

23 July 2026

Anna Collyer
Chair
Australian Energy Market Commission
GPO Box 2603
Sydney NSW 2000

Lodged electronically

Electricity Network Regulation Review – Package 1; Clarifying distribution ring-fencing in emerging energy markets; Enabling DNSP-led electric vehicle charging infrastructure

Dear Ms Collyer,

Nexa Advisory welcomes the opportunity to respond to the Australian Energy Market Commission's (AEMC) consultation paper on Package 1 of the Electricity Network Regulation Review and the related Nexa Advisory and Energy Networks Australia (ENA) rule change requests.

Nexa is an advisory firm with an unwavering focus to accelerate the clean energy transition in a way that provides secure, reliable, and affordable power for consumers of all types. Nexa Advisory is a team of experienced specialists in the energy market, policy and regulation design, stakeholder engagement, and advocacy. We work with public and private clients including renewable energy developers, investors and climate impact philanthropists to help them get Australia's clean energy transition done.

Since the rise in the take up of solar rooftop in Australia by consumers, the consumer energy market has been contested by incumbent networks. As a result, the protections delivered by the Australian Energy Regulator (AER) Ring-fencing Guideline (Guideline) have been progressively weakened – most visibly through the expansion and normalisation of waivers that permit distribution network service provider (DNSP) participation in contestable markets without sufficiently robust conditions, monitoring, or transparency. This creates material risks for competitive neutrality and consumer outcomes at precisely the time these markets are becoming central to the energy transition.

Nexa's efforts are driven by three core objectives: to bolster consumer protections, stimulate greater competition and expertly manage the integration of distributed energy resources and new technologies.

As a result, Nexa's attached submission presents our views on the fundamental principles underpinning economic regulation of electricity networks and our recommendations regarding the elements of the regulatory framework explored in the Consultation paper.

Key messages

1. While the energy transition may lead to new energy services and business models, the economic principles underpinning regulation are sound and do not need to be rewritten – instead, the focus of the review should be on ensuring consistent application of these principles.
2. Regulated service provision should be limited to situations where:
 - competition cannot reasonably be expected to deliver efficient outcomes because of an identified material and enduring market failure; **and**
 - regulated network service provider (NSP) provision is expected to better promote the National Electricity Objective (the NEO) than the available alternatives.
3. For natural-monopoly services, the relevant economic test is *cost subadditivity*, that is, whether one provider can supply the relevant range and combination of services, over the relevant geographic area and range of demand, at a lower total cost than any feasible combination of providers. This test should be done on a **competitively neutral basis**. That is, it should distinguish between genuine cost efficiencies and any incumbent advantages of NSPs due to access to assets and capabilities funded by customers of regulated networks, or control over inputs that competing providers require.
4. AEMC should confirm that economic regulation applies to *services*, not assets. The fact that an asset is used to provide a regulated service does not mean that all services supplied using that asset should also be regulated.
5. Ring-fencing waivers should not be used to redraw the boundary of the regulated monopoly. If a service has enduring natural-monopoly characteristics, it should be classified and subjected to an appropriate form of economic regulation. If it is capable of competitive provision, it should not ordinarily be provided by the regulated monopoly provider. Claims about shared assets, workforces, systems, information, financing costs or economies of scope or scale should not justify an indefinite outcome in which a service remains unregulated, but the regulated monopoly is permitted to provide it under a ring-fencing waiver.
6. A ring-fencing waiver allowing an NSP to provide an otherwise contestable service should be available only as a genuine last resort. All waivers granted by the AER should be narrowly scoped, time-limited and supported by transparent cost allocation, non-discriminatory access, measurable performance requirements, independent assurance and a binding exit or transition plan.
7. The proposed Nexa rule changes¹ address the considerations outlined under points 5 and 6 above and are designed to protect long term interests of energy consumers by promoting competition in markets for consumer energy resources and services. To this end, Nexa proposes to (1) elevate the scope and purpose of ring-fencing and the conditions governing waivers into the National Electricity Rules (the NER) and (2) introduce five targeted amendments that strengthen the current ring-fencing framework.
8. The AEMC should strengthen the arrangements governing connections, facility access and network information. Where an NSP-controlled process or information asymmetry impedes investment, the appropriate response is to address that barrier

¹ [Nexa Advisory - Rule change request 0.pdf](#)

directly. The existence of the barrier should not be treated as evidence that the NSP should own and provide the downstream service.

9. In relation to connection and facility access services, Nexa supports the following steps:
 - consistent classification of these services in line with the above economic principles as outlined under point 2;
 - provision of timely and usable information by the NSPs to competitive providers with respect to network capacity, technical requirements, application requirements, likely connection costs and timing;
 - further, for negotiated services: standardised and streamlined access and negotiation processes and timely, independent dispute resolution;
 - for unregulated services: contestable provision (such as the Accredited Service Provider (ASP) scheme in New South Wales) and regulatory safeguards to ensure level playing field.
10. The increasing use of assets to provide multiple services underscores the need for rigorous cost allocation approaches that apply consistently across time and regulated entities. Nexa proposes that cost allocation provisions in the NER are examined as part of the Electricity Network Regulation Review (ENRR).
11. Nexa does not support the ENA rule change and urges the AEMC to reject it:
 - there is no evidence of a market failure with respect to electric vehicle charging infrastructure (EVCI) provision;
 - economically efficient provision of ‘EVCI services’ by DNSPs is unlikely, as they would not face the right incentives (noting that incentive mechanisms will only be considered in Package 2 of the ENRR);
 - there are examples of DNSP failure to provide contestable services efficiently (e.g., community batteries, metering);
 - cost efficiencies claimed by the ENA are largely due to the incumbent position of DNSPs and would likely disappear if level playing field is ensured;
 - the proposed rule change shifts the cost recovery and other commercial risks associated with EVCI service provision onto the regulated network customers;
 - provided evidence of expected benefits from emission reductions is inconclusive at best.
12. Nexa does not support the introduction of the proposed **assessment criteria** to guide the AEMC’s assessment and considers that the NEO and the relevant requirements of the NEL must remain the primary assessment framework. Nexa also strongly opposes the suggestion that aligning the review outcomes ‘with the broader direction of reforms’ is desirable or even appropriate. As an independent statutory body, the AEMC should not give any consideration to any government policy objectives other than those codified in the relevant legislation that applies to the AEMC decision making process.

The clean energy transition requires capable, innovative and financially resilient networks that perform their essential monopoly functions in a timely and efficient fashion. It also requires competitive markets that can mobilise private capital, discover better business models and give consumers meaningful choice.

These objectives are complementary when the regulatory boundary is clear. Networks should provide regulated services, make network information and facilities available on fair terms, and

procure competitive capabilities where possible. They should not receive a general licence to fund and operate adjacent services through the regulated asset base.

Nexa therefore urges the AEMC to:

- strengthen service-classification discipline, connection and access arrangements, cost allocation and ring-fencing;
- progress Nexa's rule change through a principles-based NER and detailed AER guideline model; and
- reject the ENA rule change proposal.

Thank you for the opportunity to provide input into the review. We welcome the opportunity to further discuss any aspect of our submission – please contact either myself on stephaniebashir@nexaadvisory.com.au or Dr Yuliya Moore, Director – Regulation and Policy Strategy, yuliyamoore@nexaadvisory.com.au.

Yours Sincerely

Stephanie Bashir

CEO and Principal

Nexa Advisory

Attachment A: Detailed submission

Over-arching regulatory framework and service classification

While Nexa agrees that technological change and the consumer energy transition may result in the emergence of new energy services and delivery models, we consider that the fundamental economic principles underpinning the existing regulatory framework remain sound. The importance of economic efficiency considerations and the role of competition and regulation in promoting an efficient outcome are reflected in the NEO and the relevant National Electricity Law (NEL) provisions, such as the form of regulation factors and the revenue and pricing principles.² When considering which services to regulate, the relevant questions remain:

- Can competition be expected to deliver economically efficient outcomes?
- Do the identified market failures (if any) justify intervention?
- Which regulatory or non-regulatory response is expected to best promote an efficient outcome and meet the NEO?

Similar considerations have informed Australian competition policy and regulatory frameworks since the Hilmer Review and the National Competition Policy reforms. The priority therefore is not to rewrite the relevant fundamental principles, but to state them more clearly in the NER and ensure their consistent application in regulatory decisions.

Consistent with the economic framework underpinning regulation, an NSP should only provide a regulated service where BOTH of the following conditions hold:

- competition cannot reasonably be expected to deliver economically efficient outcomes because of an identified enduring and material market failure; and
- regulated NSP provision is expected to best promote the NEO compared to any other available alternatives.

For natural-monopoly services, the relevant economic test is whether one provider can supply the relevant range and combination of services, over the relevant geographic area and range of demand, at a lower total cost than any feasible combination of providers (*cost subadditivity test*).

Importantly, economic regulation applies to services, not assets. A pole, battery, communications system or other asset may be used to provide regulated, negotiated and unregulated services. The fact that an asset is used to provide a regulated service does not mean that all services supplied using that asset should also be regulated.

Nor do the following factors, by themselves, establish a case for regulated network provision:

- the NSP already owns the relevant asset;
- the NSP can use its existing workforce, systems or information;
- the NSP has a lower financing cost;
- the NSP reports a low incremental cost; or
- there are some economies of scale or scope.

² Sections 2F and 7A of the NEL, respectively.

These may reflect incumbent advantages due to access to assets and capabilities funded by regulated consumers, or control over inputs that competing providers require. As such, the relevant comparison is between the total social costs and benefits of the feasible delivery models, taking into account competitive advantages incurred due to access to regulated assets, capabilities and information.

Other forms of market failure may also occur in provision of energy network services – such as information asymmetries, externalities or coordination problems. Importantly, identifying such a market failure does not determine the remedy. Alternative options – such as economic regulation, access obligations, information-sharing and disclosure requirements, common standards, competitive procurement, targeted funding, as well as maintaining the status quo – should be considered and compared to establish which regulatory or non-regulatory response would best promote the achievement of the NEO.

Example: Provision of EVCI by distribution network service providers (DNSPs)

The following argument is sometimes made to support provision of regulated EVCI services by DNSPs:

Regulated businesses may have access to cheaper funding and therefore may be able to provide EVCI services at lower costs than unregulated businesses.

This argument is flawed. DNSPs may indeed be able to secure cheaper funding for regulated services provision due to greater revenue certainty. However, the underlying risk of providing EVCI services does not disappear; DNSP finance may be cheaper because consumer have been made the residual risk-bearers. To test what services should be regulated, such differences in risk allocation should be considered to ensure a like-for-like comparison.

Further, DNSPs have information on where spare capacity exists, where augmentation or planned works are likely, which sites may be commercially feasible, how technical requirements will be applied and how connection and access queues are progressing. A third-party charge point operator (CPO) may face search cost, delay and failed-development risk before it can obtain equivalent information. It may also have to disclose commercially sensitive location, timing and load information to a DNSP that, or whose affiliate, may compete downstream.

Rather than representing a genuine efficiency, a DNSP's advantage due to implicit knowledge would disappear when competitive neutrality is upheld, and third parties receive timely network information, standard access terms, equivalent queue treatment and arm's-length pricing. As such, this is not evidence that EVCI itself is a natural monopoly.

Accordingly, the economic assessment of whether EVCI services should be regulated should first construct a **competitively neutral counterfactual**. It should test whether the claimed DNSP advantage remains after efficient connection and facility access, information parity, proper common-cost allocation, an explicit charge for consumer-funded inputs and equivalent allocation of risk.

Question 2.3.b: Is additional guidance required in the NER on how to accommodate the new DSO role for DNSPs?

In Nexa's 2025 [submission on the National CER Roadmap](#), we have urged the AEMC and DCCEE to prioritise removing roadblocks in the current network regulation framework that limit competitive entry and development of consumer-centric technology solutions. Several of these roadblocks, notably the ineffective ringfencing framework, lack of network data transparency and capex bias are to be considered in the current review (noting we expect the capex bias to be considered in Package 2). Nexa maintains the position that addressing these issues in a timely manner should be prioritised over pursuing changes to introduce a DSO.

However, if the AEMC intends to consider DSO roles and responsibilities in a separate process (as we understand may be the case, based on the current consultation paper), Nexa considers that the same high-level principles we identified above should apply to the economic regulation of the DSO services, including the principles underlying service classification. A considered and consistent approach to service classification, transparent access to network data, strong ring-fencing framework, cost-reflective tariffs and a sound incentive framework are all necessary pre-requisites for efficient provision of DSO services by DNSPs and as such, should be considered before the formal introduction of any DSO functions.

Connection and facility access arrangements

The current connection and facility access arrangements present a barrier to entry into contestable markets, which tilts the level playing field in favour of NSP provision of contestable services. Reducing this barrier therefore would act to promote competition and economically efficient provision of electricity services.

Nexa has previously provided examples of connection /facility access arrangement issues.³ Concerns with variability, transparency and fairness of access pricing and other terms of pole leasing arrangements were also voiced by stakeholders during the Victorian 2026-31 electricity distribution reset process and acknowledged by the AER as creating a step change in the materiality and relevance of accessing distribution asset rental services or use by third parties as a host for EV charging infrastructure.⁴

Nexa submits that the AEMC should strengthen the arrangements governing connections, facility access and network information sharing. Where an NSP-controlled process or information asymmetry impedes investment, the appropriate response is to address that barrier directly. The existence of the barrier should not be treated as evidence that the NSP should own and provide the downstream service.

Further, Nexa observes that negotiate-arbitrate framework may be appropriate for bespoke monopoly services supplied to sophisticated users. However, only where users have sufficient information and bargaining capacity and can obtain timely and effective dispute resolution. On

³ See, for example, Nexa Advisory, [Submission to the Inquiry into Electricity Supply for Electric Vehicles in Victoria](#); Nexa Advisory, [Submission to AER 2026-31 Victorian electricity distribution determinations](#).

⁴ AER - Overview - Draft decision - AusNet Services distribution determination 2026-31 - September 2025, [Attachment 11 – Service classification](#).

the other hand, negotiation is unlikely to lead to an efficient outcome where users have limited information and bargaining power.

Nexa supports the following steps in relation to connection and facility access services:

- consistent classification of these services in accordance with the economic principles referred to earlier in this submission
- provision of timely and usable information by the NSPs with respect to network capacity, technical requirements, application requirements, likely connection costs and timing
- for regulated services: cost-reflective charges
- for negotiated services: standardised and streamlined access and negotiation processes, timely independent dispute resolution
- for unregulated services: contestable provision (such as the Accredited Service Provider (ASP) scheme in New South Wales) and regulatory safeguards to ensure level playing field.

Cost allocation and shared assets arrangements

Nexa acknowledges the concerns with the current shared asset arrangements raised in the consultation paper and welcomes a review by the AEMC of these arrangements. Importantly these arrangements would only be as effective in promoting the NEO as the adopted cost allocation framework that underpins them. Recent government funding programs, including the Australian Government's Community Batteries for Household Solar Program, have supported the deployment of multi-service assets and contributed to the increasing stakeholder attention to how their costs and benefits are allocated. The energy transition and increasing use of assets to provide multiple services therefore underscores the need for rigorous cost allocation approaches that apply consistently over time and across regulated entities.

On this basis, Nexa submits that the scope of the ENRR should not be limited just to the cost allocation issues pertaining to the shared asset arrangements. Instead, a comprehensive review of the cost allocation provisions in the NER is needed. Service classification, ring-fencing, shared assets and cost allocation elements of the regulatory framework are inter-related and therefore should be reviewed in parallel. Further, success of any incentive framework (to be considered in Package 2 of the review) also depends on the existence of a sound cost allocation framework.

Ring-fencing arrangements and Nexa rule change

Ring-fencing is not a substitute for service classification or economic regulation. Its purpose is to protect contestable markets and energy consumers where an NSP or its corporate group participates in both regulated and competitive activities.

Accordingly, Nexa's position is that ring-fencing waivers should not be used to redraw the enduring boundary of the regulated monopoly. If a service has enduring natural-monopoly characteristics, it should be classified and subjected to an appropriate form of economic regulation. If it is capable of competitive provision, it should ordinarily be provided outside the regulated NSP entity. Claims about shared assets, workforces, systems, information, financing costs or economies of scope should not justify an indefinite outcome in which a service remains unregulated, yet a regulated monopoly is permitted to provide it.

A ring-fencing waiver allowing a DNSP to provide an otherwise contestable service should be available only as a genuine last resort. All such waivers should be narrowly scoped, time-limited and supported by transparent cost allocation, non-discriminatory access, measurable performance requirements, independent assurance and a binding exit or transition plan. Core protections concerning non-discrimination, information access and cost allocation should not be waivable.

Where the underlying market failure proves enduring, repeated waivers should not be used to maintain monopoly provision. The service should instead be considered through the service-classification framework.

Question 6: Nexa rule change request - Do the ring-fencing arrangements in the NER need to be strengthened?

Yes. Nexa Advisory has consistently supported stronger ring-fencing as essential to preserving competitive neutrality and consumer protection. Ring-fencing must be reinforced, not relaxed, to maintain trust, protect consumers, and enable fair market development.

Ring-fencing exists to safeguard consumers, maintain competitive neutrality, and ensure monopoly revenues are not leveraged to distort emerging markets. Relaxing ring-fencing obligations could expose customers in the NEM to significant risks: foreclosure of contestable services, cross-subsidisation, and the erosion of consumer trust, at precisely the time when innovation and investment are accelerating.

The erosion of ring-fencing protections is not merely a compliance or governance issue – it is a consumer-outcomes issue. DNSPs are regulated monopoly businesses with structural advantages that competitive providers cannot replicate - including guaranteed cost recovery through regulated charges, incentives tied to expanding the RAB, privileged access to network and customer data and control over key access and connection interfaces.

Where network businesses are permitted to participate in contestable markets without robust constraints, these advantages can be leveraged to foreclose competition, distort investment signals and ultimately reduce the dynamic benefits that competition delivers to consumers.

The consumer harms from weakened competition are that:

- Consumer choice is diminished when monopoly platforms can use their position, processes, or brand association to crowd out competitive providers. This can lead to reduced entry and weaker rivalry, resulting in fewer product options and less consumer agency - particularly in emerging markets such as EV charging and home battery storage.
- When regulated businesses can expand into contestable markets in ways that shift costs and risks to consumers, consumers end up paying more in the long term. In practice, this can occur through cross-subsidisation risks or through the expansion of network-led assets and programs that are ultimately recovered through regulated charges.
- Technology and service innovation slows when markets tilt toward monopoly delivery. Competitive CER markets have historically driven rapid product iteration and service

innovation. By contrast, regulated delivery models tend toward standardised, asset-heavy solutions with weaker competitive pressure to innovate.

- Gold-plating / capex bias risks increase because regulatory incentives can favour ownership and capital deployment over service procurement and non-network alternatives. Where the ‘solution’ to an emerging service need becomes regulated asset ownership, consumers risk paying for higher-cost, longer-lived investments even where competitive procurement could deliver the same or better outcomes more efficiently.

Current ring-fencing provisions, to date, appear to have offered the AER broad discretion in how they should be interpreted and applied. Issues raised by stakeholders in relation to recent ring-fencing waivers granted by the AER – as well as the sheer scope of the debate – suggest that more guidance in the NER on the scope and purpose of these provisions is necessary to ensure their more consistent application in the long-term interests of consumers. In particular, the current Distribution Ring-fencing Guideline waiver assessment criteria do not appear effective in safeguarding market integrity and competitive level-playing field to benefit energy consumers. As drafted, the framework does not require affirmative proof that granting a waiver will avoid harm to competition or consumers. Instead, it allows waivers where compliance is deemed “too costly” for a DNSP and consumer benefits deemed hard to quantify, even if competitive neutrality is compromised.

This approach undervalues long-term consumer interests, ignores structural risks like competition foreclosure and cross subsidisation, and has failed to embed a clear “no harm” standard. In short, it prioritises DNSP convenience and a capex-led response over the core purpose of ring-fencing: protecting competition and consumer trust - instead of prioritising service innovation that lowers barriers to network connections and enables third-party investment. Nexa believes this must be addressed.

While positive assurance works well for verifying compliance with existing obligations, it does not extend to waiver decisions. Waivers allow DNSPs to participate in contestable markets under exceptional circumstances, creating higher risks of discrimination, cross-subsidisation, and market distortion. Currently, the AER often accepts evidence of potential consumer benefit but does not require affirmative proof that granting a waiver will cause no harm to competition or consumers.

Key gaps also remain in relation to affiliate dealings and data access, branding and enforcement transparency:

- Existing ring-fencing guidance emphasises financial and legal separation and general non-discrimination, but lacks prescriptive, testable requirements for uniform data release schedules, open and documented service interfaces, public queue management rules, price schedule transparency and comprehensive access logs to prove parity over time.
- Current ring-fencing guidelines require “separation” but lack prescriptive standards for branding and disclaimers. This leaves room for interpretation and inconsistent application, allowing DNSPs to maintain similar colour schemes, logos, or co-branded materials that confuse consumers.

- Stakeholders continue to raise concerns that ring-fencing protections can be undermined if enforcement activity is opaque or inconsistent, and that trust in waiver and ring-fencing processes depends on them being rigorous, transparent, and consistently enforced.

As markets evolve and new technologies emerge, the need for robust safeguards increases, not decreases. Relaxing ring-fencing now would put Australia out of step with international best practice and create structural vulnerabilities that could take years to unwind. Strengthening ring-fencing is about reinforcing the integrity of the market and ensuring all participants can trust that competition is genuine, transparent, and free from structural bias.

Question 7: Nexa rule change request - Would Nexa's proposed solution address the identified problem?

Yes. Nexa rule change proposal is made up of a package of five targeted reforms:

1. Codify last-resort waiver criteria so exemptions are only granted where market failure is independently verified and consumer benefits are quantified.
2. Embed automatic financial safety-trigger that lock regulated cash and suspend dividends when financeability thresholds are breached.
3. Guarantee equal access and neutrality through standardised, public data protocols and strict prohibitions on preferential treatment for affiliates.
4. Protect consumer choice by banning branding or representations that imply exclusivity and mandating clear disclaimers and brand separation.
5. Make ring-fencing reporting and enforcement explicit and observable by requiring the AER to publish an annual ring-fencing compliance/enforcement report, operate a complaint reporting channel, and publish a clear handling process for alleged breaches of the Guidelines or waiver conditions.

Together, these measures close critical gaps, enhance transparency, and align the framework with the NEO by promoting competition, consumer protection, and financial resilience.

1. Codify last-resort waiver criteria: A stronger “no harm” test

The NER should require that waiver applications include:

- Independent verification of market failure and consumer benefit, supported by published reports.
- Affirmative proof of no harm, meaning DNSPs must demonstrate - through analysis and third-party assurance of the economic cost of competing with their own customers - that granting the waiver will not:
 - foreclose competition
 - enable cross subsidization, or
 - create branding or data advantages for affiliates.

- Public transparency, with all evidence and assurance reports published for stakeholder scrutiny.
- Mandatory conditions, including sunset clauses, KPIs, and mid-term reviews to ensure ongoing neutrality.

The market failure test should determine whether there is genuine market failure in a sufficiently mature market. This would prevent waivers being granted in nascent markets where demand is still forming - such as emerging services like EV charging, where limited deployment can reflect low current uptake rather than an absence of competition.

Embedding these requirements would shift the framework from “absence of breach” to affirmative neutrality and benefit, strengthening trust in waiver decisions and protecting consumers.

2. Financial safety trigger

The rule change proposal introduces automatic financial ‘safety switches’ in the NER by establishing a distributions lock-up (cash retention) regime for regulated DNSPs. When predefined financeability or material ring-fencing compliance thresholds are breached, the lock-up restricts the DNSP from extracting or transferring value out of the regulated business, including dividends and specified related-party transfers.

The purpose of these measures is simple: to make sure the money consumers pay for essential electricity services stays inside the regulated business and is used for that purpose. It prevents the leakage of funds into unrelated or unregulated ventures and ensures that the monopoly network remains financially stable, even during times of stress; self-inflicted or otherwise.

3. Affiliate dealings and data access

The Affiliate Dealings and Data Access rule aims to deliver conduct neutrality within ring-fencing, enabling competitive markets while preserving consumer protections. It requires uniform protocols, verifiable audit trails, and public transparency to prevent discrimination and information advantages.

In short, the rule enforces equal treatment in operations and information flows, so competition is based on capability and price. It removes the risks of privileged access.

The Affiliate Dealings and Data Access rule operationalises neutrality: it eliminates preferential information, timing, and terms through standardised, public protocols, measurable parity, and transparent enforcement. This protects consumers by ensuring competition is fair, innovation is genuine, and monopoly positions cannot be leveraged to advantage affiliates.

4. Branding and representation

The rule aims to make consumer choice clear and unambiguous. It prevents false representations in that it prevents DNSPs from leveraging monopoly status, intentionally or not, to distort emerging markets. It proposes a complete ban on shared marketing and branding.

The Branding and Representation rule ensures consumers are never misled into thinking they must use a DNSP affiliate for contestable services. By banning misleading marketing,

mandating distinct branding and disclaimers, and enforcing transparency through audits, this rule protects consumer choice, competitive neutrality, and trust in the energy market.

5. Reporting, complaints and enforcement transparency

The proposed solution would codify transparency into the ring-fencing framework by creating an enforceable reporting and compliance architecture around the AER's ring-fencing functions. This would strengthen existing annual AER ring-fencing compliance and enforcement reporting, creating a formal channel for stakeholders to raise ring-fencing concerns safely, without fear of reprisal from networks.

This reform would complement the existing Nexa proposals by ensuring those reforms are supported by credible monitoring, complaint intake and transparent reporting.

This reporting rule makes ring-fencing enforcement explicit and transparent. The intent is to strengthen confidence in compliance; DNSPs know compliance activity will be transparently reported, and third parties can safely raise concerns, reducing the likelihood that non-compliance persists undetected or unaddressed.

Question 8: Nexa rule change request - What are the costs and benefits of Nexa's proposed solution?

The implementation costs of Nexa's proposed solution are expected to be modest and proportionate. In most cases, the reforms elevate, standardise and make enforceable practices already contemplated by the AER's Ring-fencing Guideline or undertaken through existing DNSP governance, audit and regulatory reporting arrangements.

The principal benefit is the prevention of much larger and potentially irreversible costs to consumers and the competitive market. These include the costs of cross-subsidisation, inefficient network-led investment, higher barriers to entry, reduced competition, consumer confusion, financial instability and the crowding out of private capital and innovation.

Once competitive providers and private investment have been deterred or network-led assets have entered the RAB, the damage can be difficult and costly to reverse. The proposed solution is therefore best understood as a proportionate preventative safeguard. Its value is not limited to consideration of immediate regulatory and administrative costs, but, instead, lies in avoiding long-term consumer harm and preserving the dynamic benefits of competition: lower costs, greater choice, better service and faster innovation.

We address each of the rule change elements separately with examples:

Stronger waiver criteria and "no harm" test

This change is expected to impose modest one-off implementation effort for the AEMC to codify waiver criteria. DNSPs seeking a waiver would also incur some additional costs in undertaking market testing, quantifying consumer benefits and obtaining independent verification.

These costs are justified because a waiver permits a regulated monopoly to depart from protections designed to preserve competitive neutrality in provision of contestable services. The evidentiary burden should therefore sit with the DNSP seeking the exemption, rather than

with consumers or competitive providers being required to demonstrate the harm after it has occurred.

The benefits include:

- reducing ongoing administrative and transaction costs by standardising waiver assessments and narrowing regulatory discretion
- avoiding repeated reinvention of waiver criteria
- reducing precedent creep and the normalisation of waivers
- providing clearer expectations for DNSPs and competitive providers
- supporting faster and more consistent AER decision-making
- reducing the volume and complexity of contested waiver processes, and
- strengthening confidence that waivers remain exceptional and aligned with the NEO.

The stronger test would also prevent a lack of deployment in a nascent market from being incorrectly treated as evidence of market failure. For example, limited EV charging deployment at a particular location may reflect low current demand, connection delays or inadequate access to network information—not an absence of competitive providers willing to invest.⁵ Requiring genuine market testing would help identify and address the actual barrier before permitting DNSP entry.

[The CitiPower, Powercor and United Energy kerbside EV charging waiver](#) demonstrates the value of clearer and standardised criteria. The AER recognised competition risks and imposed nine conditions dealing with matters including access, cost allocation, reporting and third-party energisation. Codifying minimum requirements would avoid these safeguards having to be constructed separately for each waiver and reduce the risk of weaker conditions being applied in subsequent decisions.

Avoiding inefficient and higher-cost network-led investment

The most significant benefit is the avoided cost of allowing regulated monopolies to use consumer-funded advantages to displace more efficient competitive solutions.

The proposal identifies evidence from ARENA that network community batteries were materially more expensive than non-network, behind-the-meter batteries, with a weighted average cost of approximately:

- **\$2,300 per kWh for network community batteries; compared with**
- **\$1,330 per kWh for non-network batteries.**

This is a difference of approximately **\$970 per kWh**, or around **73 per cent**. Not only this example demonstrates existing bias towards selecting potentially less efficient network options ('capex bias'), but also, once the related capex is added to the RAB, it commits network customers to footing the bill for the related capex, opex and financing costs until the end of

⁵ <https://nexaadvisory.com.au/joint-statement-ev-industry/>.

asset life. Further, depending on a particular regulatory model employed, some of DNSP's commercial risk may also be shifted to its customers. This includes the risk of cost under-recovery if the asset is under-utilised or superseded by a cheaper new technology.

The Victorian distributor-led smart meter rollout provides a further example. It imposed substantial costs on consumers while delivering limited direct benefits, subsequently contributing to reforms that opened metering services to competition. This demonstrates the difficulty and cost of reversing a monopoly-led delivery model after the assets, expenditure and institutional arrangements have become embedded.

The benefit of stronger ring-fencing is therefore not merely better regulatory compliance. It is avoiding higher-cost and potentially unnecessary investment before those costs are locked into consumer bills.

Financial resilience and ring-fence triggers

This change requires some up-front effort to specify trigger metrics and monitoring arrangements and to integrate publication of trigger events into the AER's existing compliance framework.

Ongoing costs are expected to be low because the trigger inputs draw on information already central to network business governance. DNSPs already monitor credit metrics, liquidity, cash flows, financial forecasts and compliance risks for internal governance, lender requirements and regulatory reporting.

The proposed safeguards would only restrict dividends and related-party value transfers when predefined financial or material ring-fencing thresholds are breached or forecast to be breached. They are not intended to prevent ordinary dividends or legitimate investment while the regulated business remains financially sound.

The benefits are potentially substantial. The proposal would:

- ensure regulated revenues remain available to maintain essential network services during financial stress
- prevent consumer-funded cash flows from being transferred to unrelated or higher-risk activities
- reduce the likelihood that consumers must fund emergency regulatory intervention
- protect service continuity and the financial resilience of essential infrastructure, and
- reduce the moral hazard created where corporate owners retain the upside from risk-taking while consumers bear the downside.

For example, if a DNSP were approaching a credit downgrade or no longer held an adequate liquidity buffer, the trigger would prevent it from continuing to pay large dividends or transfer funds to affiliated businesses while relying on consumers or regulatory intervention to protect the essential network service.

The benefit is a high-value safeguard that lowers the likelihood of more disruptive and costly intervention later. The potential cost of temporarily restricting distributions is materially lower than the cost of restoring an essential monopoly network after financial distress has occurred.

Affiliate dealings and data access

Incremental implementation costs should be limited because these obligations largely elevate practices already required or contemplated by the Ring-fencing Guideline, including non-discrimination, transparency and functional separation.

DNSPs may incur some costs in establishing or improving:

- standardised data-release processes
- published data and interface registers
- documented service standards
- access logs and immutable timestamps
- transparent queue-management processes
- comparative performance reporting and
- independent audits of parity between affiliates and third parties.

These costs are proportionate because DNSPs already hold and manage this information. The proposal primarily requires that access be standardised, observable and provided on equivalent terms.

The benefits include:

- preventing DNSP affiliates from receiving earlier or better information about connection constraints, hosting capacity, outages or network opportunities;
- preventing queue priority, bespoke access arrangements or preferential pricing;
- reducing disputes over discriminatory conduct;
- lowering entry and transaction costs for competitive providers;
- improving investor confidence, and
- supporting more efficient deployment of DER, demand response, EV charging and community batteries.

For example, if a DNSP affiliate receives early visibility of available network capacity or proposed upgrades, it can secure sites and customers before competitors are given equivalent information. Public timestamps, service standards and access logs would make this preferential treatment detectable and enforceable.

The benefit is improved competitive neutrality and reduced dispute risk. Clear and testable rules reduce the scope for informal or preferential arrangements and allow competition to occur on capability, service and price rather than privileged access to monopoly information and processes.

Branding and representation

Incremental implementation costs should also be limited because the obligations largely elevate existing separation requirements. DNSPs and their affiliates may incur transitional costs in changing logos, colour schemes, signage, websites, marketing materials and consumer disclaimers where their branding is not sufficiently distinct.

These are largely one-off costs and are proportionate to the benefit of preventing a regulated monopoly's identity from being used to confer a competitive advantage on an affiliated business.

The benefits include:

- reducing consumer confusion
- protecting consumers' understanding that contestable services are optional
- preventing affiliates from benefiting from perceived monopoly endorsement
- encouraging consumers to compare competing offers, and
- supporting competition on price, quality and service rather than implied exclusivity.

For example, a consumer may reasonably assume that an EV charging, battery or DER service carrying the network's name or logo is required, officially preferred or necessary to obtain a network connection. Distinct branding and prominent disclaimers would make clear that the consumer is free to choose another provider.

The benefit is a material reduction in consumer confusion that can distort emerging markets. This protects consumer choice and supports competition on merit rather than on perceived obligation or monopoly association.

Reporting, complaints and enforcement transparency

This change would require additional ongoing effort for the AER to:

- publish a standardised annual ring-fencing compliance and enforcement report
- receive and triage complaints
- maintain a safe or anonymous complaints channel
- investigate alleged breaches, and
- publish enforcement outcomes consistently.

These costs are expected to be proportionate and can be integrated into the AER's existing compliance and enforcement programs. The AER already undertakes ring-fencing compliance activity and publishes relevant information; the proposal would make that reporting mandatory, consistent and observable.

The benefits include:

- allowing competitors, consumers and other stakeholders to understand whether ring-fencing obligations are being enforced

- enabling employees, contractors and market participants to report concerns without fear of reprisal
- identifying systemic problems or repeat breaches earlier
- improving DNSP incentives to comply
- reducing the likelihood that discriminatory conduct remains undetected and
- increasing confidence that waivers and ring-fencing obligations are being administered consistently.

The need for stronger transparency is demonstrated by the AER's first annual distribution ring-fencing compliance report, which identified material shortcomings and instances of distributor non-compliance. As DNSP participation in contestable markets and the use of waivers increase, opaque enforcement creates both an actual risk of undetected non-compliance and a perception that monopoly advantages are not being adequately controlled.

ENA's enabling DNSP led EVCI rule change request

Nexa does not support the ENA rule change request (the proposal) and urges the AEMC to reject the proposed changes. The proposal does not provide evidence of a market failure in the provision of EVCI that would justify expanding the role of regulated DNSPs into contestable markets. Nor does the proposal provide evidence that the DNSPs would provide EVCI services more efficiently than competitive providers who specialise in supporting EV drivers and the electrification of transport.

Further, DNSPs, do not face the same commercial incentives to minimise costs, optimise utilisation and use of network – particularly, when the incentive mechanism intended to address these issues will not be considered in this AEMC Package of reform. Previous experience with network led community batteries demonstrates the point that DNSP delivery of contestable services should not be presumed to be efficient or at lower cost. The efficiencies claimed by the ENA are disingenuous and appear largely from the incumbent advantages of the DNSPs, including their control of network assets, information and connection processes rather than genuine economic efficiency. More fundamentally, the proposed rule change would transfer the cost-recovery, utilisation and other commercial risks associated with EVCI to all energy consumers. Energy consumers would stand to bear the risk and funding of infrastructure regardless of whether it is efficiently located, utilised or delivered more efficiently by the competitive market. The evidence presented regarding the emission-reduction benefits is also inconclusive and does not establish that DNSP ownership or provision would deliver greater benefits than otherwise.

Australia also already has a functioning and growing competitive public charging market, with infrastructure being delivered by multiple private charging operators. Governments continue to provide targeted funding where commercial investment may not yet be viable, particularly in regional, remote and other genuine blackspot locations. At the same time, metropolitan charging stations are increasingly being developed without public subsidy because demand supports commercial investment. This is evidence of a market responding as EV uptake grows—not evidence of market failure. Allowing DNSPs to recover EVCI costs from regulated

customers would risk displacing private investment and transferring utilisation and commercial risks to all electricity consumers, including those who do not own or use an EV.

Further, there is overwhelming lack of support from a wide range of stakeholders in submissions to the recent consultation “Accelerating EVCI charging \$40m Program”. This is a good starting point for the AEMC. The submissions reveal a broad mandate to accelerate public EV charging—but not a mandate to expand regulated electricity monopolies into charger ownership or to recover contestable infrastructure costs from all electricity consumers.

For these reasons, Nexa proposes the AEMC reject the ENA proposal and instead directs its efforts towards strengthening the regulatory framework and removing barriers to effective competition in EV charging and other emerging contestable markets.

Question 9: ENA rule change request - Do you agree with ENA that there is a problem with the roll out of EVCI?

Nexa does not agree with the ENA’s framing of the problem and does not consider that there is convincing evidence of a ‘chicken and egg’ problem or a market failure. Further, EVCI services are diverse, and the ENA fails to consistently identify the market or markets where such a failure might be occurring. We note a further **alarming inconsistency**: while the proposal is largely articulated in terms of benefits of kerbside charging rollout, the actual proposed changes to the NER are not explicitly limited to kerbside charging. This leaves a backdoor open for DNSPs to expand into other contestable services and technologies related to EV charging.

Little evidence of ‘chicken and egg’ problem or market failure

ENA suggests that there is a ‘chicken and egg’ problem, as consumers are hesitant to purchase EVs without sufficient EVCI, and investors are hesitant to deploy more EVCI with low EV uptake and associated low utilisation. Available evidence on the current state of the EV and charging market does not support ENA’s theories.

Australia’s EV market is growing materially. DCCEE has reported that EVs accounted for 10.9 per cent of new light vehicle sales in FY2024/25. In June 2025 EV represented 15.8 per cent of new light vehicle sales, with total number of EVs on Australian roads reaching over 360,000.⁶ DCCEE has also observed significant growth in public fast and ultra-fast charging infrastructure. As of June 2025, there were 1,324 fast and ultra-fast charging sites, or 4,138 charging plugs, available, which represents a 21 per cent annual increase.⁷

The Electric Vehicle Council reports similar number for EVs sales and prevalence, with almost 370,000 passenger EVs on the road as of June 2025. The EV Council estimates around 1,272 fast-charging locations, or more than 4,192 high-power plugs, available as of mid-2025.⁸

⁶ Department of Climate Change, Energy, the Environment and Water, [National Electric Vehicle Strategy Annual Update 2024-25](#).

⁷ Ibid.

⁸ EV Council, [State of Electric Vehicles 2025](#).

More recent data indicate that in May 2026, EVs sales approached 30% of total new vehicles sales, with on average one battery electric vehicles being sold every 2 minutes.⁹

Further, IEA estimates indicate that public charging deployment has expanded materially relative to the electric light-duty vehicle fleet. Australia had approximately 68 electric light-duty vehicles per public charging point and 0.3 kW of public charging capacity per vehicle in 2023.¹⁰ The corresponding 2025 estimates were 40.5 vehicles per charging point and 1.1 kW per vehicle.¹¹ On those estimates, rated public charging capacity per vehicle increased approximately 3.7-fold and the number of vehicles served by each charging point fell materially.

Other evidence presented by the ENA also fails to establish that EV uptake is constrained by EVCI supply. There is international evidence that EV markets and charging networks develop together. However, evidence of any causal relationship between building more kerbside EVCI and EV uptake is inconclusive at best – this includes the academic articles and research referred to in the ENA submission.

The above does not mean that there are no remaining barriers to rapid rollout of EV infrastructure, but it does suggest that broad ‘chicken and egg’ claims should not be given much weight.

Nexa submits that high-level observations by the ENA, do not constitute sufficient evidence to support the proposed rule change. EVCI comprises several distinct services with different customers, commercial characteristics and use cases. These include:

- metropolitan kerbside AC charging;
- destination charging;
- metropolitan fast and ultra-fast charging;
- highway and journey-enabling charging; and
- regional and remote charging blackspots.

We note at the outset that approximately 80 per cent of EV charging in Australia already occurs at home. Further, the primary purpose of kerbside/pole-mounted chargers is to provide access for households without off-street parking, generally through slower, longer-duration charging. They do not materially increase fast-charging capacity on interstate transport corridors or at holiday destinations – which accounts for the majority of charging needs outside of home charging. Installing thousands of slow suburban kerbside chargers would therefore not solve the problem relied upon to justify the ENA proposal. The appropriate response is enabling the competitive market through targeted investment in additional fast-charging capacity at demonstrated congestion points—not broad DNSP deployment funded by regulated electricity customers.

Nexa submits that, in the absence of any detail on what type of market failure the ENA proposal seeks to resolve, what relevant markets are and how the ENA proposal would be able to address those, the AEMC should not give the ENA proposal any serious consideration.

⁹ The Driven, [An EV is being sold every two minutes in Australia, ACT hits 36.5 pct electric share](#), 4 June 2026.

¹⁰ IEA, [Global EV Outlook 2024 - Trends in electric vehicle charging](#).

¹¹ IEA, [Global EV Outlook 2026 - Electric vehicle charging](#).

Question 10: ENA rule change request - Would the ENA's proposed solution address the identified problem?

Deployment barriers are real, but require a different solution

There are material barriers to faster public EVCI deployment. These include lengthy and uncertain connection processes, limited visibility of network capacity and likely connection costs, inconsistent technical requirements, unclear treatment of pole and facility access, uncertain make-ready arrangements, and long lead times for quotation, approval and energisation.

Through Nexa's advisory work, we understand that public charging connections can take up to 18 months to complete and often cost between \$250,000 and \$750,000, depending on the capacity and location of the site.¹² These barriers can make otherwise viable CPO-led projects slower, more costly and less certain.

Many of the barriers to faster deployment of public EVCI relate to monopoly-controlled network inputs, processes and information. Allowing DNSPs to own the downstream charging assets would not address those barriers for competing providers and would likely reinforce existing access and information advantages.

Targeted and competitive alternatives already exist

Nexa notes that there are examples of successful government programs aimed to support the rollout of EV charging infrastructure in Australia that do not rely on DNSP ownership or RAB-based cost recovery.

For example:

- The \$60 million Charger Grant and Charger Rebate streams¹³ of the Commonwealth DRIVEN Program provide direct cash rebates and grants to automotive dealerships and EV repair workshops.
- Collaborative Charging the Regions (CTR) program, led by the Central Victorian Greenhouse Alliance (CVGA), works with local councils to accelerate the rollout of public EV chargers across regional Victoria.¹⁴
- State-funded Destination Charging Across Victoria program has provided over \$5 million in grant funding to businesses, councils and community organisations to install fast-charging stations in key tourist destinations and regional towns across Victoria.¹⁵
- The \$12 million Round 3 of NSW EV destination charging grant program¹⁶ supports Charging Point Operators (CPOs) to install, own, and operate low-powered DC public EV chargers at eligible tourism and visitor sites.
- The WA Charge Up Workplace Grants Program¹⁷ is designed to accelerate the uptake of EVs by co-funding up to 50% of the cost for eligible organisations to install EVCI. The program

¹² Nexa Advisory, [Submission to the Inquiry into Electricity Supply for Electric Vehicles in Victoria](#), October 2025.

¹³ [DRIVEN Charger Rebate Stream | business.gov.au](#).

¹⁴ [Charging the Regions](#).

¹⁵ [Destination Charging Across Victoria Program](#).

¹⁶ [Electric vehicle destination charging grants | NSW Climate and Energy Action](#).

¹⁷ [Charge Up Workplace EV Charging Grants - Grants.com.au](#).

supports small to medium sized businesses, not-for-profit organisations, and local government agencies to deploy workplace, fleet, destination, and public EV charging solutions. A total funding pool of \$15 million is allocated to Round 3.

Nexa considers that targeted grant programs as well as reforms aimed at removing roadblocks and encouraging competition are more effective and efficient tools for supporting the electrification of the Australian transport sector than the proposed rule change.

The Distribution EVCI Deployment Strategy would not overcome the transport-planning gap

ENA proposes that a DNSP publish a Distribution EVCI Deployment Strategy setting out its deployment approach, how it will identify areas for EVCI, its stakeholder engagement and how open access will be provided. However, the proposed strategy would not require AER approval, and ENA has not specified constraints on the type, number or location of chargers, or the service standards that would apply.

DNSPs can identify network capacity and technically convenient sites but are not best placed to assess EV-driver demand, travel patterns, parking availability, dwell times, accessibility or competing charging options. Nor would a DNSP-authored strategy give the AER a clear benchmark for determining whether EVCI expenditure is prudent and efficient from a transport-user perspective.

This creates a risk that deployment would be driven by network convenience and opportunities to use existing poles or asset-replacement programs, rather than by the locations and charging services that provide the greatest value to EV drivers.

Site identification and demand assessment should instead remain led by competitively exposed CPOs, councils and relevant transport agencies, with DNSPs providing network information, technical assessment, connections and facility access. If any DNSP deployment role were permitted, the strategy would require independent approval against clear transport-demand, utilisation, accessibility and value-for-money criteria, as well as limits on scope, location and duration.

Question 11: ENA rule change request - What are the costs and benefits of ENA's proposed solution?

ENA has not demonstrated that broader EV benefits are attributable to its proposal

The AEMC notes that ENA has not estimated the costs or benefits likely to arise from its proposed rule change. ENA instead identifies broad benefits associated with EV uptake and asserts that the administrative and transitional costs of its proposal would be “very small” and considerably outweighed by those benefits. These assertions do not establish the net benefit of enabling DNSPs to own and maintain regulated kerbside EVCI.

In particular, [ENA cites](#) Energy Consumers Australia modelling to claim that improved network utilisation from EV uptake could reduce other electricity consumers' bills by up to \$500 per year. However, the \$500 figure is the 2050 endpoint of whole-of-system modelling presented as an annual saving on a 20-year-average basis. The modelling expressly assumes that the overall

EV adoption trajectory in AEMO's 2022 ISP Step Change scenario is achieved. It demonstrates that widespread EV uptake can improve utilisation of existing network capacity where charging occurs away from peak periods; it does not estimate the benefit of DNSP-owned kerbside chargers or ENA's proposed regulatory model.

As with the DCCEEW EVCI grant proposal, the relevant issue is additionality. ENA has not established how DNSP ownership would cause additional charger deployment, EV uptake or electricity demand relative to competitive deployment supported by more efficient connections, facility access and network tariffs. Nor has it demonstrated that DNSP-owned chargers would achieve the location-specific utilisation and charging profile required to produce the claimed network benefits. The cited modelling concerns utilisation of the electricity network; it does not test the utilisation, performance or lifecycle cost of the assets ENA proposes that DNSPs provide. Further, the \$500 'saving' reflects greater network utilisation and a larger portion of network costs being recovered through EV charging fees, rather than by greater productive efficiencies / lower total network costs.

Before any costs are transferred to electricity consumers, the AEMC should require transparent and independently testable modelling of the counterfactual, incremental deployment and EV uptake, charger utilisation and load timing, network expenditure, lifecycle costs and resulting bill impacts.

Importantly, any analysis of the ENA proposal against other feasible delivery models (such as contestable provision of EVCI) should be done on a competitively neutral basis, accounting for competitive advantages incurred by DNSPs due to access to regulated assets, capabilities and information.

Private investment would be deterred

Competitive EVCI providers incur upfront capital costs and recover them over time from users. They therefore bear demand, utilisation, technology and stranding risk.

That investment model would be undermined if DNSPs could install competing infrastructure, while making use of their incumbent advantages due to access to assets and capabilities funded by regulated consumers, or control over inputs that competing providers require. A private provider would not be able to compete with DNSP incumbents on equal terms. This situation would be further exacerbated if DNSPs are able to socialise EVCI provision by recovering its cost from all network customers.

There is already evidence that network barriers are redirecting investment. BP advised the NSW parliamentary inquiry that "bp pulse has redirected capital to other countries due to our inability to secure grid connections and rollout infrastructure at our planned rate in Australia".¹⁸ Allowing DNSPs to compete downstream would compound that risk by combining difficult network access with the prospect of subsidised monopoly entry.

The likely costs include deferred projects, higher investment hurdle rates, reduced market entry and private capital being deployed elsewhere.

¹⁸ BP, [submission no. 83 to the NSW Legislative Assembly Committee on Transport and Infrastructure](#), Inquiry into Infrastructure for electric and alternative energy source vehicles in NSW, May 2025

Consumers would bear residual commercial risk

Under competitive provision, the provider bears the cost of poor site selection, low utilisation, unreliability and technological obsolescence. This creates an incentive to select useful locations, maintain service quality and respond to customer demand.

Depending on the form of regulation adopted, regulation may shift some of those commercial risks to some or all network customers. This could result in:

- over-deployment and/or under-utilisation of EVCI
- sites selected for network convenience rather than driver need
- non-EV customers funding infrastructure used by a subset of consumers, and
- future customers paying for assets based on current assumptions.

Innovation and utilisation incentives would weaken

EVCI providers compete on location, charging speed, reliability, price, payment options, accessibility and customer experience. Because their revenue depends on use, competitive providers have a direct incentive to maximise utilisation and service quality.

Regulated cost recovery weakens that discipline. ENA has not proposed a framework linking cost recovery to utilisation, uptime, accessibility, pricing, customer experience or incremental EV uptake.

AEMC prioritisation and assessment framework

Question 1: Prioritisation framework for the Review

Nexa supports a transparent prioritisation framework and agrees that materiality, implementation feasibility, interaction with other processes and separability are relevant. We also support the adoption of the consumer perspective with respect to materiality.

Nexa would also like to offer the following suggestions and observations:

- The review should avoid a narrow focus on EVCI services and should give equal consideration to all potentially contestable services emerging due to technology changes and energy transition. While EVCI was singled out in the recent ENA rule change proposal, we believe the ENA proposal is disingenuous as it seems unlikely that DNSPs would stop challenging the boundary of regulated monopoly services at the EVCI services.
- The time allowed for preparation of submissions in response to the AEMC consultation paper is very short and the number of parallel consultations on the same narrow issue is large. We recommend that timeframes for submissions and deliberation on these matters are extended to allow the stakeholders and subject matter experts sufficient time to consider and address the matters raised for consultation.
- The scope of the ENR review should not be limited just to the cost allocation issues pertaining to the shared asset arrangements. Instead, a comprehensive review of the cost allocation provisions in the NER is required. Service classification, ring-fencing, shared assets and cost allocation elements of the regulatory framework are inter-related and

therefore should all be reviewed in parallel. Further, effective incentive schemes and cost-reflective tariffs are also impossible without a sound and consistent cost allocation framework.

- Nexa questions the AEMC's characterisation of materiality for issues related to connections and facility access processes as 'medium'. Nexa considers that the available evidence goes beyond anecdotal reports.

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?

Nexa considers that the NEO and the relevant requirements of the NEL must remain the primary assessment framework. Nexa questions the benefits of the adding in the first four of the proposed AEMC assessment criteria. While Nexa considers consumer outcomes, economic efficiency and emission reduction highly relevant for the assessment, the proposed criteria largely duplicate and paraphrase the NEO and other relevant requirements in the NEL. Nexa considers it preferable that AEMC assessment is articulated by directly addressing the NEO/NEL requirements instead of paraphrasing and reinterpreting them.

Further, Nexa has concerns with the proposed 'principles of good regulatory practice' in their current formulation.

- We question why it is in the long-term interests of consumers for a regulatory framework to be stable yet flexible and resilient and what each of these terms mean on their own and when taken together.
- Nexa strongly opposes the suggestion that aligning the review outcomes 'with the broader direction of reforms' is desirable or even appropriate. The AEMC's assessment of any rule change should be focussed on whether it is consistent with the NEL and meets the NEO. As an independent statutory body, it should not give any consideration to any government policy objectives other than those codified in the relevant legislation that applies to the AEMC decision making process.