Australian Energy Market Commission
Level 15, 60 Castlereagh Street
Sydney NSW 2000

Lodged at: www.aemc.gov.au.

23 July 2026

Re: EPR0106; ERC0435; ERC0437 - Electricity Network Regulation Review – Package 1

Thank you for the opportunity to provide feedback on the Consultation Paper: Electricity network regulation review - Package 1

The Energy Efficiency Council (EEC) is the peak body for Australia's energy management sector, working to ensure Australia harnesses the power of efficiency, electrification and flexible demand to deliver a prosperous, equitable, net zero Australia. Our members include distribution network businesses who are subject to the current regulatory framework, energy retailers and other energy service providers.

The EEC has long advocated for regulatory reforms that encourage distribution network service providers (DNSPs) to take a whole-of-system approach to network planning and investment, ensuring that demand-side solutions are considered on an equal footing with traditional network infrastructure.

The EEC understands that Package 2 of the ENRR will examine how the regulatory framework can be strengthened to better align DNSP incentives with the delivery of efficient outcomes for consumers. The EEC looks forward to engaging with the Package 2 consultation paper.

The changing role of distribution network service providers (DNSPs)

DNSPs are providing an increasingly diverse set of service outputs and value for customers as the rapid growth of consumer energy resources (CER), electrification and increasingly dynamic distribution systems expand their role.

The Distribution System Operator (DSO) work program of the CER Roadmap provides an important opportunity to clarify the future role of distribution networks.

The Consultation Paper notes that the AEMC expects a rule change request relating to the DSO role soon. While the changing role of DNSPs presents an important opportunity to unlock consumer value and support decarbonisation, it also requires careful consideration of the appropriate boundaries of DNSP activities.

Reforms should ensure that DNSPs are equipped to perform their essential system operation functions without expanding into services that can be delivered through competitive markets. Maintaining clear distinctions between monopoly network functions and contestable services will be critical to preserving competition, encouraging innovation and delivering efficient outcomes for consumers, while ensuring regulatory and incentive frameworks evolve to reflect the changing role of distribution networks.

The EEC recommends that the AEMC considers the rule change on DSO roles and responsibilities *after* feedback on the current reform process has been received and fully considered.

The purpose of ring-fencing and the role of waivers needs clarification

The roles of service classification and ring-fencing are becoming increasingly intertwined as the energy transition gives rise to new and evolving services at the distribution level. The service classification framework is intended to determine the appropriate regulatory treatment of distribution services, including whether a service should be subject to economic regulation or remain unclassified. In contrast, the ring-fencing framework is intended to prevent DNSPs from leveraging their monopoly position to undertake contestable activities in a manner that could undermine competition. While these frameworks serve distinct purposes, emerging services such as CER orchestration, community batteries and EV charging infrastructure (EVCI) do not always fit neatly within existing categories.

In practice, the AER is increasingly being asked, through ring-fencing waiver applications, to make judgements that extend beyond whether a particular activity should be exempt from a ring-fencing obligation. These applications can require consideration of broader questions about whether a new service is appropriately characterised as a distribution service, whether it has natural monopoly characteristics, and whether it should instead be provided through competitive markets. These are fundamentally questions about the appropriate role of DNSPs and the future design of energy markets, rather than simply questions about compliance with ring-fencing obligations.

This creates a risk that the waiver process becomes a substitute for the more appropriate regulatory pathways of service classification or rule change. While waivers provide a valuable mechanism for enabling innovation and testing novel services, they should be used as a transitional tool to generate evidence and inform future regulatory arrangements. They should not become a mechanism for providing long-term approval for activities where the underlying question of whether the service belongs within the monopoly network business or a competitive market remains unresolved.

Increasing reliance on waivers also creates regulatory uncertainty for DNSPs, investors and competitive providers, resulting in inconsistent regulatory outcomes and reducing confidence in long-term investment decisions.

Greater clarity is therefore needed on the respective roles of the AER and the AEMC in determining the future boundaries of DNSP activities. The AER's role should remain focused on applying the existing regulatory framework, including service classification and ring-fencing requirements, while broader questions about changes to market design, the scope of monopoly network functions and the treatment of emerging services should be addressed through transparent rule change processes. This would ensure that decisions about the future role of DNSPs are informed by broader stakeholder consultation and system-wide considerations, rather than being determined through individual waiver applications.

Overarching principles in relation to the service classification and ring-fencing framework

The review should be guided by principles which reinforce the importance of a clear and robust service classification and ring-fencing framework such as:

- **Regulation should be limited to monopoly services.** Distribution services should only be classified as regulated where they exhibit enduring natural monopoly characteristics and regulation is necessary to address market power. Services that can be efficiently provided through competitive markets should remain contestable unless there is clear evidence that regulated provision would better promote the long-term interests of consumers.

- **Competition should be the preferred delivery model for contestable services.** Where competition is feasible, services should be delivered by competitive markets. Competitive provision promotes efficient investment, innovation, customer choice and cost discipline, while reducing the need for ongoing regulatory intervention.
- **Service classification and ring-fencing should operate as an integrated framework.** Clear regulatory boundaries should be supported by effective ring-fencing, robust cost allocation, information governance and non-discriminatory access arrangements to preserve competitive neutrality and prevent distribution DNSPs from leveraging their monopoly position to distort competition or discourage efficient private investment.
- **DNSPs should prioritise delivering their core monopoly functions.** DNSPs should prioritise the planning, operation and maintenance of safe, secure and reliable electricity networks, facilitate efficient network connections, provide transparent network information and support the efficient integration of distributed energy resources. Customer-facing and other services capable of competitive supply should generally be left to the market.
- **DNSP participation in contestable markets should be the exception and proportionate.** As competition is the best model for delivering competitive services, any DNSP participation should be subject to proportionate competitive neutrality safeguards, transparent cost allocation and appropriate regulatory oversight, with a clear demonstration that it promotes efficient investment and operation in the long-term interests of consumers, consistent with the National Electricity Objective.

The AER Ring-fencing Guideline should implement these higher-level principles through detailed requirements covering affiliate dealings, information sharing, branding, cost allocation, waiver conditions, reporting and compliance.

Question 1 – feedback on approach to the Review

Electricity network regulation is a complex and evolving area with significant implications for consumers, market development and the transition towards a more dynamic, two-sided electricity market. A range of concurrent reviews[1], consultations and reform initiatives are currently underway that will influence the future regulatory framework for DNSPs, including the scope of their roles, responsibilities and participation in emerging markets.

The AEMC has structured the Electricity Network Regulation Review into two packages. Given the interconnected nature of these reviews, the sequencing and timing of consultation processes should ensure stakeholders have sufficient opportunity to

[1] Including the AER's Review of the Ring-fencing guideline (electricity distribution) and Shared Asset Guideline; the CER's Redefining roles for market and power systems operations (M3/P5) workstream; and the AEMC's The Pricing Review

consider matters being consulted on in the context of related workstreams and provide informed feedback.

Four weeks have been provided to respond to Package 1, although the AEMC notes that there are other opportunities for consultation. The EEC recommends that the sequencing of consultation allows for a coordinated and holistic review to ensure reforms are internally consistent, avoid unintended consequences and support a regulatory framework that remains fit for purpose as the electricity system continues to evolve.

Question 2: What network services should be subject to economic regulation and are changes to the service classification framework required?

As set out above, services that can be provided competitively should remain contestable. Economic regulation should remain limited to services exhibiting enduring natural monopoly characteristics or where regulated provision demonstrably better promotes the long-term interests of consumers.

The deployment of batteries, behind the meter services, CER and EV charging are all already provided for effectively through competitive markets. These are also aspects of the Australian energy market that are developing and innovating rapidly. Absent overwhelming evidence that the competitive market is unable to provide a service, and an expectation that this service should be provided through a monopoly, we would not support transitioning these services into monopoly provision and economic regulation.

The EEC recognises that there may be a role for DNSPs to undertake targeted trials, demonstrations or sandbox activities where these support innovation, address emerging system needs or help inform future market and regulatory arrangements. Such activities should be transparent, time-limited and designed to avoid creating an enduring competitive advantage or displacing market-based solutions. As discussed in more detail below, there should an explicit assessment of the risks of distorting or diminishing the competitive provision of these services through the introduction of trials undertaken by DNSPs.

The EEC recommends that additional guidance in the NER on how the boundaries between regulated and contestable (unregulated) services should be drawn and how to accommodate the new DSO role for DNSPs would be beneficial.

Question 3: Are changes required to the ring-fencing arrangements?

The purpose of a waiver needs to be clarified

As set out above, the purpose of a waiver should be to enable the testing of novel services or small-scale trials where there is genuine uncertainty about the appropriate regulatory treatment. The AER's role should be to ensure that trials are appropriately designed to generate robust evidence and meaningful learnings.

Waivers should not become an alternative regulatory pathway for the ongoing provision of services; rather, they should be a transitional mechanism that informs either a rule change or the appropriate classification of the service under the existing regulatory framework.

Greater guidance is needed on the purpose and intended outcomes of ring-fencing waivers. In most cases, the existing service classification framework should provide the AER with sufficient flexibility to determine how new services should be treated. However, where proposals raise fundamental questions about the appropriate boundary between regulated monopoly functions and contestable markets, they may warrant consideration through the AEMC's rule-making process. Emerging services such as EV charging infrastructure may be an example of where broader consultation and policy consideration is appropriate.

A more rigorous waiver process is needed

While the waiver framework provides an important mechanism to test emerging roles for DNSPs without prematurely changing the regulatory framework, the assessment process should be strengthened to ensure that waivers are only granted where there is clear evidence that the proposed activity promotes the long-term interests of consumers.

Waiver applications should be supported by robust, transparent and verifiable evidence demonstrating the nature of the identified market issue, why existing competitive market arrangements are insufficient, and why DNSP participation is necessary to address the issue. Applicants should be required to provide detailed evidence of expected consumer benefits, costs, risks, impacts on competition and the effectiveness of alternative solutions.

The assessment of waiver applications should also consider whether the proposed activity may create unintended consequences, including impacts on competitive neutrality, private investment incentives, cost allocation and the potential for DNSPs to leverage their regulated monopoly position into contestable markets. Evidence should demonstrate not only that a DNSP-led solution may deliver benefits, but that it is likely to deliver greater benefits than market-based alternatives.

A more rigorous waiver process would provide greater confidence that temporary exemptions are being used appropriately as a mechanism for evidence gathering and innovation, rather than as a pathway to establish new regulated or preferential roles for DNSPs without sufficient justification.

Questions 6 and 7: Nexa rule change request

The EEC is generally supportive of reforms put forward by Nexa that improve the operation of the ring-fencing framework, strengthen competitive neutrality and ensure that DNSPs focus on their core monopoly functions while enabling efficient innovation and the delivery of consumer benefits.

The EEC's views on each proposed amendment are outlined below.

Rule 1 - Codify a last-resort waiver criteria

The EEC supports the introduction of the consumer benefit test as part of the ring-fencing framework.

A clear assessment of consumer benefits provides an important safeguard to ensure that any exemptions or changes to ring-fencing obligations are justified by demonstrable benefits to consumers.

The EEC considers the proposed market test may be better suited to the AER's service classification process than the ring-fencing waiver framework. Classification determinations are specifically designed to assess the degree of competition, market power and the appropriate regulatory treatment of a distribution service. The ring-fencing framework, by contrast, is intended to address the separation of monopoly and contestable activities and should not become the mechanism for determining whether a service should be provided by a DNSP in the first place.

Rule 2 - Embedding financial safety in ring-fencing rules - financial resilience and ring-fence triggers

The EEC has not undertaken sufficient analysis at this stage to form a definitive view on whether the proposed changes are required in an Australian context. However, the EEC supports reforms where there is evidence that it is needed to safeguard essential network services and consumer interests.

Rule 3 – Affiliate Dealings and Data Access - Neutrality, equal treatment, and standardised public protocols

The EEC supports the objective of ensuring that third parties have fair and timely access to the information needed to participate effectively in the energy market. Access to network data, including information relevant to network constraints and hosting capacity, is increasingly important to enable CER, demand-side solutions and third-party investment.

Broader reforms are already underway to improve data availability and transparency[2], including work on information and data sharing arrangements and reforms relating to distribution planning and reporting.[3] The EEC supports these reforms progressing and considers that any new data access obligations should be developed through the appropriate regulatory processes.

The Ring-fencing Guideline also has an important role in preserving competitive neutrality. It should ensure DNSP affiliates and third-party providers receive equivalent treatment in relation to access to network information, connection services, technical requirements and facility access arrangements on transparent and non-discriminatory terms.

Rule 4 - Branding and Representation

The EEC supports reforms that improve transparency regarding waiver compliance, affiliate dealings, information sharing, complaints and enforcement outcomes. Reporting should provide sufficient information to assess whether the Guideline is operating effectively while avoiding unnecessary duplication with other regulatory reporting obligations.

The EEC notes that some members have indicated that branding concerns may not be material in practice. Any additional administrative requirements should therefore be carefully considered to ensure they are proportionate and do not impose unnecessary costs or compliance burdens.

Rule 5 - Reporting, complaints and enforcement transparency

The EEC supports these reforms that clarify and strengthen the AER's obligation to apply the ring-fencing framework. This supports transparency, accountability and confidence in the regulatory framework.

Questions 9, 10 and 11: ENA rule change request

The proposed rule change is not supported at this time. While there may be a potential "chicken and egg" issue associated with the development of EVCI, the existence of an emerging market or coordination challenge does not, in itself, demonstrate that a market failure exists or that regulatory intervention is required.

[2] See the CER Taskforce's Data sharing arrangements to inform planning and enable future markets (M2) final report and the December 2025 Energy and Climate Change Ministerial Council meetings and communique

[3] See the AEMC's final determination on Enhancing distribution network planning and reporting

The current regulatory framework provides mechanisms to test and assess the appropriate role for DNSPs in emerging markets. Waivers have been granted to enable DNSPs to trial EVCI deployment, gather evidence on consumer demand, costs, operational requirements and the effectiveness of competitive market responses. These trials provide an important opportunity to assess whether there is a genuine barrier to efficient market development, or whether existing market participants can respond as the EVCI sector matures.

Changing the National Electricity Rules (NER) to enable broader DNSP participation before the outcomes of these trials are understood risks pre-empting the market and introducing regulatory arrangements that may not be necessary. In particular, allowing DNSPs to enter contestable markets without clear evidence of market failure may reduce competitive neutrality, discourage private investment and limit the development of competitive solutions.

DNSPs also possess structural advantages arising from regulated monopoly ownership, including access to network information, existing network assets, connection processes and lower financing costs. These advantages should be considered when assessing whether DNSP participation promotes the long-term interests of consumers.

Recovering EVCI costs through regulated revenues would also weaken user-pays principles by requiring electricity consumers who may never use public charging infrastructure to fund assets that primarily benefit a smaller group of users.

Before expanding DNSP ownership of EVCI, regulators should also consider less intrusive alternatives, including targeted government funding, competitive procurement, improved connection processes, greater transparency of network information and giving competitive providers the opportunity to invest before regulated ownership is considered.

The outcomes of the waiver arrangements should therefore be evaluated before considering permanent changes to the NER. Any future regulatory intervention should be evidence-based, proportionate and targeted at addressing a demonstrated market failure, consistent with the National Electricity Objective (NEO) and the principle that contestable services should generally be delivered through competitive markets where competition is feasible.

The EEC looks forward to continuing to engage with the AEMC on this review. For further information on anything in this submission, please contact me on jeremy.sung@eec.org.au.

Yours faithfully,

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