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Dear Commissioners

AEMC Electricity Network Regulation Review – EnergyAustralia submission

EnergyAustralia is one of Australia's largest energy companies with around 2.2 million electricity and gas accounts across eastern Australia. We also own, operate and contract a diversified energy generation portfolio across Australia, including coal, gas, battery storage, demand response, wind and solar assets, with control of over 5,000MW of generation capacity.

EnergyAustralia welcomes the opportunity to respond to the AEMC's Electricity Network Regulation Review — Package 1 (*the Review*), which considers the Nexa Advisory rule change proposal to strengthen ring-fencing arrangements (*the Nexa ring-fencing proposal*) and the Energy Networks Australia rule change proposal to reclassify DNSP-owned electric vehicle charging infrastructure as a distribution service (*the ENA reclassification proposal*). EnergyAustralia contributes to this consultation as part of a coalition coordinated with Nexa Advisory.

EnergyAustralia considers it reasonable to test whether the current service classification, ring-fencing framework and the boundary between regulated network services and contestable services remain fit for purpose as the energy transition progresses. However, we consider that extending monopoly network businesses into competitive markets would leave consumers worse off, not better.

EnergyAustralia's position

We ask the Commission to:

- not adopt the *ENA reclassification proposal*;
- adopt the *Nexa ring-fencing proposal*, and extend its scope so that it also captures regulatory sandbox trial waivers granted by the AER under section 18ZL of the NEL, so that the sandbox framework cannot be used to route around the ring-fencing guideline;
- in the alternative, if the Commission finds a narrow, evidenced case for DNSP involvement in EVCI, classify any such service as an alternative control service (ACS) with a defined regulatory asset base (RAB) exit and divestment trigger, not as a standard control service (SCS). ACS classification is materially preferable because:

- ACS attributes costs to the users of the service, so EVCI costs are recovered from customers who actually use the charging infrastructure rather than socialised across the distribution-connected customer base;
- ACS classification is more readily revisited and does not carry the same five-to-seven year embedding effect as SCS; and
- ACS treatment pairs more cleanly with a sunset-and-divestment mechanism, because the asset and its costs are more clearly delineated from the general network business;
- recommend that the AER publish a consolidated, reasoned assessment of competitive-neutrality risk before granting any further class, trial or regulatory sandbox waiver in a contestable market; and
- recommend the AER review DNSP connection and approval processes with a view to reducing delay for independent EVCI operators and other unregulated providers seeking to respond to consumer demand.

Our substantive answers to the Commission’s consultation questions are set out in the Appendix; the submission body summarises our overall position and the narrative that underlies it.

There is no theoretical or practical evidence to suggest DNSPs owning EVCI improves consumer outcomes

EV charging is a retail service in a contestable market. It does not exhibit the high, indivisible infrastructure costs that make competitive provision inefficient, and the *ENA reclassification proposal* does not establish that it does. The gap the proposal identifies is temporary and narrowing — not a permanent or structural feature that would justify an enduring change to service classification.

By mid-2025, Australia had more than 1,310 public fast-charging sites offering over 3,436 charging plugs, growing at around 8.5 per cent per quarter.¹ Major competitive operators are scaling rapidly on private capital: Chargefox aggregates chargers across hundreds of host businesses and motoring clubs, spanning several hundred DC sites and over a thousand locations nationally; Evie Networks operates more than 300 dedicated fast-charging sites and secured \$50 million in private funding in 2025; Exploren, JOLT, Ampol’s AmpCharge and BP Pulse continue to expand their own networks.² EnergyAustralia is itself deploying EVCI at scale — a ten-site ultra-fast charging partnership with 7-Eleven across Victoria, New South Wales and Queensland, and electrification of a North Queensland bus operator’s depot fleet.³ This is not a market exhibiting the deterrent effect the *ENA reclassification proposal* describes.

Both rule changes describe a “chicken and egg” problem between EV uptake and charging infrastructure. That characterisation does not reflect the behaviour of most EV owners, who predominantly charge at home overnight rather than relying on public

¹ Zecar, 'Best EV Charging Networks in Australia', November 2025, citing Carloop quarterly report on Australia's fast-charging network (over 1,310 public fast-charging sites and 3,436 plugs as at mid-2025; 8.5 per cent quarterly growth).

² Evie Networks, 'State of Charge' industry commentary and company disclosures (over 300 dedicated fast-charging sites; \$50 million private funding secured in 2025); Chargefox network coverage disclosures; company reporting for Exploren, JOLT, Ampol's AmpCharge and BP Pulse.

³ EnergyAustralia, 'Charged up and ready to go: Ultra-fast EV charging set to become more convenient', media release, 21 May 2026 (ten-site ultra-fast charging partnership with 7-Eleven across Victoria, New South Wales and Queensland); EnergyAustralia, 'EnergyAustralia set to deliver a major Queensland EV charging infrastructure project', media release (electrification agreement with Tropic Wings, North Queensland).

infrastructure.⁴ The survey evidence relied on in support of the problem statement — including BETA’s research — is based on a binary-choice methodology that does not reflect the range of options available to consumers, a limitation BETA itself has acknowledged.⁵ International comparators cited in support of DNSP-led deployment are similarly not directly transferable, given material differences in market structure, network ownership and regulatory settings.

Low current uptake of kerbside EVCI is not evidence of market failure. A competitive provider declining to install a charger where demand does not yet justify one is the market correctly pricing risk. Site selection is fundamentally a transport, land-use and consumer question — parking demand, walking distance, safety, accessibility, proximity to amenities — not a network engineering question. DNSPs have neither the expertise nor the incentive structure to make these assessments well. There would also be a clear structural conflict were DNSPs to provide EVCI themselves while remaining responsible for granting competitive providers access to the network.

Stifling innovation

DNSP investment decisions are made within five-year revenue determination cycles and subject to regulatory approval processes that are, by design, deliberate and precedent-bound. Competitive charge point operators (CPOs) are not constrained in the same way — they respond to changes in vehicle technology, charging standards, consumer preferences and site economics within a single commercial planning cycle. The pace of the underlying market illustrates why this matters: EV uptake rose from 8.4 per cent of new vehicle sales in January 2026 to 23.3 per cent in June 2026 — an almost threefold increase in six months.⁶ A regulatory framework built around five-year DNSP investment cycles is poorly suited to a market moving at this pace, and risks locking in today’s technology and site assumptions well beyond their useful life.

We need to learn from our own experience and the experiences of others before we walk into a market restructure

The consumer-cost risks from expanding the regulated asset base are not hypothetical. The ACCC’s 2018 Retail Electricity Pricing Inquiry identified network over-investment as the leading contributor to real residential price increases of around 30 per cent between 2007-08 and 2015-16, rising to 44 per cent by 2016-17, with consumers bearing that cost without meaningful recourse to challenge the underlying investment decisions.⁷ Over the same period, distribution network RABs grew from around \$40 billion in 2006 to \$70 billion in 2015 — a 75 per cent increase — while network utilisation fell from 57 per cent to 39 per cent.⁸ Distribution networks are now entering a further period of significant capital expenditure growth, with 20 to 22 per cent increases already flagged

⁴ Electric Vehicle Council, EV Ownership Survey 2025 (2nd ed, 2025) (92 per cent of respondents charge at home); EV Ownership Survey 2024 (2024) (85 per cent charge at home as primary method).

⁵ See discussion of BETA methodology in AEMC, Electricity Network Regulation Review — Package 1, Consultation Paper (EPR0106, ERC0435, ERC0437), 25 June 2026.

⁶ Federal Chamber of Automotive Industries, 'New vehicle market records strongest month ever', media release, 1 July 2026 (BEV share of new vehicle sales rose from 8.4 per cent in January 2026 to 23.3 per cent in June 2026; comments of FCAI Chief Executive Tony Weber attributing the shift in part to global oil price volatility and conflict in the Middle East, and describing part of the growth as a permanent structural shift).

⁷ Australian Competition and Consumer Commission, Retail Electricity Pricing Inquiry — Final Report, June 2018, pp 10, 111-112, 153 (real residential bill increase of around 30 per cent between 2007-08 and 2015-16, rising to 44 per cent by 2016-17; network costs identified as the main driver of increases and consumers found to have not received value for money from those investments).

⁸ Simshauser, P., Australia's National Electricity Market After Twenty Years, Griffith University, 2019 (distribution network regulatory asset bases grew from \$40 billion in 2006 to \$70 billion in 2015); Institute for Energy Economics and Financial Analysis, Reforming the economic regulation of Australian electricity distribution networks, May 2024 (network utilisation fell from 57 per cent in 2006 to 39 per cent in 2015).

for SA Power Networks, Ergon Energy and Energex for the 2025-30 regulatory period. The market efficiency criterion weighs strongly against opening a further avenue for unrestricted network spending.

Californian experience

The California Public Utilities Commission's decade-long experience is instructive. The CPUC prohibited electric utilities from owning public EV charging infrastructure in July 2011 on competitive-neutrality grounds; reversed that position in December 2014, permitting utility ownership subject to a case-by-case balancing test; and in November 2022 approved a US\$1 billion rebate program for third-party EVCI that explicitly excludes utilities, with Commissioners citing utility ownership as a driver of higher ratepayer costs because utility-owned equipment sits in the regulated asset base rather than facing competitive discipline.⁹ We acknowledge the differences between Californian investor-owned utilities and Australian DNSPs — but the underlying dynamic (network costs rising for all customers, whether or not they use the network-owned infrastructure) warrants caution.

Community Batteries Program

The most comparable Australian precedent is the Commonwealth's Community Batteries for Household Solar Program, which relies on DNSP-led and DNSP-adjacent deployment. The Australian National Audit Office's performance audit of that program found that of the 400 batteries promised in October 2022, only 58 were operational by January 2026 — around 15 per cent, more than three years on.¹⁰ The ANAO also found that neither delivery agency had adequately planned for evaluation at program design, that evaluation frameworks were developed only retrospectively in 2025, and that public reporting does not provide sufficient information to assess whether the program has delivered the consumer benefits on which it was funded. DNSP-led or DNSP-adjacent deployment is not, on the record, a proven, low-risk path to consumer benefit.

Pattern of waivers

This trajectory is already unfolding through successive waiver decisions:

- In February 2023, the AER granted a class ring-fencing waiver enabling DNSPs to lease batteries funded under the Commonwealth's \$224.3 million Community Batteries for Household Solar Program, on the basis of avoiding the delay of assessing each application individually.¹¹
- In October 2025, the AER granted CitiPower, Powercor and United Energy a ring-fencing waiver for a kerbside EVCI trial to mid-2031, and acknowledged the self-preferential pricing risk by imposing a condition that the networks charge themselves the same fee they charge third-party operators.¹²
- In December 2025, the AER used a different regulatory sandbox power to grant Ausgrid a five-year trial waiver to own batteries, act as provider of last resort for solar

⁹ California Public Utilities Commission Decision D.11-07-029 (July 2011); Decision D.14-12-079 (December 2014); Decision approving the Rebate Program for EV Charging Infrastructure (17 November 2022); see also Charge Ahead Partnership, 'California transitions away from utility ownership of EV charging infrastructure', January 2023; Davis Wright Tremaine, 'Charging Forward: California PUC Expands Utility Role in EV Charging Infrastructure Deployment', December 2014.

¹⁰ Australian National Audit Office, Community Batteries for Household Solar Program, Auditor-General Report No. 24 of 2025-26, especially paras 4.35-4.65 (evaluation planning); Summary of program administration; Findings on conflicts of interest and value-for-money assessment.

¹¹ AER, Decision — Ring-fencing class waiver for batteries funded under the Commonwealth Government's Community Batteries for Household Solar Program, 3 February 2023.

¹² AER, Reasons for decision — Ring-fencing waiver for an electric vehicle charging infrastructure trial from CitiPower, Powercor and United Energy, 22 October 2025.

procurement, and trade into the wholesale market — despite submissions warning the trial could disrupt an already-competitive market.¹³

The progression — from individual waiver, to class waiver, to trial waiver, to regulatory sandbox waiver — illustrates how DNSPs gain a foothold in contestable markets on ostensibly “temporary” grounds. The AER then imposes bespoke anti-discrimination conditions after the fact to contain risks that would not exist in competitive markets. The National Electrical and Communications Association has publicly described this trend as amounting to regulatory capture.¹⁴

If society wants to speed up the installation of public EV chargers, there are alternatives

EnergyAustralia strongly recommends alternative actions to boost EV charging above current implementation rates. In particular, the Commission should give priority to removing the barriers to competitive deployment: costly and slow DNSP connection and approval processes, restrictive pole-access arrangements, and information asymmetries between DNSPs and third-party providers. These are the constraints that would meaningfully change the pace of competitive rollout — not the absence of a regulated DNSP role.

The shift from individual, merits-based waiver assessment to class, trial and regulatory sandbox waivers also raises a transparency problem. Each step has been justified by the practical needs of a specific grant programme or trial, rather than by a published assessment of whether DNSP participation in the relevant contestable market is warranted on competitive-neutrality grounds. The cumulative effect is difficult for stakeholders to see and challenge as it unfolds through small incremental steps. This points to a specific gap in the current arrangements: regulatory sandbox trial waivers made by the AER under section 18ZL of the NEL give DNSPs a route into contestable markets that does not require them to satisfy the ring-fencing guideline’s existing waiver test.

If you would like to discuss this submission, please contact me on 03 9060 1361 or Travis.Worsteling@energyaustralia.com.au.

Regards

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¹³ AER, Trial waiver decision — Ausgrid Community Power Network, December 2025 (first policy-led trial waiver under the AER's regulatory sandboxing framework).

¹⁴ National Electrical and Communications Association, 'NECA slams AER's decision to grant waiver for DNSP-led EV charging rollout', media statement, June 2026.

Appendix: Response to Consultation Paper questions

Question 1: Prioritisation framework

Do you have any feedback on our approach to the Review, including the proposed prioritisation framework?

EnergyAustralia agrees that the network regulatory framework is a legitimate subject for consideration as the energy transition progresses, but we do not consider the case for the extensions to DNSP participation contemplated by the *ENA reclassification proposal* has been established on the 'evidence' provided. The letter body and our answers to Questions 9 to 11 set out why.

We support the Commission's proposed prioritisation framework. Consistent with an evidence-based approach, we ask the Commission to be prepared to close out a package of work where the consultation demonstrates that the concerns raised can be adequately addressed within existing arrangements. If the Commission concludes on the evidence that the *ENA reclassification proposal* should not be adopted, and that the *Nexa ring-fencing proposal* (with the extensions we propose in the letter body) sufficiently addresses the competitive-neutrality risks identified, further work on service classification and DNSP participation in contestable markets should not be carried forward into subsequent packages.

Question 2: Service classification arrangements

2.1 What, if any, changes do you think should be made to the service classification arrangements (including the timing of when service classification decisions are made) to ensure they remain fit for purpose into the future and sufficiently flexible to accommodate the changes underway?

The current service classification framework is broadly sound. The unclassified default correctly treats a service that is not clearly a monopoly function as contestable unless a positive case is made to bring it under regulation.

EnergyAustralia does not support DNSPs operating in contestable markets, and the current service classification framework does not allow them to do so. Services capable of competitive delivery sit by default as unclassified distribution services (or as non-distribution services entirely, in the case of services such as EVCI ownership), outside the regulated envelope. The framework is working as intended in that respect, and no reform to it is needed. The *ENA reclassification proposal* does not identify a deficiency in the framework itself — it uses the framework to reclassify a specific service (kerbside EVCI) as a regulated distribution service, bringing DNSP-owned EVCI within the regulated envelope. Our answers to Questions 9 to 11 explain why that outcome is not supported on the evidence.

On timing, the question of whether classification decisions should be made more frequently than the approximately five-yearly *Framework and Approach* cycle only becomes relevant if a case for expedited or between-cycle reclassification has been established. In our view it has not. The current cycle remains fit for purpose in the absence of evidenced grounds for faster action. If a legitimate case for reclassification were established in a future proposal, and if the *Framework and Approach* timing were shown to be a genuine impediment to responding to that case, an out-of-cycle mechanism could be considered — but neither condition is met by the current proposals.

2.2 Do you think there are any circumstances in which it would be in the long-term interests of consumers for NSPs to provide regulated services in contestable markets?

DNSP participation in a contestable market could only be in the long-term interests of consumers where there is a persistent, structural barrier to competitive entry that no realistic alternative could overcome within a reasonable timeframe, and where DNSP involvement can be delivered without becoming an open-ended regulated asset. Any such circumstance would need to be established on the evidence and would require, at a minimum:

- independently verified evidence that the barrier is genuinely persistent and not a function of transitional market conditions;
- a demonstrated absence of any realistic competitive alternative; and
- a classification design that ties cost recovery to a defined evaluation and sunset mechanism, together with functional separation along the lines proposed in the *Nexa ring-fencing proposal* to prevent the DNSP leveraging its position beyond the specific gap being addressed.

In practice this describes a narrowly scoped, time-limited service classification — not the open-ended DNSP role the *ENA reclassification proposal* contemplates. On the evidence available, no current proposal meets that bar.

2.3 Is additional guidance required in the NER on (a) how the boundaries between regulated and contestable (unregulated) services should be drawn; and (b) how to accommodate the new DSO role for DNSPs?

Yes. Clauses 6.2.1(c) and 6.2.2(c) of the NER already list factors the AER must have regard to in classifying a service, including the potential for the service to be provided competitively and the risk of cross-subsidisation, and clause 6.2.3A empowers the AER to make and maintain the *Electricity Distribution Service Classification Guideline* to give effect to that classification exercise. What is missing is a clear directional presumption anchored in the NER itself: that a service capable of competitive delivery should be classified as an unclassified distribution service unless a positive case is made for regulated classification. Setting that presumption at Rule level, rather than relying on the AER to work it out through successive Framework and Approach cycles and waiver decisions, would materially reduce regulatory uncertainty for both DNSPs and third-party providers.

On (b), we consider any DSO role for DNSPs should focus on system operator, coordination and platform functions rather than on the provision of customer-facing energy services. Customer-facing service provision is capable of competitive delivery and should be treated as contestable by default, whether the customer is an end user, an aggregator, or a retailer.

Drawing that boundary is particularly important where a DNSP acting as DSO would also own the contestable assets it operates or compensates through its DSO functions. Where the same entity is both the buyer of flexibility, coordination or system services (as DSO) and the seller of those services (as asset owner), there is a direct risk of cross-subsidisation and self-preferential procurement — the DNSP could dispatch or compensate its own assets on terms it would not offer to third parties, and recover the resulting cost through the regulated revenue framework. The DSO role should be structured to prevent that outcome, including by keeping DNSPs out of ownership of the contestable assets whose services they would otherwise be procuring.

2.4 Are there any other issues with the current service classification arrangements that you think we should consider in this Review?

The interaction between service classification, ring-fencing and cost allocation for multi-use assets warrants specific attention. Where a single asset can be used for regulated distribution services and for unregulated or contestable services (community batteries being the clearest example), service classification decisions cannot be made in isolation from cost allocation and ring-fencing arrangements. Treating these as separate workstreams risks re-creating socialisation and competitive-neutrality problems that the individual reforms are intended to solve.

2.5 Are any other changes to the regulatory framework required to support the increasing importance of efficient and effective coordination between DNSPs and other market participants?

Priority should be given to reforms that improve the ability of independent market participants to interoperate with DNSPs on non-discriminatory terms, including:

- *Standardised data access* to network and consumer information relevant to competitive-market activity
- *Transparent operating interfaces* between DNSPs and third-party market participants
- *Published connection and approval performance metrics*, disaggregated by DNSP
- *Interoperability standards* for distributed energy resources

Several of the existing levers remain valuable and should be strengthened in application rather than duplicated in new instruments — in particular the non-discrimination obligation (clause 4.1) and the information access and disclosure obligations (clause 4.3) of the *Ring-fencing Guideline (Electricity Distribution)* (version 4, February 2025), both of which are non-waivable. These reforms are likely to deliver greater consumer benefit than expanding direct DNSP ownership of contestable services.

Question 3: Ring-fencing arrangements

3.1 How effective do you think the ring-fencing obligations have been to date, in terms of preventing the cross-subsidisation of contestable activities and discriminatory behaviour? What changes, if any, are required to ensure they remain fit-for-purpose in the future?

The *Ring-fencing Guideline (Electricity Distribution)* (version 4, February 2025) draws a clear line between non-waivable core obligations and waivable ones.

The non-waivable core is well-designed in principle; however, effectiveness been uneven across these obligations:

- *Accounting and cost-allocation obligations are auditable through DNSP financial reporting and have been the more readily enforced of the three.*
- *Non-discrimination and information-access obligations turn on day-to-day conduct that third parties are rarely well-placed to observe — including the referral of customer enquiries between a DNSP and its ring-fenced service-provider affiliates, the flow of network and customer information within corporate group*

structures, and the terms on which shared data or infrastructure are made available to third parties.

- *Complaint-driven enforcement* is unlikely, on its own, to surface these practices, since the parties disadvantaged by them often will not know they have been.

Strengthening the visibility and enforcement of the existing non-waivable obligations — not narrowing their scope — is the appropriate response.

The Guideline's other core obligations are waivable, subject to AER assessment:

- *Legal separation* (clause 3.1) — a DNSP may only provide distribution and transmission services; waivers permit provision of other services
- *Offices, staff, branding and promotions* (clause 4.2) — operational separation between a DNSP and its ring-fenced affiliates
- *Service provider conduct* (clause 4.4.1(a)) — DNSP obligations to extend ring-fencing to related service providers with whom it contracts

The scope of the framework has been eroded principally through waivers of clause 3.1 and through parallel regulatory sandbox trial waivers granted by the AER under section 18ZL of the NEL. Both routes have been used to authorise DNSP provision of services beyond distribution and transmission — community battery leasing (February 2023), kerbside EVCI trials (October 2025) and the Ausgrid sandbox trial (December 2025) all sit on this pathway. Version 4 of the *Guideline* further extended AER discretion by removing the previous maximum waiver duration.

Tightening the criteria on which clause 3.1 waivers and equivalent sandbox trial waivers are granted (see our answer to 3.2) is the second element of a fit-for-purpose response.

3.2 How effective do you think ring-fencing waivers have been to date in promoting the long-term interests of consumers? What, if any, changes do you think should be made to ensure they remain fit for purpose into the future?

Waivers should remain exceptional. The AER's existing assessment framework directs it to have regard to:

- the National Electricity Objective;
- the risk of cross-subsidisation or discrimination; and
- whether the benefits of compliance outweigh the costs.

Those criteria have not in practice prevented the progressive expansion of DNSP participation in contestable markets through the accumulation of successive waivers. Version 4 of the *Guideline* further extended AER discretion by removing the previous maximum waiver duration.

A separate concern is that the AER's waiver framework does not systematically produce or require published ex-post assessments of whether individual waivers have delivered consumer benefit. Across the record of ring-fencing waivers granted to DNSPs since the national framework commenced in 2018, we have identified only one waiver for which independent ex-post evidence directly bears on consumer benefit: the Community Batteries for Household Solar Program class waiver (February 2023). The ANAO's 2025–26 performance audit of that program found that only 58 of the 400 batteries promised in October 2022 were operational by January 2026, and that no ex-ante evaluation framework had been designed to demonstrate consumer benefit.

For every other ring-fencing waiver granted since 2018, no published ex-post assessment of consumer benefit is available. Whether these waivers have delivered on the criteria against which they were granted therefore cannot be evaluated either way — an evidentiary gap that itself argues for tighter accountability.

Rather than replacing the existing criteria, we ask the Commission to recommend that the following requirements be added to any grant or renewal of a waiver of an obligation in clauses 3.1, 4.2 or 4.4.1(a) of the *Guideline*:

- a genuine and enduring market failure is demonstrated — not a transitional deployment gap;
- market-enabling alternatives (such as connection-process reforms or improved data access) have been exhausted;
- consumers are demonstrably better off, on evidence, than under a competitive alternative;
- competitive neutrality can be preserved for the life of the waiver, with published, verifiable conditions; and
- the waiver is transitional and time-limited, with a defined sunset and a requirement on the AER to publish a reasoned ex-post evaluation of consumer benefit before extension or renewal.

3.3 Are there any other problems with the ring-fencing arrangements or ring-fencing waivers that you think we should consider in this Review?

Two related problems warrant specific attention.

- *Cumulative effect is opaque.* Individual waivers each look defensible in isolation, but the cumulative pattern is difficult for stakeholders to see or challenge as it unfolds. There is no requirement for the AER to publish a consolidated, reasoned assessment of competitive-neutrality risk before granting further waivers in a contestable market.
- *Sandbox route bypasses the waiver test.* Regulatory sandbox trial waivers granted by the AER under section 18ZL of the NEL (and equivalent provisions in the NERL and NGL) can waive compliance with provisions of the NER — including obligations in the *Ring-fencing Guideline* itself — without the DNSP having to satisfy the *Guideline*'s existing waiver test. Trial waivers have already been used to authorise DNSP participation in contestable services (for example, the Ausgrid Community Power Network trial waiver).

We ask the Commission to recommend that any trial waiver whose effect would be to authorise DNSP participation in a contestable service be subject to the same competitive-neutrality and cost-recovery tests as ring-fencing waivers under the *Guideline*, so that the two frameworks cannot be used to route around each other.

3.4 Do you think that there would be any change in the number of applications for ring-fencing waivers if there was more clarity around what services are distribution services and what services are not distribution services?

Clarity on the boundary between distribution services and contestable services would reduce the volume of waiver applications and improve regulatory certainty for all market

participants. It would also reduce the likelihood of the boundary being redrawn incrementally through the accumulation of individual waivers.

Question 4: Connection and facility access arrangements

4.1 Do you think the current connection and/or facility access arrangements are acting as a barrier to entry into contestable markets? If so, how?

In EnergyAustralia's own experience as an EVCI investor — including our ten-site ultra-fast charging partnership with 7-Eleven across three states and our depot-electrification project in North Queensland — DNSP connection timeframes, connection cost estimates and information availability materially affects the pace and economics of competitive EVCI deployment. In our opinion these are the barriers that limit the pace of the competitive market — not any absence of a regulated DNSP role.

4.2 Do you think changes are needed to the regulatory framework for negotiating connections and/or facility access arrangements? If so, what changes are required?

EnergyAustralia recommends the following to improve connections and facility access arrangement:

- published, DNSP-by-DNSP performance metrics for connection application processing times, at defined milestones from application to energisation;
- standardised information disclosure obligations covering available hosting capacity, published connection cost estimation methodologies, and equivalent-access data for third parties and DNSP affiliates;
- clear, published escalation and dispute-resolution pathways for connection delays that affect contestable-market participants; and
- regulatory review triggers where a DNSP's connection performance falls below defined thresholds.

4.3 Are there any other service regulation related issues with the connection and/or facility access arrangements that you think we should consider in the review?

The Review should specifically consider whether current facility-access arrangements — including access to poles, network data and shared infrastructure — are facilitating competitive investment or inadvertently favouring the DNSP and its affiliates. Complaint-driven enforcement alone is unlikely to reveal issues that market participants are reluctant to escalate for commercial reasons.

Question 5: Cost allocation and shared asset arrangements

5.1 Do you think that changes should be made to the cost allocation and/or shared asset arrangements? If so, what changes are required?

The *Shared Asset Guidelines* (version 2, June 2025) apply a cost reduction to a DNSP's forward-looking allowed revenue where a regulated asset is materially used for the provision of unregulated services, calculated through the service provider's approved Cost Allocation Method.

The framework was designed principally for "access-based" shared uses — telecommunications co-location on poles, use of conduits and buildings, and similar arrangements — where the shared-use benefit and the cost of the shared asset are relatively easy to identify and quantify. It is not well-suited to *actively dynamic multi-use assets* such as batteries and EVCI, where the same physical asset simultaneously

delivers network services and unregulated market-facing services, and the value split between those uses changes over time.

Consistent with the position we have taken in our submission to the AER's parallel review of the *Ring-fencing Guideline* and *Shared Asset Guideline*, we ask the Commission to recommend that the framework:

- be extended to explicitly address dynamic multi-use assets; and
- require that costs are not recovered through the regulated asset base and socialised across all distribution-connected customers where the corresponding benefit accrues to a DNSP's unregulated or contestable activities.

5.2 How do you think the costs and benefits associated with assets, such as community batteries, should be accounted for when making cost allocation decisions?

Community batteries are the clearest live example of the multi-use asset problem. A single battery may simultaneously provide local network support, voltage management, hosting-capacity relief, wholesale market participation, FCAS or system services, and customer energy services. The value streams from these services differ materially and can change over the asset's life. In our view:

- regulated customers should only fund costs attributable to genuinely regulated services;
- where the same asset generates benefits accruing to competitive-market participants (including affiliates of the DNSP), those benefits must be attributed to and recovered from those participants;
- cost allocation should be reviewed periodically over the asset's life as utilisation patterns evolve — not fixed at deployment; and
- any DNSP participation in community-battery deployment should be conditioned on the kind of independently verifiable ex-ante evaluation framework the ANAO found was absent from the Community Batteries for Household Solar Program at its outset.

5.3 Do you think that the allocation of costs for shared assets should be revisited over time? Please explain your answer.

The current mechanism reviews cost allocation through approval of each DNSP's Cost Allocation Method as part of its five-yearly regulatory determination, and applies the resulting cost reduction across the regulatory period. That cadence has been workable for the access-based shared uses the *Shared Asset Guidelines* were designed around, but is unlikely to be sufficient for dynamic multi-use assets where utilisation patterns, revenue streams and the balance between regulated and contestable use can shift materially within a regulatory period. For those assets, we ask the Commission to recommend that the AER be able to reassess cost allocation between determinations where a material change in the asset's use — including a change in the DNSP's or an affiliate's participation in a contestable market served by the asset — has occurred.

5.4 Do you think that the current approach to cost allocation and shared asset arrangements, if maintained, should extend to negotiated services?

Not automatically. Any extension to negotiated services requires further analysis to ensure that incentive properties are preserved and competitive neutrality is not

undermined. We would want to see a specific problem statement and evidence base before supporting an extension.

Question 6: Nexa rule change request — problem framing

Do you agree with Nexa's framing of the issues raised in its rule change request? Why/why not?

EnergyAustralia agrees with the central proposition in the *Nexa ring-fencing proposal* that preserving competition and competitive neutrality should remain a core objective of the electricity regulatory framework, and that the cumulative expansion of DNSP participation in contestable markets through successive waivers, trials and exemptions has raised legitimate questions about whether existing ring-fencing arrangements remain fit for purpose. The framing accurately identifies the structural advantages DNSPs bring — access to monopoly-funded infrastructure, control over connection and access processes, privileged operational and network information, and consumer brand trust associated with monopoly service — and the resulting risk to competitive investment.

Question 7: Nexa rule change request — proposed solution

Do you consider that Nexa's proposals would most efficiently address the issues identified in the rule change request? Why/why not?

Yes, with one extension. The *Nexa ring-fencing proposal* should be adopted and its scope extended to capture regulatory sandbox trial waivers granted by the AER under section 18ZL of the NEL, so that the sandbox framework cannot be used to route around the ring-fencing guideline.

What are your views on Nexa's proposals to amend the NER to only allow ring-fencing waivers as a last resort?

We support this. Competition should remain the default mechanism for delivering consumer services, and waivers should not become an alternative pathway by which monopoly businesses expand into emerging competitive markets. The waiver criteria set out in our answer to 3.2 apply here.

Are there alternative solutions that would more efficiently address the identified problem?

Many of the issues identified could be addressed through market-enabling reforms rather than expanded monopoly participation:

- *Improved data transparency between DNSPs and third-party market participants*
- *Better facility access arrangements*
- *Standardised pole-access frameworks*
- *Faster and more consistent network connection processes*
- *Enhanced reporting obligations*

These reforms would remove barriers to competitive investment while preserving competition and innovation. They are complements to, not substitutes for, the *Nexa ring-fencing proposal*.

Question 8: Nexa rule change request — costs and benefits

What do you consider the costs and benefits of Nexa's proposed solution, including the risks and benefits of elevating ring-fencing obligations into the NER?

The principal benefit is increased confidence that emerging consumer energy markets will remain genuinely contestable, with corresponding improvements in investor confidence, private investment, and dynamic innovation in batteries, EV charging, flexibility services and consumer energy management.

The primary countervailing risk is that prescription in the NER could reduce regulatory flexibility and increase compliance cost. In our view that risk is manageable and, for DNSPs in contestable markets, is outweighed by the benefits of having clear, non-waivable rules elevated into the NER — rules that competitors, investors and the AER can rely on and that cannot be eroded through the accumulation of guideline-level waivers.

As set out in the letter body, our preference for principles-based regulation applies to competitive retail markets — not to monopoly network businesses participating in contestable services, where the absence of competitive discipline means prescriptive obligations are the appropriate default. On that basis we support elevating the core ring-fencing obligations into the NER, with implementation detail continuing to sit in the AER guideline.

Question 9: ENA rule change request — problem

Do you think that there is a 'chicken and egg' problem with EVs and kerbside EVCI?

Not in the form the *ENA reclassification proposal* describes. Constrained kerbside charging is a real access issue for a subset of consumers — apartment residents, renters and households without off-street parking — but this is not evidence of a chicken-and-egg dynamic that would justify monopoly ownership of charging infrastructure. As set out in the letter body, the majority of EV owners charge at home overnight, and the competitive market for public and kerbside charging is scaling rapidly on private capital. The gap the proposal describes is temporary and narrowing.

A more fundamental problem with the framing is that kerbside charging access is not principally a question of *who owns the charger*. Even where kerbside chargers have been installed, their practical availability turns on street parking dynamics — they can be, and frequently are, blocked by petrol vehicles occupying the parking space. The City of Sydney has warned that DNSP rollouts of pole-mounted kerbside chargers that are not tied to dedicated parking spots risk flooding areas with "visible but no usable chargers".¹⁵ Field observation of CitiPower's pole-mounted kerbside chargers in

¹⁵ Matthew Benns, 'Energy giants opt for dud EV chargers, on your coin', *Daily Telegraph* (Sydney), 22 July 2026 — reporting Ausgrid, Endeavour Energy and Essential Energy proposals to install 13,720 slow AC kerbside chargers and 321 fast DC chargers across NSW at an annual cost of approximately \$10 million to be recovered from all NSW electricity consumers (~\$2 per consumer per year); the City of Sydney warning that pole-mounted kerbside chargers not tied to dedicated parking spots could "flood areas with 'visible' but no usable chargers"; Inner West Council utilisation data showing its two fast DC chargers used approximately three times as much as its 144 slow AC chargers; and Ausgrid confirmation that its Sydney proposal would offer only slow AC chargers, with independent providers to install fast DC.

Boroondara demonstrates exactly this problem, alongside the parallel issue of new kerbside chargers sitting unpowered for months awaiting DNSP energisation.¹⁶

Reclassifying EVCI as a distribution service would not address either constraint. Both are matters for local government parking rules, DNSP connection and energisation processes, and enforcement — not service classification.

How should the problem be best addressed and do you think this should be funded by electricity consumers or other mechanisms?

The first policy response should be to remove barriers to competitive deployment: streamlined pole access, faster and more transparent connections, planning reform, local government coordination and targeted government funding for genuinely uncommercial locations. Regulated customer funding should only be considered where a compelling, evidenced case can be made that a competitive market solution cannot emerge — a test the *ENA reclassification proposal* does not meet.

Do you think that DNSPs could roll out kerbside EVCI at a lower cost and faster rate than other providers, if the proposed rule were made?

Possibly in some locations, but this is not a sufficient basis for regulated ownership. Two current facts qualify the proposition:

- Ausgrid has confirmed that under any DNSP EVCI rollout it would only offer slow AC chargers in Sydney, and that independent providers could install fast DC chargers if they wished to. Ausgrid, Endeavour Energy and Essential Energy are collectively proposing around 13,720 slow AC kerbside chargers and only 321 fast DC chargers across NSW¹⁶.
- Field utilisation data compiled by Inner West Council shows its two fast DC chargers are used approximately three times as much as its 144 slow AC chargers¹⁶. DNSPs are therefore proposing to install the less-utilised technology at scale, while leaving fast DC deployment to the competitive market.

More broadly, if a DNSP can outcompete private providers using existing regulated infrastructure, workforces and revenue arrangements, the outcome is likely to be displacement of competitive investment rather than net additional deployment. The relevant comparison is not who can deploy faster today, but who delivers better long-term consumer outcomes; on the evidence, competitive market development delivers stronger innovation, lower long-run costs, and better site-selection judgment than regulated monopoly ownership.

Question 10: ENA rule change request — solution

Do you consider the ENA's proposal to amend the NER to enable DNSPs to install, own and maintain EVCI and to provide distribution EVCI services on an open access basis would most efficiently address the issue identified in the rule change request? If not, why?

The *ENA reclassification proposal* seeks to address a problem in a contestable market through expansion of regulated monopoly activity. As set out in the letter body, the *ENA*

¹⁶ Ed Lynch-Bell, 'What if networks dropped kerbside charging access fees, and actually switched them on?', *The Driven*, 8 April 2026 — reporting field observation of CitiPower pole-mounted AC chargers in Boroondara routinely blocked by petrol vehicles, and an Exploren kerbside charger outside Collingwood Leisure Centre in the City of Yarra sitting "unpowered and unused for months" awaiting CitiPower energisation.

case is not established on the evidence, competitive investment is occurring at pace, and DNSPs are not the parties best placed to make transport, land-use and consumer site-selection judgments. Competition-enabling reforms should be exhausted before permanent expansion of regulated services is considered.

Do you consider that the distribution EVCI service identified by ENA should be a 'distribution service'? Why/why not?

Ownership of EV charging infrastructure is not a core distribution service. The fact that the infrastructure is connected to network assets does not make its ownership a distribution service. While electricity conveyance to the charger is a monopoly service, ownership and operation of the charger itself are capable of competitive provision — and, as the letter body demonstrates, are being provided competitively today at scale.

If the ENA's proposed rule change was to be made, do you think any constraints or time-limits should be imposed?

If the Commission nonetheless proceeds, any DNSP EVCI service should be classified as an alternative control service with a defined RAB exit and divestment trigger — not as a standard control service. The service should also be subject to periodic review, a defined sunset date, and functional-separation obligations along the lines proposed in the *Nexa ring-fencing proposal*. See our answer to Question 11 for detail on the SCS/ACS distinction.

Question 11: ENA rule change request — costs and benefits

What do you consider the direct and indirect costs and benefits over the short and longer term would be of the ENA's proposal to amend the NER to enable DNSPs to roll out EVCI and to provide EV charging service providers open access to EVCI services?

The proposal may deliver short-term deployment benefits in specific locations, but in our view these would be outweighed by longer-term risks:

- *Reduced private investment* in EVCI as DNSP-owned assets crowd out competitive alternatives
- *Weaker innovation and dynamic efficiency* as the regulated investment cycle displaces commercial iteration
- *Weaker competitive pressure on charging prices*
- *Normalised expansion of regulated monopoly activity* into further contestable markets over time

If the *ENA reclassification proposal* were adopted and DNSPs deployed EVCI nationally, the socialised cost across all distribution-connected customers — including those who do not own EVs — would compound over successive regulatory determinations.

These concerns are informed by the California experience with utility-owned EVCI (which the CPUC concluded delivered higher ratepayer costs than third-party alternatives — see the letter body) and by the ACCC's 2018 Retail Electricity Pricing Inquiry finding that historical network over-investment was a material driver of consumer bill increases. The ENA proposal would compound this by incentivising further growth of the regulated asset base.

Do you think these costs and benefits would differ depending on whether the AER classifies the service as a standard control service or an alternative control service?

Yes, materially. Standard control service (SCS) classification raises substantially greater consumer-neutrality concerns:

- SCS costs are socialised across all distribution-connected customers — including those who do not own EVs — while the benefits accrue to EV drivers and, potentially, to a DNSP's unregulated affiliates;
- SCS classification carries a five-to-seven year embedding effect under standard revenue determinations, making it difficult to unwind if the underlying market conditions change; and
- SCS treatment does not sit cleanly with a sunset-and-divestment mechanism, because the asset and its costs are bundled with the general network business.

Alternative control service (ACS) classification is materially preferable if the Commission concludes any DNSP EVCI service is warranted, because ACS attributes costs to the users of the service (directly addressing the socialisation concern), is more readily revisited, and pairs more cleanly with an exit and divestment trigger. Even so, ACS classification would not fully address the underlying competitive-neutrality concerns; the core question remains whether EVCI ownership should be treated as a regulated service at all.

Question 12: Assessment criteria

Do you agree with the proposed assessment criteria, which would be used for both the Nexa and ENA rule change requests and the Review?

EnergyAustralia supports the Commission's proposed assessment criteria. Consistent with the position set out in the letter body and in our answers to Questions 9 to 11, we ask the Commission in applying the criteria to give particular weight to the risk that a proposed reform would reduce the ability of competitive markets to deliver efficient consumer outcomes over the longer term. Reforms that expand monopoly participation into contestable markets should be tested for consistency with the criteria on the evidence, and should not be adopted where the case for doing so has not been established.