

5 June 2024

Dr Kris Funston
Executive General Manager, Networks Regulation
Australian Energy Regulator
GPO Box 3131
CANBERRA Act 2601
By email: REZ@aer.gov.au

Dear Kris

Non-contestable guideline 2024 review – submission

Ausgrid welcomes the opportunity to lodge this submission in response to the AER's draft amendments to the Revenue determination guideline for NSW non-contestable projects that are subject to the Electricity Infrastructure Investment Act 2020 (**EII Act**). We would also like to acknowledge the AER's open and constructive engagement with the industry through its public forum on 21 May 2024.

Ausgrid supports the intention of the draft amendments to the non-contestable guideline, which is to make the most efficient use of the 126 business day timeframe for making non-contestable revenue determinations, as specified in the EII Regulations. We understand that the AER's proposed amendments have been informed by its experience with the non-contestable components of the Waratah Super Battery project and its engagement with stakeholders during the revenue determination process.

As a result of that experience and stakeholder feedback, the AER considers that it is possible to develop a more streamlined non-contestable revenue determination process by fostering more productive targeted engagement between the AER, Network Operators and other interested stakeholders. A key change proposed by the AER is to remove the requirement for the AER to make a draft decision and replace it with a preliminary position paper that focuses on material and/or contentious issues. It follows that the Network Operator would not submit a revised Revenue Proposal and, instead, would be able to respond to the preliminary position paper along with other stakeholders.

Ausgrid supports the AER's conclusion that publishing a preliminary position paper rather than a draft decision will make better use of the 126 business day timeframe for completing the revenue determination process. In supporting the AER's approach, we note that the intention is for the preliminary position paper to address the key issues that would be raised in a draft decision, and to publish this information sooner by not having to resolve all of the matters that constitute a draft decision.

Given the substantive nature of the preliminary position paper, however, we are concerned that the consultation period for responding to that paper is being reduced compared to the current timeframes for the draft decision. In particular, the AER's proposal would effectively reduce the consultation period as follows:

- For stakeholders, currently there are 39 business days allowed for submissions on the draft decision, including 11 business days following the publication of the revised Revenue Proposal. The AER's proposed approach would reduce the time allowed to

respond to the preliminary position paper to 15 business days and provide no scope for stakeholders to comment on the Network Operator's response to the preliminary position paper.

- For Network Operators, currently 28 business days are allowed to submit a response to the draft decision, which would be reduced to 15 business days for responding to the preliminary position paper.

Ausgrid's view is that the AER's proposed timeframes may not provide sufficient time for network operators and stakeholders to respond effectively to the issues raised in the preliminary position paper.

As a compromise, our preference is that the timeframes should be amended as follows:

- Network Operators should be allowed 25 business days to respond to the preliminary position paper; and
- Stakeholders should be allowed 35 business days to respond to the preliminary position paper and the Network Operator's response.

Our view is that these timeframes appropriately balance the need to streamline the engagement process while providing Network Operators and stakeholders with sufficient time to engage on potentially complex matters. Otherwise, Ausgrid supports the AER's proposed amendments to the guideline, which relate to the recent Rule changes in relation to financeability and concessional finance.

If you have any queries in respect of this submission, please contact Fiona McAnally at [REDACTED] in the first instance.

Regards,

[REDACTED]
Tim Jarratt
Group Executive - Market Development and Strategy