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Alferdo Carega
Australian Energy Market Commission
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Lodged via the AEMC's website

Dear Alfredo,

***Electricity Network Regulation Review Package 1* – Consultation Paper**[1]

Jemena Electricity Networks (Vic) Ltd (JEN) welcomes the opportunity to comment on the Australian Energy Market Commission's (AEMC) proposed terms of reference for Package 1 of its review of electricity network regulation.

The energy transition is rapidly changing how electricity is generated, stored and used. These changes are reshaping the role of distribution network service providers (DNSPs) and the expectations of customers, governments and market bodies.

JEN supports the AEMC's review of whether the regulatory framework continues to enable DNSPs to respond to these evolving requirements in a prudent, efficient and customer-focused way.

The review is timely given the AEMC is also consulting on two related rule change requests: *Enhancing competition in consumer energy resources and services in the NEM* and *Enabling DNSP-led electric vehicle charging infrastructure* as these proposed rule changes highlight potential, or perceived, deficiencies in the current ring-fencing, service classification and connections/access arrangement frameworks.

Broadly JEN,

- Supports the AEMC's suggested prioritisation framework;
- Agrees the service classification framework could be improved; and
- Cautions against amending the current ring-fencing arrangements.

[1] This submission also deals with issues raised as part of the *Enhancing competition in consumer energy resources and services in the NEM* and *Enabling DNSP-led electric vehicle charging infrastructure* rule change proposals.

Services should be classified based on the market conditions within as DNSP's distribution area and added when required

Service classification is currently determined as part of a network's electricity distribution price review (EDPR) process. This locks networks and their customers into a static service classification for five years, even where technology, customer needs or local market conditions change materially within a regulatory control period. Providing a clear mechanism to allow adding new services within a regulatory control period would enable the framework to respond more effectively to emerging services and market developments, reduce the risk of inefficient outcomes, and better support customers when competitive service provision is limited or slow to develop.

Creating the possibility of 'within period' service additions would allow DNSPs to act as an incubator for fledgling energy services where scaffolding is required to promote the long-term interests of customers. The current practice seeks to promote consistency in service classification across the jurisdictions and the NEM. However, this may not adequately reflect differences in local market conditions, particularly for services such as electric vehicle charging infrastructure. In JEN's view, the classification of services, particularly negotiated services, should have regard to the level of effective competition within the relevant DNSP's network area, rather than assuming a uniform market position across the NEM. Where competitive service provision is limited or absent, customers in underserved areas may benefit from DNSPs being able to provide regulated services that would otherwise be treated as contestable. This approach would be consistent with broader policy concepts such as 'provider of last resort' obligations or 'universal service obligations', which are used in other sectors to ensure customers can access essential services.

Allowing DNSPs to provide what could be considered a contestable electricity service in an underserved area is one example of the benefit to customers which would be derived from DNSPs acting in what could be considered a contestable space, JEN also considers that the nature of the asset or service being provided is relevant to any assessment of competition. For example, where a DNSP provides open, technology-agnostic infrastructure that enables customers to access multiple retail providers, the downstream retail market may be more competitive than where a single retailer installs proprietary hardware.

For these reasons, JEN considers there may be merit in the NER allowing a service to be added within a regulatory control period and providing greater clarity on how relevant markets should be defined for the purpose of service classification. This could include drawing on established competition law principles, including the ACCC's Merger Assessment Guidelines and the definition of "market" in section 4E of the *Competition and Consumer Act 2010* (Cth).

The number of ring-fencing waivers granted illustrates gaps with the service classification framework, rather than the ring-fencing process itself.

JEN contends that the number of ring-fencing waivers granted is not in itself indicative of a broken ring-fencing framework but in fact driven by issues with the service classification framework. The core requirement in Nexa's *Enhancing competition in consumer energy resources and services in the NEM* rule change, is that DNSP's should provide more verifiable proof around the customer benefits and demonstrate no market harm when submitting a ring-fencing waiver request. While JEN agrees that DNSP involvement in contestable markets should only be when it is in the customers' best interest – we believe the current safeguard measures, included in the NER provide these guard rails.

Active ring-fencing waivers listed on the AER's website provide additional support for this assessment. As shown in the table below, the majority of active ring-fencing waivers relate to non-standard arrangements, supported by the DNSP's jurisdiction nuances, or ensuring maximum utilisation of batteries which are used to support a DNSP's network.

Driver behind the waiver	DNSP initiated trial	ARENA trial	Services grandfathered in/State policy	Provision of services to remote communities	Facilitating non-network options[2]
Number of active ring-fencing waivers	1	3	13	5	15

Source: Decisions | Australian Energy Regulator (AER)

These waivers would not be required if service classification reflected each DNSP's local network conditions and was capable of evolving within a regulatory control period to reflect emerging technologies. These ring-fencing waivers are necessary to give effect to policy and trial objectives. They demonstrate, that DNSPs are not active engaging on encroachment into providing Contestable Electricity Services.

Whether the ring-fencing waiver is used to maximise the utilisation of an asset, conduct a trial or provide services to a remote community, the current waiver process requires DNSPs to provide, among other things:

i) the customer benefits of granting the waiver;
ii) the proposed expiry date for the waiver; and
iii) annual compliance reporting.

These requirements already impose safeguards for customer and market interests while allowing for these high value actives. JEN therefore cautions against wholesale changes to the ring-fencing framework.

As noted by Australian Energy Regulator (AER) Chair, Claire Savage in her August 2025 Letter to the Hon Jim Chalmers MP, *"…the urgency of the transition means we need to consider whether there are circumstances in which markets may be failing to deliver the required investment or where participation from networks can bring benefits such as improved productivity of the energy system which outweigh detriments."*[3] Perhaps the AER's ongoing review into its ring-fencing and shared asset guideline is a better place to fine tune this balance, rather than large scale changes to the ring-fencing framework.

As the proposed rule changes does not demonstrate any harm nor supported by evidence, JEN cautions against large scale changes to the ring-fencing framework based on unsubstantiated, hypothetical risks.

[2] Typically, this involves leasing additional capacity from batteries providing grid support.
[3] DCCEEW - AER - Response letter - C Savage_Redacted.pdf, August 2025.

DNSPs' market power does not go unchecked

Finally, we note that our position as a natural monopoly does not go unchecked. JEN acknowledges that DNSPs occupy a monopoly position in the licensed distribution area. However, that market position is already subject to extensive oversight through the economic regulatory framework. The EDPR process requires DNSPs to submit detailed regulatory proposals to the AER setting out the services they will provide, the expenditure they expect to incur, and the prices they propose to charge over the next regulatory control period. The AER then assesses those proposals against the requirements of the NER and only approves revenue and expenditure that it considers prudent, efficient and in the long-term interests of customers.

This process is supported by detailed information-gathering, benchmarking, customer engagement and assurance obligations. DNSPs are required to provide extensive cost, service classification, capital expenditure, operating expenditure, tariff and supporting information, including through Regulatory Information Notices and statutory declarations as to the quality of the information provided.

The AER also applies incentive schemes, benchmarking and ex-post review mechanisms that encourage DNSPs to operate efficiently and share efficiency benefits with customers.

In this context, any assessment of DNSPs' role in emerging or adjacent markets should recognise that DNSPs' market power is not unregulated or unchecked; rather, it operates within a framework designed to constrain monopoly behaviour and promote outcomes that are prudent, efficient and in customers' long-term interests.

If you have any questions regarding this submission, please contact Chloe Finn at chloe.finn@jemena.com.au.

Kind regards,

Matthew Serpell

Matthew Serpell
Manager, Electricity Regulation.