

23 January 2025

Mark Feather  
General Manager Policy  
Australian Energy Regulator  
GPO Box 3131  
Canberra ACT 2601  
By email: [AERringfencing@aer.gov.au](mailto:AERringfencing@aer.gov.au)

AER Ref: 17671347

Dear Mr Feather,

### **Electricity transmission ringfencing guideline**

The Justice and Equity Centre (JEC) welcomes the opportunity to respond to the Australian Energy Regulator's (AER) draft explanatory paper on the electricity transmission ringfencing guideline, version 5 (the draft explanatory paper).

The JEC supports all of the measures proposed and the intent to minimise the potential for the perception of discriminatory behaviour by transmission network service providers (TNSP) in relation to provision of contestable connection services.

The perception of potential discrimination can have the same impact as actual discrimination in limiting effective competition where it unduly influences procurers' decisions. Consumer interest is best served by functioning competition in the provision of services, and this cannot occur if procurers of these services believe there is any risk of adverse consequences resulting from not choosing certain providers.

### **Separation of staff**

Our only concern with the proposed framework relates to the issue of staff separation and the draft position not to impose new requirements structurally separating TNSP staff from related electricity service provider (RESP) staff.

This decision runs some risk of undermining the intent and effectiveness of the information access and disclosure requirements in the guideline. There is some risk co-location can undermine the confidence of procurers of connection services that they will not pay a cost for selecting an alternative provider to the RESP. In short, for ringfencing to be effective, it must not turn on the trust in the professionalism of workers potentially sitting alongside each other.

We do not regard the concerns about increased staffing costs for the RESP/TNSP as relevant in this case. The expectation that an RESP should fulfil the same staffing requirements that a third-party connection service provider does is perfectly reasonable. If an RESP cannot survive in a market independently of its associated TNSP, there is an implication that it must be receiving cross-subsidies from its associated regulated business in some form. This is a situation ring-fencing is specifically intended to avoid.

The RESP should be able to stand and compete efficiently and should not rely on the regulated business, particularly where the nature of this reliance (such as co-location) may undermine effective competition, in actuality or perception.

We welcome the opportunity to meet with the AER and other stakeholders to discuss these issues in more depth. Please contact Michael Lynch at [mlynch@piac.asn.au](mailto:mlynch@piac.asn.au) regarding any further follow up.

Yours sincerely,

**Michael Lynch, PhD**  
**Senior policy officer**  
[mlynch@jec.org.au](mailto:mlynch@jec.org.au)