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Ring-fencing Team
Australian Energy Regulator
Via: [REDACTED]

Dear Ring-fencing Team:

Review of the Ring-fencing guideline (electricity distribution) v4 and Shared Asset Guideline v2

AusNet welcomes the opportunity to participate in the AER's review of the Ring-fencing Guideline (Electricity Distribution) and Shared Asset Guideline.

Overall, AusNet considers that both guidelines remain fit for purpose and continue to support efficient investment, innovation and positive consumer outcomes. AusNet does not consider that a case has been made for fundamental changes to either Guideline.

For the Ring-fencing Guideline, AusNet considers that the existing obligations and waiver framework continue to provide appropriate protections against competitive harm while enabling the efficient development of emerging technologies and services. A case has not been made for strengthening the existing obligations and waiver framework.

For the Shared Asset Guideline, AusNet considers that the existing 90:10 sharing ratio and 1 per cent materiality threshold continue to strike an appropriate balance between sharing benefits with consumers and preserving incentives for DNSPs to pursue efficient shared asset opportunities. Rather than changing these core policy settings, the review should focus on targeted improvements to the practical operation of the framework.

Detailed responses to each issue are provided in the Appendix. We look forward to continuing to engage with the AER as this review progresses.

Please do not hesitate to contact [REDACTED], Regulatory Economist ([REDACTED]) about this submission.

Sincerely,

[REDACTED]
General Manager, Strategy and Regulation (Electricity Distribution)
AusNet

Appendix

Responses to questions in relation to Ring-Fencing Guidelines

AusNet supports the AER's review of the Ring-fencing Guideline and agrees that it is appropriate to consider whether the framework remains fit for purpose as distribution networks evolve to support increasing electrification, higher levels of consumer energy resources (CER), flexibility services and emerging distribution system operator (DSO) functions.

While these developments are increasing interactions between regulated network activities and adjacent markets, AusNet considers the current Ring-Fencing Guideline generally remains fit for purpose and continues to provide appropriate safeguards against cross-subsidisation and discriminatory conduct. AusNet does not consider that a case has been made for materially strengthening the current Ring-fencing Guideline. In particular, AusNet considers that:

- The current functional separation framework is sufficient to prevent regulated monopoly advantages being leveraged in markets for adjacent services.
- The existing waiver framework continues to play an important role in supporting innovation and facilitating the trialling of emerging technologies and service models. Waivers should not be granted only in exceptional circumstances.
- The current regulatory treatment of batteries, EV charging infrastructure and other emerging or flexible service is effective. This is particularly true given their current scale and incentives governments have put in place to accelerate their uptake, given the important role they play in delivering the transition.

Concerns regarding preferential access to information, inappropriate use of regulated capabilities and anti-competitive conduct are largely theoretical. There has been limited evidence of actual competitive harm arising from DNSP participation in emerging services or from activities undertaken under ring-fencing waivers. This outcome reflects the effectiveness of the existing framework, which already incorporates extensive legal, accounting and functional separation requirements supported by annual compliance reporting, independent audit obligations and AER oversight. In the absence of demonstrated market harm, AusNet considers the current Ring-fencing Guideline is achieving its intended objectives.

AusNet also considers that the existing waiver framework continues to play an important role in supporting innovation and facilitating the trialling of emerging technologies and service models. The increasing number of waivers reflects the emergence of new technologies and evolving market needs rather than a deficiency in the framework itself. Importantly, the majority of ring-fencing waivers granted in recent years have supported government-endorsed initiatives, such as community batteries and public EV charging infrastructure, where governments have actively sought DNSP participation to address service gaps or accelerate deployment. In these circumstances, DNSP involvement is intended to complement market development and deliver consumer benefits rather than displace effective competition. Waivers outside these government-supported programs have been relatively limited in both number and scope, suggesting the risk of material competitive harm remains low.

More broadly, some of the competitive concerns raised by stakeholders, particularly around information asymmetries and network insights, should be considered alongside the significant efforts DNSPs have made to improve transparency and facilitate participation by third parties. For example, AusNet's GridView portal provides publicly available information on network capacity, feeder characteristics and connection opportunities to support informed investment decisions by market participants. AusNet also works closely with stakeholders through its GridView Improvement Group to continually improve the quality and usefulness of publicly available

data. This initiative is an example of DNSPs being increasingly focused on enabling market participation through greater transparency rather than leveraging information advantages.

AusNet also considers that concerns regarding clarity, enforceability and practical operation are largely theoretical. In particular, on concerns in relation to transparency and inadequate reporting and visibility, AusNet already has been making efforts to ensure transparency and visibility, including doing much of what stakeholders (including Nexa) seeks to mandate. Annual ring-fencing compliance reports to the AER are independently audited and covers processes and controls, any breaches identified during the year, and affiliated transactions, with both the report and audit review publicly available on the AER's website. AusNet also has no history of formal complaints regarding ring-fencing breaches, evidencing there is no demonstrated failure requiring a new, formal complaints mechanism. While we do not object to the AER publishing its own enforcement actions and decisions, we do not support the publication of complaints themselves, which may be found to be baseless following investigation. Publishing this information would be unusual regulatory practice and go beyond what is necessary to achieve reasonable transparency.

The table below sets out examples of ring-fencing-related material AusNet already makes publicly available.

Material	Location
Public AusNet Distribution ring-fencing compliance reports and audit assurance reports (updated annually)	AusNet - Annual Ring-fencing Compliance Report 2025 Australian Energy Regulator (AER)
Public protocols and registers (updated quarterly)	Distribution ring-fencing compliance - AusNet

Finally, AusNet considers that any changes to the Ring-fencing Guideline should also be assessed against the principle of regulatory proportionality. The current framework already imposes significant compliance obligations through governance, reporting, audit and assurance requirements. The costs of addressing these requirements are ultimately borne by our customers. Furthermore, any changes to the existing framework in the form of new or altered requirements are not accounted for in the 2026-31 expenditure allowances recently approved by the AER.

Further strengthening of the framework would increase regulatory burden and costs, while potentially unduly limiting DNSPs' ability to utilise existing capabilities, expertise and economies of scope that could support more efficient service delivery and improved consumer outcomes. This consideration is particularly relevant in emerging markets where there may be limited alternative providers, significant coordination challenges or broader public policy objectives relating to electrification, decarbonisation and CER integration.

Responses to questions in relation to Shared Asset Guidelines

The current Shared Asset Guideline provides an appropriate foundation for enabling efficient utilisation of regulated assets while ensuring consumers share in the benefits of unregulated asset use. In AusNet's view, the review should focus on improving the practical operation of the framework, rather than fundamentally changing its underlying policy settings. The existing framework has generally struck an appropriate balance between encouraging efficient asset utilisation and protecting consumers, and any changes should preserve these incentives while addressing a small number of implementation issues that have become apparent through practical experience.

A key objective of the Shared Asset Guideline is to encourage DNSPs to make efficient use of regulated assets, where doing so reduces overall costs or creates additional value without compromising regulated services. This objective relies on maintaining appropriate incentives for DNSPs to pursue opportunities for shared asset use. In this regard, AusNet considers that the existing 90:10 sharing ratio and 1 per cent materiality threshold continue to strike an appropriate balance between sharing the benefits of unregulated revenues with consumers

and preserving incentives for DNSPs to innovate and make efficient use of regulated assets. When the guideline was originally developed, the AER deliberately adopted a relatively modest consumer sharing percentage, recognising that a higher proportion could discourage DNSPs from pursuing unregulated opportunities that ultimately benefit both consumers and network businesses. While the specific parameters were not derived from detailed economic modelling, they were intended to represent a practical balance between consumer benefit sharing and incentive preservation.

AusNet therefore does not support increasing the consumer sharing ratio or reducing the materiality threshold in the absence of clear evidence that the current framework is producing inefficient outcomes. Increasing the consumer share above 10 per cent would reduce the proportion of benefits retained by DNSPs and weaken incentives to identify and develop shared asset opportunities. A smaller scale of shared asset activities would eventually reduce net consumer benefits despite the sharing ratio being slightly larger.

Similarly, reducing the 1 per cent materiality threshold would increase the range of activities subject to the sharing mechanism, diminishing the rewards associated with smaller-scale unregulated services and potentially discouraging their development. In some circumstances, a threshold of 1 per cent or even lower may create an unintended incentive for DNSPs to structure or stage unregulated activities so that forecast revenues remain below the threshold, thereby avoiding the application of the sharing mechanism altogether. While AusNet has not observed such behaviour in practice and does not manage its activities in this manner, reducing the current 1 per cent threshold would be against the policy objective of encouraging efficient asset utilisation while ensuring consumers receive a share of material unregulated revenues. It is therefore not clear whether this change would result in better or worse outcomes for customers.

AusNet considers there is merit in reviewing how the materiality threshold operates in practice. Currently, whether the threshold is exceeded is determined using forecast unregulated revenues, with no subsequent assessment of whether actual revenues differ materially from those forecasts. As a result, the framework provides no opportunity to assess whether the original assumptions underpinning the sharing arrangement remained appropriate once the asset entered operation. AusNet considers this represents a practical workability issue rather than a policy deficiency. DNSPs already provide annual reporting to the AER on unregulated revenues, and AusNet would be willing to assist the AER by providing proportionate information on actual outcomes to support its assessment of how the current threshold and sharing arrangements have performed in practice.

Where actual outcomes demonstrate that benefit allocations have materially diverged from original expectations, AusNet considers that any adjustment to forecast allocations should occur through the existing regulatory reset process rather than through ongoing or continuous true-up mechanisms. Aligning any reassessment with the five-year revenue determination cycle would ensure that updated information can be incorporated into future forecasts while preserving regulatory certainty and avoiding continual reassessment of individual assets. Any adjustment mechanism should also operate symmetrically, allowing corrections both where consumers have received less than anticipated and where DNSPs have retained less than originally forecast. A one-way adjustment mechanism would distort incentives and be inconsistent with the balanced risk-sharing approach underpinning the current framework.

The review also provides an opportunity to improve the interaction between the Shared Asset Guideline and other elements of the regulatory framework. In particular, AusNet does not consider that the shared asset framework should be extended to negotiated services. Negotiated services are already subject to a distinct regulatory framework, including cost-reflective pricing principles and access to AER dispute resolution and arbitration processes. Unlike unregulated services, negotiated services are priced based on the actual efficient cost of providing the service to an individual customer, rather than by reference to estimates of future unregulated revenues. The application of the Shared Asset Guideline to negotiated services could mean distributors under recover their efficient costs of providing negotiated services by 10%. This is not compliant with

the Revenue and Pricing Principles and provides an incentive for distributors not to offer negotiated services, even those that are important to delivering the energy transition (eg pole leasing for EV charging infrastructure).

Also applying the shared asset revenue-sharing mechanism to negotiated services would therefore combine two fundamentally different regulatory approaches and risks creating unnecessary complexity and uncertainty and introducing the risk of unintended consumer consequences. AusNet's Victorian electric vehicle charging infrastructure pole-leasing service provides a practical example of where these conceptual differences arise. The current review presents an opportunity for the AER to clarify that the Shared Asset Guideline is intended to apply to genuinely unregulated shared asset use, rather than negotiated services that are already subject to established customer protections and regulatory oversight.

Overall, AusNet considers that the current Shared Asset Guideline remains fit for purpose. The review should focus on improving the practical operation of the framework by addressing forecast versus actual outcomes, clarifying interactions with other regulatory instruments, and ensuring the framework remains workable as new technologies emerge. These targeted refinements would improve the effectiveness of the guideline while preserving the incentive framework that encourages DNSPs to maximise the efficient utilisation of regulated assets for the long-term benefit of consumers.