

LEGISLATIVE COUNCIL ECONOMY AND INFRASTRUCTURE COMMITTEE

Inquiry into Electricity Supply for Electric Vehicles

Melbourne – Thursday 26 February 2026

MEMBERS

Georgie Purcell – Chair

Richard Welch – Deputy Chair

John Berger

Gaelle Broad

Katherine Copsey

Moira Deeming

Tom McIntosh

Evan Mulholland

Sonja Terpstra

**Necessary corrections to be notified to
executive officer of committee**

WITNESS (*via videoconference*)

Justin Oliver, Deputy Chair, Australian Energy Regulator.

The CHAIR: I declare open the Legislative Council Economy and Infrastructure Committee's public hearing for the Inquiry into Electricity Supply for Electric Vehicles. Please ensure that mobile phones have been switched to silent and that background noise is minimised.

I would like to begin this hearing by respectfully acknowledging the Aboriginal peoples, the traditional custodians of the various lands we are gathered on today, and pay my respects to their ancestors, elders and families. I particularly welcome any elders or community members who are here today to impart their knowledge of this issue to the committee or who are watching the broadcast of these proceedings. I also welcome any other members of the public watching via the live broadcast.

To kick off, we will just have committee members introduce themselves to you, and we will start down this end of the room with Mrs Broad.

Gaelle BROAD: Hi, I am Gaelle Broad, Member for Northern Victoria.

John BERGER: John Berger, Member for Southern Metro.

Tom McINTOSH: Tom McIntosh, Member for Eastern Victoria.

The CHAIR: Georgie Purcell, Member for Northern Victoria.

Richard WELCH: Richard Welch, Member for North-East Metro.

Katherine COPSEY: Katherine Copsey, Member for Southern Metropolitan.

The CHAIR: Thank you so much for taking the time to appear before us today. All evidence is protected by parliamentary privilege as provided by the *Constitution Act* and further subject to the provisions of the Legislative Council standing orders. Therefore the information you provide during this hearing is protected by law. You are protected against any action for what you say during this hearing, but if you go elsewhere and repeat the same things, those comments may not be protected by this privilege. Any deliberately false evidence or misleading of the committee may be considered a contempt of Parliament.

All evidence is being recorded, you will be provided with a proof version of the transcript following the hearing and then transcripts will ultimately be made public and posted on the committee's website.

For the Hansard record, could you please state your full name and the organisation you are appearing on behalf of.

Justin OLIVER: Certainly. Justin Oliver. I am the Deputy Chair of the Australian Energy Regulator.

The CHAIR: Wonderful, thank you. We now welcome your opening comments but ask they are kept to around 5 to 10 minutes maximum, just to ensure we have plenty of time for discussion and questions.

Justin OLIVER: Chair, I can be briefer than that. I was not actually proposing to make an opening statement, if that is convenient. We have provided a submission of course and I understand that is with members, so I am content to proceed straight to questions if that is convenient for you.

The CHAIR: Wonderful. Let us get right into it. We will start with Mr McIntosh.

Tom McINTOSH: Oh, dang. All right. Can you talk us through DNSPs and what the regulatory settings are between you and them? We have heard a lot of complaints, particularly with Victorian DNSPs, when it comes to electric charging infrastructure being very slow – we are talking years to get infrastructure in place and being more expensive than other states, particularly New South Wales, we just heard in a hearing earlier. We hear about the DNSPs being inadequately set up within to streamline or, just coming back to the timeframe, effectively support customers to deliver charging infrastructure which Victorian consumers need. Can you just talk to us a bit about that, I will not say, 'relationship' perhaps but about how you interact with each other?

Justin OLIVER: Certainly, I am happy to. Thank you. It is a very significant part of the functions of the Australian Energy Regulator, but in the particular context of the matters within the remit of the inquiry I think there are probably two things that are worth focusing on. We regulate all of the distribution networks and the transmission networks in the national electricity market. I think there are 13 distribution networks and, obviously, five of them in Victoria. The core of it is that every five years we make what is called the distribution determination, the effect of which is to regulate how much the network is allowed to earn over the next five-year period. It is based on forecasts of efficient capital and operating expenditure and a rate of return which we set and various other schemes that interact with that. At that time we also approve a tariff structure statement which sets out the design and the rules for assigning customer connection points to different types of tariffs over the years to come.

That is a very lengthy process. It takes a couple of years to actually make that decision. When you go right back to the beginning of the formulation of that proposal – the consideration of it, the assessment of it – our process alone is over a year. But there is a lot of money at stake, so that is why it is such a lengthy and detailed process of consideration. That is, as I say, a very significant part of the work that we do at the Australian Energy Regulator.

It is very topical for Victoria in that their regulatory period comes to an end at 30 June this year, so we are currently in the late stages of making their next distribution determination that will apply for the next five-year period. We are currently working towards making that final decision by the end of April this year. They take that five-year decision, and then every year they have to turn that into a series of charges in accordance with the national electricity rules. They are submitted to us around this time as well. So we approve their annual distribution charges, and that makes up sort of 30 to 40 per cent of a typical customer's bill. So again, it is a very important part of what a customer ends up paying. That is a very short snapshot of a very lengthy process.

Tom McINTOSH: Thank you.

Justin OLIVER: Sorry, there is one other thing I could mention very briefly, and you will possibly have heard the phrase 'ring fencing' in the course of the inquiry. That is the other thing worth touching on as well. Under the national electricity rules we are required to publish and administer what are called ring-fencing guidelines. The distribution networks are natural monopolies and obviously a critical component of the electricity supply system. With any natural monopoly there is market power and there are potential risks to competition if they are allowed to vertically integrate into upstream or downstream markets. There is a risk or possibility that a network in that position could use that position to damage competition in a downstream market, giving themselves preferential access, foreclosing access by others, so we have a ring-fencing guideline which starts from the position that it is not permitted unless they get a waiver from the AER to do that. But the guidelines also do provide for waivers, because there are occasions where we can examine a proposal and conclude that there is a countervailing public benefit, for example, or limited risk to competition, and then we can permit certain activities to be done that would otherwise be prohibited. That is also a significant part of what we do in this space.

Tom McINTOSH: Thanks for raising that. We have not heard all evidence yet as we are only halfway through the inquiry. But all evidence so far has pointed to, perhaps, DNSPs in Victoria acting in a way that is not to assist their customers, not to assist consumers in Victoria, when it comes to electric vehicle infrastructure. We have heard that capital has left Victoria – infrastructure investment capital – because the process has been so slow, so complicated and so expensive that capital is going to other states, which inevitably impacts on the ability of our consumers to use their cars. So I just wonder if you have any comments on that, because when you talk about the monopoly and ensuring that they do not have the ability to monopolise more consumer charging points in this circumstance, it definitely feels like, with the avenue that has been opened up to them with that ring fencing, DNSPs in Victoria are actively – well, one way or another they are rolling things out very slowly to perhaps give themselves more market.

Justin OLIVER: We have heard similar concerns, similar complaints. For example, this has been an issue in relation to charge point operators who wish to install chargers on poles for kerbside charging, poles that are owned and operated by the distribution networks. Like you, we have heard complaints that charges in Victoria have either been too high or much higher than in other states or just very divergent – wildly divergent – which raises the question: one of them is probably wrong, but which one? So one of the things that we put in our draft determination for that next network reset was that we would essentially start to regulate access to the power

poles for the purpose of installing kerbside charging. We designated that as a negotiated service, and the effect of that, if it is in our final decision – and it is currently a matter that we are considering when we come to our final, but if that stays in the final decision – would be to give the AER the ability to resolve access disputes in relation to the ability of a charge point operator to put a charger on a pole. So if they do not agree with the price, if they think it is too high, they can notify a dispute to the AER, and we have the ability to make, then, a binding determination about what the price should be and, coupled with that, the ability to start putting information out there about our views on pricing, what these costs should be – how these assets should be priced so that charge point operators can get access to those poles.

Tom McINTOSH: Yes, because effectively access price not only hurts the consumers who want to use those services, as the cost has to be passed down to them, but impacts every single Victorian electricity consumer with a network charge as that network charge then flows onto their bills, doesn't it? So although it might be good for DNSP shareholders to be able to charge \$30,000 for a pole connection, as we have heard earlier, when indeed it should have been probably \$10,000 or \$8000 or whatever it might be that they have later moved it down to, everyone is paying for the DNSPs and their shareholders, who we have heard previously are generally multinational foreign-owned companies. Yes, it is good to have their capital in the system, but not at the expense of every single Victorian electricity consumer.

Justin OLIVER: Well, the poles, of course, are a part of the existing network, and they are used chiefly for standard control services – the conveyance of electricity. So in that sense they have been bought and paid for. And of course, over time they need to be refurbished and inspected and replaced, and that is a very significant part of what a DNSP does, and the revenue cap takes into account the need to do that. Then the question becomes: what is the incremental cost? What is a fair and proper incremental cost to the network of giving a charge point operator access to that pole to install the charger? We are not suggesting it is zero. There will be other things that perhaps need to be done, and we have not yet reached a view on what that charge should be. But again, that is the significance or the importance of designating it as a negotiated service. We have effectively seized control of the ability to do that if parties cannot agree. Sometimes just that threat of arbitration, the ability to resolve disputes, is enough to encourage parties to be able to come to agreement, but if they cannot, we do have the ability to deal with that, and we will have if it stays in the final.

Tom McINTOSH: Thank you. I suppose just a quick comment I will make: we have heard that new poles could be mounted for, say, \$8000, but a connection to a pole – an existing pole, as you are saying, has already got a role, it has already been paid for – very often paid for before privatisation by state taxpayers. And then there is in the event of tens of thousands of dollars just to connect to that pole. It seems quite exorbitant. But anyway, I will leave my comments here. I am happy for you to add to that if you wish.

Justin OLIVER: Thank you. I would hesitate to express a view on what the charge should be. It is something that we would think about very carefully, and we would listen to all the parties in the event of a dispute. But clearly we have heard similar complaints, and that is what has prompted us to move. So we think there is a need to take a more active role in making sure that pole access is priced fairly and appropriately.

Tom McINTOSH: Thank you. Thanks, Chair.

The CHAIR: Thanks, Mr McIntosh. We will go to Ms Broad.

Gaelle BROAD: Thank you very much. Look, I am interested – because you did mention it earlier, although you have said you are not clear on how you determine the price, but where would you be looking for price? Can you look to other states, or how would you come up with that, if that is what you are recommending, that AER should get oversight of that?

Justin OLIVER: Certainly. If there was a dispute, for example, we would start with the parties, and in particular the network: 'Okay, tell us what you think it should be and explain why.' We are quite good at digging into those sorts of cost proposals because we have a pretty good sense of what it costs to build, own and operate electricity networks just because of our long history in that space. We have the opportunity then to test those claims, to understand those costs, to ask further questions. We might get external review or scrutiny of those sorts of costs. We would potentially also take into account how these services are priced in other jurisdictions. That is almost a bit of a sense check in a way, a benchmarking-type approach. I would also –

Gaëlle BROAD: Are you monitoring that now? Because we heard that there are some costs that are \$700 in New South Wales, \$3500 to do the same job in Victoria – are you monitoring that right now?

Justin OLIVER: We are broadly aware of – I do not know if we have an active monitoring program, but yes, we have heard similar sorts of comments and concerns, that in New South Wales in particular there are some network service providers who charge prices in that order of magnitude. Again, that disparity is one of the reasons why we felt it was appropriate to designate the service to be regulated.

Gaëlle BROAD: Have you had cases raised with the AER? Because we heard from previous witnesses today, of an \$80,000 charge, when they challenged, it went down to \$50,000. There was another one where it was a \$75,000 charge, when they challenged it, it was dropped down to \$35,000, with no transparency on how they came to that price, that is just what was charged. Have you had any complaints submitted to you directly for assistance?

Justin OLIVER: We have certainly had complaints, but because we do not regulate the service, to date we have not had the ability to intervene and get involved in that. The response is to then move to regulate it.

Gaëlle BROAD: Okay. Where does the Ombudsman sit – because we have had different perspectives on this – as far as people being able to take those examples to the Ombudsman, is there avenue for dispute resolution in Victoria?

Justin OLIVER: Ombudsmen tend to be more concerned with the retail end-user, so if you or I have a concern around our bill, for example, and we do not get a satisfactory resolution from our retailer, then the next port of call would be the Ombudsman. But if we are talking about more of a wholesale issue, a charge point operator, for example, wanting to install an asset deal with a network so they can provide another service, I would perhaps take a right to double-check it, but I am pretty confident the Ombudsman would not have jurisdiction over a dispute like that.

Gaëlle BROAD: Do you think that should be something that would be considered in Victoria? How does it work in other states?

Justin OLIVER: No, I think ombudsmen generally are concerned with the retail end-user, the residential customer, for example, maybe a small business customer in some states. But where we are talking about more of a wholesale network access issue, resolution of an issue like that would, I think – not trying to blow my own trumpet – better sit with a regulator like us.

Gaëlle BROAD: Okay. And just with capacity in the system, we heard earlier that 50 per cent of applications are rejected because of lack of capacity. New South Wales has a map, they say to the provider, ‘Go and check it yourself, come back to us.’ In Victoria there is no line of sight on that. Are you across that at all? Are you hearing much?

Justin OLIVER: We are hearing a lot about access to network data. It is a very important issue. It is one of the reasons why we were prepared to approve, on a trial basis, the waiver that CitiPower, Powercor and United Energy have been granted to roll out up to 100 EV chargers, and I suspect you have heard a bit about that already as well. One of the public benefits that we ultimately found did justify the granting of that waiver was it would enable us to attach conditions to require further reporting, to get more of that visibility around, where the places in the networks are where there is capacity and what the implications are of installing chargers in some locations and not others. So the process of getting more visibility of network data, there are a few different streams underway. But yes, it is a very important part of facilitating the installation of assets like kerbside charging.

Gaëlle BROAD: Do you have concerns about the future as EVs continue to grow, and data centres and just the ability of our system – because we have had power outages in Victoria, and the Auditor-General has also flagged there could be a lack of resilience in that regard. What are your thoughts?

Justin OLIVER: I would not say concerns. There is extensive network planning that is undertaken at every level. It starts with AEMO, the system operator that undertakes the integrated system plan, and it produces something called the *Electricity Statement of Opportunities*, the ESOO. That is a 10-year planning horizon, where they talk about where the potential demand is going to come from. So they are thinking about things like

data centres at the grid scale. Then that cascades down to the transmission networks, who need to undertake planning on where the investment is going to be required to meet anticipated needs, and then the distribution networks as well. So all of them are undertaking ongoing planning over a fairly lengthy time horizon to anticipate where the demand is going to come from, what is going to need to be done to the network but also where the opportunities are going to exist to install new generation to meet that anticipated demand. As I say, that is a well-established system. It has been used for several decades. Obviously a lot of these investments have long lead times, but that is why the planning horizon is then quite long as well. But we are interested and are having long discussions at the moment – again, with the networks and others in the context of the Victorian resets – in part because of data centres. I know this inquiry is more about electric vehicle charging, but data centres are terribly important as well. With the connection of data centres – who should be paying for that, what that might do to network utilisation and what that might do to charges – we are watching all those things very closely, but we are always making sure that consumers are left no worse off, if not better off, as a result of these new loads coming into the system.

Gaëlle BROAD: Thank you.

The CHAIR: Thank you, Mrs Broad. We will go to Ms Copsey.

Katherine COPSEY: Thank you. It is a good segue. I am interested in the technical barriers and how government in particular can help to overcome those with the uptake of new technologies like bidirectional charging for households. We have huge numbers with solar and increasing numbers of batteries across households in Victoria, and I see EVs as playing a role, in some cases, as akin to a battery. With the goal of having flexible supply to meet demand, are there any emerging areas where you think government can be helping households to uptake these new technologies in a way that will lead to grid-scale benefits?

Justin OLIVER: I think there are a few layers to it. I agree with you about electric vehicles. They are essentially a fleet of batteries on wheels, so they will serve many of the same functions and same opportunities and challenges as household batteries as well. You started with technical issues and technical barriers, and that is a very important place to start. They generally do not sit with us as a regulator. We are not a technical regulator. It is more of an issue dealt with at the individual state level but also with a degree of coordination from the Commonwealth. Energy ministers and state and federal and territory energy ministers have been undertaking what they call a CER road map process, which has a stream that is concerned with looking at things like minimum operating standards for public EV charging infrastructure and reviewing technical and regulatory frameworks to remove barriers to things like vehicle-to-grid charging. So those technical settings and those technical requirements are under review at the jurisdictional level to see if they are fit for purpose and how they might need to be modified to facilitate those sorts of things.

We might have some role to play as a regulator in something like vehicle-to-grid charging, for example, through our ability to grant trial waivers. We have a function under the national electricity rules where if there is a rule which might prohibit someone from trialling a particular type of business model, we can potentially grant a waiver if we think there is a benefit in allowing a trial to proceed. If an existing rule, for example, stood in the way of vehicle-to-grid charging, we could potentially, if asked, approve a trial waiver to allow that to go ahead. But the broader setting of standards sits with the relevant jurisdictions. That is a work stream that is well underway.

Katherine COPSEY: Okay. That is good to hear. In relation to this vision of batteries on wheels, I think I heard you say AEMO does some of the modelling around where that could present constraints – say, if everyone comes home and plugs in straight after work – versus where it could present opportunities. What barriers do we need to overcome in order to incentivise households to participate in that kind of activity? Does that sit with you in terms of time-of-use tariffs and rewards for households for exporting electricity at times when it is needed for the grid?

Justin OLIVER: Certainly, in part it does, you are correct. To start from the issue, we need to encourage certain types of behaviour with batteries and EV charging and discourage others. We would ideally like them charging in the middle of the day when prices are low and demand is low and there is ample supply, in some sites more than others, but generally speaking more supply, potentially discharging in the early evening so they are not all going in and plugging in the fast charger at 5:30 in the evening. If we can do the former, we will reduce the need to augment the network and that will save everyone a significant amount of cost and money. If

we see more of the latter, that is going to put a lot of upward pressure on the need to augment the network, and that is going to cost everyone a lot. Prices are the place where we generally start that conversation. What sort of tariffs, what sort of price signals will encourage the first type of behaviour and discourage the others? A common one of those is a time-of-use tariff. That is something that we do look at and approve as part of the tariff structure statement that each network is required to give us. For example, there is a proposal in the Victorian DNSPs for the next period that would set a default rule that a household would default to a time-of-use network tariff. That connection point could opt out to a flat tariff unless there is an EV charger installed. The proposal would be that that would not then be allowed, and they would have to stay on a time-of-use tariff to try and provide those signals.

Two-way charging is another thing to encourage that vehicle-to-grid charge. There are proposals for trials and I think it is AusNet that is trialling a vehicle-to-grid tariff at the moment with two-way charging. Again, these are products that are still in development, but they are actively encouraged by way of trials to see what is going to be effective and to try and encourage the right type of behaviours. There are a lot of other tools to use. In some jurisdictions, load control is part of the solution. In Queensland, for example, I believe the setting up here is that if there is a fast charger installed and the house does not have three-phase power, it has to be on a controlled load circuit so that in fact when it is operated, it can be curtailed. But that is not part of the setting in Victoria, I believe.

Katherine COPSEY: Thank you.

The CHAIR: Thanks, Ms Copsey. We will go to Mr Welch.

Richard WELCH: Thank you, Chair, thank you, Mr Oliver. I have a couple of questions on the waivers, but first of all I will just follow on something from Mr McIntosh that concerned me a little bit. You said that some of the waivers were a negotiated outcome to release, because it may give you leverage to release network data, if I understood that correctly.

Justin OLIVER: I do not recall saying it was a negotiated outcome. I would fiercely resist the proposition that we negotiate. Perhaps to explain, we have the ability to grant a waiver on conditions. They come to us and say, 'We would like a waiver to do certain things.' We thought about that and considered the merits and asked people what they thought, and ultimately then determined to grant the waiver, but we attached a series of conditions. We consulted with people, including the DNSPs, as to what those conditions should be. We did not need to negotiate in the sense that we could have said no, for example.

Richard WELCH: I do not know. That is almost a semantic difference in my mind. Isn't that just simply rewarding bad behaviour?

Justin OLIVER: No. Respectfully, no.

Richard WELCH: Well, was that required in New South Wales for the release of network data?

Justin OLIVER: That is not done by way of a ring-fencing waiver. Sorry, I am not sure. We had different processes in New South Wales.

Richard WELCH: We have heard from other witnesses that network data is readily available in New South Wales, and they have arrived at that state without having to go through any process where it was traded off against a waiver application. That is what I am concerned about. That to me seems to be the nub of it. You achieved something, but you offered a waiver to these monopolies in order to get it.

Justin OLIVER: We did not offer a waiver, respectfully. We were asked whether to grant a waiver.

Richard WELCH: Did you grant it?

Justin OLIVER: We did, on conditions. We could have said no.

Richard WELCH: On conditions, yes, that is my point.

Justin OLIVER: But those were with us. We did not negotiate.

Richard WELCH: Why was it necessary to make that conditional? If it applies in New South Wales, why does it not apply in Victoria?

Justin OLIVER: We do not necessarily have the regulatory power to require it to be done. New South Wales are not doing it because we have said, 'You have to do it,' for example. There is no rule where we imposed that requirement upon them. They may well be ahead. Settings do vary between jurisdictions, so it is a question of what we have the power to do.

Richard WELCH: Who is the Victorian regulator?

Justin OLIVER: In respect of what? In respect of network access?

Richard WELCH: Yes.

Justin OLIVER: Some responsibilities sit with technical regulators. But in terms of the economic regulation of the network, it is with us. We are the regulator.

Richard WELCH: Okay. I do not feel that is clear to me. Who would mandate that the DNSPs should release network data?

Justin OLIVER: It is not a question of who would do it, it is a question of whether whoever it is has the power to do it.

Richard WELCH: Who does have the power to do it?

Justin OLIVER: Well, possibly no-one. If we had the ability to make a determination to say you have to have access to network data, then that might be something we would consider doing. But we do not have that power.

Richard WELCH: So could you explain to us then how New South Wales achieved it and Victoria has not?

Justin OLIVER: In terms of where the networks are at, in terms of their planning, in terms of their processes. We did grant, for example, a different type of waiver, a sandboxing waiver, to Ausgrid in New South Wales to permit them to undertake a trial to operate a combined solar and battery solution in certain locations in Sydney and on the Central Coast. Now, again, in considering that, one of the things we heard about and received submissions about was access to data around the network. Again we attached conditions to that waiver to require that that be done; they were not negotiated. It might well be that other networks are choosing to make that data available as well. There has been a wider policy process as well that has been undertaken just studying the settings around access to network data. We issued a report in March last year called the *Low-Voltage Network Visibility: Phase 3 – Final Report*. That actually referenced a rule change proposal that is currently with the Australian Energy Market Commission which is designed to try and increase visibility of network data. So Energy Consumers Australia already has put in a rule change proposal to the AEMC. That is currently with them. I think we are expecting to see a draft decision on that in the not-too-distant future, and that is all designed to try and increase the visibility of network data. The issue starts with the electricity rules. What do the rules require the networks to do? That is currently with the AEMC.

Richard WELCH: I am curious, why would AER consider a waiver to Victorian DNSPs in the first place? What is the rationale for granting that?

Justin OLIVER: Certainly. There are certain things that we – the distribution networks, the industry generally – need to better understand about what happens to the network once you start installing kerbside EV charging; the extent to which consumers, users of those services, will respond to price signals to try and encourage the kinds of outcomes we talked about earlier; and the extent to which those assets can perhaps be used by the network, modulated to help manage voltage, which is something the distribution networks need to do. So again, there are things to be learned and better understood about the potential opportunities and implications of using the distribution system in that way. There was value we saw in having a limited trial to try and understand those things better, to provide reporting and get some visibility on some of those issues.

Richard WELCH: But there are plenty of operators who could provide that data in conjunction with the DNSPs. Why would you create this incredible precedent of the DNSPs being allowed to vertically integrate?

Justin OLIVER: I take issue –

Richard WELCH: Sorry, I do not mean to talk over you, but just to qualify that – because once you have created that precedent, it is very, very hard to say no the next time, isn't it?

Justin OLIVER: No, not at all. For example, one of the conditions is at the end of the trial they have three options. They could ask for an extension of the waiver – we would consider that on the merits – or they have to divest the assets or they have to remove them. So in fact –

Richard WELCH: But what could possibly be the merits? Because all you would be doing is building a vertically integrated system with a monopoly provider. If you extend it, you are just expanding that as a principle.

Justin OLIVER: I am not saying we would. I did not say we would extend it.

Richard WELCH: But you provided it as an option.

Justin OLIVER: It is an option. The law provides it as an option.

Richard WELCH: But how can that be an option?

Justin OLIVER: The law gives the network service provider the ability to ask for a waiver, either now or at some point in the future, and then we are required to consider it on the merits. We might say no. We have said no before.

Richard WELCH: But you think there is a circumstance in which a merit could be expanding the vertical integration of DNSPs. That is an option on the table.

Justin OLIVER: No, I would not say that. That has not been put to us. As I say, we have granted a limited trial for a period of five years. We have not granted anything else. We certainly do not think we have established a precedent.

Richard WELCH: So you are expecting the DNSPs to invest in this infrastructure – this is a business unit – build up marketing around it, have all their infrastructure around it and then suddenly walk away from it after five years?

Justin OLIVER: We have stipulated those conditions quite plainly. They understand them. They do not have to proceed with it, but those are the conditions we have attached to this waiver, yes.

Richard WELCH: Okay. Thank you.

The CHAIR: Thanks, Mr Welch. We will go to Mr Berger.

John BERGER: Thank you, Chair. And thank you, Mr Oliver, for your appearance this afternoon. I just want to go back to the topic of complaints and the dispute resolution process. It has been quite a feature of some of the presentations in recent hearings, the number of complaints. I am wondering: are you aware of how many have come across your side of the desk, numberswise? I just want to have it in my mind. Have they been referred?

Justin OLIVER: I would have to take it on notice, I am afraid, as to the exact number of complaints. As I said, I am aware we have received submissions on the point, but in terms of the number of submissions and complaints, I am afraid I would need to take that on notice.

John BERGER: The second part that follows from that is: have there been any binding determinations made?

Justin OLIVER: No, we do not have the ability at the moment to make those binding determinations. That would be the effect of designating this as a service that can be regulated.

John BERGER: Okay. We have heard also today that there are 27,500 charging stations that need to be put in place by 2033. Even if the number was half that – the number of complaints that we are hearing about –

how do you expect that we would be able to achieve those numbers in that timeframe, given the issues that surround it at the moment?

Justin OLIVER: That is a difficult question to answer. I am not sure whether that would be achievable. We would certainly want to see an acceleration of electric vehicle charging infrastructure. I am not familiar with that figure myself, but that would be an ambitious target, to be certain.

John BERGER: I said even if it was half that.

Justin OLIVER: Indeed. Half of that is a fairly ambitious target.

John BERGER: Yes. It sounds like there are so many barriers in place for people to put these charging stations in place. That dispute resolution process has really got to be manageable and workable.

Justin OLIVER: It does, and we would not anticipate – we do not want a situation, for example, where we have got a hundred disputes that we have to resolve. That is not a system that is going to work very well. If the parties are not able to reach agreement, then, as I said, we will resolve a dispute. We will then start telling people what we have done, to get information out there – ‘This is what the regulator thinks should happen here’ – and we would expect that kind of information would help facilitate negotiation and help facilitate faster agreement being reached once we have set down essentially how we view this issue of pricing. Then the parties will know what we will do if they come to us with a dispute, and hopefully then they will not need to come to us with a dispute.

John BERGER: Would there be any examples in New South Wales where a dispute has arisen that might be the template for resolving issues in Victoria?

Justin OLIVER: No, I do not think we have actually regulated access to poles in any other jurisdiction to date. I do not think we have necessarily had to. This will be the first time.

John BERGER: Okay. Thanks, Chair.

The CHAIR: Thanks, Mr Berger. Do any other members have follow-up questions? Yes. Okay, great. We might do one each, and then, if we have time, we can go around again. We will go to Ms Copsey.

Katherine COPSEY: Thank you. I just want to test – and I know that this has been a query from some of the members, particularly those who represent regional areas – where we are coming across this issue of needing to supplement the charging network. I am interested in the role for public provision of chargers and whether this is something that is facing barriers or if it is just a question of political will. We have heard a little bit frequently of some of the regional areas, for example, struggling to attract the number of chargers that they want for their tourism purposes and so on. Your submission touches on the ongoing need for public investment in the charging network. Could you just speak to that a bit more?

Justin OLIVER: Yes, certainly. This was an issue that was put to us in South Australia by SA Power Networks when we did their last determination. They asked us to designate a distribution service which would be an installer of last resort for electric vehicle infrastructure in regional parts of South Australia – parts of South Australia where the competition may not be enough to encourage that sort of investment. We said no to that specific request, not because we thought that was necessarily a bad idea, but we would rather deal with that through the ring fencing framework. We would rather have a network come to us and say, ‘Here’s a location where, again, we would like permission to install electric vehicle charging infrastructure,’ because the market, for example, will not necessarily produce that result. We have not had a request like that yet, but we indicated if someone wanted to do that, that would be the way we would like to do it.

If we received a request like that, again, we would seek to test the market, we would publicise that and we would ask people what they thought. We would be very interested in the views of local government, for example, who are close to all of that and have a much better sense of what the needs of the community are. Then, again, we would consider it on its merits. If we thought that the market was going to be there and there would be damage to competition, we would need a lot of convincing to do that. That was how that decision played out. We do recognise there might be a situation and there might be areas where competition perhaps is not going to achieve the results that people necessarily want. I would not say no to that in advance. We would

have to consider it, but we would be very keen to test the market and hear from those third-party charge point operators about what their plans are.

Katherine COPSEY: Thank you.

The CHAIR: Thanks, Ms Copsey. We will go to Mr Welch.

Richard WELCH: No questions from me. Thank you.

The CHAIR: No further? Okay. Mr McIntosh.

Tom McINTOSH: Thank you. Just making sure I understand this correctly, the Essential Services Commission will be issuing licences to the distributors to operate within states and within the nation, and the AER would be effectively more active in the space of regulating the cop on the beat. Am I right in understanding that as a general framework?

Justin OLIVER: Partly. You are correct about the Essential Services Commission. They are responsible for licensing the distribution network service providers under Victorian legislation. We are responsible for the enforcement of rules, to be sure. That is a role that we have, if distribution networks or any network service provider are not complying with the law.

Tom McINTOSH: And as you explained, the pricing and performance side of things as well.

Justin OLIVER: Correct – which we sometimes talk about as being a different or distinct role, the economic regulation of how much the network is allowed to charge. We have both an enforcement function plus that economic regulatory function.

Tom McINTOSH: I did not quite follow earlier. I think Mr Welch or Mr Berger were asking around: if we have issues with the timeframe, which is seeing investment leave Victoria to install car chargers, or the methods et cetera, would it be you that could maybe not set price caps, but come in and determine price disputes – is that right?

Justin OLIVER: That is the current proposal in the draft decision from 1 July this year. There are different ways to regulate access to network services. That is the proposed way of regulating access to poles for the installation of EV chargers.

Tom McINTOSH: Then if there is a dispute around the way that the distributor deals with – we have had councils come to us and obviously the installers themselves. Does that sit with you? Just to come back to that point about visibility of the capacity of the grid: where can rules be drawn up that distributors must display the capacity of their network so people can make informed decisions about where they want to make investments, rather than having to go to distributors every time to say, ‘Can we make an investment here? No;’ ‘Can we make an investment there? No’ et cetera.

Justin OLIVER: Those rules are made by the Australian Energy Market Commission. They are the rule maker for the national electricity rules, and that is the chief body of rules which govern the way networks go about providing their services. As I said, they currently have a rule change proposal before them about network data visibility, so that is something that is under active consideration with them at the moment.

Tom McINTOSH: So they make the rules. If you are pricing performance and regulation, was it the AEMC or you that gave the waiver for the ring fence?

Justin OLIVER: That was the Australian Energy Regulator – that was us. That is another function, again, administering the ring-fencing regime.

Tom McINTOSH: Because it sat within current rules where you are enabled by legislation to give a waiver.

Justin OLIVER: Well, yes. The rules require us to make ring-fencing guidelines, which we have done; they impose the rules, and then those guidelines – we also say that we can grant a waiver.

Tom McINTOSH: But if this inquiry and if this committee looks to make any recommendations around the rules that DNSPs follow in the rollout of car-charging infrastructure, our recommendations would go to the AEMC as far as any new rules and to you around anything to do with pricing, performance and enforcement.

Justin OLIVER: Yes, and ultimately to the Victorian government as well. These laws are Victorian laws that we are administering. It all sits under that legislative – it is a cooperative scheme. Victoria has, for example, derogated from the national scheme in a number of respects for different reasons, so it does also have that ability to make laws in that space.

Tom McINTOSH: And if any of the DNSPs have been so poor that we think they should lose their licence, we go to the Essential Services Commission.

Justin OLIVER: I think so. I have not checked specifically who.

Tom McINTOSH: That was little bit tongue-in-cheek. It is okay. Thanks, Chair.

Justin OLIVER: I can tell you we would not have that power.

Tom McINTOSH: No worries. Thank you.

The CHAIR: Thanks, Mr McIntosh. Ms Broad, did you have a follow-up?

Gaëlle BROAD: Yes, thank you. I just wanted to check: when you talk about the ring fencing waiver, that is the same thing as the trial that you are talking about, to 2031?

Justin OLIVER: That is correct.

Gaëlle BROAD: When you were considering or giving permission for that trial, you mentioned that the AER did some consultation. Can you provide the committee with a list of who you consulted with as part of that process? I know you mentioned CPU, but are there any others that you consulted with?

Justin OLIVER: We did. Perhaps I could take that on notice, but I am happy to provide you with a list of the submissions we received. They are I think on our website, but yes, we can certainly provide that to the committee.

Gaëlle BROAD: That would be great. Thank you. The trial is due to end in 2031. When is that process under review with the operators, with CPU?

Justin OLIVER: We have asked for annual reports on various aspects of the trial in terms of what they are learning and what they are finding out, and then really it is in the hands of the distribution network service providers, the applicants, as that deadline approaches, to decide what they are going to do. We would be saying to them if they wanted a further waiver we would want to know in advance. It is not something we could do overnight.

Gaëlle BROAD: But you were saying that you could flick that switch that says they no longer have that ability. That is a massive impact on them. You are saying it is up to them, but what timeframe would you give them if you were going to discontinue that?

Justin OLIVER: Well, it lapses. The waiver lapses in 2031, so we do not need to revoke it; it comes to an end. We do have the ability to –

Gaëlle BROAD: Okay. I guess I am wondering: would there be an assumption on their part that it would be extended? When would it be extended if it was extended?

Justin OLIVER: They would have to make an application to us for a fresh waiver.

Gaëlle BROAD: Okay. So by default, if they do not, it finishes, and if they submit something to you, you have got the right then to review.

Justin OLIVER: That is correct.

Gaëlle BROAD: Okay. Just with the draft decisions, you talked about 1 July this year. What is the timeframe for any change via that process?

Justin OLIVER: Those decisions to take effect are the network determinations, so essentially how much they are allowed to charge for the various services they provide, potentially including pole access as well. The final decisions there are due to be made by 30 April this year.

Gaëlle BROAD: Okay. Thank you.

The CHAIR: Great. Thanks, Ms Broad. Unless members have any follow-up, I think we are done with the session. Thank you so much for taking the time to appear before us today. If members have any other questions that come to them after the hearing, you might hear from committee staff with questions on notice, but otherwise that concludes the public hearing.

Witness withdrew.