownership of both networks and generation has existed for some time and continues in some jurisdictions.

In the Discussion Paper, the AER has outlined the potential harm where a Transmission Network Service Provider (**TNSP**) potentially shares information with a generator affiliated with an investor in the TNSP. However, as the AER acknowledged, there are several requirements in place to ensure that an affiliate does not gain a discriminatory advantage by way of its relationship with the TNSP. We consider that existing governance arrangements, obligations and corporate laws are effective in mitigating the potential for an investor in generation with an interest in a TNSP from gaining an unfair advantage in the wholesale market and that these arrangements are working effectively in practice. We note that there are likely to be many more examples of investors with interests in both networks and generation, and this is likely to continue to grow as investors in energy networks seek returns more commensurate with risk outside of regulated energy networks, and the economics of renewable generation improve.

In the event that the AER finds these safeguards are not sufficient, we welcome the opportunity to work with the AER to understand why it is believed that this is the case, identify the scope of issues and ensure that any new or revised measures are targeted, effective, least cost and do not unnecessarily reduce investment in new generation.

Please contact me on 0421 057 821 for further discussion regarding this submission.

Yours sincerely,

Sally McMahon
Head of Economic Regulation
Spark Infrastructure