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Ms Stephanie Jolly

Executive General Manager, Consumer, Policy and Markets Division

Australian Energy Regulator

Submission via email: AERringfencing@aer.gov.au

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Consultation paper: CPU ring-fencing waiver application

Dear Ms Jolly,

AGL Energy (**AGL**) welcomes the opportunity to make a submission to the Australian Energy Regulator's (**AER**) consultation paper on the ring-fencing waiver application for an electric vehicle charging infrastructure trial from CitiPower, Powercor, and United Energy (**CPU**).

Proudly Australian for more than 185 years, AGL supplies around 4.1 million energy services. AGL's strategy is to connect every customer to a sustainable future. AGL is innovating on a broad suite of products & services to drive distributed energy resources (DER) adoption and deliver value for customers. AGL's views on the topics under consideration have been informed by our experience in delivering electric vehicle (EV) products and services to customers, including:

- AGL's EV plans which attracted over 22,000 customers in FY24 – this includes the Night Saver EV Plan, a time-of-use (TOU) plan where customers are encouraged to charge their vehicle overnight for as low as \$5.
- OVO Energy's EV plan and EV Control which enables both TOU and smart charging propositions for the customer.
- AGL's EV home and commercial charging products and EV subscriptions.
- AGL's partnership with PLUS ES to expand New South Wales' EV Charging network by installing 149 public chargers.

Choice and availability of EV charging infrastructure is critical to help drive EV uptake. The EV market is in its early stages in Australia, and the rollout of public charging and other supporting infrastructure is even more nascent. At present we lack strong indicators of what consumer preferences will be when it comes to publicly available infrastructure. It is critical that consumer choices are not unfairly limited early by locking in uniform electric vehicle charging infrastructure (EVCI) solutions at the expense of others. The rollout of distribution network service provider (DNSP)-led pole-mounted chargers would not only compete with forms of kerbside charging but would also impact adjacent AC and DC EV charging markets (for example, destination charging and charging at shopping centres, retail precincts, apartment blocks and workplaces).

While AGL supports time-bound trials to test different models to deliver EVCI, it is critical to ensure these trials do not pose a risk to market-led solutions. The interactions between competitive markets and DNSPs need to be fair and transparent and facilitate effective competition between participants in contestable markets that rely on those networks. Ring-fencing is critical to uphold competition due to the inherent advantages DNSPs have as regulated monopolies over other competitive market players. This need is even more pressing in the emerging EV charging market, where the goal should be for consumers to have access



to multiple EV charging options, at different price points, available when and where consumers need to charge.

CPU's ringfencing waiver application is built around the assumption that a DNSP-led rollout of EVCI would benefit end-users by providing lower-cost EV charging services. CPU should be able to provide evidence that their proposed operating model can be delivered more effectively by networks than by competitive market players with open access to their network, and that cost efficiencies can be sustained over time.

If the AER's view is that a regulatory solution is required to accelerate the rollout of EVCI, then DNSPs across the National Electricity Market could also be required to:

- provide free access to poles with regulated upfront and annual prices for connections
- connect AC EVCI for a fixed price within a set period of time
- make standardised and understandable network capacity information publicly available
- create EV charging tariffs and structures which send efficient price signals to shift load, and ensuring these options are not only available to customers connected to CPU-owned chargers.

AGL has concerns about specific aspects of CPU's proposed operating model. Careful consideration is required to fully understand their impact on competitive markets and to effectively mitigate risks.

- CPU is proposing to engage retail services from an authorised retailer and then pass on retailer charges directly to e-Mobility Service Providers (eMSPs). AGL does not support the re-selling of electricity by CPU, even if there is no mark-up on retail prices, as this is a competitive activity that should remain strictly separated from the functions of a regulated monopoly.
- CPU would incur costs not only for the installation and maintenance of EVCI, but also to procure a Charge Station Owner System (CSO System). It is unclear how all hardware, software, and operational costs would be recovered, whether these would be exclusively recovered from eMSPs, and if the CSO System may be used to deliver Standard Control Services.
- It is unclear whether the CSO System could be used to undertake active demand response in the future. AGL does not support direct network EV load control, as this would limit the ability of eMSPs and retailers to manage their customers' needs based on network, wholesale, and/or retail prices.

Should a waiver be granted, transparency and conservatism in this trial will be of critical importance. AGL's view is that, in addition to the AER's recommendations, the waiver's conditions should include reporting obligations which:

- can help the AER determine whether other EVCI customers are being discriminated against (and this should not be exclusive to pole-mounted charging)
- demonstrate that CPU is not diverting customer funded resources from other customer activities to support the DNSP roll-out (i.e., that staff and materials are genuinely cost recovered).

The trial should not come at the expense of competition in an emerging market, which would ultimately come at the expense of consumers.

Appendix A includes responses to select consultation questions. If you have any queries about this submission, please contact Andrea Espinosa on 0422 165 705 or aespinosa2@agl.com.au.

Yours sincerely,

Kyle Auret

Senior Manager Policy and Market Regulation

Appendix A – Response to consultation questions

Question	Answer
<p>1. Do the current dynamics of the markets suggest a thriving and competitive marketplace?</p>	<p>There are barriers which currently affect the profitability of pole-mounted chargers, such as:</p> <ul style="list-style-type: none"> • Utilisation rates • Metering costs • Network connection costs • Long and complex connection processes. <p>However, the EV and EVCI markets are emerging, which means market dynamics are still subject to change. Competitive players accept the risks associated with this market when they set out to deliver EVCI and its associated services.</p> <p>As regulated monopolies, DNSPs should not be taking on market risk and the prospective profits or losses associated with a competitive market. DNSP participation also risks distorting market dynamics in early stages of the EV market, resulting in higher costs for consumers. Improvements and transparency in DNSPs processes and connection costs are also critical to address market challenges.</p>
<p>2. Do you agree a market insufficiency exists? What are your views on the cause any coverage gaps across 'metropolitan' (i.e. inner-city urban areas), suburban and regional Victoria?</p>	<p>AGL agrees there a need to increase demand for convenience charging, but this is not limited to pole-mounted charging. This is partly driven by low visibility of these chargers and consequently low utilisation. This market insufficiency is often exacerbated by a lack of standardised and transparent network connection processes.</p>
<p>4. What are your views on CPU's claim that they can provide kerbside EV chargers more cost-effectively than other third parties?</p>	<p>As the EV and EVCI markets are in early stages, it is currently not clear whether pole-mounted charging will be a lower-cost solution compared to other forms of public charging.</p> <p>If a waiver were granted, CPU should:</p> <ul style="list-style-type: none"> • demonstrate to regulators and industry whether they were able to provide this infrastructure more cost-effectively than competitive parties • provide evidence that the costs of the roll-out have not been socialised across its consumer base over time, and that any losses have not been passed on to consumers. <p>While DNSPs may be able to make use of existing economies of scale, regulated monopolies still have high overhead costs and low productivity compared to competitive market players. Recent analysis of the ARENA funded Community Battery program found that "network batteries were more expensive on average than non-network (behind-the-meter) batteries with a weighted average cost of \$2.30 compared</p>

	<p>to \$1.33/Wh (\$2.24 vs \$1.27/Wh unweighted).¹ The DNSP-led Victorian smart-meter rollout was estimated to have cost \$319 million with a real risk that the expected benefits for consumers would not be achieved².</p> <p>AGL also notes that third parties would be able to deliver more cost-effective options to consumers if DNSPs were required make changes to their connection processes and pricing structures, resulting in open access to electricity networks to competitive providers of EVCI. This could be achieved by:</p> <ul style="list-style-type: none"> • Requiring DNSPs to provide free access to poles and regulating the upfront and annual price for connections • Requiring DNSPs to connect an AC EV public charge for a fixed price within a set period of time • Requiring DNSPs to make standardised and understandable network capacity information publicly available • Improvements on AC EV charging tariffs and structures to send efficient price signals to drivers <p>Government funding could also be used to support the initial deployment of pole-mounted EVCI by non-DNSP parties.</p> <p>In combination, these measures would enable competitive players to develop innovative solutions that meet customer needs at lower costs.</p>
<p>5. What do you view as the potential risks to competition from CPU's proposed trial?</p>	<p>AGL would like to highlight the following risks:</p> <ul style="list-style-type: none"> • <i>Connection processes / costs:</i> As noted in our cover letter, DNSP-led pole mounted charging would not only compete with other forms of kerb-side charging but would also compete with AC and DC charging at destinations and customer sites. Competitors currently face roadblocks associated with slow and unclear connection processes and high connection costs, which would not be incurred by CPU. The AER should ensure the trial does not slow down the market for other forms of EV charging which can meet customers' needs. • <i>Re-sale of electricity:</i> CPU is proposing to engage retail services from an authorised retailer and then pass on retailer charges directly eMSPs. AGL understands CPU would pass on these costs directly to eMSPs without a margin. Nonetheless, AGL does not support the re-selling of electricity by CPU, as this is a competitive activity that should remain strictly separated from the functions of a regulated monopoly. • <i>CSO System:</i> Further clarification is needed on how costs would be

¹Australian Renewable Energy Agency (February 2025), *Market Snapshot ARENA Community Battery Funding Round 1*, <https://arena.gov.au/assets/2024/11/ARENA-Community-Battery-Market-Snapshot.pdf>.

² Victorian Auditor-General's Office (September 2015), *Realising the Benefits of Smart Meters*, <https://www.audit.vic.gov.au/report/realising-benefits-smart-meters?section=#:~:text=Further%2C%20the%20single%20largest%20benefit,deal%20and%20changing%20consumption%20patterns>.

	<p>recovered for CPU's proposed CSO System. The impacts on competition from this trial will also be subject to whether the software can be used to deliver Standard Control Services in the future.</p> <ul style="list-style-type: none"> • <i>Demand management:</i> AGL is concerned that the CSO System could be used to undertake active demand response in the future (i.e., direct interruption or modulation of charging by the network). AGL does not support direct network EV load control. • <i>Equal eMSP access:</i> AGL's view is that, upon request, all eMSPs should have equal access to CPU's software and be subject to the same integration costs. Without this measure, the trial could also present competition risks to eMSPs.
6. What are your views on CPU's proposed method of selecting EV charging sites based on areas with high EV ownership, and number of units (100 EV chargers)?	<p>If CPU's trial is seeking to address the 'chicken and egg' situation in relation to EVCI and EV uptake, then it could consider targeting areas of lower EV ownership. CPU could also consider the impact / location of EV fleet cars in their methodology. The trial should be limited to 100 EV chargers as proposed in the application.</p>
7. What are your views on the depth of the market for kerbside AC EVCI?	<p>Specific environments will be more conducive to the uptake of kerbside AC EVCI. This includes high density areas and areas where multiple chargers can be connected closely to improve consumer confidence in the availability of locations / EVCI. Consumers are also likely to prioritise spaces where charging can occur either very quickly or while they undertake other activities (e.g., shopping).</p> <p>AGL questions whether CPU's proposed method, which focuses on areas which are already considered profitable, would effectively deliver infrastructure that can be deployed by the competitive market under open access arrangements.</p>
8. What are your views on the potential for CPU to discriminate against third-party EV charging service providers?	<p>In their final advice on the Review of consumer protections for future energy services³, the AER reiterated its position that there currently is not a strong case for public EV charging to be captured under energy-specific consumer protections and that there was a clear separation between public EV charging and the essential supply of energy.</p> <p>AGL agrees with the AER's conclusion, and notes that allowing DNSPs to openly participate in a market that is unregulated by both the Victorian and the national electricity framework comes at a real risk of customer choice and longer-term charging affordability.</p>

³ Australian Energy Regulator (November 2023), *Review of consumer protections for future energy services*, <https://www.aer.gov.au/system/files/2023-12/AER%20-%20Review%20of%20consumer%20protections%20for%20future%20energy%20services%20-%20Final%20advice%20-%20November%202023.pdf>.

	<p>Discrimination against third-party EV charging service providers in favour of CPU or its associated entities is a key part of this. These risks would be exacerbated if CPU were not required to implement transparent and standardised connection processes and to lower its application and connection costs for third parties.</p>
<p>9. Would the conditions above be fit for purpose, if a waiver is granted? Which are higher or lower priority?</p>	<p>AGL broadly supports the requirement to demonstrate there has been no other market interest in an area. However, this requirement could have unintended consequences if it led to a reluctance from CPU to accept connection applications, or to unduly delay the connection process.</p> <p>AGL agrees that CPU should substantiate its claims of being able to provide EV chargers more cost-effectively. However, evidence of its tendering and procurement strategies in itself is unlikely to be sufficient to address this need.</p>
<p>10. What other conditions should be placed on the waiver, if granted, to prevent discrimination or to preserve fair market competition, and maximise the benefits from the trial?</p>	<p>AGL's view is that, should a waiver be granted, it should also include the following obligations:</p> <ul style="list-style-type: none"> • Reporting to help the AER determine whether other EVCI customers are being discriminated against <ul style="list-style-type: none"> ◦ This should not be exclusive to pole-mounted charging and include information such as access to and pricing for poles, and access and pricing for EV connections in commercial and residential premises • Reporting to demonstrate that CPU is not diverting customer funded resources from other customer activities to support the DNSP roll-out (i.e., that staff and materials are genuinely cost recovered from eMSPs). <p>To ensure the competitive EVCI market can continue to grow, CPU would ideally be required to implement the regulatory measures proposed by AGL in Question 4.</p>