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Network Regulation Review (Package 1) and Nexa and ENA rule change requests

AGL Energy welcomes the opportunity to comment on the Australian Energy Market Commission's consultation paper on Package 1 of the Electricity Network Regulation Review, the Nexa Advisory rule change request on clarifying distribution ring-fencing in emerging energy markets, and the Energy Networks Australia rule change request on enabling DNSP-led electric vehicle charging infrastructure.

Overview

AGL supports a regulatory framework that enables customers to electrify, integrate CER and use flexible demand through competitive markets, while ensuring DNSPs perform the monopoly functions needed to support efficient deployment. Customers are best served when DNSPs provide network information, connection services, facility access, operational visibility and coordination on fair, timely and transparent terms, and competitive providers deliver customer-facing services. Where those DNSP-controlled inputs are slow, uncertain or difficult to access, they can become barriers to entry and expansion for market participants. The solution is to strengthen DNSP enablement, not to expand DNSP ownership or control of contestable services.

Competitive markets put pressure on providers to lower costs, improve service and innovate. The review should assess consumer outcomes by reference to the framework that will best lower customer bills, enable greater customer choice and support innovation in products and services over time, not only by reference to short-term deployment objectives or lower apparent costs from using existing DNSP assets and resources. Customers are harmed when contestable costs and commercial risks are shifted into regulated charges, when monopoly businesses expand into markets that could otherwise be served competitively, and when market participants lose confidence that competition will be allowed to develop. That harm may appear as investment not made, competitors not entering, products not developed, innovation that does not occur and reduced pressure to improve services and lower costs. The framework should minimise unnecessary bill impacts for customers with and without CER, while supporting efficient electrification and CER uptake.

CER uptake is changing how customers use the distribution network and may create new system challenges, but it is also a customer-led opportunity. Customers are choosing CER because it helps them manage their energy needs and supports a cleaner, more reliable and more affordable system. The regulatory framework should preserve the conditions that allow customers to choose the products, services and providers that best meet their needs. As electrification scales, competition will be critical to delivering innovative services at lowest cost. Once competitive providers have timely access to the network information, connection

processes and other inputs they need, they can deploy faster, test diverse customer propositions and share the value of CER flexibility with customers. Any system operator intervention or control should be limited to what is necessary to manage demonstrated issues, so customers remain in control of how they use their CER wherever practical.

The review should therefore start from a clear presumption that contestable services remain contestable, so customers can continue to benefit from choice, innovation and competitive pressure. Service classification should not be used to expand DNSP ownership. Waivers should be a last resort exception. Connection, facility access and information arrangements should require DNSPs to enable market-led deployment. Cost allocation and shared asset arrangements should prevent contestable costs and commercial risks being socialised across electricity consumers.

In summary, AGL recommends that the AEMC:

- preserve the service classification boundary between regulated network services and contestable markets
- implement the Nexa rule change request by strengthening ring-fencing through clearer NER principles and stronger waiver safeguards
- require DNSPs to actively enable market-led deployment through fair, timely and transparent access to network information, connection services and facilities
- prevent shared and contestable asset costs and commercial risks from being recovered from electricity consumers through regulated charges or the RAB
- not make the ENA rule change request.

Service classification must exclude networks from contestable markets (Q2)

Service classification is the framework for determining what services should be regulated and what services should remain contestable. As a matter of economic principle, services with natural monopoly characteristics should be regulated and services that can be provided through competition should remain contestable. AGL accepts that EV charging, community batteries, orchestration services and other CER-related services are putting pressure on existing classification boundaries and creating integration challenges for networks. However, those challenges should not be used to redraw the boundary in favour of DNSP ownership or regulated cost recovery. Building exceptions into service classification would weaken the boundary itself and avoid the scrutiny that should apply where a DNSP seeks to enter a contestable market. Where exceptional circumstances are claimed to exist, they should be considered through the ring-fencing waiver framework.

Service classification should respond to enduring monopoly characteristics, not deployment-phase challenges in markets that are still scaling. EV charging, community batteries, CER orchestration and flexibility services are all likely to evolve as uptake increases, utilisation improves and business models mature. If there are short- or medium-term deployment gaps during that transition, they should be addressed through DNSP enablement, targeted government funding, access reforms or time-limited waivers where justified. They should not be used to justify durable changes to service classification that would need to be unwound once the market has developed.

This distinction matters because classification decisions have long-term consequences. If a contestable service is classified as a regulated network service, it can shift ownership, control and cost recovery toward monopoly businesses and away from the competitive

market. That would weaken the incentives that drive lower prices, better service, innovation and efficient investment, and could increase costs for customers over time.

The fact that a service is connected to, mounted on, enabled by, or interacts closely with network infrastructure should not be enough to make it a regulated network service. Many emerging services, including EV charging, community batteries, CER orchestration and flexibility services, will require network information, technical standards, access to poles or other facilities, connection services and operational coordination. Those are network-facing functions that DNSPs should provide on fair, transparent and non-discriminatory terms. They do not justify classifying the customer-facing or market-facing service as a regulated network service.

Recognition of DNSPs as distribution system operators (DSOs) should not change that principle. A DSO role should be an enabling role. DNSPs should provide the information, operational visibility, access arrangements and coordination mechanisms needed for market participants to compete and for consumers to benefit from electrification and CER. It should not become a basis for expanding DNSP ownership of assets or services that can be delivered competitively.

As DNSPs take on a greater DSO role, the service classification framework should focus on the function that has monopoly characteristics. Where DNSPs control access to capacity, export management, flexibility coordination, connection timing or network information, the framework should impose clear obligations on how those functions are performed. Those obligations should require transparency, non-discrimination and timely access for market participants. They should not result in the downstream CER, flexibility or customer-facing service being classified as a regulated network service.

AGL supports additional guidance in the NER on how the boundary between regulated and contestable services should be drawn. That guidance should make clear that regulated classification is appropriate only where a service has enduring monopoly characteristics or cannot reasonably be provided through competition. Where only the network-facing input is monopoly in nature, regulation should be confined to that input. The contestable service should remain contestable.

Ring-fencing obligations should be strengthened with waivers as a last resort exception (Q3)

The existing ring-fencing framework has helped preserve separation between regulated network services and contestable activities and has provided important protections against cross-subsidy and discrimination. However, those risks are broader where DNSPs, or their affiliates, participate in or seek to participate in contestable markets. Competition can be affected by information advantages, access to network data, control of connection and facility access processes, use of staff and systems, branding, local relationships and the ability to shape market expectations. AGL therefore supports strengthening ring-fencing obligations and waiver conditions, including clearer principles in the NER and detailed implementation through the AER's guidelines.

Waivers are the appropriate mechanism for testing any claimed exception to the classification boundary. They should not become a routine pathway for DNSPs to enter contestable markets. DNSP participation should not be justified by pointing to faster delivery, lower apparent costs or the use of existing assets, staff, systems or network information. Those features may make DNSP delivery appear attractive, but they are monopoly-derived

structural advantages that competitors cannot replicate. Claims that DNSP delivery is faster or cheaper should be treated cautiously because they may simply reflect monopoly control over network inputs, access to regulated resources, existing information advantages, or the ability to transfer costs and risks to electricity consumers. They are not efficiencies earned in the contestable market. Relying on them would allow DNSPs to compete on access to regulated monopoly benefits rather than price, service, innovation or efficient investment.

A waiver should only be granted where the need for DNSP participation has been clearly demonstrated. A DNSP should have to demonstrate that there is a clearly identified problem, that market-led and less intrusive alternatives would not address that problem, and that DNSP participation would deliver a measurable consumer benefit, including lower overall costs or better service outcomes for customers, that outweighs the competition risks. The question should not be whether DNSP involvement is administratively easier or can produce lower apparent costs by using existing monopoly resources. The question should be whether DNSP participation is necessary, proportionate, supported by clear evidence of market failure, and likely to deliver measurable benefits to consumers that outweigh the competition and bill impacts.

DNSP participation can also deter entry, accelerate exit or change expectations about whether a contestable market will remain open to competition, with harm occurring before it is visible in prices or service outcomes. The effect of waivers should not be considered only on a case-by-case basis. Repeated waivers across multiple markets can cumulatively change investment expectations and reduce confidence that contestable markets will remain open to competition.

Where a DNSP argues that the market has not delivered needed investment, the first response should be to support contestable entry rather than allow DNSP entry. That may include improving access to network information, standardising connection and facility access processes, targeted government funding, competitive procurement or other measures that preserve market-led delivery.

Any waiver that allows DNSP participation in a contestable market should be narrow, time-limited and subject to enforceable conditions. Those conditions should include transparent market testing, open and non-discriminatory access, equivalent information access, transparent cost allocation, restrictions on branding and cross-promotion, public reporting, independent review and a clear exit pathway. Rapid technology and market change is a reason to keep waivers time-limited, not a reason to extend them. This would preserve flexibility for genuine exceptions without normalising DNSP participation in contestable markets.

Network enablement, not DNSP ownership, is the pathway to faster CER deployment (Q4)

Market-led deployment depends on customer-facing providers being able to translate network and market signals into propositions, products and services that customers can understand, compare and choose. Retailers, aggregators, charging providers and other customer agents are best placed to perform that role because they have the customer relationships, insights, data, technology platforms and commercial incentives to help customers electrify, manage CER and share in the value their flexibility can provide. Competition also supports benefits for customers with and without CER by putting pressure on providers to lower costs, improve service and innovate.

DNSPs should therefore provide the inputs that enable that competition, not displace the customer-facing role of competitive providers. Many of the barriers to entry and expansion in EV charging, community batteries, CER orchestration and other CER markets arise because market participants depend on DNSPs for essential inputs. These include network information, site suitability information, access to poles and other facilities, connection processes, technical requirements, make-ready works, operational coordination and energisation timeframes. These are monopoly-controlled inputs. If they are slow, uncertain or difficult to access, market-led deployment will also be slow.

This is particularly important for emerging services such as V2G and VPPs, where open access to devices, data and operational signals will be needed so retailers, aggregators and other customer agents can orchestrate CER effectively and share value with customers across multiple value streams.

Barriers to market-led deployment should not be treated as evidence that DNSPs need to own or control the downstream service. They are evidence that the framework needs stronger obligations on DNSPs to provide timely, transparent and non-discriminatory access to the inputs on which market participants depend. Where deployment is slowed by network information, facility access, connection processes, make-ready works or energisation timeframes, the solution is to improve those inputs. Reducing these barriers is likely to accelerate deployment more effectively than expanding DNSP ownership, because it allows multiple providers to compete, invest and grow in response to customer demand.

The current framework provides stronger incentives for DNSPs to invest in, own and recover costs from assets than to enable third parties to deploy competing services. To accelerate CER deployment, the solution is to strengthen incentives for active DNSP enablement rather than expand opportunities for DNSP ownership. DNSPs should be expected to identify network constraints, publish usable information, streamline connection and facility access processes, support make-ready works, coordinate with market participants and remove avoidable barriers to market-led deployment. AGL considers Package 2 of the Network Regulation Review should directly consider how the regulatory framework can better reward DNSPs for enabling competitive providers to deploy efficiently, rather than primarily rewarding asset ownership and regulated expenditure.

The AEMC should therefore focus on practical reforms that make DNSP-controlled inputs available on fair, transparent, timely and non-discriminatory terms. This should include published network and site suitability information, standardised facility access arrangements, transparent access fees, clear technical requirements, transparent connection charges, clear timeframes for connection and energisation, and reporting on application outcomes and reasons for refusal or delay.

Information access should be treated as a core part of network enablement. Market participants need timely and usable information to identify feasible sites, assess connection costs, manage risks and invest. Where DNSPs retain information about network capacity, pole suitability, constraints or energisation timing, that lack of transparency can become a barrier to entry if the information is not shared clearly and consistently.

These reforms would address the source of many deployment barriers while preserving competition in customer-facing services. They would support the long-term interests of consumers by allowing retailers, aggregators, charging providers and other third parties to

compete on price, service, technology and customer experience. They would also minimise unnecessary bill impacts by ensuring customers are not asked to fund DNSP ownership where the relevant service can be delivered by the market.

Shared assets should not be a pathway for consumers to fund contestable services (Q5)

Multi-service assets can create a risk that electricity consumers fund costs or risks associated with services that are not shared network services. A community battery, digital platform or other shared asset may provide some network support, while also supporting contestable activities or commercial value streams that benefit particular users or market participants. The framework should prevent those contestable costs and risks being socialised across all electricity consumers simply because one part of the asset provides a regulated network service. This is particularly important where the costs or commercial risks would otherwise be recovered through bills paid by customers who may not use or benefit from the contestable service.

This issue is particularly important for community batteries, digital platforms and other assets that can provide both regulated network services and contestable market services. Costs and benefits should be allocated according to the services provided and the parties that benefit from those services. If a shared asset is used to support contestable activities, the costs and risks associated with those activities should sit with the parties receiving or commercialising those services.

Cost allocation should also be capable of review where the use of an asset changes materially over time. An allocation that is appropriate when an asset is deployed may no longer reflect how that asset is being used several years later. This is especially important where an asset begins as network-supporting infrastructure but later generates additional contestable value streams.

Cost allocation should not be viewed as a substitute for service classification or ring-fencing. Even where costs are allocated correctly, DNSP ownership and control of assets used to provide contestable services can still affect competition through information advantages, access advantages, operational control and market influence. Cost allocation should therefore complement, not replace, the broader framework that preserves competition in emerging markets.

Stronger ring-fencing is needed to protect contestable markets (Q6-Q8)

AGL supports the Nexa rule change request. The current ring-fencing framework has provided important protections, but its intent is being tested by repeated waiver applications and proposals for DNSPs to participate in emerging contestable markets. Stronger ring-fencing is needed to preserve clear boundaries between regulated monopoly services and contestable activities, prevent cross-subsidy and discriminatory treatment, and maintain confidence that competition will remain the primary mechanism for delivering investment, innovation and better outcomes for customers.

The NER should include clearer ring-fencing principles. Those principles should require clear separation between regulated and contestable activities, prevent regulated revenues or assets being used to support contestable activities, require non-discriminatory treatment, provide equivalent access to information and network inputs, and require transparency of waiver decisions, compliance reporting and enforcement outcomes.

Consistent with that approach, a market failure test should be a necessary threshold for any waiver that permits DNSP participation in a contestable market, regardless of whether the activity is funded through regulated charges, government grants or another source, but it should not be sufficient on its own. The NER should require the decision-maker to also consider necessity, proportionality, less intrusive alternatives, measurable customer benefits and the effect on market-led investment. Apparent benefits arising from a DNSP's regulated assets, workforce, systems or information should not be treated as market-earned efficiencies.

Contestable activities should not benefit from regulated revenues, regulated assets or the financial position of the regulated network business. Electricity consumers should not be exposed to commercial risks from contestable ventures. That principle should apply whether the risk arises through cost allocation, shared assets, affiliate arrangements, waiver conditions or broader corporate structures.

Existing waivers should not be allowed to continue indefinitely. They should be reviewed against any strengthened framework and brought into compliance on a sensible transition pathway. Where an existing waiver is inconsistent with updated protections for competition and consumers, it should be varied or ended. The transition should avoid unnecessary disruption, but temporary waivers should not become permanent pathways into contestable markets.

The NER should require greater transparency over waiver applications, waiver decisions, compliance reporting and enforcement outcomes. Stakeholders are often best placed to identify whether a proposal will affect competition, investment incentives or market development. Greater transparency would improve accountability and give market participants confidence that the framework is being applied consistently.

The same principles should apply to transmission ring-fencing arrangements. Wherever a regulated monopoly business participates in, or influences, a contestable market, there is potential for monopoly-derived advantages to affect competition, investment and consumer outcomes. The framework should prevent those advantages being used to support contestable activities.

The ENA proposal would weaken competition and increase costs for consumers (Q9–Q11)

AGL does not support the ENA rule change request. The proposal would enable DNSPs to install, own and maintain kerbside EV charging infrastructure as a regulated service on an ongoing basis. That would be a material expansion of regulated monopoly businesses into a contestable market and has not been justified by the evidence in the rule change request.

The ENA proposal should also be considered in the broader context of increasing pressure to expand DNSP participation across emerging CER and electrification markets, including EV charging, community batteries, CER orchestration and flexibility services. Across these markets, DNSPs control important network inputs that enable deployment, but that does not mean they need to own or operate the services delivered using those inputs.

AGL accepts that there are barriers to the deployment of public and kerbside EV charging infrastructure, including connection complexity, access to suitable sites, utilisation uncertainty and difficult economics in some regional or low-demand locations. AGL recognises that public charging gaps are a genuine challenge, particularly for customers

without access to off-street parking and in lower-utilisation locations where commercial investment may be more difficult. However, those barriers do not establish that DNSPs should own and maintain EV charging infrastructure as a regulated service. Many of the barriers identified by ENA relate to site identification, network information, connection processes, pole access, make-ready works and coordination between market participants. These are barriers to entry that arise because market participants depend on DNSP-controlled inputs. They should be remedied by requiring and incentivising DNSPs to enable market-led deployment. They do not require DNSPs to own or control the contestable charging service.

These challenges are also likely to change as EV uptake increases, utilisation improves and commercial models mature. A permanent regulated pathway for DNSP ownership is not a proportionate response to barriers that may be temporary, location-specific or better addressed through targeted funding and access reforms.

Customer-facing EV charging does not have natural monopoly characteristics. Providers compete through location, reliability, price, charging speed, payment options, customer experience, utilisation and integration with broader energy offers. Competition is the mechanism most likely to deliver efficient deployment, innovation and better customer outcomes over time. The fact that charging infrastructure is connected to, or mounted on, distribution assets does not convert the customer-facing charging service into a regulated network service.

Network-led EV charging can appear attractive because DNSPs have existing infrastructure, pole access, connection capability, field resources, regulated returns and limited risk exposure. However, those features are monopoly-derived advantages that competitors cannot replicate. They are not efficiencies earned in the EV charging market. If DNSPs can rely on those advantages in EV charging, competition is no longer based on price, service and innovation, but on access to regulated monopoly benefits. This is not in the long-term interests of customers, because these frameworks are designed to protect them from unnecessary costs.

The proposal would require electricity consumers to fund contestable infrastructure and bear commercial risks that should sit with providers and users of the service. If DNSPs were allowed to recover the costs of EV charging infrastructure through regulated network charges and add those costs to the regulated asset base, all electricity consumers, including renters, low-income households, households that do not own cars and households that cannot afford or do not own EVs, would be required to fund infrastructure and risks that primarily benefit a narrower group of transport users. That is fundamentally different from shared network expenditure, where costs are socialised because the service is universally used.

RAB recovery would also weaken efficiency incentives by giving DNSPs regulated returns with limited exposure to utilisation, customer demand, service quality or competitive pressure. A competitive charging provider must locate, price, maintain and improve its service to win and retain customers. A DNSP would not face the same commercial consequences if utilisation is low, the customer experience is poor, or the asset is poorly located.

The consumer detriment is not limited to immediate bill impacts. DNSP-owned, regulated assets can deter private investment, reduce confidence that the market will be allowed to develop on commercial terms and weaken incentives for providers to invest in better reliability, payment systems, pricing models, customer experience, maintenance performance and site utilisation. That harm may appear as investment not made, competitors not entering, products not developed, innovation that does not occur and reduced pressure to improve services and lower costs. DNSP-led deployment is also likely to favour uniform, longer-term network solutions, while competitive markets are better placed to produce diverse products, technologies and customer offers as EV charging and CER markets evolve.

Open access to DNSP-owned chargers would not resolve these concerns. Under the ENA proposal, DNSPs would still control the infrastructure, site selection, investment timing, maintenance standards, access terms and cost recovery framework. A model that preserves retail access but gives DNSPs ownership and control of the charging platform still risks replacing market-led growth with regulated delivery.

Any deployment strategy should not allow DNSPs to reserve sites, control deployment sequencing or establish long-term control over locations that could otherwise be served by market participants.

If the AEMC considers any DNSP role is required, it should be limited to clearly defined provider-of-last-resort circumstances and tested through the ring-fencing waiver framework or an equivalent exceptional approval process. Any such role should be targeted to identified locations, subject to transparent market testing, limited in duration and scale, independently reviewed, and include a clear pathway out of DNSP ownership. It should not be available wherever a DNSP considers deployment would be useful or efficient.

The pathway to faster EV charging deployment is to remove barriers to market-led investment. DNSPs should support that pathway by providing network information, connection assessments, site facilitation, necessary connection and make-ready works and streamlined approvals. Targeted government funding can address genuine viability gaps through transparent market testing and competitive processes. This differs from RAB recovery, which socialises contestable infrastructure costs and commercial risks across electricity consumers regardless of whether they benefit from the service. The ENA proposal would instead create an ongoing pathway for DNSPs to own contestable infrastructure and recover costs through the regulatory framework. It should not proceed.

The Commission should assess reform options by their long-term consumer outcomes (Q12)

Consumer outcomes must be assessed by reference to the framework that will best lower customer bills, enable greater customer choice and support innovation in products and services over time. The assessment should look beyond short-term deployment objectives or lower apparent costs that can be achieved by using existing DNSP assets and resources.

AGL broadly supports the AEMC's proposed assessment criteria. The criteria appropriately recognise consumer outcomes, market efficiency, innovation and flexibility, emissions reduction and good regulatory practice. The key issue is how those criteria are applied to proposals that would expand regulated monopoly businesses into contestable markets.

Market efficiency should include the effect of reforms on investment signals and risk allocation. In contestable markets, parties that choose to invest should bear the risk of that investment. Where regulated monopoly businesses own contestable assets and recover costs through regulated charges, those risks can be shifted to electricity consumers. That is not an efficient allocation of risk and can increase bill impacts for customers who may not use or benefit from the relevant service.

Innovation and flexibility are also best supported by preserving the role of competitive markets. The Commission should give weight to dynamic harms, including deterred investment, reduced innovation, weaker service incentives and lower competitive pressure over time.

Emissions reduction should not be treated as requiring DNSP ownership of contestable assets. Electrification and CER uptake can be accelerated through network enablement, targeted government funding, efficient connection processes, transparent information and market-led investment. Those approaches support emissions objectives while preserving competition and reducing the risk of unnecessary costs being passed to consumers.

Good regulatory practice should favour clear boundaries, transparent decision-making and proportionate interventions. The Commission should be cautious about reforms that create open-ended pathways for DNSPs to own or control contestable services. Where intervention is necessary, it should be narrow, evidence-based, time-limited and capable of being unwound as markets develop.

Conclusion

The framework should incentivise networks to perform their enabling role while preserving competition in emerging markets. That requires clear classification boundaries, stronger ring-fencing, disciplined waivers, improved access arrangements and robust treatment of multi-service assets.

AGL supports the Nexa rule change request and considers that the AEMC should strengthen the NER to provide clearer ring-fencing outcomes and stronger safeguards for waivers. AGL does not support the ENA rule change request. Enabling DNSPs to own and maintain kerbside EV charging infrastructure as an ongoing regulated service would expand monopoly businesses into a contestable market, shift contestable infrastructure costs and risks to electricity consumers, and weaken long-term customer outcomes.

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Yours sincerely,

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