SUBMISSION

AEMC ELECTRICITY NETWORK REGULATION REVIEW – PACKAGE 1: EPR0106, ERC0435, ERC0437

23 JULY 2026

INTRODUCTION

The Energy Users' Association of Australia (EUAA) is the peak body representing Australian commercial and industrial energy users. Our members are the engine room of the Australian economy, producing many of the products that households and business use every day including bricks, glass, steel, aluminium, paper, food and beverages. Combined, our members employ over 1 million Australians, pay billions in energy bills every year and in many cases are exposed to the fluctuations and challenges of international trade.

EUAA members are focussed on making products that meet their own customers' requirements where energy is just one input to the process albeit a critical one. Their expectation is that the energy industry continues to provide energy services that are fit for purpose and consistent with the National Electricity Objectives (NEO) so that our members can continue to provide a fit for purpose product for their customers.

Thank you for the opportunity to make a submission under the **Energy Network Regulation Review – Package 1** (ENRR or Review), being consulted on by the Australian Energy Market Commission (AEMC or Commission).

As consumer energy resources (CER) continue to reshape how households and businesses interact with the electricity system, the boundaries between regulated and contestable services are becoming increasingly important. In this context, the role of Distribution Network Service Providers (DNSPs) warrants careful consideration, particularly given their position as regulated monopoly owners of essential infrastructure and their growing interest in participating directly in emerging markets such as electric vehicle charging infrastructure (EVCI).

Large energy users already fund a substantial share of network costs, so any expansion of regulated services into new technology areas must be approached with caution. Where DNSPs seek to participate directly in activities like kerbside EVCI, the resulting additions to the regulated asset base would impose material costs on businesses that neither use nor benefit from these services. Even modest investments could increase network charges for industry, undermining cost-reflective pricing and creating inequitable outcomes for commercial and industrial consumers.

We recognise that DNSPs are motivated, in part, by a desire to optimise and coordinate the operation of their networks as new technologies emerge. Better utilisation of existing assets and improved visibility of load patterns can support more efficient network planning and operation. These are legitimate objectives, and we agree that improved coordination can deliver better system outcomes.

However, these benefits can be realised without DNSPs entering contestable markets. DNSPs can best support the integration of new technologies by enabling third-party participation through timely connections, improved access to network information, and consistent facility access arrangements. The existing regulatory framework, including service classification, ring-fencing, and cost allocation, provides an appropriate foundation for this role. Several

structural gaps and emerging pressures nonetheless require attention to ensure consumers continue to receive fair value from the assets they fund.

Across the issues examined in this Review, we encourage the AEMC to prioritise consumer outcomes, competitive neutrality and transparency. Where changes to the framework are contemplated, they should be grounded in clear evidence, supported by robust regulatory oversight and designed to avoid socialising costs across consumers who may receive little or no direct benefit. **Most importantly, regulated monopolies should support, not displace, contestable markets.**

DISCUSSION

1. Service classification

Service classification sets the context for assessing the appropriate scope of DNSP activities as new technologies reshape the energy system. The EUAA agrees with the Commission's observation that developments in consumer and distributed energy resources are changing how some consumers interact with the grid, including increasing the potential to bypass transmission and distribution networks. However, we do not consider changing consumer preferences to be a justification for DNSPs expanding beyond their core role and the current regulatory regime. We encourage the Commission to consider the future role of DNSPs on the basis of what delivers the best outcome for consumers, rather than as a response to technological change alone.

In our view, DNSPs should support emerging markets by enabling competition, not by participating in it. While DNSPs already provide some network information on request, this is generally limited to individual sites and requires DNSPs to process and respond to each query, which can create operational constraints. Although some networks have begun publishing capacity information proactively, such as the NSW hosting capacity opportunities map, this remains uneven across jurisdictions. As a result, third parties often lack the broader visibility needed to identify optimal locations or plan investments efficiently.

To enable efficient market development, DNSPs should provide timely, consistent and accessible network-level information that third parties need but cannot otherwise obtain. This is a contribution only DNSPs can make, and it is central to unlocking competition in areas such as EVCI. Improving the availability and quality of network information would address one of the most significant barriers faced by market participants today.

Importantly, these activities do not require DNSPs to expand into new regulated services or build additional regulated assets. Enhancing information provision can be delivered through operating expenditure rather than capital expenditure, which still forms part of consumer-funded costs but is materially lower than adding new assets to the regulated asset base. This approach supports innovation and competition while keeping costs proportionate and within the boundaries of the current regulatory framework.

Direct participation in contestable markets would undermine competitive neutrality and risk crowding out providers who are best positioned to innovate and respond to consumer needs. By focusing on information provision rather than market participation, DNSPs can play a constructive role that enables competition to occur between the parties most capable of participating effectively.

Against this backdrop, we note the Commission's question on whether additional guidance is required in the NER on how the boundaries between regulated and contestable services should be drawn. Clearer guidance, if designed well, could genuinely benefit both the market and consumers by reducing uncertainty for all participants. However,

we query whether it is premature to design or implement such guidance at this stage, given how far apart stakeholders currently sit on the fundamental question of what role DNSPs should play in these markets. We would prefer to see greater alignment on that underlying question before firmer guidance is developed, to avoid embedding assumptions that may not hold as this space matures.

2. Ring-fencing

The EUAA supports ring-fencing waivers being granted where there is a genuine market failure. We consider that a DNSP's participation in a contestable market should be the exception rather than the norm, and only available where it can be clearly demonstrated that no commercial provider is willing or able to supply the service, and that DNSP involvement will deliver measurable, long-term benefits to consumers.

The AER already applies a strict, legislated ring-fencing regime to gas pipeline owners, which appears more rigorous than what has been applied to DNSPs to date, despite both sectors facing similar underlying risks associated with owning monopoly infrastructure and participating in related contestable markets. Under the National Gas Law and National Gas Rules, gas pipeline service providers must meet minimum legal, accounting and functional ring-fencing obligations set out in legislation, and must satisfy the AER against specified criteria before any waiver is granted. This reflects established regulatory practice in the adjacent gas sector and the difference in approach is notable given the comparable incentives and risks present in both sectors.

We are also mindful of the cumulative effect of individual ring-fencing waivers granted for network trials, such as the CitiPower Powercor EVCI trial and the Ausgrid community power network trial. Each waiver may be reasonably justified in isolation, given its specific and bounded circumstances. However, taken together, these waivers risk creating an impression that DNSP participation in contestable markets is becoming more routine, even though they were granted for time-limited, closely supervised trials. In the context of the consultation paper's question about the effectiveness of waivers in promoting long-term consumer interests, we consider it important to recognise that these trial-based arrangements should not be treated as signalling a broader policy shift or establishing precedent for enduring regulatory settings.

Further, the recent EVCI and community battery trials have only been possible because the AER relaxed its standard ring-fencing requirements through individually negotiated waivers, each subject to bespoke conditions and sunset clauses. As a result, the evidence available to date reflects DNSP conduct under unusually close regulatory supervision, rather than the conditions that would apply under a permanent or generalised right for DNSPs to compete in these markets. Concerns about self-preferencing and information access were raised by stakeholders even within this closely monitored environment[1]. In assessing whether waivers have promoted the long-term interests of consumers, this is an important consideration: evidence generated under trial conditions should not be relied upon as indicative of outcomes under a less supervised, enduring arrangement.

In considering whether changes are required to the ring-fencing arrangements, we maintain that the evidence available from recent trials is not sufficient to support changes that would allow DNSPs to participate more broadly in contestable markets. These markets remain nascent and fast-evolving, and the current waivers have been granted under conditions that differ materially from those that would apply under a permanent arrangement. In our view, the more useful question is how the existing ring-fencing framework could better support consumer

[1] AER, *Reasons for decision – Ring-fencing waiver for an electric vehicle charging infrastructure trial from CitiPower, Powercor and United Energy*, October 2025, pp. 18–19; AER, *Trial waiver decision – Ausgrid Community Power Network*, December 2025, p. 1.

outcomes, particularly by enabling DNSPs to support competitive markets without requiring exemptions from established ring-fencing obligations.

This broader caution is reinforced by experience in other sectors. Telstra's period as a vertically integrated regulated monopoly, providing wholesale network access while also competing directly in retail telecommunications, offers a domestic example of a regulated entity operating in the contestable market it also served. That arrangement ultimately required close to a decade of ACCC intervention and a full structural separation before competition concerns were resolved. In this context, the current AER waivers for DNSP participation do not yet provide a sufficient basis for assessing long-term consumer outcomes under a more enduring model.

We consider that a more proportionate path is for DNSPs to continue supporting competitive markets within the existing ring-fencing framework, primarily by improving access to the data and network information that third parties need. This approach avoids the structural risks associated with direct DNSP participation and allows competitive providers, who are already well placed to deliver these services, to operate more effectively.

3. Connections and facility access

The EUAA agrees with the Commission that access to network connections and facilities is critical for parties seeking to provide services and compete in contestable markets. We consider there is a risk that barriers could emerge if the cost, complexity or timeliness of accessing these connections or facilities is not applied consistently between DNSPs and third parties seeking comparable access.

We consider there is insufficient evidence to determine whether the negotiate-arbitrate framework is functioning as intended. As the Consultation Paper notes, the reasons for the low use of the dispute resolution mechanism are unclear, and we do not think this uncertainty should be resolved by assumption. In our experience, parties are often reluctant to pursue formal dispute processes due to concerns about the potential impact on future negotiations or access arrangements. This dynamic reinforces the need to understand why the mechanism is rarely used before drawing conclusions about its effectiveness.

We recommend further investigation into why this mechanism is so rarely used before reaching a conclusion on its effectiveness. This issue is likely to become more significant if DNSPs are permitted to participate directly in CER-adjacent markets, or alternatively if DNSPs are intentionally excluded from these markets through a process such as the one being considered in this Review. The credibility of the negotiate-arbitrate framework as a safeguard becomes more consequential if either case eventuates, and we consider it important that this evidence gap is resolved before any related policy outcome is settled.

We are also concerned that where a service is not classified by the AER, a prospective user has no enforceable right of access, as the negotiate-arbitrate protections in Chapter 6 of the NER only apply once a service has been classified. In these circumstances, access depends entirely on whether the NSP is willing to provide the service, and none of the protections that apply to classified services, including dispute resolution, transparency obligations or cost-based pricing constraints, are available. We recognise that this gap reflects the pace of regulating a nascent, fast-evolving industry, and would not want an over-correction to come at the cost of innovation. Nonetheless, we consider it important that the ENRR examine this issue more broadly, given the potential implications for facility access in emerging CER markets.

4. Cost allocation and shared asset arrangements

Cost allocation and shared asset arrangements play an important role in ensuring consumers receive fair value from the assets they fund, particularly as the use of network assets evolves in response to emerging CER-adjacent markets.

The EUAA considers that consumers should benefit from the assets they fund. When a network asset, such as a pole, is used for both regulated services and other purposes, the initial allocation between these uses is set early and is rarely revisited. For example, a pole might initially be allocated 90% to regulated services and 10% to unregulated use, with consumers funding 90% of its cost on that basis. If the unregulated use of that pole later grows to around 50%, consumers continue funding the original 90% share, even though the value they receive from the asset has materially declined, while other users continue to access the asset on terms based on the original, smaller allocation. While this example has a relatively small impact on consumer bills, the cumulative impact and associated transfer of wealth is quite significant.

Decisions relating to the regulatory asset base are appropriately subject to a high level of economic scrutiny, to ensure that where consumers fund an asset, this is appropriate and consistent with the NEO, the capital expenditure criteria and the broader suite of obligations governing prudent and efficient investment. We consider that this same level of scrutiny should extend to how shared assets are treated once in use, not only at the point they are first funded. To clarify, we do not see this as reflecting any deliberate conduct, but agree with the Commission that this is a structural gap in the current cost allocation and shared asset arrangements, which are not well suited to assets whose use shifts materially over time. We would like to see these arrangements made more flexible, with consumer outcomes an explicit consideration in any future framework, so that consumers are, at minimum, no worse off as a result of changes in how a shared asset is used, and ideally share in the benefit where that use grows.

We support the Commission's identification of a gap in how the shared asset arrangements apply to negotiated services. As the Consultation Paper notes, the current rebate mechanism only applies where an asset shifts from a regulated service to an unregulated one, not where it shifts to a negotiated service. With EVCI distribution asset rental now classified as a negotiated service for the Victorian DNSPs[2], consumers receive no rebate on that revenue purely due to the service's classification, even though the asset is being used to support additional commercial activity. We support this gap being addressed so that consumers are treated consistently across classifications and continue to share in the value of the assets they fund.

5. ENA's EVCI rule change

The EUAA maintains that DNSPs should focus on enabling the competitive EVCI market through timely connections, information provision and site readiness, rather than entering it as service providers. This position aligns with our broader view that **regulated monopolies should support, not displace, contestable markets.**

In this context, we would be more supportive of a targeted approach that limits DNSP involvement to areas where competition is genuinely limited, such as locations unlikely to attract commercial investment. We also support addressing the barriers to EVCI deployment identified in the Consultation Paper, including connection timeframes and facility access costs, independently of any direct DNSP participation in the market.

[2] AER, *Final Framework and Approach for Victorian Electricity Distributors 2026–31*, Service Classification Tables (AusNet, CitiPower, Jemena, Powercor, United Energy), which classify distribution asset rental as a negotiated distribution service for the 2026–31 regulatory period.

a. Regulatory oversight and competition

A competitive market for public EV charging is already well established in Australia, with active investment from Chargefox, Evie Networks, Jolt, Exploren and kerbside-focused providers such as EVX. Major retailers including AGL, Origin, Ampol and BP have also entered the market, supported in many cases by ARENA co-funding. This level of private investment should be weighed carefully against ENA's "chicken and egg" framing, which understates the extent to which the market is already responding to demand without DNSP ownership or operation of EVCI.

We do not support ENA's proposal to reduce the AER's role in classifying Distribution EVCI Services. Under the existing framework, the AER must first determine whether a service should be regulated at all, and only then decide whether it should be classified as standard or alternative control. ENA's proposal would remove this first and critical decision by deeming Distribution EVCI Services a direct control service by rule. This represents an unnecessary reduction in regulatory oversight for a decision that carries materially greater risks than opportunities for consumers, particularly because it could add costs to all consumers without delivering benefits to all consumers.

In addition to this reduction in oversight, the Consultation Paper does not fully address all of the form of regulation factors in section 2F of the National Electricity Law. While Box 3 covers most factors, it does not consider factor 2F(g), which relates to whether prospective service users have access to the information needed to negotiate effectively with a network service provider. Although section 2.4.2 touches on this issue indirectly, factor (g) warrants explicit consideration by the AEMC, particularly because improved access to network information would help address the "chicken and egg" problem ENA identifies.

ENA's proposal would also further limit the AER's ability to test these factors. This is concerning in a context where information on optimal EVCI sites, spare capacity and connection processes is already inconsistent and opaque. If a DNSP is both the infrastructure owner and a potential competitor in the EVCI market, information asymmetry becomes more consequential. Third-party providers would essentially be negotiating with a party that also competes with them. This has a direct bearing on competition, which is the outcome Box 3 is intended to safeguard.

Regarding the proposed transitional reopener in section 4.2.3, we question whether a four-month window provides the AER with sufficient time to properly assess a DNSP's application. While a short timeframe may be workable under normal circumstances, or if ENA's proposal to reduce the AER's role in classifying services were to proceed, we consider that where the risk to consumers is evident, adequate time is needed to assess what the best outcome will be. If the rule change were to proceed, it would be essential that all necessary protections are in place to shield consumers from adverse impacts, and this cannot be achieved under compressed timeframes. Introducing a new regulated service with potentially socialised costs is not a decision that should be made quickly.

b. Costs

Section 4.3 of the Consultation Paper acknowledges that EVCI will continue to be rolled out irrespective of this rule change. The proposal is therefore an argument that rollout could be faster or more efficient with DNSP involvement. While DNSPs can play an important enabling role, we have not seen evidence sufficient to justify the trade-off between potential efficiency gains and the risks to innovation, competition and consumers associated with introducing a new regulated service that many consumers will not use. Large energy users would be disproportionately affected if EVCI costs were added to the regulated asset base, given they bear a larger share of network costs while receiving little to no direct benefit from kerbside charging.

We also question ENA's claim that DNSP-led EVCI deployment would be "50% cheaper than other options." Our concern is less with the headline figure than with its long-term accuracy and with who ultimately bears the cost. If network customers as a whole fund the service, it cannot meaningfully be described as "cheaper" without asking cheaper for whom, over what timeframe, and at what cost to consumers who will not use the service. ENA's submission refers to "very small" administrative and transitional costs but does not identify what these costs involve or how they would be recovered. For large energy users, any additional costs passed through network charges are unlikely to be small, particularly where there is no corresponding benefit. Greater transparency on the nature and treatment of these costs would help stakeholders assess the implications of the proposed change.

Finally, if the rule change were to proceed despite our concerns, an alternative control classification would be materially preferable to standard control, as it would limit cost recovery to users of the service rather than all electricity consumers. Though note that this should not be interpreted as support for the rule change itself.

CONCLUDING REMARKS

As CER-adjacent markets continue to evolve, it is essential that the regulatory framework maintains clear boundaries between regulated and contestable services, protects consumers from unnecessary costs and supports the development of competitive markets. DNSPs have an important role to play in enabling these markets, and can support better system outcomes through timely connections, improved access to network information and consistent facility access arrangements without entering contestable markets or expanding the scope of regulated services in ways that shift additional costs onto large energy users.

Large energy users already carry a substantial share of network charges, so it is essential that the framework prevents further cost-shifting through the expansion of regulated services. Even modest additions to the regulated asset base for services such as kerbside EVCI would materially increase costs for businesses without delivering any corresponding benefit, creating inequitable outcomes for commercial and industrial consumers. Addressing the structural gaps identified in this Review, particularly in service classification, ring-fencing, cost allocation and access to network facilities, will help ensure that regulated services remain appropriately scoped and that innovation is driven by parties best placed to respond to emerging opportunities.

In our view, reinforcing these protections is the most proportionate and effective path for supporting the long-term interests of consumers as the energy system transitions.

The EUAA welcomes further discussions around the issues raised in this submission. Do not hesitate to be in contact with EUAA Regulation Manager Shelby Macfarlane-Hill, should you have any questions.

Andrew Richards
Chief Executive Officer