

22 September 2026

Danielle Beinart  
EGM Networks & Technical  
Australian Energy Market Commission  
Level 15, 60 Castlereagh St  
SYDNEY NSW 2000

Lodged via website

Dear Ms Beinart

The Australian Energy Council (AEC) welcomes the opportunity to make a submission to the Australian Energy Market Commission's (AEMC) consultation paper on package 2 of the Energy Networks Regulation Review (ENRR).

The 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.

The AEC has previously provided feedback on package 1 of the ENRR. This submission aims to complement our previous comments, with a focus on the revenue determination process, incentive arrangements and risk allocation and compensation.

We note with interest that the AEMC states that package 2 of the ENRR "will consider how the regulatory framework seeks to promote consumers' interests in the provision of regulated services by NSPs." We strongly agree that consumers' interests should be at the heart of this review.

As noted in the consultation paper, distribution network service providers (DNSPs) are expected to take on new roles, such as that of a Distribution System Operator (DSO). In that light, the incentives for networks to build, maintain and operate their networks efficiently are likely to change significantly.

This shift comes against the backdrop of a significant amount of grid-scale renewable generation entering the grid. Small customers—residential and small business electricity customers—have also played a significant role in increasing the grid's renewable generation capacity through the installation of rooftop solar systems and a growing fleet of behind-the-meter storage.

The AEC recognises networks have an important role to play as a platform that enables other participants such as our retailer members to provide services that customers require. We also support the AEMC's intention to use this review to identify "where changes may be required to promote better consumer outcomes."<sup>1</sup>

Ultimately, our submission makes two key points. First, the aim of any reform to network regulation should be to reduce overall costs to consumers. Network costs currently make up around 40% of the total cost of residential electricity. Finding ways to deliver energy to consumers—both large and small—

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<sup>1</sup> AEMC (2026) *ibid* p.ii

at lower cost would be expected to deliver economy-wide benefits. It would also help strengthen the social licence for the energy transition.

Second, competition can deliver significant benefits to the wider market. Enabling competitive markets to deliver services, responses or other options would be expected to provide far greater benefits to electricity consumers than relying purely on networks to deliver them.

The submission below sets out our responses to the three key areas of focus for the AEMC's review.

For more information on this submission, please contact Jo De Silva by email at [jo.desilva@energycouncil.com.au](mailto:jo.desilva@energycouncil.com.au)

Yours sincerely,

***Jo De Silva***

**Jo De Silva**  
General Manager Retail Policy

## Revenue determination process

The AEC considers the revenue determination process to be necessarily involved and in-depth. Across 13 distribution businesses, five transmission businesses and interconnectors, each with a five-year regulatory period, there is a large amount of work for the Australian Energy Regulator (AER) and network businesses to do. Given the scale of expenditure and revenue at stake, the AEC understands the need for network businesses, consumer groups and the AER to commit time and resources to participating in the process. While it is possible that there are ways to streamline the process, we would be reluctant to see any change that results in less oversight or provides less scope for other parties to contribute to the revenue determination process. Consumers will bear the brunt of poor practices through unnecessarily high costs or poorer service outcomes. As such, we urge caution regarding any changes that may inadvertently, or by design, reduce the important checks and balances that safeguard consumers' interests.

In the consultation paper, the AEMC asks how consumer preferences can be represented in the revenue determination process. This raises a fundamental question: who is the 'consumer'? At present, networks and the AEMC take a fairly traditional view that the consumer is a household or business customer. However, it is worth reflecting on the fact that networks do not generally have a commercial relationship with these customers. The commercial relationships exist between networks and retailers or other service providers, and between retailers and customers.

Therefore, it is worth examining whether retailers and other service providers should be considered as 'consumer' for the purposes of the revenue determination process. The AEC infers from the AEMC's question that retailers, although they have not taken on the role so far, could be better placed to represent consumer interests and preferences, given the role they play in managing risk and directly engaging with customers. Retailers are already responsible for transferring network signals to consumers, have deep experience in understanding customer preferences and have a genuine interest in reducing costs for customers.

The AEC adds that any consultation needs to be genuine, with meaningful engagement and a clear explanation of how consumer—or retailer—input is considered and assessed as part of the regulatory determination. We recognise that engagement with retailers as a group could be challenging owing to the appropriate restrictions of the Competition and Consumer Act, but the AEC still considers that there is considerable scope for retailers to represent and advocate for consumer interests in the revenue determination process.

## Incentives

### Capex vs opex

We agree with the AEMC's assessment of the risks related to inefficient capital expenditure (or 'capex'). The AEC considers that there is a clear incentive for networks to favour capex over operating expenditure ('opex'). The AER, meanwhile, has imperfect information with which to assess whether a capex solution is preferable to an opex solution. The AEC would encourage the AEMC to recommend approaches to network regulation that improve the information available to the AER and allow a network to remain neutral as to whether capex or opex is the appropriate response to deliver supply across the network.

Because the Regulated Asset Base (RAB) provides a relatively stable financial return over the long term, there may be a bias towards capital expenditure to increase the RAB and deliver long-term returns to the network. The AER then provides oversight to establish whether the investment was prudent.

Operating expenditure may be an alternative solution to deliver some of the services that networks provide, and to avoid or delay investments in capital solutions (and thus reduce capital expenditure).

The current regulatory regime appears to focus on, and solve for, what a network would want to do. From a customer's perspective, they are likely to be ambivalent about whether solutions involve capital or operating expenditure, provided that the service is delivered at the lowest cost. From the AEC's perspective, the regulatory framework provides no clear signal for networks to seek out these kinds of responses instead of pursuing capital expenditure. While networks are required to consider non-network options, and we note that they do, the approach across networks is inconsistent and often tightly defined, leaving little scope for other parties to proactively develop and deliver non-network responses.

The AEC urges the AEMC to fully consider adopting a UK-style TOTEX framework. This could address the current financial bias towards capex by making networks financially indifferent between capex and opex, helping ensure they select the lowest-cost solution for consumers.

Given the pace of the energy transition, the AEC considers that there is considerable scope for customer assets to deliver non-network solutions, provided that the necessary signals and rewards are available. Existing and new thermal generators can deliver essential system services to the transmission network with the right signals. Technologies such as battery energy storage systems (BESS), electric vehicles and even 'traditional' flexible loads, such as controlled-load hot water heating, could respond to network needs. Conversely, these same technologies could heighten risks to networks without the right signals.

Absent a signal to deliver a service or avoid using one, it is improbable that there will be any coordination in the provision of services. Existing and conceptually simple products, such as networks' time-of-use tariffs, can provide a general signal. However, for most residential customers, the signal is weak to non-existent once it is combined with other components of a retail bill and therefore unlikely to be sufficient to directly drive meaningful behavioural change.

The use of automation either by a customer or their agent (potentially their retailer or a third-party aggregator) could deliver more consistent and coordinated responses provided that sufficient incentives exist for the customer or their agent.

Unless the regulatory framework provides clear requirements or targets for networks to pursue such options ahead of capital expenditure, we struggle to see how existing practices will change. This would be to the detriment of customers who will face higher costs, and lower returns for their investments in CER. The AEC also encourages the AEMC to consider what mechanisms would need to be in place to best facilitate non-network options e.g. flexibility marketplace.

### Incentive mechanisms

The consultation paper's discussion of incentive mechanisms raises an interesting concept. Considering the current regulatory regime in its totality, there is a curious set of incentives for networks. In essence, the AER offers networks a range of incentives to undertake actions that would seem, in a non-regulated environment, to be completely unnecessary. DNSPs have seven incentive mechanisms available to them:

1. Efficiency Benefit Sharing Scheme (EBSS)
2. Capital Expenditure Sharing Scheme (CESS)
3. Service Target Performance Incentive Scheme (STPIS)
4. Customer Service Incentive Scheme (CSIS)

5. Demand Management Incentive Scheme (DMIS)
6. Demand Management Innovation Allowance Mechanism (DMIAM)
7. Export Service Incentive Scheme (ESIS)

Rather than providing incentives for networks to deliver what energy users expect, networks should be required to deliver a specified level of service, with penalties for failing to do so, rather than being further incentivised to meet that level. Where a network fails to deliver a level of service, penalties should be applied. Many of the incentive schemes operate on a penalty–reward basis. However, the AEC believes that more discipline is needed around whether target levels for service delivery are set appropriately, whether the penalties and rewards for networks are symmetrical and whether the benefits to consumers are accurately calculated.

Reforms that increase performance levels before rewards apply, or provide consumers with a greater share of rewards, may ensure that consumers receive the same level of service at a lower cost.

An additional incentive scheme, as flagged in the consultation paper, to support efficient network utilisation, is unwarranted. It is basic good practice for networks to build and operate networks to enable efficient utilisation and for the AER to regulate networks accordingly. Network pricing would have a far stronger influence on how efficiently networks are used. Consequently, we reject the need for an additional network utilisation incentive and recommend the AEMC and AER look more at how network pricing can influence utilisation rates.

The AEC recognises that for business customers, tariff options like critical peak tariffs or flexible tariffs are available that can provide a stronger signal for responses at a single large site. Yet, the experience of small customers with tariff options like demand tariffs has been poorly received. In the AEC’s view, it is worth exploring options that would allow (or require) networks to seek a response from the wider market, be that from retailers, aggregators, or other service providers, to assess whether they can deliver the response sought at a lower cost and deliver benefits to the wider network.

In our view, the current structure of network tariffs and incentives doesn’t provide a sufficient signal for customers or others to respond to network needs. Taking the DMIS as an example, the ENRR Package 2 consultation paper highlights that AER’s data identifies the DMIS delivered \$52 million in benefits at a cost of \$3.2 million.<sup>2</sup> At a glance, this would suggest that the DMIS is underutilised compared to the benefits that could be delivered if expanded to support more options.

We encourage the AEMC to investigate whether institutional bias may be preventing lower cost options being pursued even though an incentive mechanism is in place.

If networks provided greater incentives for user-led responses—such as coordinated household responses, virtual power plants (VPPs) and demand response—the whole network would benefit. As we see it, networks have next to no incentive or requirement to actively seek out such responses. Most of these responses can deliver benefits across both the energy and network components of the cost stack, rather than network costs alone.

Rather than an incentive for improving network utilisation, it may be preferable for the AER to set a target for utilisation (noting utilisation rates will be different in different parts of the network), with penalties for failing to reach the targets. An incentive to improve utilisation beyond the target could be justified provided that the benefits of doing so outweigh the cost of the incentive being provided.

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<sup>2</sup> AER State of the Energy market 2025 p 105.

Introducing the role of DSO to DNSPs could provide an avenue for these kinds of requirements to be extended to networks, delivering improved outcomes to consumers at a lower cost. But more broadly, reform is needed to drive efficient outcomes at the first instance, rather than relying on an increasing number of incentive schemes.

### Innovation

In terms of innovation, the fact that the AER approved less than \$10 million of expenditure in 2024-25<sup>3</sup> is an indicator that the DMIAM is perhaps not encouraging innovation to the extent that would be preferable to deliver benefits to consumers. Again, with networks taking on the role of DSO, there may be opportunities to leverage that to encourage innovation.

### Risk allocation and compensation

Considering the totality of changes underway in the sector and the role that networks play, the AEC considers consumers are already bearing the increased risks associated with the energy transition and of poor network investment decisions. Networks currently have dedicated mechanisms to recover costs for changes to the regulatory framework such as adopting the role of the DSO or seeking to adopt technologies like community batteries and electric vehicle charging infrastructure (noting the AEC's strong opposition to the application of the ring-fencing framework on these kinds of projects).

Additionally, transmission businesses have been given the ability to mitigate financeability challenges through the Accommodating financeability in the regulatory framework rule change made in March 2024.

Consumers do not have these same avenues open to them. Consumers bear the brunt of most risks – e.g. demand forecasts, capital expenditure – through higher network costs. With the system changing through the adoption of batteries, solar PV and electric vehicles (EVs), the risks are shifting among the consumer cohort. Consumers with the ability and funds to adopt batteries, solar PV and EVs may rely on the network greatly at times yet pay comparatively low out-of-pocket costs for the volume of energy they take out of the grid. As these consumers pay less, consumers more reliant on the grid for energy (kWh) but not demand (kW or kVA) will pay higher costs to make up for lower net volumes from other consumers.

The avenues to address these risks is asymmetric. Should a network consider there is a requirement to re-open the regulatory period because risks have been understated, then it can apply to do so. The AER then assesses the request on its merits. However, a regulatory period cannot be reopened by the AER, or a third party, if the assumed risks have been overstated. There may be an impact in future regulatory periods, but customers will already have faced increased costs. In short, networks can seek redress to manage higher risks than usual but the AER has limited tools to recover costs (on behalf of consumers) if risks turn out to be lower than forecast.

We recognise that differences may be emerging in the risk profiles of transmission and distribution networks. Transmission networks need to connect renewables across new locations and build new lines subject to the RIT-T process. Distribution networks, however, are largely dealing with the technological challenge of how to accommodate new devices within existing networks. With that in mind, the AEC recommends further consultation on whether the AER should be allowed to consider different rates of return for TNSPs and DNSPs.

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<sup>3</sup> AER, [Demand management innovation allowance mechanism assessment 2024-25](#), April 2023.

However, the AEC urges caution in making changes to the regulatory framework that would allow networks to take greater risks, and incur greater costs, when consumers are footing the bill for these actions.

There is also a broader question around how other risks are accounted for in the market. For instance, there are risks to consumers if the forecast benefits of a project do not eventuate. Costs will be incurred, but benefits may be accrued. The experience of the Project EnergyConnect project is a perfect example. Initial cost estimates have been exceeded and TransGrid is now applying to the AER to recover the additional costs.<sup>4</sup> While the AER's preliminary position is to reject TransGrid's application to recover costs in this period, consumers may face additional costs in future regulatory periods.<sup>5</sup>

Similarly, if demand forecasts prove to be inaccurate—for example, by forecasting demand that does not eventuate—consumers will pay higher costs for many years. If forecasts prove to be too low, there is an increased risk to consumers through poorer reliability, but this can be rectified relatively quickly through new expenditure.

The AEC therefore recommends that the AER be given stronger tools to reoptimise capex where benefits have not accrued to consumers but costs have been built into the system. This would ensure that networks are disciplined in their forecasting of costs, benefits, demand and other factors that contribute to the RIT-T or RIT-D process.

The AEC supports ex-post assessment of whether forecast benefits are realised. Where benefits are not realised because of matters attributable to the network—such as late delivery, reduced capability, deficient modelling or assets operating differently from the network's assumptions—the network should bear an appropriate share of the cost. The assessment should cover benefits relied on both within and outside the RIT process. In relation to competition benefits claims, it is important for these to be supported by independent analysis showing that competition is ineffective and that the proposed investment would materially improve it.

We caution that the AER's implementation of any changes is critical. In our view, the AER has significant discretion in terms of how it applies the regulatory framework. This may lead to the AER taking a position that is not necessarily aligned with the intent of any change.

The AEC is also a firm advocate for competitive markets to deliver a range of services the energy market needs. This extends beyond the provision of energy. Competitive markets are capable of delivering a range of services that networks may need including essential system services like inertia or system strength. In our view, the regulatory framework has lagged behind the capability of technology and markets to deliver these services.

For example, rule changes have tasked transmission networks with procuring sufficient levels of system strength, but have not enabled competition to deliver the service. Instead, transmission businesses seem set to invest large amounts of capital on synchronous condensers which consumers will ultimately pay for. In the AEC's view, when a monetary value of nil is assigned to a service just because it is being provided as a byproduct of energy provision, there is no price signal for the value the service is providing. Therefore, until all services needed for system strength and security are assigned a monetary value other than nil (because it is provided as a byproduct of energy) it is improbable for “competition” to deliver an efficient outcome.

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<sup>4</sup> TransGrid, [Project EnergyConnect – An application to reopen the 2023-2028 Revenue Determination](#).

<sup>5</sup> AER, [Consultation Paper - AER preliminary position on Transgrid's application to reopen the 2023–28 transmission revenue determination for Project EnergyConnect](#), September 2026.

If the regulatory framework is to deliver benefits and lower costs for consumers then harnessing the role of competition is critical. In competitive markets, business wears more of the risk of failure and financial losses, than a regulated market where consumers face most of the risks of poor investment.