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Alexandria NSW 2015
Australia

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Australian Energy Market Commission

CPO Box 2603,

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RE: Electricity Network Regulation Review - Package 1, and the Nexa Advisory and Energy Networks Australia rule change requests

Thank you for the opportunity to respond to Package 1 of the Electricity Network Regulation Review and the two related rule change requests. Tesla makes and sells electric vehicles and makes and installs home and grid-scale batteries, including the Powerwall and the Wall Connector. In Australia we are also a licensed electricity retailer, as well as helping our partners to run several of the country's largest virtual power plants, pooling the stored energy in tens of thousands of customer-owned home batteries. So, we sit on both sides of the line this Review is trying to draw. We compete in the consumer energy markets the Review is about, and we rely every day on the networks it regulates.

We strongly support the Commission starting with the most basic question: what should networks actually do? Package 1 asks what to regulate, and Package 2 will ask how. That is the right order. There is no point designing clever rules for how a network is paid until you have decided whether the job should be done by a regulated monopoly in the first place. And if you get that first decision wrong, nothing in Package 2 can fix it, because the damage from putting a competitive service inside the regulated bubble is that the competitive market never gets to form.

Our main message is simple. A network's job is to build, run and maintain the shared grid, and increasingly to operate the local system as a neutral platform. Its job is not to own, control or roll out the batteries, chargers and other equipment sitting in people's homes and driveways, equipment that customers themselves own and pay for. Networks should set the table so competitive markets can do their work. They should not pull up a chair and play, while also owning the table, writing the rules for who gets a seat, and acting as umpire.

This is not about ideology. It is about how monopolies behave and what actually delivers for consumers. A distribution business sits in a uniquely powerful spot: it controls the things every competitor needs — the connection to the grid, access to the poles, the data about where there is spare capacity, and how quickly a new connection gets switched on. If that same business is also selling the service its competitors are trying to sell, it has every reason to look after itself first. The predictable result is not cheaper prices from healthy competition. It is private investment being scared off, the risk of failed projects being loaded onto every

electricity bill, and slower innovation, because a protected monopoly simply does not have the same push to keep getting better that rival firms do.

With that in mind, below are our high-level positions on the 2 rule changes:

We support the Nexa Advisory rule change (ERC0437) in full. Ring-fencing is the main protection that keeps the monopoly side and the competitive side apart. Nexa is right that it has been quietly worn away — one waiver, trial and exemption at a time, each one looking reasonable on its own but adding up to something that undermines fair competition. Nexa's fixes — writing the core ring-fencing rules and the 'last resort only' waiver test into the National Electricity Rules, adding a genuine 'prove no harm' test, tightening the rules on data and affiliate dealings, requiring separate branding, adding financial-safety triggers, and making enforcement visible — are sensible and preventative. They protect exactly the markets Tesla and dozens of others invest in.

We do not support the Energy Networks Australia rule change (ERC0435), and we ask the Commission to reject it. It would let distribution networks own kerbside EV chargers as a regulated service, paid for by every electricity customer. It rests on a 'chicken-and-egg' problem that the evidence does not really back up, and it never shows that public EV charging is a natural monopoly, because it isn't. Public charging is a normal retail service that a competitive market is already delivering, at scale, with private money. The 'savings' the proposal claims for networks are almost entirely the advantages of being the incumbent, and they would vanish the moment fair competition is properly enforced. Reclassifying EV charging would shift business risk from investors onto captive customers, lock a monopoly into a young competitive market, and set a precedent that would not stop at chargers.

If the Commission were nonetheless minded to allow networks any role in EV charging, it should be a genuine last-resort role, limited to places a competitive market has been tested and shown not to serve, priced so that only the users pay (an alternative control service, never standard control), and with a firm end date and a requirement to sell the assets on. We set that out as a fallback, not as something we are asking for.

Our answers to each of the twelve questions follow. They are meant to be read together, because they all come back to the same point: consumers are best served by a network that is a high quality, neutral platform, and that stays out of the markets it enables.

We would be glad to discuss any part of this submission with the Commission or the project team.

Yours sincerely,

Emily Gadaleta
Residential Energy Policy Lead, ANZ

Attachment: Responses to the Consultation Questions

The Commission's questions fall into three groups: the Review's approach and the service-classification framework (Questions 1–5 and 12); the Nexa ring-fencing rule change (Questions 6–8); and the ENA EV-charging rule change (Questions 9–11). We take them in the Commission's order and point back to earlier answers where the reasoning is the same.

Question 1: Prioritisation framework for the Review

We support the Commission's step-by-step approach and the four tests it proposes for deciding what to focus on, how much it matters, how practical it is to fix, whether another process is already handling it, and whether it can be dealt with on its own. Settling what networks should do in Package 1 before turning to how they are paid in Package 2 is the right sequence, because you cannot sensibly design the payment rules for a service until you have decided whether a regulated monopoly should be providing it at all.

We would add three things to sharpen how the tests are applied. First, they should be applied with a clear default in mind: a service that competition can provide should stay competitive unless there is a solid, evidence-based case for bringing it inside the regulated boundary. The tests can read as a neutral technical exercise, but they are not neutral in effect, every classification decision either protects a market or closes one, and that should be front of mind when weighing how much an issue matters.

Second, the tests should give extra weight to how hard a decision is to undo. Where getting it wrong means a lasting increase in the regulated asset base, EV charging being the obvious example in front of the Commission, the bar for evidence should be higher than for something that can simply be revisited at the next reset. As Part A explains, the asset base only ever seems to grow; the framework should take that seriously.

Third, we would be cautious about the idea of lining outcomes up ‘with the broader direction of reforms. The Commission is an independent body, and its job is to judge each proposal against the National Electricity Objective and the law, not against a government programme that the law has not adopted. This matters here because both EV-charging rule changes are tied up with a Commonwealth grant programme. The Commission's assessment should stand on its own two feet regardless of how that programme is designed.

Question 2: What network services should be regulated, and does the classification framework need to change?

The framework is sound in its basic shape. Its starting point, that anything not positively classified as a regulated service is treated as unregulated or falls outside the definition of a distribution service altogether, correctly puts the onus on those who want to expand regulation, not on those who want to keep competition. The problem is not the shape of the framework but the lack of clear guidance on how to apply it to new services, and the way the boundary has been drifting through one-off waiver decisions instead of deliberate classification.

Put the classification test in the Rules, and make it about the service, not the wires it plugs into

We recommend the Rules spell out, as a lasting principle, the test the AER should use to decide whether a service should be regulated. The question should be whether the service is genuinely one where a single provider is the cheapest way to do the job over the long term, and, crucially, that should be judged on a level playing field. That last part matters. The test has to strip out the advantages a network only has because it is the incumbent monopoly: access to assets that customers have already paid for, inside knowledge of the network, and control over the connection queue. Those are not real efficiencies that benefit the community, they are just advantages of position. A service does not become a natural monopoly simply because the network can undercut everyone else using things no competitor can get on fair terms.

The flip side, which the Rules should state plainly, is that regulation attaches to services, not to equipment. A network might use one asset, a pole, a community battery, a communications link, to do a regulated job and several competitive jobs at the same time. The fact that the asset also does a regulated job is no reason to regulate the competitive services running alongside it, or to let the network provide those competitive services from inside its regulated business. This single principle clears up much of the apparent difficulty around 'multi-service assets' that the paper raises at Question 5.

Are there cases where a regulated network should provide a competitive service?

In principle, only one: where there is a real, significant and lasting gap that competition genuinely cannot fill within a reasonable time and where having the network do it is clearly the best answer for consumers compared with every less heavy-handed option, targeted grants, competitive tenders, better access, better data-sharing, or common standards. Both conditions have to be met. A temporary gap in a new market is not a lasting failure; it is a market still finding its feet. And even a genuine lasting gap does not automatically mean the network should step in, spotting a problem and choosing the fix are two different things, and the fix should be chosen by weighing up all the realistic options on a level playing field.

In practice this describes a narrow, evidence-based, time-limited exception with firm walls around it, not a standing licence for networks to move into competitive markets whenever they see an opening. Where such an exception is ever justified, the framework has to stop the network using it as a springboard: through the kind of separation Nexa's rule change would strengthen, cost rules that keep regulated customers from paying for the competitive activity, fair access for competitors, and a firm end date. On the evidence in front of the Commission, no current proposal, least of all the ENA one, clears that bar.

More guidance is needed on the boundary and on the Distribution System Operator (DSO) role

On the DSO boundary, the Rules should build in the default described above, competitive unless shown to be a monopoly, so the line is drawn by a clear principle rather than pieced together over years of resets and waivers. On the DSO role, our view is that it should be limited to running the system and acting as a neutral platform: forecasting, publishing where there is spare capacity on the network, setting the operating limits within which customer devices can play, coordinating two-way flows in real time, and buying the flexibility it

needs on fair, open terms. It should not stretch to owning or running the customer batteries and chargers whose services it is buying or coordinating.

The conflict here is built-in and unavoidable; a business that is both the buyer of flexibility (as system operator) and the seller of it (as the owner of the batteries) can favour its own equipment, on terms it would never give a competitor, and pass the cost through to regulated customers. The clean answer is to keep networks out of owning the competitive equipment whose services they buy. Run the market; don't become it.

This is also the right answer to the Commission's question about coordination. As more solar, batteries and EVs connect, the system does need better coordination between networks and everyone else, but the coordination that is actually missing is at the connection point: common technical standards across networks, consistent and machine-readable network data, and predictable operating limits, so that the thirteen distribution businesses don't each interpret the same connection rules differently and force every provider to build the same solution thirteen times over. Which is exactly what we have seen with the roll out of emergency backstop mechanisms. The most useful thing the framework can do for coordination is require neutral, standard, transparent interfaces, not hand coordination to a network by letting it own the equipment it coordinates.

Question 3: Do the ring-fencing arrangements need to change?

Ring-fencing is the main protection keeping the monopoly side and the competitive side apart wherever the two meet. Our read is that the rules have worked reasonably well where they can be checked and can't be waived, the accounting and cost-separation rules that show up in a network's financial reports, and much less well where compliance depends on day-to-day behaviour that competitors simply cannot see: how customer enquiries get handled, how network and customer information moves around inside a corporate group, and the terms on which data and infrastructure are offered to outsiders. No breaches being found in those areas is not proof that all is well; it is what you would expect when the party being disadvantaged usually can't see it happening.

The bigger problem, though, is not the content of the rules but the way their reach has been chipped away by waivers. The framework has been worn down through three overlapping routes: one-off waivers of the separation rules; class waivers covering a whole group of projects; and most worryingly ‘regulatory sandbox’ trial waivers granted under a separate power, which can let a network provide services beyond its normal remit without even having to pass the ring-fencing waiver test. The community-battery class waiver, the kerbside-EV-charging trial waivers and the community-power-network sandbox waiver all sit on this path. Each was justified by the needs of a particular programme or trial. None was preceded by a published, reasoned assessment of whether letting the network into that competitive market was a good idea in the first place. The overall effect, a monopoly getting a foothold in one competitive market after another, always on ‘temporary’ grounds, is exactly the kind of slow boundary-creep that is almost impossible for any single participant to see and challenge as it happens.

Waivers should be genuinely exceptional, and the sandbox route shouldn't be a back door

On whether waivers have actually delivered for consumers, the honest answer is that we mostly can't tell, and that is itself the problem. Across all the ring-fencing waivers granted since the national framework began, there is almost no published after-the-fact check on whether any of them delivered the benefit they were granted on. The one comparable programme where independent evidence exists, the Commonwealth community-batteries programme, was found by the national audit office to have delivered only a small fraction of the batteries it promised, years later, with no plan set up at the start to measure whether consumers actually benefited. A system that lets a monopoly into competitive markets but never checks afterwards whether it helped is not doing its job.

So we support two changes, both of which Nexa's rule change delivers. Waivers of the core separation rules should only be available where the network positively shows, with independent evidence, a genuine and lasting market gap, that less heavy-handed options have been tried, and that consumers come out ahead compared with leaving it to competition. And every such waiver should have a firm end date and a requirement for the AER to publish an honest assessment of whether it worked before it can be renewed. Just as importantly, any sandbox trial waiver that has the effect of letting a network into a competitive market should have to pass the same tests as a ring-fencing waiver, otherwise the ring-fencing rules can simply be sidestepped by using the other door. Closing that gap is essential, not optional.

Finally, on the Commission's question about clarity: yes, clearer classification rules would cut the number of waiver applications, because a lot of today's waiver traffic is really an attempt to settle an unresolved classification question one project at a time. Settle the boundary with a clear principle and the demand for waivers falls away.

Question 4: Do the connection and facility-access arrangements need to change?

Yes and we think this is one of the most valuable things the whole Review could fix, worth far more to consumers than letting networks own competitive services. Connections and pole access are where a network's control over the essentials bites hardest on competition. In our own experience, and that of others in the market, the real barriers to rolling out batteries, EV chargers and other equipment are rarely the absence of a network willing to own the kit, they are how slow, expensive, opaque and inconsistent the network-controlled processes that every competitor has to go through.

Three things get in the way. First, lack of information: competitors can't easily get timely, usable data on where there is spare capacity, what a connection is likely to cost, and how long it will realistically take to switch on, information the network holds, and, where it or a related business competes downstream, has a reason not to share evenly. Second, inconsistency: thirteen networks apply different technical requirements, different pole-access terms and different fees, multiplying the cost of operating nationally. Third, weak backstops: the ‘negotiate then arbitrate’ process that governs a lot of connections relies on a dispute mechanism that is almost never used, which the Commission should not read as a sign the system is working well. It may just as

easily mean the cost, delay and risk of picking a fight with the monopoly you depend on make the remedy not worth using, in which case the protection it is meant to provide is more theory than reality.

What the framework should require

Rather than let networks own the kit to 'solve' access problems, the Commission should fix access head-on. We recommend the framework require: standard, published, machine-readable information on spare capacity, connection-cost methods and technical requirements, given to outsiders on the same terms a related business gets; published, network-by-network performance figures for how long connections take at each step from application to switch-on, with review triggers where a network falls short; standard national rules for pole and facility access, including fair, cost-based, non-discriminatory fees and a published standard access agreement; clear rules on when a connecting customer should pay for network upgrades versus when the cost belongs in general network investment; and genuinely accessible, quick and low-cost dispute resolution, so the backstop is one competitors can actually use.

The framework matters more, not less, exactly where a network competes in the same market it controls access to. Even without any deliberate favouritism, the built-in advantages, better information, knowing the internal process, influence over the order things happen in, tilt the field. Levelling that field for everyone is a far more sensible response than accepting the tilt and adding a monopoly competitor to the mix.

These fixes would do more to speed up the rollout of EV charging and batteries than the ENA proposal ever could, and they would do it while keeping the competitive market rather than displacing it. That is the thread connecting this answer to our opposition to the ENA rule change at Questions 9 to 11: the barriers the ENA proposal points to are real, but they are access barriers, and the right response to an access barrier is to remove it, not to hand the whole downstream market to the business that controls the access.

Addressing the dispute resolution backstop

The negotiate-arbitrate framework under NER Chapter 5 also warrants reassessment. The low use of existing dispute mechanisms should not be taken as evidence that the framework is functioning as intended, as connecting parties face real deterrents to escalation. To connecting parties, the process often feels inaccessible, the efficacy of achieving the desired outcome is uncertain, and there are concerns around negative consequences from retaliatory conduct from a monopoly network provider through the asymmetric impacts that the two parties face from connection delays. Such conduct can be difficult to identify given the inherent opacity of connection processes, and the risk extends beyond the site in dispute to a connecting party's entire pipeline with that NSP.

From an OEM perspective that has visibility across multiple connection processes in parallel, the inefficiency is starker still. Multiple connecting parties may be encountering the same issue with the same NSP at the same stage of the connection process, yet each must pursue a separate bilateral dispute to resolve what is

fundamentally a systemic interpretation of the Rules. There is no mechanism for the AER to provide guidance on an NSP's interpretation of the NER outside the formal dispute process. A lighter-touch pathway, such as AER-published guidance or a preliminary ruling on contested Rule interpretation, would resolve common disputes more efficiently than requiring each party to individually escalate.

Question 5: Do the cost-allocation and shared-asset arrangements need to change?

Yes. These rules were built for a simpler world, where a regulated asset was occasionally put to a small, easily measured side use renting space on a pole to a telco, say. They cope badly with the new breed of assets that do several jobs at once. A community battery is the clearest example: one asset that can, at the same time, support the local network, trade in the wholesale market, provide system services and serve customers directly, with the value split between those uses shifting over the asset's life. Applying a fixed, set-and-forget cost split to something like that is a recipe for regulated customers quietly subsidising competitive activities, and, where the network or a related business keeps the competitive upside, for exactly the distortion this Review is meant to prevent.

Our recommendations are first, regulated customers should pay only for the genuinely regulated part of an asset's job; where the same asset also earns money in competitive markets, including for a network's own related business, that money should be attributed to and recovered from those activities, so the users pay rather than everyone. Second, because the balance of uses shifts over time, cost splits for these multi-job assets should be reviewed periodically over the asset's life, and the AER should be able to revisit the split between resets where an asset's use changes materially, including where the network or a related business starts competing in a market the asset serves. A split fixed on day one can't keep up with an asset whose job keeps changing.

Third, on the specific gaps the Commission raises: the rules should not hinge on the technicality of whether an asset's cost was ‘wholly’ assigned to regulated services, because that leaves the very cases of partial mis-assignment unfixed; and the different treatment of unregulated versus negotiated services produces odd, inconsistent outcomes for activities that are basically the same. We would not, though, automatically extend the current arrangements to negotiated services without a clear problem to solve and evidence behind it, the goal is fair cost allocation and a level playing field, not uniformity for its own sake.

One point to underline. Getting the cost split right is necessary but not enough on its own. Even with a perfect cost-allocation method, a network competing in a market keeps built-in advantages, cheaper finance backed by guaranteed revenue, inside information, control over the essentials, that no cost rule can cancel out. That is why cost allocation has to work together with classification and ring-fencing, and why these need to be looked at side by side rather than as separate exercises. Treat them separately and you risk re-creating the very subsidy and fairness problems each is meant to solve. It is also why the multi-job-asset question can't really be

answered until the classification and ring-fencing questions are settled, they are one problem seen from three angles.

Asymmetrical tariff charges for third-party storage

At the distribution level, third-party batteries face individually negotiated connection charges and ongoing TUOS and DUOS obligations that can materially affect project economics. By contrast, DNSP-owned community batteries sit within the regulated asset base and do not face equivalent network charges, as the DNSP does not pay network use of system charges to itself. Their costs are instead socialised across all network customers through the RAB. This structural asymmetry means that market-based batteries carry costs that network-owned batteries avoid by virtue of ownership alone, creating an uneven playing field that is not reflective of the relative network impact of either asset. Critically, third-party batteries can provide the same network support services as community batteries without passing costs onto consumers through the regulated asset base and should be recognised as a net benefit to the system rather than disadvantaged by the framework that is meant to promote efficient investment.

Question 12: Assessment criteria

We support using one consistent set of tests across the Review and both rule changes, anchored in the National Electricity Objective. Consumer outcomes, market efficiency, innovation and flexibility, and emissions reduction are all fair things to weigh. We suggest three refinements.

First, the tests should be explicit about the imbalance running through this submission: a proposal that widens the regulated boundary into a competitive market should have to clear a higher bar than one that keeps or restores competition, because the first kind is hard to reverse and risks closing off markets whose benefits, once gone, don't come back. The party proposing an expansion should have to show a lasting gap, that gentler options won't work, and a real long-term benefit for consumers judged on a level playing field. This is less an extra test than a decision about who carries the burden of proof and it is the single most important discipline the Commission can adopt.

Second, the tests should keep a clear line between short-term rollout speed and long-term market health. A monopoly could try to get something built faster in the short run by drawing on asset's customers have already paid for and a captive revenue base. That is not a sign of efficiency, and it shouldn't be allowed to hide the longer-term costs of weaker competition, less private investment and slower innovation. The efficiency test should favour long-run improvement over short-run speed.

Third, we share the concern about the ‘good regulatory practice’ test, and in particular the idea of lining outcomes up ‘with the broader direction of reforms. The Commission's job is to judge a rule change against the National Electricity Objective not against a government programme the law has not adopted. We would

encourage the Commission to frame its assessment by pointing directly to the Objective and the relevant legal factors, rather than through a paraphrase that could, over time, drift away from them.

The Nexa Advisory rule change (ERC0437)

Question 6: Do the ring-fencing rules need strengthening?

Tesla agrees with how Nexa frames the problem. Ring-fencing exists to protect competition and consumers wherever a regulated monopoly is active in both regulated and competitive work. That protection has been quietly worn away, not by any single decision, but by a steady build-up of waivers, trials and exemptions that have normalised networks moving into competitive markets without strong conditions, monitoring or transparency. And it is being worn away at exactly the moment consumer energy markets, EV charging, home batteries, aggregation, flexibility, are becoming central to the transition and need the protection most. Nexa points to the right advantages: networks bring guaranteed cost recovery, a built-in reason to grow their asset base, access to network and customer data, and control over connection and access. No competitor can match any of these, and each can be used to shut competition out.

On the specific gaps the Commission asks about, here is how we rank them.

Waiver conditions - very important

This is the biggest gap. As things stand, a network doesn't have to prove a waiver will avoid harm to competition or consumers; it can get one where following the rule is judged ‘too costly’ and the benefit to consumers is hard to measure, even if fair competition takes a hit. That is the wrong starting point. Because a waiver lets a monopoly step around the very protections that keep a market competitive, the network asking for it should have to prove its case, a genuine ‘show it does no harm’ test, rather than leaving competitors or consumers to prove the damage after it's done. Writing last-resort criteria and a no-harm test into the Rules is the single most valuable part of the Nexa package.

Affiliate dealings and data access - very important

Information advantages are the subtlest and most lasting edge a network's related business enjoys, and the hardest to catch after the fact. Early sight of spare capacity planned works or attractive sites lets a related business lock in sites and customers before competitors even know the opportunity exists. Today's rules state a general ‘don't discriminate’ principle but lack the practical, testable machinery, set data-release timetables, documented and public interfaces, published queue rules, transparent pricing, and access logs, that would make fair treatment visible and enforceable over time. We strongly support tightening this. In our own operations, having to build a compliant connection thirteen times over because each network exposes its data and systems differently is a direct, measurable cost of the status quo; standard, neutral data access is both a ring-fencing protection and a boost to competition.

Branding and cross-promotion - moderately-to-very important

Customers should never be led to think, by shared logos, colours or co-branded material, that they have to use a network's related business to get connected or to buy a competitive service. The monopoly brand carries an implied stamp of approval that can distort a young market before price and quality even get a look-in. Distinct branding, clear statements that these services are optional, and published compliance are sensible, mostly one-off measures. We rate this a notch below waivers and data access only because its effects are a bit easier to see and therefore easier to challenge.

Financial-resilience ring-fencing - very important

We support Nexa's financial-safety triggers, a lock that holds back dividends and payments to related businesses if a network's finances slip below set thresholds. The reasoning is the same one the UK regulator used when it strengthened its own ring-fence: the essential regulated business must, on its own, keep enough resources to stay stable and keep the lights on, and money customers pay for essential services shouldn't leak into riskier ventures on the quiet assumption that regulators will step in and consumers will cover the losses. That unspoken safety net is itself an unfair advantage, because it lets a network's related business take risks on terms no independent competitor gets. Removing it levels the field and protects service continuity at the same time. It is worth noting the UK has strengthened rather than loosened its ring-fence through the transition, the international direction of travel is towards firmer separation, not softer.

Reporting, complaints and enforcement - very important

Ring-fencing only works if enforcement is visible. Where it's opaque, competitors can't tell whether the rules are being applied, and the party being disadvantaged, who often can't see the problem in the first place, has no safe way to raise it. A mandatory annual compliance-and-enforcement report from the AER, a public register of waivers and decisions, and an accessible, anonymous complaints channel would lift confidence that the rules are being applied consistently and would surface repeat problems earlier. The AER's own first annual ring-fencing compliance report, which found instances of non-compliance, shows both that breaches happen and that transparent reporting is how they come to light.

Question 7: Would Nexa's solution fix the problem?

Tesla supports Nexa’s solution. The core move, lifting the main ring-fencing rules and the waiver conditions out of the AER's guideline and into the National Electricity Rules, while leaving the detailed how-to in the guideline is the right split. It puts the lasting principles somewhere they can't be eroded by guideline-level discretion or a slow build-up of individual waivers, while keeping the flexibility to update the detail as technology changes. This ‘principles in the Rules, detail in the guideline’ approach is how other parts of the Rules already work, and it mirrors the gas framework, where the minimum ring-fencing obligations sit in the law and the regulator's discretion operates within them.

If the core obligations are lifted up, the Rules should carry: the purpose of ring-fencing (protecting competition and preventing cross-subsidy and favouritism); the level-playing-field principle, so a network in a competitive

market competes on equal terms and doesn't lean on its monopoly assets, information or position; the high-level bans on cross-subsidy and discrimination; the last-resort waiver principle and its no-harm test; and the AER's powers to monitor and enforce. The detailed mechanics, how accounting separation works, the data-access timetables, the branding specifications, the reporting formats and the waiver process should stay in the guideline, so the framework can move with the times without a Rule change every time. Cramming too much operational detail into the Rules would make them rigid and force constant amendment; the aim is to fix the principles, not freeze the mechanics.

Timing, existing waivers, and alternatives

On timing, the sort of transition Nexa proposes, a period for the AER to update its guideline, then a period for networks to comply is reasonable, given most networks already run mature ring-fencing arrangements and the reforms mostly lift and standardise existing practice. Existing waivers should carry on for a defined transition period and then be reviewed against the stronger framework, rather than being pulled up abruptly. On alternatives: leaving all this to the AER's parallel guideline review isn't enough on its own, precisely because the gap being fixed is the breadth of discretion a guideline-only approach leaves in place. The durable protections consumers need are the ones that sit above guideline-level discretion. That said, the Nexa reform should be progressed in step with the broader Review's conclusions on classification and the DSO role, since ring-fencing, classification and cost allocation are one connected system.

Question 8: What are the costs and benefits of Nexa's solution?

The benefits clearly outweigh the costs, and the gap between them is the heart of the case. The costs of putting these rules in place are modest and mostly one-off, and they fall largely on parties, networks and the AER, that already run mature ring-fencing and reporting. The reforms mostly lift, standardise and make enforceable things the guideline already contemplates. The real benefit, by contrast, is avoiding much bigger and often permanent costs to consumers and competition.

Those avoided costs come in two forms. The first is the direct cost to consumers of network-led investment pushing aside cheaper competitive options, the ‘gold-plating’ risk Australian regulation knows well. And this isn't hypothetical: independent analysis by ARENA has found network-led community batteries to be considerably more expensive per unit than behind-the-meter alternatives, and once that spending goes into the regulated asset base it commits consumers to paying for it for the life of the asset, along with any project risk the rules push onto them. The second avoided cost is the loss of competition itself, private investors scared off, new entrants crowded out, and slower innovation as a market tilts towards monopoly delivery. As Part A explains, this second cost is the sneakier one, because the market that never forms is invisible: nobody can point to the products and price cuts that never happened.

The best way to see the Nexa reform is as a sensible insurance policy. Its value isn't in the small administrative savings; it's in heading off a kind of long-term harm that is very expensive to undo once it's happened. Once

private investors have been scared off and network-led assets have gone into the asset base, the damage compounds through every reset that follows. A little prevention here is worth a great deal of cure.

The one genuine risk, that putting too much detail into the Rules could make them rigid and push up compliance costs is real but manageable, and it's managed by exactly the ‘principles in the Rules, detail in the guideline’ split described at Question 7. Our usual preference for light-touch, principles-based regulation applies to competitive markets, where competition itself keeps everyone honest. It doesn't apply to a monopoly operating in competitive markets, where the absence of that discipline means clear, firm, hard-to-waive rules are the right default. On that basis the balance falls clearly in favour of the reform.

The ENA rule change (ERC0435)

We ask the Commission to reject the ENA rule change. Our reasons, set out across Questions 9 to 11, come down to five points: there is no convincing evidence of a lasting market gap in public EV charging; public charging is a competitive retail service, not a natural monopoly, and a competitive market is already delivering it at scale with private money; the ‘savings’ the proposal claims for networks are really the advantages of being the incumbent, and would vanish under fair competition; the proposal shifts business risk from investors onto captive electricity customers; and the real barriers it points to are access barriers the framework should remove directly, rather than a reason to hand networks the downstream market.

Question 9: Is there really a problem with the rollout of EV charging?

We don't accept the ENA's description of the problem. It rests on a ‘chicken-and-egg’ loop between EV take-up and charger availability, but the evidence that this is a lasting market failure, rather than the normal way a new market grows is weak at best, and much of it points the other way.

The market is forming, not failing

Australia's EV market and its public charging network are both growing fast, and growing together, which is what a healthy new market looks like, not a broken one. Electric vehicles have risen sharply as a share of new car sales over the course of this year, and public fast charging has grown at strong rates. A private operator choosing not to install a charger where there isn't yet the demand to justify it is not a market failure; it is the market sensibly putting capital where it will be used. Low use of a brand-new charging segment is a sign of a market getting going, not one that can't get going.

And most EV charging in Australia already happens at home, around four-fifths of it. The genuine gap is narrower than the proposal suggests: it's about households without off-street parking, for whom kerbside charging is a real convenience question. But that is a specific, solvable access issue for a subset of people, not a system-wide failure that justifies turning an entire retail service into a regulated monopoly. It's also worth noting the ENA's proposed rule changes aren't actually limited to kerbside charging, which leaves the door

open for networks to expand into other EV-charging services and related technologies, which sharpens our concern rather than easing it.

To the extent there's a gap, it is temporary and shrinking, and it isn't uniform. It shows up most for slower kerbside charging and in genuinely uncommercial regional and remote spots. It shows up least for city fast charging, which is attracting plenty of private investment precisely because the demand is there, direct proof that the competitive market delivers where there's a commercial case. A change as big and permanent as putting EV charging into the regulated asset base is wildly out of proportion to a temporary gap concentrated in one type of charging and a subset of locations.

Networks might be able to install some infrastructure quickly in some places, but that reflects advantages of position, existing poles, an existing workforce, in-house connection processes and consumer-funded capital, rather than any real efficiency. Two cautions. First, the track record of networks delivering competitive services isn't encouraging comparable programmes have been slow and expensive, and network-owned charging overseas has been linked to low use and higher costs for customers than private alternatives, which is why some places that allowed it have since shut it out again. Second, and more fundamentally, the question isn't who can install fastest today but who delivers the better outcome over the long run, and, that is the competitive market, with its stronger innovation, better site choices and lower long-run cost. If a network can only 'beat' private providers by leaning on consumer-funded assets and a captive revenue base, that's not efficient delivery, it's a subsidised monopoly pushing competitors out.

On funding: where a real gap exists in genuinely uncommercial spots, it should be filled through targeted, even-handed means, grants or competitive tenders open to all providers, not through charges on every electricity customer via the regulated asset base. There is no good reason for someone who will never use a public charger, and may not even own an EV, to carry the business risk of charging infrastructure that mostly benefits others.

Question 10: Would the ENA's solution fix the problem?

No. It tries to solve a problem in a competitive market by expanding regulated monopoly activity, the wrong tool, even if you accept the diagnosis. Three points settle it.

Owning EV chargers is not a distribution service

The threshold question is whether network-owned EV charging is really a 'distribution service'. Our answer is no. Getting electricity to the charger is a network job; owning and running the charger and selling charging to a charge point operator is a customer-facing commercial activity that happens to plug into the network, just like a home battery, a demand-response service or any other product sitting behind or beside the meter. As our response to Question 2 explains, the right test is whether the service is genuinely a monopoly, not whether it's physically attached to the network. Public charging fails that test: it's being delivered competitively, at scale, today. The ENA proposal doesn't identify a flaw in the classification framework; it uses the framework to move

a specific competitive service inside the regulated boundary. Doing that would greatly widen the scope of regulated activity and set an unwelcome precedent for future customer-facing services, the line wouldn't hold at charging.

The proposal skips the very checks the framework relies on

The ENA proposal would have the Rules themselves declare network EV charging a regulated service, cutting the AER's role down to simply choosing how to classify it and skipping the normal assessment where the AER weighs things like barriers to entry, substitutes and whether customers have any countervailing power. That assessment is exactly what should decide whether EV charging is regulated at all, and the proposal is silent on it. A deployment strategy that needs no AER approval, sets no limits on the type, number or location of chargers, and specifies no service standards is no substitute. If anything, its silence on limits confirms this is a general licence, not a targeted fix.

The mid-period reopener makes it worse

The proposal to let networks reopen a current determination to start recovering charging costs partway through would bring a new competitive activity into regulated revenue ahead of the normal scrutiny and would start loading business risk onto customers straight away. Reopeners exist to deal with genuinely unforeseen changes to regulated services, not to fund a network's move into a competitive market. We do not support this proposal.

The sensible alternative

The right response to the barriers the ENA points to is the access fix set out at Question 4, faster, clearer, standardised connections and pole access, and neutral network-data sharing, combined, where genuinely uncommercial spots remain, with targeted government funding or competitive tenders open to all providers. That deals with the real barriers while keeping competition. If, despite all of this, the Commission were to allow networks any role, it should be a genuine last-resort one: limited to places where an open market process has shown no competitive provider is willing or able to serve; classified so only the users pay rather than everyone; time-limited, with a firm end date and a requirement to sell the assets on; and subject to the separation rules Nexa's reform would strengthen. We record that as a fallback the Commission should turn to only if it rejects our main submission, not as something we are asking for.

Question 11: What are the costs and benefits of the ENA's solution?

On our assessment the proposal's modest, local, short-term rollout benefits are outweighed by significant long-term costs that only grow over time. The ENA hasn't put numbers on either, or its benefit case rests on broad EV-uptake benefits that aren't actually caused by network ownership. The key question is what's additional: the ENA hasn't shown that network ownership would produce any more charging, EV take-up or network use than competitive rollout supported by better connections, access and tariffs. The network-use benefits from more

EVs happen however the chargers are owned; they are not a benefit of network ownership, and modelling of system-wide network savings can't be repurposed as evidence for this particular model.

Against those uncertain and largely non-additional benefits sit four concrete costs. Private investment would be scared off: competitors who carry the risk of low use or stranded assets can't compete on equal terms with a subsidised incumbent drawing on consumer-funded assets, and capital already faces network-access barriers this proposal would compound with the threat of subsidised monopoly entry. Business risk would shift to customers: under regulated cost recovery, the risks of poor site choices, low use, unreliable equipment and obsolescence, risks a private operator carries itself, which is what gives it every reason to choose and serve well, get passed to some or all network customers, including people without EVs. The pressure to innovate and keep chargers well-used would weaken charging providers compete hard on location, speed, reliability, price, payment and experience because their revenue depends on people actually using the chargers, whereas regulated recovery breaks that link, and the proposal offers nothing tying recovery to how well the chargers are used. And the regulated asset base would ratchet up again: national network charging would spread costs across all customers and compound through reset after reset, in a system that has already learned, the hard and expensive way, where network over-building leads.

Standard control versus alternative control

The costs differ sharply depending on how the service is classified, and this matters a lot. Standard control is the more damaging: the costs get spread across all network customers regardless of whether they ever use or could ever use public charging; the classification tends to lock in for five to seven years, making it hard to unwind if the market changes; and it doesn't sit cleanly with any end-date-and-sell-off mechanism, because the asset and its costs are bundled into the general network business. It's also the classification most likely to kill competition, because a network able to spread its costs across everyone can undercut any provider that has to recover costs from users alone. Alternative control is clearly the lesser evil if the Commission concludes any network role is warranted, because it puts the costs on the people who use the service (dealing directly with the ‘everyone pays’ problem), is easier to revisit, and fits better with an end date and sell-off. But even alternative control doesn't cure the underlying fairness problem, the network keeps its advantages of position, and the prior question remains whether network-owned charging should be a regulated service at all. Our answer to that prior question is no.

Finally, the Commission should weigh how this interacts with the separate Commonwealth grant programme and the parallel DCCEEW rule change. The very existence of a targeted, time-limited grant aimed at genuinely uncommercial spots is itself a sign that the permanent, structural change the ENA proposes isn't needed: where a real gap exists, it can be filled with targeted funding that keeps competition alive, without moving a competitive service into the regulated asset base. The sensible course is to let competitive rollout, backed by access reform and targeted funding, keep closing the gap, and to decline the ENA's invitation to make a permanent structural change in response to a temporary problem.

Closing Summary

The Commission has started this Review with the right question, and the answer that best serves consumers over the long run is a straightforward one. Networks are natural monopolies over the shared grid, and they should be regulated as such, narrowly, on the parts of the job that genuinely need a monopoly. Almost everything happening in people's homes and driveways, the batteries, the cars, the chargers, the flexibility, is owned by customers and can be provided competitively, and it should be. The network's job in that world is to be a high quality, neutral platform: connect people quickly and fairly, share data openly, run the system, and buy the services it needs on even-handed terms. Its job is not to compete in the markets it enables while holding the keys to the field.

That principle settles both rule changes. The Nexa reform reinforces the line and deserves the Commission's full support. The ENA reform crosses the line in response to a temporary problem that competition and targeted funding are already handling, and it should be rejected. Between them, the two proposals are a test of whether the framework will hold the line between monopoly and market at exactly the moment the transition makes that line most valuable to consumers. We urge the Commission to hold it.