

Draft amendments to the revenue determination guideline for NSW non-contestable projects

Jim Cox, AER Board member & Deputy Chair
NSW REZ Branch

Public Forum - Tuesday 21 May 2024

AER welcome and introduction

Jim Cox

AER Board Member & Deputy Chair

Acknowledgement of Country

We wish to acknowledge the Traditional Custodians of the land we are meeting on today.

We pay our respects to them and their cultures and to their Elders past, present and emerging. We acknowledge their continuing connection to the land, sea and community.

We would also like to acknowledge and welcome any Aboriginal and Torres Strait Islander people who are attending today's event.



Agenda

Topic	Speaker	Duration
Welcome / Acknowledgement of country	Jim Cox AER Board Member & Deputy Chair	5 mins
<ul style="list-style-type: none">Context<ul style="list-style-type: none">Role of the AERComparison of NER and EIIReasons for the reviewProposed amendments<ul style="list-style-type: none">Preliminary position paperOther amendments to the guideline	Ben Stonehouse Director, Renewable Energy Zones	20 mins
Discussion/ Questions	All	30 mins
Closing remarks, next steps & thanks	Jim Cox AER Board Member & Deputy Chair	5 mins

Role of the AER



- The AER exists to ensure energy consumers are better off, now and in the future.
 - Nationally, we are the economic regulator under the *National Electricity Rules* (NER).
 - In NSW, the state government appointed us to the role of regulator under the *Electricity Infrastructure Investment Act 2020 (NSW)* (the EII Act).
- Our role under the EII differs from our functions under the NER in many ways.
- The current Guideline and EII Chapter 6A require the same process steps for a non-contestable revenue determination as for a NER Chapter 6A transmission determination.
- But the timeframe is a key difference:
 - **6 months** (126 business days) for an EII non-contestable revenue determination
 - **15 months** for a NER transmission revenue determination.

Comparison of NER and EII timeline for revenue determinations

Determination stage	NER - indicative timeline	EII – indicative timeline
Initial Proposal	Must be submitted 17 months before the start of the regulatory period	No specified timeframe and may vary depending upon the project.
Draft Decision	9 months from receiving the initial proposal	3 months from receiving the initial proposal
Revised Proposal	2 months from the publication of the draft decision	Less than 6 weeks from the publication of the draft decision
Final Decision	5 months from receiving the revised proposal	Less than 7 weeks from receiving the revised proposal

Reasons for the review

- We reflected on the Waratah Super Battery (WSB) determination last year and sought feedback from key stakeholders involved in that process.
- Consistent theme was the practical difficulties in carrying out all the required process steps within the 126 business days (6 months) timeframe. In particular:
 - Formal draft decision required significant time spent on administrative tasks.
 - Time constraints can impact the quality of our engagement with the Network Operator and other stakeholders on contentious issues.
 - Stakeholders concerned about clarity of AER reasoning for decision.
 - Constrained by the overall timeline – NER has 2.5 times as long as the EII for the same process.

Proposed amendments

⊗ Key removals

- **Remove the requirement for the AER to make a draft decision.**
- Remove the requirement the Network Operator to submit a revised revenue proposal to the AER.

✔ Key additions

- **Publish a ‘preliminary position paper’ approximately 55 business days from receiving the revenue proposal**
- Public consultation on the preliminary position paper for a period of 15 business days and conducting a public forum to receive feedback from stakeholders
- Publish substantive new information (non-confidential) submitted by the Network Operator following the revenue proposal, on our website for transparency.

Preliminary position paper

- Focus on the **most material and/or contentious issues** arising from the proposal.
- The purpose of this paper is to be easily accessible to stakeholders and to set out:
 - a short **summary of the revenue proposal** (including areas where we are likely to accept).
 - a short **summary of the areas of difference** between our assessment and the proposal.
 - **explanation of our position on any major and/or contentious matters** where we are unlikely to accept the revenue proposal position.
 - **upcoming timelines and milestones** for the revenue determination to provide process clarity.
 - information on how stakeholders can formally **provide feedback** to the AER.
- The paper reflects the Board's preliminary position. It is not a staff position paper, but will have been endorsed by the AER Board.

Merits of a Preliminary position paper

- Provides **transparency** around our assessment of the revenue proposal as it provides an early indication of our likely final decision position on the material issues
- Provides **procedural fairness** as this paper would set out our position on material and/or contentious issues and advise the Network Operator what aspects of its revenue proposal the AER may not accept.
- More **targeted and efficient** as it allows all stakeholders to focus their time on the most contentious and/or material matters when giving feedback to the AER.
 - A succinct preliminary position paper, compared to the draft decision, also makes it **more accessible to engage with**.
- There is **flexibility** for our assessment to change based on any new information provided by stakeholders in written submissions on the preliminary position paper.

Why do we prefer the new streamlined process?

More streamlined revenue determination process

- Efficient use of time without compromising the quality of our assessment on major issues

Possibility for an earlier Final Decision

- Where we have sufficient information and no material issues raised with preliminary position

Benefits for the Network Operator and stakeholders:


- More targeted opportunity to focus on material and/or contentious issues
- Flexible, accessible & inclusive engagement process
- Opportunities for stakeholders to express their views – in submissions on the proposal, at public forum, and then submissions on preliminary position paper
- Indication of AER Board reasoning in preliminary position paper prior to Final Decision
- Position paper will be published at an earlier date than a formal draft decision – extra time to engage

Other Amendments to the Guideline

- Clarifications around the **pre-lodgement process**
 - Open dialogue with Network Operator prior to submission of their revenue proposal
 - Bilateral & stakeholder engagement meetings
 - Expectation that where possible the Network Operator will incorporate outcomes from stakeholder engagement into its proposal.
- EII Regulation on **contestable augmentations**
 - Guideline will set out how we will assess non-contestable cost components of a contestable augmentation.
- **Concessional financing** and **Financeability** rule changes
 - Intent is to align the guideline and EII Chapter 6A with the NER following the completion of these two AEMC rule change processes
 - We expect to commence consultation on our financeability guideline under the NER in the second half of 2024.

Questions

Next Steps



Milestone	Indicative Dates
Draft amended Guideline published	7 May 2024
Public consultation period opens	7 May 2024
Public Forum	21 May 2024
Public consultation period ends	5 June 2024
AER publishes final amended Guideline	12 July 2024*

Submission details

- We invite you to make submissions on our draft Guideline by **5pm AEST, 5 June 2024**
- **Submissions should be emailed to** REZ@aer.gov.au ,
with an email title of '*Revenue determination guideline for non-contestable projects 2024 review – submission*'.
- Alternatively, submissions may be sent to:
Dr Kris Funston
Executive General Manager, Networks Regulation
Australian Energy Regulator
GPO Box 3131
CANBERRA ACT 2601



Thank you!



