

## Q&A session – Review of consumer protections for future energy services

### Question from stakeholder

I have concerns with respect to electric vehicle charging and suggestions (in Ross De Rango LinkedIn post<sup>1</sup>) that National Energy Customer Framework would not apply and rather “just” the Australian Consumer Law. There’s a real possibility that kerbside charging could be integrated in a Distributed Network Service Provider capacity subscription (to avoid “double dipping” on consumers).

### AER’s response

In the AER’s Final Advice, the definition for the future scope of the framework focus on energy services rather than consumer energy resources assets (such as electric vehicles or batteries). We have excluded the regulation of public electrical vehicle charging (for example, at streetside, office building, shopping centres and service stations) from the scope because it does not interact directly with the use of energy in a household’s premises. It is not anticipated that public charging would involve a customer entering into a contract for a service, as would be the case for services such as energy management or orchestration of consumer owned assets such as rooftop solar, batteries or electric vehicles. A simple charging regime is unlikely to create significant risk of harm for consumers, of the types we identified in our advice.

Following our Final Advice being provided to Energy Ministers in November 2023, jurisdictions could explore this issue further, as they consider what consumer protections are fit for purpose for energy services.

### Question from stakeholder

We’re particularly interested in whether the logic the AER applies to electric vehicle charging in public and workplace settings can also be applied to electric vehicle charging in apartment complexes, where the energy for the vehicles is wholly separable from the energy for the dwellings.

### AER’s response

We refer to the AER’s response above and also note that electric vehicle charging in apartment complexes or at workplaces may be a matter for jurisdictions to look further into.

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<sup>1</sup> Ross De Rango, [Selling electricity for the purpose of EV charging in Australia? You’ll want to be across these](#), LinkedIn, 14 January 2024.

### Question from stakeholder

Can you clarify what is public electric vehicle charging (excluded) vs home or small business (included). For example, a small business may have a charger onsite to charge (a) its own vehicles; (b) those of its employees; and (c) members of the public as a sideline service. Would the existence of (c) mean (a) and (b) are also excluded? If public charging is not a service, would small business use for its own vehicles and those of employees be covered through the energy framework?

### AER's response

The scope of the electric vehicle charging covered within the National Energy Customer Framework is where the customer enters into a contract with a service provider. In this case, that would be the small business. The services provided to employees and members of the public are likely to be an on demand, fee for service arrangement.

### Question from stakeholder

Quoting from page 71 of the Final Advice: "Consumers should be given a choice to either provide or withdraw consent prior to the control of their assets. They should have the ability to override control of their assets whenever needed."

Energy Queensland disagrees strongly with this position with respect to electric vehicle charging in the home. The Queensland Electricity Connection Manual v4 (effective next month) continues the requirement from v3 (extant today) that consumers provide for Ergon/Energex to be able to remotely switch off electric vehicle charging equipment in the typical consumer home, where it is typical domestic electric vehicle charging equipment. There's a range of methods defined in v4, but none that allow a consumer to opt out of control.

Does the AER believe it has standing to address this with Energy Queensland?  
Will the AER address this with Energy Queensland?

### AER's response

This is a matter that jurisdictional policy makers may want to explore further when considering any changes to the regulatory framework, including electric vehicle charging. Backstop or emergency measures have their place, in maintaining grid stability. More broadly, when it comes to services that manage households' electricity use or generation, we took the view in our Final Advice that the evidence is that consumers want to be able to exercise control over how their assets are managed or automated.

#### Question from stakeholder

If the National Energy Customer Framework is updated/replaced, does that provide an opportunity to get it to apply in Victoria?

#### AER's response

Any decision to update the National Energy Customer Framework for new energy services is ultimately a matter for the jurisdictions. Such an update may provide an opportunity for the National Energy Customer Framework to apply in Victoria, however, that would need to be considered by the Victorian Government.

Throughout this review, the AER has maintained regular communication with the Victorian government, keeping them updated on our work and progress.

#### Question from stakeholder

Are you suggesting that in order to implement changes, it is necessary to have the support of not only the federal government but also all the state energy ministers?

#### AER's response

The National Energy Customer Framework is established under the National Energy Retail Law. In order to modify these laws, agreement is required from all jurisdictional Energy Ministers.

#### Question from stakeholder

Have you considered the linkages between the Clean Energy Regulator's installer/design and product accreditation programs? These linkages can be streamlined to provide clarity to consumers, helping them identify who they can approach for support throughout their customer journey, from consideration and purchase to installation, servicing, and end-of-life disposal.

#### AER's response

The AER has considered the application of the various regulatory frameworks that apply to the purchase and installation of solar and battery systems, including the New Energy Tech Consumer Code. These can play a role, in the customer experience of the performance of energy services. However, subjecting new energy services to a mandatory law-based framework through the National Energy Customer Framework, will fill a gap in consumer protection. Further, this approach can drive compliance and ensure penalties are imposed for non-compliance.

**Question from stakeholder**

How does the proposed overarching duty of care for the consumer interact with a private business's purpose of operating for profit?

**AER's response**

The AER considers that its proposed reforms would help drive consumer trust and confidence, and therefore the take up of new energy services. This should in turn support innovation and new business models as well as the integration of Consumer Energy Resources (CER) into the market.

**Question from stakeholder**

If new regulations are only for new entrants to the market, how do we manage risk associated with current providers?

**AER's response**

The AER has indicated that prescriptive consumer protection obligations should continue to apply to the traditional selling of electricity and gas. The new provisions in the National Energy Customer Framework are designed to apply to new energy services, across all providers in the market.

**Question from stakeholder**

Is the AER aware (and taking action) to review the fact that it is the Consumers' Grid (formerly known as distribution) that will integrate CER together and that therefore Distributed Network Service Providers have a new role of assisting consumers through Dynamic Operating Envelopes, data, and Energy Cost Efficiency?

**AER's response**

We believe this work would be best addressed in the National CER Roadmap.

### Question from stakeholder

Do these legislative reforms (where agreement of all Ministers is required to change the National Energy Retail Law) present an opportunity to strengthen existing protections and to align the National Energy Customer Framework with the stronger consumer protections contained in Victoria's Payment Difficulty Framework - this will be particularly important if these new protections link to the (arguably) inadequate payment difficulty / hardship protections under the National Energy Customer Framework - which are centered on the circuitous 'hardship customer' definition in the National Energy Retail Law.

### AER's response

The AER has commenced a review to examine whether there is a need for a payment difficulty framework in the National Energy Customer Framework (pursuant to action 8 of the AER's Towards Energy Equity Strategy). Through this review, the AER will consult on the effectiveness of the existing payment difficulty and hardship protections in the National Energy Customer Framework (including the definition of hardship). We will also consult, including with the Essential Services Commission of Victoria, on the effectiveness of the Victorian Payment Difficulty Framework and consider potential benefits of adopting elements of the Victorian framework in the National Energy Customer Framework. We expect to release an issues paper in Q2 to support this consultation.

### Question from stakeholder

This is more of a comment, but on the issue of value proposition, it can be difficult to quantify this and sometimes the customer value proposition clashes with the aggregators. We found this with Project Symphony (still waiting for our report to be published). The value propositions may also be different for each customer, for example, costs, self-sufficiency, environmental, etc. The customer also needs to have clarity on the value proposition from the aggregator – what are they doing with customer assets and why? How are they operating these assets on the National Electricity Market/Wholesale Electricity Market. That needs to be transparent.

### AER's response

One of the core outcomes in the framework that the AER has set out in its Final Advice is that customers should receive key information that will support them to make well-informed decisions. Information such as the value, cost, fit and appropriateness of the service should be provided to the consumer upfront, so they can make their own decision as to whether a contract and/or aggregation service would suit their individual requirements.

### Question from stakeholder

The fundamental requirement for consumer “protection” is interoperability. What will this AER work deliver?

### AER’s response

The Energy Security Board published their interoperability policy directions paper in October 2022. The Energy Security Board noted interoperability will be needed to support customers to easily switch between CER service providers, and to get the most value from their CER assets. They further noted that properly harnessing CER assets will make the grid more productive, cutting both costs and emissions. Putting fit-for-purpose consumer protections in place will make it easier and more seamless for consumers to benefit from these resources and manage their demand in return for financial rewards.

### Question from stakeholder

There’s a real problem that nearly all “innovation” at the moment is focused (even constrained) by the exclusive “supply side control” model. So Virtual Power Plants are really Virtual Peaking Plant. The Australian Energy Market Operator’s perspective is almost exclusively “dispatch” (supply/DR (megawatts dispatched)). Where what CER, and the Consumers’ Grid, really facilitates is Demand Management, temporal load shifting, and “Energy Cost Efficiency”.

How will the revised National Energy Customer Framework address this?

### AER’s response

The AER considers that the integration of CER in supporting the grid, including through providing flexibility at times when it is needed, is important in reducing energy costs for all consumers. An effective and updated National Energy Customer Framework that incorporates new energy services should help build trust and confidence in these new services and drive their take up, with benefits to all consumers.

### Question from stakeholder

I suggest a challenging aspect of the regulation of participation of consumer owned Distributed Energy Resources in the energy market is that the consumer is not simply acting as a consumer but transitioning to also being a services provider. That is, the nature of many of the 'new energy services' outlined in section 2.1 of the Final Advice are based on the consumer entering contractual arrangements where the consumer provides services back to the regulated entity (guaranteed ability to control batteries, inverters, loads, etc). The extent to which the provision of these services is guaranteed is a direct determinant of the value of these services to the regulated entity.

My two related questions are:

1. To what extent does the 'principles based approach' outlined in section 5.2 of the Final Advice - (The AER considers that a principles-based approach – for example, specifying that the service provider should act in the best interests of consumers – could incorporate greater flexibility within the energy consumer protections framework to adjust to new energy services and innovations that may arise through the transition while protecting consumers from risk of harm.), address the complexity that the consumer is also becoming an (unregulated) service provider to the regulated entity?
2. Is the current definition of 'consumer' an accurate description of the role and rights applicable to owners of Consumer Energy Resources, seeking to participate in the energy market?

### AER's response

In our Final Advice, we recognise that new energy services present a higher level of complexity and risk to consumers, which is one of the AER's rationale for updating the National Customer Energy Framework. As part of our recommendations, we suggest expanding the current National Customer Energy Framework definition to capture new energy services. Further, given the significant degree of uncertainty over how these innovative energy offerings will develop, the AER believes that a principles-based framework would offer the required flexibility to address such uncertainties.

Within the AER's proposed framework (provided in the Final Advice), for fit-for-purpose consumer protections, consumers may choose how they use, store, generate and trade in electricity. Some consumers may simply be adaptive in their electricity use, and not have solar and battery systems, though over time all will transition to electric vehicles (for those that choose to drive).

Further, the AER acknowledges the complexity of implementing reforms and jurisdictional policy makers may wish to explore an incremental approach to reforming the regulatory framework. As such, the complexity of consumers becoming (unregulated) service providers may require exploration as a specific matter.