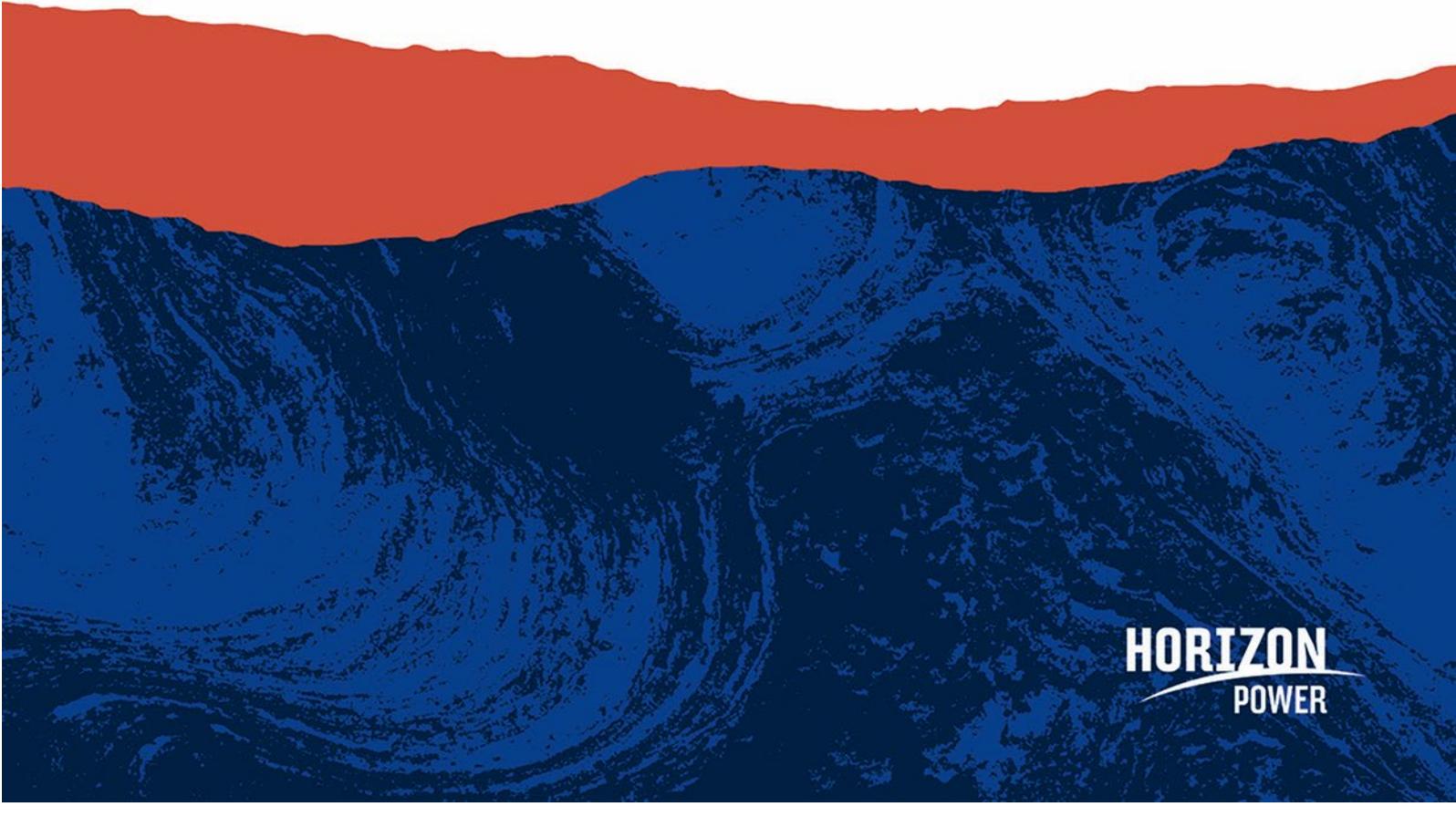


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Ringfencing Rules

Part 2: Competition protection measures for the Horizon Power Pilbara Network Business

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Date Created/Last Updated	16 June 2021
Review Frequency	At least once each <i>pricing period</i> , 15 months prior to the commencement of a <i>new pricing period</i>
Next Review Date	31 March 2023

This policy remains in effect, until replaced or updated, notwithstanding expiration of the review date.

DRAFT FOR REVIEW



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1. POLICY STATEMENT

These ringfencing rules provide assurance to the community served by the *Horizon Power Pilbara Network Business* that appropriate measures have been taken to ameliorate the harms that may flow from it providing *covered network* services while other parts of Horizon Power provide and market contestable and unregulated electricity services.

2. WHO THESE RULES APPLY TO

These ringfencing rules apply to all Horizon Power *staff*.

3. EFFECTIVE DATE

Unless otherwise specified, the arrangements in these ringfencing rules are effective from 1 July 2021.

The ringfencing rules will be submitted to the Economic Regulation *Authority* (the *Authority*) for approval on 30 July 2021. Once approved by the *Authority*, the ringfencing rules will be effective in their entirety six months following the date of approval by the *Authority* and publication of these ringfencing rules (the *ringfencing commencement date*).

In accordance with section 137 of the *Code*, these ringfencing rules will be reviewed:

- not less than 15 months before the commencement of a *new pricing period*; and
- within three months after the occurrence of an event that is likely to have a material effect on the operation of these ringfencing rules, such as a corporate restructure.

4. PURPOSE OF THE RINGFENCING RULES

As a vertically integrated electricity service provider operating in regional Western Australia, Horizon Power provides and markets *covered network* services in the *Pilbara region* and also operates in other *related markets* that are:

- contestable, including the provision and marketing of electricity generation and retail services in the *Pilbara region*, and
- unregulated, including the supply and sale of electricity to *customers* in regional Western Australia, other than the *Pilbara region*.

By doing so, there is the potential for Horizon Power to:

- restrict competition in a *related market*
- increase the costs incurred by competitors in a *related market*
- reduce the perceived or actual quality of the services provided by competitors in a *related market*
- gain an unfair advantage over competitors in the *related market*
- use *commercially sensitive information* outside the *network business* or for a purpose for which the information was acquired or developed.

Horizon Power's measures to ameliorate these harms are set out in its ringfencing rules. The ringfencing rules are published in two parts:

- Part 1: *Cost Allocation Methodology*
- Part 2: Competition protection measures.

The purpose of this document is to set out the competition protection measures to ameliorate the harms identified above.

Section 133(1) of the *Code* requires Horizon Power to publish its ringfencing rules.

These ringfencing rules assume a contestability threshold of 1,200 MWh per annum, that is, electricity *customers* in the *Pilbara region* that consume more than 1,200 MWh per annum are able to choose their retailer. The competition protection measures that are set out in these ringfencing rules have been designed to balance the cost and disruption of the measures against the risk of potential harms for a relatively small number of contestable *customers*. These ringfencing rules will be reviewed should the contestability threshold change.

5. REGULATORY REQUIREMENTS

Section 127 of the *Code* sets out the ringfencing objectives, which are as follows.

- (1) The primary objective of Chapter 8 of the *Code* is to ensure that vertical integration of an *NSP* with an *other business* does not lead to a reduction of competition in a *related market* by requiring rules which—
 - (a) prevent the use of *commercially sensitive information* outside of the *network business* or for a purpose other than the purpose for which it was acquired or developed; and
 - (b) allocate costs between the *network business* and any *associate* or *other business* of the *NSP* in a manner which avoids the charges being paid by *users* of the *network business* incorporating costs or charges associated with an *associate* or *other business* of the *NSP* (other than charges properly and transparently levied by the *associate* or *other business* for services or other things provided to, or at the direction of, the *network business* or the *ISO* for the benefit of *users*, such as charges for the supply of essential system services); and
 - (c) prevent discriminatory treatment:
 - (i) in favour of an *associate* or *other business* of the *NSP* as compared to a competitor in a *related market*; or
 - (ii) against such a competitor.
- (2) A secondary objective of Chapter 8 of the *Code* is to achieve the primary objective by allowing for—
 - (a) flexibility, recognising the fact that the structure and nature of *NSP's* businesses differ substantially; and
 - (b) a balancing of cost and disruption against the primary objective of Chapter 8 of the *Code*; and
 - (c) flexibility to deal with changing circumstances over time.

Section 134 of the *Code* sets out the content of the ringfencing rules, which is as follows.

- (1) Ringfencing rules must contain measures, which may include processes and procedures, designed to ensure the following, in each case to the extent the relevant subsection below is applicable—
 - (a) in respect of section 127(1)(a) of the primary objective – that *commercially sensitive information* and any information received by the *NSP* in respect of a function under the *Pilbara networks rules* is kept confidential and is only used within the *network business* and for the purpose for which it was acquired or developed; and
 - (b) in respect of section 127(1)(b) of the primary objective – that the *NSP* allocates or attributes costs relating to its *network business* in a way that, from the *ringfencing commencement date*—
 - (i) provides a true and fair view of—
 - A. the *network business* as distinct from any *other business* carried on by the *NSP* or any *associate* of the *NSP*; and
 - B. income derived from, and expenditure relating to, the *network business*; and
 - C. the *NSP's* assets and liabilities so far as they relate to the *network business*; and
 - D. the percentage of any corporate overhead costs applied to the *network business* for services that provide the *network business* with necessary resources;
 - and
 - (ii) enables all revenue received by the *NSP* from the provision of goods or services to an *associate* of the *network business* to be separately identified; and
 - (iii) enables all expenditure by the *NSP* on goods or services provided by an *associate* of the *network business* to be separately identified;
 - and
 - (c) in respect of section 127(1)(c) of the primary objective – measures to ameliorate the potential for discriminatory treatment in favour of an *associate* or *other business* of the *NSP* as compared to competitors in a *related market*, or against such competitors, whether the treatment occurs through operational decision making, contracting or otherwise; and
 - (d) in respect of any specific objectives included in a determination under section 138(1) – measures to effectively address those objectives, including any measures specified by the Minister in the determination; and
 - (e) that the *NSP* establishes, maintains and keeps records that demonstrate—
 - (i) how the *NSP* meets its obligations under this section 134; and
 - (ii) which provide sufficient information to enable an assessment as to whether the *NSP* and its *network business* are complying, and have complied, with this section 134, and to detect any non-compliances.

- (2) Ringfencing rules which apply to a *network business* may, and must to the extent necessary to achieve the objectives under Chapter 8 of the *Code*, require an *NSP* to procure an *associate* of the *network business* to comply with any applicable ringfencing rules.

The measures in respect of section 127(1)(b) of the primary objective are contained in the *Cost Allocation Methodology*. The measures in respect of sections 127(1)(a) and (c) of the primary objective are contained in this document.

The Minister has not determined any specific ringfencing policy objectives for Horizon Power under section 138 of the *Code*.

6. RESPONSIBILITIES AND COMPLIANCE

All Horizon Power *staff* are individually accountable to ensure that they comply with the ringfencing rules set out in this document.

The Manager, Network Regulation and Open Access is responsible for ensuring that the procedures required to ensure and monitor compliance with these ringfencing rules have been established, maintained and implemented, and all Horizon Power *staff* comply with these ringfencing rules.

The Manager, Network Regulation and Open Access is also responsible for reporting any breaches of these ringfencing rules to the *Authority* within 5 business days of determining that a breach has occurred, in accordance with clause 141(1)(b) of the *Code*.

7. ABBREVIATIONS AND DEFINED TERMS

The following abbreviations are used in this document and have the meaning provided in Table 7.1 below.

Table 7.1: Abbreviations used in this document

Abbreviation	Meaning
ENAC	Electricity Networks Access Code 2004
HPCC	Horizon Power Control Centre
ISO	Independent System Operator
NSP	<i>Network Service Provider</i>

The following defined terms are used in this document and have the meaning provided in Table 7.2.

Table 7.2: Defined terms

Defined term	Meaning
Act	the <i>Electricity Industry Act 2004 (WA)</i> .

Defined term	Meaning
associate	<p>has the same meaning given to it in the <i>Code</i>.</p> <p>{As at 25 June 2021, the <i>Code</i> defines <i>associate</i> as, in relation to a person and subject to section 129, has the meaning it would have under Division 2 of Part 1.2 of the Corporations Act 2001 of the Commonwealth if sections 13, 16(2) and 17 of that Act were repealed, except that a person will not be considered to be an associate of an <i>NSP</i> solely because that person proposes to enter, or has entered, into a contract, arrangement or understanding with the <i>NSP</i> for the provision of a covered service.}</p>
Authority	<p>has the same meaning given to it in the <i>Code</i>.</p> <p>{As at 25 June 2021, the <i>Code</i> defines <i>Authority</i> as the Economic Regulation Authority established by the <i>Economic Regulation Authority Act 2003</i>.}</p>
Code	the Pilbara Networks Access Code 2021 (WA).
commercially sensitive information	<p>has the same meaning given to it in the <i>Code</i>.</p> <p>{As at 25 June 2021, the <i>Code</i> defines <i>commercially sensitive information</i> as all confidential or commercially sensitive information in relation to, as applicable—</p> <ul style="list-style-type: none"> a) an <i>applicant</i> or <i>customer</i> which is developed by or comes into the possession of an <i>NSP</i> including a <i>network business's</i> present and future dealings with the <i>applicant</i>, or <i>customer</i>, but excludes aggregated information that does not relate to an identifiable <i>applicant</i> or <i>customer</i>; or b) an <i>NSP</i> which comes into the possession of another <i>NSP</i> for the purposes of performing a function under the Pilbara networks rules; or c) an <i>NSP</i> which is developed by or comes into the possession of an <i>applicant</i> or <i>customer</i>, but excludes information required by this Code to be published or aggregated information that does not relate to the identifiable <i>NSP</i>.}
confidential electricity information	has the meaning in clause 9.3.1.

Defined term	Meaning
confidential information	<p>has the same meaning given to it in the <i>Code</i>.</p> <p>{As at 25 June 2021, the <i>Code</i> defines <i>confidential information</i> as, subject to section 158, information that—</p> <ul style="list-style-type: none"> (i) by its nature is confidential; or (ii) is specified to be confidential by the discloser.}
connect	<p>has the same meaning given to it in the <i>Code</i>.</p> <p>{As at 25 June 2021, the <i>Code</i> defines <i>connect</i> as to form a physical link to or through a <i>light regulation network</i>.}</p>
Cost Allocation Methodology	<p>the document titled “Ringfencing Rules, Part 1: <i>Cost Allocation methodology</i> for Horizon Power” published by Horizon Power with the ringfencing measures required under section 134(1)(b) of the <i>Code</i>.</p>
covered network	<p>has the same meaning given to it in section 3 of the <i>Act</i>.</p> <p>{As at 07 April 2020, the <i>Act</i> defines <i>covered network</i> as network infrastructure facilities that —</p> <ul style="list-style-type: none"> (a) were covered by the <i>Code</i> [i.e. the ENAC] immediately before the day on which the <i>Electricity Industry Amendment Act 2019</i> section 4(3) comes into operation and that have not ceased to be a <i>covered network</i>; or (b) the Minister has decided under the <i>Code</i> [i.e. the ENAC] are to be a <i>covered network</i> and that have not ceased to be a <i>covered network</i>; or (c) are prescribed in the Pilbara Networks Access Code under section 120B(a) to be a <i>covered Pilbara network</i> and that have not ceased to be so prescribed; or (d) a <i>network service provider</i> has opted, under the Pilbara Networks Access Code, to be regulated under Part 8A and that — <ul style="list-style-type: none"> i. have not ceased to be so regulated under that <i>code</i> as a consequence of an option by the <i>network service provider</i> for the facilities to cease to be so regulated; or ii. have not otherwise ceased to be a <i>covered network</i>.}

Defined term	Meaning
covered Pilbara network	<p>has the same meaning given to it section 3 of in the <i>Act</i> and for the purposes of this document includes both a network and a right of the <i>NSP</i> to use a network (to the extent of that right of use).</p> <p>{As at 07 April 2020, the <i>Act</i> defines <i>covered Pilbara network</i> as a <i>covered network</i> that is located wholly or partly in the <i>Pilbara region</i>.}</p>
covered service	<p>has the same meaning given to it in the <i>Code</i>.</p> <p>{As at 25 June 2021, the <i>Code</i> defines <i>covered service</i> as a service provided by means of a <i>light regulation network</i>, but does not include an <i>excluded service</i>.}</p>
customer	<p>has the same meaning given to it in the <i>Code</i>.</p> <p>{As at 25 June 2021, the <i>Code</i> defines <i>customer</i> as a—</p> <ul style="list-style-type: none"> (a) user; or (b) end-use <i>customer</i> in the end-use <i>customer's</i> capacity as indirect <i>customer</i> for <i>covered services</i>.}
electricity information	<p>information about electricity networks, electricity <i>customers</i> or electricity services that relates to an identifiable <i>customer</i> or class of <i>customer</i> with fewer than three <i>customers</i>.</p>
Horizon Power coastal network	<p>has the same meaning given to it in the <i>Code</i>.</p> <p>{As at 25 June 2021, the <i>Code</i> defines <i>Horizon Power coastal network</i> as the network comprising—</p> <ul style="list-style-type: none"> (a) the <i>network</i> which became a <i>covered network</i> as a result of the Minister's "final coverage decision" of 2 February 2018 under the [Electricity Networks Access Code] ENAC (b) any other <i>network</i> owned by <i>Regional Power Corporation</i> and <i>interconnected</i> as at the <i>code commencement date</i> with the <i>network</i> in paragraph (a); and (c) any <i>augmentation</i> as at the <i>code commencement date</i> of a <i>network</i> in paragraph (a) or (b); and (d) any <i>augmentation</i> of the <i>network</i> which forms part of the <i>network</i> under section 4(1).}

Defined term	Meaning
Horizon Power Pilbara Network Business	<p>a ringfenced business unit within Horizon Power responsible for the <i>Horizon Power coastal network</i>, including those functions carried out by Horizon Power for the purposes of providing network services in the <i>Horizon Power coastal network</i>.</p> <p>Note: <i>Horizon Power Pilbara Network Business</i> is not a separate <i>legal entity</i> and all contractual commitments will be executed in the name of Horizon Power. Where the term <i>Horizon Power Pilbara Network Business</i> is used, it means Horizon Power, acting in its capacity as the owner and operator of the <i>covered Pilbara network</i>, as distinct from Horizon Power acting in its capacity as a provider of services to other regions or as a provider of non-regulated services such as generation and retail within the <i>Pilbara region</i>.</p>
Information owner	<p>has the same meaning given to it in the <i>Code</i>.</p> <p>{As at 25 June 2021, section 157 of the <i>Code</i> defines <i>information owner</i>, for an element of <i>confidential information</i>, as the person whose confidence would be breached by the element's disclosure.}</p>
information register	<p>the register established, maintained and kept under clause 9.3.5.</p>



Defined term	Meaning
law	<p>“written law” and “statutory instruments” as defined in the <i>Code</i>.</p> <p>{As at 25 June 2021, the <i>Code</i> defines <i>written law</i> as—</p> <ul style="list-style-type: none"> (a) all Western Australian Acts and all Western Australian subsidiary legislation for the time being in force; and (b) all Commonwealth Acts and all Commonwealth subsidiary legislation for the time being in force, where the term subsidiary legislation has the meaning given to it under the <i>Interpretation Act 1984</i>, if “Commonwealth Act” were substituted for “written law”.} <p>{As at 25 June 2021, the <i>Code</i> defines <i>statutory instrument</i> as all relevant instruments made under a written law including all directions, notices, orders and other instruments given or made under a written law and includes, as existing from time to time—</p> <ul style="list-style-type: none"> (a) orders made under section 8 of the <i>Act</i>; and (b) licences granted, renewed or transferred under section 19 of the <i>Act</i>; and (c) standard form contracts approved under section 51 of the <i>Act</i>; and (d) orders made under section 181(3) of the <i>Electricity Corporations Act 2005</i>; and (e) approved policies as defined in section 60 of the <i>Act</i>; and (f) last resort supply plans approved under section 73 of the <i>Act</i> as amended under sections 74 and 75 of the <i>Act</i>; and (g) the <i>Pilbara networks rules</i>; and (h) this <i>Code</i>.}
legal entity	<p>a natural person, a body corporate (including a statutory corporation or public <i>authority</i>), a partnership, or a trustee of a trust, but excludes <i>staff</i> in their capacity as such.</p>
network business	<p>has the same meaning given to it in the <i>Code</i>.</p> <p>{As at 25 June 2021, the <i>Code</i> defines <i>network business</i> as the part of an <i>NSP</i>’s business and functions which are responsible for the operation and maintenance of a <i>light regulation network</i> and the provision of <i>covered services</i> by means of the <i>light regulation network</i>.}</p>

Defined term	Meaning
network service provider	<p>has the meaning given to ‘Pilbara <i>network service provider</i>’ in the <i>Act</i>.</p> <p>{As at 07 April 2020, section 120 of the <i>Act</i> defines ‘Pilbara <i>network service provider</i>’ as a person who —</p> <ul style="list-style-type: none"> (a) owns, controls or operates a <i>Pilbara network</i> or any part of a <i>Pilbara network</i>; or (b) proposes to own, control or operate a <i>Pilbara network</i> or any part of a <i>Pilbara network</i>;}
new pricing period	<p>has the same meaning given to it in the <i>Code</i>.</p> <p>{As at 25 June 2021, the <i>Code</i> defines <i>new pricing period</i>, in respect of the start of a <i>pricing period</i>, as the <i>pricing period</i> which is commencing. }</p>
officer	<p>in relation to a <i>legal entity</i>:</p> <ul style="list-style-type: none"> a) a director or company secretary of the <i>legal entity</i>; b) a person who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the <i>legal entity</i>; or c) a person who has the capacity to affect significantly the <i>legal entity’s</i> financial standing.
other business	<p>has the same meaning given to it in the <i>Code</i>.</p> <p>{As at 25 June 2021, the <i>Code</i> defines <i>other business</i> as the part or parts of an <i>NSP’s</i> business which are not the <i>network business</i>, and includes any part or parts of the <i>NSP’s</i> business and functions which acquire <i>covered services</i> from the <i>network business</i>.}</p>
Pilbara network	<p>has the same meaning given to it in the <i>Act</i>.</p> <p>{Note: At at 07 April 2020, section 3 of the <i>Act</i> defines <i>Pilbara network</i> as the network infrastructure facilities that are located wholly or partly in the <i>Pilbara region</i>.}</p>
Pilbara networks rules	<p>has the meaning given in the <i>Act</i>.</p>
Pilbara regime	<p>has the same meaning given to it in section 157 of the <i>Code</i>.</p> <p>{As at 25 June 2021, the <i>Code</i> defines <i>Pilbara regime</i> as Parts 8A and 9B of the <i>Act</i>, Parts 8 and 10 of the <i>Act</i> applying in respect of a <i>Pilbara network</i>, this <i>Code</i>, and the <i>Pilbara networks rules</i>.}</p>

Defined term	Meaning
Pilbara region	<p>has the same meaning given to it in the <i>Act</i>.</p> <p>{As at 07 April 2020, the <i>Act</i> defines <i>Pilbara region</i> as the <i>Pilbara region</i> defined in the <i>Regional Development Commissions Act 1993</i> Schedule 1.}</p>
pricing period	<p>has the same meaning given to it in the <i>Code</i>.</p> <p>{As at 25 June 2021, the <i>Code</i> defines <i>pricing period</i> as the defined future period, which must not be more than 5 years, for which a <i>services and pricing policy</i> is applicable.}</p>
related market	<p>has the same meaning given to it in the <i>Code</i>.</p> <p>{As at 25 June 2021, the <i>Code</i> defines <i>related market</i> as the market in which a related business of an <i>NSP</i>, or an <i>associate</i> of an <i>NSP</i>, participates.}</p>
ringfencing commencement date	<p>has the same meaning given to it in the <i>Code</i>.</p> <p>{As at 25 June 2021, the <i>Code</i> defines <i>ringfencing commencement date</i> as the date ringfencing rules are expressed to take effect in accordance with section 133(2).}</p>
South West Interconnected System	<p>has the same meaning given to it in the <i>Act</i>.</p> <p>As at 07 April 2020, the <i>Act</i> defines <i>South West Interconnected System</i> as the interconnected transmission and distribution systems, generating works and associated works —</p> <ul style="list-style-type: none"> (a) located in the South West of the State and extending generally between Kalbarri, Albany and Kalgoorlie; and (b) into which electricity is supplied by— <ul style="list-style-type: none"> i. one or more of the electricity generation plants at Kwinana, Muja, Collie and Pinjar; or ii. any prescribed generation plant.}
staff	<p>of a <i>legal entity</i>, includes:</p> <ul style="list-style-type: none"> a) employees of the <i>legal entity</i>; b) direct or indirect contractors to the <i>legal entity</i> (whether the contractors are individuals or corporate or other <i>legal entities</i>); c) employees of direct or indirect contractors to the <i>legal entity</i>; and d) individuals (including secondees) otherwise made available to the <i>legal entity</i> by another <i>legal entity</i>.

8. PREVENTION OF CROSS SUBSIDIES

8.1 Legal separation

The *Electricity Corporations Act 2005 (WA)* establishes Regional Power Corporation, trading as Horizon Power, as a corporation with responsibility for the supply of electricity outside the *South West Interconnected System*.

Horizon Power has an Integrated Regional Licence, issued by the *Authority*, under the *Act*, which authorises it to construct and operate transmission and distribution systems and retail electricity to *customers* other than through the *South West Interconnected System*.

As Horizon Power has been established as a vertically integrated entity, a number of ringfencing measures, other than legal separation, have been implemented to ensure that there is not a reduction of competition resulting from any conduct between those parts of the business that:

- provide or market *covered network* services in the *Pilbara region*
- provide or market contestable generation or retail electricity services in the *Pilbara region*
- provide electricity services in regional Western Australia, other than in the *Pilbara region*.

8.2 Establish and maintain separate accounts

This section sets out the ringfencing measures required under section 134(1)(b) of the *Code* to allocate costs between the *network business* and any *associate* or *other business* of the NSP in a manner which avoids the charges being paid by users of the *network business* incorporating costs or charges associated with an *associate* or *other business* of the NSP.

8.2.1 Separate accounts

Horizon Power has established, and will maintain, appropriate internal accounting procedures to ensure that it can demonstrate the extent and nature of transactions between the *Horizon Power Pilbara Network Business* and *other businesses* within Horizon Power, that is, those parts of the business that provide or market contestable generation or retail electricity services, or unregulated electricity services.

8.2.2 Cost allocation and attribution

Horizon Power will allocate or attribute costs to the *Horizon Power Pilbara Network Business* and *other businesses* within Horizon Power in a manner that is consistent with its *Cost Allocation Methodology* so that the charges for accessing the *covered Pilbara network* do not include costs or charges associated with Horizon Power's *other businesses*.

The *Cost Allocation Methodology* is consistent with the following principles:

- any asset values and operating costs that are directly attributable to an activity associated with the *Horizon Power Pilbara Network Business* or to the *other businesses* are allocated to the activity to which they are directly attributable

- any asset values and operating costs that are not directly attributable are allocated to the *Horizon Power Pilbara Network Business* in accordance with an appropriate allocator, which:
 - unless unable to be delivered without undue cost or effort or the cost is immaterial, is causation based, and
 - otherwise reflects a reasonable and well-accepted allocation approach.

9. COMPETITION PROTECTION MEASURES

9.1 Obligation to not discriminate

This section sets out the ringfencing measures required under section 134(1)(c) of the *Code* to ameliorate the potential for discriminatory treatment in favour of an *associate* or *other business* of the NSP as compared to competitors in a *related market*, or against such competitors, whether the treatment occurs through operational decision making, contracting or otherwise.

In providing *covered network services*, the *Horizon Power Pilbara Network Business* will not discriminate (either directly or indirectly) between those parts of the Horizon Power business that provide or market contestable generation or retail electricity services in the *Pilbara region* and a competitor (or potential competitor) of Horizon Power in connection with the provision of:

- *covered network services* (whether to itself or any other *legal entity*)
- contestable electricity services by any other *legal entity*.

The *Horizon Power Pilbara Network Business* will do this by ensuring that, in providing *covered network services*, it:

- treats that part of the Horizon Power business that provides and markets contestable generation or retail electricity services in the *Pilbara region* as if they were not part of the same *legal entity* (that is, as if they have no connection or affiliation with the *Horizon Power Pilbara Network Business*)
- in like circumstances, deals or offers to deal with that part of the Horizon Power business that provides and markets contestable generation or retail electricity services in the *Pilbara region* and a competitor (or potential competitor) of Horizon Power on substantially the same terms and conditions
- in like circumstances, provides substantially the same quality, reliability and timeliness of service to that part of the Horizon Power business that provides and markets contestable generation or retail electricity services in the *Pilbara region* and a competitor (or potential competitor) of Horizon Power
- will not disclose to that part of the Horizon Power business that provides and markets contestable generation or retail electricity services in the *Pilbara region* information that the *Horizon Power Pilbara Network Business* has obtained through its dealings with a competitor (or potential competitor) of Horizon Power where the disclosure would, or would be likely to, provide an advantage to Horizon Power.

The *Horizon Power Pilbara Network Business* will communicate these requirements to all its *staff* through:

- a Ringfencing Declaration that will be signed by all *staff* that are involved with the provision of services in the *Pilbara region*, either prior to 1 July 2021 or on commencement of employment with Horizon Power, whichever is the latter
- training on the ringfencing arrangements prior to 1 July 2021
- induction training and a periodic refresh of the induction training
- this document and other relevant policies and procedures
- ongoing compliance monitoring and reporting to all its *staff*.

In accordance with section 131 of the *Code*, there is to be a deemed associate arrangement between the *Horizon Power Pilbara Network Business* and those parts of Horizon Power that provide or market contestable services in the *Pilbara region*. The deemed associate arrangement sets out the terms and conditions of the arrangement by which the *Horizon Power Pilbara Network Business* provides *covered services* to those parts of Horizon Power that provide or market contestable services in the *Pilbara region*.

The terms and conditions are to the same standard as they would if the *Horizon Power Pilbara Network Business* is dealing on an arms-length basis and do not competitively or financially disadvantage third parties relative to Horizon Power.

9.2 *Staff, offices, branding and promotions*

This section sets out additional ringfencing measures required under section 134(1)(c) of the *Code* to ameliorate the potential for discriminatory treatment in favour of an *associate* or *other business* of the NSP as compared to competitors in a *related market*, or against such competitors, whether the treatment occurs through operational decision making, contracting or otherwise.

9.2.1 *Separate staff*

In preparation for the commencement of coverage of the *Pilbara network* on 1 July 2021, Horizon Power restructured its business to maximise the extent to which *staff* involved in the provision or marketing of *covered network* services in the *Pilbara region* are not also involved in the provision or marketing of contestable generation or retail electricity services in the *Pilbara region*, except where:

- a member of its *staff* who, in the course of their duties:
 - does not have access to *electricity information*
 - has access to *electricity information* but does not have, in performing the roles, functions or duties of their *staff* position, any opportunity to use that *electricity information* to engage in conduct that is contrary to the *Horizon Power Pilbara Network Business's* obligation to not discriminate
 - only has access to *electricity information* to the extent necessary to perform services that are not electricity services (such as corporate services which include general administration, accounting, payroll, human resources, legal, or information technology support services)

- assistance is provided to another *network service provider* to the extent necessary to respond to an event (such as an emergency) that is beyond the reasonable control of the other *network service provider*
- the member of *staff* is an *officer* of Horizon Power.

For example, the metering team was moved from Customer Service, which is retail-focused, to Operations Technology; network-related functions undertaken by Customer Service Officers in the regions were moved to Operations Technology; and any business development activities associated with the *covered Pilbara network* were moved from Commercial and Business Development to the Network Regulation and Open Access team.

However, Horizon Power does not have the economies of scale or scope to separate a small number of functions that are shared between the provision or marketing of *covered network services* in the *Pilbara region* and the provision or marketing of contestable generation or retail electricity services in the *Pilbara region*. The costs and disruption associated with separating these functions outweigh the potential benefits for a small number of contestable *customers*.

The functions that continue to be shared, and the additional safeguards that have been implemented, are set out in Table 9.3, being the table below.

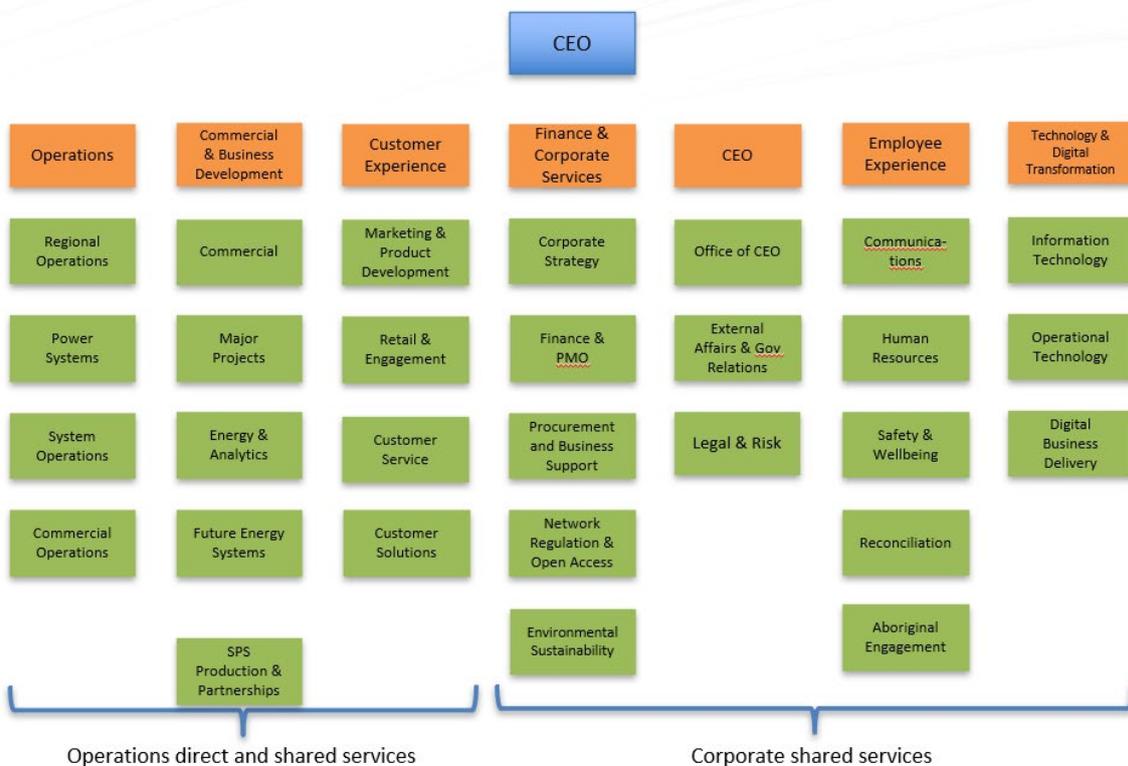
Abbreviation	Meaning
Customer Services (Call Centre)	A separate telephone number has been established for network-related calls, with all calls directed to a single call centre queue for Horizon Power while the number of contestable <i>customers</i> is very low. The cost to separately resource the answering of these calls currently outweighs the benefit. However, the establishment of a separate telephone number facilitates the separation of resources if it becomes evident that a dedicated resource could be justified by the number of network-related calls from contestable <i>customers</i> .
Customer Services (Processes/systems)	A small team is currently responsible for maintaining the systems and processes associated with the retail billing system and the metering systems. From the <i>ringfencing commencement date</i> , the responsibility for maintaining the metering systems and processes will be transferred to the metering team.
Future Energy Systems (long term planning and forecasting)	Long term planning and forecasting for the entire Horizon Power business is undertaken by a specific team within Commercial and Business Development known as Future Energy Systems. <i>Confidential information</i> from other parties is required for Future Energy Systems to undertake long term planning and forecasting, and access by the contestable parts of Horizon Power to the long term plans and forecasts would provide those parts with a competitive advantage.

Abbreviation	Meaning
	<p>To mitigate the risk of not meeting the ringfencing objectives, access, by employees in the contestable part of the business, will not be permitted to <i>confidential information</i> held by Future Energy Systems, and all documentation relating to long term planning and forecasting is quarantined from employees providing contestable services.</p> <p>Physical relocation of the Future Energy Team will be reconsidered after 1 January 2022</p>
<p>Asset Management Support, Capacity Management Support and Engineering Services</p>	<p>These functions predominantly provide services to parts of Horizon Power that are regulated or not contestable. However, they also provide generation services, some of which are contestable.</p> <p>To mitigate the risks that the ringfencing objectives will not be met:</p> <ul style="list-style-type: none"> • periodic training is conducted for employees on their ringfencing obligations • <i>confidential information</i> is protected and quarantined from employees providing contestable services • as much information as possible that can be shared is published.
<p>HP Systems Operations</p>	<p>HP Systems Operations, via the Horizon Power Control Centre (HPCC), monitors and controls the electricity system across Horizon Power's entire network. The HPCC will manage the <i>Horizon Power coastal network</i> in accordance with the <i>Pilbara networks rules</i> and the Independent System Operator's (ISO's) directions and protocols.</p> <p>The HPCC will also perform dispatch of Horizon Power's generators in accordance with procedures. The HPCC will not interfere with any generation dispatch unless required to do so in accordance with the ISO's direction.</p> <p>To mitigate the risks that the ringfencing objectives will not be met:</p> <ul style="list-style-type: none"> • the operations of the HPCC are undertaken in a physically discrete room, separate from the rest of the business. Information and data shown on monitors in that separate room and visible to the HPCC will not be visible to anyone else within the business by virtue of frosting all transparent and glass surfaces previously allowing visual access into the HPCC's separate room • periodic training is conducted for employees on their ringfencing obligations • <i>confidential information</i> is protected and quarantined from employees providing contestable services.

Horizon Power also currently does not have the economies of scale to separate the provision or marketing of *covered network services* in the *Pilbara region* from the provision or marketing of *contestable network services* in the *Pilbara region*, as the value of *contestable network services* provided is not material. The organisational structure will be reviewed should Horizon Power choose to become more active in the provision of *contestable network services* in the *Pilbara region*.

Horizon Power’s current organisational structure is provided in Figure 9.4.

Figure 9.4: Horizon Power’s organisational structure



The *Horizon Power Pilbara Network Business’s staff* do not receive any remuneration, incentives and other benefits (financial or otherwise) that provide them with an incentive to act in a manner that is contrary to these ringfencing rules. The Chief Executive Officer’s remuneration is determined by the Salaries and Allowances Tribunal and the remuneration of senior executives is aligned with State Government policies.

9.2.2 Separate offices

Horizon Power’s *staff* that provide or market electricity services in the *Pilbara region* are located in three offices – in Bentley, Karratha and Port Hedland.

Staff located in Karratha and Port Hedland only provide electricity services to *customers* in the *Pilbara region*, while *staff* located in Bentley provide electricity services to the *Pilbara*

region as well as other regional areas of Western Australia, and also provide corporate services.

The Bentley office complex comprises a number of separate buildings. Other than *staff* that are *officers* of Horizon Power, to the maximum extent possible, *staff* located in the Bentley office that provide or market contestable generation or retail electricity services in the *Pilbara region* are located in a different building to those that provide or market *covered network* services in the *Pilbara region*.

The current contestability threshold does not justify the costs and disruption associated with reconfiguring the Karratha and Port Hedland offices to prevent access by *staff* that provide or market contestable generation or retail electricity services in the *Pilbara region* to that part of the building in which the *staff* that provide or market *covered network* services are located.

9.2.3 Branding and cross-promotion

The current contestability threshold does not justify the costs and disruption associated with separating the branding of the contestable generation or retail electricity services in the *Pilbara region* from the branding of the *covered network* services.

9.2.4 Office and *staff* register

As required under section 134(1)(e) of the *Code*, Horizon Power has established and will maintain and keep a register that identifies the nature of the positions (including a description of the roles, functions and duties) of its members of *staff* which:

- do not have access to electricity information
- have access to *electricity information* but do not have, in performing the roles, functions or duties of their *staff* position, any opportunity to use that *electricity information* to engage in conduct that is contrary to the *Horizon Power Pilbara Network Business's* obligation to not discriminate
- only have access to *electricity information* to the extent necessary to perform services that are not electricity services (such as corporate services which include general administration, accounting, payroll, human resources, legal, or information technology support services)
- are an *officer* of Horizon Power.

9.3 Information access and disclosure

This section sets out the ringfencing measures required under section 134(1)(a) of the *Code* to ensure that *commercially sensitive information* and any information received by the NSP in respect of a function under the *Pilbara networks rules* is kept confidential and is only used within the *network business* and for the purpose for which it was acquired or developed.

9.3.1 Meaning of *confidential information*

Section 157 of the *Code* defines *confidential information* as information that:

- by its nature is confidential, or
- is specified to be confidential by the discloser.

Section 158 of the *Code* states that information is not confidential if it is in the public domain or ascertainable from public domain sources, was already in possession of Horizon Power when the information was disclosed, or has been developed independently.

For the purposes of this clause, *confidential information* includes *electricity information*, acquired or generated by the *Horizon Power Pilbara Network Business* in connection with its provision of *covered network* services, that is not already publicly available, and includes *electricity information* that:

- the *Horizon Power Pilbara Network Business* derives from that information, or
- is provided to the *Horizon Power Pilbara Network Business* by or in relation to a *customer* or prospective *customer* of *covered network* services.

Confidential electricity information includes non-public:

- network quality information – frequency stability, voltage stability, power factor and harmonic levels
- network asset loadings downstream of a substation
- *customer* consumption profiles (individuals or aggregated for a *customer* class with fewer than three *customers*)
- *customers'* tariff assignments (unless the information being sought is personal information).

9.3.2 Disclosure of *confidential information*

The *Horizon Power Pilbara Network Business* will not disclose *confidential information* to any person, including Horizon Power *staff* that provide or market contestable generation or retail electricity services, unless:

- a) subject to the pre-disclosure process set out below:
 - (i) it is reasonably necessary (as determined in good faith by the recipient of the Confidential Information) for performing a function under the *Pilbara regime*; or
 - (ii) it has obtained the *information owner's* written consent and is disclosed in accordance with any conditions in that consent;
 - (iii) on a confidential basis to its legal or other professional advisers; or
 - (iv) the disclosure is required under a written *law*, the ASX Listing Rules or the rules of any other applicable financial market; or
 - (v) the disclosure is directed by a court or arbitrator, on a confidential basis unless the court or arbitrator directs otherwise; or
 - (vi) the disclosure does not disclose any elements that could lead to the *information owner* being identified; or
- b) the disclosure is on a confidential basis to the Independent System Operator, the *Authority*, the Coordinator of Energy or the Minister; or
- c) the *confidential information* is omitted or obscured, and the omission of the *confidential information* is evident in the document from which the information is omitted.

Under section 165 of the *Code*, if the disclosure of the *confidential information* is subject to a pre-disclosure process, the person intending to disclose the confidential information must:

1. first have regard to the primary and secondary objectives in section 156 of the *Code* and consider the balance between the benefits associated with the proposed disclosure and any likely detriment to the *information owner* from the proposed disclosure
2. notify the *information owner* of the proposed disclosure, describing the information proposed to be disclosed and, if practicable, the circumstances of the disclosure
3. allow the *information owner* an opportunity to express its views and to request redactions or other changes to minimise disclosure of *confidential information*
4. have regard to the *information owner's* views and requests
5. if compelled to disclose the *confidential information*, minimise what is disclosed and not hinder the *information owner* intervening in the process.

9.3.3 Sharing of confidential *electricity information*

Where the *Horizon Power Pilbara Network Business* shares *confidential electricity information* with Horizon Power *staff* that provide or market contestable generation or retail electricity services, it will provide access to that *confidential electricity information* (including the derived information) to other legal entities on an equal basis, but only where:

- the *legal entity* has requested that it be included on the *information register* in respect of information of that kind
- the *legal entity* is competing, or is seeking to compete, with Horizon Power in relation to the provision of contestable electricity services.

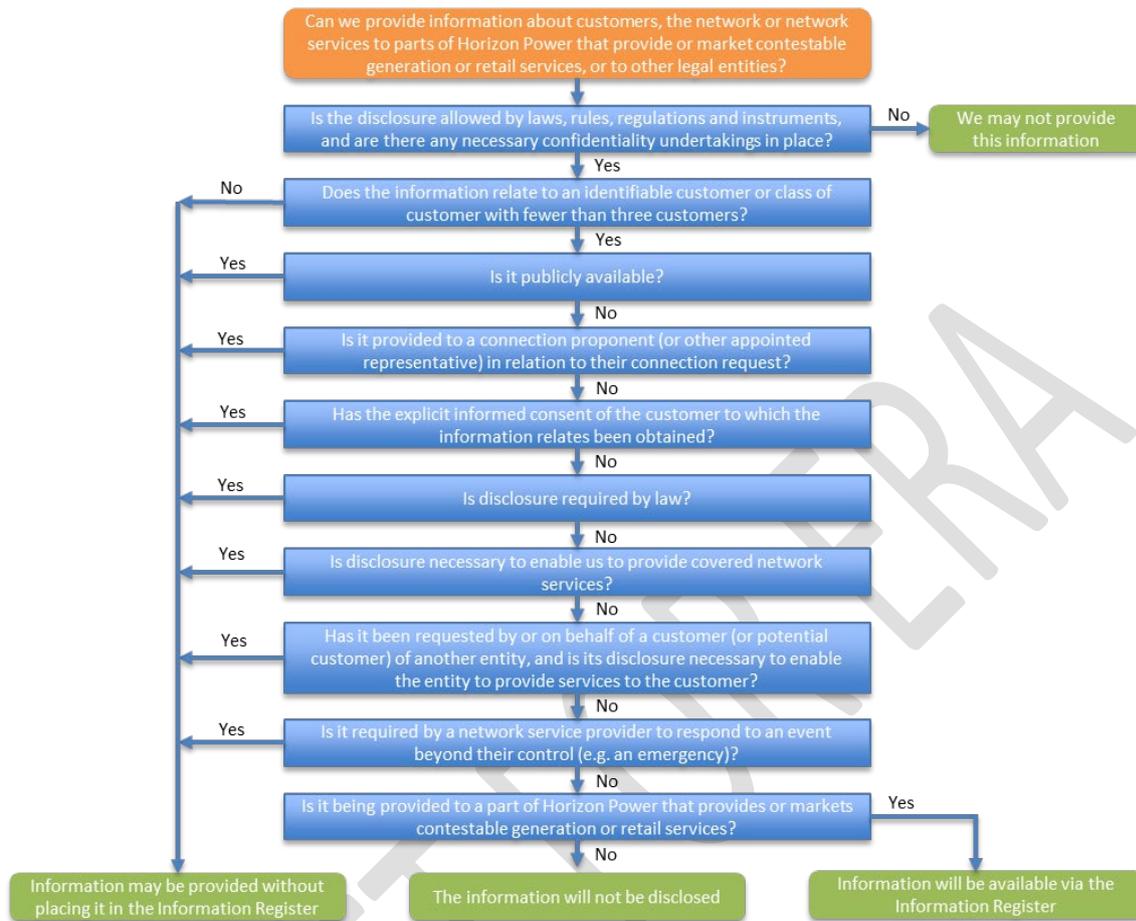
9.3.4 Provision of *confidential information* (including confidential electricity information)

Horizon Power will:

- from the *ringfencing commencement date*, implement changes to its IT systems to ensure that *confidential information* is kept confidential.
- from 1 July 2021, transition to a metering data information system which will enable the contestable parts of the business to only have access to data that relates to its own customers. In the meantime, training has been provided to staff on the requirement for metering data to only be accessed as permitted under the *Code*
- from 1 July 2021 and prior to the *ringfencing commencement date*, relevant *staff* will be bound by the Ringfencing Declaration that requires them to keep *confidential information* confidential
- only use *confidential information* for the purpose for which it was acquired or generated.

The flow chart in Figure 9.5 illustrates the circumstances under which *confidential electricity information* will be disclosed.

Figure 9.5: Circumstances under which confidential electricity information will be disclosed



9.3.5 Information register

As required under section 134(1)(e) of the *Code*, Horizon Power has established and will maintain and keep a register of legal entities that have requested to be included on the *information register* so that they can access *confidential information* that has been shared with a part of Horizon Power that provides or markets contestable generation or retail services.

The *information register* identifies, for each *legal entity* on the *information register*, the kinds of information requested by the *legal entity*.

10. REFERENCES

The following material is required and should be read in conjunction with this document:

LEGAL REFERENCES:	<i>Pilbara Networks Access Code 2021</i>
STANDARD & GUIDELINES:	
RELATED POLICIES AND OTHER DOCUMENTS:	<i>Cost Allocation Methodology</i>

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