29 July 2026

Mr Gavin Fox
General Manager Network Pricing
The Australian Energy Regulator
GPO Box 3131
Canberra ACT 2601

Lodged electronically: RateOfReturn@aer.gov.au

Dear Mr Fox

Submission on the Draft 2026 Rate of Return Instrument

The Australian Energy Council (AEC) is the peak body for energy retailers and generators operating in competitive markets. Our members generate and sell energy to over 10 million homes and businesses and are committed to delivering a reliable, affordable and decarbonised energy system for consumers. The AEC supports net zero by 2050 and recognises the electricity sector's role in reducing Australia's emissions. Our members are major investors in renewables, firming and storage technologies that are critical to ensuring that customers continue to receive reliable and sustainable energy supply as we navigate the energy transition.

We thank the Australian Energy Regulator (AER) for the opportunity to comment on the Draft 2026 Rate of Return Instrument (RORI) and its Explanatory Statement. We acknowledge the openness and rigour of the review process to date, including the appointment of the Eligible Experts and the Independent Panel. Every dollar of allowed network return flows directly into the bills of households and businesses. We therefore make this submission with a simple objective: that the final 2026 RORI allow networks the returns they genuinely require to finance efficient investment, and no more.

Although the Explanatory Statement and various expert reports raise several issues, we focus our submission on four key topics: the equity beta, the trailing average portfolio return on debt, the market risk premium (MRP), and the persistent outperformance of regulatory allowances by networks.

Summary of recommendations

Recommendation 1. Adopt an equity beta in the range 0.45 to 0.50, or alternatively explain why the point estimate should sit above the midpoint of the range supported by the domestic evidence and the genuinely comparable international firms.

Recommendation 2. Retain the simple 10-year trailing average return on debt.

Recommendation 3. Amend or clarify clause 9 of the RORI so that the trailing average portfolio return on debt, rather than the inflation rate variation, determines the return on debt used to set regulatory revenue.

Recommendation 4. If a weighted trailing average is ever adopted, apply it universally and compensate consumers for the change through a one-off adjustment to regulated asset bases (RABs).

Recommendation 5. Keep the MRP at 6.1% (or lower), and answer the Independent Panel's process concerns by strengthening the rationale, rather than by raising the number.

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Recommendation 6. Accept Recommendation 20 of the Independent Panel: demonstrate clearly, in the final Explanatory Statement, that consumers are not overpaying, including a decomposition of the drivers of historical outperformance and a timetable for addressing them at source.

Our detailed submission is set out below.

1. Equity beta: the evidence supports 0.48

We welcome the draft decision to reduce the equity beta from 0.6 to 0.55. It is a meaningful step, worth around $940 million in regulated revenues.[1] We also support the retention of the established estimation methodology and the introduction of a debt beta of 0.1 in the re-levering formula, which corrects a long-recognised upward bias. This is a correction on which all three Eligible Experts agreed.[2]

Our concern is with where the point estimate has landed. We consider that the AER's own evidence supports an equity beta between 0.40 and 0.56 with a midpoint estimate of 0.48.

First, the AER reports that the average estimate for the domestic comparator set over the longest period is 0.56, and that the five majority-regulated firms (the closest available analogues to a benchmark efficient network service provider (NSP)) "tend to be around 0.4".[3] It is only the international evidence that pulls the estimate upward. However, the relevance of the international evidence is heavily contested, and this is highlighted by the various experts and acknowledged by the AER. The consultants to Energy Consumers Australia, Electricity Market Advisory Services (EMAS), examined the AER's 48-firm international sample and concluded: *"Of the 48 entities in the AER's 2026 international sample, we have found only three firms that are comparable to NSPs in terms of systematic risk: Hydro One of Canada, Vector of New Zealand and National Grid of Great Britain."*[4]

The remaining 45 firms are largely vertically integrated utilities exposed to energy trading, demand and competition risks that a regulated Australian network does not face. This concern is not confined to consumer advocates. Professor Johnstone, for example, argued that betas do not simply transfer across regulatory regimes.[5]

The Independent Panel (while not forming a view that 0.55 is inappropriate) found the AER's reasoning incomplete: *"The Panel's conclusion on equity beta is that the reasoning for the range on the equity beta is not adequate. It follows from this that, in our assessment, the decision on the point estimate is not fully explained."*[6]

We respectfully submit that if the genuinely comparable firms are the domestic set and the small number of internationally comparable networks, then a logical conclusion is that the equity beta should be within the range of 0.40 to 0.56. The midpoint of this range is 0.48. EMAS calculates that a beta at that level would be worth more than $3 billion to consumers. This is about three times the $1.1 billion identified by the AER in its draft decision.[7]

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[1] AER, Draft 2026 Rate of Return Instrument – Explanatory Statement, 29 May 2026, p. 20.
[2] Eligible Experts Report – AER Draft Rate of Return Instrument, 24 November 2025, pp. 4, 6, 27.
[3] AER, Draft 2026 Rate of Return Instrument – Explanatory Statement, 29 May 2026, p. 21.
[4] Electricity Market Advisory Services (EMAS), Report for Energy Consumers Australia's Submission to the AER's Draft Decision on the 2026 Rate of Return Instrument Review, July 2026 (final, July 2026), p. 26.
[5] Eligible Experts Report – AER Draft Rate of Return Instrument, 24 November 2025, p. 15.
[6] Independent Panel Report – AER Draft Rate of Return Instrument, 17 July 2026, p. 2.
[7] Electricity Market Advisory Services (EMAS), Report for Energy Consumers Australia's Submission to the AER's Draft Decision on the 2026 Rate of Return Instrument Review, July 2026 (final, July 2026), p. xiii.

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We therefore ask the AER either to lower the equity beta in line with the available evidence or to justify its equity beta estimate of 0.55, which currently sits at the very top of what the domestic evidence supports.

2. Trailing average portfolio return on debt: retain it and clarify its use

We support the draft decision to retain the simple, unweighted, 10-year trailing average portfolio return on debt.[8] The AER's analysis shows that a move to a weighted trailing average now, with prevailing rates around 6%, would increase what consumers pay by around $200 million over the next nine years.[9] The Independent Panel regarded the AER's reasoning as sound and supported the draft decision.[10] We agree with this view, but propose two additional safeguards to strengthen the outcome.

First, if circumstances change and the AER revisits this question, we share the AER's and the Independent Panel's views that any weighted approach should apply universally to all NSPs and not just to a select group of "sufficiently affected" NSPs. Otherwise, the approach "would be arbitrary, complex and could create undesirable opportunities for gaming".[11] Given that the timing of such a change would inevitably favour the networks (that is precisely when they would seek it), we support the condition put forward by EMAS that consumers be compensated through a one-off adjustment to RABs.[12]

Second, we urge the AER to ensure that the trailing average it has decided to retain is the trailing average consumers actually pay for. EMAS has documented that, in annual pricing, the inflation rate variation has effectively repriced the entire 10-year debt portfolio at spike-year inflation. This delivered return-on-debt compensation above 10% in 2023–24 when the trailing average itself was 4.65%. The consequence is that billions of dollars were transferred from consumers to NSPs. Unless clause 9 of the 2026 RORI is clarified, there remains a risk of further wealth transfers. EMAS estimates that a further $2.7 billion is at stake over the next two years:

"In total, we estimate the AER could prevent a wealth transfer from consumers to electricity NSPs of $2.7 billion over the next two years by applying clause 9 of the RORI instead of the inflation rate variation."[13]

We therefore ask the AER to amend or clarify clause 9 of the RORI so that it is clear that the trailing average portfolio return on debt, and not the inflation rate variation, determines the return on debt used to set regulatory revenue.

3. Market risk premium: 6.1% should be a ceiling

We support the draft decision to set the MRP at 6.1%, a reduction from 6.2%.[14] We consider that the AER's list of evidence supports an even lower MRP and thus the 6.1% should be treated as a ceiling in the final decision.

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[8] AER, Draft 2026 Rate of Return Instrument – Explanatory Statement, 29 May 2026, p. 3.
[9] AER, Draft 2026 Rate of Return Instrument – Explanatory Statement, 29 May 2026, p. 52.
[10] Independent Panel Report – AER Draft Rate of Return Instrument, 17 July 2026, p. 34.
[11] Independent Panel Report – AER Draft Rate of Return Instrument, 17 July 2026, p. 34.
[12] Electricity Market Advisory Services (EMAS), Report for Energy Consumers Australia's Submission to the AER's Draft Decision on the 2026 Rate of Return Instrument Review, July 2026 (final, July 2026), p. xii.
[13] Electricity Market Advisory Services (EMAS), Report for Energy Consumers Australia's Submission to the AER's Draft Decision on the 2026 Rate of Return Instrument Review, July 2026 (final, July 2026), p. 20.
[14] AER, Draft 2026 Rate of Return Instrument – Explanatory Statement, 29 May 2026, p. 91.

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We understand that the Independent Panel reached the view that *"the application of the 2022 methodology and the updated data do not make a persuasive case for a reduction in the MRP".*[15]

However, we respectfully urge the AER to read that finding carefully and in full. The Independent Panel did not conclude that 6.1% is inappropriate. Instead, it said that evidence is readily available that the AER could use to strengthen its reasoning in the final RORI Explanatory Statement. The Independent Panel it did not suggest that the AER should ratchet the MRP back to 6.2%.

4. Outperformance: more proof is needed

The AER's own performance reporting shows that, throughout the entire 11-year period from 2014 to 2024, the actual return on regulated equity earned by NSPs exceeded the allowed return in every single year. EMAS observes that the resulting profit multiple sits well outside the 0.9 to 1.3 band accepted as consistent with effective incentive regulation.[16] The Independent Panel also found market evidence consistent with attractive returns. The Panel states that the AusNet and Spark Infrastructure takeovers (2020, 2021) at prices well above RAB, and recent Endeavour Energy and Transgrid RAB multiples of 1.57–1.58, provide "strong evidence that investors have confidence" that regulated returns will "clearly meet investors' required return".[17]

The AER considers that outperformance of the benchmark does not show that the benchmark itself is wrong.[18] While this may be true in any individual year independently, a benchmark that is beaten every year for a decade requires further explanation.

The Independent Panel also found that while the AER shows that "the 2022 RORI has been effective in providing sufficient investor confidence so as not to constrain investment", it has been less successful in showing that consumers are not overpaying and will not overpay during the period of the 2026 RORI.

We ask the AER to accept the Independent Panel's Recommendation 20 in full, and to "demonstrate as far as it can in its final decisions that consumers are not overpaying, so as to address concerns about the cost-of-living and to counter concerns that regulatory generosity might be allowing financial outperformance by network companies".[19]

Conclusion

The draft 2026 RORI moves in the right direction, and we commend the AER for that. Our submission is that the evidence supports going further on beta and holding firm at no more than 6.1% on the MRP. Retaining the simple trailing average, providing further clarification of clause 9, and providing further explanation on the outperformance question would also strengthen the AER's final Explanatory Statement. Together, these steps would deliver a rate of return that still fully finances efficient network investment, while removing billions of dollars of unnecessary cost from consumers' bills at a time when affordability pressures are acute.

We would like to thank the AER again for the quality and openness of the review process.

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[15] Independent Panel Report – AER Draft Rate of Return Instrument, 17 July 2026, p. 32.
[16] Electricity Market Advisory Services (EMAS), Report for Energy Consumers Australia's Submission to the AER's Draft Decision on the 2026 Rate of Return Instrument Review, July 2026 (final, July 2026), pp. 8, 10.
[17] Independent Panel Report – AER Draft Rate of Return Instrument, 17 July 2026, p. 13.
[18] AER, Draft 2026 Rate of Return Instrument – Explanatory Statement, 29 May 2026, p. 40.
[19] Independent Panel Report – AER Draft Rate of Return Instrument, 17 July 2026, p. 8.

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Yours sincerely,

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