AUSTRALIAN ENERGY REGULATOR

July 2026

AER workshop: Summary of stakeholder feedback

Review of ring-fencing and shared asset guidelines – Contestable Service Providers and Industry Bodies and Groups

- **What:** Stakeholder workshop on the AER's review of the Ring-fencing Guideline (electricity distribution) and Shared Asset Guidelines.
- **When:** Tuesday, 21 July 2026, 10:00 am – 12:00 pm AEDT.
- **Where:** Online (Microsoft Teams).
- **Who:** Representatives from Contestable Service Providers and Industry Bodies and Groups.
- **How:** Guided discussion facilitated and AER staff, with additional input provided through the Microsoft Teams chat. A transcript was recorded for AER internal purposes.
- **Why:** The purpose of the workshop was to obtain practical feedback on how the Ring-fencing Guideline and Shared Asset Guideline are operating, including what is working, what is not working and what may need to change.

Background

- The workshop formed part of the AER's initial consultation on its joint review of the Ring-fencing Guideline (electricity distribution) and Shared Asset Guideline.
- The review is considering whether the guidelines continue to manage the risks of cross-subsidisation, discriminatory conduct and unfair competitive advantage, while ensuring consumers receive an appropriate share of the benefits arising from the use of regulated assets.
- The workshop used practical examples and scenarios to support informed discussion of how the current arrangements operate in practice, whether the identified problems are material, the outcomes the guidelines should support and which aspects of the arrangements may need to change.
- This consultation summary reflects the views of stakeholders which were shared with the AER during the session. The summary was prepared by the AER based on the transcript of the discussion.

What we heard from stakeholders

Discussion 1 – Related electricity service provider (RESP)

Stakeholders generally agreed that the current terminology and treatment of negotiated and unregulated distribution services creates uncertainty, particularly where services labelled as contestable can only realistically be provided by a DNSP. There was strong consensus that functional separation is important where DNSPs or affiliated entities operate in markets alongside third parties, but stakeholders differed on whether functional separation is sufficient or whether stronger legal separation or clearer service-classification boundaries are needed. Key pain points included lack of leverage when negotiating with monopoly DNSPs, limited visibility of internal RESP arrangements, uncertainty about cost allocation, and concern that DNSPs or affiliates may have easier access to information, staff, assets and connection pathways. There was also confusion about the meaning of “contestable” in the guideline when applied to negotiated distribution services.

Specifically, stakeholders noted:

- Functional separation is critical to a healthy competitive landscape because third-party providers consider themselves at a marked disadvantage where DNSPs or affiliated entities have access to information, connection pathways or assets that are not available on equivalent terms to competitors.
- Competition and investment could be undermined if investors do not have confidence that regulated and unregulated activities are clearly separated; highlighting that functional separation as an existential issue for investment in public EV charging and non-network services.
- Negotiated distribution services can be difficult to characterise as genuinely negotiated where the counterparty is a monopoly DNSP, because third parties have limited bargaining power and may face inconsistent approaches across jurisdictions and networks.
- The current framework may create complexity that DNSPs can use to delay, increase cost or obscure accountability, particularly where providers need access to regulated assets such as poles or connection services.
- The term “contestable” is confusing when applied to services that only DNSPs can provide, such as certain negotiated distribution services or access to monopoly assets.
- That the costs of stronger legal or functional separation would be outweighed by benefits from a more vibrant competitive market, lower distribution costs, reduced concentration risk and improved outcomes for consumers.
- There is a risk that combining negotiated or unregulated services with direct control services creates cost allocation problems and makes it difficult to demonstrate that regulated consumers are not subsidising competitive activities.
- Practical examples where third-party accredited service providers may face slower design certification, outage access or equipment availability than affiliated entities, suggesting that functional separation alone may not create a level playing field.

- Staff sharing was identified as a risk where DNSP staff may be diverted from direct control services to compete in contestable markets, even where cost allocation rules exist.

Discussion 2 – Functional separation & RESPs

Stakeholders broadly supported the intent of functional separation but strongly questioned whether current obligations are operating effectively. There was consensus that existing arrangements do not provide sufficient assurance of competitive neutrality, particularly around shared staff, branding, information flows and use of regulated assets. Divergence emerged on the preferred remedy: some stakeholders favoured strict prohibitions on DNSPs or affiliates operating in contestable markets, while others supported tighter exemptions, clearer rules and more transparent reporting rather than a complete prohibition. Key pain points included perceived loopholes, limited enforcement, insufficient penalties, unclear reporting, and uncertainty about whether shared staffing or branding arrangements allow preferential treatment. There was limited detailed feedback on physical separation requirements, with most comments focused on staff, information, branding and enforcement.

Specifically, stakeholders noted:

- Functional separation should be assessed from the consumer perspective, considering the costs of ineffective separation alongside the compliance costs for DNSPs.
- The current functional separation requirements are appropriate in intent but are not being adhered to in practice, with concerns that non-compliance has not been escalated, investigated or penalised sufficiently.
- Branding and public communications sometimes appeared to link DNSPs with their affiliates' contestable activities, raising concerns about cross-promotion and brand advantage.
- Concerns that the same DNSP staff may be involved in network connections, tariffs, waiver applications or competitive initiatives, making it difficult to see how information and decision-making are separated in practice.
- DNSPs should either be prohibited from contestable markets or required to make affiliate businesses truly separate, including no shared staff, financial support or privileged data access.
- Support for retaining some flexibility for staff sharing in limited circumstances, such as regional or training contexts, but argued that current exemptions are too generous and should be tightened significantly.
- That functional separation may be ineffective where the service itself is not genuinely separate from the regulated business, such as leasing regulated assets, because the underlying asset access remains controlled by the DNSP.
- The current framework creates uncertainty about cross-resourcing, especially where government funding or emerging technologies increase the scale of DNSP activity in areas that overlap with competitive markets.
- Government-funded DNSP assets, including batteries, can blur the distinction between regulated and unregulated services and make it difficult to identify who bears cost risk and who receives benefits.

- Non-network services are underdeveloped, suggesting ring-fencing and broader regulatory incentives should better support third-party provision of alternatives to network investment.

Discussion 3 – Ring-fencing waivers

Stakeholders strongly criticised the operation of the waiver framework. There was broad consensus among non-network and contestable service providers that waivers are being granted too readily, with insufficient transparency, monitoring or evidence that claimed consumer benefits are achieved. Stakeholders diverged on whether waivers should remain as a narrow flexibility mechanism or be substantially redesigned, but there was strong agreement that the current framework lacks effective tests for market failure, consumer benefit, long-term competition impacts and last-resort provision. Key pain points included perceived erosion of ring-fencing standards, limited visibility of waiver outcomes, concerns about government-funded assets, absence of ex-post assessment, and uncertainty about whether waivers interact appropriately with service classification, cost allocation and shared asset arrangements. Several specific issues were taken on notice during the workshop.

Specifically, stakeholders noted:

- Ring-fencing standards have eroded over time because waivers appear easier to obtain and more frequently granted than originally intended.
- For multi-service assets such as community batteries, relying on forecast allocations without reconciling them against actual regulated and unregulated use may not provide sufficient assurance that cross-subsidisation is not occurring.
- The waiver framework is not operating as intended, alleging discriminatory treatment in connection timeframes, installation requirements and access to network assets during DNSP-led EV charging trials.
- Waiver applications can rely on loose or unreliable claims of market failure, do not sufficiently consider early-stage market development, and may allow DNSPs to compete with their own customers rather than work with them to resolve barriers.
- There should be a stronger “last resort” test requiring DNSPs to demonstrate that third-party providers could not deliver the service or trial outcome before a waiver is granted.
- Investors closely monitor waiver precedents, and uncertainty about their effect on long-term competition may influence investment decisions and cause capital to be directed elsewhere.
- Public submissions to waiver applications often oppose the waiver, yet applications still appear to be approved, raising concerns about how stakeholder evidence is weighed.
- Questions about whether waiver benefits promised at approval, such as lower emissions, higher solar uptake or lower bills, are subsequently monitored or reported, and whether consequences apply if those outcomes are not achieved.
- That waivers for services closely linked to core DNSP functions, such as batteries affecting energy distribution and network planning, should face a much higher approval threshold.
- That greater clarity on whether waivers for government-funded assets are conditional on assets not being added to the regulatory asset base, and whether consumers may otherwise pay twice through government funding and regulated changes.

- That waiver conditions could be used to improve transparency and processes for emerging activities, such as negotiated connections, negotiated tariffs and connection pathways.

Discussion 4 – Shared assets, materiality and benefit sharing

Stakeholders generally questioned whether shared asset arrangements are achieving their intended purpose. There was consensus that transparency is insufficient to determine whether consumers receive an appropriate share of benefits from regulated assets used for unregulated activities. Stakeholders raised concerns that the current materiality threshold and benefit-sharing settings may not provide meaningful consumer benefits, particularly for emerging technologies and multi-use assets. Key pain points included limited public information on revenues and benefits, uncertainty about the interaction with cost allocation, lack of ex-post review, and difficulty understanding who bears risk where assets are government-funded, regulated or commercially operated. There was relatively limited detailed feedback on the precise 1% threshold and 10% sharing proportion, beyond concerns that the current settings may be inadequate.

Specifically, stakeholders noted:

- Shared asset arrangements are not achieving their purpose, but also questioned how the AER will respond if the framework is found not to be working.
- It is difficult to assess whether shared asset arrangements are working because reporting does not provide sufficient public visibility of revenues, benefits or consumer outcomes.
- More transparent reporting and accountability are prerequisites for determining whether consumers receive an appropriate share of benefits from shared assets.
- That clear reporting could also create incentives for DNSPs to think carefully about whether shared asset arrangements are appropriate and whether consumer benefits are being delivered.
- Shared asset arrangements and broader regulatory objectives should better support third-party provision of network support services, rather than defaulting to regulated asset ownership or DNSP-led models.

Discussion 5 – Compliance, monitoring and benefit sharing

Stakeholders generally agreed that current reporting does not provide enough information to assess whether the Ring-fencing Guideline or Shared Asset Guideline is operating effectively. There was strong support for more detailed, standardised and transparent reporting, particularly on staff sharing, waiver conditions, revenue flows, forecast versus actual outcomes, and transactions between DNSPs and related entities. Divergence was limited, although some stakeholders acknowledged that information provided to the AER may not always be made public. Key pain points included reliance on self-reporting and complaints, inconsistent reporting across DNSPs, limited information about staff sharing arrangements, and lack of public visibility over waiver monitoring and shared asset revenue outcomes. There was little feedback suggesting current reporting creates unnecessary burden.

Specifically, stakeholders noted:

- Current staff-sharing reports may not provide sufficient detail to assess whether functional separation is operating effectively, with some reports noting that staff are shared without explaining the number of staff involved, the scope of the arrangements or their justification.
- That reporting across distributors is inconsistent and does not provide a meaningful basis for comparing compliance or understanding the extent of shared staffing.
- Questions about whether information comparing forecast and actual outcomes for community batteries or similar assets is publicly available, and argued that transparency should be improved if only the AER can access that information.
- That transparency should extend not only to information received by the AER but also to information made available to the market, because public scrutiny can help identify issues and improve compliance.
- Support for more detailed and standardised reporting on waiver outcomes, shared asset revenue, staff sharing, information flows and transactions between DNSPs and related entities.

Other feedback outside of the scope of this review

Across the workshop, stakeholders repeatedly raised broader issues that intersect with, but may extend beyond, the guideline review. These included service classification, the role of DNSPs in emerging markets, public EV charging infrastructure, community batteries, government funding, cost allocation, non-network solutions and broader market design. Stakeholders recognised that some matters may sit with other reform processes, but considered them closely connected to the practical effectiveness of ring-fencing and shared asset arrangements.

Specifically, stakeholders noted:

- That the debate should focus on services and market failures rather than particular technologies, because technologies will continue to evolve.
- Service classification, role-of-network questions and the scope of DNSP activity in emerging markets are fundamental to the effectiveness of ring-fencing, even if some issues are being considered through parallel reform processes.
- Concerns that government funding for DNSP assets may crowd out competitive investment or shift risk to consumers, particularly where third parties would otherwise bear investment risk.
- Emerging activities such as EV charging and batteries expose gaps in connection processes, tariff arrangements and service standards, which may need to be addressed through broader reforms as well as guideline changes.