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Thursday, 23 July 2026

Anna Collyer
Chair
Australian Energy Market Commission
GPO Box 2603
SYDNEY NSW 2001

Dear Anna,

Re: Electricity Network Regulation Review package 1 consultation

The Australian Energy Regulator welcomes the Australian Energy Market Commission's (AEMC's) Electricity Network Regulation Review (the review) and the opportunity to respond to the consultation paper on package 1 of the review. The existing framework has provided a strong foundation for the National Electricity Market (NEM). However, it is important to ensure the framework continues to serve consumers and our broader economy by delivering efficient outcomes well into the future.

In our recent [Future of network regulation information paper](#) (June 2026) we highlighted how the system is expected to become more electrified, more decentralised, more digital and more exposed to climate, cyber and supply-chain risk – and therefore increasingly defined by the effectiveness of coordination within the system. This review is a timely opportunity to test whether the current framework can continue to promote efficient outcomes in this context.

Doing so requires a long-term, holistic and transparent approach that identifies and tests underlying assumptions. This will best enable the sector to move forward with confidence that our regulatory framework can achieve the right outcomes, supported by any necessary reforms. Such an approach will also help ensure that any reforms required can be designed as part of a system and implemented in a sequence that reflects their interactions and dependencies.

To support the AEMC's review, our submission focuses on how the aspects of the regulatory framework identified in package 1 work in practice and where we observe potential challenges for the current framework, especially as the role of networks evolves. This review has the opportunity to address these challenges – for example, by improving third-party access to network-controlled inputs, enabling greater flexibility in service classification, and better managing increasingly complex coordination and shared asset risks.

We have also included our initial reflections on the rule change proposals included in package 1. We are concerned that the changes proposed by both Energy Networks Australia (ENA) and Nexa Advisory could lead to less efficient outcomes for consumers. A case-by-case approach can help ensure that regulatory decisions balance trade-offs to deliver the most efficient outcome within a given context.

However, these case-by-case decisions are insufficient in themselves as we move into a future system where efficient outcomes are increasingly dependent on effective coordination. Rather than focusing narrowly on the circumstances in which regulated network businesses should or shouldn't be able to deliver specific services, this review could resolve more fundamental challenges about how to regulate services (such as metering) that perform coordination functions across both regulated and contestable services.

We look forward to continuing to engage with the AEMC as we consider related issues through our ongoing analysis on the future of network regulation, as well as our current review of the Ring-fencing guideline (electricity distribution) and Shared asset guideline.

We support the AEMC's approach to the review

We support the AEMC's approach to collectively consider the service classification, ring-fencing, cost allocation, connections and facility access, and shared asset arrangements under package 1. Together these frameworks regulate the boundary between regulated distribution services and other activities. The context in which these arrangements operate is changing and the implications of this change should be considered holistically, including any interactions with the topics in package 2.

We also support the AEMC's approach to considering the *Clarifying distribution ringfencing in emerging energy markets* rule change proposed by Nexa Advisory and the *Enabling distribution network service provider led electric vehicle charging infrastructure* rule change proposed by ENA as part of package 1 of the review. It is important to consider these proposals against the broader network regulatory framework to better understand their potential implications if progressed.

We support the AEMC developing policy principles to guide the review and recommendations. Policy principles to guide reform design should:

- *prioritise the objective of economic efficiency* – we regulate to promote productive, allocative and dynamic efficiency in the long-term interests of consumers because this will deliver the best outcomes for Australians
- *fit the tool to the task* by selecting a solution that aligns with both the defined problem and the context and operating environment in which the solution needs to function – because some instruments will not be effective unless they are implemented in the right conditions or environment
- *consider the relative benefits of competition or regulation in the delivery of services* when selecting, developing and assessing solutions – because there may be circumstances where a regulated outcome best delivers efficiency or supports the long-term interests of consumers, even though there is the possibility of contestability
- *design the framework as a system*, with awareness of the interactions between regulatory tools – because reform in one area can change the assumptions on which another depends, so sequence and fit across the framework matter
- *promote transparency and access to useable data*, which supports better decision-making, coordination and evaluation of effectiveness – because many of the decisions now creating pressure in the framework turn on what an action is worth to the system
- *plan for success* by defining what this looks like and explicitly addressing implementation and enforcement issues to maximise the chance of achieving it – because compliance, enforcement and monitoring mechanisms must work effectively to deliver intended outcomes.

- *be pragmatic*: Focus on viable reforms with maximum impact – the approach to reform should be pragmatic with an understanding that the success of reform options may depend on enabling environments.

These principles complement the prioritisation framework proposed in the AEMC's package 1 consultation paper. For example, the proposed prioritisation framework asks whether an issue can be separated from other relevant issues. The principles could assist in making that judgement, based on whether separating the issue would make it more difficult to design the framework as a system or to assess the relative benefits of competitive and regulated solutions. Similarly, the prioritisation framework asks whether there are practical solutions that could be implemented. The principles could assist in making that judgement, based on whether the solutions 'fit the task' or can be effectively enforced.

In applying the prioritisation framework, the review should not exclude solutions at an early stage based on implementation challenges – rather, it should first identify which solutions would achieve the best outcomes for consumers in the long term and what implementation challenges may prevent us from achieving these outcomes. Such an exploratory approach will best prepare us to meet the challenges of the future and aligns with the approach we are taking to our own analysis on the future of network regulation.

Designing reforms with our proposed principles in mind would also help ensure solutions are aligned with the assessment criteria. To increase alignment, the criteria of 'outcomes for consumers' and 'principles of market efficiency' could be refined to more clearly reflect the relationship between economic efficiency and consumer outcomes, as well as our shared regulatory objective to promote economic efficiency in the long-term interests of consumers. For example, the criteria could emphasise the likelihood of achieving economically efficient outcomes, rather than focusing more narrowly on principles of market efficiency.

Reform should build on strong foundations, not replace them

The existing framework has supported efficient investment in regulated infrastructure, enabled competitive markets to develop and established governance arrangements to ensure monopoly powers are regulated to ensure they are consistently with the National Electricity Objective (NEO).

As our recent information paper highlighted, the tools that have allowed the existing framework to achieve these outcomes will remain important. However, they may increasingly need to be applied to services and delivery models – such as community-scale batteries, electric vehicle charging and flexibility markets – that do not neatly align with the assumptions under which the framework was designed. This review is well placed to test where these assumptions may no longer hold true and to consider how the existing tools could be improved to deliver efficient outcomes into the future.

For example, boundary regulation sets the rules for how network businesses and their affiliated entities engage with competitive markets, customers and other participants. Each regulatory tool performs a distinct role in defining, governing or making visible the interactions between network businesses, affiliated entities, customers, competitive markets and other participants. For example:

- Service classification identifies the service being provided by a network business and determines the regulatory treatment that follows. The framework classifies services rather than assets, recognising that the same asset may be used to provide different services. For distribution services, classification determines whether a service is treated as a direct control service, negotiated distribution service or remains unclassified. It therefore establishes the starting point for pricing, cost recovery, governance, reporting and the application of other regulatory obligations.

- Ring-fencing sets the main behavioural separation obligations for network businesses. The ring-fencing framework aims to prevent network businesses from leveraging their regulated monopoly position, regulated assets, information, staff, systems or customer relationships to provide inappropriate advantages to itself, an affiliate or another related business in a competitive market. It operates through obligations such as legal separation, controls on information sharing, staff sharing, branding, affiliate dealings and non-discrimination, and reporting and compliance processes.
- Cost allocation helps ensure that regulated customers fund regulated services while costs associated with unclassified or contestable services are allocated to those services. A network business's Cost Allocation Method (CAM) provides the basis for attributing network costs to regulated services, supporting service classification, reducing the risk of cross-subsidisation and giving the AER and stakeholders visibility of how costs are recovered across different categories of services that it provides.
- The Shared asset guideline provides a mechanism for consumers to share in the value created when assets funded through regulated revenues are used for other purposes.
- Facility access governs how third parties may obtain access to facilities or services controlled by network businesses. It is distinct from connection services, which allow a customer to attach to and use the network. Classification and access provisions establish the pathway for obtaining the service and settling the terms of access.
- Connections regulation sets the process for connection, technical requirements and the respective obligations of customers and distribution businesses. It provides the point through which customers receive electricity supply and, where relevant, use the network in accordance with the rights and obligations attached to their connection.

However, these regulatory tools were designed in a different context. Changes in the energy system are increasingly challenging their operation. For example, emerging services increasingly rely on coordination across both the regulated network and competitive providers. These challenges raise questions about not just the effectiveness of specific boundary regulation mechanisms, but the nature of boundary itself and how it should be regulated. We highlight some of these challenges and questions below.

Efficiency should remain the central objective of reform

We regulate electricity services to promote all aspects of economic efficiency because it will maximise the welfare of Australians and achieve broader objectives for the long-term interests of consumers. Ensuring that electricity networks are efficient has a ripple effect across the economy and reduces costs for consumers over time. An efficient energy system is beneficial for all Australians.

We also regulate to protect consumers. For example, regulation of electricity networks protects consumers from unnecessary costs while ensuring the system delivers what they value, such as a safe and reliable supply of energy. Regulation can also make systems fairer and more equitable.

Network businesses – especially distribution businesses – increasingly interact with customer-owned energy resources, digital technologies, flexible demand, electric vehicles and new service providers. Their operational role is evolving as greater coordination is required across a more decentralised system, with network service providers not just building and maintaining physical infrastructure but also enabling, coordinating and procuring new energy services.

This is directly relevant to how the review should think about the boundary between regulated and contestable activity. Distribution businesses increasingly make decisions that

affect parties outside the regulated business. That pressure will increase as distribution businesses take on a formal Distribution System Operator (DSO) role. Distribution businesses will increasingly coordinate customer energy resources, flexible load, operating envelopes, network information and access to constrained capacity. Those functions can benefit consumers, but they can also affect how other providers compete in emerging markets.

As set out in the December 2025 report from the Consumer Energy Resources Taskforce ([Redefining roles and responsibilities for power system and market operations in a high CER future](#)), the DSO role is expected to span:

- active system management of network assets and flexible loads in a two-way flow environment
- enabling CER flexibility through distribution-level tools and market interfaces that value, incentivise, procure and coordinate flexibility services
- transmission–distribution coordination to support operational visibility and system security
- integrated distribution system planning conducted alongside AEMO and transmission businesses.

Each of these functions raises the same underlying question – whether the existing framework, which was designed primarily to govern network expenditure and investment, provides adequate tools to govern the quality, competitive neutrality and effectiveness of how coordination functions are performed.

As networks evolve and the system becomes more dynamic, the framework should continue to support efficient investment, consumer confidence, effective competition where competition is possible and efficient, and the development of new services and markets that benefit consumers. To do this, we encourage the AEMC to investigate areas where we have observed emerging or potential challenges to the current framework. For example:

- Does the framework sufficiently support outputs customers value and appropriately share benefits and risks?
- Can regulatory settings ensure timely and efficient access to inputs controlled by regulated networks (including poles and wires, energy storage assets, land and network data)?
- Do the framework's current mechanisms and tools create effective incentives for efficient network behaviour as the energy system evolves? For example:
 - Can the framework promote efficient risk management and network utilisation in an environment of increasing demand uncertainty?
 - Does the framework sufficiently support cheaper flexible alternatives over asset build?
- Is a regulatory framework based on economic incentives sufficient in a system that will be increasingly impacted by not only what a network business spends but also how it provides access, coordination and capacity?

These questions are relevant to the topics which the AEMC will consider in both package 1 and package 2, and to the effectiveness of the network regulation framework more broadly. The last of these questions also has near-term practical significance.

Under the reforms recommended by the CER taskforce, DCCEE is designing rules-based DSO expectations, rights and obligations, with the AEMC to determine supporting incentive arrangements through this review. The instruments that would give DSO obligations practical effect all operate by reference to service classification. Most of the regulatory tools we

currently use (such as ring-fencing, cost allocation and incentive schemes) depend on services being formally classified first. For instance, ring-fencing obligations are defined by the boundary between regulated and other services, while cost allocation requires services to be classified so that cost can be appropriately attributed. Similarly, current incentive mechanisms reward efficient expenditure on classified services rather than the quality or neutrality of coordination.

If DSO functions and related services are not recognised in the classification framework, it is unclear how each of these instruments would apply to them or whether they would apply at all. It is also uncertain whether the current regulatory tools will be sufficient to ensure these services deliver efficient outcomes for consumers. The current regulatory framework was built mainly to regulate network services through pricing and cost recovery. Whether new DSO functions (such as managing operating envelopes, allocating network capacity and coordinating flexible energy resources) can deliver efficient outcomes often depends on neutrality, transparency and how access is managed, rather than how much is spent or charged.

Access to network-controlled inputs is an emerging problem

Emerging services increasingly rely on inputs controlled by regulated networks (especially distribution businesses), including poles, land, storage capacity, operational data, hosting capacity information and constrained network capacity. Regulatory settings should ensure that providers of emerging services have timely, reasonable and equitable access to inputs controlled by regulated networks to support efficient market development.

However, stakeholders have reported difficulty accessing inputs controlled by regulated networks, such as poles for the provision of electric vehicle charging infrastructure and network data to inform siting of distributed and consumer energy resources. We often hear about these facilities access issues through our ring-fencing and sandboxing functions, which operate at the boundary. Access challenges reported by stakeholders in these processes include significant price variations as well as limited access to network data, timely connections and standard protocols.

These challenges have become more visible as the range of access seekers has become more diverse. Until now, access seekers have typically been telecommunications providers, who benefit from a statutory access framework for network infrastructure when negotiating with network service providers. The *Telecommunications Act 1997* (Cth) gives licensed telecommunication providers an established framework for accessing infrastructure owned by others, including electricity network assets, to install and maintain facilities. The broader range of access seekers we're seeing now – including providers of electric vehicle charging, battery storage and other emerging services – do not have a comparable pathway.

The framework does not accommodate change within a regulatory period

Regulated distribution services are currently classified within the broader 5-year revenue determination framework. For network service providers, service classification is foundational. Their expenditure proposals and tariffs build on the services classified initially through the ex-ante framework and approach process, with ratification through the subsequent revenue determination.

The current framework can provide a pathway for some access services to be considered through service classification at reset, including classification as negotiated distribution

services.¹ This can give facilities access seekers some structure through a principles-based negotiating framework and dispute resolution process. However, where services remain unclassified or where new access needs emerge between reset cycles, prospective users may have no clear rules-based pathway to obtain access or settle price, access charges and other terms. This highlights the importance of considering whether the framework has enough flexibility to respond as new services and access issues arise.

In making service classification decisions, the AER is required to consider impacts on competitive markets, amongst other things. The service classification framework is principles-based, giving the AER discretion to classify services in the context of changing technologies, business models and government policy. This balance of predictability, transparency and flexibility has generally served the framework well in the past. The AER most recently updated the Electricity Distribution Service Classification Guideline in 2022.

However, the framework was designed in the context of a less dynamic system and emerging services can increasingly arise between resets. Ring-fencing and sandbox waivers provide some options to facilitate the delivery of these services by network businesses before the next reset cycle, with some limitations (for example, these processes do not allow networks to recover the cost of providing these services from their regulated customers). Network service providers may also introduce new distribution services during a regulatory control period and apply the regulatory treatment for similarly classified distribution services until the upcoming revenue determination, when they can be formally considered by the AER.

Given the increasingly dynamic nature of Australia's energy sector, there may be a case for more flexibility in the service classification framework. For example, the AEMC could consider the potential value of an additional flexibility mechanism allowing the AER to consider classification issues within-period, outside the waiver process. The intent behind a new mechanism would be consistent with the benefits provided by the existing classification framework – to give networks, customers and stakeholders certainty and transparency about how new services can be provided in the long-term interest of consumers – while providing greater flexibility to respond in a timely way to emerging services in a rapidly changing sector.

The AEMC could also consider whether parties seeking access or classification – not just network businesses – should be able to initiate service classification processes. Under current arrangements, the AER generally considers classification questions when a network raises them as part of the framework and approach stage of a revenue determination process. This means the timing of regulatory consideration of service classification issues is largely determined by the party controlling those services. An initiation avenue for access seekers would be similar to the approach in other access regimes. Such an avenue could further support the framework to respond in a timely way to emerging services by not only enabling more flexibility in timing, but also by allowing other participants to bring classification questions under the AER's consideration.

In considering the potential value of greater flexibility in the service classification framework as part of package 1, it would be important to identify the broader implications and to design a solution that appropriately responds to any associated risks (including increased regulatory burden and how costs for services classified within a regulatory period would be assessed and recovered). For example, some risks related to classifying services within a regulatory

¹ One option is for access services to be classified as negotiated distribution services, as in our recent decisions to classify rental access for provision of electric vehicle charging infrastructure as a negotiated distribution service for the Victorian distribution reset process.

period may be managed through guardrails defined at the beginning of that period and through review as part of the next reset cycle.

The current framework can't effectively manage coordination and shared asset risks

Ring-fencing arrangements were primarily designed to govern the boundaries between a regulated business and an affiliate. However, as highlighted in our recent Future of network regulation information paper, networks are increasingly making coordination decisions – for example, about access to capacity, operating envelopes, connection sequencing, network data or flexibility dispatch. These coordination functions affect how customers, retailers and technology providers participate in energy markets. There is currently limited visibility over how these functions are performed and their impacts on competition and consumers.

For example, where a coordination function is performed by the regulated network itself (such as through operating envelopes or flexibility procurement), the existing framework may govern the network's expenditure on that function but not the quality, neutrality or effectiveness of the coordination itself. Where the function is performed by a competitive market participant (such as a retailer, metering coordinator, aggregator or flexibility provider), the framework has limited tools to ensure it is performed in ways that support efficient system outcomes beyond that party's own commercial interest. And where the function sits at the interface between the regulated network and the competitive market, the framework governs each side according to different principles but does not govern the interface itself.

Two examples illustrate how this can occur even where the underlying service is formally contestable. Metering was opened to competition on the expectation that competitive provision of metering services would drive innovation and efficient deployment. Competition was defined around the asset: who installs, owns and maintains the meter. The market has since consolidated significantly, with a small number of metering coordinators now managing the vast majority of installations in the NEM. Value and control have concentrated not in the asset the framework made contestable, but in the coordination function itself. The subsequent reforms established by the AEMC to accelerate smart meter deployment indicate that contestability alone did not provide sufficient impetus to deliver the deployment outcomes needed for consumers and the system. The AEMC's *2024 Accelerating smart meter deployment rule change* introduced more explicit obligations, including deployment plans and supporting coordination requirements.

Similarly, retail contestability was intended to deliver efficient price signals and service through competition. However, the retail market remains dominated by a small number of vertically integrated gentailers. These businesses sit between customers, networks and the wholesale market and influence how price signals, products and customer choices are translated across the system. This gives them an important coordinating role, but one that is not directly visible.

Both examples suggest that where efficient outcomes depend on coordinated delivery across regulated and contestable roles, the framework may need tools beyond service classification to govern how those roles interact to support efficient system outcomes.

We have also observed gaps in visibility over the costs and value of shared resources and assets. For example, audited regulatory reports may show that a regulated business charged an affiliate for shared staff, systems or support services but it does not show whether the affiliate paid a fair amount for what it received. Existing audit and compliance processes may test whether an approved cost allocation method has been followed but may not show whether the charge reflects the value or advantage provided. Negotiated service pricing may recover costs without capturing the commercial value a private provider receives from using consumer-funded assets.

Without visibility over the costs and value of shared resources and assets, it is difficult to know whether the framework is achieving the right outcomes. For example, to support efficiency, the framework could do more than allocate costs for assets funded by consumers (such as community-scale batteries) – it could also account for the value created when that asset is used commercially and ensure customers receive an appropriate share of that value.

Through our review of the Shared asset guideline, the AER will consider whether the current obligations provide enough visibility. While we need to consider and consult on these issues through our review, we believe that there are changes the AER could make to the guidelines to improve visibility (for example, increased reporting requirements) and we will consider apportionment of revenue from shared assets. However, the AEMC could also consider whether the regulatory tools considered in package 1 give enough assurance where regulated resources support unclassified or contestable activities.

Assessing the ENA and Nexa Advisory rule change proposals against the proposed principles

The ENA and Nexa Advisory rule change proposals have significant, but very different, implications for boundary regulation in the framework.

ENA has proposed a rule change to enable distribution network service providers to deliver electric vehicle charging infrastructure. Distribution businesses would be able to use their existing infrastructure, workforce and systems to deliver this infrastructure and to recover the costs of doing so from all their customers through regulated charges. ENA has suggested there could be benefits for all consumers, such as improved utilisation of existing assets.

In contrast, Nexa Advisory has proposed a rule change which would lift our Ring-fencing guidelines into the rules and increase oversight of distribution business activity. It would require a demonstration of market failure to enable distribution businesses to offer services in competitive markets and would add constraints on their activities in those markets. The rule change proposal is responding to concerns about increasing involvement of distribution businesses in contestable markets.

We are concerned that both proposed changes could undermine the framework's ability to deliver efficient outcomes in the long-term interests of consumers. This objective should guide any reforms to the regulatory framework, including to service classification and boundary regulation. As highlighted by our proposed policy principles, efficient outcomes should be pursued by assessing the relative benefits and costs of both competitive and regulated solutions, with a clear understanding of the specific context in which the solution will apply and how it will interact with the broader electricity and regulatory system. In our view, the proposed rule changes do not align with these principles.

Furthermore, underlying both proposals is a shared assumption that service classification and ring-fencing operate as a binary choice between allowing a distribution business to deliver a service and protecting a contestable market. Our own analysis suggests this framing may be incomplete. Some emerging services rely on coordination across both the regulated network and competitive providers, meaning that a solution which places the function strictly inside the regulated perimeter (as ENA proposes) or strictly outside it subject to a market failure test (as Nexa Advisory proposes) may not, in every case, produce the most efficient outcome.

For this reason, both rule changes as proposed are not in the long-term interests of consumers.

However, we consider it would be valuable for the AEMC to consider how the definition of distribution service applies where a single asset is used to provide both network services and market-facing services, including battery storage and electric vehicle charging infrastructure. The current definition turns on whether the service is provided by means of, or in connection with, a distribution system. These assets may be connected to the distribution network and used to provide distribution services, such as network support, access to network-controlled facilities or connection-related services. They may also be used to provide services that are, or could be, contestable, such as wholesale market participation, access to surplus capacity, charging services or the sale of electricity. The review should help clarify how these services should be identified and assessed, without treating the asset as either wholly regulated or wholly contestable. The AER should then retain flexibility to apply service classification, ring-fencing, waivers and exemptions case by case to support the most efficient outcomes for consumers.

Efficient outcomes, not market failure, should be the test

Nexa Advisory considers that the increasing involvement of distribution businesses in contestable markets (including via ring-fencing waiver) is a problem that is harming consumers by undermining competition. Nexa Advisory proposes that waivers should only be granted as a last resort where there is evidence of market failure and measurable consumer benefit.

However, market failure is just one factor that may result in inefficient outcomes. In our experience, there may be circumstances where granting a waiver could benefit consumers even where a market failure test is not clearly met. For example, this may be because the network service provider is conducting a trial that will provide learnings to policymakers or industry, which could inform improvements to the system overall. Alternatively, there are circumstances in which allowing a network service provider to provide contestable services for a specific purpose (with waiver conditions to mitigate risks) delivers efficient outcomes to the long-term benefit of consumers.

The current flexibility under the National Electricity Rules enables a responsive approach to supporting better consumer outcomes while mitigating the risks of cross-subsidisation and discrimination posed by allowing network businesses or their affiliated entities to operate in contestable markets. In proposing to remove this flexibility, the rule change proposed by Nexa Advisory would limit the range of factors and options we could consider when making waiver decisions by imposing a narrow and binary test of market failure.

The review should carefully assess the risk that this may restrict our future ability to make waiver decisions that best promote the long-term interests of consumers, in an increasingly complex energy system. A more flexible test of efficient outcomes in the long-term interests of consumers would more directly reflect our regulatory objective and enable the framework to better adapt to new challenges and changes into the future.

The most efficient solution is context-specific, so the regulatory framework should enable flexible decision-making

How and where networks might be permitted to operate in existing and emerging markets is a decision that should continue to be made on a case-by-case basis, with careful consideration of the risks and benefits for consumers. It may not always be possible to make this decision on a service-by-service basis, particularly given the variation across regions and between metro and regional areas. In addition, other factors may impact the potential risks and benefits for a specific service in a given context. For example, the impact of delivery speed or the influence of external enablers and barriers (such as securing agreement from local government for dedicated parking spaces) may change the relative

benefits and risks of a given approach to delivering electric vehicle charging infrastructure and services.

The AER is open to considering networks providing public electric vehicle charging infrastructure in some contexts, particularly where the market is less likely to be engaged. The existing service classification framework within the reset determination process already provides a regulatory option to use a distributor's infrastructure, workforce and systems to deliver electric vehicle charging infrastructure, where the AER determines a network business's proposal to do so is appropriate. Whether it is appropriate would depend on whether doing so will achieve the most efficient outcomes for consumers, with full consideration of the potential benefits (such as access to services that may otherwise be unavailable) and risks (such as costs shared by customers through the regulated asset base).

For example, the most efficient approach to delivering electric vehicle charging infrastructure in a densely populated and high-traffic urban area may be very different to the most efficient approach to delivering the same infrastructure in a more regional or remote area. Similarly, allowing flexibility to trial different approaches may promote more efficient outcomes for consumers overall by reducing the risk of decisions that lock in inefficient outcomes while improving the evidence base for future decisions. In particular, the AEMC needs to consider how effective the framework is in guarding against the risk of unregulated monopolies or oligopolies where it involves platform infrastructure.

We note this is not a one-off tension. Applications from network businesses seeking to operate in adjacent contestable markets have arisen regularly through our ring-fencing and sandbox waiver processes over the past year, and we have heard many stakeholder views through these processes which continue to support the AER's evolving regulatory approach on these issues.

Next steps and ongoing engagement

Where relevant, we will consider the issues raised in Nexa's rule change proposal in the AER's review of the Ring-fencing guideline (electricity distribution) and Shared asset guideline (which applies to both distribution and transmission networks).

Our current review of the distribution ring-fencing and shared asset guidelines is examining whether existing legal, accounting and functional separation obligations remain fit for purpose in a more decentralised energy system, including obligations relating to non-discrimination, staff and office sharing, branding and promotions, information access and disclosure, waiver decision-making and reporting. It is also considering whether the shared asset framework provides sufficient visibility of how regulated assets are used to support other services and whether consumers receive an appropriate share of the value created from those assets. Through this review we hope to better understand how well the current guidelines manage the risks of cross-subsidisation, discrimination and unfair advantage in contestable markets, and where changes to the guidelines may be required.

The AER considers our guidelines review may be able to address some issues more quickly than rule changes, where those issues relate to the operation, clarity or proportionality of guideline obligations. This includes testing whether additional reporting, assurance or transparency is needed for waiver conditions, affiliate dealings, information access, branding and the use of regulated assets or capabilities.

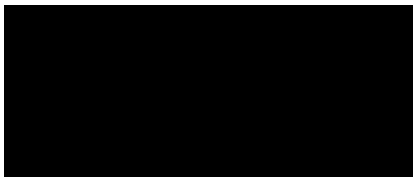
The AER review complements the AEMC review, which considers whether the National Electricity Rules provide the right high-level framework for ring-fencing, boundary regulation and the role of distribution network service providers in emerging services. We support the

AEMC's consideration of these and other issues in the Electricity Network Regulation Review.

While our feedback in this submission has focused on the topics and rule changes included in package 1, we note the interactions between these topics and those expected to be included in package 2. Such interactions emphasise the importance of taking a long-term, holistic and transparent approach to network regulation reform. This is an approach we will bring to our own engagement in the review.

We look forward to discussing these issues further as the review progresses. If you have any questions about this submission, please contact Sara Stark, General Manager, New Markets and Innovation.

Yours sincerely,



Lynne Gallagher
Board member, Australian Energy Regulator

Sent by email on: 23.07.2026