

# Revenue Determination (Contestable)

**Transgrid – Waratah Super Battery –**  
Paired generation services component

Made under the Electricity Infrastructure  
Investment Act 2020 (NSW)

**March 2024**

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## Overview

### Background

On 14 October 2022, the NSW Minister for Energy (Minister) published an Order directing Transgrid as the Network Operator to carry out the Waratah Super Battery (WSB) project.<sup>1</sup> The WSB project aims to address an expected breach of the NSW Energy Security Target in 2025–26 by increasing power transfer capacity on transmission lines that connect generation in the northern and southern regions of NSW to Sydney, Newcastle and Wollongong.

The WSB project comprises the following contestable and non-contestable components:

1. A program of augmentations to existing transmission network lines and substation equipment (to be undertaken by Transgrid).
2. A System Integrity Protection Scheme (SIPS) control and communications systems (to be developed and operated by Transgrid).
3. A SIPS Service to be provided by a battery energy storage system with a minimum capacity of 700 megawatts (MW)/1,400 megawatt hours (MWh) (to be undertaken by a service provider competitively procured by the Energy Corporation of NSW (EnergyCo).<sup>2</sup>
4. Paired Generation Services (to be undertaken by a portfolio of generators competitively procured by EnergyCo).

EnergyCo, as the Infrastructure Planner for the WSB project, undertook a competitive assessment process commencing in 2022 to select parties to provide the paired generation services to Transgrid. Transgrid has contracted with a portfolio of generators to provide the paired generation services for a period of up to 5.5 years. This determination relates to the amounts payable to Transgrid for the service which, in turn, Transgrid will pay in full to the paired generation providers.

On 10 October 2023, Transgrid submitted a revenue proposal to the AER setting out the total amount it proposes to be paid ██████████ for the paired generation service component of the WSB project until the end of the 5.5 year service period and the corresponding schedule of payments. It also proposed the adjustment mechanisms by which those payments could be adjusted over the term of the project.

### Determination

This determination:

1. *Sets out our assessment of EnergyCo's competitive assessment process*

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<sup>1</sup> See [https://gazette.legislation.nsw.gov.au/so/download.w3p?id=Gazette\\_2022\\_2022-473.pdf](https://gazette.legislation.nsw.gov.au/so/download.w3p?id=Gazette_2022_2022-473.pdf).

<sup>2</sup> EnergyCo is a corporation constituted under the *Energy and Utilities Administration Act 1987 (NSW)* and is responsible for leading the delivery of Renewable Energy Zones (REZs) as part of the NSW Government's Electricity Infrastructure Roadmap.

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We have reviewed the competitive assessment process undertaken by EnergyCo against the requirements in our *Revenue Determination Guideline for NSW Contestable Network Projects* (Guideline) and consider that it was a ‘genuine and appropriate’ process.<sup>3</sup> On this basis, we are able to adopt the outcomes from the competitive assessment process in our determination. Section 5 of this determination sets out why we consider the process was genuine and appropriate.

2. *Confirms the total amount payable and schedule of payments to be made to Transgrid*

We have verified that Transgrid’s revenue proposal is consistent with the contractual arrangements reached between the generators and EnergyCo which was the outcome of the competitive assessment process. Our determination confirms a total amount payable to Transgrid [REDACTED] until the end of the 5.5 year contractual period. This determination also confirms the schedule of quarterly amounts to be paid to Transgrid and the dates on which those quarterly payments are to be made. This information is set out in section 6 and Appendix C.

3. *Sets out the basis on which the schedule of payments may be adjusted*

The amount payable to Transgrid is subject to adjustments that are approved by the AER during the period of the contractual arrangement. We have set out adjustment mechanisms that are able to adjust the amount and timing of payments under the schedule of payments we have confirmed. These adjustment mechanisms are set out in Section 6 of this determination and reflect the contractual arrangements that Transgrid was required to enter into under the Ministerial Order.

Our determination commences on 1 July 2024 and is required to be remade every five years until the expiry of the contractual arrangements associated with the paired generation service (and such additional time as may be required to allow for the recovery of any outstanding service payment adjustments).

The Scheme Financial Vehicle (SFV) is required to pay Transgrid, as the Network Operator, amounts set out in the schedule of payments on the dates confirmed in this determination. The costs associated with the paired generation service, and the WSB project more broadly, are part of the total costs of the NSW Electricity Infrastructure Roadmap. The Roadmap is funded from amounts recovered from the NSW distributors through a jurisdictional scheme arrangement. The amounts are passed on to NSW electricity consumers via their electricity retail bills.

### **Determination review and remake – March 2024**

Transgrid submitted a revenue adjustment proposal to the AER on 2 February 2024 for the addition of a third Paired Generation provider to the *Waratah Super Battery Determination – Paired Generation Component – November 2023* (November determination). The revenue proposal was seeking adjustments to the amounts payable [REDACTED] to Transgrid until the end of the 5.5 year service period due to one of the adjustment mechanisms in the November determination.

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<sup>3</sup> The term ‘genuine and appropriate’ is contained in Regulation 46(1)(a). Our Guideline sets out the criteria by which we assess whether a competitive assessment process was genuine and appropriate.

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In our review we found that the adjustment mechanisms in our determination needed to be updated to account for the third Paired Generation provider, which was outside the scope of the adjustment mechanism. Therefore, we decided to review and remake the determination to amend the existing adjustment mechanisms.<sup>4</sup> Our Guideline outlines the process for reviewing and remaking a determination.

The third Paired Generation provider was procured in the same competitive assessment process as the other two Paired Generation providers and was noted in the November determination. The total amount payable, schedule of payments and contractual arrangements Transgrid was required to enter into under the Ministerial Order for the third Paired Generation provider was not included in the previous determination as the agreement had not been executed.

In our review of Transgrid's revenue adjustment proposal we remain satisfied the agreement with the third Paired Generation provider was procured in the same competitive assessment process outlined in Section 2 of the determination. On this basis, we are able to adopt the outcomes from that competitive assessment process in our remade determination.

This remade determination includes the following additions to the November 2023 determination:

- Updates to 'Publication' section to include the confidentiality claims of the remade determination.
- New Section 4.5 describing our review process.
- New Section 5.5 outlining adjustments to total revenue and schedule of payments.
- New Section 6.4.4 describing amendments to existing adjustment mechanisms to include the third Paired Generation provider.
- Updates to Appendix C to include the third Paired Generation provider in the quarterly service payments.
- Updates to Appendix D to include the amendments to the existing adjustment mechanisms to include the third Paired Generation provider.
- A confidential attachment containing elements of the remade determination that describes contractual arrangements and commercially sensitive information.

## **Publication**

*In reviewing and remaking the determination, we have revisited the information we redacted in the previous determination and provided Transgrid with an opportunity to identify information in this determination over which they claim confidentiality. We have considered these claims in accordance with the requirements of clause 53(4) of the Electricity Infrastructure Investment Regulation 2021 (NSW) (EII Regulation). We accept the total revenue and schedule of payments, the names and number of tenderers, and some information regarding adjustment mechanisms should be redacted in the public version of our determination.<sup>5</sup> This is to prevent potential harm to future procurement processes, which*

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<sup>4</sup> Sections 38 and 40(2) of the EII Act.

<sup>5</sup> The AER may decide not to publish part of a revenue determination if satisfied it is not appropriate to do so, in accordance with EII Regulation 53(4).

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*can lead to an inefficient outcome (higher cost). Certain contractual terms have also been kept confidential because they are bespoke to individual agreements, and the publication of these terms may adversely impact future tenders. These have largely been removed to a confidential attachment.*

*However, we have previously published the total and annual amounts payable to Transgrid for the WSB project. For this determination we have agreed to continue to redact the total and annual amounts in the public version of the determination on the basis that we will update the publication of the aggregate total and annual amounts payable for the SIPS Service and Paired Generation Services. This will appear in a separate document on our website. The final decision for the non-contestable elements of the WSB project was made in December 2023, and the total costs of the WSB project are publicly available. We will subsequently publish annual updates to the aggregated total and annual amounts.*

*In the November 2023 determination, we stated that we were also of the view that the names and number of paired generation providers should be published when publishing will no longer impact current negotiations with other successful tenderers. We intended to review the need for information to be redacted in our determination and may consider removing redactions once this information is no longer confidential or commercially sensitive.*

*For our March 2024 remade determination, we have published the names and the number of paired generation providers. However, we have omitted the details on what order the generators were contracted and their capacity. This is because we still consider this information continues to be commercially sensitive.*

*As per November 2023 determination, the updated total costs, and schedule of payments for the third paired generation provider will be included in the aggregated total and annual amounts for the WSB project.*

*We have published information on adjustment mechanisms, where that information does not disclose commercially sensitive contractual arrangements.*

## **Reference documents**

This decision document should be read alongside:

- The [Revenue Determination guideline for NSW contestable network projects](#),
- The [Final determination for the SIPS service component of the Waratah Super Battery project](#), and
- The [Draft determination for the non-contestable components of the Waratah Super Battery project](#).

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# 1 Regulatory framework

The AER was appointed as a Regulator under the *Electricity Infrastructure Investment Act 2020* (EII Act) in November 2021.<sup>6</sup> A key function of the AER under Division 3 of Part 5 of the EII Act is to make revenue determinations for Network Operators selected to carry out network infrastructure projects. Under the EII framework<sup>7</sup> the Infrastructure Planner may undertake a competitive assessment process to select a Network Operator (or a person to assist a Network Operator) to carry out all or part of a network infrastructure project.

If the Infrastructure Planner intends to undertake a competitive assessment process, it must consult with the AER before and during the process and provide information to the AER on the process.<sup>8</sup> After the competitive process has been completed and a Network Operator has been selected (or a person to assist the Network Operator), we decide whether we are satisfied that the process was genuine and appropriate.

Following a competitive assessment process, a Network Operator is required to submit a revenue proposal to the AER setting out the amount it proposes to be paid for carrying out the network infrastructure project. The proposal must be consistent with the outcome of the competitive assessment process and the terms of any contractual arrangements it has entered into (or will enter into). Our Guideline<sup>9</sup> sets out information requirements for a revenue proposal, our approach to assessing a revenue proposal, the timeline for making a determination, and the information our determination will contain.

In summary our determination must include the:

- amount payable to a Network Operator – section 38(1) of the EII Act.
- components of the amount payable – section 38(2) of the EII Act.
- schedule of amounts required to be paid to the Network Operator and the dates on which the amounts must be paid – clause 52 of the *Electricity Infrastructure Investment Regulation 2021* (EII Regulation).

Under clause 51(1) of the EII Regulation our determination may also include provision for the adjustment of any amount included in the revenue determination.

Section 37 of the EII Act requires that in making a revenue determination for a Network Operator, we must take into account a number of principles, including that a Network Operator is entitled to the prudent, efficient and reasonable costs incurred in carrying out the infrastructure project. If we are satisfied that the competitive assessment process was genuine and appropriate, we can presume the principles under section 37 of the EII Act have been met and we would expect to make a revenue determination consistent with the

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<sup>6</sup> IPART has also been appointed as a Regulator to undertake certain functions under the EII Act.

<sup>7</sup> The *Electricity Infrastructure Investment Act 2020* (EII Act) and the *Electricity Infrastructure Investment Regulation 2021* (EII Regulation), collectively

<sup>8</sup> EII Regulation, 45(4).

<sup>9</sup> AER, *Revenue Determination Guideline for NSW Contestable Network Projects* (Guideline), August 2022



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outcomes of the process. Once we have made a determination the SFV is required to pay the Network Operator in accordance with it.<sup>10</sup>

## **1.1 WSB revenue determinations**

Pursuant to section 32(1)(b) of the EII Act, on 14 October 2022 the Minister published an Order directing Transgrid, as the Network Operator, to carry out the WSB project.<sup>11</sup>

The Minister’s direction authorises Transgrid, as the Network Operator, to carry out the WSB project and allows the AER to make a revenue determination under Division 3 of Part 5 of the EII Act.<sup>12</sup>

The AER made a determination on the SIPS Service component of the WSB project in December 2022<sup>13</sup>.

We made a draft determination<sup>14</sup> for the SIPS control and network augmentation (non-contestable) components of the project in September 2023, and the final determination was made in December 2023. The non-contestable determination contains contract management and administration costs related to the SIPS Service and the Paired Generation Services.

This determination is on the Paired Generation Services. It relates to the amounts payable to Transgrid for the service which, in turn, Transgrid will pay in full to the paired generation providers.

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<sup>10</sup> EII Act, s.39(1).

<sup>11</sup> The Ministerial order was published in the NSW Government Gazette on 14 October 2022 - see [https://gazette.legislation.nsw.gov.au/so/download.w3p?id=Gazette\\_2022\\_2022-473.pdf](https://gazette.legislation.nsw.gov.au/so/download.w3p?id=Gazette_2022_2022-473.pdf).

<sup>12</sup> Under section 36(1) of the EII Act, Division 3 of Part 5 only applies to Network Operators subject to an authorisation. An ‘authorisation’ is defined in section 36(4) to include a direction given by the Minister under section 32 to carry out a PTIP.

<sup>13</sup> AER, *Final Determination - Waratah Super Battery - SIPS Service Component*, 14 December 2022

<sup>14</sup> AER, *Draft Decision – Waratah Super Battery project (Non-contestable)*, 29 September 2023

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## 2 Paired Generation Services

### 2.1 The service

Transgrid must carry out the WSB project in accordance with the Minister's direction<sup>15</sup>, including entering into Paired Generation Services Agreements (PGSA) with paired generation providers, for the provision of paired generation services.

In the direction, 'Paired generation provider' means persons selected by the Infrastructure Planner pursuant to a competitive assessment process to provide paired generation services, from time to time.

'Paired generation services' means participation in a control scheme whereby, among other elements relating to the discharge of the battery energy storage system facility, the paired generation facility automatically responds to an external signal received from Transgrid to undertake certain activities, as set out in detail in the contractual arrangements.

The direction also requires Transgrid to complete the planning, design, and construction stages of the WSB project by the relevant dates specified in the Delivery Plan (section 5 of the direction). The Delivery Plan requires Transgrid to deliver the SIPS control system by 1 November 2024, including testing and full implementation, for which paired generation services are required.

The paired generation service forms part of the System Integrity Protection Scheme (SIPS) of the Waratah Super Battery project. The service is a portfolio of generators that rapidly reduce power output in response to a signal from the Network Operator (via the SIPS), under a contingency event. The signal is intended to initiate a ramp down in power output at the point of connection, at a specified rate, until the network constraint caused by the contingency event is resolved.

The de-loading of specific elements of the transmission network requires that the output of the contracted facilities be maintained at the lower level for a period of at least 15 minutes from the start of the ramp down signal from the SIPS.

### 2.2 Competitive procurement of the service

#### 2.2.1 Process

EnergyCo commenced a competitive assessment process for the paired generation services in August 2022 and completed it in September 2023. The process involved a market sounding exercise and issuing an invitation to paired generation tender (PGT) to all eligible generators to ensure sufficient competitive tension would be generated.

EnergyCo provided us with a procurement report on 19 September 2023 that describes the competitive assessment process undertaken and the outcome achieved. The report contains the information required under section 5.2 of our Guideline, including the procurement

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<sup>15</sup> The Ministerial order was published in the NSW Government Gazette on 14 October 2022 - see [https://gazette.legislation.nsw.gov.au/so/download.w3p?id=Gazette\\_2022\\_2022-473.pdf](https://gazette.legislation.nsw.gov.au/so/download.w3p?id=Gazette_2022_2022-473.pdf).

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strategy, the evaluation report, and the probity report on the evaluation process. We also observed the competitive assessment process undertaken by EnergyCo. Our review of the process and the implications of that review for this determination are set out in section 5.

### 2.2.2 Outcome

Following its evaluation process, EnergyCo selected CWP Renewables – Sapphire Wind Farm, FRV – Metz Solar Farm and Snowy Hydro – Tumut 3 Pumped Hydro Facility as the successful tenderers for the paired generation service.

- FRV – Metz Solar Farm will provide a maximum generation capacity of [REDACTED]
- Snowy Hydro – Tumut 3 Pumped Hydro Facility will provide a maximum generation capacity of [REDACTED]
- CWP Renewables – Sapphire Wind Farm will provide a maximum generation capacity of [REDACTED]

The generators will be required to provide the paired generation services for a 5.5-year term, matching the SIPS service. The final contract prices were negotiated by EnergyCo and consist of preparatory works payments and an annual availability charge. Other charges arise for testing and contingency events.

## 2.3 Contractual arrangements

Transgrid, as the Network Operator for the WSB project, is required to enter into the types of contractual arrangements to carry out the project as set out in Schedule 1, clause 3 of the Minister’s direction. In relation to the paired generation services:

- Transgrid and EnergyCo have entered into the **Network Operator Deed** which sets out certain rights and responsibilities of each party in respect of the carrying out the WSB project.
- Transgrid and CWP Renewables – Sapphire Wind Farm, Transgrid and Snowy Hydro – Tumut 3 Pumped Hydro Facility, and Transgrid and FRV - Metz Solar Farm have entered into **Paired Generation Services Agreements**. These agreements require Transgrid to procure the paired generation services from the generators on specified terms and conditions.
- Transgrid and the SFV will enter a **Payment Deed** to facilitate payments from the SFV to Transgrid in accordance with determinations made by the AER in relation to the paired generation service.

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## 3 Transgrid’s revenue proposal

### 3.1 Compliance with requirements

On 10 October 2023, Transgrid submitted its revenue proposal to the AER for a contestable revenue determination. Transgrid stated that its proposal only relates to the procurement of the paired generation services and that its revenue proposal complies with the:

- requirements of the AER’s Guideline
- requirements of information notices issued by the AER to it
- Minister’s direction relating to the WSB project
- contractual arrangements it has entered into with EnergyCo and the generators for paired generation services.

As part of its proposal, Transgrid set out where each requirement is addressed in the revenue proposal and associated attachments. Based on our review of Transgrid’s revenue proposal we found that, overall, it was compliant with the above requirements. However, we did identify issues with the clarity of the adjustment mechanisms that set out the circumstances where the amounts payable under our determination can be adjusted, and the described approach for determining the adjusted amounts. In response Transgrid revised and resubmitted its revenue proposal on 10 November.

We note that neither the EII Act nor the EII Regulations expressly require the publication of a Network Operator’s revenue proposal.

### 3.2 Key elements of the revenue proposal

#### 3.2.1 Basis in the competitive assessment process

Transgrid’s revenue proposal requests that we make our determination based on the outcomes of the competitive assessment process undertaken by the Infrastructure Planner for paired generation services.

Under clause 45(5) of the EII Regulation, if the Infrastructure Planner obtained the information from a competitive assessment process and we consider the competitive assessment process to be ‘genuine and appropriate’, we may adopt the outcomes of the process in our determination. Our Guideline includes the criteria we consider in assessing whether the process is genuine and appropriate.<sup>16</sup>

Section 4 of this determination contains our assessment of whether the competitive assessment process undertaken for paired generation services was genuine and appropriate and the implications of that assessment.

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<sup>16</sup> AER, *Revenue Determination Guideline for NSW Contestable Network Projects*, August 2022, pp. 9–10.

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### **3.2.2 Total revenue and schedule of payments**

The EII Act and EII Regulations require our determination to include:

- *The amount payable to a Network Operator*

The revenue proposal sets out a total amount payable [REDACTED] until the end of the 5.5 year service period covered by the contractual arrangements, subject to the adjustment mechanisms being triggered.

- *The components of the amount payable*

Transgrid indicates that the amount payable is only operating expenditure and does not contain any capital expenditure.

- *The schedule of amounts required to be paid to the Network Operator and the dates on which the amounts must be paid*

Transgrid states that the schedule of payments set out in its proposal:

- are derived as quarterly instalments based on the preparatory works payment and yearly availability charge for the paired generation services;
- correspond to the term of the Paired Generation Service Agreement;
- reflects payment in arrears based on the dates set out in Table 25 of its proposal (and Table 2 of this document)

Our assessment of the above matters is set out in section 5 of this determination.

### **3.2.3 Revenue adjustments**

Clause 51 of the EII Regulations state that our determination may also include provision for the adjustment of any amount included in the revenue determination. Section 6 of Transgrid's revenue proposal sets out adjustments that may be made to the schedule of payments, should certain triggers occur. Transgrid's revenue proposal lists several adjustment mechanisms. The specific adjustments and our review of them is set out in section 6 of this determination.

### **3.2.4 Determination review and remake – March 2024**

Transgrid provided an adjustment proposal to the AER on 2 February 2024. To reflect the contractual arrangements of the third Paired Generation provider in the adjustment mechanisms, we determined that the revenue determination must be remade. As such, this revenue determination has been remade to incorporate the revenue adjustments and the amendments to the adjustment mechanisms for the third Paired Generation provider. We have also amended the total revenue and schedule of payments. These adjustments are discussed further in section 4.5.

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## **4 Review of the competitive assessment process**

### **4.1 Regulatory framework**

The EII Regulations allow the Infrastructure Planner to undertake a competitive assessment process to select a Network Operator, or a service provider to assist a Network Operator, to carry out all or part of a network infrastructure project.<sup>17</sup>

In making a revenue determination under the EII Act, the EII Regulations allow the AER to rely on and adopt information provided by the Infrastructure Planner if:

- the Infrastructure Planner obtained the information from a competitive assessment process, and
- the regulator is satisfied that the competitive assessment process was genuine and appropriate.<sup>18</sup>

The EII Regulations prescribe a set of principles that a genuine and appropriate competitive assessment process can be considered to produce. Specifically, clause 46(1)(a) indicates that a genuine and appropriate competitive assessment process:

- results in the cost of carrying out an infrastructure project being prudent, efficient, and reasonable, and
- provides incentives to promote economic efficiency, and
- results in revenue for the ongoing ownership, control and operation of the infrastructure project being commensurate with the regulatory and commercial risks.

These principles mirror the principles in section 37(1) of the EII Act, which we must take into account in exercising our functions under Part 5 (Division 3) of the EII Act.

On this basis, if we are satisfied that a competitive assessment process is genuine and appropriate, we may consider the outcomes of the process are consistent with the principles set out in EII Regulation 46(1)(a) (and section 37(1) of the EII Act), and we may adopt those outcomes in our determination.

#### **4.1.1 Infrastructure Planner to consult and provide information**

The EII Regulations require the Infrastructure Planner to consult with us and provide us with information about and obtained from the competitive assessment process both before and during the process.<sup>19</sup> Our Guideline sets out specific information for the Infrastructure Planner to provide to us and processes to facilitate AER staff to observe the competitive assessment process. The Infrastructure Planner must:

- consult with the AER and provide us with a procurement strategy. Information that must be included in a procurement strategy is set out in section 4.2 of our Guideline. We

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<sup>17</sup> EII Regulation 45.

<sup>18</sup> EII Regulation 45(5).

<sup>19</sup> EII Regulation 45(4).

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notify the Infrastructure Planner whether we are satisfied that the process in the procurement strategy is likely to result in a genuine and appropriate competitive assessment process.

- allow the AER to monitor the competitive assessment process, request information and observe key meetings.
- provide the AER with a procurement report on the conduct of the competitive assessment process. Information that must be included in a procurement report is set out in section 5.2 of our Guideline. We assess the procurement report in making our assessment of whether a process was genuine and appropriate.

## 4.2 The competitive assessment process and our role

EnergyCo commenced a competitive assessment process to procure paired generation services in August 2022 and the process concluded in September 2023. EnergyCo's process was undertaken in three stages:

1. EnergyCo undertook a market sounding stage to ascertain market appetite for providing paired generation services, while generating interest from owners of eligible generators to participate in the Tender. We reviewed the list of eligible generators and the market sounding briefing schedule and notes as part of our review of the procurement strategy.
2. EnergyCo issued a Paired Generation Tender (PGT) to registered applicants, assessed responses, and selected preferred paired generation providers. We reviewed a procurement strategy, observed evaluation panel meetings and reviewed key project documents throughout the PGT phase, including a procurement report at the end of the process.
3. Transgrid executed Paired Generation Services Agreements with two of the three preferred tenderers, and intends to execute a Paired Generation Services Agreement with the third.

Further details on the process and our monitoring of it are set out at **Appendix A**. A listing of information provided to us by EnergyCo as part of their procurement report is set out at **Appendix B**.

## 4.3 Assessment of the competitive assessment process

Our Guideline sets out our approach to reviewing a competitive assessment process to determine whether the process was genuine and appropriate. We assess whether the competitive assessment process:

1. was undertaken in accordance with the EII Act and EII Regulations,
2. was undertaken consistent with the Infrastructure Planner's procurement strategy, and
3. reflects our competitive assessment evaluation criteria.<sup>20</sup>

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<sup>20</sup> AER, *Revenue determination guideline for NSW contestable network projects*, August 2022, s. 5.3, pp.14-15.

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Below we set out our assessment of whether the competitive assessment process EnergyCo undertook for paired generation services was genuine and appropriate against the above elements.

#### **4.3.1 Consistency with the EII Act and EII Regulations**

We consider the competitive assessment process undertaken by EnergyCo to be consistent with the requirements of the EII Act and the EII Regulations.

- The EII Regulations provide for the Infrastructure Planner to make a recommendation to the Minister about a PTIP, including in relation to procurement.<sup>21</sup> EnergyCo made a recommendation to the Minister in early October 2022 in relation to the WSB project.
- The EII Regulations allow the Infrastructure Planner to carry out a competitive process in relation to a PTIP for which it is appointed.<sup>22</sup> EnergyCo was appointed the Infrastructure Planner for the WSB project on 2 August 2022.
- The EII Regulations require that the Infrastructure Planner must request binding bids from two or more proponents.<sup>23</sup> EnergyCo received binding bids from more than two proponents.
- The EII Regulations require the Infrastructure Planner to develop eligibility criteria and a selection process.<sup>24</sup> EnergyCo developed eligibility criteria and a process to select paired generation service providers through a competitive process.
- The EII Regulations require the Infrastructure Planner to consult with the regulator and provide the regulator with information about and obtained from the competitive assessment process.<sup>25</sup> EnergyCo consulted with the AER through regular meetings, responded to requests for information, and facilitated staff joining all PGT evaluation panel meetings as observers. EnergyCo also provided us with information about the process and the outcomes of the process consistent with the requirements in our Guideline.

#### **4.3.2 Consistency with the procurement strategy**

We consider the competitive assessment process undertaken by EnergyCo was consistent with the procurement strategy provided to the AER by EnergyCo on 25 July 2022. Our review of the process found that EnergyCo followed its procurement strategy in respect of all major elements, including:

- the market sounding and invitation process,
- the PGT evaluation and shortlisting processes,
- the approach to interactions and negotiations with proponents,

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<sup>21</sup> EII Regulation 43(3).

<sup>22</sup> EII Regulation 45(1)(b).

<sup>23</sup> EII Regulation 45(2).

<sup>24</sup> EII Regulation 45(3).

<sup>25</sup> EII Regulations 45(4).



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- the management of conflicts and probity concerns, and
- the decision-making process and recording of information.

Four departures were noted but managed to the satisfaction of the probity advisor and the project governance structure. These departures concerned extension of the submission period to allow all participants to provide term sheets, changing the requirement for binding term sheets to marked-up term sheets, an extended overall timeline, and a smaller paired generation capacity in the northern region of NSW.

#### **4.3.3 Consistency with the competitive assessment evaluation criteria**

Our Guideline sets out four high-level evaluation criteria and several sub-criteria we use to assess whether the competitive assessment process was genuine and appropriate.<sup>26</sup> Our assessments against our evaluation criteria are set out below.

##### ***Evaluation Criteria 1: Sufficient competitive tension exists such that a competitive outcome is likely to be achieved.***

We consider competitive tension was maintained throughout the competitive assessment process and that a competitive outcome was achieved. In assessing this evaluation criterion, we considered whether the Infrastructure Planner's overall process supported proponents to effectively participate in the competitive assessment process until the successful proponent was selected. Below we set out our analysis against the relevant sub-criteria in our Guideline.

- EnergyCo conducted a six-week market sounding process, contacting all eligible generators and inviting them to participate. This market sounding exercise was directed at a list of eligible generators based on information from AEMO and Transgrid, because the services are specialised and only able to be provided by operators who meet the eligibility criteria. Due to the specialised nature of the services and the known list of eligible generators, an EOI process was not conducted. The market sounding process confirmed that the pool was large enough to support a competitive process.
- Preliminary processes undertaken by EnergyCo to encourage market participants to make a submission and identify those potential participants who could genuinely undertake the project were appropriate. A sufficient number of participants were involved at each stage of the process to provide competitive tension for the process. EnergyCo:
  - Prepared and documented a list of eligible generators [REDACTED]
  - EnergyCo contacted [REDACTED] eligible generators and held market briefings under strict probity arrangements [REDACTED]
  - Following the market briefings, [REDACTED] signed up to confidentiality arrangements and registered to receive the PGT.

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<sup>26</sup> We also use the criteria to assess whether a procurement strategy is likely to result in a genuine and appropriate competitive process at the outset of a competitive assessment process.

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- EnergyCo [REDACTED], which is considered a large number for this type of process where participation is limited to eligible participants.
- EnergyCo established appropriate processes to identify whether any incumbent supplier had, or was perceived to have, any unfair advantage in the procurement, and, if so, to address this. There are no incumbent suppliers of paired generation services, and although not all sites already have a runback capability this is a market feature that does not represent an unfair advantage in the standardised evaluation.
- At least two viable proponents actively participated in the competitive assessment process until all material components of the project were agreed.<sup>27</sup> Based on our monitoring and review of the PGT process, we consider that shortlisted applicants that proceeded to full evaluation provided credible and competitive bids. We also note that negotiations with the successful tenderers were undertaken under competitive tension.

***Evaluation criteria 2: The assessment process supports detailed, credible, and compliant submissions from proponents***

We consider that proponents were provided with sufficient information to allow them to make detailed, credible, and compliant submissions. Below we set out our analysis against the relevant sub-criteria in our Guideline.

- PGT documents released to proponents were comprehensive and set out clear and detailed project scopes covering technical engineering, commercial, legal, and regulatory requirements, and responsibilities.
- Procurement rules, processes, and procedures were clearly set out in PGT documentation released to potential bidders and were appropriate for an engagement of this type. Proponents were provided opportunities to seek clarification in a transparent and fair manner. The process provided eligible generators with an equal opportunity to participate in the process on the basis of transparent terms, conditions and requirements.
- Timeframes for the process were tight but reasonable in the circumstances and allowed participants to respond. Following a six-week market sounding process, the PGT was released. Registered participants had four weeks to submit PGT responses, which was extended to eight weeks for all participants.
- A requirement for binding terms sheets in the PGT was revised for all tenderers during the submission period to a requirement for marked-up term sheets. No tenderers were able to supply binding term sheets due to the non-routine nature of the services and the need for consents from external parties.
- Returnable schedules were clearly linked to the evaluation criteria set out in the PGT documents.

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<sup>27</sup> AER, [Revenue determination guideline for NSW contestable network projects](#), August 2022, s. 3.1.

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***Evaluation criteria 3: The decision-making, governance and probity arrangements ensure a fair and rigorous process***

We consider the decision-making, governance, and probity arrangements supported a fair and rigorous competitive assessment process. Below we set out our analysis against the relevant sub-criteria in our Guideline.

- Governance arrangements were clearly set out in the evaluation plan. We consider that the governance arrangements supported the independence of the evaluation panel and facilitated the provision of recommendations to the decision-maker without interference.
- Probity arrangements were appropriate. An independent probity advisor was consulted throughout the PGT evaluation processes, attended all meetings with proponents, and the advice of the probity advisor was accepted when provided. The probity advisor reported that there were no material breaches of probity.
- EnergyCo's evaluation process was informed by analysis on the likely prudent, efficient, and reasonable costs to provide the paired generation services. The evaluation process did not result in the selection of any tenders that were not coherent with the benchmark prices, and the negotiated prices are within a reasonable range of those benchmarks.

***Evaluation criteria 4: The outcomes of the competitive assessment process can be reflected in a revenue determination.***

We are satisfied that the outcomes from the competitive assessment process can be reflected in this revenue determination. Below we set out our analysis against the relevant sub-criteria.

- EnergyCo's procurement strategy and the terms of the proposed contractual arrangement are consistent with the EII Act and EII Regulations.
- The outcome of the competitive assessment process, namely the total amount payable and the schedule of payments, can be reflected in a determination made under section 38 of the EII Act.
- After being provided with clarifications by Transgrid, we are satisfied that the mechanisms in the contractual arrangements to adjust the amounts payable to the Network Operator can be applied by us through our adjustment process.

## **4.4 Overall conclusion on process**

Based on our review of the competitive assessment process undertaken by EnergyCo to select paired generation service providers, we are satisfied that the process was genuine and appropriate. We therefore consider that the outcomes from the competitive assessment process can be reflected in this determination. Sections 5 and 6 of this determination set out the key outcomes from the competitive assessment process we have adopted.

## **4.5 Determination review and remake – March 2024**

In our November determination, we included an adjustment mechanism to allow for adjustments to total payments and schedule of payments to Transgrid once a Paired Generation Services Agreement (PGSA) is executed. Transgrid executed a Paired Generation Service Agreement with the third tenderer in January 2024 and submitted a

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revenue adjustment proposal to the AER on 2 February 2024. This proposal included adjustments to the revenue and schedule of payments and updates to the existing adjustment mechanisms to include the contractual arrangements of the third Paired Generation provider. The contractual arrangements of the third Paired Generation provider were not reflected in the existing adjustment mechanisms. As a result, the AER would not be able to facilitate any future adjustments flowing from acceptance of these contractual arrangements.

Therefore, we determined that in order for the third Paired Generation provider to be included in our revenue determination, it was necessary to review and remake the November determination.<sup>28</sup> Under the EII Regulation, all adjustments whether or not the revenue determination is reviewed and remade, must be carried out in accordance with our Guideline and for a contestable revenue determination, the contractual arrangements the network operator entered into as required under the relevant authorisation.<sup>29</sup> We must also be satisfied that the contractual arrangements reflect the outcome of a competitive assessment process that was genuine and appropriate. If we are satisfied, we can adjust the total payments and schedule of payments and update the revenue determination to reflect the adjustments as set out in the contractual arrangements.

The third Paired Generation provider was selected by EnergyCo during the same competitive assessment process that began in August 2022 and concluded in September 2023. As stated in sections 4.1 to 4.3, we are satisfied this process was genuine and appropriate. We then reviewed the revenue adjustment proposal and the supporting documentation provided to ensure it was an outcome of the same genuine and appropriate process. We observed the following during our review:

- The total amounts and schedule of payments from the agreement were less than the amounts proposed during the competitive assessment process.
- The amendments to the existing adjustment mechanisms are mostly minor and we believe it would not have changed the outcome of the evaluation during the competitive assessment process.
- The revenue adjustment proposal accurately reflects the contractual arrangements in the Paired Generation Services Agreement.

Therefore, as we are satisfied the Paired Generation Service Agreement between Transgrid and the third Paired Generation provider is still an outcome of this process, we can reflect the adjustment proposal in our remade revenue determination. Sections 5.5 and 6.4.4 of this remade determination set out the key outcomes from the additional Paired Generation Service Agreement that we have adopted.

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<sup>28</sup> Sections 38 and 40(2) of the EII Act.

<sup>29</sup> Clause 51(3) of the EII Regulation.

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## 5 Total revenue and schedule of payments

### 5.1 Regulatory framework

The AER is required to determine the amount payable to a Network Operator subject to an authorisation<sup>30</sup> and the components of that amount payable.<sup>31</sup> The EII Regulations also require us to set out the total amount payable in a schedule of payments to a Network Operator, including the date on which each amount must be paid.<sup>32</sup> If the determination is being made as a result of a competitive assessment process the schedule must correspond with the terms of the contractual arrangements that the Network Operator was required to enter into as a result of the authorisation.<sup>33</sup>

### 5.2 Transgrid’s revenue proposal

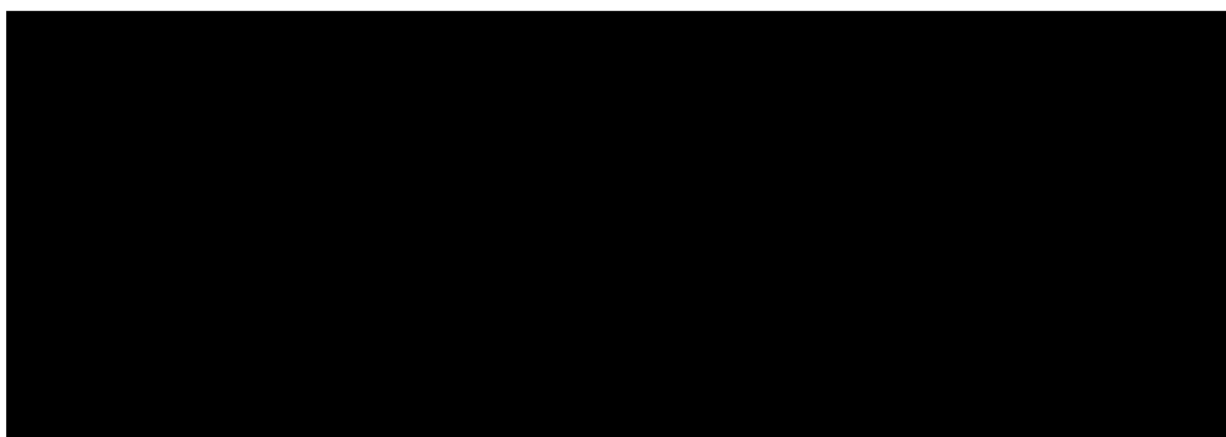
Transgrid’s revenue proposal contains a total revenue (amount payable) of [REDACTED] over the term of the Paired Generation Service Agreements (PGSAs) with the two paired generation service providers.

Transgrid considers this amount to be operating expenditure, as it relates to payments it must make to the paired generation service providers for the provision of the paired generation services. Table 1 shows the total amount payable proposed by Transgrid over the term of the PGSAs, broken down annually.

**Table 1: Total and annual amounts payable** [REDACTED]

Year	2023–24	2024–25	2025–26	2026–27	2027–28	2028–29	2029–30	2030-31	Total
Amount	–	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

These annual amounts payable reflect:



Transgrid has also included in its revenue proposal a schedule of quarterly payments it proposes to be paid over the 2024–29 period in relation to the above revenue.

<sup>30</sup> An ‘authorisation’ is defined in section 36(4) of the EII Act to include a direction given by the Minister under section 32 to carry out a PTIP.

<sup>31</sup> Sections 38(1) and (2).

<sup>32</sup> EII Regulation 52(1).

<sup>33</sup> EII Regulation 52.

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Transgrid indicates that each quarterly payment is based on the terms of the PGSAs. It has also proposed that the schedule of payments be subject to the adjustments discussed in section 6 of this determination.

### **5.3 AER assessment**

Based on our review of the competitive assessment process for the Paired Generation component of the WSB project and for the reasons outlined in section 4 of this determination, we are satisfied that the competitive assessment process was genuine and appropriate.

We also confirm that the total amount payable and schedule of payments proposed by Transgrid in its revenue proposal are consistent with the contractual arrangements resulting from the competitive assessment process undertaken by EnergyCo. Transgrid has also confirmed, via a statutory declaration, that the information contained in its revenue proposal is consistent with the contractual arrangements.

We conducted a thorough review of the contractual arrangements to ensure they were accurately reflected in Transgrid's revenue proposal and ultimately this determination. Our process included an examination of the terms and conditions of the contractual arrangements, an interrogation of the amounts contained in the schedule of payments and the total amount payable, and close scrutiny of the adjustment mechanisms proposed and the term of the contracts and payments. We are satisfied the revenue proposal accurately reflects the contractual arrangements developed as a result of the competitive procurement process.

Given this assessment, we consider Transgrid's revenue proposal is consistent with the principles in section 37(1) of the EII Act.

### **5.4 AER determination**

#### **5.4.1 Total amount and components**

Based on our assessment of the competitive procurement process and Transgrid's revenue proposal, we determine that the total amount payable to Transgrid is [REDACTED] over the term of the Paired Generation Service Agreements (PGSAs) with the two paired generation service providers.

As the amounts payable to Transgrid under this determination are service charges to the paired generation providers, we consider that the entire amount is operating expenditure and cannot be broken down into any of the other components listed in clause 38(2) of the EII Act (for example, return on capital or return of capital).

#### **5.4.2 Schedule of payments and payment dates**

**Appendix C** sets out our determination on the schedule of payments to Transgrid over the contractual period. The quarterly amounts are to be paid to Transgrid by the SFV in accordance with the dates specified in Table 2. We note that that the amounts to be paid to Transgrid and the dates these payments are to be made are consistent with the contractual arrangements in the PGSAs.

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**Table 2: Payment dates for quarterly payments to Transgrid**

Contract quarter	Payment date
1 July – 30 September	3 November
1 October – 31 December	3 February
1 January – 31 March	3 May
1 April – 30 June	3 August

## 5.5 Determination review and remake – March 2024

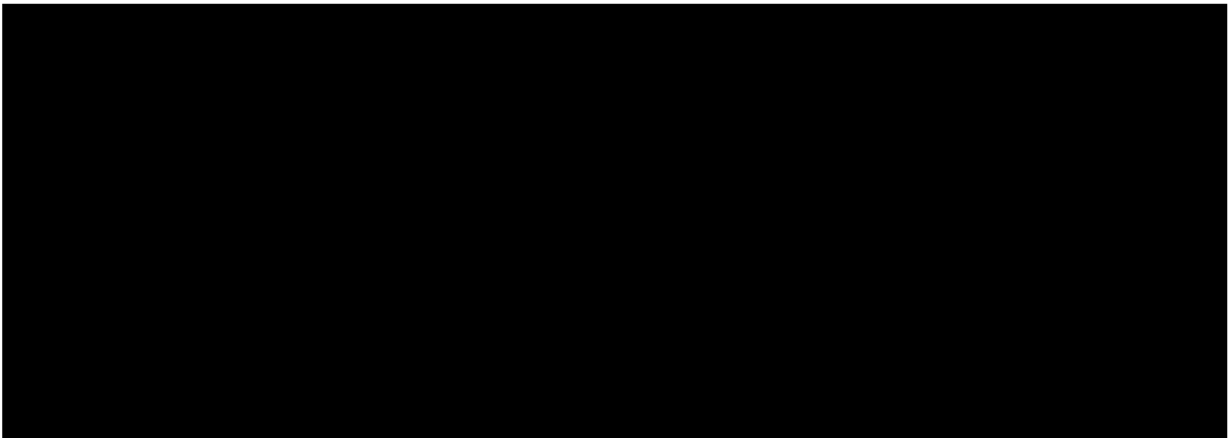
Transgrid’s revenue adjustment proposal contains an additional total revenue (amount payable) of [REDACTED]. Making the total for the three paired generation service providers [REDACTED] over the term of the Paired Generation Service Agreements (PGSAs).

Table 1 shows the total amount payable proposed by Transgrid over the term of the three PGSAs, broken down annually.

**Table 3: Total and annual amounts payable for three Paired Generation providers** [REDACTED]

Year	2023–24	2024–25	2025–26	2026–27	2027–28	2028–29	2029–30	2030–31	Total
Amount	–	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

These annual amounts payable reflect:



Transgrid has also included in its revenue proposal a schedule of quarterly payments it proposes to be paid over the 2024–29 period in relation to the above revenue.

Transgrid indicates that each quarterly payment is based on the terms of the PGSAs. It has also proposed that the schedule of payments be subject to the adjustments discussed in section 6 of this determination.

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## 6 Revenue adjustments

### 6.1 Regulatory framework

Our revenue determination may include provision for the adjustment of any amount in the schedule of payments, including the timing or circumstances of when an adjustment must be carried out.<sup>34</sup> All adjustments must be carried out in accordance with our Guideline and, for a revenue determination made as a result of a competitive assessment process, any adjustment provisions must be consistent with the contractual arrangements the Network Operator entered into as required under the relevant authorisation.<sup>35</sup>

Our Guideline sets out our process for assessing annual adjustment proposals from a Network Operator. Section 3.4 of our Guideline also states that, for us to be able to reflect the outcome of the competitive assessment process in a revenue determination, any adjustment mechanisms in the contractual arrangement must be clearly specified so that they can be applied by us.

### 6.2 Transgrid's revenue proposal

The amount payable and schedule of payments in **Appendix C** of this determination assumes that the WSB project will be undertaken in accordance with the planned project milestones. Transgrid's proposal contains adjustments that provide for changes to the schedule of payments to reflect outcomes that vary from these forecasts and assumptions.

The schedule of payments reflects the PG Preparatory Works Amounts and PG Availability Charge amounts that Transgrid expects to pay consistent with the Paired Generation Service Agreements. Transgrid's proposal also contains adjustments to enable it to pay event-based charges to the paired generation providers for providing the PG Service, consistent with the contractual arrangements.

We reviewed the adjustment mechanisms set out in Transgrid's revenue proposal and found them to be generally consistent with those in the contractual arrangements. However, we did not consider that the adjustment mechanisms, in all instances, set out clearly how they would alter the schedule of payments. We also considered that additional adjustment mechanisms were necessary to address features of the wider contractual arrangements. We therefore requested that Transgrid provide further clarity on these aspects.

On 10 November, Transgrid submitted a revised revenue proposal, with a modified list of adjustment mechanisms and greater clarity around how the adjustment mechanisms would alter the schedule of payments. This included further explanation and information on when events would occur, how the impact on the amounts payable would be assessed (including detailed formulae) and how any changes in revenue would be recovered over the remaining period covered by our determinations.

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<sup>34</sup> EII Regulation 51(1),(2)(a).

<sup>35</sup> EII Regulation 51(2),(3).



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These adjustment mechanisms would adjust the amount of PG Service Payments to be made by Transgrid to a Paired Generation Provider, and consequently the amounts Transgrid must be paid by the SFV as set out in the schedule of payments.

The Paired Generation Service Agreement common terms provide that each of the following will be a PG Contestable Revenue Determination Adjustment Trigger:

1. **Availability Charge Rebate**

Payment amounts will be decreased in the Contract Year following any Contract Year in which a Paired Generation Provider fails to meet the Availability Guarantee, by calculation and deduction of a PG Availability Charge Rebate.

2. **PG Event**

A PG Event Charge payable to a Paired Generation Provider during the PG Service Period in consideration for the Paired Generation Provider performing any PG Event Response.

3. **PG Test**

A PG Test Charge payable to a Paired Generation Provider in consideration for the Paired Generation Provider passing any Network Test or Performance Test (including during the testing and commissioning of the paired generation control and communications system).

4. **PG Disconnection Event**

A PG Disconnection Event Charge payable to a Paired Generation Provider if Transgrid, in operating the SIPS Control System in its capacity as the Network Operator solely with respect to the WSB PTIP, disconnects the PG Facility from the Network due to a failure by the Paired Generation Provider to provide the PG Event Response.

5. **Change in Law**

Payment amounts will be adjusted to reflect a Change in Law that results in a Net Financial Effect greater than a specified percentage of the service charge.

Transgrid's proposal also contains the following adjustment mechanisms:

6. **Delay in commencing the PG Service Period**

Payment amounts corresponding to the Availability Charge will be reduced to match the updated number of days in each quarter which are also in the PG Service Period. This is also subject to the effects of timing of payments and escalation.

7. **Additional Paired Generation Provider**

When a Paired Generation Service Agreement is executed, the revenue and schedule of payments are updated to include the PG Preparatory Works Payment and PG Availability Charge resulting from that agreement.

8. **Termination**

Payment amounts will be reduced from the date of termination of a Paired Generation Service Agreement. Some payment obligations survive termination.

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## 6.3 AER assessment

We reviewed the information provided by Transgrid in its revised revenue proposal and considered that it provided sufficient clarity to allow us to adjust the schedule of payments in response to receipt of a Revenue Adjustment Proposal.

The adjustment mechanisms set out in Transgrid's revised revenue proposal have been included in our revenue determination.

## 6.4 AER determination

Under EII Regulation 51, amounts in the schedule of payments of this determination can be amended through a revenue adjustment process to reflect the adjustment mechanisms set out in section 6.4.1.

Any adjustments to the schedule of payments resulting from an adjustment mechanism will not normally require the revenue determination to be remade, except at the discretion of the regulator. As part of our review of a Revenue Adjustment Proposal we will develop a revised schedule of payments. The revised schedule of payments would be used by the SFV to pay Transgrid.

### 6.4.1 Adjustment events/mechanisms

We determined the adjustment mechanisms to be included in our revenue determination.

**Appendix D** to this determination sets out each of these mechanisms and includes:

- (a) a description of the adjustment,
- (b) the timing of the adjustment, or relevant trigger event, and
- (c) a detailed explanation of the proposed method of indexation, escalation or adjustment.

If necessary, we will update the schedule of payments to reflect the adjustment mechanisms listed in this determination:

1. *Availability Charge Rebate*
2. *PG Event*
3. *PG Test*
4. *PG Disconnection Event*
5. *Change in Law*
6. *Delay in commencing the PG Service Period*
7. *Additional Paired Generation Provider*
8. *Termination*

Any adjustment proposed must be consistent with the terms of the Paired Generation Service Agreements. That is, the proposed adjustment to the schedule of payments must reflect any change in amounts payable by, or due to, Transgrid under the Paired Generation Service Agreements.

### 6.4.2 Timing of revenue adjustments

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Transgrid will submit adjustment proposals for the above mechanisms following a relevant trigger event as set out in the Paired Generation Service Agreements or this determination, noting that the Availability Charge Rebate mechanism is expected to be applied annually.

The proposals must provide an updated schedule of payments, along with supporting evidence of how each adjustment mechanism in section 6.4.1 of this determination has been applied. Evidence to support an adjustment may include:

- Calculations supporting the adjustment
- Evidence of the event that triggered application of the adjustment mechanism
- Relevant contractual provisions relied on
- The relevant notices prepared by the Paired Generation Provider or Transgrid
- Any other information as specified in the Paired Generation Service Agreements.

The AER has discretion on timing of when it will make an adjustment determination. We will consider the materiality of any Revenue Adjustment Proposals received, and AER decide to either make an ad hoc revenue adjustment or consider the Revenue Adjustment Proposal as part of a regular revenue adjustment process.

The regular revenue adjustment process is planned for June and December each year, but where possible, we will align our annual revenue adjustments with the timing for submission of a Revenue Adjustment Proposal for the Availability Charge Rebate adjustment, such that that Revenue Adjustment Proposal may be included in the adjustment.

### **6.4.3 Application of adjustment amounts**

Adjustments will generally be made to the schedule of payments to reflect:

- changes in forecast payments for the remainder of the project term
- a true-up of past payments to reflect actual outcomes
- additional event-based payments required by the adjustments.

Where adjustments are required to be made to future payments, the payment amounts for the relevant quarters will be updated in the schedule of payments to reflect the adjusted forecast.

Any true-up amount (either positive or negative) will generally be applied to the payment related to the quarter in which we make our adjustment decision. Where a negative adjustment amount for a quarter exceeds the quarterly payment amount, the quarterly payment will be reduced to \$0, and any unapplied true-up amount is to be applied against following quarterly payments until the full amount of the true-up is recovered.<sup>36</sup>

### **6.4.4 Determination review and remake – March 2024**

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<sup>36</sup> This is because the SFV does not have the authority to require payment from a Network Operator.

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Transgrid's revenue adjustment proposal outlined changes to the existing adjustment mechanisms to include the third Paired Generation provider. The following adjustment mechanisms have been updated:

1. *Availability Charge Rebate*
2. *PG Event*
3. *PG Test*
4. *PG Disconnection Event*

The adjustment proposals must comply with the requirements for adjustments noted in the sections above. These adjustment mechanisms are reflected in Appendix D.

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## Glossary

Term	Definition or extended form
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator.
Competitive assessment process	The contestable process undertaken by the Infrastructure Planner to select a Network Operator for a Project or to select a person who will assist a Network Operator in carrying out all or part of a Project.
Consumer Trustee	A person or body authorised under section 60 of the EII Act to exercise the functions of the Consumer Trustee. The Consumer Trustee is required to act independently and in the long-term financial interests of NSW electricity consumers. AEMO Services Ltd has been appointed to undertake this role.
Contractual arrangement	Contracts that the Network Operator enters into as required under the Consumer Trustee's authorisation or Minister's authorisation or direction. This includes contracts made between the Infrastructure Planner and the Network Operator for carrying out a network infrastructure project under section 63(4)(a) of the EII Act. Contractual arrangements may also encompass any contracts between the Network Operator and a service provider selected by the Infrastructure Planner through a competitive assessment process to assist the Network Operator to carry out all or part of a Project.
EII Act	<i>Electricity Infrastructure Investment Act 2020</i> (NSW).
EII framework	The EII Act and any regulations made under it.
EII Regulations	Any regulations made under the EII Act.
EOI	Expressions of interest
Guideline	<i>The Revenue Determination Guideline for NSW contestable network projects</i> prepared and published by the AER in August 2022 as updated from time to time.
Infrastructure Planner	A person authorised to exercise the functions of an infrastructure planner under section 63 of the EII Act. The Infrastructure Planner performs a range of planning and contracting functions. The Energy Corporation of NSW has been appointed to undertake this role for the five REZs specified in the EII Act.
ISP	Integrated System Plan
Minister	The New South Wales Minister for Energy
Network Operator	Means a person who owns, controls or operates, or proposes to own, control or operate, network infrastructure under the EII Act.
PGT	Paired generation tender (the invitation to tender for the paired generation procurement exercise)
Priority transmission infrastructure project (PTIP)	As defined in the EII Act means a transmission infrastructure project that: <ul style="list-style-type: none"> <li>(a) is located in the State, and</li> <li>(b) is identified in, or forms part of an infrastructure project identified in, the most recent integrated system plan published by AEMO under the National Electricity Rules.</li> </ul>
Procurement rules	Rules set out in the Infrastructure Planner's procurement strategy for undertaking a competitive assessment process.
Procurement strategy	A strategy for undertaking a competitive assessment process.
Project, network infrastructure project	A REZ Network Infrastructure Project or Priority Transmission Infrastructure Project as defined under the EII Act.
REZ	Renewable Energy Zone, being the geographical area of NSW and the infrastructure specified in a declaration by the Minister under section 19 of the EII Act.

Revenue Determination (Contestable) – Transgrid – Waratah Super Battery (Paired Generation Services component)

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<b>Term</b>	<b>Definition or extended form</b>
SFV (Scheme Financial Vehicle)	A person or body authorised under section 62 of the EII Act to exercise the functions of the Scheme Financial Vehicle.
SIPS	System Integrity Protection Scheme
SIPS Service	A service capable of providing a guaranteed continuous active power capacity of at least 700 MW and a guaranteed useable energy storage capacity of at least 1400 MWh.
TET (Transmission Efficiency Test)	The test to be applied to calculate the prudent, efficient and reasonable capital costs for development and construction of a network infrastructure project.
Transgrid	NSW Electricity Network Operations Pty Limited (ACN 609 169 959) as trustee for NSW Electricity Networks Operations Trust (ABN 70 250 995 390), trading as Transgrid the Network Operator for the WSB project
Waratah Super Battery (WSB) project	The Waratah Super Battery project comprising contestable components (SIPS Service and Paired Generation Services) and non-contestable components (the SIPS control and communications system and network augmentations). This revenue determination relates to one of the contestable components of the WSB project, namely the SIPS Service.

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## Appendix A: Key phases of the procurement process and AER engagement

Procurement phase	AER engagement
<b><i>Market sounding phase (August 2022)</i></b>	
EnergyCo held market briefings with eligible generators to provide information about the opportunity.	We reviewed the list of eligible generators as well as the market sounding schedule and notes as part of our review of the procurement strategy.
EnergyCo held a registration process in which interested parties registered to receive PGT documentation. EnergyCo reviewed the registration list to identify organisations capable of undertaking the project.	We reviewed the registration list as part of our review of the procurement strategy.
EnergyCo provided a procurement strategy to the AER.	We reviewed EnergyCo's procurement strategy. We concluded that the procurement strategy was capable of producing prudent, reasonable and efficient outcomes. We wrote to EnergyCo notifying them of our view.
<b><i>Invitation to tender phase (August-October 2022)</i></b>	
EnergyCo issued the PGT invitation to registered applicants.	We reviewed the PGT invitation provided to shortlisted applicants.
EnergyCo received PGT responses. An evaluation panel assessed the responses and selected three preferred paired generation service providers.	AER staff observed all evaluation panel meetings. We reviewed documentation associated with the evaluation process, including the PGT evaluation panel report on the outcomes of the evaluation process.
<b><i>Contracting phase (March-October 2023)</i></b>	
EnergyCo entered into contract negotiations.	We reviewed documentation of contract negotiation outcomes.
EnergyCo contracted with the successful service providers	We reviewed the final contract between successful service providers and Transgrid.
EnergyCo provided a procurement report to the AER.	We review EnergyCo's procurement report. The procurement report included a detailed set of project documentation associated with the competitive assessment process from market sounding through to contracting. A list of the documents EnergyCo provided to us is set out in <b>Appendix B</b> .

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## Appendix B: Information provided in procurement report

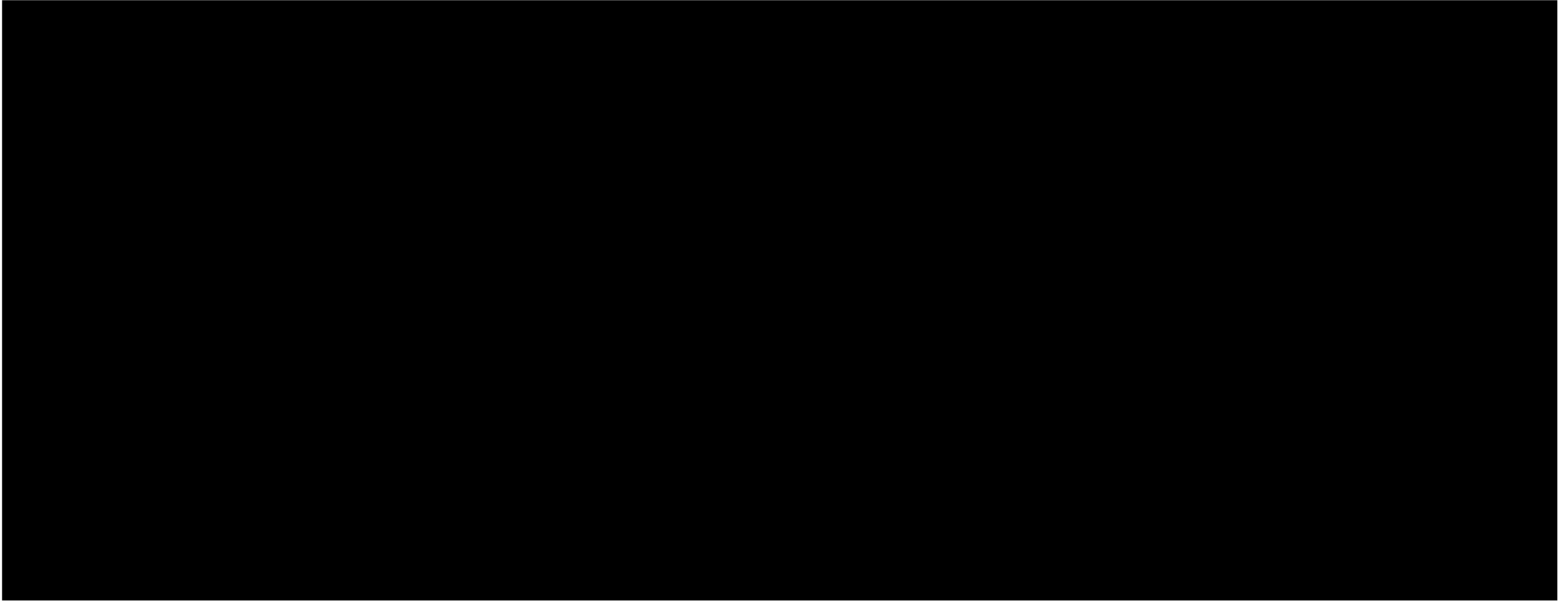
EnergyCo submitted a procurement strategy to the AER on 25 July 2022 and a procurement report to the AER on 19 September 2023. The procurement report contained the following documents and attachments.

Procurement report
Procurement Report
Attachment 1 - WSB Paired Generation – Evaluation Report
Attachment A – Summary Evaluation Outcomes
Attachment B – Detailed Evaluation Outcomes (Scoring Matrix)
Attachment C – Legal SME Presentation 1
Attachment D – Legal SME Presentation 2
Attachment E – Technical SME Presentation
Attachment 2 - WSB Paired Generation – Evaluation Plan
Attachment H – PGT Scoring Matrix
Attachment 3 - WSB Paired Generation – Evaluation Scoring Matrix
Attachment 4 - WSB Paired Generation – Probity Plan
Attachment 5 - WSB Paired Generation – Probity Report
Attachment 6 - WSB Paired Generation – Procurement Strategy
Attachment 7 - WSB Paired Generation – List of Eligible Generators to be Approached for Market Sounding
Attachment 8 - Invitation   Paired Generation Tender
Appendix A – PGT Form
Appendix B – PGT Evaluation Returnable Schedules
Appendix C – Draft Term Sheets for the Paired Generation Services Agreement including Schedule 1 – Service Requirements
Attachment 9 - Submission Documentation from Successful Proponents
Attachment 10 - Final Form PGSAs



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## Appendix C: Quarterly service payments<sup>37</sup>



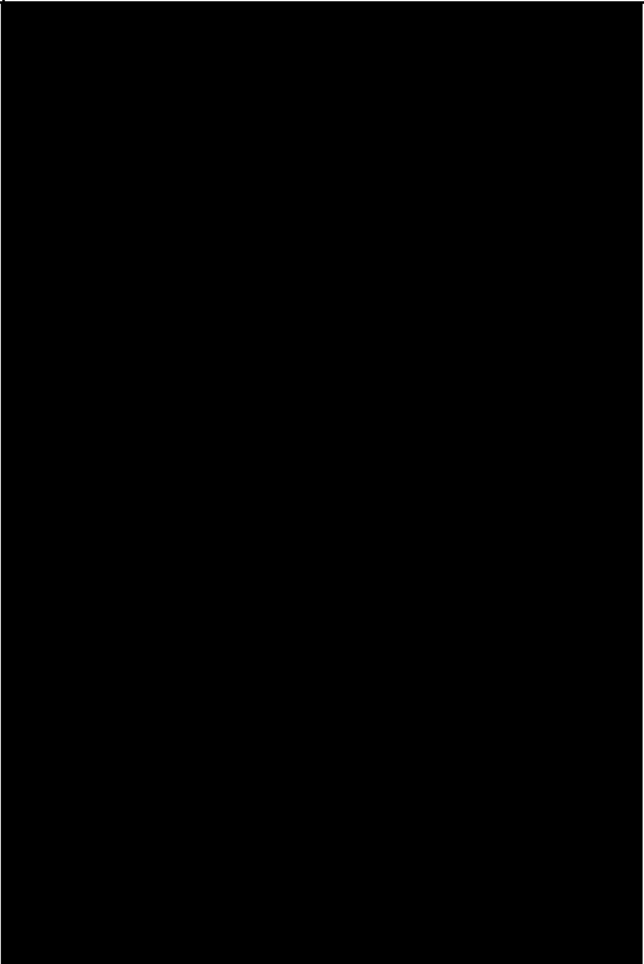
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<sup>37</sup> These figures are rounded to the nearest dollar. The total may not add up due to rounding.

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## Appendix D: Revenue adjustments

The following table sets out adjustment events/mechanisms that may result in adjustment to the amount payable to Transgrid in relation the Paired Generation component of the WSB project. Note that capitalised terms have the meaning stated in the Paired Generation Service Agreements.

Adjustment event	Description of adjustment	Application of adjustment to revenue determination	Timing	Formulaic description of adjustment
<p><b>1. Availability Charge Rebate</b></p>	<p>If a Paired Generation Provider fails to meet the Availability Guarantee in any Contract Year, then a PG Availability Charge Rebate will be calculated and deducted from the PG Availability Charge for that Paired Generation Provider in the following Contract Year.</p>	<p>Revenue is to be adjusted in four equal quarterly instalments, with the first instalment included in the quarterly payment pertaining to the Quarter in which the adjustment is made.</p>	<p>The Actual Availability Level will be calculated annually, after the end of the Contract Year.</p> <p>If a PG Availability Charge Rebate is applicable, an adjustment proposal will be submitted 40 business days after Transgrid confirms the calculation (expected to be within 60 business days of the end of the Contract Year).</p>	

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Adjustment event	Description of adjustment	Application of adjustment to revenue determination	Timing	Formulaic description of adjustment
<p><b>2. PG Event</b></p>	<p>During the PG Service Period, in consideration for the Paired Generation Provider performing any PG Event Response, Transgrid must pay the Paired Generation Provider the PG Event Charge.</p> <p>The Paired Generation Provider is not entitled to any PG Event Charge during any Rectification Test Period.</p> <p>If, following the commencement of a PG Event, the Paired Generation Provider fails to provide the PG Event Response in accordance with the Paired Generation Services Agreement, then no PG Event Charge will be payable by Transgrid to the Paired Generation Provider in respect of that PG Event. In this scenario, if Transgrid has disconnected the PG Facility, the Paired Generation Provider will also not be entitled to any PG Event Charge until the end of the Rectification Test Period.</p>	<p>The adjustment is to be included as an additional single lump sum in the quarterly payment pertaining to the Quarter in which the adjustment is made.</p>	<p>Ad hoc.</p> <p>An adjustment proposal will be submitted within 40 business days after Transgrid confirms the calculation (expected to be 60 business days of the conclusion of any PG Event where a Paired Generation Provider has provided a PG Event Response).</p>	

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Adjustment event	Description of adjustment	Application of adjustment to revenue determination	Timing	Formulaic description of adjustment
<p><b>3. PG Test</b></p>	<p>In consideration for the Paired Generation Provider passing any Network Test or Performance Test (including as part of a Testing Stage during the testing and commissioning of the paired generation control and communications system), Transgrid must pay the Paired Generation Provider the PG Test Charge.</p> <p>The Paired Generation Provider will not be entitled to any PG Test Charge:</p> <ul style="list-style-type: none"> <li>• when the Paired Generation Provider fails the Network Test or Performance Test</li> <li>• for a Rectification Test or Supplementary Rectification Test</li> <li>• for a Performance Test conducted where the Paired Generation Provider has completed rectification works following a failure to provide the PG Service or where the Performance Test follows a Defect Direction from Transgrid</li> <li>• from the end of any PG Disconnection Event Charge Period until the end of the Rectification Test Period</li> </ul>	<p>The adjustment is to be included as an additional single lump sum in the quarterly payment pertaining to the Quarter in which the adjustment is made.</p>	<p>Ad hoc.</p> <p>During the PG Service Period an adjustment proposal will be submitted within 40 business days after Transgrid confirms the calculation (expected to be 60 business days of the successful completion of any Network Test or Performance Test).</p> <p>However, for Network Tests and Performance Tests conducted prior to the PG Service Period the adjustment proposal will cover all required tests and will be submitted 40 business days after Transgrid confirms the calculation (expected to be within 60 business days of the successful completion of the last Network Test or Performance Test).</p>	

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Adjustment event	Description of adjustment	Application of adjustment to revenue determination	Timing	Formulaic description of adjustment
	<ul style="list-style-type: none"> <li>during any Rectification Test Period.</li> </ul>			
<p><b>4. PG Disconnection Event</b></p>	<p>A PG Disconnection Event Charge is payable if, in Transgrid's capacity as the Network Operator solely with respect to the WSB PTIP, in operating the SIPS Control System Transgrid disconnects the PG Facility from the Network at the Connection Point due to a failure by the Paired Generation Provider to provide the PG Event Response.</p> <p>The Paired Generation Provider will not be entitled to any PG Disconnection Event Charge for the conduct of disconnection tests as part of the system tests for the commissioning of the PG Facility, from the end of the PG Disconnection Event Charge Period until the end of the Rectification Test Period, and during any Rectification Test Period.</p>	<p>The adjustment is to be included as an additional single lump sum in the quarterly payment pertaining to the Quarter in which the adjustment is made.</p>	<p>Ad hoc.</p> <p>An adjustment proposal will be submitted within 40 business days after Transgrid confirms the calculation (expected to be 60 business days of the conclusion of any PG Disconnection Event).</p>	

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Adjustment event	Description of adjustment	Application of adjustment to revenue determination	Timing	Formulaic description of adjustment
<p><b>5. Change in Law</b></p>	<p>If a Change in Law occurs after the Effective Date that has a direct net financial effect on the Paired Generation Provider's Relevant Costs that exceeds the Threshold Amount, then;</p> <ul style="list-style-type: none"> <li>• if the net financial effect is positive, there may be an upward adjustment of the PG Availability Charge; or</li> <li>• if the net financial effect is negative, there may be a downward adjustment of the PG Availability Charge and the Paired Generation Provider must give notice to Transgrid.</li> </ul>	<p>The relevant adjustment is to be applied to the PG Availability Charge in equal quarterly instalments for the remainder of the Term, with the first adjusted instalment to be included in the quarterly payment pertaining to the Quarter in which the adjustment is made.</p>	<p>Ad hoc.</p> <p>Change in Law notice to be issued by the Paired Generation Provider to Transgrid within 15 Business Days of the occurrence of the Change(s) in Law (clause 17(a)(i) of the Paired Generation Services Agreements).</p> <p>Transgrid must submit a Revenue Adjustment Proposal to the Regulator within 40 Business Days after the later of the date upon which Transgrid receives a Change in Law notice, or where applicable, the date upon which Transgrid receives additional information that it has requested in relation to the Change in Law (clause 9.7(a)(i)(E) of the Paired Generation Services Agreements).</p>	
<p><b>6. Delay in commencing</b></p>	<p>PG Availability Charge amounts are payable during the PG Service Period,</p>	<p>The adjustment event will result in retrospective adjustment of payments for the period between [redacted]</p>	<p>Once for each Paired Generation Provider following the PG Service Period Commencement</p>	

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Adjustment event	Description of adjustment	Application of adjustment to revenue determination	Timing	Formulaic description of adjustment
<p><b>the PG Service Period</b></p>	<p>which starts on the PG Service Period Commencement Date.</p> <p>The payment schedule is based on an assumption that the PG Service Period will commence on [REDACTED], which is the earliest date that the PG Service Conditions Precedent may be satisfied.</p> <p>Accordingly, if the PG Service Period is delayed the payment schedule will need to be adjusted.</p>	<p>[REDACTED] and the PG Service Period Commencement Date.</p> <p>The sum of the difference between the original and adjusted quarterly payments for each Contract Year will be applied against the payment amount for the quarterly payment pertaining to the Quarter in which the adjustment is made.</p> <p>If the PG Service Period is delayed until after [REDACTED] then the future payments will also be adjusted where escalation has not occurred.</p>	<p>Date, or termination, and can be aggregated for Paired Generation Providers with the same PG Service Period Commencement Date or termination date.</p>	
<p><b>7. Additional Paired Generation Provider</b></p>	<p>When an additional Paired Generation Services Agreement is executed, the revenue and schedule of payments are updated to include the PG Preparatory Works Payment and PG Availability Charge resulting from that agreement.</p> <p>The Paired Generation Services Agreement must be the result of a competitive assessment process conducted by the Infrastructure Planner consistent with the requirements of the EII Act and EII Regulation, a copy of the Paired Generation Services Agreement must be supplied to the AER by the Infrastructure Planner, and the AER must be satisfied that the competitive assessment process was genuine and appropriate. Our Guideline applies to each competitive assessment process.</p>	<p>The payment amounts will be increased to include the PG Preparatory Works Payment and PG Availability Charge set out in the additional Paired Generation Services Agreement.</p>	<p>Ad hoc</p> <p>Upon execution of the additional Paired Generation Services Agreement.</p>	
<p><b>8. Termination</b></p>	<p>The Paired Generation Services Agreements provide Transgrid with the ability to terminate in certain conditions.</p>	<p>An adjustment will be made to the quarterly payments in accordance with the terms of</p>	<p>Ad hoc – upon the provision of written notice of termination.</p>	<p>N/A</p>

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Adjustment event	Description of adjustment	Application of adjustment to revenue determination	Timing	Formulaic description of adjustment
	<p>The Paired Generation Services Agreements also provide the Paired Generation Providers with the ability to terminate in certain conditions.</p> <p>In the case of termination of the Paired Generation Services Agreement, each party is released from its obligations (including Payment) under the Paired Generation Services Agreement other than those obligations which are expressed to survive termination (which are listed in clause 21.8 of the Paired Generation Services Agreement).</p>	<p>the Paired Generation Services Agreement following notice of termination.</p> <p>Depending on the circumstances of the termination, this will include reductions in future quarterly payments for any amounts that are no longer payable as a result of the termination and/or a true-up of any amounts already paid prior to the adjustment.</p>		