Alfredo Carega

Australian Energy Market Commission

Submission made online at www.aemc.gov.au

6 August 2026

Dear Mr Carega,

Subject: EPR0106 Consultation Paper – Electricity network regulation review Package 1

SA Power Networks welcomes the opportunity to respond to the AEMC's Consultation Paper on Package 1 of the *Electricity network regulation* review (the Review). Our submission comments on both the Review and the associated *Clarifying distribution ringfencing in emerging energy markets* and *Enabling distribution network service provider led electric vehicle charging infrastructure* rule changes submitted by Nexa Advisory (Nexa) and Energy Networks Australia (ENA) respectively.

We support the intent of the Review and consider that there is a need to proactively address potential gaps in the regulatory framework to support the most efficient delivery of future energy services. Our feedback focuses on a series of case studies of new services that challenge the existing regulatory framework and lays out a practical pathway to assessing their delivery in the long-term interests of all consumers.

The key views detailed in our submission are:

1. As distribution network service providers (DNSP) transition to distribution system operators (DSO), they will need to perform a series of new activities aimed at driving whole-of-system outcomes. Including these activities within the scope of existing distribution services will ensure they are most efficiently funded and delivered in the long-term interests of consumers. Enhanced guidance is required in the National Electricity Rules (NER) however, to best equip the Australian Energy Regulator (AER) in making service classification decisions for these activities, particularly where they are contestable but would benefit from regulation or are performed at AEMO's direction.

2. The framework for connections and facilities access arrangements (FAA) in the NER does not pose a genuine blocker to the uptake of electric vehicle charging infrastructure (EVCI) nor in the operation of any contestable market. We note that the *framework* for connections and FAA in the NER is distinct from the *processes* deployed by individual DNSPs. We agree that there is room for improvement in network connection and FAA processes, particularly for emerging technologies such as EVCI, but we consider that the most effective way to pursue improvements is through a collaborative process improvement program involving both DNSPs and industry, and not through a rule change.

3. There is no need to introduce new cost-allocation methodologies for multi-use assets such as community batteries. Whilst we acknowledge that there is a forecasting risk associated with these assets, and in-turn a risk of cross-subsidy, we do not feel that this risk materially differs from existing forecasting risks borne by DNSPs, and in-turn consumers. Networks today forecast demand and asset condition and make investments accordingly – with a risk that the conditions those investments were made on materialise differently to the forecast. These sorts of forecasting risks exist across every level of the energy system today, and are increasingly

coupled with market outcomes, much in the same way as the usage split of a community battery. We do not consider that there is a need for bespoke, complex 'look-back' mechanisms for these assets and recommend that that reform instead focuses on standardising guidance for determining the usage split on an ex-ante basis. Complexity adds cost that must ultimately be borne by customers.

4. The AER's current process for assessing ring-fencing waiver requests remains largely fit for purpose – noting the additional guidance we recommend be provided in the NER. Ring-fencing waivers should be viewed as a means to an end – a way to enable small-scale trials of new or emerging services that are likely to enhance outcomes for consumers but ultimately leading to a service classification decision by the AER. Where a genuinely new service is being explored that may be impeded by the NER, a rule change may be a logical outcome of a trial performed under a ring-fencing waiver. Waiver conditions should continue to be used to limit impacts on existing competitive markets, whilst allowing for the trial to generate an evidence base to support an eventual service classification.

5. We do not support the amendments to the ring-fencing framework as proposed by Nexa. Nexa's concerns regarding ring-fencing practices remain largely theoretical – we consider that there are no genuine, systemic issues with the ring-fencing waiver process, nor that the ring-fencing waiver process is leading to a deterioration in the competition observed in contestable service provision. Should genuine evidence of these issues be identified, we would support exploring potential reforms – but in the absence of such evidence, we do not consider it prudent to impose further administrative burden on DNSPs, and hence costs to consumers through additional ring-fencing requirements.

6. We support ENA's rule change to classify the provision of EV charging infrastructure (EVCI) as a distribution service. We do not consider, however, that DNSPs should be responsible for identifying market failure and justifying investments accordingly. Instead, we see a role for governments in identifying the need for additional, non-commercial EVCI within their jurisdictions, such as low-power AC kerbside EVCI or high-power DC EVCI in regional areas.

   Where a need is identified for this additional EVCI, subsidies will be required to meet that need. The most efficient way to deploy subsidised EVCI is by making DNSPs responsible for the overall service, including the deployment of additional EVCI to meet government targets, maintaining equipment to meet reliability standards and providing open retail access. Competition should be enabled for the inputs to that service, however, ensuring that the most efficient deployment of additional EVCI is realised.

We look forward to continuing to engage with the AEMC to deliver the lowest cost whole-of-system approach to enabling the energy transition. Should you have questions on any aspect of our submission, please contact Liam Mallamo, Industry Development Lead, at liam.mallamo@sapowernetworks.com.au.

Jessica Morris

Chief Customer & Strategy Officer

1. The service classification framework should evolve to best support the transition from DNSP to DSO

The energy transition brings fundamental changes to the energy system's roles and responsibilities – none more so than that of DNSPs, who are increasingly tasked with delivering new functions as they transition to DSOs.

A DNSP seeks purely to manage the reliability, safety and integrity of their own distribution network, whilst a DSO seeks to actively manage their network and resources connected to it to facilitate efficient outcomes across the entire energy system – whether those outcomes are realised at the distribution, transmission or market layers.

Within the context of the service classification framework, we see two main categories of new DSO functions:

1. Those that could be classified today as an activity forming input to an existing service

2. Those that would not be easily classified under the existing framework – namely, activities or services that are contestable in nature but that could benefit consumers through being regulated

Across both categories of DSO functions, the intent is the same – to deliver outcomes in the interest of the entire energy system, not just the distribution network.

For the functions that would fall under category (1), we see only minor barriers to delivery. These are not contestable and could be reasonably determined by the AER today as activities forming input to the common distribution service[1]. However, we believe that additional guidance in the NER would nonetheless be beneficial for these functions, with the intent of ensuring that the AER does in fact recognise them in this manner, thus giving DNSPs a clear path to prudent and efficient investment in these critical functions.

The functions that fall under category (2), on the other hand, would today not be classified by the AER and hence would be deployed as unregulated services. We consider that there is merit in exploring the potential of regulating them, however, with the aim of delivering outcomes in the long-term interests of consumers.

1.1. Most DSO functions are not contestable and broadly fit within the existing service classification framework

The majority of emerging DSO functions fit within the existing service classification framework and would be logically viewed as activities forming inputs to the common distribution service. We present three case studies of functions that we believe also fit this definition, but with some level of uncertainty, and hence would benefit from having increased guidance in the NER regarding their place in service classification.

[1] The common distribution service is typically the predominant standard control service included in a DNSPs service classification by the AER. It is defined as *"use of the distribution network for the conveyance/flow of electricity (including the services relating to network integrity)."*

1.1.1. *Capacity allocation for scheduled resources.*

As DNSPs continue to roll-out dynamic operating envelopes (DOE), they will increasingly be required to dynamically allocate capacity between multiple resources under a given network asset. If one or more of those resources is market active, then the capacity allocation performed by the DNSP will directly impact market price outcomes. This is akin to the techno-economic optimisation that AEMO performs as part of market dispatch. DNSPs could allocate capacity to drive economically optimal market price outcomes, through allocating greater capacity to a resource providing a lower market bid. The Customer Export Curtailment Value (CECV) provides a framework that could be used to guide this allocation, but there remains a gap in recognition of a DNSP's responsibility to deliver efficient market outcomes through this activity. We see an opportunity to drive improved outcomes for consumers but are concerned that doing so would be seen to be outside of the scope of our role. We also acknowledge that this position may pose issues for the open-access nature of the distribution connections framework, which we feel should also be considered through the Review.

1.1.2. System security services for minimum system load.

DNSPs are increasingly required to assist in managing system security, particularly during times of managing minimum system load (MSL). Key capabilities developed by DNSPs to aid in MSL management include:

a) the emergency backstop mechanism, allowing for distributed PV to be remotely disconnected;

b) Enhanced or emergency voltage management capabilities, through which zone substation voltage control can be used to disconnect distributed PV; and

c) Dynamic underfrequency load shedding, ensuring that feeders acting as a net generator are not disconnected as part of underfrequency load shedding schemes.

Each of these capabilities is either under development or actively deployed by the majority of DNSPs, based on recommendations from AEMO. However, a 'recommendation' from AEMO is insufficient as a trigger for investment through the AER's revenue determination process – DNSPs have had to rely on jurisdictional obligations to be imposed for these capabilities, and in-turn submit pass-through application proposals for funding. These investment barriers would be removed if the need for the provision of system security services as recommended by AEMO where efficient, was clearly included within the scope of the common distribution service.

1.1.3. *Investing in network capacity to meet the needs of the Integrated System Plan.*

The *Improving consideration of demand-side factors in the ISP* rule requires AEMO to include distribution network capacity, and the potential for additional distribution network investment, in the Integrated System Plan (ISP) model. The 2026 ISP is the first publication to implement this reform.

In the 2026 ISP, more than 2GW of opportunities for investment in distribution network capacity were identified and deemed to be efficient as they reduce the need for additional generation, storage and transmission network investments. Importantly, they are included as part of the ISP's Optimal Development Path (ODP) – that is, they are assumed to be made within the model, and all subsequent investments are based on this assumption.

However, there is no 'actionability' framework for distribution network opportunities identified in the ISP. Whilst the AEMC is actively exploring the potential to extend the ISP's actionability framework to include distribution, via the *ISP Review*, there may also be merit in considering how it can be best

accommodated within distribution service classification to accommodate these investments in the meantime. We consider this to be structurally similar to the system security activities outlined in section 1.1.2. – as the driver for both would be recommendations from AEMO, having identified the need for DNSPs to deliver these activities.

1.2. Some DSO functions are contestable, but could benefit consumers if regulated

Functions that DSOs *must* perform are not contestable. Some DSO functions, however, *could* be performed in a contestable manner. This begs the questions - if a service *can* be provided competitively, is there *ever* a case for DNSPs to use regulated funding to provide it? We believe the answer to be *yes* – but only under a specific set of circumstances.

Any assessment of such a service should be based on four core principles:

1. Is the current market failing to deliver the outcomes consumers need or desire?
2. Would consumers benefit from DNSP provision of this service as a regulated service?
3. Would those benefits outweigh the costs to consumers?
4. Would the classification impede a lower cost solution from ever emerging?

We recognise that in practice, all four of these principles would rarely be fulfilled – but we believe that there are unique cases where they are.

1.2.1. Enabling CER orchestration through a shared flexibility platform

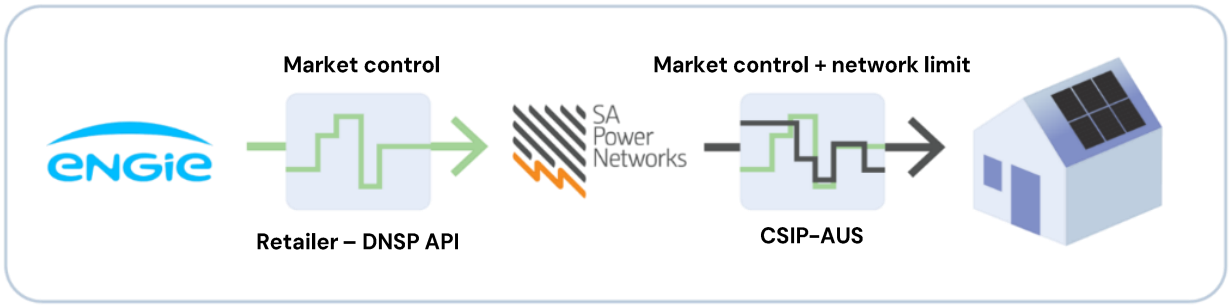
AEMO's 2026 ISP introduced for the first time a 'No Further CER Coordination' sensitivity, which sought to understand the benefits of CER orchestration across the NEM. AEMO found that with no further growth in CER orchestration, more than $5.2B of additional system costs would be imposed on consumers through to 2050. Projections of the rate of CER orchestration assumed within the ISP have already dropped by 25% between the 2024 and 2026 ISPs, with additional large-scale resources needed to fill the resulting generation gap. This evidences that real value to consumers is being lost due to a lack of orchestration today, and no significant change is in sight.

We consider that the core blocker to enabling widespread CER orchestration is a lack of *interoperability,* or standardised approaches to communicating market controls between an energy retailer and CER devices. In order to operate a virtual power plant (VPP), an energy retailer must:

- establish commercial relationships with the nearly 100 CER original equipment manufacturers (OEM) operating nationally; and
- develop technical integrations between their chosen control platform and each make, model or OEM of devices they wish to control, with each integration often coming at a cost of more than $50,000.

Ultimately, these barriers mean that current VPP offerings impose restrictions on the CER devices that can be enrolled into their program, in turn limiting the uptake of CER orchestration and the associated market benefits, as well as restricting consumer choice. An ideal model would see customers able to bring any device they are willing to have orchestrated and have that device enrolled into a VPP and the customer be rewarded accordingly. No VPP offers this level of 'open access,' nor any model close to it.

SA Power Networks, in conjunction with energy retailers AGL and Engie, sought to address these barriers to CER orchestration through an ARENA-funded trial beginning in 2022, *Market Active Solar*[2]. In this trial, energy retailers were given access to SA Power Networks' CSIP-AUS communications infrastructure, through which they could send market controls to more than 95% of modern solar systems in South Australia, in order to curtail exports during negative price events. Specifically, the approach taken by Engie saw the retailer sending a market control to the DNSP over a simple interface, with the DNSP then merging that signal with a DOE and sending the merged signal to the CER device via CSIP-AUS. In this model, DNSP systems act simply as a passthrough for the market control.



By leveraging the existing interoperable CSIP-AUS pathway established by SA Power Networks, Engie had access to CER systems across nearly 100 OEMs, namely any CER device that had been tested and certified to CSIP-AUS. This approach provided the equivalent market access of Engie performing 47 bespoke integrations at an approximate cost of $50,000 each, or a total cost of approximately $2,400,000. To access this pathway, Engie was required to perform a single integration to a simple API developed by SA Power Networks, achieved at a total cost of approximately $50,000[3].

This was a simple demonstration – one retailer, sending one market control (rooftop solar curtailment) to one DNSP to pass on to a CER device. We consider that this model can be further expanded, however, by allowing energy retailers to pass on a full suite of VPP controls via DNSP systems, opening up a completely standardised, fully interoperable communications path between the market and CER devices – a *shared flexibility platform*.

Under the current service classification framework, this shared flexibility platform is not suitable for classification – i.e. it is performed as an unregulated distribution service (UDS), supported by a ring-fencing waiver for the purposes of the *Market Active Solar* trial. This leads to a user-pays approach to cost recovery, where the costs of providing the platform are recovered directly from retailers using it. However, we consider that if it was classified as part of a regulated service – specifically, as an activity forming input to the common distribution service, greater consumer benefits would be realised. By recovering the costs of enabling this platform from all consumers, DNSPs would be able to offer an orchestration platform to energy retailers *free of charge* – fundamentally removing a key commercial barrier to orchestration and massively accelerating its uptake. Offering access to orchestration as a free service would unlock universal access for all retailers, regardless of size, and hence to all consumers, regardless of what CER devices they have.

Critically, this is not and should not be a monopoly service. By no means would the shared platform be the only option for communicating to CER – rather, it would simply be an entry point, a way to establish

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[2] Australian Renewable Energy Agency (ARENA) *SA Power Networks Market Active Solar Trial*. Available at: https://arena.gov.au/projects/sa-power-networks-market-active-solar-trial/

[3] https://energysystems.anu.edu.au/files/2025-10/2-02-R~1.PDF

a baseline, universal capability to send market controls to CER that any retailer could access. Bespoke approaches would still be necessary and beneficial for more advanced orchestration, allowing the market to focus its innovation efforts on genuinely new products and offers. The true consumer value of competition in orchestration is in product design, and not in locking products behind device integration barriers.

1.3. Classification of DSO functions should be guided by whole-of-system outcomes

Whether a new DSO function is clearly contestable or non-contestable, it's classification should ultimately be left up to the AER. Prescribing a given classification within the NER removes flexibility for both DNSPs and industry in designing these emerging functions. Instead, we recommend that the NER be amended to give the AER additional guidance in classifying these functions in the long-term interest of consumers.

We do not consider that changing the definition of a distribution service, nor the definition of a distribution system within the NER would be a necessary nor effective way to achieve this. Instead, we consider that the AEMC should insert a factor relating to *driving lowest-cost whole-of-system outcomes* in either:

a) the range of factors that the AER must have regard to in making service classification decisions, in NER clause 6.2.1 (c), or

b) the capital and operating expenditure objectives set out in NER clauses 6.5.7(a) and 6.5.6(a) respectively – this is noting that these objectives currently refer only to the distribution system as opposed to the broader energy system.

Such a factor would allow for a range of classification options from the AER, dependent on the nature of each DSO function at any given time. For example, whilst we believe that classifying a shared flexibility platform within a standard control service will ultimately lead to the best consumer outcomes, we can see a realistic path where it first is transitioned from its current UDS state to ACS, evolving in line with DNSPs capability to offer the service. This guidance would also be used to guide not only the classification of potential new services, but also the inclusion of additional activities as inputs to existing services, a category within which we feel most DSO functions will fall.

This guidance would also serve to align the service classification framework with the regulatory investment framework, namely with the set of market benefit categories already listed in the NER. For example, the CECV is used to value the potential for impacts of distribution-level investments on the wholesale market, the transmission system and emissions. Today, these benefit categories are purely used to guide investments in distribution network export capacity. Whilst these benefit categories could also be used to value new DSO activities, albeit with some methodology changes, the need for those activities must first be clearly established within a service.

2. Deploying EV charging infrastructure is a shared responsibility across industry, DNSPs and government

ENA's proposal to allow DNSPs to install, own and maintain a network of EVCI poses fundamental questions for the existing service classification framework. While we have discussed some of these issues in Section 1 of our submission, including the analogous case study of a DNSP-led shared flexibility platform, there are unique aspects of the EVCI market and potential service that warrant further consideration.

Broadly, we support the rule change proposed by ENA and consider that there is a role for DNSPs to play in the deployment of EVCI as a regulated service. We propose several key principles to be included within this role, however:

1. DNSPs should not provide any retail service of electricity – any role should be limited to purely installing, owning and maintain EVCI
2. DNSPs should not use regulated revenue to deploy EVCI that could otherwise be deployed by the competitive market on a purely commercial basis

We would suggest that a similar approach to assessment of the service is taken as that proposed in section 1.2. for contestable DSO services, namely an analysis of:

1. Is the current market failing to deliver the outcomes consumers need or desire?
2. Would consumers benefit from DNSP provision of this service as a regulated service?
3. Would those benefits outweigh the costs to consumers?
4. Would the classification impede a lower cost solution from ever emerging?

2.1. The deployment of non-commercial EVCI is a societal need, not an economic one

We would separate EVCI into two distinct categories:

a) that which can be economically deployed by the competitive market – broadly consisting of high-power DC charging in metropolitan areas and regional centres; and

b) that which may not be able to be economically deployed by the competitive market – broadly consisting of lower-power AC charging in metropolitan areas and high-power DC charging in remote communities.

For the purposes of this submission, we use the term 'additional EVCI' to refer to the type EVCI outlined in (b) – that is, EVCI beyond that which can be delivered commercially.

In answering assessment (1) – whether the current market is failing to deliver the outcomes consumers need or desire – the need for this additional EVCI must first be identified, before any assessment of potential market failure can occur. Identifying that need poses challenging questions, however, such as:

- How is consumer demand for additional EVCI in a location established?
    - Should it be based on demographic data, such as housing type and EV ownership?
    - Is a stated desire or request from a consumer/s enough?
    - Should it be based on a ratio of vehicles to chargers in an area?
        - Should there be multiple ratios to cover various EVCI types?

- What timeframes should be allowed for commercial deployment of additional EVCI to meet the identified need before 'market failure' is established?

We do not consider that DNSPs are well-placed to answer these questions and hence are not well placed to identify the need for additional EVCI. Should a quantitative linkage be made between the volume of additional EVCI deployed with an increase in EV uptake and an associated emissions reduction, then this service could be considered to address an *economic* need that DNSPs could identify. In the absence of such a linkage, however, we consider that this is currently a *societal* need and that its identification best sits with governments.

In determining the need for additional EVCI, governments would consider questions such as:

- Does Australia need to increase the rate of EV adoption in order to meet its emissions targets?
- Will an increase in charging infrastructure supply lead to an increase in EV adoption?
- What sort of charging infrastructure is required, and where should it be?

We see a role for all levels of government in undertaking this assessment, in close collaboration with both DNSPs and the broader EVCI industry.

Government	Role
Federal	Identifying total volume of additional EVCI required per state
State	Identifying optimal areas for additional EVCI deployment
Local	Working with DNSPs to identify optimal poles for additional EVCI, including parking arrangements

In the absence of such targets, DNSPs would not have a clearly identified demand for the service against which they could invest. We thus recommend that any rule change to classify DNSP-led EVCI specifically reference the deployment of EVCI to meet identified government targets, and that the AEMC consider how the NER and NEL may be able to best facilitate this process.

2.2. Which types of EVCI are non-commercial?

The EVCI types proposed for inclusion in a DNSP-led service are low-power AC charging in metropolitan areas and high-power DC charging in remote communities – with these charging types broadly thought to be uncommercial, and hence requiring subsidies should there be a need for their deployment.

We have undertaken modelling to assess the commercial viability of kerbside charging, including analysis of how its viability may change in future. This modelling focused on 7kW and 22kW AC kerbside charging, as well as 50kW DC kerbside charging. These are the most common kerbside charging configurations today and are the types of EVCI actively being sought under the Commonwealth's *Accelerating EV charging* program[4]. We will seek to expand this modelling in future to include regional DC charging also.

This study leveraged data on the current costs and feasible utilisation of kerbside EVCI deployments sourced from Energeia (commissioned by Energy Consumers Australia). We assessed the level of

[4] https://www.aemc.gov.au/sites/default/files/2026-05/consultation_paper_-_facilitating_electric_vehicle_charging_infrastructure_under_commonwealth_grants.pdf

utilisation (that is, the proportion of the day that a charger has a vehicle plugged in and actively charging) required in order for a kerbside charger to breakeven on its upfront investment and ongoing maintenance costs, whilst supplying electricity to end consumers at current market rates for public EV charging. We have assumed these market rates to be 45c/kWh for AC charging, and 68c/kWh for DC charging, based on a market scan in SA. The analysis includes the application of a retail supply contract as per the Default Market Offer (DMO) for SA and assumes a 10-year life of the charger and a 10% commercial return on investment. Scenarios with and without the application of a FAA charge were assessed.

	7 kW AC	**22 kW AC**	**50 kW DC**
Current utilisation	15%	10%	6%
Current market rate	45c/kWh	45c/kWh	68c/kWh
Breakeven price (at current utilisation, with FAA)	84.6c/kWh	73.9c/kWh	119.6c/kWh
Breakeven price (at current utilisation, no FAA)	73.3c/kWh	68.7c/kWh	115.7c/kWh
Breakeven utilisation (at market rate, with FAA)	207%	103%	18%
Breakeven utilisation (at market rate, no FAA)	154%	86%	17%

This analysis shows that AC kerbside EVCI operating on a purely commercial basis would need to charge more than 1.5x the current market rate for public EV charging to be commercially viable, based on currently plausible levels of utilisation. If the EVCI operator sought to offer market rates for charging, then it would require utilisation of more than 100% to break even – that is to say, it could never break even. Even if the costs of an FAA were removed – i.e. a DNSP leased a pole at no cost – unrealistic rates of utilisation or levels of pricing would be required to break even. This evidences that whilst DNSP FAAs may impose material costs on a third-party, they are not the 'breaking point' of a kerbside charging business case.

We appreciate that as with any modelling, however, this analysis is only as valid as the inputs used and assumptions made. This is not intended to be an exhaustive study of the economics of kerbside charging, and we recognise that other parties will have access to far more accurate data. We recommend that the AEMC work with stakeholders to conduct their own, more wide-reaching analysis of this kind. What this modelling does indicate, however, is that the low utilisation levels of this infrastructure mean that it is unlikely to be deployed at any meaningful scale by commercial providers in the near future. Even with a reduction in capital costs, or network and retail costs of 50%, our analysis indicates that utilisation remains a limiting factor to its commercial viability. We consider this to be the primary reason why we do not see large numbers of AC kerbside chargers deployed today – there simply is no business case in it.

We note that higher power kerbside charging, such as 50kW DC deployments, typically have a more feasible, although still largely uneconomic, business case. As the upfront cost of this equipment decreases over time, we expect that the competitive market will be able to increase their deployment of this infrastructure over time. The level to which this occurs would directly influence the need for further deployment of AC kerbside EVCI.

We fully support efforts to first seek to lower the cost of commercial deployment of additional EVCI, before including through streamlining network connection processes, before considering subsidies of any sort. However, should governments identify a need for these charging types in the short-to-medium term, then subsidies will inevitably be required. This aligns with existing practice today, with

state and federal subsidies actively being used to fund the deployment of AC kerbside EVCI, both nationally by ARENA and at state level in New South Wales. The true question that the ENA rule change introduces is *what method of subsidy is most efficient* – taxpayer funded subsidies directed towards private EVCI deployment, or electricity consumer funded subsidies directed towards DNSPs?

2.3. What approach will lead to better consumer outcomes – subsidies for the private market or DNSP involvement?

Before exploring which approach would best deliver consumer outcomes, we first need to determine what exactly the outcomes we wish to achieve are. We consider that any subsidised deployment of additional EVCI should be required to meet three key requirements:

1. Directly respond to a government target – this would include the type of charging (kW, AC or DC) and the location (whether that be to a postcode, suburb or local government area, noting the joint pole identification process that should be undertaken with local governments).
2. Equipment must be maintained such that the EVCI operates to a standard set by a jurisdictional regulator. This standard would be for the percent of time it is available for use.
3. Open retail access must be provided – specifically, any energy retailer should be able to arrange access to the EVCI to provide retail services, ideally with consumers able to dynamically choose their preferred retailer for a given charging session. The potential to enable a seamless consumer experience through plug and charge requirements should also be considered.

These requirements are not in place today, and their absence is leading to a sub-optimal deployment of EVCI. Specifically, there is a lack of EVCI in residential areas to serve consumers without access to off-street parking, EVCI of nearly every type does not meet the reliability performance expected by consumers, and there is no competition or choice of retail contract for consumers using a given EVCI.

The most efficient way in which to deliver these outcomes for a deployment of additional EVCI is to make DNSPs responsible for their delivery as a regulated service. Whilst these outcomes could, in theory, be delivered through a complex series of contractual obligations placed on various parties through a private market-led approach, we do not consider that such an approach would genuinely deliver outcomes consistent with the long-term interests of consumers.

Whilst DNSPs should be responsible for delivery of the overall service, competition should remain both at the retail level and for the inputs to the service. This would see DNSPs responsible for ensuring that the identified need for additional EVCI is met, including both deployment of chargers and their reliability, but would ensure that DNSPs are incentivised to find the party capable of most efficiently installing and maintaining these assets.

This is akin to other functions DNSPs deliver through the common distribution service – for instance, in determining how to best meet forecast demand, DNSPs are incentivised to leverage competition in finding the most efficient solution, comparing options such as procurement of a non-network solution, or outsourcing the design, construction and maintenance of new network assets to the competitive market. Assigning responsibility for ultimate service delivery to the DNSP ensures that the overall need will be met, but competition helps to ensure that it is met in the most efficient way possible.

3. Current ring-fencing arrangements are working in the interests of consumers

The Consultation Paper explores three aspects of ring-fencing – the requirements of ring-fencing in general, the process and decisions associated with ring-fencing waivers, and the set of specific suggestions to increase ring-fencing provisions and strengthen waiver requirements proposed in Nexa's rule change.

Broadly, we consider that current ring-fencing arrangements are working as intended, and that there is insufficient evidence to warrant any significant changes to the current framework or to the ring-fencing waiver process. Where DNSPs deliver contestable services in established markets, ring-fencing prevents any cross-subsidisation between consumers of regulated services and those of unregulated services. Whilst minor breaches do occur on occasion, DNSPs maintain established operational processes and procedures to limit these breaches and report on ring-fencing compliance on a regular basis. There is no evidence of major or systemic breaches of ring-fencing requirements that would warrant significant change in the framework. Whilst we do see the potential for minor reform, such as our suggested amendments to the AER's Guideline as outlined in section 1.3.4. of this submission, these changes do not relate to the NER.

3.1. The ring-fencing waiver process is fit-for-purpose

Ring-fencing waivers play an important role in enabling DNSPs to trial new technologies or approaches with the potential to benefit consumers without imposing the administrative burden of ring-fencing. We note that a ring-fencing waiver simply allows a DNSP to participate in a contestable service with fewer restrictions – it does not allow them to recover the costs of that service provision from consumers.

Waivers are typically sought where the AER determines that a service is unsuitable for regulation, but where ring fencing, or an element of ring fencing, would not serve to promote consumer outcomes in the provision of that service, as greater consumer benefits could be realised by removing some ring-fencing requirements. This may be because:

- the requirements are not relevant for that service and hence pose an unnecessary administrative burden on DNSPs, or;
- the application of ring-fencing would not be preventing the DNSP from inhibiting competition in that service but instead would be limiting the DNSPs ability to provide a more efficient service option into the market.

Ring-fencing waivers are a means to an end – a way to allow a DNSP to deliver a trial and generate an evidence base for an eventual classification of that service. They should not be used to enable an enduring service, in line with the time and scope limitations typically assigned to a waiver.

Ring-fencing waivers are, and should continue to be, assessed primarily on the basis of consumer benefits. As long as a waiver would genuinely deliver outcomes in the long-term interests of consumers or would inform the design of a future service that would deliver these outcomes, it would be logical to allow the waiver. Overly restrictive waiver assessment criteria risks limiting DNSP innovation, and importantly, risks preventing the emergence of future service offerings that could lead to genuine long-term cost reductions for consumers.

Waivers should not apply only in objectively 'failing' markets - they should equally apply in functioning markets where removing ring fencing or a portion of ring fencing would allow the DNSP to provide a

more competitive service without using their power to artificially dampen competition in that service. Waiver conditions play an important role in ensuring this outcome – by limiting the scope and duration of a waiver, as well as enforcing transparency and reporting obligations on the DNSP, the potential for any misuse of market power is substantially limited. Conditions allow for DNSPs to realise their intended outcomes of the trial and inform future service classification without creating any negative impacts on the existing market.

3.2. Nexa's suggestions would not materially improve outcomes for consumers

Ring-fencing is not intended to prevent DNSPs from participating in contestable markets – it is intended to prevent DNSPs from using their market power to artificially limit competition in those markets, preventing the emergence of potentially lower-cost service provision. The decision of whether a DNSP should be allowed to participate in that market using regulated capabilities to begin with is a service classification decision, and not one of ring-fencing. We consider that Nexa's rule change proposal conflates these two facets of the regulatory framework and recommend that the AEMC consider the questions raised by Nexa regarding the boundary of contestable and regulated service provision within the service classification portion of the Review.

Nexa further suggests that ring-fencing obligations be elevated into the NER, above the current AER Guideline. We do not support this suggestion and consider that doing so would not lead to any change in outcomes for consumers and would in fact reduce the flexibility of the ability of the AER to adapt the ring-fencing process to suit the needs of emerging markets and services. Elevating existing ring-fencing requirements into the NER would not mean that DNSPs must place a higher obligation on compliance, nor would it see increased penalties for non-compliance. Nexa's primary concern is that the AER is not properly enforcing the existing ring-fencing principles within the NER, nor the specific requirements outlined in the Guideline. Whilst we do not agree with this observation, even if these concerns were valid, elevating ring-fencing requirements into the NER would not be an effective solution to this problem.

Additionally, Nexa suggests that ring-fencing waivers be allowed only as a 'last resort' – requiring a DNSP to provide demonstrated evidence of market failure before being granted a waiver. As we outlined, ring-fencing waivers are not the vehicle for deciding if DNSPs should be able to use regulated funding to participate in contestable markets – that is the role of service classification. As such, we do not feel that a market failure test is suitable for, or relevant to, a ring-fencing waiver.

If a DNSP feels that a market has failed and wishes to deliver a service in that market using regulated funding, the AER can assess that DNSP's case via service classification. The role of a ring-fencing waiver in this situation would purely be to generate an evidence base to inform that service classification proposal. For instance, the DNSP may wish to test their deployment costs for a new technology or service, to analyse whether material cost efficiencies could be achieved by a future classification as a regulated service. The data produced from that trial would then inform the AER's future assessment of a service classification proposal. The AER may find that the market is in fact well-functioning and no case is present for DNSP involvement as a regulated service – but that is a decision of service classification, and not of ring fencing.