
CCP26 Advice to AER re 2024-29 Essential Energy Revised
Regulatory Proposal and AER Draft Decision

Consumer Challenge Panel (CCP) Sub-Panel CCP26

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Acknowledgement of Country

We acknowledge the Traditional Custodians of the various lands on which NSW and ACT electricity networks own and operate their networks and facilities. We honour the customs and traditions and special relationship of those Traditional Custodians with the land as well as those lands where this report is being prepared. We respect the elders of these nations, past, present and emerging.

Confidentiality

To the best of our knowledge this report does not present any confidential information.

1. Executive Summary

Essential Energy (Essential)'s Regulatory Proposal was lodged with the AER in January 2023. Following release of the AER Draft Decision in September 2023, Essential submitted a Revised Regulatory Proposal in November 2023. This Advice offers CCP26's views on Essential's post-lodgement consumer engagement based on our direct observations and our review of Essential's engagement reports.

During 2023, Essential added a fifth phase to its engagement program to complement the four phases of its pre-lodgement program. Consistent with the approach taken by CCP26 to observing Essential's pre-lodgement engagement, in the post-lodgement phase of engagement we continued to focus on Essential's Stakeholder Collaboration Collective and Pricing Collaboration Collective meetings, and community deliberative forums with the newly formed Essential People's Panel.

Essential continued to deliver a well-planned and well executed engagement program. The engagement that we have observed has been open and sincere, with Essential genuinely willing to listen to customers and take customers' ideas on board.

Overall, CCP26 consider that Essential's post-lodgement consumer engagement has met the expectations set out in the Better Resets Handbook.

As Essential's Regulatory Proposal was largely accepted by the AER in its Draft Determination, the scope of engagement was significantly narrowed in this phase of the engagement program. Essential focussed its engagement on a small number of changes to be included in the Revised Proposal.

CCP26 observed engagement on reclassification of bushfire risks for Essential, approaches for allocation of costs for legacy meters, and changes to Essential's Tariff Structure Statement and we offer views on the effectiveness of the engagement on these topics, and how it has been reflected in the Revised Proposal.

We noted a very high level of support from customers for Essential's overall Revised Regulatory Proposal including proposed investments targeting resilience and future network, and the associated bill impacts.

2. Introduction

2.1 Role of CCP26

CCP26 was appointed in November 2021 with the primary role of providing advice to the AER on the effectiveness of NSW/ACT electricity distribution businesses' engagement activities with their customers, and how this has been reflected in the development of their 2024-29 Regulatory Proposals and Revised Regulatory Proposals.

Due to budget and travel constraints, CCP26 were not able to observe all of Essential's extensive pre-lodgement customer and stakeholder engagement program. We chose to focus our observations on Essential's primary stakeholder reference group, the Stakeholder Collaboration Collective (SCC); the stakeholder guidance group for the Tariff Structure Statement (TSS) – the Pricing Collaboration Collective (PCC); and Essential's deliberative community forums.

Essential's Regulatory Proposal was submitted to the AER in January 2023, and CCP26 provided advice to the AER on that Proposal in May 2023.¹

Consistent with the approach taken by CCP26 to observing Essential's pre-lodgement engagement, in the post-lodgement phase of engagement we continued to focus on SCC and PCC meetings, and community forums (see appendix 1). Due to the constraints mentioned earlier, we were not able to observe engagement with the Essential Customer Advocacy Group (CAG), Public Lighting stakeholders, Large Customer Working Group, retailers or the New Technology Provider Forum.

This Advice offers CCP26's views on Essential's post-lodgement consumer engagement based on our direct observations and our review of Essential's engagement reports. We are guided by the expectations set out in the AER's Better Resets Handbook² (the Handbook). Appendix 1 details CCP26's observation of Essential's post-lodgement engagement program.

2.2 Context

In our response to Essential's Regulatory Proposal and AER Issues Paper, CCP26 summarised a number of contextual matters that were pertinent in the development of the Regulatory Proposal. These factors remain relevant and are not repeated here. Each of the NSW and ACT distribution network business have also referred to these contextual matters.

There are two more factors that warrant mention as additional contextual matters particularly relevant to the development of the Revised Revenue Proposals.

1. Affordability concerns have become more pronounced and can be summarised with reference to the AER's Default Market Offer³ (DMO) decision that was released on 25th May 2023 for the twelve months July 2023 to June 2024.

¹ CCP26, *CCP26 Advice to AER re 2024-29 Essential Energy Regulatory Proposal and AER Issues Paper*, May 2023

² AER, *Better Resets Handbook*, December 2021

³ [AER releases final determination for 2023–24 Default Market Offer | Australian Energy Regulator \(AER\)](#)

The AER summarised the decision as:

“From 1 July 2023 residential customers on standard retail plans will see price increases of 20.8% to 23.9% without controlled load, depending on their region, and between 19.6% to 24.9% with controlled load, depending on their region.”

While not all energy bills will rise by the full amount allowed by the DMO, many will. Energy affordability and cost of living concerns were raised in all post-lodgement engagement processes.

2. On 30th August the AEMC released their Final Report of the Review of The Regulatory Framework for Metering Services.⁴ The first recommendation of the review states:
“The Commission recommends a target of universal uptake of smart meters by 2030 in NEM jurisdictions. Distribution network service providers (DNSPs) would develop an annual schedule to retire legacy accumulation and manually read meters. Retailers would then be responsible for installing smart meters at these sites over the five-year acceleration period.”

The accelerated installation of smart meters with a 2030 target date impacts all electricity distribution businesses and their customers.

3. Effectiveness of Essential’s post-lodgement engagement

Engagement Approach

During 2023, Essential added a fifth phase to its engagement program to complement the four phases of its pre-lodgement program. The purpose of phase 5 was to inform the Revised Proposal⁵ and to ensure that the content of the Revised Proposal still met customers’ expectations⁶. A summary of Essential’s post-lodgement engagement program is shown at appendix 2.

As Essential’s Regulatory Proposal was largely accepted by the AER in its Draft Determination, the scope of engagement was significantly narrowed in this phase of the engagement program. With the reduced scope of engagement, and the short window (45 days) between release of the AER’s Draft Determination and submission of the Revised Proposal, Essential decided not to conduct in-person customer forums in multiple locations across the state as had been done in the earlier phases of the engagement program. Instead, Essential elected to use a new Essential People’s Panel for issues requiring deep-dives and a Customer Webinar and Survey for testing overall support for the Regulatory Proposal.

Engagement topics for Phase 5 were developed from:

⁴ https://www.aemc.gov.au/sites/default/files/2023-08/emo0040_-_metering_review_-_final_report.pdf

⁵ Essential Energy, *2024-29 Revised Regulatory Proposal*, p11

⁶ Woolcott Research & Engagement, *Customer and Stakeholder Engagement for the 2024-29 Regulatory Proposal – Phase 5*, p19

- Customer and stakeholder feedback on the Regulatory Proposal e.g. pricing structures in the TSS
- Areas where a need for further work had been identified e.g. Customer Service Incentive Scheme (CSIS) parameters
- Feedback in the AER Issues Paper and Draft Decision e.g. legacy metering costs
- New emerging issues e.g. bushfire zone reclassifications

The following table identifies the topics chosen for engagement in Phase 5, and the engagement channels employed for each.

Engagement Topic	Engagement Channels
Post-lodgement engagement program	SCC
Pricing structures	Essential Peoples Panel SCC PCC New Technology Providers Forum Retailer meetings
Legacy Metering costs	Essential Peoples Panel SCC
CSIS Parameters	Essential Peoples Panel SCC
Stand-alone power systems (SAPS)	Individual customer interviews
Public Lighting	Workshop and meetings with local councils
Bushfire zone reclassifications	Essential Peoples Panel SCC
Overall support for the proposal	Customer Webinar and Survey
Flexible Connection Agreements	New Technology Providers Forum SCC

CCP26 observations on the program as a whole

Essential, with the support of their community engagement partners Woolcott Research & Engagement, has continued to deliver a well planned and well executed engagement program since lodgement of their Regulatory Proposal. We have continued to observe engagement with the SCC and the PCC, and with the Essential Peoples Panel that has been open and sincere, with Essential genuinely willing to listen to customers and take their ideas on board.

Although the topics identified for engagement with customers and stakeholders in Phase 5 were primarily driven by the requirements of the regulatory process, we consider that they were generally appropriate. We also endorse Essential's choice of engagement channels for each of the selected topics.

While key executive/general managers participated in the Phase 5 engagement activities, CCP26 did not observe Board or CEO attendance at any events.

Overall, CCP26 consider that Essential's post-lodgement consumer engagement has met the expectations set out in the Handbook.

Effectiveness of Engagement Channels

Essential People's Panel

In 2022 Essential Energy decided to set up a new Essential People's Panel to provide access to ongoing customer feedback on topics of interest in the regulatory area, but also to guide the business in its everyday operations. The Essential People's Panel consists of 21 people from locations across the Essential Energy network area who were selected from the forums conducted in Phases 1-3. The panel members are tasked to represent their communities, and the diversity of people in that community, to provide input into business planning⁷. CCP26 understand that this group has been brought together to provide a community engagement platform for Essential for the next 3 years.

Two one-day face-to-face People's Panel workshops were held in 2023 to provide input into Essential's Revised Proposal. Attendance at the two workshops varied between 19 and 21 people. CCP26 observed a good gender balance of participants, and some age diversity. Participant demographic information provided in workshop reports show good representation from across the dispersed areas of Essential's network footprint, as well as a representative mix of solar and non-solar customers.

Workshop reports however, indicate that none of the People's Panel participants disclosed a household income of less than \$41,600 per year⁸⁹. This suggests that the Essential customers who derive their income from government benefits may not be represented in the People's Panel. The single person age pension payment in Australia for example, is currently \$28,514 per year, and other payment types offer even lower annual incomes. CCP26 question whether lack of representation of this group of customers could skew outcomes relating to affordability concerns.

CCP26 also observed no apparent cultural diversity among the group, and no participants with visible disabilities. We suggest that if there is a need to supplement membership of the People's Panel in future, consideration be given to attracting participants from these cohorts.

Some workshop participants commented on how difficult it was to give up their whole weekend to travel to Sydney, particularly those from regional areas of the state with limited availability of flights. This highlights the additional challenges for Essential in conducting face-to-face engagement with customers in a single location, given Essential's extensive network footprint.

In the workshops, CCP26 observed participants who over time had developed a reasonable understanding of Essential's business and the regulatory process, and who were actively and constructively engaged in every session. Participants were provided with appropriate information and guidance to provide meaningful feedback. There was plenty of time allocated to each topic, and

⁷ Woolcott Research & Engagement, *Customer and Stakeholder Engagement for the 2024-29 Regulatory Proposal – Phase 5*, p.20

⁸ Woolcott Research & Engagement, *Customer and Stakeholder Engagement for the 2024-29 Regulatory Proposal – Phase 5*, p.21

⁹ One participant chose 'Do not wish to answer' in response to the 'Household Income' question.

discussions were respectful and insightful. Participants were afforded good opportunity to present the breadth of reasons for their deliberations.

We consider that the Essential People’s Panel was a very effective engagement channel for this phase of Essential’s engagement program, and will be a valuable asset for Essential as part of their ongoing engagement activities.

Stakeholder Collaboration Collective

SCC meetings continued monthly during 2023 to provide Essential with guidance on its thinking, inform decisions, and provide advice on the development of engagement materials. Meeting packs for SCC meetings continued to be comprehensive and provided well in advance of meetings. Access to SCC meeting materials and meeting records is readily available for SCC members and other stakeholders. While individual SCC members continued to effectively provide useful insights to Essential, attendance numbers remained problematic¹⁰. As indicated in our earlier Advice¹¹, CCP26 consider that this has impacted the capacity of this group to provide the breadth and depth of ongoing advice and support that Essential is seeking.

CCP26 is not aware of the intended role for the SCC in the future.

Pricing Collaboration Collective

The PCC met 5 times during the post-lodgement engagement phase to guide decisions in the development of Essential Energy's 2024-29 Revised Tariff Structure Statement (TSS). Meeting packs for PCC meetings continued to be comprehensive and provided well in advance of meetings. Access to PCC meeting materials and meeting records is readily available for PCC members and other stakeholders. Attendance at PCC meetings was reasonably consistent, with participants generally demonstrating a very high level of understanding of network pricing issues. This group was effective in providing detailed consideration of the proposed updates to the TSS, and in strongly challenging Essential on pricing-related issues.

Customer Webinar & Survey

Essential adopted a customer webinar and survey approach to re-test customers’ overall acceptance of the Revised Regulatory Proposal in light of increased cost of living pressures since completion of the earlier rounds of engagement in 2022. Customers who participated in Phases 1 to 4 of Essential’s pre-lodgement engagement program were invited to attend a one-hour online webinar, which took place in the evening on 18 October 2023.

Customers were advised that due to factors beyond Essential’s control such as inflation and interest rate rises, the forecast average residential network bill during 2024-29 had risen from \$790 to \$885 which includes \$40 for the new expenditure on resilience and future network investments which were supported during the pre-lodgement customer engagement i.e. at a cost of approximately \$10 per year.

Following the webinar, customers were asked to complete a short survey to indicate whether they still supported the investments targeting resilience and future network outcomes. A \$100 incentive

¹⁰ with an average attendance between 4 and 5 of the SCC complement of 9 members

¹¹ CCP26, *CCP26 Advice to AER re 2024-29 Essential Energy Regulatory Proposal and AER Issues Paper*, May 2023, p.9

was offered to participants to complete the survey which likely contributed to the exceptionally high response rate. A total of 252 customers completed the survey, with 96 per cent indicating their support for these investments and associated bill impacts.

Although income levels were not disclosed, the participant profile for the survey reported that 16% of respondents identified as being 'financially vulnerable'¹² however only a very small proportion of respondents (<1% overall) provided comments which aligned with the theme 'I am concerned about the costs'.¹³

CCP26 consider use of the webinar and survey in these circumstances to be an effective and pragmatic way of re-testing customers' overall satisfaction with Essential's Revised Regulatory Proposal.

We note that Essential has not explicitly engaged with customers on their affordability concerns in the same way that other businesses have e.g. Endeavour Energy.¹⁴

Business-as-Usual engagement

Essential has already made good progress towards establishing its ongoing business-as-usual engagement through the creation and nurturing of the Essential People's Panel. CCP26 is also very supportive of Essential's commitment to expand the role of the Customer Advocacy Group to include engaging on implementation planning and progress for the next regulatory period (and beyond). In designing a fit-for-purpose business-as-usual engagement strategy, we encourage Essential to consider whether there are ongoing roles for the SCC, PCC and New Technology Providers Forum within their ongoing business-as-usual engagement framework.

4. Specific Issues for Essential Energy

4.1 Bushfire risk reclassifications

Since lodgement of its Regulatory Proposal in January 2023, Essential has become aware of the likelihood of significant additional operating expenditure being required in the 2024-29 period as a result of reclassification of large areas of the Essential network into a higher bushfire risk category. Essential explains that this will arise from:

- Findings from NSW Coronial Inquest /inquiries into the 2019-20 New South Wales Bushfire Season and related deaths; and
- Adoption of an updated model for vegetation management and/or other compliance approaches¹⁵.

¹² Woolcott Research & Engagement, *Customer and Stakeholder Engagement for the 2024-29 Regulatory Proposal – Phase 5*, p.25

¹³ Woolcott Research & Engagement, *Customer and Stakeholder Engagement for the 2024-29 Regulatory Proposal – Phase 5*, p.47

¹⁴ SEC Newgate, Endeavour Energy Customer Panel – Revenue Proposal 2024-2029 Final Report Wave 4, June 2023, p6

¹⁵ Essential Energy, *6.04 Nominated Pass-Through Event, November 2023*, p. 3

As the findings of the NSW Coronial Inquest have not yet been released, Essential state that they are unable to fully assess the changed requirements or quantify the costs involved in meeting them. At this stage, Essential does not have enough information to formulate an opex step change to allow the resulting costs to be recovered, and is proposing a new pass-through event instead.¹⁶ In the Revised Proposal, Essential has provided an initial estimate that these costs will be in the order of \$70-80 million over the next 5 years.¹⁷

Essential engaged with both the SCC and the Essential People’s Panel to inform them of the likely changes to vegetation management practices and to seek feedback on how best to manage the community impact of the changes. In both instances, the bushfire risk classification system, and corresponding vegetation management practices were clearly explained by Essential, and understood by participants.

SCC and Essential People’s Panel members appeared to accept the approach and actions proposed by Essential in relation to updating the vegetation management model, stressing the need for engagement with affected communities. CCP26 did not observe any engagement or discussion on potential cost increases or bill impacts with the Essential People’s Panel. This may be because initial cost estimates were not available at the time of the engagement activities (June 2023). In October, the SCC was informed that costs were still being assessed, but would probably be in the range \$50-\$100 million. Bill impacts were not discussed.

Given recent experiences, many Essential customers are highly sensitive to changes in bushfire risk and vegetation management practices. It is clear that a comprehensive community and stakeholder engagement program will be necessary to scope the work required to implement the changes to vegetation management practices, and this will take some time to design and carry out.

If the AER assesses that this change is justifiable and it meets the regulatory requirements for a cost pass-through event, CCP26 consider that approval of a cost pass-through for a Bushfire Risk Reclassification Event would allow time and opportunity for:

- Essential to analyse changes in requirements, conduct the necessary community engagement, properly scope the works, and put forward a realistic proposal for recovery of prudent and efficient costs;
- The AER to scrutinise the associated business cases; and
- Customers and communities to be involved in design of any changes, to understand cost impacts, and collaborate on trade-offs where appropriate.

In our view this is a preferable approach for customers rather than a step change which ‘locks in’ costs and risks for customers for the next 5 years even though timing and requirements are uncertain.

¹⁶ Essential Energy, *6.04 Nominated Pass-Through Event, November 2023*, p. 3

¹⁷ Essential Energy, *6.04 Nominated Pass-Through Event, November 2023*, p. 6

4.2 Legacy Metering Cost recovery

In August 2023, the AEMC released its Final Report on the Review of the Regulatory Framework for Metering Services. The Final Report calls for a 100% rollout of smart meters by 2030. In their Draft Decision for Essential, the AER indicated a preference for the Revised Proposal to¹⁸:

- Reclassify legacy metering services as Standard Control Services, and recover costs across a wider customer base; and
- Accelerate depreciation of the legacy meter asset base over the 2024-29 period.

These positions formed the starting point for engagement on legacy metering cost recovery with the Essential people's Panel and the SCC.

The Essential People's Panel was asked to advise on which option for sharing costs was preferred:

- (a) Spreading costs across all customers who have or have had a legacy meter;
- (b) Spreading costs across all customers.

Views varied, however the majority expressed a preference for option (b), spreading the costs as widely as possible, considering that it delivered a fairer result, and that the outcome would benefit the whole community. Accelerated depreciation was not canvassed with the People's Panel.

The SCC supported the Panel's proposed cost sharing arrangements, and expressed a preference for a proportional increase to the access charge for all customers. They also discussed deferral of accelerated depreciation to address current cost of living concerns.

The issue of cost recovery for legacy metering was raised in the AER Issues Paper in March 2023, and Essential's engagement with customers on this topic took place during September and October. The AER's Guidance note on legacy metering services was subsequently published in November 2023.¹⁹ The preferences expressed by Essential's customers during the engagement were not consistent with the Guidance note, so in this case, customer preferences were not carried forward into the revised proposal.

4.3 Tariff Structure Statement (TSS) Updates

As a result of feedback on the Regulatory Proposal and tariff trials, Essential continued to engage on a number of TSS-related issues in their Phase 5 engagement program, including:

- Design of the Sun Soaker tariff export charge
- The number of Sun Soaker tariff export bands
- Timing of customer assignment to the Sun Soaker tariff
- Export price for low voltage large businesses
- Stand-alone battery tariffs
- Small business network access charge.

¹⁸ AER, *Draft Decision Essential Energy Electricity Distribution Determination 2024 to 2029, September 2023, Attachment 20, Metering Services* pgs 8,12

¹⁹ AER, *Legacy metering services – guidance for revised proposals, November 2023*

Most of the proposed changes to the TSS in the Revised Proposal are uncontroversial, however diverse views were provided in relation to the design of the Sun Soaker export charge and the stand-alone battery tariffs.

Sun Soaker export charge

For the Sun Soaker export charge, Essential proposes to express the charge in kWh rather than kW in the Revised Proposal, as suggested in the AER's Draft Decision. The Essential People's Panel considered these two options, and expressed unanimous support for a kWh charge²⁰. Reasons put forward by participants included a difficulty in understanding demand charges i.e. *'I couldn't understand KWs, and Essential couldn't explain it to me'*; concern about bill 'spikes' and unpredictability i.e. *'If I'm away from home for 1 day, my exports will spike and I'll be penalised with a higher bill for the month'*; and impact on behaviour i.e. *'If I've blown the budget for the month, I'll just give up'*. It should be noted that these comments by participants assume that the network tariff structure is reflected in the retail tariff experienced by the customer.

Some SCC/PCC members expressed strong differing views including that:

- a kW charge more accurately reflects the export costs to the network,
- it should be the responsibility of retailers to design pricing that is easier for customers to understand rather than the responsibility of networks
- the design of the demand charge could be changed to avoid the issues identified by Panel members.

Essential acknowledges the divergence of views on this topic and the relative merits of each position, and on balance has proposed a change to kWh charging in the Revised Proposal as the option supported by the majority of stakeholders including retailers and the New Technology Providers Forum.

Stand-alone battery tariffs

As part of the Phase 5 engagement program, Essential has engaged with an expanded number of customers, project proponents, industry and participants in the New Technology Providers Forum on its proposed stand-alone battery tariffs. Essential has proposed several changes to their pricing approach for stand-alone batteries which have been well-received. However, Essential acknowledge that they have not accepted all feedback received and have identified the need to continue engaging with these stakeholders, given the evolving nature of this industry. We commend Essential for its efforts to extend its engagement program to a broader group of stakeholders in this new and challenging arena, particularly given the short timeframe imposed by the regulatory process.

4.4 Efficiency Benefit Sharing Scheme (EBSS) penalty

In the Draft Decision, the AER has applied an EBSS penalty of \$297M to Essential as a result of overspending against the opex allowance in 2019–24 period. Essential does not agree with the

²⁰ Woolcott Research & Engagement, *Customer and Stakeholder Engagement for the 2024-29 Regulatory Proposal – Phase 5*, November 2023, p.30

approach taken by the AER to the EBSS calculation and has requested that the AER consider an alternative approach which would result in a lesser penalty of \$229M.²¹

CCP26 note that leading up to submission of the revised proposal, the SCC was informed that Essential was intending to provide further information on application of the ESBB to the AER in the revised proposal. We did not observe any discussion of the alternative methodology, the possible revised quantum or bill impacts of the change in EBSS amount should the alternative approach be adopted by the AER. We are surprised that such a significant change (~\$68M in revenue) does not appear to have been the subject of engagement with Essential's customers and stakeholders.

5. NSW/ACT Systemic observations

The importance of ongoing engagement

The Better Resets Handbook notes the importance of ongoing engagement, stating:

...consumer engagement should be a continuous business-as-usual process, not a one-off process only undertaken in preparing for regulatory proposals. Consumers should not have to wait for a once-in-5-year regulatory proposal to be heard.

The NSW/ACT resets have highlighted the particular importance of ongoing engagement in a period of rapid economic, political and environmental change. Endeavour Energy explains:

As part of good practice engagement we also see value in continuously engagement with our customer to understand their preferences and values. Doing so over time provides additional insight in surfacing preferences that are subject to change compared to those that remain constant in a changing environment.²²

Ongoing engagement is likely to deliver considerable benefits to the regulatory processes. As well as the benefits of longitudinal customer insights, ongoing engagement is also likely to reduce the volume of bespoke reset-related engagement activities that are needed to adequately inform regulatory proposals. To further embed ongoing engagement in the whole regulatory cycle, the CCP26 recommends the AER adds an additional criterion to access the Early Signals Pathway process requiring evidence of a robust, transparent and co-designed ongoing engagement program.

Application of the Better Resets Handbook

The NSW and ACT electricity distribution regulatory proposals were the first developed in full, using the Better Resets Handbook as a basis. There were also two of the four businesses that were accepted onto the Early Signals Pathway process, Endeavour Energy and Essential Energy, the first

²¹ Essential, *3.07 EBSS Concerns*, November 2023, p2

²² Endeavour Energy, Revised Proposal, p24

businesses to apply this process. Our observation is that the Handbook has provided a useful guide, and that the ESP process has been beneficial for the participating businesses and their customers.

Review of both the application of the Handbook and early Signal Pathways will be important and should occur in the near future so that initial learnings are captured and applied for future regulatory processes.

One clear benefit of the Early Signal Pathway has been for open discussion between the AER, Businesses and their consumer reference groups and the CCP subpanel, well before the lodgement of regulatory proposals. This has occurred through "progress reports" and associated "check-ins." With engagement programs commencing two or more years before lodgement, CCP26 recommends that "check-ins" similar to those occurring effectively through the Early Signal Pathway process should now be part of all resets, to keep all parties informed about progress, future plans and to foster a 'no surprises' approach to regulatory practice.

Network Resilience Guidance Note

The AER's *Network Resilience Guidance Note* has provided useful guidance for the CCP to assess the NSW/ACT DNSPs' resilience engagement. The priority given to the following areas in the Guidance Note has proven particularly valuable: the central focus on decision-making under uncertain extreme weather events (particularly high cost/low probability events); the need to collaborate with other responsible entities involved in disaster management; and the need to work collaboratively with affected communities as well as the wider customer base. The Guidance Note also clearly links engagement expectations to the Better Resets Handbook.

However, we continue to observe confusion about the term "Network Resilience". This was exacerbated in the NSW/ACT Draft Decisions which, in a number of cases, saw the AER approve certain resilience expenditure because it met reliability criteria.

We suggest that the AER consider adopting more specific language such as "Climate Adaptation" to better capture the AER's regulatory intent.

Regulatory Flexibility

Uncertainty has been a dominant theme in the regulatory proposals and revised proposals for the NSW and ACT electricity distribution network businesses for this reset. The dual impacts of the unfolding once-in-a-generation energy transition, and growing evidence of impacts of accelerated climate change on electricity network infrastructure exacerbate the business-as-usual challenge of preparing detailed business plans 6 or 7 years into the future. Network businesses are facing risks associated with issues such as:

- the inability to forecast with confidence the rate of take up of consumer energy resources including electric vehicles to 2030 and beyond and the implications for electricity demand and network services,
- the nature and impact of government interventions in energy markets and environmental legislative approaches,

- climate change resulting in more frequent and different threats to network resilience and reliability.

Examples of network business’s proposed regulatory responses to these changing and unpredictable circumstances include:

- Evoenergy contemplating a contingent project (\$100–150 million) ‘that would be triggered where evidence emerges that the speed of the energy transition, in particular the uptake of EVs and electrification, is greater than assumed in the capex forecasts put forward in this regulatory proposal, where this consequently requires us to undertake a material program of works during the regulatory period’.²³
- Essential Energy proposing an untested new cost pass-through event to accommodate as-yet unquantified outcomes arising from a Coronial inquiry into bushfires in NSW²⁴.

Essential Energy has further expanded on the uncertainty challenges facing network businesses in its Revised Proposal²⁵, and concludes that *‘Essential Energy believes that the current regulatory framework is not agile or flexible enough to effectively meet these challenges. The current framework of five-yearly resets, and over-reliance on prescribed pass through events, is overly cumbersome and not nimble enough to keep up with climate and technological changes and shifting customer and stakeholder expectations’*.

It is not only the network businesses that are expressing such views. Customer and stakeholder groups have made similar observations, noting the risk that uncertainty poses for customers as well as network businesses:

- The Ausgrid Reset Customer Panel (RCP) makes similar observations in its discussion on ‘Re-openers’. The RCP states *‘we believe that there is a limited but important case for ‘re-openers’ in key areas within the current 5 year regulatory cycles over and above the operation of the cost pass through regime.’*²⁶
- In its Panel Report supporting Evoenergy’s Revised Proposal, the Evoenergy Deep Dive Panel commented *‘The current regulatory cycle (5 years) seems too long given the fast pace of change in energy. Suggest shorter regulatory timeframes or midpoint reviews to adjust spending and investment and to respond to emerging technologies and risks such as changing consumer behaviour’*²⁷

CCP26 has sympathy for these views. Given the consistency of advice from a breadth of sources, we consider that the AER should commit to examining opportunities for greater regulatory flexibility in this time of uncertainty as a matter of priority.

²³ Evoenergy, Evoenergy Regulatory Proposal, January 2023, p56

²⁴ Essential Energy, *6.04 Nominated Pass-Through Event, November 2023*, p. 3

²⁵ Essential Energy, *2024-29 Revised Regulatory Proposal, November 2023*, p32

²⁶ Ausgrid Reset Customer Panel, *RCP Report on Ausgrid Revised Proposal, November 2023* p52

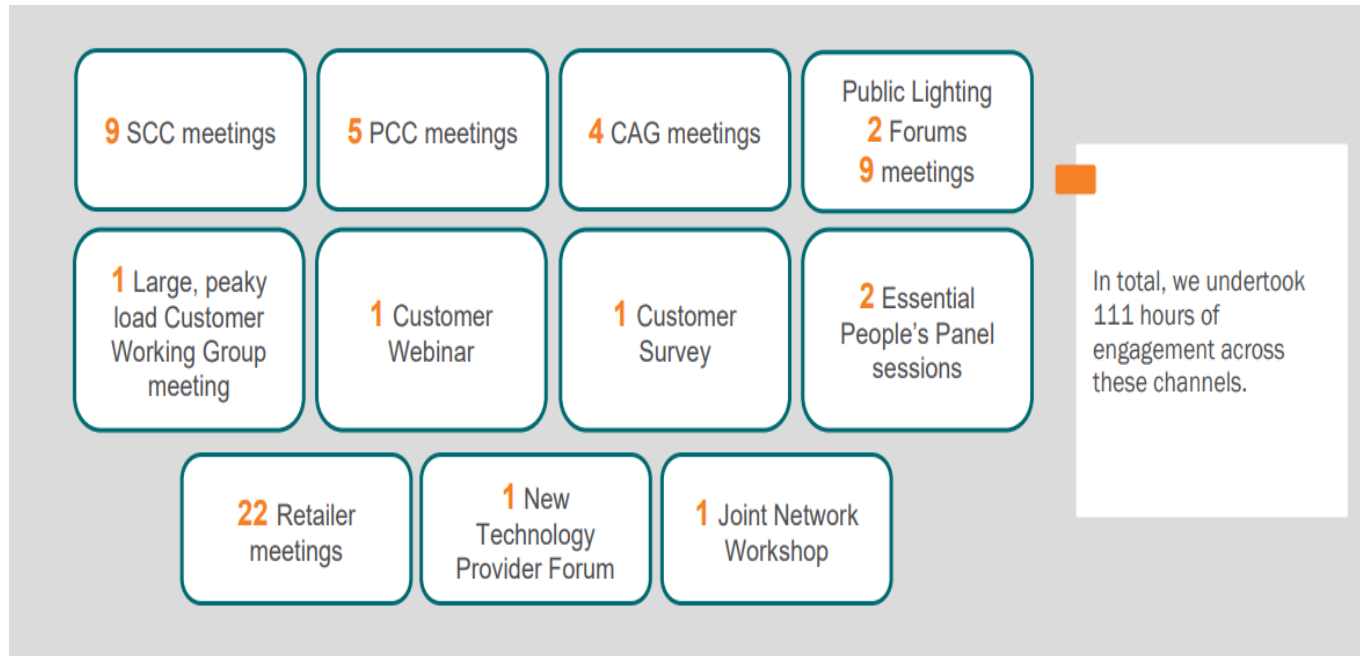
²⁷ Communications Link, *Evoenergy Deep Dive Panel Report, November 2023*, p3

Appendix 1 – CCP26 observations of Essential’s post-lodgement engagement

Activity	Date	Format	Hours	Observer(s)
SCC Meetings	22/11/23	Online	2	Mark Henley
	10/10/23	Online	2	Robyn Robinson
	20/9/23	Online	2	-
	6/9/23	Online	2	-
	9/8/23	Online	2	-
	5/7/23	Online	2	Robyn Robinson
	7/6/23	Online	2	Robyn Robinson
	11/5/23	Online	2	Robyn Robinson
	4/4/23	Online	2	Robyn Robinson
PCC Meetings	21/11/23	Online	2	Robyn Robinson
	9/11/23	Online	1.5	Robyn Robinson
	13/9/23	Online	2	-
	25/5/23	Online	2	Robyn Robinson
	17/4/23	Online	2	Robyn Robinson
	2/3/23	Online	2	Robyn Robinson

Essential Peoples Panel	16/9/23	In person	7	Robyn Robinson
	24/6/23	In person	7	Elissa Freeman
Customer Webinar	18/10/23	Online	1	Robyn Robinson

Appendix 2 – Essential Energy Post-Lodgement (Phase 5) Engagement Summary²⁸



²⁸ Essential Energy, 2.01 Summary of Engagement Outcomes, p2