

Ms Anna Collyer
Chair
Australian Energy Market Commission

12 August 2026

Dear Ms Collyer,

Australian Energy Council submission to AEMC Consultation Paper: Electricity network regulation review Package 1

The Australian Energy Council (AEC) welcomes the opportunity to make a submission in response to the Australian Energy Market Commission's (AEMC) Consultation Paper: Electricity network regulation review Package 1.

The decarbonisation of Australia's energy sector in recent years has been driven by the entry of a significant amount of grid scale renewable generation. Small customers – residential and small business electricity – have also played a significant role in increasing the grid's renewable generation capacity through the installation of rooftop solar systems and a growing fleet of behind-the-meter storage.

The AEC recognises network service providers have an important role to play as a platform that enables other participants such as our retailer members to provide services that customers require. This submission provides the AEC's feedback on key aspects of the service classification and ringfencing framework, as well as Energy Network Australia's EVCI rule change requests.

Our feedback is grounded in two principles, that:

- competition delivers better outcomes for consumers wherever it is available; and
- monopoly service providers should not be permitted to use their monopoly position and regulated revenue to gain an advantage in competitive markets.

We would be pleased to meet with members of the review team to provide further details on issues raised in our submission.

Any questions about this submission should be addressed to Jo De Silva, General Manager Retail Policy by email to jo.desilva@energycouncil.com.au or by telephone on 03 9205 3100.

Yours sincerely,

Jo De Silva

Jo De Silva
General Manager Retail Policy

About the Australian Energy Council

The AEC is the peak industry body for electricity and downstream natural gas businesses operating in the competitive wholesale and retail energy markets. AEC members generate and sell energy to over 10 million homes and businesses and are major investors in renewable energy generation which is a part of the transition currently occurring in the industry. The AEC supports reaching net-zero by 2050 as well as a 55 per cent emissions reduction target by 2035 and is committed to delivering the energy transition for the benefit of consumers. The AEC and its members are strong supporters of protections that provide appropriate support for all customers and the need to ensure regulation is fit for purpose in the evolving energy market.

1. Context: networks as an impartial, independent platform and enabler

The functions that participants in the electricity sector need to perform are changing as the system becomes more distributed and carries higher levels of renewable generation. The CER Taskforce has set out the role of customer agents, including retailers, in that system. Customer agents are the primary interface between consumers and the energy system, managing consumer energy resources (CER) on customers' behalf. They orchestrate those resources in line with each customer's preferences and risk appetite, convert market signals into a range of differentiated offers, and optimise across wholesale and distribution-level signals and across a portfolio of assets rather than device by device.

Customer agents cannot deliver those functions on their own but depend on upstream participants to support delivery. Some of the information that customer agents need from network service providers to provide products and services to end customers includes visibility of network capacity, terms and timeframes for connection and access, and the signals networks send about where and when flexibility is required.

The electricity products and services that customers want in the new energy system will need to be produced by multiple parties working together, not by any one of them acting in isolation.

Distribution network service providers (DNSPs) have an important role to play as the distribution system operator (DSO). We see that role as providing a platform that enables other participants such as customer agents to perform their functions, develop innovative products and deliver the services customers want.

2. Asset ownership is not necessary to deliver the end service

In the consultation paper, the AEMC observes that the current framework allows for the regulation of coordination services provided by network service providers, but does not regulate the quality, neutrality or effectiveness of that coordination. We agree with this observation and consider that successful delivery of the DSO functions will mean the network platform is:

- non-discriminatory — third parties can obtain access to the network, and to the information and interfaces they need to use it, on the same terms as the network business and its affiliates
- independent and impartial — the platform does not favour a particular technology, business model or provider, including the network's own
- enabling of a more efficient whole-of-system outcome — the platform is operated so that existing network capacity is put to its highest value use.

These are high-level conditions of the quality of the services that a DSO needs to deliver. However, the delivery does not necessarily require the network to own (or operate) the end-customer asset or equipment that delivers the end service.

3. Ringfencing arrangements

3.1 Provision by a monopoly in a contestable market should remain exceptional

AEC does not support monopoly service providers providing services in contestable markets, other than in exceptional circumstances.

We therefore support a clearer signal in the NER that a ringfencing waiver should be granted only as a last resort, and that a DNSP's involvement in a contestable market is to address a clear market failure.

A clearer signal would give the AER and DNSPs a consistent test to apply and clarify DNSPs' long-term role in these markets. It would also make the basis for each waiver decision easier for third parties to understand.

4. Definitions and service classification

4.1 The Review should consider the definition of distribution services and systems

As the electricity system evolves, the definition of distribution service and distribution system should be reviewed. Requirements such as CER optimisation were not contemplated when the regulatory framework was developed.

The tension that has emerged in the ring-fencing framework reflects the evolution of the electricity system. The concepts DNSPs have been testing through recent waiver applications, including the CitiPower, Powercor and United Energy kerbside EVCI trial and the Ausgrid Community Power Network trial, reflect the changes that these DNSPs have been experiencing, or expecting to see in the near future.

Our view is that much of this tension arises because the definitions of distribution service, distribution system and role of a distribution system operator, which help determine what DNSPs should be ringfenced from providing, are unclear.

If the definitions of distribution service and distribution system can provide sufficient clarity on the role of networks, the current classification framework could be amended to enable it to function as intended. The boundary between regulated and unregulated services would then be addressed through strengthening the current framework, rather than through additional guidance in the NER.

5. The need to regulate DNSP performance

5.1 Information asymmetry needs to be addressed

As discussed in the AEMC's consultation paper, the connection provisions in the NER are intended to prevent network service providers from hindering access to their networks through the connection process, and to provide access on fair, reasonable and non-discriminatory terms. NSPs must also comply with the ring-fencing obligation not to discriminate when providing connection services. Where a facility access service has been classified as a negotiated distribution service, the negotiate-arbitrate framework applies to it as well.

Stakeholders have nonetheless raised consistent concerns about access in practice. In the CitiPower, Powercor and United Energy kerbside EVCI waiver process, stakeholders raised high and non-standardised pole access fees and terms, the need to negotiate bespoke connection agreements,

connection delays, and the absence of transparent information about suitable sites. DCCEE has identified the same set of barriers: site identification processes, connection timelines and costs, and infrastructure leasing arrangements. AEC has also previously identified hosting capacity mapping and slow, inconsistent connection processes as barriers to the competitive deployment of public EV charging infrastructure.

Each of the concerns above is either about information that a DNSP is best placed to provide, or about how long a DNSP takes and what it charges. In our view, they are matters of information asymmetry and of the efficiency and effectiveness of DNSP processes.

5.2 The DSO role should be given effect through defined outputs

If a DNSP is to operate a distribution network that is non-discriminatory, independent and impartial, and that enables existing network capacity to be put to its highest value use, third parties need to be able to see what the network can host, what access will cost, and when it will be available. DNSP performance is currently measured largely through technical service measures such as SAIDI, SAIFI and voltage levels. Those measures say nothing about whether a third party can identify a viable site, obtain a price and know when it will be energised.

AEC considers the Review should address the conditions which enable discrimination to exist by defining the performance standards that a DNSP must publish as part of the DSO role. The following are some examples of performance measures that DNSPs should be subjected to as DSOs:

- available network capacity and hosting capacity by location
- the connection queue, and expected and actual timeframes to connect
- standard facility access terms, fee schedules and the negotiation procedure that applies
- the technical and commercial requirements an applicant must meet, on the same terms for every applicant.

Requirements of this kind are already being imposed, but one waiver at a time. The conditions the AER attached to the CitiPower, Powercor and United Energy waiver require the DNSP to publish a facilities access agreement and negotiation procedure, to report to the AER on what it charges third party providers, and to publish the expected timeframe for energising third party chargers together with the reasons for rejected applications or extended negotiations. Those conditions responded to the circumstances of a particular trial. The information need they address is not specific to one DNSP or one trial: any third party seeking to use a distribution network needs the same information, whether or not a waiver is in force.

AEC's view is that this Review should be a question of what a DNSP should be regulated to deliver as a platform operator, rather than simply a question about the adequacy of the ring-fencing obligations. Performance measures of this kind should be a standing feature of deliverables for the DSO role, settled alongside the work on what a distribution service is, rather than assembled case by case through waiver conditions.

6. Nexa Advisory rule change request

The AEC supports the Nexa Advisory rule change request.

7. ENA's kerbside EVCI rule change request

7.1 ENA has not shown that kerbside EVCI should be a direct control service

ENA proposes that the NER be amended so that, where a DNSP proposes to provide a Distribution EVCI Service, the AER must classify that service as a direct control service. The AER would retain discretion only over whether it is a standard control or an alternative control service. ENA proposes no restrictions on the number, type, location or timing of the EVCI a DNSP could install and proposes transitional arrangements allowing a DNSP to reopen its current distribution determination so that it can begin providing the service within the current regulatory control period.

As the AEMC notes, ENA has not addressed the potential for competition in the market for kerbside EVCI services. It has not provided analysis demonstrating that this is a monopoly service, or that there is a market failure that would prevent competition emerging.

AEC does not consider that ENA's rule change has demonstrated sufficiently that a market failure exists. Charge point operators are already competing to supply public charging services. In contrast, ENA rests its case on incumbency advantage - the speed and cost advantages of using existing distribution assets, workforce and systems. Deploying a contestable service using a regulated workforce and consumer-funded assets is exactly the conduct that ringfencing obligations are designed to prevent.

The mechanism ENA proposes is a further problem. A rule that requires the AER to classify a service as a direct control service conflicts with the economic principles that underpin the integrity of the regulatory framework – that a service should be regulated based on its characteristics, and not whether a DNSP chooses to offer the service.

The proposed Distribution EVCI Deployment Strategy does not mitigate the risk of a DNSP crowding out an emerging market. The document merely publishes the DNSP's own deployment plans. It does not test whether a third party would serve a location, and it is not a substitute for a classification decision made by the AER on the characteristics of the service.

7.2 The role of the DSO is to enable charging, not to provide it

As discussed in section 1, we consider the role of a DNSP as the DSO is to operate a platform that is non-discriminatory, independent and impartial, and that others use to deliver services to customers. Applied to EV charging, that means providing the network infrastructure that allows charge point operators to offer charging services. It does not mean owning and operating the charging equipment.

The closest analogue in the current framework is network connection services. Connecting a customer's premises to the distribution network is a contestable service in most jurisdictions, with accredited providers competing to do the work. Kerbside EVCI is no different.

Charge point operators should be able to compete to connect charging equipment to the distribution network, on published terms.

The market for public EV charging is at an early stage, and multiple providers are active in it. Classifying kerbside EVCI as a regulated service would place a consumer-funded monopoly provider into that market before it has matured. The likely effect is to displace competitive commercial provision rather than to add to it.

The AEC acknowledges that there is a gap in the availability of public charging in Australia. Our view is that the gap is temporary, and that it will narrow as EV uptake grows and commercial deployment models develop.

ENA's rule change request focuses its solution on enabling a monopoly service provider to enter into an emerging market rather than examining whether measures such as providing a clear indication of available network capacity and streamlined access application to its assets such as power poles are a better remedy.

The barriers referred to in the consultation paper and related processes are network process and information barriers: site identification, connection times and charges, and facility access terms and fees. None of them requires a new regulated service. As discussed in section 5, they are addressed by defining the performance a DNSP is required to meet as part of the DSO role, together with a clear framework for how a DNSP sets its fees and charges for EVCI connections and facility access.

Where a location is genuinely uneconomic and no provider is willing to serve it, that becomes one of the exception cases where a DNSP may (after demonstrating there is a market failure using quantified data) provide the service. As discussed in section 3, the framework already has a route to it in the ring-fencing waiver, and we support a clearer signal that a waiver is to be granted only as a last resort and only to address a clear market failure. ENA's proposal is not directed at that case. It would apply in all locations, including metropolitan areas where competition is emerging.

To the extent there is ambiguity about whether the provision of EVCI is a distribution service, it should be resolved as discussed in section 4 — through the definitions of distribution service and distribution system, and through the AER's standard classification process. A bespoke rule change for one technology is not required nor appropriate.

7.3 The costs and benefits ENA describes are not a net assessment

The ENA has not provided a thorough or complete cost/benefit analysis of its proposal. The benefits it does describe — faster installation, lower installation cost and better use of existing distribution assets — compare DNSP delivery with third party delivery of the same equipment. It is not an assessment of the effect on or benefit to consumers, because they do not account for the competition and innovation that would be foreclosed, or for the risk of committing consumers to one technology and delivery model in a market that is still developing.

The AEC firmly believes that competition delivers better outcomes for consumers wherever it is available. While economic regulation can be an effective way of setting service standards for a monopoly service, where a service is contestable, competition between providers allows customers to move to another provider if standards are not met.

The costs networks would be enabled to charge customers would also differ depending on how the AER classified the service. Therefore, service classification is an imperative part of this Review. Standard control classification would recover the cost of the rollout from all consumers through network charges, whether or not they use the chargers, and would allow the service to be cross-subsidised from a broad regulated revenue base. Alternative control classification recovers costs from users of the service and would retain more competitive discipline. In the AEC's view, neither classification is appropriate. Consistent with the position set out in section 7, kerbside EVCI should not be classified as a direct control service at all.