AUSTRALIAN ENERGY REGULATOR

Contact Officer: Laura Considine
[redacted]

22 October 2025

Lauren Fetherston
Head of Regulatory Policy and Compliance
CitiPower, Powercor and United Energy

Sent by email to: [redacted]

Dear Ms Fetherston

Re: CitiPower, Powercor Australia, and United Energy (CPU) Distribution ring-fencing waiver application for electric vehicle charging infrastructure

Thank you for the application received on 17 December 2024 for a waiver from the obligations in clauses 3.1(b) and 4.2 of the Ring-fencing Guideline (electricity distribution) ('the guideline') to enable CPU to provide and maintain 100 kerbside EV chargers (EV charging infrastructure – or EVCI) across CPU's distribution areas, as part of a trial.

CPU have provided a further 3 submissions in support of its initial application:

- A supplementary submission in response to the AER's questions, received on 7 March 2025
- A supplementary submission on its operating model, received on 15 May 2025
- A submission to the AER's consultation paper on CPU's waiver application, received on 11 June 2025.

CPU's proposal

CPU are seeking a waiver to install and maintain EVCI across its distribution area, including using its staff to maintain the equipment for the duration of the waiver. CPU propose to own the EVCI and 'lease out' commercial access to multiple e-Mobility Service Providers (e-MSPs), who will interface with consumers and be responsible for setting of customer charging rates and settling bills. CPU has requested that the waiver commence as soon as possible and last until mid-2031.

AER assessment and decision

Under clause 5.3.2 of the guideline, before granting a waiver the AER must have regard to the National Electricity Objective (NEO), the potential for a distribution network to engage in cross-subsidisation of services and discriminatory behaviour, and whether the costs of compliance with the guideline outweigh the benefit to consumers of that compliance, including in relation to impacts on competition.

The AER has published a decision containing our assessment of this waiver application against the abovementioned mandatory criteria. This can be found on the AER's website.

The AER's decision is to grant a waiver with conditions from clauses 3.1(b) and 4.2 of the guideline, to allow CPU to conduct a trial to test a specific set of objectives for demand management of EVCI at sites with network constraints, and to share those learnings with all stakeholders. We believe that the potential risks of granting this waiver to allow the trial are warranted, given the network insights and learnings that are possible and given that many of these risks are mitigated via strict waiver conditions on site selection, competitive neutrality, transparency in processes and publication of learnings. On balance, the AER is satisfied that granting this waiver, subject to conditions, is in the long-term interests of consumers.

This waiver will expire on 30 June 2031, unless varied or revoked sooner.

Waiver conditions and duration

To limit the potential competition risks associated with CPU's waiver, the AER has imposed the conditions below, which are also contained in the decision that we have published.

Trial conduct

1. Allow CPU to install up to 100 EV chargers of which at least 5% must be V2G chargers. CPU must maintain a publicly accessible, current register of the final list of the EVCI installations on its website. This should contain information on the address, e-MSPs available, charging speeds, V2G functionality, and other relevant information.
2. CPU must charge itself annual access fees equivalent to the annual median access fees charged to unrelated[1] third-party EV charging operators accessing its poles.
3. At the conclusion of the trial, CPU must elect to undertake one of the following options:
   a) Seek a new ring-fencing waiver from the AER to continue operation of the EVCI until failure or decommissioning; or
   b) Offer any EVCI that remains operational to contestable providers (for example, via competitive tender process), including access to the established charging site (subject to any applicable pole access rental charge); or
   c) Uninstall any EVCI that remains operational.
4. Until the commencement of the forthcoming Victorian 2026-2031 regulatory reset period:
   a) CPU must negotiate in good faith the terms and conditions of access to pole assets, for third-parties who seek access to CPU's poles.
   b) CPU must publish on CPU's website(s) a negotiation procedure document for third-party pole access seekers and a standardised master FAA terms and conditions of pole access (including annual lease fees and other charges, with clear justification for its charges based on a cost-recovery basis with reasonable cost adjustments in providing pole access). This should include steps involved in processing kerbside EV charging connections and pole access requests, so that stakeholders have greater certainty about the application process. This is to ensure third party applicants have access to commercial information they may reasonably require to effectively negotiate with CPU.

One-off reporting

5. CPU must make reasonable efforts to ensure wide market participation for engaging e-MSP partners. CPU must publish on CPU's website(s), and notify the AER of its publication, a report that, at a minimum, provides evidence to demonstrate that it has 'tested the market' through a range of efforts. This may include expression of interest,

[1] An unrelated third-party being an entity that is not a related electricity service provider in relation to CPU as defined in s1.4 Ring-fencing Guideline (electricity distribution).

competitive tender process and/or request for proposals transparently. This report should be published as soon as is reasonably practicable and no longer than 12 months after the start of the trial.

6. CPU to identify specific EVCI sites for its trial consistent with the following approach:
   a) within 6 months of this AER decision, publish on CPU's website(s), and notify the AER of its publication, a listing of the final EVCI sites, with supporting evidence, demonstrating that these selected sites appropriately balance:
      i. locations where there are network constraints, which ensure greatest learnings about demand management to address network constraints.
      ii. diverse council engagement;
      iii. high potential for EV charging load
      iv. sites that are not subject to a current connection request by a third-party.

Annual reporting

7. CPU must submit, to the AER, along with its annual ring-fencing compliance report (per section 6.2 of the Electricity Distribution Ring Fencing Guideline), an audited financial report on an annual basis, which sets out the financial performance of the trial (including a breakdown of the capital, operational, maintenance costs for the EVCI, and revenues earned), including an attachment containing a breakdown of the access fees charged to itself and unrelated third-parties, and other relevant information, to evidence that condition 2 has been met.
8. CPU must publish on CPU's website(s) at the same time as its annual ring-fencing compliance report, and notify the AER of its publication, data and information annually, provided in a downloadable tabular format (e.g. csv), on:
   a) all relevant learnings, including but not limited to:
      i. charger demand and usage, and network impacts (e.g. power quality, voltage deviations etc, at the distribution transformer level);
      ii. data on demand response to dynamic pricing signals;
      iii. timeframes for energising EV chargers for CPU;
   b) performance of CPU's EVCI in terms of outage frequency, type of faults, duration, and maintenance response / resolution timeframes.
9. CPU must annually publish on CPU's website(s), at the same time as its annual ringfencing compliance report, and notify the AER of its publication, the expected timeframe for energising third party EV chargers, resulting timeframes, and reasons for rejecting any applications or elongated negotiations. This includes time from the original application to approval of application, approval to energisation, any associated assessment milestones, disaggregated by site.

Compliance and review matters

The AER has broad discretion to review and revoke ring-fencing waivers that it grants, at any time on its own initiative if there are grounds to do so. Pursuant to section 5.5 of the Guideline, in deciding whether to vary or revoke the waiver, the AER will have regard to the same matters for granting the waiver under clause 5.3.2 of the guideline.

A minimum of 40 days' notice will be given to CPU that the AER is considering a variation or revocation of this waiver.

We also remind CPU that under clause 6.3. of the guideline, CPU is required to notify the AER in writing within 15 days of becoming aware of a breach of its obligations under the guideline.

If you would like to discuss this matter further, or have any questions, please contact Laura Considine, Director Ring-Fencing, on AERringfencing@aer.gov.au in the first instance.

Yours sincerely

[redacted]

Jarrod Ball
AER Board Member

Sent by email on: 22.10.2025