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7 November 2024

Andrew Pirie
Australian Energy Market Commission
Level 15, 60 Castlereagh Street
Sydney NSW 2000

Sent via email: 7 November 2024

Dear Andrew

Submission in response to the AEMC’s consultation paper – National Electricity Amendment (including distribution network resilience in the National Electricity Rules) Rule

We welcome the opportunity to respond to the AEMC’s consultation paper on the Victorian Minister for Energy and Resources’ rule change request to explicitly include network resilience in the National Electricity Rules (NER) for Distribution Network Service Providers (DNSPs) and to require the AER to develop and publish a network resilience guideline. Attachment A is our specific response on some of the questions in the AEMC’s consultation paper.

In 2022, the AER released a guidance note on network resilience that sets out evidence expected in support of resilience related expenditure proposals such as demonstration that the preferred option results in the greatest net benefits to consumers. In that guidance note, we also defined network resilience as a “*performance characteristic of a network and its supporting systems (e.g. emergency response processes, etc.). It is the network’s ability to continue to adequately provide network services and recover those services when subjected to disruptive events.*”¹ Then, in 2024 the AER developed a Value of Network Resilience (VNR) which complements our guidance note by establishing an initial VNR attributable to the benefit network consumers receive from a resilience network.²

The AER’s work in the area of network resilience demonstrates that we recognise the importance of network resilience and the ability for electricity networks to adequately perform their functions during and after severe weather events. We are also acutely aware of the damaging effect that severe weather events have on local communities, and the need to provide support to affected communities to prepare, plan and recover from these disruptive events.

¹ AER, *Network resilience – a note on key issues*, April 2022, p. 6.
<https://www.aer.gov.au/industry/registers/resources/guidelines/aer-note-network-resilience>

² AER, *Value of Network Resilience 2024 – Final Decision*, September 2024. <https://www.aer.gov.au/documents/final-decision-value-network-resilience-2024>

We therefore welcome consideration of whether the current regulatory framework accommodates and incentivises efficient levels of expenditure in network resilience that meets the long-term interests of consumers.

The uncertainty associated with the treatment of network resilience under the NER was a key reason for the AER's 2022 release of its guidance note on network resilience.³ Our guidance note set out the type of evidence expected from resilience-related proposal such as demonstration that a causal relationship exists between the proposed resilience expenditure and the expected increase in the extreme weather events and the testing of the preferred option in a cost benefit framework. It also set out the need for consumer engagement to demonstrate that consumers are fully informed and supportive of the preferred expenditure option. To provide stakeholders with additional information in its consideration of resilience related expenditure in a cost benefit analysis framework, the AER also released a VNR for long duration outages that are more than 12 hours in September 2024.⁴

Under the current framework, we have accepted the majority of total resilience expenditure proposed in the recent revenue determinations:

- We accepted about 81% of the approximately \$400 million in total resilience-related expenditure proposed in the 2024-29 NSW and Tasmanian revenue determination final decisions.⁵⁶⁷⁸
- We accepted about 55% of the \$114 million in total resilience-related expenditure proposed in the 2025-30 SA and QLD revenue determination draft decisions. These DNSPs will have a chance to further substantiate their requests as part of revised proposals to be lodged in early December 2024.⁹¹⁰¹¹

We also note that almost all of the Victorian DNSPs have included resilience-related expenditure in their draft proposals. We expect this expenditure to be included in their regulatory proposals that are due for submission on 31 January 2025.

Despite the AER approving a significant amount of resilience-related expenditure proposed in the recent determinations, we consider there may be value in including network resilience as an explicit factor to consider when assessing expenditure proposals.

The rule change request also proposes that the AER develop and publish a network resilience guideline. We understand the proposal is to replace the existing AER guidance note with new AER guidelines, which would be binding on DNSPs. While we appreciate the need for certainty, we consider that a binding guideline may not be appropriate in a new and still evolving area like network resilience. Our observation from the recent resets is that the electricity industry is still at the early stages of understanding the impact of climate change on networks and local communities, and how to best engage with consumers on their preferences on network resilience expenditure.

³ AER, *Network resilience – a note on key issues*, April 2022.

⁴ AER, *Value of Network Resilience 2024 – Final Decision*, September 2024. <https://www.aer.gov.au/documents/final-decision-value-network-resilience-2024>

⁵ AER, Ausgrid Electricity Distribution Determination 2024 to 2029, Final Decision, p. 17.

⁶ AER, Endeavour Energy Electricity Distribution Determination 2024 to 2029, Draft Decision, p. 15.

⁷ AER, Essential Energy Electricity Distribution Determination 2024 to 2029, Draft Decision, p. 14.

⁸ AER, TasNetworks Electricity Distribution Determination 2024 to 2029m Draft Decision, p. 12.

⁹ AER, SA Power Networks Electricity Distribution Determination 2025 to 2030, p. 27.

¹⁰ AER, Ergon Energy Electricity Distribution Determination 2025 to 2030, p. 79.

¹¹ AER, Energex Electricity Distribution Determination 2025 to 2030, p. 29.

We also consider that the proposed list of matters that the Minister requires the guideline to address is too prescriptive for an area that is rapidly changing and where different networks will face different network resilience issues and challenges that are specific to their operating environment and communities.

For instance, we note that one of the proposed requirements is for the AER to set out “suitable methods, models, and data that DNSPs can use to justify their preferred projects and programs to address the identified risk”. We consider that placing these specific evidential requirements on the businesses does not recognise that businesses have different resilience needs and therefore their supporting material may differ as a consequence.

We found this to particularly be the case in the most recent revenue determinations, where businesses put forward different ways of addressing a specific peril, reflective of their own resilience needs and previous experiences. For instance, one DNSP focused on wind as a peril, and others focused on different combinations of flood and bushfire as perils. These different perils faced by the businesses and their specific locational issues meant that their proposed resilience expenditure differed significantly.

We also observed the businesses’ efforts to engage with their consumers where engagement methods contrasted significantly but were effective and reflective of the different customers. Given these factors, we are supportive of high-level principles that provide for clear and effective “guard rails” to assist businesses in supporting their resilience proposals, but in a form that is flexible enough to accommodate the needs of the particular networks and local communities.

We consider that an alternative option to the Minister’s proposal of a binding guideline with prescriptive requirements is a further update to the AER’s guidance note on network resilience. There are several new developments and learnings that we would incorporate into the updated guidance note based on our recent implementation in revenue determinations.

For instance, the guidance note would set out our intention, as noted in the Ausgrid Final Decision, to implement performance reporting of resilience investments in the regulatory information notices. We would also incorporate our work on VNR, explain in more detail how cost benefit could be applied to resilience expenditure, provide an update on the definition of community resilience, as well as the type of evidence required to support community resilience proposals. We consider that the option of updating the AER’s guidance note is a reasonable method of providing further certainty to stakeholders on network resilience, especially in the context where the industry is still learning through on-going implementation.

We also note the Minister’s proposal that the resilience capital and operating expenditure factor requires consideration of “the benefits and costs of providing the expenditure as part of forecast capital and operating expenditure or as a cost pass-through, and the likelihood and impact of the potential catastrophic events and severe weather events.” We agree that this is a critical consideration.

In an environment where the impacts of climate change on the frequency and severity of major events is uncertain, the optimal balance of ex-ante and ex-post funding (or balance of risk allocation) to maintain service level outcomes so that it is consistent with the needs and preferences of consumers will be a significant and difficult exercise. Further, the appropriate balance may need to change over time if we are seeing a material shift in more reactive outcomes that are higher cost than a proactive response to limiting the damage from extreme weather events. We note that in the last 5 years we have assessed 11 cost pass

through applications related to extreme weather events with costs totalling \$316 million, and have a further 5 now under consideration with total costs over \$130 million.

In relation to implementation of the rule change, we also understand that if a rule change is made, that it may commence operation at around May 2025, and publication of the AER guideline in early 2026. We note that the Victorian DNSPs are scheduled to submit their regulatory proposals in January 2025 and are unlikely to have had regard to this rule change in these regulatory proposals. The Victorian businesses could have regard to this rule change in their revised proposal as these are scheduled to be submitted in December 2025.

We welcome any further dialogue with the AEMC on the contents of this submission or related matters.

If you would like to discuss any of the issues raised above or have any questions or queries please do not hesitate to contact Kim Huynh on [REDACTED].

Yours sincerely

A black rectangular redaction box covering the signature of the sender.

Dr Kris Funston
Executive General Manager (Network Regulation)
AER

Sent by email on: 07.11.2024

Attachment A – AER response to some questions in the AEMC’s consultation

Question 1: Does the current framework for distribution network resilience create regulatory uncertainty for DNSPs and the AER around efficient expenditure for long duration outages? Should the framework be amended to provide clarity?

To provide certainty around how resilience-related expenditure would be treated under the NER and to support broader discussions between stakeholders around network resilience, the AER in 2022 issued a guidance note on network resilience.¹²

In that guidance note, the AER defined network resilience as a “*performance characteristic of a network and its supporting systems (e.g. emergency response processes, etc.). It is the network’s ability to continue to adequately provide network services and recover those services when subjected to disruptive events.*”¹³

This guidance note outlines the evidence expected from DNSPs in support of its proposed resilience expenditure. This includes demonstration of a causal relationship between the proposed resilience expenditure and the expected increase in weather events, that the proposed expenditure results in the greatest net benefit, and that consumers are fully informed of different resilience expenditure options.

Further, in the recent determination we have seen most DNSPs in NSW, Tasmania, QLD, SA and QLD propose and consult with stakeholders using the guidance note as the basis of their proposal. In particular, there has been approximately \$400 million of resilience-related expenditure proposed of which we have accepted 81% in the NSW and Tasmanian final revenue determinations. For SA and QLD, we have accepted 55% of the \$114 million in the total resilience-related expenditure proposed in the SA and QLD revenue determination draft decisions. The SA and QLD DNSPs will have a chance to further substantiate their requests as part of revised proposals to be lodged in early December 2024.

In the last 5 years to October 2024, we have made determinations on 11 cost pass through applications related to extreme weather events, with total associated costs of approximately \$316 million. We have approved all of these pass throughs, but have made reductions to proposed costs in some instances to ensure that only efficient costs are passed on to consumers. We are currently aware of up to 9 further cost pass through applications related to extreme weather events we may be required to assess in 2025.

We also recently undertook a review of the value of network resilience (VNR) that estimates the value customers place on network resilience during prolonged outages. This is designed to assist DNSPs and stakeholders consider the appropriate resilience-related expenditure where outages are greater than 12 hours.¹⁴ This review occurred following a request on 1 March 2024 from the Energy and Climate Change Ministerial Council (ECMC) on 1 March 2024 to extend our current review of Value of Customer Reliability (VCR) to establish a value of customer resilience associated with long duration outages. We published our decision on the VNR in September 2024, following a draft decision and issues paper. Prior to its release, DNSPs had been using VCR estimates to inform their resilience proposals which may not have been fit for purpose.

¹² AER, *Network resilience – a note on key issues*, April 2022.

<https://www.aer.gov.au/industry/registers/resources/guidelines/aer-note-network-resilience>

¹³ AER, *Network resilience – a note on key issues*, April 2022, p. 6.

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¹⁴ AER, *Value of Network Resilience 2024 – Final Decision*, September 2024. <https://www.aer.gov.au/documents/final-decision-value-network-resilience-2024>

We note that our work on VNR complements our April 2022 guidance note as it can be used to inform the net benefits assessment referred to in our guidance note. As we understand and learn more about network resilience including gathering of new information and data, we will be undertaking further work in this area. In this regard, we will be undertaking further work on the VNR as part of our longer-term VCR/High impact low probability work program in 2025.

Despite the outcomes achieved already (as noted above), we consider there may be value in including network resilience as an explicit factor to consider when assessing expenditure proposals.

Question 4: Do you agree with the proposed solution to require the AER to develop resilience guidelines? (a) Do you agree that requiring the AER to develop binding resilience guidelines will address the issue? (b) What level of prescription should the NER include relating to the AER's guidelines? Should the NER include content requirements for the AER guidelines?

While we appreciate the need for certainty, we consider that a binding guideline may not be appropriate in a new and still evolving area like network resilience. Our observation from the recent resets is that the electricity industry is still at the early stages of understanding the impact of climate change on networks and local communities, and how to best engage with consumers on their preferences on network resilience investments.

We also consider that the proposed list of matters that the Minister requires the guideline to address is too prescriptive for an area that is rapidly changing and where different networks will face different network resilience issues and challenges that are specific to their operating environment and communities.

For instance, we note that one of the proposed requirements is for the AER to set out "suitable methods, models, and data that DNSPs can use to justify their preferred projects and programs to address the identified risk". We consider that placing these specific evidential requirements on the businesses does not recognise that businesses have different resilience needs and therefore their supporting material may differ as a consequence.

We found this to particularly be the case in the most recent revenue determinations, where businesses put forward different ways of addressing a specific peril, reflective of their own resilience needs and previous experiences. For instance, one DNSP focused on wind as a peril, and others focused on different combinations of flood and bushfire as perils. These different perils faced by the businesses and their specific locational issues meant that their proposed resilience expenditure differed significantly.

We also observed the businesses' efforts to engage with their consumers where engagement methods contrasted significantly but were effective and reflective of the different customers. Given these factors, we are supportive of high-level principles that provide for clear and effective "guard rails" to assist businesses in supporting their resilience proposals, but in a form that is flexible enough to accommodate the needs of the particular networks and local communities.

We consider that an alternative option to the Minister's proposal of a binding guideline with prescriptive requirements is a further update to the AER's guidance note on network resilience. There are several new developments and learnings that we would incorporate into the updated guidance note based on our recent implementation in revenue determinations.

For instance, the guidance note would set out our intention, as noted in the Ausgrid Final Decision, to implement performance reporting of resilience investments in the regulatory information notices. We would also incorporate our work on VNR, explain how cost benefit could be applied to resilience expenditure, provide an update on the definition of community resilience, as well as the type of evidence required to support community resilience proposals. We consider that the option of updating the AER's guidance note is a reasonable method of providing further certainty to stakeholders on network resilience, especially in the context where the industry is still learning through on-going implementation.