

Consultation paper

Ring-fencing waiver application for an EV charging infrastructure trial from CitiPower, Powercor, and United Energy

April 2025

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Inquiries about this publication should be addressed to:

Australian Energy Regulator
GPO Box 3131
Canberra ACT 2601
Email: aerinquiry@aer.gov.au
Tel: 1300 585 165

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1 Introduction

Australia's energy landscape is transforming at a rapid pace. Over recent years, we have observed considerable growth in consumer energy resource (CER) devices such as batteries, solar photovoltaics (PVs) and electric vehicles (EVs), which is expected to further accelerate over coming years.

Under the Australian Energy Market Operator's (AEMO) 2024 Integrated System Plan (ISP), CER capacity in the National Electricity Market (NEM) is forecast to be 5 times the current level by 2050 and will play a major role in Australia's transition to a net zero energy future. AEMO's 2024 ISP forecasts that by 2050, 97% of all vehicles are expected to be electric.¹ CER capacity is also expected to reach almost half the NEM's capacity by 2050 and could help avoid up to \$4.1 billion in additional grid-scale investment in the NEM.²

The transition to greater electrification of transport vehicles requires distribution network service providers (DNSPs) to efficiently plan for, and accommodate, this transition and the resulting increase in the flow of electricity exports and imports.

CitiPower, Powercor, and United Energy (collectively referred to as CPU) – a regulated DNSP in Victoria – have applied to the Australian Energy Regulator (AER) for a waiver from ring-fencing requirements, to allow them to deploy 100 kerbside EV chargers across CPU's distribution areas on a trial basis. We are seeking stakeholder views on CPU's waiver application. This consultation paper sets out some of the considerations the AER will have regard to in deciding whether to grant a waiver.

1.1 The AER's role

As the economic regulator of energy networks in all Australian states and territories except Western Australia, the AER plays an important role in the energy transition. We regulate electricity and gas network businesses and set the maximum revenue and prices that network businesses can recover from end users of their networks. We aim to ensure consumers pay no more than necessary for safe and reliable energy, and seek to promote the efficient supply and use of energy through our determinations, and monitoring and enforcement roles.

As the energy transition progresses, DNSPs will increasingly become not only infrastructure providers but also platforms for energy services, including CER. This involves providing third parties access to network infrastructure to deliver CER services, and investing efficiently to facilitate these connections and loads. The regulatory framework contains several mechanisms to ensure that DNSPs are not able to use their significant market power as monopoly infrastructure service providers to harm competition in the market for these contestable services, and that their role supports the long-term interests of consumers. Ring-fencing is one such mechanism.

¹ AEMO, [Integrated System Plan for the National Electricity Market](#), June 2024, pp. 50–51., accessed March 2025.

² Ibid, p 2 and p 50.

1.2 The ring-fencing framework

The National Electricity Rules (NER) provide a framework for implementing a national approach to electricity ring-fencing. The objective of ring-fencing is to provide a level playing field for third party providers in new and existing markets for contestable services. It does this by restricting DNSPs from offering unregulated services and mitigating the advantage a DNSP may otherwise have in providing those services as the monopoly provider of network services.

As monopoly providers of regulated distribution services, DNSPs could harness their monopoly powers to their advantage and harm the development of competition in markets for other services in contestable markets, including (but not limited to):

- in scale – DNSPs can spread their fixed costs across a large number of customers, reducing the average cost of production as output increases;
- in scope – DNSPs may be able to offer a wider range of related services because they have infrastructure and resources to do so;
- control over barriers to entry – DNSPs can create and maintain high barriers to entry for potential competitors;
- easier access to financing – DNSPs can often have better access to capital markets because investors see them as lower-risk due to revenue predictability; and
- information advantages – DNSPs have greater levels and access to data and insights that can be used to improve services, anticipate customer behaviour and refine business strategies.

The AER are required to establish the Ring-fencing guideline (electricity distribution) ('the guideline') under the NER. The guideline is binding on all DNSPs, and is made up of several components through which we can establish a 'ring-fence' between a DNSP's provision of regulated distribution services and other business activities that could be provided by a contestable market. This is achieved via provisions to mitigate risk of cross-subsidies and discrimination, restrictions on waivers, and reporting and compliance requirements for DNSPs. The guideline establishes obligations around legal, accounting and functional separation to address two key potential harms³:

- **Cross-subsidisation risks.** A DNSP must only provide distribution services and cannot offer other services. Other services must be offered by a separate legal entity or can be offered by a DNSP if they are granted a ring-fencing waiver. This obligation for legal separation addresses the risk of DNSPs potentially cross subsidising other services with revenue it earns from the provision of regulated distribution (and transmission) services. In addition, the guideline imposes obligations on DNSPs to identify and separate the costs and business activities of delivering regulated distribution (or transmission) services from the delivery of any other services, including contestable electricity services. (See below for details on cost allocation and customer bill impacts.) In

³ AER, [Electricity distribution Ring-fencing Guideline – Explanatory statement](#), November 2016, p 1., accessed March 2025.

combination, the obligations for legal and accounting separation improves the transparency of costs incurred by a DNSP and mitigates risks of cross-subsidies. These obligations are set out under section 3 of the guideline.

- **Discrimination risks.** The guideline imposes behavioural obligations on DNSPs, including restrictions on sharing and co-locating its staff, information and co-branding of advertising materials (functional separation), with its affiliated entities providing other services. Functional separation aims to mitigate the potential for DNSPs to favour their related entity in providing contestable services over other providers. Another purpose of functional separation is to limit the potential for competitive disadvantage in connection with the DNSP's provision of distribution services, which arise because: (1) distribution services are a key input to the supply of other services; and (2) it is complementary to the supply of other services. These obligations are set out under section 4 of the guideline.

In all, these obligations under the guideline promotes efficient costs for regulated services provided by DNSPs, and ensures more competitive outcomes in markets for energy services and increased choice for customers.

DNSPs can apply to the AER for waivers to some of the obligations set out in the guideline. In section 2, we set out details on the assessment criteria we apply for considering whether to grant DNSPs a ring-fencing waiver.

1.3 We are consulting on CPU's ring-fencing waiver application for EV charging infrastructure

On 17 December 2024, the AER received a [ring-fencing waiver application from CPU](#). On 7 March 2025, CPU provided a [supplementary submission](#) containing further details on its waiver application. The original application and supplementary submission are published on AER's website alongside this consultation paper.

CPU is seeking a waiver to allow them to provide and maintain 100 kerbside EV chargers (EV charging infrastructure – or EVCI) in their distribution areas, as part of a trial.⁴ The application requests a waiver from two clauses in the guideline: clause 3.1(b) – provision of other services, and clause 4.2 – functional separation of offices, staff, branding and promotions.

Granting CPU a waiver from clauses 3.1(b) and 4.2 of the guideline would allow CPU to provide the EV chargers and to use its staff to maintain the equipment for the duration of the waiver. CPU has requested that the waiver commence as soon as possible and last until mid-2031. The proposal involves CPU installing and maintaining EVCI mounted on their power poles. CPU would not operate the chargers, and would instead 'provide an unregulated third party [i.e. a charge point operator] with access to the EVCI, with the third party acquiring retail services from a licensed retailer'.⁵ CPU indicates that granting this

⁴ The EVCI described in CPU's application (charging station and metrology) is akin to what is referred to in the EV industry as EV supply equipment (EVSE).

⁵ CPU submission, p 2.

waiver would help deliver cost-efficiencies and expedite the rollout of more EV chargers in Victoria, particularly to under-served areas where there are coverage gaps.

Summary of CPU's EVCI proposal

Key aspects of CPU's proposal include the following:

- Via this trial, CPU aims to test if they can fill an infrastructure gap in the availability of public EV chargers in Victoria. The waiver would allow CPU to test 'implementing and maintaining public EV charging stations' in an efficient and cost-effective way, to 'expedite the installation of EV charging points'.⁶
- The trial would also allow CPU to gather data and practical experience to inform EV charger deployment.⁷ CPU would gather data on 'constraints, utilisation and quality of supply'; understand the impact of EVCI charging on demand in local networks and price responsiveness of demand; and to support demand forecasting and develop processes for EVCI connections.⁸
- The proposal involves constructing, installing and maintaining the EV chargers, and to give access to an unregulated third-party (charge point operator) to operate. That is, the retailing of electricity to EV customers using CPU's EV chargers will be managed by the charge point operator.⁹ CPU is not proposing to earn any regulated revenues and will rely on a 'user pays'¹⁰ model to recover costs – with the user being the charge point operator.
- CPU proposes to select and engage installation partners through a 'robust, transparent and competitive tender process to ensure accountability for costs'.¹¹
- The application includes a list of general localities where the EVCI would be situated based on the number of registered EVs. The roll-out of the initial 80 sites aims to service these 'high-demand' areas and that these locations take into account of off-street parking and 'balanced coverage across both metropolitan and regional areas'.¹² The supplementary submission states that the remaining 20 will be chosen in 'consultation with the Victorian Government and local councils', considering the local EV growth trends, proximity to roadways and public facilities, and 'existing coverage gaps' in regional and suburban locations.¹³
- The supplementary submission notes this waiver 'does not seek to restrict, or prohibit, other EVCI providers from participating in the EV market'. It adds that it is not 'a

⁶ CPU submission, p. 6.

⁷ CPU submission, p. 2.

⁸ CPU supplementary submission, pp. 3–4.

⁹ CPU submission, p 6.

¹⁰ CPU submission, p 13.

¹¹ CPU submission, p. 6.

¹² CPU submission, p. 7.

¹³ CPU supplementary submission, pp. 3–4.

large-scale foray by the networks into the EVCI market’, and that they would not put their EVCI next to existing chargers.¹⁴

- CPU’s investment in this trial is capped at about \$1.2 million and losses would be absorbed by their shareholder. Maintenance activities that are relating only to CPU’s EV charger trial would be captured through ‘online timesheets’ and ‘assigned to an activity type so that EVCI maintenance costs can be directly attributable to the EVCI service’. CPU does not have external funding for this trial. The estimated annual revenue is about \$200,000.¹⁵

1.4 Scope of this consultation

We are consulting on CPU’s waiver application to understand stakeholders’ views on the opportunities and risks associated with CPU’s proposed trial, to install 100 kerbside EV chargers across its distribution network. The topics we raise in the sections below are tied to the waiver assessment criteria that we must have regard to, including promotion of the National Electricity Objective (NEO),¹⁶ cross-subsidisation and discrimination risks, and the potential benefits versus risks to consumers and competition. A key component underpinning our decision-making framework is about whether, and what form of, market insufficiency (i.e. market failures) exist in the areas where CPU propose to install chargers, as this allows us to ascertain the role that CPU has in addressing these insufficiencies.¹⁷

These issues and our specific questions for consultation are discussed further in the relevant sections in this paper. In the next section we set out how these considerations are addressed as part of AER’s ring-fencing waiver assessment. We welcome and encourage stakeholder views beyond our questions listed below.

This is the first ring-fencing waiver the AER has received from a DNSP for EV charging. The focus of this consultation is on the details of CPU’s proposed trial and the role CPU might have within existing policy and industry settings. We are cognisant of broader public policy discussion about the role of DNSPs in EV charging generally, and evolving government policy in Australia on CER that are relevant to the EV charging industry. This context will inform our future work to design a more a fit-for-purpose regulatory framework to support the EV industry. While we will take these matters into consideration, our primary focus for this consultation and assessment is on whether to grant a waiver to allow CPU to undertake its proposed trial, given the considerations set out in the guideline.

We further note that in consulting on recent minor changes to our guideline,¹⁸ we sought feedback on issues that we should consider in a future, broader review of the guideline. The role of DNSPs in providing EVCI was one of the issues raised by stakeholders in response. For example, Australian Energy Council and Energy Australia’s submissions to that review of

¹⁴ Ibid.

¹⁵ CPU supplementary submission pp. 6–7.

¹⁶ AEMC, [National Energy Objectives](#), 2025, accessed April 2025

¹⁷ Market failure refers to when there is an inefficient level of provision and access to goods or services in a market. Causes of market failure may include transaction costs, insufficient information, or other barriers which prevent the efficient level of goods and services to be exchanged.

¹⁸ AER, [Ring-fencing guideline \(electricity distribution\) 2025 consultation](#), February 2025, accessed March 2025.

the guideline included their perspectives on DNSP's role in EV charging.¹⁹ This input has been useful to us as we scope that future guideline review. However, it is important to note that the waiver application that we are consulting on here is not that review. It is a proposal for a trial and is being assessed under the current guideline.

1.5 How to make a submission

Stakeholders should consider this consultation paper in conjunction with CPU's initial application and supplementary submission, which have been published alongside this consultation paper on the AER's website.

Interested parties are invited to make written submissions to the AER regarding this notice by the close of business, 13 June 2025. Submissions should be sent electronically to [AERringfencing@aer.gov.au](mailto:AERringfencing@ aer.gov.au).

Alternatively, submissions can be mailed to:

Ms Stephanie Jolly
Executive General Manager, Consumer, Policy and Markets Division
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

The AER prefers that all submissions be publicly available to facilitate an informed and transparent consultative process. Submissions will be treated as public documents unless otherwise requested. Parties wishing to submit confidential information are requested to:

- clearly identify the information that is the subject of the confidentiality claim; and
- provide a non-confidential version of the submission in a form suitable for publication.

All non-confidential submissions will be placed on the AER's website at www.aer.gov.au. For further information regarding the AER's use and disclosure of information provided to it, see the ACCC/AER Information Policy, June 2014 available on the AER's website.

Enquiries about this paper, or about lodging submissions, should be directed to the Policy branch of the AER on 1300 585 165 or [AERringfencing@aer.gov.au](mailto:AERringfencing@ aer.gov.au).

Further information on the AER's role in distribution ring-fencing is available on our website: <https://www.aer.gov.au/industry/networks/ring-fencing>.

1.6 Public stakeholder engagement workshops

To facilitate discussions, we will hold 3 separate stakeholder workshops during the public consultation period, with a workshop for each of the following groups of stakeholders:

- Government, consumers and consumer interest groups

¹⁹ Ibid.

- Contestable service providers unrelated to DNSPs and industry representative bodies; and
- DNSPs and their related entities, and network representative bodies.

The aim of these workshops is for stakeholders to engage with the AER, to deliberate and debate the details of CPU's proposal, and to have an opportunity to discuss their views directly with the AER. This will help us build a better understanding of stakeholder views and where the challenges are, as we assess CPU's waiver application.

We recognise that there will likely be divergent stakeholder views on CPU's waiver application and more generally on DNSPs' role in EV charging services. We are holding targeted workshops for different stakeholder groups, rather than a single large workshop, to facilitate discussion. We hope that this format will promote open and frank discussions, where all stakeholders feel comfortable to share their views freely.

Stakeholders can [register for these workshops](#) on the AER's website. We strongly encourage interested stakeholders to attend a workshop in addition to making a submission to the consultation.

1.7 Timeline

The proposed timeline for our assessment of CPU's ring-fencing waiver application is as follows. While we will endeavour to make decisions within the proposed timeframe, there may be complexities which require a longer period for us to fully consider the issues and arrive at a decision.

Milestone	Date
Consultation period	Tuesday 15 April – Friday 13 June
Stakeholder engagement workshops (3)	Monday 5 May – Friday 9 May
AER analyses stakeholder views	May – June
AER publishes decision	July – August

2 Background

2.1 The EV industry in Australia and policy context

Globally, the adoption of EVs is increasing at a rapid pace, with EV purchases now comprising over 18% of new light vehicle sales around the world. In Australia, EV uptake has also been growing steadily – by one estimate, Australians had purchased over 100,000 EVs in 2024.²⁰

In Australia, third party service providers own, operate and maintain EVCI in a competitive market. Participants in the market include ChargeFox, Evie Networks, Tesla, NRMA, JOLT, BP Pulse and Ampcharge.

The public and kerbside EV charging market in Australia is nascent but growing steadily. It is estimated that, in 2023, there were about 2000 public AC (slow) chargers in Australia.²¹ As of mid-2024, there was also an estimated 1,059 high-powered public charging locations and 1,849 individual high power public EV chargers in service. This is a 90% increase in high-powered charging locations compared to the same time in 2023.²²

Supporting the transition towards an electrified, decarbonised future relies on the continuing uptake of EVs, but equally on the essential EV charging infrastructure to give consumers the confidence to make the switch.

State and federal governments are providing policy support and funding to assist with the development of the EV market. This includes the National Electric Vehicle Strategy,²³ which looks to increase the supply of affordable EVs, encourage EV demand and to support the roll-out of infrastructure required for the rapid uptake of EVs – including kerbside chargers. Various government subsidies to accelerate the roll out of EV chargers exist. For example:

- The Federal Government provided funding in the 2022-23 Budget for the NRMA to deliver fast and ultra-fast charging stations along key highway routes across Australia, at an average interval of 150km²⁴
- The Australian Renewable Energy Agency (ARENA) has provided funding including: for Europe Car and EVX Australia to provide public chargers (including kerbside) across Australia;²⁵ and to Intellihub to trial the installation of 50 EV chargers to existing power poles within Ausgrid's network area, in partnership with the relevant local councils.²⁶

²⁰ Electric Vehicle Council (EVC), [State of Electric Vehicles](#), 2024, accessed March 2025.

²¹ Ibid; Hughes. C., [Number of electric vehicle charging points in Australia from 2017 to 2023](#), Statista website, 6 May 2024, accessed March 2025.

²² EVC, [State of Electric Vehicles](#), 2024, accessed March 2025.

²³ Federal Department of Climate Change, Energy, the Environment and Water (DCCEEW), [National Electric Vehicle Strategy](#), 2023, accessed March 2025.

²⁴ DCCEEW, [Driving the nation fund](#), January 2025, accessed March 2025.

²⁵ ARENA, [Boosting street-side EV charging across Australia](#), 7 February 2025, accessed March 2025.

²⁶ ARENA, [Intellihub Street Light Pole EV Charger with Grid Integration Project Report](#), December 2024, accessed March 2025.

- The Victorian Government funding under the Accelerating Zero Emission Vehicle Adoption grant program aims to deploy up to 100 EV chargers mounted on power and light poles across 3 inner city local government areas in Melbourne.²⁷
- The NSW Government through its Electric Vehicle Fleet Charging Infrastructure Scheme has provided 3 rounds of funding for EV chargers across NSW.²⁸
- In 2022 the SA Government awarded a \$12.35 million grant to the Royal Automobile Association to construct a statewide EV charging network of 530 chargers across 140 charging stations.²⁹

Around 1,000 government-supported, public EV charging locations are expected to come online progressively from June 2024 to December 2025.³⁰

Under the National CER Roadmap developed under the auspices of the Energy and Climate Change Ministerial Council, there is also progress towards improved network visibility and streamlining CER connections to distribution infrastructure, as well as establishing technical standards for CER.³¹ These developments are important in fostering growth in the market by reducing barriers to entry such as the search costs for businesses to locate potential charging sites. We anticipate that standards for EV charging infrastructure, including the minimum specifications for charging infrastructure, interoperability guidelines and standards for customer interfaces and billing, will also continue to evolve.

According to ARENA, one in four Australian drivers do not have access to off-street parking,³² and therefore lack home charging options. Energy Networks Australia (ENA) reports that the ability to charge when needed is a barrier to EV purchase for 34% of Australians.³³ The International Energy Agency (IEA) also indicates that, in 2023, Australia has one of the lowest public charging points to EV ratios in the world.³⁴ CPU's application suggests that concerns about the availability of public charging infrastructure in Victoria are hindering EV uptake. CPU also propose that they can provide EVCI at a lower cost than other third-party EV charging service providers to fill this gap.

There has been considerable discussion about DNSPs' role in the EV charging industry in the past year. In particular, the ENA promotes a role for DNSPs in supporting broader availability of public EV charging services. In theory, DNSPs can help provide cheaper EV charging for customers, stimulate EV uptake to reach critical mass, thereby breaking the

²⁷ Victoria Department of Energy, Environment and Climate Action (DEECA), [Zero Emissions Vehicle Emerging Technologies](#), October 2024, accessed March 2025.

²⁸ NSW Government, [Electric Vehicle Fleet Charging Infrastructure Scheme](#), August 2023, accessed March 2025.

²⁹ South Australia Department for Energy and Mining, [Statewide EV charging network](#), 2025, accessed March 2025.

³⁰ Department of Climate Change, Energy, the Environment and Water (DCCEEW), [National Electric Vehicle Strategy - Annual update 2023-24](#), 2024, p 13., accessed March 2025.

³¹ DCCEEW, [National consumer energy resources roadmap](#), July 2024, accessed April 2025.

³² ARENA, [EV charging stations on the up](#), August 2022, accessed March 2025.

³³ ENA, [The time is now](#), August 2024, accessed March 2025.

³⁴ IEA, [Trends in charging infrastructure](#), 2023, accessed March 2025.

‘chicken and egg’³⁵ dilemma for other third-party EV charging providers to enter. ENA argues that:

DNSPs can deliver public charging infrastructure (via kerbside chargers) at lower cost, faster, with more competition and less disruption than other operators, leading to an improved customer and community experience. This would involve DNSPs rolling out EVCI on existing distribution assets (i.e. poles), while offering an ‘open access’ model for charge point operators to allow a competitive market for charging services. DNSPs would also maintain the EVCI to ensure uptime and availability, addressing a key EV owner pain point (international studies have shown that at any point in time over 25% of public commercial chargers are inoperable or require maintenance).³⁶

As discussed in section 1, the NER and the guideline impose obligations for the separation of DNSPs’ provision of regulated distribution services from other services. This regulatory framework supports DNSPs’ role in providing access to monopoly infrastructure to third parties to deliver services to consumers, accommodating the increase in export and import flows of electricity that result from these services. DNSPs currently have a key role in facilitating the rollout of EV chargers by ensuring sufficient network capacity, timely and appropriately priced connections and network visibility. Regulation that restricts DNSPs getting directly involved in providing EV chargers, unless there’s a proven market insufficiency, is common in most major economies overseas. This includes the European Union, Germany, the United Kingdom and various jurisdictions in the United States.³⁷

There could be merit to DNSP’s provision of EVCI in some capacity. However, this needs a careful assessment of the benefits and costs to consumers. In determining this waiver application from CPU, we will consider CPU’s proposal according to the assessment criteria set out in the guideline, given the policy and industry setting set out above. We will consider if CPU’s involvement can bring cost efficiencies, faster rollout and promote growth of competitive markets to the long-term benefit of customers. This will be weighed up against the potential risks that it may have on competition and the development of markets.

2.2 Ring-fencing waiver assessments

There are several mandatory criteria for the AER to consider regarding granting ring-fencing waivers,³⁸ with respect to the potential for cross-subsidisation, discrimination, and a view to the net benefits in terms of the long-term interests of customers from granting this waiver.

³⁵ Chicken egg dilemma refers to the issue of whether EV charging infrastructure or EVs come first – a lack of demand creates uncertainty for investors, but a lack of infrastructure restricts EV uptake as drivers are concerned about the inability to conveniently charge and range anxiety. Electric Vehicle Council, [Local government resource pack](#), December 2020, accessed March 2025).

³⁶ ENA, [The time is now](#), August 2024, p 17., accessed March 2025.

³⁷ For example: European Union, [Directive \(EU\) 2019/944 of the European Parliament and of the Council](#), 5 June 2019, accessed March 2025; German Government, [Energy Industry Act \(EnWG\)](#), 2023, accessed March 2025; European Union Agency for the Cooperation of Energy Regulators, [Demand response and other distributed energy resources: what barriers are holding them back?](#), December 2023, p 33., accessed March 2025; UK Government, [The Public Charge Point Regulations 2023](#), 2023, accessed April 2025.

³⁸ Core ring-fencing obligations for cost allocation, separate accounts, non-discrimination and information protection cannot be waived.

Our assessment of waiver applications includes consideration of the likely impact of granting the waiver on contestable markets. Clause 5.3.2. of the guideline specifies that in deciding whether to grant, vary or revoke a class waiver, the AER must have regard to:

- the NEO as stated in the National Electricity Law, which is to promote efficient investment in, and efficient operation and use of, electricity services for the long-term interests of consumers of electricity with respect to:
 - price, quality, safety, reliability and security of supply of electricity; and
 - the reliability, safety and security of the national electricity system; and
 - the achievement of targets set by a participating jurisdiction, including for reducing or contribute to reducing, Australia's greenhouse gas emissions;
- the potential for cross-subsidisation from revenue earned from provision of regulated distribution services;
- the potential for discrimination where a DNSP confers a competitive advantage on its related service providers that provide contestable services; and
- whether the benefit, or likely benefit, to electricity consumers of the DNSP complying with the obligation (including any benefit, or likely benefit, from increased competition) would be outweighed by the cost to the DNSP of complying with that obligation.

Additionally, the guideline provides that the AER may have regard to any other matter it considers relevant, request information from one or more DNSPs, invite public submissions on the application, and otherwise conduct such consultation as it considers appropriate with any person. We are also able to impose conditions when granting a waiver to mitigate risks and maximise benefits that can be achieved from the waiver.

The DNSP making the application must be able to demonstrate why the waiver should be granted with reference to these matters. The AER evaluates the claims made against these criteria and are guided by the consideration of likely impacts from granting the waiver on contestable markets, including the potential risks of discrimination and misuse of monopoly market power by the DNSP in providing contestable services. All ring-fencing waiver assessments are made on a case-by-case basis. The sections below explore each of these considerations for assessing CPU's ring-fencing waiver application.

Our approach to waivers allows flexibility in how we process and assess a waiver application. The guideline does not include constraints on our ability to grant waivers from the legal separation obligation because circumstances may arise whereby imposing legal separation would not provide benefits for contestable markets but would impose costs on DNSPs. Having flexibility to respond to such circumstances will promote the long-term interests of electricity consumers, consistent with the NEO. Where a waiver from legal separation obligations is granted, we consider that it would usually be appropriate to also grant waivers from office and staff separation obligations and, potentially, obligations restricting co-branding. However, the obligation to not discriminate cannot be waived.

Considerations for CPU's waiver

For CPU's waiver application, the relevant contestable markets are the kerbside EV charging markets in Victoria, across regional, metropolitan (i.e. inner city urban areas), and suburban locations.

In each of these locations the market may have distinct characteristics, and different customer outcomes may result from CPU's involvement. For example, the market in inner city urban areas with predominantly apartments and where off-street parking is limited may have different charging needs to other locations (e.g. greater demand for kerbside charging or different demand for fast vs slow chargers).

Through this consultation, we aim to:

- build an understanding of the nature of any market insufficiency that CPU's trial might address – e.g. if there are coverage gaps that wouldn't otherwise be filled;
- understand the benefits customers will gain from CPU's trial – e.g. from improved network planning, more readily available or cost effective EV charging services, or an environmental perspective; and
- assess the risks of discriminatory behaviour and crowding-out of competition.

These factors are directly linked to the abovementioned assessment criteria set out under the guideline for considering the granting of a waiver, and whether, on balance, it will likely deliver an outcome that is in the best long-term interest of customers.

2.3 No bill impact on CPU's customers

If this waiver is granted, CPU does not propose to recover any capital or operational costs from the regulated asset base (RAB) or from charges that are attributed to CPU's customers. The cost of providing EVCI will be fully recovered on a 'user pays' basis for using the service (i.e. the third-party charge point operator that uses and operates the EV charger). As mentioned above, CPU's maintenance activities that are relating only to CPU's EV charger trial would be captured through timesheets directly attributable to the EVCI service. CPU states that this prevents its customers cross-subsidising this EVCI trial, which adheres to ring-fencing requirements.

A key safeguard for avoiding cross-subsidisation is through the guideline's obligations for DNSPs to have an AER approved Cost Allocation Method (CAM). The CAM sets out how DNSPs must split costs between the different categories of services they provide, including those provided on a competitive basis (i.e. contestable services). Costs for contestable business activities must be separated from its monopoly distribution services it provides to its customers, which helps to avoid cost shifting or incorrect allocation of costs between DNSP's services.³⁹ This is an important mechanism for ensuring a level playing field for third party providers in new and existing markets for contestable services.

In the case of CPU's EVCI proposal, CPU's AER approved CAM would ensure correct allocation of costs to its customers for distribution services – and CPU will not earn regulated revenue from its customers for its EV chargers. The costs will be recovered using a 'user pays'⁴⁰ model, with the user being the charge point operator. This ensures that there will not be any cross-subsidisation from CPU's other customers for this EV charger trial.

³⁹ AER, [Electricity distribution network service providers – cost allocation guidelines](#), 2008, accessed March 2025.

⁴⁰ CPU submission, p 13.

3 Key consultation areas

3.1 Nature of the market insufficiency

Competition in EV charging services in Victoria spans across numerous players. These market participants are installing public EV charging stations and facilities in Victoria through private investment and in partnership with government initiatives.

CPU proposes to install kerbside EVCI in locations where there is less private-sector interest, including in suburban and remote areas. Its application states:

...[this] lack of infrastructure significantly affects EV adoption rates, as access to reliable charging is a critical component in customers' decisions to purchase electric vehicles... In many of the areas we serve, particularly in regional locations, competition in the provision of charging infrastructure is limited... the current market is underdeveloped and lacks significant private investment.⁴¹

CPU has stated that the proposed EV charger sites are where there are coverage gaps in 'high-demand' areas with a high number of registered EVs, accounting for off-street parking and 'balanced coverage across both metropolitan and regional areas'. Some locations will be identified in consultation with the Victorian and local governments on where such gaps exist.

CPU's proposal is premised on the view that there exists a potential market insufficiency – that there are coverage gaps for EV chargers where demand for EV chargers is unmet. We are seeking stakeholder views on if and what form of market insufficiency exists in the markets across regional, suburban, and metropolitan areas where CPU suggests there are coverage gaps, and where CPU has a role.

CPU's proposed method of identifying the coverage gaps according to EV ownership implies it is in these locations that there is unmet demand for public EV chargers, which third-party providers have not fulfilled. And by targeting these locations where CPU believes such gaps exist, the implication is that CPU can stimulate EV uptake by instilling greater consumer confidence over the availability of EV charging options. Doing so may help to break the aforementioned 'chicken and egg' dilemma.

We wish to understand if there is a market insufficiency, and if so the form and nature of market failure underpinning these coverage gaps. Where there is a market insufficiency, there is less potential adverse competitive impacts from CPU's involvement, and the benefits of CPU being granted a waiver from the guideline obligations would more likely outweigh the cost of compliance. We need to establish the extent of competition in the market, whether it is sufficient, and if not what the underlying causes of the insufficiencies are.

In particular we are seeking to understand the barriers to entry for third-parties across metropolitan (i.e. inner city urban areas), suburban and regional Victoria, and the specific obstacles within each of those markets. For example, information asymmetry (where the third-party lacks full information to make investment decisions); transaction costs (high

⁴¹ CPU submission, pp. 9–10.

overheads or transactional fees for delivering EV charging services); or low economies of scale (low usage making a charger less viable). We also recognise that CPU is uniquely positioned to factor in network connection processes and costs to its planning and delivery of chargers, while competitors must engage in a third-party transaction with CPU to complete their rollouts. We are interested to understand the contribution this makes to any coverage gaps.

Understanding the forms and underlying cause of market insufficiencies in the various EV charging markets helps inform our assessment of how this waiver could alleviate these gaps in the long-term interests of consumers.

Question 1: Do the current dynamics of the markets suggest a thriving and competitive marketplace?

Question 2: Do you agree a market insufficiency exists? What are your views on the cause any coverage gaps across 'metropolitan' (i.e. inner city urban areas), suburban and regional Victoria?

3.2 Potential benefits for customers

CPU states that granting this ring-fencing waiver would enable it to deliver the EVCI and help Victoria move closer towards its net zero emissions goals. The application refers to Victoria's Zero Emissions Vehicle Roadmap⁴² target that by 2035, all newly sold vehicles within Victoria will be zero-emissions. It states that range anxiety and the current insufficiency of charging infrastructure to support widespread EV use, are key obstacles to achieving this target.

CPU suggests that they are uniquely positioned to address these infrastructure gaps, and as a DNSP it can deliver EV chargers more cost-effectively than third-parties (or their related entities), and can therefore benefit end users by providing lower-cost EV charging services.

CPU notes it has cost advantages because it can leverage existing networks and have existing processes to navigate the regulatory landscape. It points out that networks have 'deep economies of scale and scope in the provision of asset management services' they can access.⁴³ And that they 'already operate and maintain a wide range of electrical infrastructure, operate highly skilled and trained workforces, [and] can utilise expansive depot and fleet assets'.⁴⁴

We consider it possible that DNSPs have information and cost advantages over third-parties to identify 'black spots' where EV charging services may be facilitated, in terms of identifying where there are network constraints or capacity to support EVCI.

CPU has not provided financial and costing details in its submission, including for maintenance. It states that investment is capped at about \$1.2 million and losses would be

⁴² Victoria DEECA, [Zero Emissions Roadmap](#), 2021, accessed March 2025.

⁴³ CPU supplementary submission, p 4.

⁴⁴ Ibid.

absorbed by their shareholder. It is unclear if CPU's proposal stands up to the claim that DNSPs can deliver EVCI more cost-effectively than third-parties, thereby providing lower-cost EV charging services to end-users.

Network learnings to better support the EV industry

If this waiver is granted, the trial presents an opportunity to gather this evidence and assess DNSP's role in EV charging more generally.

CPU's application states that the purpose of this trial is to develop insights, data and learnings from the EVCI deployment. We consider it also presents an opportunity to gain broader insights on CPU's specific processes, as a DNSP, for assessing and identifying where to site EV chargers, with the potential benefit of better network planning and allowing for network learnings. For example, how it would go about planning for and identifying suitable locations; how it assesses and plans for its network to be able to support EV chargers; how it considers the needs of EV charging operators and networks costs. It also provides an opportunity to better understand the broader policy challenges and future direction for this industry.

Question 3: What are your views on the potential benefits that may be gained from CPU's trial, including for network learnings?

Question 4: What are your views on CPU's claim that they can provide kerbside EV chargers more cost-effectively than other third parties?

3.3 Competition impacts on the kerbside EV charging market

As discussed in the above section on market insufficiency, CPU's proposition is that it can viably provide EVCI in locations where there is a coverage gap and other competitors have less market interest in such locations. In this section, we are seeking stakeholder views on the impact CPU's presence may have on crowding-out competition and on the financial viability of third-party operators in the market.

CPU states that, because they will be seeking market interest from third-parties to operate the EVCI, if their chargers are located in poorly utilised locations this will limit the interest from charge point operators to use the equipment. It suggests that this would undermine the financial viability of CPU's EVCI. CPU states it 'does not seek to restrict, or prohibit, other EVCI providers from participating in the EV market'.⁴⁵ That is, CPU will be seeking specific sites where there is less private-sector interest but still has sufficient end-user demand. CPU has not provided information on the method it will be using to locate such sites.

It is likely to be challenging to identify coverage gaps precisely without the risk of crowding-out competition if there is in fact market interest. As mentioned, there was an estimated 2000 public AC (slow) chargers in Australia in 2023. Given the nascent stage of

⁴⁵ CPU supplementary submission, p 3.

market, we are interested to understand what pace of rollout would stimulate and support EV demand without locking out other third-party EV charging providers. We consider it is important that the identification of when and where an EV charger is data-driven so it reflects true market needs.⁴⁶ CPU proposes to select EVCI sites based on areas with high EV ownership. We are interested to explore how coverage gaps might be better understood, including how far existing EV owners are travelling to access charging and the impact of increasing the concentration of chargers.

In our assessment, we are considering the benefit to customers where CPU locates its EV chargers in places where there are genuine coverage gaps – i.e. where there is demand for chargers that would not otherwise be met by the private sector (either because there is no interest or because they are slow to respond to the need). The ability to stimulate EV uptake and resolve the ‘chicken and egg’ dilemma is touted as one of the key benefits of DNSPs, like CPU, entering the EV charging market. This benefit is predicated on the ability for CPU to be more cost-efficient than third-parties in providing EVCI, a proposition that could be tested via this trial.

We note that CPU has provided an ‘exit plan’ for end of the trial – whereby it proposes to sell the EVCI assets to third-parties at the end of trial, but only where there is ‘no commitment to a longer-term role for networks in the provision of EVCI’.⁴⁷

Question 5: What do you view as the potential risks to competition from CPU’s proposed trial?

Question 6: What are your views on CPU’s proposed method of selecting EV charging sites based on areas with high EV ownership, and number of units (100 EV chargers)?

Question 7: What are your views on the depth of the market for kerbside AC EVCI?

3.4 Discrimination

DNSPs are monopoly network services providers which have control over access to essential infrastructure. This gives DNSPs the opportunity to leverage their dominant position to discriminate against competitors in the markets for services like EV charging and behave in anti-competitive ways. The potential misuse of market power as a monopoly is an important consideration in our assessment of whether to grant CPU’s a ring-fencing waiver for entering a contestable market.

DNSPs being the owners of network infrastructure have certain cost advantages. For example, DNSPs control third-party access to the power poles and third-parties must pay access fees to connect to DNSP networks and to lease the network assets – a cost which a DNSPs would not need to incur. Stakeholders have raised concerns with us that Victorian

⁴⁶ For example, see De Rango, R., [Power pole mounted AC EV charging: how many do we need, and where, and when?](#), March 2025, accessed April 2025.

⁴⁷ CPU supplementary submission, p 7.

DNSP annual lease charges for using DNSP's infrastructure are set at a rate disproportionate to the expected cost for similar arrangements set by DNSPs in other states.

DNSPs have an advantage in terms of access to data to inform which sites are most in demand and potentially profitable, and can delay processing requests from competitors for connecting EV chargers to deter or slow third-parties from those locations. There is also potential for DNSPs to discriminate against competitors seeking to connect EV charging services, or to impose unfavourable access pricing and conditions. It is unclear if DNSPs have fair, formal, processes in place to handle third-parties' requests for EV charger connections, and this opaqueness may be leveraged as a barrier to entry for competitors.

The guideline has provisions under clause 4.1 against discriminatory behaviour.⁴⁸ The AER monitors for discriminatory activities or misuse of market power by DNSPs, and have processes in place to manage formal complaints.

We are contemplating whether it is possible for CPU to deliver EV chargers by leveraging its cost and operational advantages, by virtue of being a network monopoly, without adversely impacting on or crowding out competition in the market. In the next section we consider what could be done in the design of CPU waiver conditions to mitigate the risk of harm to competition, thereby maximising the net benefits that may be achieved from this trial.

Question 8: What are your views on the potential for CPU to discriminate against third-party EV charging service providers?

3.5 Waiver conditions, if granted

The AER has discretion to impose conditions on ring-fencing waivers, including for this waiver for CPU, if granted. We are seeking feedback on the type of conditions that stakeholders believe should be impose on CPU's waiver, if the waiver is granted. We note that there are standard guideline obligations for DNSPs to provide annual compliance reporting, against which the AER assesses compliance with the waiver conditions.

For example, for the CPU waiver, if granted, we could impose a condition for CPU to share data from the trial. In their application, CPU already state that they intend to publish and share data:

...We will share insights, data, and learnings from the deployment of these chargers with all industry participants, promoting best practices, optimising infrastructure development, and contributing to an informed and competitive EV charging market for the benefit of electricity customers.⁴⁹

Conditions could also be used to maximise the benefits and address risks of any waiver.

⁴⁸ AER, [Ring-fencing guideline \(electricity distribution\) – version 4](#), February 2025, accessed March 2025.

⁴⁹ CPU submission, p 13.

We are seeking stakeholder feedback on the type of conditions that could be imposed on this waiver, if granted. Some potential waiver conditions could include:

- A requirement for CPU to develop and publish a robust method for justifying their selection of specific EVCI sites. This could include demonstrating that the sites have not received other market interest and therefore represents where there is a genuine market insufficiency and need to fill this gap. This information would help reveal CPU's network assessment capabilities and implementation strategy for siting the EV chargers. It could help us to gain an understanding of the advantage CPU, as a DNSP, has in identifying and filling a gap, thereby demonstrating it has a beneficial role to play in EV charging while avoiding adversely impacting on market competition.
- A requirement for CPU to lower or remove access fees for EV chargers in areas where this waiver, if granted, applies, or in the locations CPU are proposing to undertake the trial. Doing so could help ensure a level playing field for third-party EV charging providers, by preventing CPU gaining a competitive advantage by virtue being able to bypass equivalent fees for its EV chargers that competitors would face in the same area.
- CPU providing evidence of its tendering and procurement strategies for EV charger equipment and services to the AER. This helps to ensure market tendering is conducted to the greatest extent for CPU's provision of EVCI, and to substantiate claims of being able to provide EV chargers more cost-effectively and efficiently as a DNSP.
- Cybersecurity requirements for CPU and its contracted charge point operator. This condition could help protect the public against cybersecurity risks and ensure the public EV chargers can be safely used without compromising personal security.

We are also seeking stakeholder views on the data that CPU should publish which would be useful for supporting, and lowering the barriers to entry, for third-parties seeking to provide EV charging services. We also consider that publicly sharing of this information serves as a form of reputational incentive for CPU to efficiently deliver EV chargers and support distribution services to third-party EV charging providers.

We envision the following to be the minimum data that CPU could share publicly on their website:

- Detailed financial and contractual data for public understanding of DNSP costs to provide EV chargers and to enable building performance benchmarks in the future. This includes terms and conditions in contracts with the charge point operator; audited financial data (revenues, costs, losses and charges); costs of maintenance and installation workforce for the EVCI; and cost estimates for annual maintenance cost per EVCI. Some of this might be provided to the AER on a confidential basis, but we welcome stakeholder views on whether there is cause for confidentiality for specific types of data.
- Quantified network benefits to customers, to verify DNSPs' claim that they can provide lower-cost EV charging services to customers, and if this is achieved consistently.
- Usage of CPU's EV chargers, on a consumption and frequency of use basis. This helps to inform third-parties of the level of demand in an area and potential market opportunities.

- Performance of the EVCI, in terms of frequency and duration of outages (e.g. how quickly supply is restored in the case of faults), and type of fault. This serves as a reputational incentive and helps inform the need for corrective measures (e.g. compensation), as well as informing any safety management requirements.
- The time taken to connect EV chargers ('connection time') for its associated entities and other non-affiliated entities' EV chargers. This data would help to avoid discriminatory behaviour against competitors. We welcome stakeholder views on the specific metrics that should be used for measuring connection times (e.g. date of request to live connection).

Question 9: Would the conditions above be fit for purpose, if a waiver is granted? Which are higher or lower priority?

Question 10: What other conditions should be placed on the waiver, if granted, to prevent discrimination or to preserve fair market competition, and maximise the benefits from the trial?

Question 11: What data should CPU share as a minimum and are there specific metrics that should be used – for example, specific metrics for measuring connection times?