Justice and Equity Centre

Facilitating electric vehicle charging infrastructure under Commonwealth grants

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About the Justice and Equity Centre

The Justice and Equity Centre stands for a society that is fair and free from discrimination and disadvantage. Established in 1982 as the Public Interest Advocacy Centre (PIAC), we use the law and policy advocacy to challenge injustice and inequality. We do this through:

- legal advice and representation, specialising in test cases and strategic casework;
- research, analysis and policy development; and
- advocacy for systems change to deliver social justice.

Energy and Water Justice

Our Energy and Water Justice work improves regulation and policy so all people can access the sustainable, dependable and affordable energy and water they need. We ensure consumer protections improve equity and limit disadvantage and support communities to play a meaningful role in decision-making. We help to accelerate a transition away from fossil fuels that also improves outcomes for people. We work collaboratively with community and consumer groups across the country, and our work receives input from a community-based reference group whose members include:

- Affiliated Residential Park Residents Association NSW;
- Anglicare;
- Combined Pensioners and Superannuants Association of NSW;
- Energy and Water Ombudsman NSW;
- Ethnic Communities Council NSW;
- Financial Counsellors Association of NSW;
- NSW Council of Social Service;
- Physical Disability Council of NSW;
- St Vincent de Paul Society of NSW;
- Salvation Army;
- Tenants Union NSW; and
- The Sydney Alliance.

Contact

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The Justice and Equity Centre acknowledges and pays respects to the Gadigal as the Traditional Owners of the land on which our office stands.

Contents

Acronyms list

Acronym	Full name
EWCAP	Energy and Water Consumers' Advocacy Program
AEMC	Australian Energy Market Commission
AER	Australian Energy Regulator
CPO	Charge Point Operator
DCCEEW	Department of Climate Change, Energy, the Environment and Water
DNSP	Distribution Network Service Provider
EV	Electric Vehicle
EVCI	Electric Vehicle Charging Infrastructure
NER	National Electricity Rules
RAB	Regulated Asset Base

1. Introduction

The Justice and Equity Centre (JEC) welcomes the opportunity to respond to the Australian Energy Market Commission' (AEMC) Facilitating electric vehicle charging infrastructure under Commonwealth grants rule change consultation paper.

Australia's shift to electric vehicles (EVs) is a critical aspect of emissions reduction. The availability of charging infrastructure needs to keep pace so EV users can charge reliably and at a reasonable cost. This is especially important for people without off-street parking and those living in regional areas. But it is essential that consistent, robust principles guide how EVCI is enabled and supported by the energy system. Energy consumers cannot be unfairly burdened with subsidy of the costs involved. We are concerned this proposal would do just that.

We support the broad intent of the program to accelerate charging infrastructure availability, and the use of competitive grants to expand charging access.

We also support limiting this rule to infrastructure delivered under the program, so broader questions about appropriate roles and responsibilities can be more holistically addressed through the upcoming Electricity Network Regulation Review.

However, we do not support the rule as drafted. We have serious concerns that the proposal would:

- see costs unfairly recovered from all energy consumers, not only those who benefit from the infrastructure; and
- expand the role of DNSPs in planning and delivering EV charging in a way that is not best aligned with the interests of energy consumers.

We outline these concerns and propose a more appropriate, principled approach below.

2. Avoid cross-subsidies from electricity consumers to EV users

The Commonwealth should not add further costs to all energy consumers through this program. It is not appropriate for all electricity consumers to subsidise infrastructure for EV charging users — particularly where there is no direct benefit for them.

As currently proposed, the rule would create a cross-subsidy from general electricity users to a smaller group of EV users who rely on kerbside and/or DC fast "blackspot" charging. This is not consistent with the long-term interests of energy consumers. On this basis, the Commission should reject the rule change in its current form.

If the rule proceeds within the electricity framework

If a scheme is established within the electricity regulatory system, the Commission should require:

- A dedicated EVCI tariff class for EV charging infrastructure which recovers all related costs directly from users of the infrastructure;
- No cross-subsidy from general electricity consumers to this tariff class; and
- Any revenue shortfall from the EVCI tariff class to be covered by the Commonwealth's grant, rather than recovered from other consumers.

Preferable approach: fund outside the electricity system

Ideally the AEMC would defer this proposal entirely, enabling the issues identified to be holistically considered as part of the network regulation review. This would ensure more comprehensive consideration of the issues, and assessment of more robust, principles-based responses which best promote the interests of energy consumers.

If the Commonwealth wishes to proceed in the near term, it can still deliver the full $130 million program through a grant scheme outside the electricity regulatory framework, or in a way which otherwise avoids any cross-subsidy from electricity consumers.

Role of DNSPs in site selection

We also have concerns about assigning DNSPs responsibility for identifying sites for EV charging infrastructure. They are not transport or charging infrastructure experts and their incentives are not well aligned with delivering the best outcomes in the long-term interests of both EV charging and electricity consumers. That is, they do not necessarily have unqualified incentives to site charging infrastructure only where it is best needed, and where it imposes least cost.

DNSPs should instead play a facilitative role which leverages their existing resources and responsibilities by:

- publicly disclosing network capacity information needed to identify efficient site location opportunities[1]; and
- supporting transparent and efficient site identification and connection processes for charging infrastructure.

Where DNSPs are involved in pre-identifying sites, this should be transparent and informed by input from charge point operators (CPOs) and DCCEEW.

Regional blackspot program design

We are also concerned about the design of the regional blackspot program for high-voltage DC fast chargers.

Unlike the kerbside program—which uses a competitive tender—the blackspot program assumes that only DNSPs will deliver projects under the proposed subsidies. This assumption should be tested.

DNSPs should instead be required to:

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1 As proposed in the *Enhancing distribution network planning and reporting* rule change.

- enable competitive tenders from other providers, through transparency and efficient connection arrangements,
- participate in a competitive tender process; and
- act as a regulated provider of last resort where no private providers come forward.

Where DNSPs do invest in EV charging infrastructure, additional safeguards are needed.

Consideration should be given to requiring DNSPs to divest these assets periodically, for example through a mandated sale every five years (aligning with relevant regulatory control periods) or when requested by the AER.

Any such requirement should include appropriate compensation for the residual value of assets.

This approach is more consistent with existing ring-fencing principles and ensures that DNSPs only participate in the delivery of EVCI where there is no interest from private investors.

3. Continued engagement

We welcome the opportunity to meet with the AEMC project team and other stakeholders to discuss these issues in more depth. Please contact Jan Kucic-Riker at jkucicriker@jec.org.au regarding any further inquiries.

Response to consultation questions

Question 1: Do you agree with the problem statement as described by the proponent? If you don't agree, why?

We broadly agree with the problem statement and recognise that the proposal is intended to be temporary.

However, we are concerned about the dangerous precedent it sets. The proposal introduces a cross-subsidy from energy consumers to EV charging users. At best it does so without clearly testing whether electricity consumers support and are willing to pay for said transfer, at worst, it creates a precedent that the cost of benefits outside of energy can be recovered from energy consumers – who are already facing steeply increased costs from the expansion of energy infrastructure.

That is a significant – and arguably unnecessary - policy step that should not be taken lightly.

Question 2: Do you have any views on the proponent's assessment of the emissions reduction benefits?

We strongly support policies reducing emissions and helping to meet Australia's commitments. We agree expanding EV charging infrastructure is an important part of this transition.

However, that expanding EVCI is important for emissions reduction does not mean it is appropriate for energy consumers to subsidise it.

In any case, we consider the analysis of emissions reduction benefits could be improved. In particular, the current approach places too much weight on EV-per-charger ratios. This is not a reliable measure of how well the charging network is performing.

EV-per-charger ratios vary widely depending on local conditions. These include:

- the availability of home charging;
- the mix of AC and DC charging;
- local grid capacity; and
- EV uptake in each area.

For this reason, there is no single "optimal" ratio that can be applied across the system[2]. Relying on this metric risks misstating the adequacy of charging infrastructure.

A more useful metric is charger utilisation. Utilisation rates show how much existing infrastructure is actually being used and whether it is keeping pace with demand. This provides a clearer and more direct link to both system performance and emissions outcomes.

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[2] See ECA Creating accessible and affordable public EV charging networks for Australia, pp. 12-13

The Commission should therefore avoid placing undue weight on EV-per-charger ratios and consider a broader set of metrics, including utilisation rates.

This will lead to a more accurate assessment of both emissions reductions and infrastructure needs.

Question 3: Do you have any views on the proponent's assessment of the benefits of the funding program beyond emissions reduction, including the potential for it to provide insights to inform an enduring market design for EVCI?

We support the use of competitive grants to improve efficiency and reduce costs. We also support measures to improve capacity transparency, streamline and enable connections and cap access fees.

However, these benefits are offset and potentially undermined if costs are spread across all electricity consumers.

Not all electricity users will use EV charging infrastructure. While there may eventually be indirect benefits (such as lower emissions or better air quality), these have not been well established or clearly tested with energy consumers. Their willingness-to-pay for them should not be assumed.

A better approach is to apply a beneficiary-pays principle, so costs are borne by those who directly benefit.

Question 4: Do you consider it appropriate for EVCI projects approved as part of the funding program to have a difference between the total project costs and the amount CPO's are willing to pay funded through a combination of government funding and contributions from all electricity consumers?

It is reasonable that there will be a gap between total project costs and what CPOs are willing to pay. However, this gap should be funded by government – that is, the entity initiating this program – not energy consumers.

It is not appropriate to fund transport decarbonisation through higher electricity bills for all consumers. Nor is it necessary. The cost benefits of electric vehicles are such that full recovery of the costs of infrastructure from those who directly benefit from it, should be sustainable in the long term.

Question 5: Do you agree with how the rule change request proposes that residual costs (i.e. net of government funding) for approved EVCI projects be recovered by DNSPs?

We do not support allowing DNSPs to roll EV charging costs into their regulated asset base (RAB).

This approach shifts costs onto all electricity consumers and weakens incentives for cost discipline.

If the AEMC proceeds, it should at minimum introduce a cap on total costs and ensure there is oversight where actual costs exceed forecasts.

Question 6: Do you agree with the proponent's proposal that DNSPs recover costs in the next regulatory control period? If not, should DNSPs instead be able to recover costs incurred in the current regulatory control period through a reopener?

We do not support including EV charging infrastructure in the RAB at all.

If the proposal proceeds, costs should be recovered in the next regulatory period—not the current one—to help limit bill impacts during ongoing cost-of-living pressures.

Question 7: Do you agree with the proposals that: (a) EVCI connection works should not be classified as connection services under the NER? If not, why? (b) The restricted asset provisions should not apply where they would otherwise prevent or limit a DNSP from delivering an approved EVCI project? If not, why?

We support treating EV charging connection works outside standard connection services—but only for the duration of this program. This avoids locking in long-term arrangements prematurely.

We do not support waiving restricted asset provisions in the way proposed.

Instead, EV charging should be classified as an alternative control service and assigned its own tariff class.

This would help ensure costs are not shifted onto general electricity consumers.

Question 8: Are there alternative solutions for integrating the proponent's funding program in the NER that you think we should consider?

If the program sits within the electricity framework, it should include:

- a dedicated EVCI tariff class;
- no cross-subsidy from general consumers; and
- government funding to cover any shortfall.

However, our preferred option is to defer this reform and deliver the program as a stand-alone grant scheme outside the electricity regulatory system.

Question 9: What do you think should happen with the EVCI assets that DNSPs may be responsible for installing under the different proposed funding models at the end of the EVCI's life (e.g. should DNSPs be able to replace the EVCI)?

DNSP ownership of EV charging infrastructure should be limited and temporary.

We recommend:

- requiring DNSPs to sell these assets at least every five years where there is market interest or at the AERs request; and
- compensating DNSPs for the residual value of the investments made.

This approach aligns with international models, particularly in the EU, where DNSP ownership is restricted unless no private investment is available[3].

It ensures competitive markets deliver services wherever possible.

Question 10: Views on the role of DNSPs in EV charging, including the roles as identified within this rule change request, namely: as a provider of last resort for kerbside charging in metropolitan areas and as the provider of EV charging for uncommercial regional blackspots?

DNSPs may have a limited role as a provider of last resort, but only with strong safeguards.

This role should be conditional on:

- Beneficiary-pays cost recovery;
- Competitive tendering, including for regional projects; and
- Regular divestment where private providers are willing to invest.

If DNSPs are required to deliver uneconomic assets, they should be supported through an appropriate mechanism. This could include targeted government funding or appropriate regulatory treatment.

[3] For further detail and the exemptions to this ban please see Directive 2019/944, Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU, Article 33.