

Submission by Evie Networks
To
Australian Energy Regulator
On
Review of consumer protections
for future energy services:
Options for reform of the
National Energy Customer Framework

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 has been progressively expanded into major metropolitan areas and regional centres. It currently has 100 sites in operation and has major expansion plans going forward.

Introduction

Evie Networks welcomes the opportunity to respond to the AER's paper: *Review of consumer protections for future energy services: Options for reform of the National Energy Customer Framework*, but will necessarily restrict comments to issues and concerns around protection of consumers in relation to charging of Electric Vehicles (EVs) at publicly available charging stations.

Background

As set out in the original Issues Paper, and as reinforced in this Options Paper, 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 – or, now, re-named “Consumer 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, the AER is now looking at whether increased and/or new consumer protections are warranted to protect electricity consumers in this new environment.

Evie believes the AER is correct in undertaking this work. However we believe that it is clear cut, based on the submissions made on the issue of the position of publicly available EV charging sites in response to the Issues Paper and the materials presented in this Options Paper, that the AER:

- Should specifically decide, before proceeding further in its analysis of its proposed 3 options, to exclude these facilities from any prospect that they will be brought within the National Energy Consumer Framework (NECF).
- As a corollary, endorse the view that the appropriate consumer regulatory framework for publicly available EV charging sites is the general Australian Consumer Law (ACL) which already provides consumers with protections when buying goods and services.

The Link to the Energy Security Board's Consumer Energy Resources Implementation Plan

The Options Paper highlights the linkages of the AER's analysis with the ESB's work on Consumer Energy Resources (previously known as DER). CER essentially deals with how consumers will, going forward, become an increasingly important and active element of Australia's electricity supply system (versus being essentially passive under the current arrangements) – involving the inter-related issues of empowering consumers and providing them with appropriate consumer protections. But this is clearly concentrated – principally – on households. And in the context of EVs, the primary focus would be on issues such as the impact of home charging, and the role V2H/V2G will play in managing energy flows on the grid, and the need for appropriate protections for consumers (particularly those involved with two-way flows).

Publicly available EV charging sites would not play a role in the CER context and, as already noted, users of these facilities are already protected by the ACL.

Essentiality

A key argument in the AER's Issues Paper was around "essentiality"; ie, whether publicly available EV charging would be considered to be an essential service within the meaning of the NECF 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."

Ie, on the basis of "Essentiality", publicly available EV charging sites are not currently considered by the AER as providing an "essential service" as EVs are simply another form of transportation and, as such, there are alternative modes of transportation available to an EV owner (and the owners of internal combustion engine (ICE) vehicles); eg, public transport.

However it is quite clear from both the Issues Paper and the Options Paper that the AER wants to keep publicly available EV charging sites within their "remit", or on their radar, just in case.

As set out below, Evie believes that the AER's risk analysis does not support this approach. In addition, such an approach – coupled with uncertainties as to how the proposed 3 options could apply to this new industry (and especially Option 3) – could well undermine investor confidence in providing the substantial additional funding required for rolling out an extensive network of charging sites. Evie would highlight that this investment is necessarily being undertaken well in advance of sufficient numbers of EVs being on the road to justify this investment.

The AER's Risk Analysis Does Not Support Including Publicly Available EV Charging Sites

The AER sets out its argument as to why there is a strong case for extending energy specific consumer protections to new energy products and services in Section 5 of the Options Paper: Regulating new energy products and services.

The AER states:

Based on our risk analysis, feedback in submissions, and workshops and stakeholder discussions, we are of the view that given the range and potential significance of risks that may emerge from new energy products and services, there is a strong case for extending energy specific consumer protections to these

new products and services. Therefore, the proposed reform models in this options paper all involve extending the scope of the energy consumer protection framework beyond the sale of energy to premises. **This means they aim to capture, to varying degrees, new energy products and services, and do not include an option to maintain the status quo.**

Key reasons for this are summarised below:

- **The complexity of the future energy market is likely to be overwhelming for many consumers:** to minimise complexity and support consumers in making decisions about energy products and services that best suit their needs and lifestyle, industry will need to step up and ensure a strong degree of trust in the sector.....
- **The line between NECF-protected services, and non-NECF-protected services will become increasingly blurred:** with growing complexity and the bundling of products and services, consumers are unlikely to be able to distinguish between their energy services that have energy-specific protections (for example those currently captured by the NECF), and those that don't.....
- **The AER's risk assessment to date indicates existing protection frameworks are unlikely to be adequate:** our risk assessment identified several risks where regulatory intervention may be warranted. We are continuing to consult with stakeholders to assess the likelihood and magnitude of the identified risks. Our understanding of existing mitigations is they are unlikely to go far enough to minimise some of the risks we have identified. While the ACL will provide some protections, these are not tailored specifically to energy products and services which are likely to have a high degree of complexity. For example, the complexity of new products and services means consumers are likely to require very specific information and support to understand what they are buying at the point of sale. While the ACL provides misleading and deceptive conduct provisions, it does not set out specific information that must be provided to consumers. This means there is a risk consumers could miss out on key information to help them decide if a product or service is appropriate for their needs.
- **The uptake of new energy products and services is a vital component to realising the benefits of the broader energy system transformation:** new products and services, such as aggregation and home energy management services will support consumers to reduce their energy bills, be more energy efficient, and to be rewarded for exporting energy back into the electricity network when it is most useful for the system. If we want consumers to actively engage with the energy market by using these services and hence play a part in the energy system transformation, it is important they are supported through adequate consumer protections. Without adequate protections in place, there is a risk consumers could lose trust in the sector if they are exposed to harms from new products and services and may decide these harms outweigh the benefits of participating in new energy markets.

Evie submits that it is very clear that the first 3 of the above risk considerations simply do not apply to EV owners accessing publicly available EV charging sites.

Additionally, it is very clear that the fourth consideration – that the uptake of new energy products and services is a vital component to realising the benefits of the broader energy system transformation (ie, CER) – is focused on issues around new energy services and products being applied at a consumer’s residence, and not services/products supplied at a publicly available EV charging sites.

Conclusion

Evie submits that the AER’s risk analysis does not justify bringing publicly available EV charging sites within the NECF, and that this service does not meet the requirements to be regarded as an “essential service” within the meaning of the NECF. Additionally, the information available to the AER with respect to the operation of publicly available EV charging sites and the application of the ACL to these facilities should allow it to immediately conclude that these facilities:

- Should be excluded from any prospect that they will be brought within the NECF.
- Are appropriately regulated by the general Australian Consumer Law (ACL) which already provides consumers with protections when buying goods and services.

The AER’s approach in the Option Paper appears to be looking to regulate for a problem that simply does not exist. It is noted in this context that such an approach – coupled with uncertainties as to how the proposed 3 options could apply to this new industry (and especially Option 3) – could well undermine investor confidence in providing the substantial additional funding required for rolling out an extensive network of charging sites, noting that this investment is necessarily being undertaken well in advance of sufficient numbers of EVs being on the road to justify this investment.

As a result, Evie is not providing any comments on the 3 options presented by the AER as an extension of the NECF to publicly available EV charging sites is not warranted and cannot be justified on the basis of the risk analysis presented in the Options Paper or on grounds of “essentiality”.

12 December, 2022