

Submission to the AEMC

Electricity Network Regulation Review

Rule changes	Clarifying distribution ring-fencing in emerging energy markets; Enabling DNSP-led electric vehicle charging infrastructure
References	EPR0106; ERC0435; ERC0437
Submitted by	EVX
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Dear Commissioners,

EVX welcomes the opportunity to respond to the AEMC’s Package 1 consultation. EVX designs, manufactures, owns and operates public kerbside electric vehicle charging infrastructure and works directly with local governments and distribution network service providers (DNSPs) to deliver charging in public space.

EVX strongly supports the Nexa Advisory rule change. The core economic principles remain clear: monopoly networks should provide monopoly network services; services that can be delivered competitively should remain contestable. The energy transition increases the importance of that boundary. It does not justify weakening it.

EVX’s central position

The AEMC should strengthen ring-fencing and access protections, reject the ENA proposal, and address the actual barriers to EV charging deployment: slow and uncertain connections, opaque network information, inconsistent facility access and the absence of timely, enforceable remedies.

Key recommendations

1. Progress the Nexa rule change and elevate core ring-fencing obligations and waiver principles into the National Electricity Rules (NER).
2. Require a genuine last-resort waiver test: independently verified market failure, measurable consumer benefit, affirmative proof of no harm, public market testing, strict time limits and a binding exit plan.
3. Reject the ENA proposal to classify DNSP-owned EV charging infrastructure as a direct control service. Public EV charging is a contestable, customer-facing service, not a natural-monopoly network service.
4. Strengthen connection and facility-access obligations through published capacity and access information, standard terms and charges, service-level timeframes, data parity and fast independent dispute resolution.
5. Preserve user-pays and investor-risk discipline. Electricity consumers should not bear utilisation, technology, site-selection and stranding risks for competitively deliverable charging assets.

1. Clear boundaries are essential to consumer protection

Response to Questions 2–5

Service classification should begin with a simple question. Can the service, reasonably be supplied by competing providers? Where the answer is yes, regulated monopoly provision should not be considered. Regulation should apply to the essential network service, not expand merely because a contestable device is connected to, or mounted on, a network asset.

For EV charging, the monopoly inputs are the connection, network capacity information, metering interfaces where applicable, and fair access to network facilities such as poles. The downstream activities, site development, charger design, manufacturing, ownership, operation, maintenance, pricing and customer service, are contestable and are already being performed by specialist providers.

The ENA proposal would reverse this logic. It would make DNSP ownership of the highest-capital and most strategically important layer of the charging service a regulated activity, while describing competition at the retail charging layer as sufficient. That is not competitive neutrality. The hardware owner controls location, power, socket configuration, maintenance standards, upgrade timing, data interfaces and much of the customer experience.

The ACCC's opposition to the proposed TPG–Vodafone merger is directly relevant because it recognised that meaningful competition does not exist merely because multiple businesses can issue a bill to the customer. The competitive constraint TPG was expected to provide arose from its capacity to invest in, own and operate independent network infrastructure, giving it control over costs, technology, service quality and future innovation. The ENA proposal risks eliminating this same form of infrastructure-level competition in EV charging. Allowing DNSPs to own the charging hardware while commercial providers compete only to sell electricity through it would reduce charge point operators to a thin retail layer operating on monopoly-controlled assets and terms. The principal investment, technology selection, location, design, reliability and customer-experience decisions would remain with the DNSP. Competition between bill issuers cannot substitute for competition between independently financed infrastructure providers that bear deployment and utilisation risk and must attract customers through better locations, equipment, pricing and service.

<https://www.accc.gov.au/media-release/accc-opposes-tpg-vodafone-merger>.

Connection and facility access are the real bottlenecks

EVX agrees that current connection and facility-access arrangements can operate as barriers to entry. These barriers arise because DNSPs control essential inputs that a competitive provider cannot replicate. The solution is to regulate those monopoly inputs more effectively, not to allow the monopoly to take ownership of the downstream service.

- Publish timely, usable network-capacity, pole-suitability, technical and planned-upgrade information on equal terms to all providers.
- Establish standard application requirements, technical standards, cost schedules and cost-reflective facility-access fees.
- Apply enforceable service-level timeframes for feasibility advice, quotations, approvals, construction interfaces and energisation.
- Require transparent queue management, immutable timestamps and equivalent information release to DNSP affiliates and third parties.
- Create rapid independent dispute resolution, including interim relief where delay or discriminatory conduct may cause irreversible project or investment harm.

Cost allocation and shared assets

Where regulated assets, systems or staff support contestable activity, all incremental and attributable costs must be transparently allocated to the contestable service. Consumers must receive the benefit of any use of assets they funded. Cost allocation should be reviewed over time as service use changes; it must not be fixed at a favourable initial allocation and then left untouched as commercial use expands.

2. EVX supports the Nexa rule change

Response to Questions 6–8

The current framework has allowed waivers, trials and incremental relaxations to become a pathway for DNSPs to enter emerging contestable markets. This creates a structural problem before any individual breach occurs. DNSPs possess guaranteed or regulated cost recovery, control essential access processes, hold privileged network information, and may share resources, systems or branding with affiliates. Competitive providers cannot replicate those advantages.

Ring-fencing therefore cannot be treated as a narrow compliance exercise. It is a consumer-protection and market-design mechanism. Weak protection can deter entry, raise financing hurdles, reduce choice, slow innovation and eventually leave consumers paying for higher-cost or under-utilised assets embedded in regulated revenues.

The five reforms should be adopted as a package

Reform	EVX position	Required minimum protection
Core obligations in the NER	Support	NER to state purpose, non-discrimination, cost-allocation, affiliate and waiver principles; AER guideline to retain operational detail.
Last-resort waivers	Strong support	Independent market test; measurable benefit; affirmative no-harm proof; public evidence; 24–36 month sunset; KPIs, audit and exit plan.
Affiliate dealings and data	Strong support	Simultaneous access, standard interfaces, published queues and prices, access logs and independent parity assurance.
Branding and cross-promotion	Support	Distinct names, logos and presentation; prominent disclaimer that affiliate services are optional and contestable.
Financial resilience and enforcement	Support	Financial safety triggers; annual AER report; waiver register; safe anonymous complaints channel; published outcomes and timely remedies.

Implementation and existing waivers

EVX supports a six-month period for the AER to update the guideline and a 12-month compliance period for DNSPs. Existing waivers should not be grandfathered indefinitely. Each should be reviewed against the new test by the earlier of its next review date or 12 months after commencement. Core non-discrimination, data-access and cost-allocation duties should not be waivable.

The implementation costs are modest and proportionate. A DNSP seeking permission to depart from safeguards that protect consumers and competition should bear the evidentiary burden. The much greater risk is allowing private investment and capability to be crowded out before harm becomes visible or reversible.

3. The ENA rule change should be rejected

Response to Questions 9–11

ENA has not established a broad, material and enduring market failure in public EV charging. EV charging comprises multiple markets and use cases: metropolitan kerbside AC charging, apartment and workplace charging, destination charging, high-power corridor charging and regional blackspots. The commercial conditions, substitutes and policy needs differ materially across them. A permanent, economy-wide expansion of regulated monopoly ownership is not a proportionate answer to localised or temporary gaps.

The AEMC consultation paper itself identifies fundamental omissions in the ENA case: no analysis demonstrating that kerbside EVCI is a monopoly service or that competition cannot emerge; no restrictions on the number, type or location of DNSP chargers; no AER approval of a DNSP deployment strategy; no service standards; and no quantified cost-benefit case. The paper also recognises that standard-control classification could allow cross-subsidisation and make third-party competition unlikely.

The proposal fails at the threshold

A service should not be moved into regulated monopoly provision unless there is clear evidence of an enduring market failure and a competitively neutral assessment shows that regulated provision produces a better consumer outcome than targeted grants, competitive procurement or removal of network-controlled barriers. ENA has not met that test.

A “chicken-and-egg” description is not a market-failure test

Low initial utilisation in an emerging market does not prove that competition has failed. It may reflect the normal sequencing of demand, investment, planning approvals and connection delivery. In metropolitan areas, CPOs are already deploying and financing public charging. In genuinely uneconomic regional or remote locations, targeted, transparent government support can address the gap without permanently expanding the regulated asset base.

Nor does the unsubstantiated claim that DNSPs can deploy more quickly or cheaply by using consumer-funded assets, systems and workforces establish economic efficiency. A competitively neutral comparison must include the value of direct access to regulated assets and information, full cost allocation, the cost of risk transfer to consumers, and the deterrent effect on private investment.

Open access at the retail layer does not preserve infrastructure competition

The ENA model would place the physical charging platform, the principal capital investment and the layer that determines site utility, under monopoly ownership. CPOs would compete only as service retailers on infrastructure selected, specified and controlled by the DNSP. This would remove meaningful competition in hardware, location, service integration and lifecycle performance, and would weaken accountability when the charger does not meet driver needs.

Competition at the individual charging socket already exists through established roaming arrangements and does not require DNSP ownership of the underlying infrastructure. EVX and other charge point operators have adopted roaming protocols that allow drivers to access a charger using the account, application or charging card of a participating third-party mobility provider, while the independent CPO continues to own, fund, maintain and operate the physical asset. This model creates competition at the customer-service and billing layer without removing competition at the more important infrastructure layer. It preserves incentives for CPOs to select appropriate locations, deploy reliable hardware, improve utilisation and deliver a better customer experience, while allowing multiple service providers to offer access to the same socket.

The ENA proposal therefore does not create a form of retail competition that is presently absent; it would instead replace an existing model of infrastructure and service competition with monopoly ownership of the socket and only superficial competition between parties authorised to bill for its use.

4. Consumer and industry harm from DNSP ownership

Risk transfer and higher bills

Under competitive ownership, the CPO and its investors bear the consequences of poor site selection, low utilisation, unreliable equipment, cost overruns, technology change and asset stranding. Those risks drive careful deployment and continuous service improvement. **Under regulated cost recovery, some or all of those risks can be transferred to electricity consumers, including households that do not own an EV or use the charging service.**

Standard-control treatment is particularly problematic because it allows costs to be socialised across all network customers.

Private investment, local capability and innovation

Public EV charging requires substantial upfront capital recovered over long periods. Investors will not fund that model on the same terms if a regulated monopoly can enter later with consumer-funded advantages and recover costs irrespective of utilisation. The predictable effects are higher hurdle rates, delayed projects, less local manufacturing and software development, and capital being redirected to other markets.

EVX's vertically integrated model, designing, manufacturing, owning, operating and maintaining deployed infrastructure, aligns accountability across the asset lifecycle. Field performance informs design improvements, and revenue depends on the charger being useful, available and easy to use. A monopoly platform model separates infrastructure decisions from customer demand and reduces the competitive pressure that drives improvement.

Public-space charging requires more than access to a pole

Useful kerbside charging depends on local government collaboration, parking allocation and enforcement, accessibility, demand, dwell time, streetscape design, community acceptance and reliable operations. DNSPs can identify electrical capacity; they are not transport planners, parking authorities or charging-service specialists. Site selection should remain led by councils and competitively exposed CPOs, with DNSPs providing timely technical assessment, connections and facility access.

A deployment model rewarded for installing assets rather than delivering utilisation can bypass the important local-government work needed to secure functional charging bays. Faster deployment of inaccessible or routinely blocked chargers is not efficient investment and does not advance consumer outcomes or emissions reduction.

5. A better, competition-led solution

The AEMC should focus on enabling competitive deployment

1. Keep charger ownership, hardware selection, site development and operation contestable. Councils, transport agencies and CPOs should identify locations based on driver need, parking, accessibility and demand.
2. Require DNSPs to provide transparent network information, standard and cost-reflective connection and facility-access services, and enforceable delivery timeframes.
3. Use competitive grants or tenders for genuine regional blackspots and early-stage locations that may fail a transparent and independent market test.
4. Procure outcomes rather than assets: availability, utilisation, accessibility, price transparency, interoperability, reserved-bay arrangements and customer service.
5. Preserve user-pays discipline so that the users of charging infrastructure principally fund it, while public funding is targeted transparently to defined public benefits.

No current-period reopener

EVX opposes reopening current regulatory determinations to accelerate DNSP entry. A reopener would bypass normal classification discipline before the market definition, counterfactual, cost-benefit case and competitive impacts have been established. It would also create immediate investor uncertainty while the broader review remains incomplete.

Least-distortionary response

Where a gap exists, the first response should be to remove the barrier or procure the missing outcome competitively. Monopoly ownership should be the default option and based on a deep lack of evidence to support it.

6. Assessment framework and requested determination

Response to Question 12

The National Electricity Objective (NEO) and the requirements of the National Electricity Law should remain the primary assessment framework. Consumer outcomes, economic efficiency, innovation and emissions reduction are relevant because they are reflected in that statutory task; they should not be used as broad policy labels that dilute the threshold for expanding monopoly regulation.

EVX recommends that the AEMC make competitive neutrality explicit in its analysis. Each proposal should be assessed against a clearly defined counterfactual and the least-distortionary feasible option. Claimed benefits must be incremental to what competitive providers, targeted grants, councils and improved network access would deliver. Incumbent advantages funded by regulated consumers must not be counted as genuine efficiency.

The AEMC should determine that:

1. The current distribution ring-fencing framework requires stronger, durable and enforceable protections.
2. The Nexa rule change provides a proportionate framework and should progress, including a last-resort waiver test, no-harm requirement, data parity, branding separation, financial resilience and transparent enforcement.
3. Public EV charging infrastructure is capable of competitive provision and should not be classified as a direct control service merely because it is connected to or mounted on a distribution asset.
4. **The ENA rule change has not demonstrated an enduring market failure**, a competitively neutral efficiency advantage or a quantified net consumer benefit, and should not be made.
5. The priority reform for EV charging is stronger connection, information and facility-access obligations, supported by targeted competitive funding for genuine blackspots or network constraints.

Conclusion

The energy transition needs capable networks and strong competitive markets. These objectives are complementary when the boundary is clear. DNSPs should focus on delivering safe, reliable and efficient network services and making essential network inputs available fairly. Competitive businesses should remain responsible for investing, innovating and serving customers in contestable markets.

Weakening the boundary would socialise commercial risk, deter private capital and create a monopoly platform in a fast-changing customer market. Strengthening it will protect electricity consumers, provide investment certainty and accelerate useful, accessible and accountable EV charging deployment.

Yours sincerely,

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