

22 July 2026

To whom it may concern,

Climateworks Centre submission to AEMC consultation: Electricity Network Regulation Review Package 1

Climateworks Centre bridges the gap between research and climate action. We are climate transition specialists, working with decision-makers who have the power to reduce emissions at scale. Climateworks accelerates ambitious, evidence-based action for net zero in Australia and Southeast Asia. Co-founded by philanthropy, Climateworks is an independent not-for-profit within Monash University.

Climateworks welcomes the opportunity to provide a submission to the Australian Energy Market Commission (AEMC) consultation paper covering Package 1 of the Electricity Network Regulation Review (ENRR Package 1), the *Clarifying distribution ring-fencing in emerging energy markets* rule change request (ERC0435), and the *Enabling distribution network service provider (DNSP) led electric vehicle charging infrastructure (EVCI)* rule change request (ERC0437).

Climateworks notes that under the National Electricity Law (NEL), the AEMC may only make a rule if satisfied it will, or is likely to, contribute to the achievement of the National Electricity Objective (NEO). The NEO weighs efficient investment in electricity services, price, reliability and security of supply alongside the achievement of jurisdictions' emissions reduction targets. True alignment with the NEO requires DNSPs and distribution network planning to support contestable market innovation.

Climateworks supports a ring-fencing framework that is elevated into the National Electricity Rules (NER), enforceable and calibrated to respond to verifiable market failure. Climateworks supports enabling DNSP-led kerbside EVCI on the same basis: cost recovery limited to the residual gap left once private investment and market sources are exhausted. We support structuring this framework so that DNSPs keep facing pressure to invest efficiently; provide open access on transparent terms; and maintain options for competitive ownership where possible.

Climateworks recommends that independent assessments be undertaken to determine market and investment failures. This would be by an accredited expert panel, specialist engineering or economic consultants appointed under Australian Energy Regulator (AER)-approved procurement arrangements. We recommend that the assessor has no commercial affiliation with the applicant DNSP or affiliated entity.

Climateworks' recommendations:

- **Harmonised policy framework:** Apply a unified, consistent policy framework across ENRR Package 1, ERC0435 and ERC0437 that satisfies the NEO's emissions reduction objective and market efficiency principles.

- Enforceable ring-fencing in the rules: Elevate core ring-fencing obligations into Chapter 6 of the NER, restricting waivers to independently assessed market failures with mandatory sunset clauses.
- Constrained EVCI role: Limit DNSP-led EVCI rollouts to uncommercial kerbside infrastructure, in a way that enforces open access, competitive neutrality, and options for Regulatory Asset Base (RAB) exit.

Recommendations

Recommendation 1: Apply a unified, consistent policy framework across ENRR Package 1, ERC0435 and ERC0437 that satisfies both the NEO's emissions reduction objective and market efficiency principles. *Responding to AEMC Question 12.*

Achieving Australia's long-term emissions reduction targets at least cost relies on market efficiency that accelerates decarbonisation without creating structural market distortions. Although network planning sits outside the immediate scope of Package 1, aligning distribution network regulation with AEMO's Integrated System Plan (ISP) and jurisdictional emissions targets is essential for efficient capital expenditure. Allowing networks to bypass standard market efficiency tests risks degrading long-term competition and increasing consumer costs. Climateworks recommends addressing these interconnected rule change requests through a single, harmonised framework. We set out the key elements of this framework in the Conclusion. Long-term emissions reduction is best achieved through market efficiency that speeds up deployment of appropriate technologies. While rapid EVCI deployment supports transport decarbonisation, allowing networks to bypass standard market efficiency tests risks degrading long-term competition and increasing consumer costs.

Recommendation 2: Elevate ring-fencing obligations into Chapter 6 of the NER and restrict ring-fencing waivers to demonstrated market failures that are independently assessed by a party with no commercial affiliation to the DNSP, and approved by the AER using quantitative net economic benefit testing, and implementing review clauses. *Responding to AEMC Questions 6 and 7.*

As DNSPs expand their operations into adjacent, historically contestable energy markets, current ring-fencing protections (which are governed primarily through administrative guidelines) are no longer sufficient to safeguard competition. To prevent regulatory fragmentation, protect third-party investors, and maintain consumer welfare, the ring-fencing obligations can be elevated into primary rules and enforced through independent checks. Climateworks supports a strengthened regulatory architecture for ring-fencing governance that includes the following:

- Elevate core ring-fencing obligations and waiver conditions from the AER's Distribution Ring-Fencing Guidelines into Chapter 6 of the NER, to ensure long-term regulatory certainty and enforceability.
- Restrict the granting of ring-fencing waivers to demonstrated market failures that have been independently assessed before a waiver is considered. For the purposes of ring-fencing waivers, market failure could be limited to circumstances where private investment has demonstrably failed to emerge despite a market opportunity.
- DNSPs could prepare an evidence package describing the claimed market failure, but the assessment would then be undertaken by an accredited independent party with no commercial affiliation to the DNSP. The AER could retain sole responsibility for approving or rejecting applications against published statutory criteria, publishing written reasons that demonstrate how each decision satisfies the NEO. To prevent 'consumer benefit' from operating as an ambiguous, easily satisfied checkbox, the AEMC could require both the independent assessor and the AER to apply standardised quantitative net economic benefit testing. This testing would weigh short-term deployment speed against long-term consumer pricing impacts and the structural costs of displacing third-party competition. The assessment could evaluate evidence, including unsuccessful competitive procurement processes, the absence of private investment despite transparent opportunities, and whether the proposed DNSP involvement represents the least-distortionary intervention available.

- Implement public evidence requirements, time limits, and review clauses for all approved ring-fencing waivers, to mitigate the cumulative 'chilling effect' on third-party investment. Individual network trials or waivers may appear non-material in isolation, but their accumulation degrades regulatory predictability, creating an investment chill for third-party providers who cannot compete against a regulated entity backed by a guaranteed asset base.
- Establish structural financial resilience requirements as an absolute backstop, while clarifying that they do not substitute for rigorous behavioural ring-fencing around affiliate data access, branding and cross-promotion.

Recommendation 3: Limit DNSP-led electric vehicle charging infrastructure rollouts to a mechanism targeting uncommercial kerbside deployment gaps (determined by the AER), while enforcing competitive neutrality, open-access requirements, standardised digitally readable public reporting and AER ex-post expenditure reviews. This is to prevent monopoly cross-subsidisation and support transition to a competitive private market where possible.

Responding to AEMC Questions 9 and 10.

Climateworks acknowledges the public kerbside 'chicken and egg' challenge highlighted by Energy Networks Australia: low utilisation can render certain sites uncommercial for private operators, creating localised deployment gaps in regional corridors and high-density urban areas. However, addressing this gap through network involvement need not turn a temporary market failure into a permanent monopoly. To ensure DNSP participation accelerates deployment without displacing private investment or inflating consumer costs, Climateworks recommends an operational framework:

- Enable constrained, DNSP-led kerbside EVCI rollout under ERC0437 only where a market failure (independently assessed by a party with no commercial affiliation to the DNSP) has been confirmed by the AER. DNSPs should not self-determine the existence of deployment gaps or commercial failure. To prevent downstream regulatory scope creep, network involvement under ERC0437 must be confined to public, on-street kerbside where private land alternatives are absent and exclude EVCI sites where competitive market models are viable. No approval should be granted where the identified deployment gap can reasonably be addressed through targeted grants, procurement, or other competitive policy mechanisms that are less distortionary than regulated DNSP ownership.
- Enforce competitive neutrality by explicitly preventing DNSPs from acting as retail charging service providers, maintaining an open-access layer for independent operators at all DNSP-installed points. By restricting DNSPs to the role of upstream infrastructure enablers, asset connections are facilitated while keeping the retail and commercial relationship with EV drivers fully contestable. This prevents a network from operating simultaneously as a monopoly provider and a retail market participant.
- Mandate that the proposed Distribution EVCI Deployment Strategy require DNSPs to publish consistent, granular data on connection costs, processing times, asset utilisation and grid benefits via standardised, machine-readable public reporting. Because monopoly networks hold exclusive visibility over grid capacity and constraints, making this data public allows independent operators to efficiently target and invest private capital. Public utilisation data also enables the AER and independent reviewers to monitor whether the original market failure continues to exist, providing an objective basis for terminating any ring-fencing waiver once competitive market conditions emerge.
- Structure DNSP ownership of public EVCI funded through the RAB as an arrangement with an explicit RAB exit mechanism. Where a site satisfies a predefined market viability threshold, the DNSP could be required to commence an open, competitive divestment process to transfer ownership or operating rights to a private market participant through a transparent process approved by the AER. If a competitive divestment process yields no viable private market bidders, or if the market failure persists upon periodic review, the asset would remain under regulated DNSP ownership until commercial viability is demonstrated. To operationalise this, the AER could establish a clear market viability threshold such as charger utilisation exceeding a predefined target over a 24-month period, and this can serve as the objective trigger for divestment, avoiding subjective regulatory extensions of monopoly ownership.

- Maintain AER's ex-post review powers over any DNSP EVCI expenditures recovered through consumer charges. This gives the AER authority to recover or exclude inefficiently incurred expenditure from the RAB, protecting consumers throughout the regulatory cycle. The scope of these ex-post reviews ideally includes a comparative connection audit comparing connection valuations, processing timelines, and queue prioritisation applied to DNSP-led projects against third-party applicants in identical corridors. This provides a direct compliance mechanism to prevent anti-competitive cross-subsidisation and discriminatory connection practices.

Conclusion

Resolving the tension between monopoly network expansion and contestable market development requires an enforceable ring-fencing framework anchored in clear, transparent tests of market failure.

By embedding independent evaluations, robust regulatory oversight, and structured transition pathways back to contestable ownership, the AEMC can enable timely deployment while safeguarding long-term competition, protecting consumers and advancing Australia's emissions reduction objectives.

Our proposed governance framework establishes a six-stage regulatory lifecycle:

1. Identification: The DNSP identifies an apparent market failure, for instance where there is insufficient development of EV charging points and the DNSP then submits supporting evidence.
2. Independent Assessment: An accredited, unaffiliated evaluator verifies the deployment gap and net economic benefit.
3. AER Approval: The regulator applies statutory criteria to grant a conditional, time-limited ring-fencing waiver, for example for demonstrated EVCI market failures.
4. Transparent Reporting: DNSP publishes public digitally readable data on connection costs, asset utilisation and grid benefits.
5. Periodic Review: Scheduled re-assessments confirm whether the market failure persists.
6. Competitive Exit: Reaching the market viability threshold triggers competitive divestment, asset transfer and waiver expiry.

Sincerely,

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References

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