13 June 2025



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

Dear Ms Jolly,

RE: Submission to the CitiPower, Powercor, and United Energy proposed ring-fencing waiver

Origin Energy (Origin) appreciates the opportunity to provide a response to CitiPower, Powercor, and United Energy (CPU) proposed ring-fencing waiver for deployment of kerbside EV chargers on a trial basis and the accompanying Australian Energy Regulator (AER) consultation paper.

Origin does not support the proposed waiver. There is an existing and growing competitive market for the provision of electric vehicle charging infrastructure (EVCI). CPU has not demonstrated that there is a deficiency in the market that would remain unfilled if not for provision by CPU. Given its access to network data, control of the connection process and costs and its role in setting access prices and associated conditions, together with an expressed desire for greater network involvement in EVCI deployment, we consider CPU has a significant conflict of interest. We are concerned that CPU can use its information asymmetry to discriminate against third-party providers and utilise the waiver process to expand its role into the provision of EVCI.

Origin considers that effective ring-fencing of distribution network service providers (DNSPs) seeking to operate in competitive environments is essential in promoting the long-term interest of consumers. Effective competition policy and the promotion of competition is the most efficient means of promoting the long-term interests of consumers and achieving the National Electricity Objective (NEO).

The default position should be competitive provision of EVCI. It is important that the AER remains focused on long-term benefits, rather than short-term gains. While we appreciate that the EVCI market is still developing, allowing CPU to participate in competitive provision of EVCI has the potential to impact current and future competitive provision. The focus of the AER should be on facilitating the competitive market, ensuring that third-party providers are afforded every opportunity to participate and that access to the market is available on equal terms. Providing this waiver sets a precedent, networks are acceptable providers of EVCI. It is important that the AER send the right signals to potential domestic and international providers to incentivise investment and innovation in the competitive EV charging market.

Similarly, CPU and DNSPs more broadly should focus on facilitating connection and use of EVCI and ensuring that new charging infrastructure can be connected efficiently and rapidly. This includes streamlining site identification, a timely and affordable connection process, and accommodating public PV network tariffs. These should be the key areas of focus for networks, not leveraging its monopoly status to gain entry into the competitive market of EVCI provision.

Our response to selected stakeholder questions is provided at Attachment A.

If you have any questions regarding this submission, please contact Gary Davies in the first instance at

Yours sincerely

Sean Greenup Group Manager Regulatory Policy 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?

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. While it may be the case that there are few commercial EV chargers deployed in the proposed network areas, this absence does not necessarily mean there is no interest from third-parties.

CPU indicates that third-party operators face significant barriers, particularly due to regulatory delays and the complexity of obtaining necessary approvals. They also suggest that the lack of a streamlined process for deploying EV charging stations often leads to prolonged approval times, especially in regional areas. A number of these barriers are related to issues which CPU as the network owner has influence. It is important that CPU examine the reasons for a lack of competitive deployment and demonstrate that CPU itself is not inhibiting third-party engagement.

In the long-term interest of consumers, the default position should be competitive provision of EVCI. In the case of the proposed trial, it is equally open to CPU to facilitate third-party deployment rather than deploy EVCI itself. We consider that CPU should be required to demonstrate that it has thoroughly examined the potential for third-party partnering and that competitive provision is not a viable option. CPU should also detail the steps it has made to improve or streamline its connection process for potential third-party EVCI deployment.

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

We acknowledge that there are potential benefits from the trial, including network learnings but consider that these benefits and learnings are not dependent on who owns and operates the EVCI. These benefits can be just as readily provided by a third-party competitive provider and do not provide a sufficient argument for CPU deployment of EVCI.

While there may be short-term benefits associated with an expedited deployment of EVCI by CPU, competition is the most effective means of meeting the NEO by driving efficiency and delivering long-term benefits to consumers in terms of prices, choice, innovation and service quality. CPU's focus should be on improving and streamlining its processes to support the development of a competitive market.

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

CPU has not provided evidence that it can provide EVCI more cost-effectively than other third parties – there is no breakdown of costs or comparative assessment against third-party providers. We believe that any potential short-term cost advantage that CPU may be by virtue of its monopoly status.

The purpose of ring-fencing is to ensure that regulated monopolies do not use their monopoly power to gain an unfair advantage in competitive markets. It is important that CPU provides a detailed breakdown of the cost categories and associated costs demonstrating where CPU has a cost advantage and that any cost advantage is not achieved by virtue of CPU's monopoly status and control over network connection.

CPU must also demonstrate that costs associated with installing and maintaining EVCI are not subsidised by its regulated services. Any cost allocation applied by CPU should be rigorously reviewed. Compliance with approved Cost Allocation Methodologies (CAMs) is a first-order requirement – a detailed assessment of cost allocation is required to ensure that there is no cross subsidy between CPU's regulated and unregulated activities. Any advantage to the CPU competitive service provider, no matter how small, has the potential to disadvantage competing third-party providers and result in sub-optimal consumer outcomes in the long-run. Accordingly, we consider that no materiality threshold should be applied when assessing costs allocated between CPU and their competitive service provider.

To the extent there is a cost differential, the AER needs to assess the materiality of that differential and whether it justifies CPU's entry into a competitive market. The AER should make clear its decision-making process in this regard, including how it intends to quantify the consumer benefit versus the potential impact on the current and future competitive market.

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

There is the potential for significant growth in the provision of EVCI. Consistent with economic theory, we consider that the competitive market will deliver the most efficient consumer outcomes, particularly in terms of price, consumer choice and innovation.

In assessing this waiver application, the AER must have regard to the NEO. The NEO and competitive provision of services are mutually supportive; the competitive market helps to achieve the NEO's goals of efficient investment and operation, as well as ensuring the long-term interests of consumers. CPU's involvement in the market has the potential to stifle that development, even if inadvertently. We consider that, to the extent CPU seeks to participate in the competitive market, they should do so on a level playing field i.e. via an appropriately ring-fenced entity.

It is important that the AER remain focused on long-term benefits, rather than short-term gains. While we appreciate that the EVCI market is still developing, allowing CPU to participate in competitive provision of EVCI has the potential to impact current and future competitive provision. The AER should focus on facilitating competitive provision by ensuring that the framework provides equal opportunity for all participants.

Providing a waiver to CPU for a service that should and can be provided by the competitive market sets a concerning precedent. It effectively provides an implicit signal to policymakers and Governments that DNSPs are a viable provider of EVCI. The provision of EVCI is a developing but fast-growing service sector, with significant potential for involvement by experienced international providers. It is important that the regulatory framework send the right signals about provision of EVCI to encourage future investment.

Retailers and charge point operators are already investing in differentiated charging experiences for consumers. Allowing CPU to subsidise infrastructure with low capital costs distorts investment signals and stifles innovation. Charge point operators and retailers are customer focused and experienced in providing innovative solutions and products to customers. Allowing CPU to provide EVCI means that over time consumers will potentially lose out on price competition, innovation, and tailored services.

With CPU recovering its costs and controlling the asset, there is little incentive for CPU to deliver efficient, cost-reflective pricing that encourages smart charging behaviours. This delays the development of marketdriven pricing models. Even if CPU claims this entry to the market will not affect network charges, the risk remains that trial learnings or costs creep into regulated asset bases in future resets - effectively forcing all customers to subsidise non-essential infrastructure.

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

There is an obvious incentive for CPU to discriminate – to expand their services (and revenue) and potentially their future regulatory asset base. Energy Networks Australia has already expressed its desire to classify EV chargers as a distribution service to be provided by DNSPs.¹ We are concerned that CPU and DNSPs more broadly will take advantage of the waiver process particularly given the information asymmetry that exists in favour of CPU and DNSPs to expand its role into the provision of EVCI. If allowed to do so, there will be no incentive for CPU to improve or streamline the EVCI connection process for third-party providers. CPU and networks will continue to argue that they have a cost advantage over third-party providers – an advantage obtained by virtue of its monopoly status and control over key aspects of the EVCI deployment process.

The AER needs to establish a precedent that the provision of EVCI is a competitive service. This is exactly why the ring-fencing guideline exists – to ensure that DNSPs do not use their monopoly status to enter competitive markets.

There is considerable scope for DSNPs to better align connection requirements and provide more consistency and transparency in approval responses and timeframes to facilitate EVCI. CPU (and DNSPs)

¹ Energy Networks Australia, 'The Time is Now – Getting Smarter with the Grid', 6 August 2024, p.2.

should be seeking to reduce the complexity and time of the connection process, promote standardisation across networks and addressing public EV tariff reform to incentivise the rollout of EVCI. In addition, CPU should provide publicly available information about site identification, assessment criteria, and associated grid capacity to assist third-parties in identifying viable charger locations.

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

Notwithstanding our concerns, we consider the proposed conditions are reasonable. Details of the site identification process and gap assessment should form part of the initial waiver application, as should include demonstration of the process for determining third-party interest in the EVCI rollout. Nevertheless, if a waiver is granted, we would expect sufficient information for potential EVCI providers to fully understand the CPU decision-making process. Providing explicit and transparent information on the connection process, including timing and costs would provide benchmarks for future third-party providers. Similarly, the tender process for procuring EVCI should be both transparent and extensive.

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?

Extensive and detailed information on the process for cost allocation is critical. We consider that a more granular assessment of cost allocation than provided for under the CAMs is required to ensure that there is no cross subsidy between regulated and unregulated activities. Any advantage to CPU, no matter how small, has the potential to disadvantage competing third-party providers and result in sub-optimal consumer outcomes in the long-run.

In addition to an enhanced cost allocation process, we support a comprehensive compliance framework which will ensure that the development of the contestable energy services is not undermined by cross-subsidies or discrimination.

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 should be required to provide:

- Detailed financial and contractual data, including EVCI costs and terms and conditions for the charge point operator.
- Audited financial data, including the process for cost allocation, labour cost rates and maintenance cost inputs.
- EVCI performance, including outages/faults, type of faults, reasons for faults, outage times and rectification process and maintenance time/cost.
- Details of the time taken to connect EV chargers for CPU vs third-party providers. This includes time from the original application to approval of application and 'go live' and associated assessment time (milestones) and detailed costing associated with each step in the process.
- Usage of CPU's EV chargers, on a consumption and frequency of use basis. This should include individual charger:
 - Utilisation when and how frequently the charger is used.
 - Charge sessions the daily number of charge sessions as well as a breakdown of each charge session duration.
 - Energy consumption.
 - Contribution to carbon reduction.
- Quantified customer benefits.

Data should be freely available to stakeholders rather than relying on CPU to share "insights". There should be open access to a wide breadth of real-time critical operational data to allow retailers to drive optimisation, customer experience, and new value propositions.