



Review of the Ring-fencing Guideline (Electricity Distribution) and Shared Asset Guideline

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Consultation	AER joint review of distribution ring-fencing and shared asset guidelines

Core position

Distribution networks should facilitate competitive markets, not enter them using assets, information, staff, customer relationships and connection control obtained through a regulated monopoly. Where a DNSP seeks to provide a contestable service, the burden should be on the DNSP to prove genuine market failure, consumer benefit and no harm to competition - before entry, during operation and at exit. *(Economides 1998; OECD 2024)*

Economides 1998, abstract: "Such a monopolist can raise the costs of the rivals to its subsidiary through discriminatory quality degradation."

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Important framing

The AER workshop slide pack accurately identifies many risks, but several examples and network propositions normalise the very conduct ring-fencing is intended to prevent. The issue is not merely clarity. It is that current rules permit functional overlap, rely heavily on self-reporting, and often assess harm only after monopoly advantages have already affected market structure.

1. Executive summary

EVX supports the original intent of the Ring-fencing Guideline and Shared Asset Guideline. Both are intended to prevent regulated monopoly advantages being used to distort adjacent markets and to ensure consumers receive a fair return when assets they funded are used commercially. The evidence now before the AER shows that those intentions are not being translated into effective, observable and enforceable outcomes. (AER 2026a, pp. 1, 12–18; AER 2026b, pp. 12–34)

AER 2026b, p. 27: "Without a shared asset mechanism, consumers may continue paying for costs that are also being recovered elsewhere."

The problem is structural. DNSPs control essential network access, connection pathways, operational data, regulated assets and customer relationships. When the same corporate group also develops or provides contestable services, ordinary functional separation cannot neutralise those advantages. A timesheet, change of clothing, internal transfer price or information protocol does not cause a person to forget commercially valuable information, remove management incentives, or eliminate the ability to influence access timing and technical requirements. (AER 2026b, pp. 14, 18–20; AER 2026c, pp. 2–3; AER 2026d, pp. 2–3; Economides 1998)

AER 2026d, p. 3: "Shared staffing arrangements make it extremely difficult to maintain meaningful information separation."

The current waiver framework has also moved well beyond a narrow safety valve. The AER states that waivers are intended to be exceptional. Yet the AER granted 10 DNSP waivers in the 2024 calendar year and 11 in 2025. The Call for Input records 14 individual battery waivers between December 2020 and October 2025, in addition to a class waiver. Most formal waiver applications have been granted; the single recorded refusal identified by the AER occurred because no waiver was required. This is not evidence of a framework operating exceptionally. It is evidence that exceptions are increasingly performing the work of the rule itself. (AER 2026a, p. 10; AER 2026b, pp. 23–25; AER 2026f, pp. 3–4; AER 2025a, pp. 22–23; AER 2026g, pp. 13–15)

AER 2026a, p. 10: "between December 2020 and October 2025, the AER approved 14 individual ring-fencing waivers for DNSP-owned batteries."

The Shared Asset Guideline is weaker still. The AER has confirmed that it does not generally reconcile forecast cost allocations against actual use. The mechanism is forward-looking, applies only above an aggregate 1 per cent materiality threshold, and generally returns only 10 per cent of forecast unregulated revenue to consumers. In the AER workshop example, a DNSP earning \$0.8 million from consumer-funded assets returns nothing; a DNSP earning \$2 million retains \$1.8 million. This design does not merely tolerate weak consumer benefit. It creates an incentive to manage revenue below the threshold and allows a monopoly owner to retain most of the upside while consumers bear the capital and downside risk. (AER 2026b, pp. 27–32; AER 2026f, p. 1)

AER 2026f, p. 1: "The AER does not generally revise or annually reconcile the original cost allocation for a shared asset, including a community battery, against actual use."

Community batteries demonstrate the consequence. The AER reports that, of approximately 265 MWh of battery capacity approved through waivers, only about 39 MWh had been energised. Reported use was approximately 104 MWh for network support and 11,463 MWh by leasing partners - around 1 per cent network use and 99 per cent market-facing use. A regime that allocates costs on forecasts, does not routinely reconcile actual use, and does not publish a consolidated dataset cannot provide robust assurance against cross-subsidisation. (AER 2026a, p. 10; AER 2026f, p. 1)

AER 2026a, p. 10: "approximately 104 MWh, or around 1 per cent, of battery usage has been for DNSP network support services, compared with approximately 11,463 MWh, or around 99 per cent, by leasing partners."

The compliance record also does not support complacency. The AER's 2025-26 compliance report identifies repeated non-compliance and breaches involving disclosure of information, branding and cross-promotion. The Evoenergy matter shows that a DNSP can provide contestable services for years before a breach is resolved. Evoenergy self-reported in 2023 that it had provided contestable maintenance, operation and inspection services since January 2018; an enforceable undertaking followed in June 2024. This is a practical example of monopoly activity extending into a competitive market, not an unsupported stakeholder perception. (AER 2024; AER 2025a, pp. 22–26; AER 2026g, pp. 13–15)

AER 2026g, p. 13: "breaches related to disclosure of information; breaches related to branding and cross-promotion."

EVX submission in one sentence

The AER should replace a permissive, self-reported and forecast-based framework with a clear presumption against DNSP participation in contestable markets, strict legal separation, equal-access obligations, last-resort waiver tests, actual annual reconciliation, meaningful consumer revenue sharing and visible enforcement.

2. Recommendations

No.	Recommendation	Required outcome
1	Adopt a clear market boundary	A DNSP or related entity should not provide a customer-facing or otherwise contestable service in its own distribution area unless a transparent, independently tested market-failure and provider-of-last-resort test is satisfied.
2	Make legal separation the default	Any contestable activity should be conducted through a legally separate entity with separate governance, systems, financing, employees, premises, branding and decision rights. An internal RESP should not be permitted for market-facing services.
3	Prohibit shared operational and commercial staff	Shared staffing should be limited to genuinely generic corporate services. No shared executives, directors, commercial staff, connection staff, planning staff, data staff, procurement staff or technical decision-makers should be permitted across the DNSP and a related contestable entity.
4	Create enforceable equal-access rules	Access to poles, ducts, land, network data, connection pathways, outage windows and technical approvals should be provided under published reference terms, prices, service levels, queues and dispute processes that apply equally to affiliates and third parties.
5	Reverse the waiver burden of proof	The DNSP must establish, using independently verified evidence, genuine market failure, measurable consumer benefit, no less restrictive alternative, no cross-subsidy, no discrimination and no material harm to current or future competition.
6	Require public market testing before entry	Before a waiver is granted, the DNSP should publish the service need and offer competitive providers a genuine opportunity to deliver it through procurement, partnership, access or non-network service arrangements.
7	End routine and long-lived waivers	Class waivers should not apply to activities in contestable or emerging markets. Individual waivers should be narrowly scoped, generally limited to three years, subject to a hard sunset, a defined exit plan and a full merits-based review before any extension.
8	Reconcile forecasts to actual outcomes	Shared asset use, cost allocation, RAB treatment, operating expenditure, revenues and consumer benefits should be reconciled annually against actual outcomes, with automatic clawbacks and prospective adjustments.
9	Replace the 1 per cent / 10 per cent formula	Consumer sharing should commence from the first dollar of relevant revenue. The consumer share should reflect the proportion of capital and operating risk borne by regulated consumers. Where consumers fund the asset, the default should be the net commercial revenue attributable to that funded share, less independently verified incremental costs and a limited incentive allowance.
10	Prevent government funding from becoming an entry advantage	All grants, gifted assets, RAB contributions, regulated operating costs, staff support and related-party inputs must be disclosed. Government funding should never support a DNSP to displace a willing private investor or recover the same cost through another channel.
11	Publish a consolidated transparency dataset	The AER should publish machine-readable information on waivers, assets, related entities, shared staff, access terms, related-party transactions, forecast and actual use, revenue, cost allocation, RAB and opex treatment, complaints, breaches and enforcement outcomes.
12	Use independent assurance selected by the AER	Assurance providers should be appointed or approved by the AER, work to a standard scope, test transactions and information access rather than policies alone, and publish non-confidential findings.
13	Escalate enforcement	Repeated or competition-relevant breaches should result in public findings, enforceable remediation, financial penalties where appropriate, waiver variation or revocation, and customer or market remediation.

14	Address cost allocation and service classification in parallel	The AER should amend the guidelines to the maximum extent available now and formally refer necessary rule changes to the AEMC. The review should not declare success while central cross-subsidy and role-boundary issues remain outside scope.
15	Protect non-network and private investment	DNSPs should transparently test non-network and third-party options before regulated investment or affiliate entry. The counterfactual must include investment that is delayed, deterred or displaced by the prospect of monopoly-backed competition.

3. About EVX and its interest in the review

EVX is an Australian designer, manufacturer, owner and operator of public kerbside electric vehicle charging infrastructure. EVX works with local governments, distribution network service providers and public funding bodies to deploy charging in streets and public places using existing infrastructure. This requires timely, transparent and non-discriminatory access to poles, connection services, technical approvals, network data and operating arrangements.

EVX competes by investing private capital, developing purpose-built hardware, taking utilisation and technology risk, operating customer-facing charging services, maintaining assets and building relationships with councils and drivers. These are contestable functions. They are fundamentally different from the monopoly functions of operating the distribution network and providing access to it.

The prospect that a DNSP or its affiliate may enter the same market changes investment decisions before any formal breach occurs. A private provider must consider whether its monopoly counterparty may also become its competitor, whether connection and asset access will be equivalent, whether the DNSP will receive government funding, and whether a waiver will retrospectively legitimise activity that would otherwise be prohibited. That uncertainty raises the cost of capital, delays investment and can redirect capital to markets with clearer competitive boundaries. (AER 2025b, pp. 5, 11, 23; AER 2026c, pp. 2, 4; Economides 1998; OECD 2024)

| AER 2026c, p. 6: "government funding for DNSP assets may crowd out competitive investment or shift risk to consumers."

4. Response to the AER questions

4.1 Question 1 - Changes in distribution networks and the broader energy system

The AER has accurately identified the growth of consumer energy resources, two-way power flows, active distribution system operation and the increasing interaction between regulated network functions and adjacent markets. It has also correctly recognised that DNSPs possess operational systems, information, customer relationships and infrastructure that can affect competition in emerging services. (AER 2026a, pp. 9–11)

| AER 2026a, p. 9: "This monopoly position provides DNSPs with both capability and opportunity to expand their activities beyond traditional network functions."

However, the Call for Input understates five developments that should shape the review:

Development	Why it matters
Gatekeeper and competitor risk	The same entity may control the timing, cost and technical terms of market access while its affiliate competes downstream. This is not an ordinary scale advantage; it is a structural conflict created by monopoly control. (AER 2026a, pp. 9–10, 13; AER 2026c, p. 2; Economides 1998; Rey and Tirole 2007) AER 2026c, p. 2: "third-party accredited service providers may face slower design certification, outage access or equipment availability than affiliated entities."
Investment deterrence occurs before observable market failure	Investors respond to the probability of DNSP entry, waivers and preferential access. A market can appear thin because anticipated monopoly-backed entry has already deterred investment. (AER 2025b, p. 23; AER 2026c, p. 4) AER 2026c, p. 4: "waivers are being granted too readily, with insufficient transparency, monitoring or evidence that claimed consumer benefits are achieved."
Government funding can alter market structure	A grant to a DNSP does not eliminate competition harm. It can remove capital risk from the network group, fund learning and customer acquisition, and create a platform from which a related entity expands. (AER 2026c, pp. 3, 6; AER 2026f, pp. 1–2; OECD 2024) AER 2026f, p. 2: "A DNSP that receives government or ARENA funding for a community battery is not automatically prevented from including some costs in the RAB."
Network overinvestment remains relevant	Australia has a documented history of inefficient network investment. The ACCC found that past overinvestment caused inefficiently high prices and that customers in affected regions may continue paying for assets for up to 50 years. The lesson is that the regulatory framework must not reward asset accumulation or allow new regulated assets to crowd out lower-risk private and non-network solutions. (ACCC 2021, pp. 15–16; Productivity Commission 2013) Productivity Commission 2013, Key points: "Spiralling network costs ... are the main contributor."
Data and orchestration roles need strict neutrality	A future DSO should be an impartial platform operator. It should not own or favour resources that participate in markets it coordinates. The Call for Input itself notes this risk and points to ownership or operation of CER being limited to clearly defined circumstances. (AER 2026a, pp. 10–11; OECD 2024) AER 2026a, p. 11: "ownership or operation of CER remains limited to clearly defined circumstances."

4.2 Question 2 - Whether stakeholder concerns are accurately reflected

The AER has captured many of the concerns raised by unaffiliated service providers and consumer representatives. In particular, it has recognised uncertainty around internal RESPs, shared staff, information access, asset access, branding, waivers, cost allocation, revenue sharing and enforcement. The following additional issues should be expressly included: (AER 2026a, pp. 12–18; AER 2026c, pp. 2–6; AER 2026d, pp. 2–5)

AER 2026c, p. 4: "waivers are being granted too readily, with insufficient transparency, monitoring or evidence that claimed consumer benefits are achieved."

Additional issue	Required treatment
Cumulative market impact	Waivers and related-entity activities must be assessed cumulatively, not as isolated projects. Repeated limited trials can create a substantial installed base, brand presence, data advantage and incumbent position. (AER 2025b, p. 23; AER 2026c, p. 4) AER 2026c, p. 4: "waivers are being granted too readily, with insufficient transparency, monitoring or evidence that claimed consumer benefits are achieved."
Counterfactual private investment	The AER should assess not only existing competitors but credible investment that would occur without DNSP entry. The relevant harm includes capital that is deterred, delayed or redirected. (AER 2025b, p. 11; AER 2026c, pp. 2–4) AER 2026c, p. 2: "Competition and investment could be undermined if investors do not have confidence that regulated and unregulated activities are clearly separated."

Access discrimination by delay or complexity	Discrimination is not limited to different published prices. It includes slower approvals, additional engineering requirements, unavailable outage windows, repeated information requests, differing interpretations and sequencing advantages. (AER 2026d, p. 3) AER 2026d, p. 5: "There should be greater transparency around access arrangements, charging structures and commercial terms governing access to monopoly infrastructure."
Board and executive conflicts	Functional separation cannot be effective where common directors or executives oversee both monopoly and contestable strategies, allocate capital, approve risk and influence incentives. (AER 2026c, pp. 3, 6; AER 2026f, pp. 1–2) AER 2026c, p. 3: "the same DNSP staff may be involved in network connections, tariffs, waiver applications or competitive initiatives."
Government and regulated opex support	Even if asset capital is grant-funded or shareholder-funded, contestable activity may still benefit from regulated employees, premises, systems, data, customer channels, procurement and operating expenditure. (AER 2026f, pp. 4–5; OECD 2024) AER 2026f, p. 2: "If it is a standard control service, then the ongoing operation expenditure is recovered in the normal opex forecast."
Enforcement visibility	The AER should publish quantitative information on complaints, investigations, breach types, time to resolution, remediation and enforcement. General statements that monitoring occurs are not enough to establish deterrence. (AER 2026f, pp. 2–3; AEMC 2026) AER 2026f, p. 5: "The AER obtains information about potential non-compliance with all obligations from a range of sources."
Remedies for harmed competitors	The framework focuses on DNSP rectification but does not provide an effective remedy where a third party has lost time, opportunity or investment due to discriminatory conduct. (AER 2026f, pp. 4–5; AER 2026g, pp. 13–15) AER 2026f, p. 5: "the AER may issue an infringement notice, accept a court-enforceable undertaking or commence court proceedings."
Interaction with cost allocation	A ring-fencing review that excludes the Cost Allocation Guideline cannot fully test cross-subsidisation. At minimum, the AER should specify required interfaces and initiate a parallel work program. (AER 2026c, pp. 2–6; AER 2026d, pp. 2–5) AER 2026c, p. 6: "Service classification, role-of-network questions and the scope of DNSP activity in emerging markets are fundamental to the effectiveness of ring-fencing."

4.3 Question 3 - Evidence and case studies

The evidence already available is sufficient to demonstrate that reform is required. The AER does not need to wait for a larger market failure before strengthening safeguards. (AER 2024; AER 2025a, pp. 22–26; AER 2026a, p. 10; AER 2026f, pp. 1–5)

AER 2026a, p. 10: "approximately 104 MWh, or around 1 per cent, of battery usage has been for DNSP network support services, compared with approximately 11,463 MWh, or around 99 per cent, by leasing partners."

Evidence	Implication for this review
Community battery use	The Call for Input reports approximately 104 MWh of network-support use and 11,463 MWh of leasing-partner use across reported batteries - approximately 1 per cent versus 99 per cent. This is a powerful reason to reconcile forecast allocation against actual use. (AER 2026a, p. 10) AER 2026a, p. 10: "approximately 104 MWh, or around 1 per cent, of battery usage has been for DNSP network support services, compared with approximately 11,463 MWh, or around 99 per cent, by leasing partners."
Waiver volume	The AER granted 10 DNSP waivers in 2024 and 11 in 2025. The Call for Input also identifies 14 individual battery waivers between December 2020 and October 2025 plus a class waiver. (AER 2025a, pp. 22–23; AER 2026a, p. 10; AER 2026g, pp. 14–15) AER 2026a, p. 10: "between December 2020 and October 2025, the AER approved 14 individual ring-fencing waivers for DNSP-owned batteries."

Waiver decision outcomes	The AER states that most applications reaching a final decision have been granted. The only refusal it identified was a 2017 matter where a waiver was not required. (AER 2026f, pp. 3–4) AER 2026f, p. 3: "Most applications reaching a final decision have been granted."
Forecast-only shared assets	The AER confirms it does not generally revise or annually reconcile original shared-asset cost allocation against actual use, and there is no consolidated public dataset. (AER 2026f, p. 1) AER 2026f, p. 1: "The AER does not generally revise or annually reconcile the original cost allocation for a shared asset, including a community battery, against actual use."
Evoenergy breach	Evoenergy self-reported in May 2023 that it had provided maintenance, operation and inspection services since January 2018. The AER accepted an enforceable undertaking in June 2024. The conduct potentially discouraged third-party entry. (AER 2024; AER 2025a, p. 26) AER 2024, AER summary: "since 1 January 2018, by providing maintenance, operation and inspection services."
Repeated compliance issues	The AER's 2025-26 report records breaches involving information disclosure, branding and cross-promotion, and multiple breaches by a number of distributors. (AER 2026g, pp. 13–14) AER 2026g, p. 13: "breaches related to disclosure of information; breaches related to branding and cross-promotion."
CPU EV charging waiver	The AER authorised up to 100 chargers until June 2031. Even with conditions, this scale and duration can create an installed-base, site, data and brand advantage in an emerging competitive market. (AER 2025b, pp. 3–6, 23–25) AER 2025b, p. 3: "deploy 100 kerbside electric vehicle chargers."
Historical network overinvestment	The ACCC found that network costs accounted for 54 per cent of the rise in the average residential effective price between 2007-08 and 2013-14, and that customers in affected regions may pay for past overinvestment for up to 50 years. (ACCC 2021, pp. 15–16; Productivity Commission 2013) ACCC 2021, p. 15: "higher network costs ... contributed ... 54% of the rise."

4.4 Question 4 - Scope of the review

The proposed scope is directionally appropriate but too narrow to achieve the stated objectives. The AER proposes to examine what services affiliates should be allowed to provide, while excluding service classification and what services DNSPs should be able to provide. It also proposes to examine multi-use asset costs and revenues while excluding the Cost Allocation Guideline. These boundaries create a risk that the review improves drafting but leaves the central economic questions unresolved. (AER 2026a, pp. 16–18; AEMC 2026)

| AER 2026a, p. 17: "Service classification and what services DNSPs should be able to provide."

EVX recommends a two-track approach. First, the AER should amend the guidelines now to strengthen separation, waiver tests, equal access, reporting, actual reconciliation and enforcement. Second, the AER should publish a formal referral to the AEMC identifying rule changes required on service classification, DNSP role boundaries, cost allocation, affiliate participation and remedies. The final decision should state which risks have been solved and which remain outstanding.

4.5 Question 5 - Stakeholder engagement

Engagement reform	Purpose
Publish an issues matrix	For each issue, identify the evidence received, AER preliminary view, legal instrument available, proposed change and unresolved question. (AER 2026c, pp. 5–6; AER 2026d, p. 5) AER 2026c, p. 5: "current reporting does not provide enough information to assess whether the Ring-fencing Guideline or Shared Asset Guideline is operating effectively."
Proactively notify affected competitors	Do not rely only on website publication. Notify firms that have previously engaged in the relevant market, relevant industry bodies and consumer groups. (AER 2026c, pp. 2–4; AER 2026f, pp. 3–5) AER 2026f, p. 4: "targeted stakeholder emails are also distributed to mailing lists containing those who have engaged on the same ring-fencing issue previously."
Provide a confidential evidence channel	Permit confidential submission of connection delays, discriminatory terms, internal communications and investment impacts, with clear protections and an option for aggregated publication. (AER 2026f, pp. 4–5) AER 2026f, p. 4: "The AER can receive information voluntarily, including information provided on a confidential basis."
Publish data before asking for views	Release a consolidated waiver and shared-asset dataset, including actual use and revenue, so stakeholders can test claims rather than respond to abstractions. (AER 2026c, pp. 4–6; AER 2026d, pp. 3–5) AER 2026c, p. 5: "current reporting does not provide enough information to assess whether the Ring-fencing Guideline or Shared Asset Guideline is operating effectively."
Use standardised workshop records	Publish transcripts or detailed minutes, attendance categories, questions taken on notice and AER responses. Correct factual and category errors promptly. (OECD 2024) OECD 2024, s. 4.1: "equivalent transparency."
Allow targeted draft testing	Before the draft decision is finalised, test proposed wording with unaffiliated providers and consumer representatives, not only networks responsible for compliance. (AER 2026a, pp. 17–18; AEMC 2026) AER 2026a, p. 19: "We will hold a series of targeted workshops with different stakeholder groups."
Report how submissions were weighed	The final decision should explain how competing evidence was assessed, not merely state that all submissions were considered. (AER 2026f, pp. 1–5) AER 2026f, p. 3: "The AER considers all submissions, regardless of whether they are supportive or against a waiver application."

5. Critical assessment of the workshop materials and network claims

The summary of stakeholder feedback, by networks, related entities and network representative bodies presents a number of concerning views and inaccurate statements. The table below highlights these themes and issues a correction of the feedback content.

| AER 2026e — AER, Workshop summary - Networks, related entities and network representative bodies, July 2026.

Critical assessment: claims, counterevidence and required corrections	
The idea that waivers are “exceptional, not business as usual” and that “only apply where they believe they can demonstrate consumer benefits and consistency with the National Electricity Objective.”	
Issue / counter-evidence	The AER granted 10 DNSP waivers in 2024 and 11 in 2025; the Call for Input identifies 14 individual battery waivers plus a class waiver. Most formal applications are granted. (AER 2025a, pp. 22–23; AER 2026a, p. 10; AER 2026b, pp. 23–24; AER 2026f, pp. 3–4; AER 2026g, pp. 14–15) AER 2026a, p. 10: “between December 2020 and October 2025, the AER approved 14 individual ring-fencing waivers for DNSP-owned batteries.”
Required Action	Measure waiver frequency, scope, duration and cumulative market impact. Apply a presumption against waivers in contestable markets.
A staff member can switch roles by returning to a depot, changing clothing and allocating time and cost.	
Issue / counter-evidence	This treats an information and incentive conflict as an accounting exercise. A person cannot unlearn network information or separate management incentives merely by changing attire or entering a timesheet. (AER 2026b, p. 20; AER 2026d, p. 3; Economides 1998) AER 2026d, p. 3: “Shared staffing arrangements make it extremely difficult to maintain meaningful information separation.”
Required Action	Prohibit sharing of operational, connection, planning, commercial and executive staff. Permit only narrow generic corporate services with controls.
Co-branding can be acceptable if logos are visually separate and no association is implied.	
Issue / counter-evidence	Co-location on the same asset and repeated joint presentation can itself imply endorsement and access advantages. The AER continues to record branding and cross-promotion breaches. (AER 2026b, pp. 18–20; AER 2026c, p. 3; AER 2026g, pp. 13–14) AER 2026b, p. 18: “Branding for direct control services must be independent and separate.”
Required Action	Require genuinely distinct brands and prohibit joint promotion, shared customer channels and visual association for contestable services.
Negotiated services have pricing and dispute mechanisms, reducing the need for separation.	
Issue / counter-evidence	A third party negotiating with the monopoly owner of the required asset lacks an equivalent outside option. Delay and technical complexity can be as harmful as price discrimination. (AER 2025b, pp. 11, 23; AER 2026c, p. 2; AER 2026e, p. 2) AER 2026c, p. 2: “third-party accredited service providers may face slower design certification, outage access or equipment availability than affiliated entities.”
Required Action	Require published reference offers, service levels, queue data, cost-based pricing and independent expedited dispute resolution. Per the framework introduced in VIC in 2026.
DNSP scale and capability may be necessary because few third parties are available.	
Issue / counter-evidence	This can be circular. Anticipated DNSP entry, government funding and privileged access can deter the very investment later cited as evidence of market failure. (AER 2026c, pp. 2, 4; AER 2026e, p. 3) AER 2026c, p. 6: “government funding for DNSP assets may crowd out competitive investment or shift risk to consumers.”
Required Action	Use an open market test and provider-of-last-resort test before DNSP entry. Assess credible future investment, not only current providers.

Differences in organisational scale occur in all competitive markets.	
Issue / counter-evidence	False equivalence. DNSP scale, systems, data and customer relationships are built through an exclusive regulated monopoly and funded by consumers, not won in a competitive market. (AER 2026e, p. 3; Economides 1998; Rey and Tirole 2007) Rey and Tirole 2007, abstract: "full access to a bottleneck input is denied to competitors."
Required correction	Treat monopoly-derived scale as a regulated input that must not be leveraged without equal access and full compensation.
DNSP staff may be more expensive due to overhead allocation, making affiliates less competitive.	
Issue / counter-evidence	Allocated accounting cost does not address preferential access, information, timing, risk transfer, customer acquisition or whether overhead allocations are complete and independently tested. (AER 2026e, p. 3) AER 2026e, p. 3: "DNSP staff may carry substantial overhead and cost-allocation charges, which can make their services more expensive than services provided by external contractors."
Required Action	Require transaction-level related-party disclosure, economic cost benchmarking and independent audit of all inputs.
Externally funded activity can be treated as low risk and streamlined.	
Issue / counter-evidence	Government funding can eliminate capital risk while regulated opex, staff, data, systems, sites and network access still support the activity. It can also crowd out private investment. (AER 2026c, pp. 3, 6; AER 2026e, p. 3; AER 2026f, pp. 1–2; OECD 2024) AER 2026f, p. 2: "If it is a standard control service, then the ongoing operation expenditure is recovered in the normal opex forecast."
Required Action	No streamlined pathway based solely on funding source. Require full competition, cost and consumer-benefit assessment.
Longer waivers reduce commercial uncertainty.	
Issue / counter-evidence	They reduce uncertainty for the DNSP or its partner by transferring it to competitors. Long waivers can entrench sites, data, contracts and brand presence before the market matures. (AER 2026e, pp. 3–4; AER 2025b, p. 23) AER 2026e, p. 3: "Waiver duration can constrain the length of contracts that retailers or other service providers are willing to enter into with customers."
Required Action	Short, narrow waivers with exit plans and no automatic extension. Competition impact must be reassessed before renewal.
The 1 per cent threshold and 10 per cent share support efficient utilisation and consumer benefit.	
Issue / counter-evidence	The AER example shows no consumer return below the threshold and 90 per cent of revenue retained above it. The AER also confirms no routine ex-post reconciliation. (AER 2026b, pp. 27–30; AER 2026d, p. 4; AER 2026e, p. 4; AER 2026f, p. 1) AER 2026b, p. 29: "Result: no shared asset benefit-sharing adjustment."
Required Action	Share from the first dollar and link the consumer share to the regulated funding and risk contribution, with annual actual reconciliation.
The AER can be satisfied through information powers and forecast review.	
Issue / counter-evidence	The AER says there is no consolidated public dataset, key contracts and allocation calculations are not public, and original cost allocations are not generally reconciled to actual use. (AER 2026c, pp. 5–6; AER 2026f, p. 1) AER 2026f, p. 1: "there is not currently a consolidated, publicly reported dataset."
Required Action	Mandate standardised actual data, public reporting, audit and automatic clawback. Regulatory powers are not a substitute for their routine exercise.

Annual reports are independently assessed and therefore the framework is robust.

Issue / counter-evidence	Independent assessments are generally commissioned by the DNSP, often sample-based, and test compliance representations and controls. The AER still reports repeated breaches and concerns about reporting detail. (AER 2026c, pp. 5–6; AER 2026e, p. 5; AER 2026f, pp. 4–5; AER 2026g, pp. 13–15) AER 2026e, p. 5: "Annual compliance reports are independently assessed."
Required Action	AER-selected auditors, standard test plans, transaction testing and publication of findings are required.

No complaints since the CPU waiver indicates access concerns have subsided.

Issue / counter-evidence	Absence of a complaint is not evidence of absence of harm. Earlier concerns contributed to pole access being classified as a negotiated service. Firms may not know the process, may fear commercial consequences or may consider complaint remedies too slow. (AER 2025b, pp. 11, 23; AER 2026f, p. 3) AER 2026f, p. 3: "The AER has not received any complaints regarding access timeframes or costs since granting CPU's EV charging infrastructure ring-fencing waiver."
Required Action	Proactive monitoring of access times, terms and technical requirements is required, with published comparison of affiliate and third-party outcomes.

Government-funded assets are not paid for by consumers.

Issue / counter-evidence	This is only true for the gifted capital portion. Partly funded assets may still enter the RAB for forecast network benefit, and standard-control operating expenditure may be recovered from consumers. (AER 2026c, pp. 3, 6; AER 2026f, pp. 1–2) AER 2026f, p. 2: "If it is a standard control service, then the ongoing operation expenditure is recovered in the normal opex forecast."
Required Action	Publish complete funding stacks, RAB and opex treatment, and reconcile actual network and commercial use.

6. Required reform of the Ring-fencing Guideline

6.1 Start with the correct economic boundary

Ring-fencing should not be used to make monopoly participation in a competitive market appear neutral. It should first preserve the boundary between monopoly functions and contestable services. The DNSP should operate, maintain and plan the network, provide safe and timely connections, publish network information, procure network support and make monopoly infrastructure available on equal terms. It should not use those functions as a platform to become a CPO, energy service provider, equipment supplier, retailer, aggregator, software provider or other customer-facing competitor in its own area. (*Economides 1998; Rey and Tirole 2007; OECD 2024*)

Rey and Tirole 2007, abstract: "full access to a bottleneck input is denied to competitors."

Where a service can be provided by unaffiliated firms, the default should be market provision. A DNSP should procure the outcome, provide access or remove the barrier. It should not define a barrier, retain control of the barrier and then rely on that barrier to justify its own entry. (*Economides 1998; Rey and Tirole 2007; OECD 2024*)

OECD 2024, s. 4.4: "Any exceptions from regulations should be transparent, should be justified by clear policy objectives and should be narrowly applied."

6.2 Internal RESPs should not provide market-facing services

The internal RESP model leaves the activity inside the monopoly entity while attempting to separate selected functions by policy. The AER workshop materials themselves recognise that shared systems, staff, decision-making and corporate-service carve-outs make internal separation difficult to demonstrate and enforce. That is not a drafting problem. It is a structural limitation. (*AER 2026b, p. 14; AER 2026c, pp. 2–3; AER 2026d, pp. 2–3*)

AER 2026b, p. 14: "Embedding RESP activities within the DNSP business creates practical risks across shared staff, systems, incentives, information flows and decision-making."

EVX recommends that an internal RESP be confined to negotiated or unregulated activities that are inseparable from the physical provision of monopoly access and are not customer-facing competitive services. Any activity in which the DNSP competes with third parties should be legally separate.

6.3 Legal separation must be real, not nominal

Separation dimension	Minimum requirement
Governance	No common executive responsible for both regulated and contestable strategy; no common commercial decision-maker; independent directors or a board committee with a clear duty to preserve competitive neutrality.
People	Separate employees for operations, planning, connections, data, procurement, product, sales, customer service and management. Generic payroll, tax and facilities support may be shared only under standardised arrangements.
Systems and data	Separate identity management, access control, CRM, document repositories, network models, analytics and customer records. All access by the affiliate must occur through the same external channel available to competitors.
Finance	No parent or DNSP guarantees, subsidised working capital, loss absorption or preferential procurement. Related-party transactions at independently benchmarked economic cost.

Brand and communications	Distinct names, logos, websites, vehicles, uniforms, sales channels and public communications. No statement or presentation implying DNSP endorsement.
Premises and assets	Separate operational premises and equipment. Use of regulated assets only under published access terms available to all competitors.
Performance incentives	No remuneration metric that rewards regulated staff for affiliate growth, affiliate revenue or group market share.
Records	Transaction-level records capable of showing who requested, approved, priced and delivered each access, connection and information service.

6.4 Non-discrimination must include process and timing

A rule against formal discrimination is inadequate if the evidence needed to prove discrimination is held by the DNSP. The guideline should define equivalent treatment across the entire service journey, including initial enquiry, technical advice, design certification, data provision, connection offer, access agreement, outage allocation, commissioning, fault response and variation. (AER 2025b, pp. 11, 23; AER 2026c, pp. 2–3; Economides 1998)

AER 2026c, p. 2: "third-party accredited service providers may face slower design certification, outage access or equipment availability than affiliated entities."

The DNSP should publish and report service standards for each stage. Affiliate and third-party outcomes should be compared using common measures, including elapsed time, number of information requests, number of design iterations, fees, technical conditions, outage availability, rejection rates and reasons. Material differences should create a rebuttable presumption of discrimination. (AER 2025b, pp. 11, 23; AER 2026c, pp. 2–3; Economides 1998)

AER 2026c, p. 2: "third-party accredited service providers may face slower design certification, outage access or equipment availability than affiliated entities."

6.5 Waivers should be a true provider-of-last-resort mechanism

Mandatory waiver test	Evidence required
Defined service need	The need is specific, evidenced and linked to a consumer or network outcome, not a broad claim that the market is emerging.
Open market test	The need and required outcome have been publicly offered to unaffiliated providers on workable terms.
Barrier diagnosis	The DNSP identifies whether the problem is price, access, tariff, data, connection process, demand risk or another barrier, and demonstrates why the barrier cannot be removed without DNSP entry.
No less restrictive alternative	Procurement, access, partnership, subsidy to customers, standardisation or a time-limited third-party trial have been tested.
Competition assessment	The AER assesses current and prospective competitors, capital formation, site access, brand effects, data, customer acquisition and cumulative waiver precedent.
Cost and funding assurance	All capital, opex, staff, assets, systems, data and finance are traced, independently verified and excluded from regulated recovery unless expressly approved.
Measurable consumer benefit	Benefits are quantified, time-bound and additional to outcomes available from market provision.
Conditions and exit	The waiver has a narrow site/service cap, public KPIs, annual reporting, an exit plan, asset disposal or transfer pathway and automatic expiry.

Ex-post review

Actual outcomes are assessed against the approval case, with revocation, clawback and prohibition on extension if tests are not met.

6.6 Emerging-market status should increase protection, not reduce it

Networks often argue that strict separation is disproportionate in small or immature markets. The opposite is true. Entry conditions established early can determine who controls sites, data, standards, customers and public-sector relationships for years. A monopoly-backed trial can become the reference architecture before competitors have scale. The less mature the market, the more important it is that the platform operator remains neutral. (AER 2025b, p. 23; AER 2026c, pp. 4, 6; Rey and Tirole 2007)

AER 2026c, p. 2: "Competition and investment could be undermined if investors do not have confidence that regulated and unregulated activities are clearly separated."

7. Required reform of the Shared Asset Guideline

7.1 The current framework does not provide an appropriate consumer share

The current 1 per cent threshold and 10 per cent sharing proportion are not tied to who funded the asset, who bears risk, the extent of regulated support, the competitive market impact or the actual use of the asset. They are inherited administrative parameters, not a principled allocation of value. (AER 2026b, pp. 27–30; AER 2026e, p. 4; AER 2026f, p. 1)

AER 2026e, p. 4: "The one per cent materiality threshold may create a perverse incentive for a DNSP to keep unregulated revenue below the threshold."

The threshold creates a cliff. Revenue below the threshold produces no reduction, and revenue just above the threshold produces a small reduction across the full amount. It can encourage revenue management, contract structuring, entity splitting or timing choices that keep reported revenue below the threshold. Even without deliberate behaviour, it means consumers can fund assets that earn meaningful commercial revenue while receiving nothing. (AER 2026b, pp. 27–30; AER 2026d, p. 4; AER 2026f, p. 1)

AER 2026b, p. 29: "Result: no shared asset benefit-sharing adjustment."

7.2 Consumer sharing should follow funding and risk

A fair framework should start with the economic contribution of regulated consumers. If consumers funded 70 per cent of the capital, pay 80 per cent of operating cost and bear downside or stranding risk, their share of commercial value should reflect that contribution. The DNSP should recover independently verified incremental commercial costs and may receive a limited incentive allowance for efficient utilisation. It should not retain 90 per cent of revenue merely because the guideline applies a generic formula. (AER 2026b, p. 29; AER 2026d, p. 4; OECD 2024)

AER 2026b, p. 29: "Remaining \$1.8m retained by the DNSP."

Proposed default

Consumer benefit sharing should apply from the first dollar. Where regulated consumers funded the asset and bear the operating and downside risk, 100 per cent of net commercial revenue attributable to the consumer-funded share should reduce regulated revenue, subject only to independently verified incremental commercial costs and a capped incentive allowance.

7.3

Annual actual reconciliation is essential

Reconciliation item	Required actual data
Asset use	Actual hours, energy, capacity, events, transactions and service volumes for regulated and unregulated uses.
Costs	Actual capital funding, depreciation, financing, maintenance, labour, systems, insurance, sites, data and overheads.
Revenue	Gross and net revenue, lease payments, related-party charges, bundled consideration and non-cash benefits.
Funding	Government grants, customer contributions, gifted assets, shareholder funds, regulated RAB and regulated opex.
Benefits	Actual network support, avoided augmentation, reliability or voltage outcomes, customer bill benefits and market-service outcomes.
Adjustment	Automatic annual true-up, clawback, RAB adjustment and revision of future allocations where actual use materially differs from forecast.
Disclosure	Public machine-readable reporting at project level, with limited redaction and an AER explanation for any withheld category.

7.4 Cost allocation cannot remain a black box

The AER has acknowledged that cost allocation, ring-fencing and shared assets are closely connected, yet the Cost Allocation Guideline is not part of this review. That exclusion should not prevent the AER from imposing clear information and reconciliation requirements in the two guidelines under review. Nor should commercially sensitive treatment prevent publication of aggregated or redacted information sufficient to test consumer outcomes and competitive neutrality. (AER 2026a, pp. 16–18; AER 2026f, pp. 2–3; AEMC 2026)

| AER 2026f, p. 2: "The AER recognises that cost allocation, ring-fencing and shared asset arrangements are closely connected."

Related-party charges should be disclosed by service category and benchmarked against third-party market rates. Where there is no market benchmark, the AER should use an independently developed efficient-cost methodology. Any uncertainty should be resolved against regulated recovery, because the DNSP controls the records and consumers cannot verify them.

7.5 Government funding requires more, not less, scrutiny

Government funding can be appropriate for public policy objectives, but it is not evidence that cross-subsidy or competition risk is absent. A DNSP may receive a grant while also recovering a forecast network-benefit share through the RAB, recovering standard-control opex, using regulated staff and systems, or transferring value to a related entity. It may also obtain sites, data, learnings and relationships that an unaffiliated provider would have to fund. (AER 2026c, pp. 3, 6; AER 2026f, pp. 1–2; OECD 2024)

| AER 2026f, p. 2: "If it is a standard control service, then the ongoing operation expenditure is recovered in the normal opex forecast."

The guideline should require a complete funding and value map for each project. The AER should prohibit double recovery, require actual reconciliation, and assess whether the grant could have been made available competitively to market providers. The relevant question is not merely whether taxpayers or electricity consumers paid for the asset. It is whether public and monopoly resources were used to create a competitive advantage.

8. Compliance, monitoring, transparency and enforcement

8.1 Self-reporting is necessary but not sufficient

Annual compliance reports and independent assurance are useful inputs, but they do not establish that the framework is effective. The AER's own reporting continues to identify information, branding and repeated non-compliance. The most serious competition effects may arise from conduct that is difficult for a compliance team or auditor to observe, such as informal information flows, timing advantages, management direction, preferential technical interpretation and investment deterrence. (AER 2024; AER 2025a, pp. 22–26; AER 2026g, pp. 13–15)

| AER 2024, AER summary: "since 1 January 2018, by providing maintenance, operation and inspection services."

The AER should use proactive monitoring, including data analytics, service-journey comparisons, random file reviews, access-control testing, staff interviews, related-party transaction testing and targeted market inquiries. Audit scope should be set by the AER and rotate according to risk.

8.2 A public data architecture is required

Dataset	Minimum fields
Entity and service map	All DNSP business units, internal RESPs, affiliates, other services, negotiated services and contestable activities.
Shared people and governance	Names or roles, FTE, function, duration, justification, access permissions, executive and board overlaps.
Information access	Datasets accessed, legal basis, time of access, recipient, purpose and whether equivalent data was available to competitors.
Asset and premises use	Asset, location, service, user, charge, pricing basis, duration and availability to third parties.
Connections and access	Application dates, milestones, requests, approvals, costs, conditions and comparison between affiliates and third parties.
Related-party transactions	Service description, volume, price, cost basis, benchmark, margin, contract term and procurement process.
Waivers	Application, submissions, decision, conditions, KPIs, reports, complaints, actual outcomes, variation, extension and exit.
Shared assets	Funding, RAB and opex treatment, forecast and actual regulated/unregulated use, revenue, consumer adjustment and true-up.
Compliance and enforcement	Breach type, date, discovery source, duration, harm, remediation, investigation status, outcome and penalty.
Complaints	Number, issue, entity, time to resolution and outcome, with confidentiality protected.

8.3 Enforcement must respond to competition harm

The availability of Tier 1 civil penalties is not itself deterrence. Deterrence depends on detection, timeliness, public findings and credible use of remedies. The AER should publish the number and category of ring-fencing matters received, opened, closed, escalated and enforced. It should explain why repeated breaches are characterised as isolated, and what evidence supports a conclusion that no systemic issue exists. (AER 2026f, pp. 4–5; AER 2026g, pp. 13–15; OECD 2024)

| AER 2026f, p. 5: "the AER may issue an infringement notice, accept a court-enforceable undertaking or commence court proceedings."

Where conduct has delayed a competitor, affected investment or extended monopoly activity into a contestable service, remediation should include more than policy updates. Possible remedies include independent process redesign, public access standards, refund or repricing, exclusion from future waivers, divestment or transfer of contestable assets, and financial penalties.

9. EV charging and community batteries as case studies

9.1 Public EV charging

Public EV charging is an emerging but plainly contestable service. It includes hardware design and supply, site acquisition, installation, finance, charge point operation, customer apps, billing, roaming, maintenance, pricing, utilisation management and customer service. DNSPs are necessary counterparties for connection and access to monopoly infrastructure, but that does not make them the appropriate provider of the charging service. (AER 2025b, pp. 11, 23; AER 2026c, pp. 2–3, 6; Economides 1998)

AER 2026c, p. 2: "The current framework may create complexity that DNSPs can use to delay, increase cost or obscure accountability."

A DNSP may be able to install a charger cheaply because it already controls a pole, has network data, and can coordinate connections. Those are precisely the monopoly inputs that must be made available to all providers on equivalent terms. Allowing the DNSP or an affiliate to bundle those inputs into its own charging offer does not demonstrate efficiency; it may simply conceal an access advantage. (AER 2025b, pp. 11, 23; AER 2026c, pp. 2–3, 6; Economides 1998)

AER 2026c, p. 2: "third-party accredited service providers may face slower design certification, outage access or equipment availability than affiliated entities."

The CPU waiver illustrates the risk. The AER authorised up to 100 chargers until 30 June 2031, subject to conditions. A 100-charger, multi-year deployment can secure sites, create operational data, establish public-sector relationships, normalise a network-branded model and influence standards. The competition assessment must therefore consider market structure over the life of the assets, not only whether each site meets a criterion at the date of approval. (AER 2025b, pp. 3–6, 23–25)

AER 2025b, p. 5: "CPU will run a trial ending on 30 June 2031 with 100 kerbside EV chargers."

9.2 Community batteries

Community batteries expose the inadequacy of forecast allocation. The AER's own data shows market-facing use overwhelmingly exceeding network support use in reported projects. This does not prove that every project is inefficient, but it does show that the regulated purpose can be materially smaller than the commercial use and that forecasts should not determine consumer funding for the life of the asset. (AER 2026a, p. 10; AER 2026f, p. 1)

AER 2026a, p. 10: "approximately 104 MWh, or around 1 per cent, of battery usage has been for DNSP network support services, compared with approximately 11,463 MWh, or around 99 per cent, by leasing partners."

A competitive model is available. DNSPs can publish network needs, procure availability or services from third-party batteries, and pay for verified network outcomes. This keeps asset ownership, market participation and technology risk in the competitive sector while preserving the DNSP's neutral system-operation role. DNSP ownership should be limited to a demonstrable last-resort case after market testing. (AER 2026c, pp. 5–6; OECD 2024)

AER 2026c, p. 6: "government funding for DNSP assets may crowd out competitive investment or shift risk to consumers."

9.3 Lessons from past network overinvestment

The history of network overinvestment is directly relevant. The ACCC found that past overinvestment produced inefficiently high prices and that network costs were the largest driver of the 2007-08 to 2013-14

price increase. Consumers can remain exposed for decades because regulated returns and depreciation are recovered over long asset lives. Emerging technology policy should not recreate this problem by placing batteries, chargers or digital platforms into regulated or monopoly-supported structures when competitive investment is available. (ACCC 2021, pp. 15–16; Productivity Commission 2013)

| ACCC 2021, p. 16: "past over-investment in network assets ... has led to inefficiently high electricity prices."

The correct regulatory objective is not maximum network asset utilisation. It is efficient whole-of-system investment and long-term consumer benefit. Sometimes the efficient outcome is that a regulated asset is shared. Often it is that the DNSP does not own the contestable asset at all. (Productivity Commission 2013; OECD 2024)

| Productivity Commission 2013, Key points: "better outcomes for consumers - the latter being the primary objective."

10. Scope, interaction with other reforms and implementation

10.1 The AER should not wait for the ENRR

The AEMC Electricity Network Regulation Review will consider service classification, ring-fencing and network interaction with contestable markets. That process is important, but it should not delay guideline changes available now. The AER can strengthen waiver criteria, separation obligations, reporting, registers, assurance, shared-asset data and actual reconciliation within its current review, while identifying rule changes that require AEMC action. (AER 2026a, pp. 2–3, 17–18; AEMC 2026)

| AER 2026a, p. 2: "there are many stakeholder concerns that the AER can consider through the guidelines review more quickly."

10.2 Transitional approach

Timing	Action
Within 3 months of final decision	Publish consolidated waiver, related-entity and shared-asset registers; issue standard reporting templates; identify all active waivers requiring enhanced reporting.
Within 6 months	Require DNSPs to submit maps of affiliates, internal RESPs, shared staff, systems, assets, related-party transactions and contestable services; commence AER risk assessment.
Within 12 months	Introduce annual actual reconciliation for shared assets and waiver projects; publish equal-access performance data; commence targeted AER-appointed audits.
At next waiver anniversary	Apply revised KPI, market impact, funding and exit reporting to existing waivers; review conditions where current information is inadequate.
At next regulatory proposal	Apply revised shared-asset treatment, first-dollar benefit sharing and RAB/opex reconciliation.
Parallel referral	Submit rule-change recommendations on service classification, DNSP role boundaries, Cost Allocation Guideline interaction and remedies to the AEMC.

10.3 Decision framework

The final guideline should make the sequence explicit: first define the service and market; then test whether third parties can provide it; then remove monopoly access barriers; then procure or facilitate a competitive solution; and only then consider narrowly limited DNSP provision. Ring-fencing should not begin with the assumption that the DNSP will provide the service and ask how to manage the conflict afterward. (OECD 2024; Rey and Tirole 2007)

| OECD 2024, s. 8.5: "least distortive option."

11. Conclusion

The AER has an opportunity to restore confidence that monopoly networks will facilitate the energy transition without absorbing adjacent competitive markets. The present framework is not delivering that confidence. It allows shared people and systems, routine waivers, opaque related-party arrangements, forecast-only cost allocation, weak consumer revenue sharing and limited public enforcement information. (AER 2026a, pp. 12–18; AER 2026c, pp. 2–6; AER 2026d, pp. 2–5)

AER 2026c, p. 4: "waivers are being granted too readily, with insufficient transparency, monitoring or evidence that claimed consumer benefits are achieved."

The interests of consumers are not advanced simply because a DNSP can deploy an asset or service. Consumers benefit when investment is efficient, risk is allocated to those best able to manage it, competitive providers can enter on equal terms, innovation is not crowded out, and revenues from consumer-funded assets are transparently returned to consumers. (OECD 2024; Productivity Commission 2013)

Productivity Commission 2013, Key points: "better outcomes for consumers."

The AER should therefore adopt a firm market boundary, make legal separation real, require equal access, convert waivers into a true last-resort mechanism, reconcile actual use and revenue, and enforce the framework visibly. Anything less risks repeating the long-running pattern in which regulated asset and organisational advantages expand, while the cost and market consequences remain with consumers and private investors. (AER 2026f, pp. 1–5; OECD 2024)

AER 2026f, p. 1: "The AER does not generally revise or annually reconcile the original cost allocation for a shared asset, including a community battery, against actual use."

Appendix A. Evidence and sources

References to page numbers below use the page number printed in the source document where available. Public links are included for external sources. Workshop summaries record stakeholder views and are not findings of fact; this submission distinguishes those views from AER data and decisions. *In-text citations use*

Source	Use in this submission
AER 2026a — AER, Call for Input - Review of the Ring-fencing guideline (electricity distribution) v4 and Shared Asset Guideline v2, June 2026.	Key material: purpose and scope; stakeholder concerns; battery waiver data; DSO role; questions and timeline.
AER 2026b — AER, Stakeholder workshop slide pack - Review of ring-fencing guideline and shared asset guidelines, July 2026.	Key material: RESP structure; functional separation scenarios; waiver framework; shared asset 1% / 10% example; compliance and reporting.
AER 2026c — AER, Workshop summary - Contestable Service Providers and Industry Bodies and Groups, July 2026.	Key material: investment, access, staff sharing, waivers, market failure, shared assets and reporting concerns.
AER 2026d — AER, Workshop summary - Government and Consumers, July 2026.	Key material: visibility, staff and board conflicts, consumer share, related-party revenue and access transparency.
AER 2026e — AER, Workshop summary - Networks, related entities and network representative bodies, July 2026.	Key material: network claims on separation costs, branding, staff costs, waiver duration and shared-asset incentives.
AER 2026f — AER, Questions taken on notice during workshops on the review of ring-fencing and shared asset guidelines, July 2026.	Key material: no routine actual reconciliation; public data limitations; government funding/RAB/opex treatment; CPU access; waiver outcomes and enforcement powers.
AER 2026g — AER, Annual compliance and enforcement report 2025-26, July 2026.	Key material: repeated breaches, disclosure and branding issues; 11 DNSP waivers in 2025; connection and ring-fencing monitoring.
AER 2025a — AER, Annual compliance and enforcement report 2024-25, July 2025.	Key material: repeated non-compliance; 10 DNSP waivers in 2024; battery waiver reporting; Evoenergy undertaking.
AER 2025b — AER, Reasons for decision - CPU ring-fencing waiver for EV charging infrastructure, October 2025.	Key material: up to 100 chargers, waiver to June 2031, conditions and competition assessment.

AER 2024 — AER, Evoenergy enforceable undertaking regarding ring-fencing obligations, June 2024.	Key material: contestable services provided since January 2018, potential competition impact, transition and remediation.
ACCC 2021 — ACCC, Inquiry into the National Electricity Market - November 2021 report.	Key material: past network overinvestment, consumer cost impacts and long-lived RAB consequences.
AEMC 2026 — AEMC, Electricity Network Regulation Review - Package 1 and related rule change processes, June 2026.	Key material: service classification, ring-fencing and interaction between networks and contestable markets.
Economides 1998 — Economides, N. 1998, "The incentive for non-price discrimination by an input monopolist", International Journal of Industrial Organization, 16, no. 3, pp. 271–284, doi:10.1016/S0167- [REDACTED]	Academic basis for the risk that a monopoly input provider with a downstream affiliate can disadvantage rivals through non-price discrimination, including degraded quality, timing or access.
Rey and Tirole 2007 — Rey, P. and Tirole, J. 2007, "A primer on foreclosure", in M. Armstrong and R. Porter (eds), Handbook of Industrial Organization, vol. 3, Elsevier, pp. 2145–2220, doi:10.1016/S1573-448X(07)00000-0. [REDACTED]	Academic basis for assessing foreclosure risks where market power in an upstream or essential input market can be used to restrict downstream competition.
OECD 2024 — OECD 2024, Competitive Neutrality Toolkit: Promoting a Level Playing Field, OECD Publishing, Paris, doi:10.1787/3247ba44-en.	International policy basis for equal treatment, narrowly framed exemptions, transparent state support and least-distortive regulatory interventions.
Productivity Commission 2013 — Productivity Commission 2013, Electricity Network Regulatory Frameworks, Inquiry Report No. 62, Canberra.	Australian economic-regulation evidence concerning network-cost growth, regulatory incentives, inefficient investment and the primacy of long-term consumer outcomes.

Public links

AER review page: [Open official source](#)

AER Annual compliance and enforcement report 2025-26: [Open official source](#)

AER CPU EV charging waiver page: [Open official source](#)

AER CPU reasons for decision: [Open official source](#)

AER 2024 Evoenergy ring-fencing undertaking: [Open official source](#)

ACCC Inquiry into the NEM - November 2021: [Open official source](#)

AEMC Electricity Network Regulation Review: [Open official source](#)

Economides (1998), non-price discrimination: [Open source](#)

Rey and Tirole (2007), foreclosure: [Open source](#)

OECD Competitive Neutrality Toolkit (2024): [Open official source](#)

Productivity Commission electricity network regulation report (2013): [Open official source](#)