national electrical and communications association

National Electrical and Communications Association - Submission

Submission to the Australian Energy Regulator regarding the Ring-fencing waiver application for an EV charging infrastructure trial from CitiPower, Powercor, and United Energy

June 2025

www.neca.asn.au

Introduction

The National Electrical and Communications Association (NECA) provide this submission in response to the invitation by the AER to participate in public consultation about the Ring-fencing waiver application for an EV charging infrastructure trial from CitiPower, Powercor, and United Energy.

NECA have been engaging with the AER for some time now to highlight how the current Ring-Fencing guidelines, associated monitoring mechanisms, and enforcement frameworks are fundamentally flawed with respect to constraining Distribution Network Service Providers (DNSP's) from participating unfairly in contestable markets to the detriment of consumers, competition, and independent investment.

It is our considered opinion that there is no genuine evidence proffered in the CPU waiver application, or supporting documents, that demonstrates any benefit from the 'trial' that cannot be achieved under existing market arrangements, without the need for a waiver

It is also our considered opinion that the AER must address the regulatory framework that permits the observed unresponsiveness and predatory behaviour of the CPU DNSP's with respect to EVCI connection applications and Facilities Access Agreement (FAA's) before it can reasonably entertain the concept that there is a market failure for these services.

Overview

NECA is the peak body for Australia's electrical and communications industry, which employs 344,370 people and turns over more than $82bn annually. NECA represents over 6,500 businesses performing works including the design, installation, and maintenance of electrical and electronic equipment in the construction, mining, air conditioning, refrigeration, manufacturing, communications, security, automation, and renewable energy sectors.

NECA has advocated on behalf of the electrotechnology industry for over 100 years and helps its members and industry operate in an efficient, safe, and regulatorily compliant manner. NECA represents the interests of electrical and communication businesses to all levels of government and in regulatory, legislative and industry development forums.

NECA members make an essential economic contribution – connecting businesses, homes, and infrastructure – encouraging investment, improving reliability and energy

security, and delivering affordable, environmentally sustainable outcomes. The safety and reputation of the electrical industry is critical to tradespeople, consumers, and the community.

NECA also plays an integral role in the development of the next generation of Australia's electrical and communications tradespeople and contractors. Through its associated Group Training Organisations (GTOs) and Registered Training Organisations (RTOs), NECA offers employment and trade training to some over 2000 apprentices and tradespeople nationally.

Submission

Key consultation areas and questions as posed in the AER's consultation paper[1]

Nature of the market insufficiency

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

There are multiple suppliers of EVSE capable of supplying and maintaining kerbside, DNSP pole mounted, and other publicly accessible charging infrastructure solutions. NECA would suggest that no tender issued for such equipment suffers from a lack of multiple interested parties.

NECA members have indicated that are actively seeking further opportunities for deployment, particularly with respect to their pole mounted, kerbside and public space solutions.

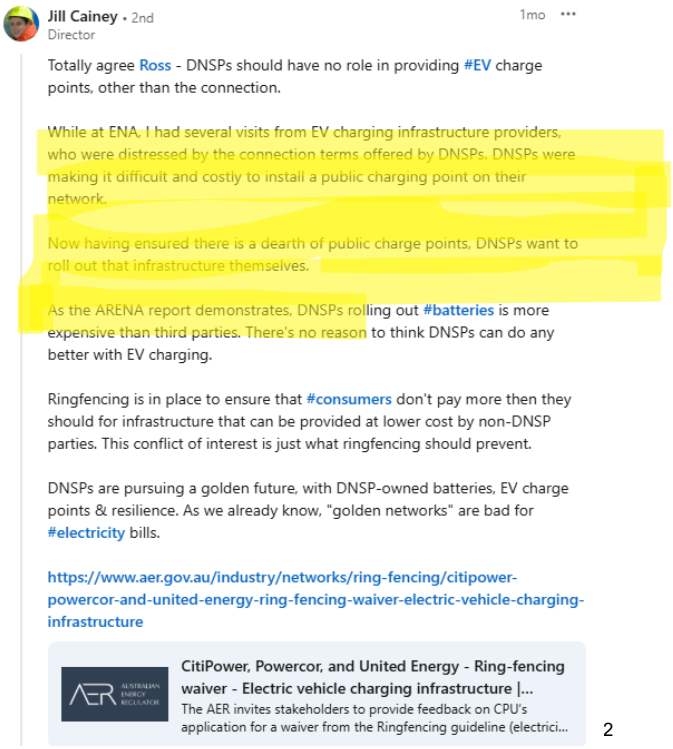
Similarly – equipment suppliers, retailers, charge point operators, and software developers are collaborating on solutions to improve accessibility and customer experiences.

Question 2. Do you agree a market insufficiency exists?

In the sense of public facing EVCI options currently available to meet the needs of all communities and EV driver categories, there are areas market insufficiency. However, as indicated in our response to question 1, there are numerous participants capable of delivering and actively seeking out opportunities to deliver EVCI solutions to meet those needs.

NECA considers that the CPU DNSP's have engaged in bad faith bargaining with the established market participants, and are primarily responsible for the slow roll-out of pole mounted EVCI in Victoria due to a lack of responsiveness and/or excessive FAA demands to those market participants.

[1] https://www.aer.gov.au/documents/aer-ring-fencing-consultation-paper-cpu-ev-charging-infrastructure



Jill Cainey • 2nd
Director
1mo

Totally agree Ross - DNSPs should have no role in providing #EV charge points, other than the connection.

While at ENA, I had several visits from EV charging infrastructure providers, who were distressed by the connection terms offered by DNSPs. DNSPs were making it difficult and costly to install a public charging point on their network.

Now having ensured there is a dearth of public charge points, DNSPs want to roll out that infrastructure themselves.

As the ARENA report demonstrates, DNSPs rolling out #batteries is more expensive than third parties. There's no reason to think DNSPs can do any better with EV charging.

Ringfencing is in place to ensure that #consumers don't pay more then they should for infrastructure that can be provided at lower cost by non-DNSP parties. This conflict of interest is just what ringfencing should prevent.

DNSPs are pursuing a golden future, with DNSP-owned batteries, EV charge points & resilience. As we already know, "golden networks" are bad for #electricity bills.

https://www.aer.gov.au/industry/networks/ring-fencing/citipower-powercor-and-united-energy-ring-fencing-waiver-electric-vehicle-charging-infrastructure

CitiPower, Powercor, and United Energy - Ring-fencing waiver - Electric vehicle charging infrastructure |...
The AER invites stakeholders to provide feedback on CPU's application for a waiver from the Ringfencing guideline (electrici...

[2]

What are your views on the cause of any coverage gaps across 'metropolitan' (i.e. inner-city urban areas), suburban and regional Victoria?

NECA posits that coverage gaps for kerbside EVCI, to the extent they exist,

i. are not, nor should they be, within the remit of DNSP's (or the AER) to assert or resolve
ii. could be efficiently and effectively addressed by the existing market participants if the DNSPs engaged appropriately.

The best contribution that the AER could make to assist in resolving EVCI 'coverage gaps' and ensure better community outcomes would be to establish

a) open access protocols to DNSP poles for EVCI

[2] https://www.linkedin.com/posts/ross-de-rango-29a88013_a-hot-take-on-the-enas-federal-election-activity-7320210500053528577-9loO?utm_source=share&utm_medium=member_desktop&rcm=ACoAAAce6bgBD5-_Qhf6TGQvpdalgNG10Fi8iU8

b) standard FAA rates for EVCI, and
c) performance criteria (response times in particular) for EVCI connections
d) open access to local network capacity data derived from customers currently aggregated smart meter data

Potential benefits for customers

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

There is nothing in the proposed trial that cannot be achieved by utilising existing market participants and/or negotiating data sharing arrangements with those providers.

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

The CPU submission provides no tangible evidence that they can provide EV chargers more cost effectively than other parties.

CPU base this claim at least partially on the basis that

- 'third-party operators aiming to establish EV charging networks face significant barriers, particularly due to regulatory delays and the complexity of obtaining necessary approvals. The lack of a streamlined process for deploying EV charging stations often leads to prolonged approval times and higher operational costs, as operators must navigate complex regulatory frameworks that can delay the rollout of infrastructure.' and
- that 'Networks, however, are uniquely positioned to address these barriers by leveraging our existing infrastructure and expertise. We can streamline the regulatory approval process due to our familiarity with the existing regulatory frameworks and our established relationship with governing bodies, significantly reducing the time it takes to deploy charging infrastructure.

These statements are both presumptive and dismissive of the resources, expertise and sophistication of other market participants and conveniently neglect

- neglect to identify that greatest impediment to the roll-out of kerbside EVCI in Victoria has been the reluctance of the DNSPs themselves to engage with third parties on a fair basis, and
- independent (ARENA) data[3] indicating that for provision of similar services (community batteries) DNSPs spend the most, to deliver the least, relative to competitive businesses.

In addition, on evidence provided by current market participants, the DNSPs have engaged in behaviour that drives up the costs (prohibitively) to third parties, thus distorting the analysis and suppressing the roll-out of the services in their jurisdiction.

Competition impacts on the kerbside EV charging market

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

i. Phase 1 of the roll-out proposes 100 sites that could/should be subject to the competitive market
ii. This also implies the potential for future phases under the trial
iii. Under such an arrangement other market participants / investors may reasonably conclude that the AER could be further influenced to approve additional phases and waivers in Victoria and avoid making investments in that state
iv. The DNSPs would have a perverse incentive to suppress the participation of third parties on their poles or in the provision of kerbside EVCI on the basis that they would prefer to maximise their own profits
v. DNSPs in other jurisdictions could pursue similar waivers and/or engage in similarly obstructive behaviour to secure access to providing a highly lucrative service.

[3] https://arena.gov.au/assets/2024/11/ARENA-Community-Battery-Market-Snapshop.pdf (page 23)

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)?

As indicated previously, it is not within the remit of the DNSPs or the AER (as a federal energy regulator) to propose or facilitate such a methodology on behalf of the wider community, nor to analyse or determine which EVCI solutions best suit which communities. Assuming this function is to remove the agency of state and local governments to determine the policies and solutions that best serve their community and transport infrastructure needs.

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

The market need itself is significant and expanding. However, there are several developments and technologies that are likely to have a significant and moderating (reducing) impact on the ultimate level of need for this particular type of charger.

For example,

- solutions for apartment blocks that enable type 1 charging (GPO) with associated security, usage logging, billing and demand management.
  This means that retro-fitting existing apartment blocks with 100% car-park coverage can be done at a fraction of the current cost and apartment occupants will increasingly be able to charge in their own car spot overnight.
- Sharing apps capable of advertising and utilising privately owned chargers when not in use by owners.
- Accommodation, workplace, shopping centre and other public space charging options are also expanding in availability and functionality.

Where possible and available, EV users are more likely to utilise personal, off-street, or fast charging options where available.

All of this is to say that kerbside AC EVCI does represent part of the solution for encouraging EV uptake. However, it is far from universal and is more likely that its usage case will complement other solutions in specific areas rather than be the reason why/why not there is a significant uptake of EV's in the community.

Discrimination

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

As indicated previously, several DNSPs are exploiting the existing weaknesses in the Ring-Fencing rules to divert staff and resources to compete unfairly in contestable electricity service markets via their respective RESPs.

There would be a significant incentive for CPU to suppress third party competition for kerbside/pole mounted EVCI, which they could achieve via a variety of methods.

NECA considers that discrimination and bad-faith bargaining by CPU DNSPs has already been occurring in the Victorian jurisdiction.

NECA also considers that the AER is ill equipped to monitor or constrain discriminatory behaviour by the DNSPs or compliance with specified conditions.

Waiver conditions, if granted

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

No, the far better outcome would be for the AER to set aside this waiver application and establish a project to ensure that all DNSPs

i. publish an open access policy and standardise FAA rates and conditions for pole mounted EVCI providers
ii. are subject to performance criteria for FAA and connection approval times
iii. support the rollout of public EVCI by supporting the businesses with a legitimate right to own public EVCI'
iv. strengthen Ring-Fencing rules to ensure DNSP staff are not diverted from direct control services to work on contestable electrical services.

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?

The waiver should not be granted on the basis that

i. it is unnecessary
ii. it is clearly anti-competitive
iii. provides no benefits that cannot be achieved by utilising existing suppliers and/or the DNSPs RESP

Rather, the AER should urgently review the Ring-Fencing guidelines to ensure their full intent, of

- ensuring that RESPs do not gain unfair advantages in competitive markets, and
- preventing DNSPs from discriminating against providers of other electricity services,

is realised.

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?

CPU appear to have assumed in their application, and the AER appear to have accepted this, that the industry participants need data from a trial such as this and/or that the industry is not already substantially

capable of acquiring suitable data and information, analysing that data, engaging directly with planning/government entities, or deploying EVCI in a responsible and efficient manner.

The EVCI industry does not need such data or metrics from DNSPs that are able to game and manipulate them to their own ends without adequate scrutiny. The EVCI industry does need the AER to support the objectives of the Ring-Fencing guidelines and the National Electricity Objectives to prevent the completely unnecessary expansion of regulated businesses into competitive markets.

Additional commentary on waiver application.

Requested waiver items

CPU have requested a waiver from the requirements in clause 3.1 and 4.2 of the Ringfencing Guideline.

Clause 3.1 – Legal Separation

The statement made in the CPU submission that

- '**We consider that the networks' proposed EVCI services may be provided in connection with the networks' distribution systems and may, accordingly, come within the NER definition of 'distribution services'**.'

is a deliberate and self-serving mis-interpretation of the National Electricity Rules. If the AER were to accept this statement without correction it would effectively encourage further speculation about what could be included as a 'distribution service'.

NECA makes the rather obvious statements that EVCI installations,

- are explicitly not a 'distribution service'
- are not within the remit of DNSP's to speculate on or decide optimum deployment locations for the benefit of current EV users or EV uptake
- are the subject of an active and growing competitive market

The application for a waiver from section 3.1 as written does not make any sense. To be a valid and fair expression of the desired outcome and reflective of a proposed narrow trial, it would have to read something like

- 'a waiver is sought to the restriction imposed by clause 3.1(b) to allow for a limited number of EVCI installations to be considered a distribution service for the purposes and period of the trial'

In which case for a waiver request for Clause 4.2 becomes redundant.

Clause 4.2 – Functional separation – offices, staff, branding and promotions

CPU's application is too broad in its statement.

If, as they appear to concede 'the EVCI services are unlikely to be classified by the AER as 'direct control services'' then there is no case for the use of staff from the regulated business to install or maintain the devices. This could be contracted to suitably qualified providers in the market (an RESP or other competitor).

If as they state 'the networks propose to use staff from the regulated business to maintain EVCI', then there is no need to consider a waiver for all of 4.2 or the modification of other provisions in 4.2 as they relate to the need to maintain separation from the RESP so far as they relate to contestable services that the RESP provides independently.

In short, unless the RESP is involved in tendering the provision of the services for the trial itself, then there is no additional compliance obligations or cost borne by the DNSP resulting from the operation of clause 4.2.

Reasons given by CPU as to why the waiver should be granted

"2.4.1 The trial will result in significant Victorian electricity consumer and public benefits, and will further the National Electricity Objective"[4]

CPU make several statements unsupported by tangible data or evidence, or non-sensical statements in this section of their application. Specifically

- *"the networks can use their scale to create efficiencies in their delivery of EVCI services, which will result in lower prices for Victorian electricity customers obtaining EV charging services"*

  What efficiencies?

[4] https://www.aer.gov.au/system/files/2025-04/CPU%20-%20Ring-fencing%20Waiver%20Application%20-%20EVCI%20-%20December%202024_0.pdf

How (specifically) will they result in lower prices, and for whom? Victorians obtaining EV charging services, or electricity customers in general?

- *"the networks have a wide base of dedicated and experienced staff that can install and maintain the EVCI to ensure Victorian electricity customers receive reliable and high-quality supply of electricity when they are obtaining EV charging services"*

  What is CPU implying here? That the private suppliers and market competitor are incapable of delivering a 'reliable and high-quality' service or have workforces that do not include dedicated and experienced staff?

- *"the networks do not face the same challenges in installing and maintaining EVCI as other potential suppliers, which will allow faster deployment and expedited uptake of EVs by Victorian electricity customers. This will assist Victoria to achieve its net zero target, without needing to impose unnecessarily high costs on Victorian electricity customers to achieve this goal."*

  What challenges would those be?

  The most significant challenges faced by other potential EVCI suppliers is the obstructive and sclerotic response of the DNSPs to FAA's and EVCI connection applications.

"2.5 Long term interests of customers"[5]

In this section, CPU imply that competitors are concerned that the DNSPs will simply out-compete them by achieving 'economies of scale' that others cannot achieve and that this is to the benefit of customers.

To be clear, competitors in EVCI market are concerned that

- the manipulation and discrimination already experienced will simply become the normal mode of operation,
- competition/innovation/investment will be stifled,
- EV customers will be left with a singular solution,
- Communities and planning authorities will lose agency over their own public spaces and/or find that their options to negotiate their own solutions is reduced,
- Electricity customers will experience increased energy costs and/or reduced distribution services.

[5] https://www.aer.gov.au/system/files/2025-04/CPU%20-%20Supplementary%20Ring-fencing%20Waiver%20Application%20-%20EVCI.pdf

The CPU submission then further attempts to re-interpret the AER's commentary (quoted below) about the Ring-Fencing guideline to justify the direct involvement of a DNSP into a contestable market.

> *Further, we consider it is not the intention of the Guideline to remove all competitive advantage, only anti-competitive advantage. We note that we can only regulate DNSPs, not RESPs or other affiliated entities. The intention of the Guideline is to remove barriers to competition for the provision of contestable electricity services by requiring DNSPs to ring-fence this business from the provision of direct control services. In this way, ring-fencing prevents a RESP from gaining any anti-competitive advantage over a competitor or potential competitor by way of cross-subsidy or discrimination from a DNSP. The Guideline does not seek to remove any advantage a RESP may hold where that advantage is not achieved by cross-subsidy or discrimination from the DSNP, for example, economies of scale. (p.25, AER Ring-fencing Guideline Version 2 – Explanatory Statement)*

This commentary clearly indicates that the guideline is not intended to hamper an **RESP** from utilising advantages gained from things such as 'economies of scale' but is intended to ensure that DNSPs do not confer an anti-competitive advantage over competition by way of cross-subsidy or discrimination from the DNSP to the RESP. It can in no way, be taken to indicate that it is/was the intent of the guideline to permit a DNSP to divert resources away from regulated activities to participate directly in other services.

These are a non-sensical reframing of the problem and the AER commentary to effectively justify neutralising the Ring-Fencing guideline itself.

Conclusion

The waiver application from the CPU DNSPs is based on several central assertions.

1. that there is a market failure, or multiple market failures, which warrants their direct involvement, and
2. that they can deliver a more efficient and reliable roll-out of pole mounted EVCI than existing suppliers

3. the DNSPs are an appropriate authority to determine community needs and allocation of sites for EVCI services
4. EV uptake will be accelerated by the DNSP roll-out of EVCI in neglected locations

With respect to item 1, the CPU submission has failed to provide meaningful information to support this assertion and are implicated in the suppression of competition that would resolve any such market failure.

With respect to item 2, there is nothing stopping the CPU DNSPs from utilising their existing RESP or establishing a new one and demonstrating their ability to deliver a more efficient and/or customer focussed outcome than other market participants by participating in the EVCI market fairly.

With respect to item 3

As indicated above, it is not within the remit of DNSPs or the AER to over-ride local government or state planning authorities in determining the best placement, solution, or provider for their communities.

With respect to item 4

The factors contributing to EV uptake are varied, but to suggest that a failure to provide DNSP owned pole mounted EVCI is central to inspiring rapid uptake is not supported by genuine analysis or in consideration of newer developments and EVSE technologies.

In summary, the waiver application by CPU presents a proposal to set aside the entire purpose of the Ring-Fencing Guidelines on the basis of false assertions, imagined benefits to EV customers and energy consumers, and a dismissal of the capabilities of industry competitors in general. It asks the regulator to permit a trial for regulated monopolies to operate additional equipment with perverse incentives

i. to create the perception of un-serviced markets by discouraging competition, which can be achieved through several means at the disposal of the DNSP, and
ii. install and maintain potentially inefficient/unwarranted services that attract a regulated rate of return whilst socialising the cost and risks of stranded assets to energy consumers.

For these reasons, NECA strongly advocate for this waiver application to be rejected and for the AER to engage in meaningful reform of the Ring-Fencing framework to secure the best possible outcome for energy consumers and competition in the provision of electricity services.

To arrange NECA's further participation discuss any matter relating to the impact of energy network regulation on the electrotechnology industry, please contact NECA's Head of Government Relations and Regulatory Affairs, Kent Johns, at [redacted] or on [redacted]

[redacted]

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