

Submission by Evie Networks To Australian Energy Regulator On Its Issues Paper: Retailer Authorisation And Exemption Review

About Evie Networks

Evie Networks was founded in 2017 by the St Baker Energy Innovation Fund with the aim of building Australia's largest Electric Vehicle fast and ultra fast charging network across all Australian States and Territories as part of a strategy that recognised the need for, and societal benefits of, the electrification of the Australian Transport Sector and the associated need to address concerns about "Range Anxiety" with EVs. Evie therefore has a strong focus on building quality charging stations, located on sites that are convenient for customers and underpinned by the Evie team's relentless pursuit of reliability and customer satisfaction. Its initial rollout was on national highways and is now being expanded into major metropolitan areas and regional centres. It currently has 60 sites in operation and expects to have over 200 sites by July 2023.

Introduction

Evie Networks welcomes the opportunity to respond to the AER's Issues Paper "Retailer Authorisation and Exemption Review", but will necessarily restrict comments to those areas of the Issues paper addressing issues and concerns around protection of consumers in relation to charging of Electric Vehicles (EVs) at publicly available charging stations. However we will also make some general comments concerning what would be regarded as "bundling" of products that include arrangements that extend to EV charging.

Background

Historically the AER has focussed specifically on electricity supply to premises; ie, one-way supply of electricity to a premise. However, with the prospect that there will be an increasing role of DER (Distributed Energy Resources) and two-way supply of energy (also described as two-sided markets; eg, V2G with EVs) under the Energy Security Board's (ESB) post-2025 NEM Market Reforms, we recognise that there is a need for the AER to now look at whether increased and/or new consumer protections are warranted to protect consumers in this post-2025 environment.

The AER's primary focus is on the National Energy Consumer Framework (NECF); the AER is responsible for the enforcement of the NECF. However, it is also appropriate, as the AER does in the Issues Paper, to consider the application of the general Australian Consumer Law (ACL) which aims to provide consumers with protections when buying goods and services.

In responding to the Issues Paper, we believe the best approach in the context of considering the use of publicly available EV charging infrastructure is to adopt 2 distinct timeframes:

1. The period of relatively low EV numbers where EVs are not the dominant form of transportation. As clearly set out at Pages 23 and 36 of the Issues Paper, during this timeframe, EV charging would not be regarded as an essential service. As a result, the provisions of the NECF would not apply. We fully concur with this position. We would also note that based on various projections of EV take up, this period of relatively low EV numbers is expected to continue for a number of years.
2. The period when EVs are the predominant vehicle used on roads. As set out in the Issues Paper, this would necessarily lead to a consideration as to whether access to EV charging was an essential service and, thus, whether the NECF should then apply to publicly available EV charging infrastructure operations (as well as potentially all other locations where an EV owner can charge their vehicles). We consider this issue in detail below.

High level of EV usage

The following extract from Page 36 of the Issues Paper sets out the issues for consideration of whether the publicly available EV charging would be considered to be an essential service at a time of high level of EV usage – and, thus, that the NECF should apply to EV charging infrastructure operators, with AER oversight (emphasis added):

“Customers may be able to charge their EV by plugging it into an electrical outlet point at their house when at home. A customer who has access to streetside parking may require access to an offsite EV charger/charging station to charge their vehicle. However, given a consumer can access other modes of transportation, we consider access to an EV charger is not an essential service in the same way as the supply of energy is to a household. However, **this may change once EVs become the main type of vehicle used by customers. In this scenario, access to EV charging would more likely be considered essential. It may be desirable in the future to ensure customers are able to have access to EV charging within a reasonable distance of where they reside/are staying.**”

The position presented here could be interpreted as the AER signalling that, at some point in the future (timing unspecified), it would wish to have consumer protections under the NECF extended in such a way as to ensure that all EV drivers had access to a publicly available EV charging site within a reasonable distance from where they are living.

Such an interpretation would raise a number of important questions, such as:

1. Is the NECF and AER oversight the appropriate vehicle for addressing the issue of availability of publicly available EV charging sites? It is submitted that this is an issue that is best addressed by specific initiatives by Federal and State Governments as we are already seeing with Government EV charging infrastructure grant programs.
2. If the NECF was to be applied to the publicly available EV charging infrastructure operations, with AER oversight, how would the AER enforce the requirement that EV drivers have access to EV charging sites within a reasonable distance of their residence? Would it have a power of direction? And on what basis would it use this power with respect to one EV charging infrastructure organisation versus another?
3. If the AER’s position on this issue of availability of EV charging being an essential service was accepted, should this be restricted to publicly available EV charging sites or, logically, extended to cover all forms of EV charging. For example, if the AER’s position is that in the future it

will wish to ensure customers should be able to have access to EV charging “within a reasonable distance of where they reside/are staying”, could it be equally argued that the AER should, for example, require all future apartment developments to have an EV charging capability and that existing apartment blocks without an EV charging capability should be required to instal such a capability? It is submitted that this example raises a fundamental issue as to if EV charging was considered an essential service, where would the AER necessarily draw the line in terms of the coverage of the NECF and potential actions by the AER. It is further submitted that with respect to the issues raised by this example of the ability of EV owners residing in apartments to charge their vehicles where they reside would be better dealt with by direct Government action through Building Codes.

It is therefore submitted that the AER’s position (even if it is only potential, and well into the future) involves significant regulatory over-reach and is fundamentally flawed. Evie Networks therefore could not support the extension of the NECF to publicly available EV charging infrastructure operators.

General Consumer Protection: Bundling/EV Charging Plans

The AER correctly raises the issue of whether various bundling arrangements (eg, an EV charging arrangement bundled with the purchase of an EV) and specific charging plans (eg, an EV was locked into one charging arrangement that prohibited access to another charging infrastructure provider’s network) could possibly require specific coverage under the NECF and, thus, direct oversight by the AER. However, it is noted that the ACL would already apply in relation to these issues and, also, that is recognised that there is a strong business case for publicly available charging infrastructure to be available on an “open access” basis.

It is therefore submitted that there is no need for any additional actions in these areas. However, Evie Networks believes the AER should continue to monitor developments in these areas and customer experiences, particularly when two-sided markets (eg, V2G with EVs) become far more prevalent, and bring forward appropriate recommendations for action if required.