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Submitted via email to AERringfencing@aer.gov.au

Dear Mark,

AER's options to address gaps in the transmission ring-fencing framework consultation paper

Jemena Electricity Networks (**JEN**) welcomes the opportunity to respond to the Australian Energy Regulator's (**AER**) *options to address gaps in the transmission ring-fencing framework consultation paper* (**consultation paper**). The consultation paper follows the AER's March 2023 review of the electricity transmission ring-fencing guideline (**the review**). [REDACTED]

Background

The AER's review and consultation paper outline the increasing appetite to promote contestability in areas that have traditionally been provided by monopoly transmission network service providers (**TNSPs**).¹ [REDACTED]

The AER's consultation paper outlines that during the review, stakeholders raised concerns about the ability of electricity TNSPs to discriminate against competitors in providing contestable connection services due to their monopoly role in providing the non-contestable elements of a connection.² Importantly, the AER acknowledged that:

...it does not require evidence that TNSPs have engaged in discriminatory conduct. Rather, it is sufficient for the AER to have concerns that in the absence of regulatory changes, there is the potential for that conduct to occur and damage competition.³

We consider that the review and the stakeholder submissions in response clearly outline that the current framework allows for discriminatory conduct and subsequently has the potential to harm competition.

Options considered

[REDACTED]

¹ AER, *Electricity transmission ring-fencing guideline – Explanatory statement version 4, draft*, November 2022, p. vi.

² AER, *Options to address gaps in the transmission ring-fencing framework consultation paper*, May 2023, pp. 6, 18.

³ AER, *Options to address gaps in the transmission ring-fencing framework consultation paper*, May 2023, p. 7.

The AER highlights that option two would provide the kind of reporting and compliance requirements sought by option one but would also provide the AER with additional ring-fencing tools to address discriminatory behaviour directly.⁴ The consultation paper also states that option two is likely to be more effective in addressing the potential for TNSPs to discriminate in respect of negotiated transmission services than option one.⁵ [REDACTED]

Finally, the Australian Energy Market Commission (**AEMC**) has also noted that negotiated transmission services should be within the scope of the electricity transmission ring-fencing guideline⁶, which is also highlighted in the AER's explanatory statement:⁷

The Commission is of the view that a more appropriate division would be between a TNSP's provision of prescribed transmission services and negotiated transmission services, and its non-transmission or other contestable transmission services.

[REDACTED]

If you have any questions regarding this submission, please contact Matthew Serpell on [REDACTED] or [REDACTED].

Kind regards,

[REDACTED]

Matthew Serpell
Manager Regulation
Jemena Electricity Networks

⁴ AER, *Options to address gaps in the transmission ring-fencing framework consultation paper*, May 2023, p. 7.

⁵ AER, *Options to address gaps in the transmission ring-fencing framework consultation paper*, May 2023, p. 34.

⁶ AEMC, *Transmission connection and planning arrangements, Rule determination*, May 2017, pp. 167-168.

⁷ AER, *Electricity transmission ring-fencing guideline – Explanatory statement version 4, draft*, November 2022, p. 27.