



Progressive Green PTY LTD T/A Flow Power
ABN 27 130 175 343

CPU ring fencing waiver application - EVCI

Flow Power submission

June 2025



Ground Floor 109 Burwood Rd Hawthorn VIC 3122



hello@flowpower.com.au



1300 08 06 08



flowpower.com.au



About Flow Power

Flow Power is an electricity retailer that works with energy customers throughout the National Electricity Market (NEM). Together with our customers, Flow Power is committed to our vision of creating Australia's renewable future.

We empower customers to take meaningful action. By providing energy knowledge and innovative technology, we are delivering smarter ways to connect customers to clean energy to make our renewable future a reality. We provide our customers with:

- + Engineering support, access to live data and transparent retail tariffs that reward demand flexibility and encourage electricity usage at times of plentiful renewable output.
- + Hardware solutions that equip customers with greater information, visibility and control over energy use.
- + Access to renewable energy, either through distributed solar and storage installed on site, or through a power purchase agreement with utility-scale wind and solar farms.

We believe that by equipping customers with these tools, we can lower costs for all energy users and support the transition to a renewable future.

Overview of submission

Thank you for the opportunity to provide a submission on CPU's ring-fencing waiver application for EVCI in Victoria. Flow Power does not support the proposed waiver. The key points in our submission are:

1. We do not consider there are grounds for DNSPs to conduct trials in the EVCI space where DNSPs own the infrastructure.
2. The EV charging market is broad and this waiver should consider the flow on implications for other approaches to EV charging.
3. A nascent market is not a failed market.
4. A decision to grant this waiver would have broader ramifications.

If you have any queries about this submission, please contact me on [REDACTED]

Yours sincerely,

Declan Kelly

Regulatory Policy and Corporate Affairs Manager

Flow Power

DNSPs have no role conducting trials in the EVCI space

CPU's application requests a ring-fencing waiver for the purposes of conducting a trial. Trials are frameworks that allow organisations to test new ideas in a safe space, often with financial support to manage risks or losses. The intention of a trial is to help the organisation refine its product or service to make it more viable in the long term. However, the NER is clear that DNSPs have no long-term role in the provision of EVCI. Consequently, it's unclear:

- what a regulated DNSP would need to trial in the EVCI space,
- why a waiver needs to be granted to deliver the stated outcomes of the trial, and
- ultimately, what the long-term consumer benefits of CPU conducting a trial would be.

One stated goal of the trial is to see if DNSPs can fill gaps in the availability of pole-mounted EV chargers. As the AER notes, regulated DNSPs have advantages over competitive providers, particularly with respect to information regarding their network. If a DNSP is granted permission to buy and install EVCI through its regulated business, it's reasonable to assume that CPU *would* be able to deploy the 100 EV chargers. CPU should not need a trial, let alone a six-year one, to arrive at this conclusion. However, as we discuss in the next section, just because a DNSP is capable of filling potential gaps in EV charging does not mean they should.

CPU requests that the waiver apply ASAP and end mid-2031. This six-year period would span a large portion of early EVCI market development and, for reasons discussed later in this submission, is likely to have a detrimental impact on the appetite and ability for competitive providers to enter this space.

If there is no enduring role for DNSPs in the EV charging space, granting this waiver to allow DNSPs to CPU to undertake a trial is redundant.

Kerbside charging is not its own market

The EV charging market is broad, with a range of business models and technologies emerging. However, the customer base and their needs are largely the same – charge within a desired timeframe, at low cost and at a convenient location. Consequently, the EV charging market isn't as segmented as the CPU proposal suggests. Kerbside charging infrastructure competes for customers with other forms of EV charging – be it at the office, at the supermarket, at a local fast-charger or at home. While uptake of kerbside EVCI might be low, it would be inaccurate to assess levels of supply/competition in pole-mounted technologies independently of the broader EV charging market.

Similarly, the role of kerbside charging in the context of broader EV charging solutions is uncertain. Australians generally live in low density housing, the number of DC fast chargers is quickly growing, and apartment buildings are developing their own solutions. It would be very hard for the AER to fairly assess what the "right" amount of kerbside EVCI is. In Flow Power's view, these are exactly the questions that markets are best suited to answering i.e., what role kerbside charging should play in the broader EV charging market. Private businesses are far better placed to assess the risks and opportunities



associated with different business models in this market, manage the evolving consumer preferences over time, and therefore where infrastructure investments will be most efficiently.

Nascent markets are not failed markets

The AER's consultation paper states that "a key component underpinning our decision-making is whether... 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."

However, in a nascent market, a lack of competition or demand is not proof of market failure. The AER notes that the EV charging market in Australia is new but growing steadily. It would be premature to declare that a market has failed when it is only just starting to develop.

If these issues (e.g. lack of competition, demand or suppliers) were to persist without good reason, and if there was evidence that these issues were resulting in sustained inefficiency, distorted incentives or consumer harm, then this may be evidence of emerging or entrenched market failure. It would be appropriate at that point to explore ways to address these issues, with the most obvious being direct government support (as has occurred in NSW). Allowing DNSPs to enter competitive spaces should not be the default consideration when looking to address market failures.

Instead, these are problems that markets are best at solving, and there are businesses working to solve them. If we allow private businesses to take risks trying to find solutions to consumer needs, successful business models will emerge. Allowing DNSPs to stake a claim in this space so early in its development will discourage competitive players from entering and slow the growth of the EVCI market.

Overseas markets with higher levels of EV uptake also have experiences the AER can draw on. For example, Ofgem recently concluded that distributors are unsuitable to act as a provider of last resort for EV charging. This decision was driven by concerns regarding the costs of distributor-led charging solutions.¹

The AER's decision here may have broader ramifications

The growth of the solar PV and battery markets have shown that private enterprise can develop mature, vibrant and competitive markets for CER in Australia. These markets exhibit high levels of product and service innovation, price competition and service quality, all in all delivering positive outcomes for consumers. The EV market, while comparatively nascent, is growing and expected to follow a similar trajectory to the more mature PV and BESS markets.

We recognise that the AER must make waiver decisions based on the merits of each individual proposal. Further, we realise that the proposal is for a relatively small number of chargers.

¹ Ofgem, *Modification of the standard condition 31F of the electricity distribution licenses*, Feb 2024.



However, the AER's decision on this matter will, whether intended or not, set a precedent. Consequently, it will have broader ramifications for the broader EV charging market, not just in Victoria but NEM-wide – particularly on investor sentiment.

We encourage the AER to go back to first principles and uphold the intended separation between regulated and competitive spaces. Unwavering separation of regulated businesses from competitive spaces is fundamental to:

- promoting fair competition
- preventing market manipulation, and
- ensuring efficient delivery of electricity services.