



30 June 2025

Mr Arek Gulbenkoglul
General Manager – Network Regulation
Australian Energy Regulator
GPO Box 520
Melbourne, VIC , 3001

Via email: aer inquiry@aer.gov.au

Dear Arek,

Capital expenditure guideline review 2025 – Draft guideline

CitiPower, Powercor and United Energy (networks) welcome the opportunity to respond to the Australian Energy Regulator's (AER) Capital Expenditure Incentive Guideline Review – Draft Guideline (draft CEIG).

We support incentive-based regulation as the best means to achieving outcomes that meet customers' service and cost expectations. A key aspect of incentive regulation is the establishment of incentive arrangements that are 'fit for purpose' by ensuring we can reasonably expect to receive rewards for efficient performance and incur penalties if expenditure is not prudent and efficient.

For incentive-based regulation to operate effectively, it must not penalise us if expenditure is found to be prudent and efficient. If this is not the case, the incentive regime is not fit for purpose, as efficient performance should, if anything, attract a CESS bonus, not a penalty. The AER's commentary acknowledges this issue, which is welcome. However the draft CEIG does not commit the AER to removing CESS penalties in circumstances where the expenditure is found to be prudent and efficient.

During the first round of consultation, we highlighted the unpredictability of connection activity to the energy transition and electrification. Connection activity, unlike augmentation and replacement activity, is determined exogenous to the network. It is therefore more difficult to forecast than other capital expenditure categories. It is not just connection volumes that can vary, but also the costs depending on the customer's requirements, the location of the customer and jurisdiction policies. This materially impacts the costs of individual connection projects, and the subsequent contribution required from the customer.

Larger connections are bespoke. The volume of and cost of connection projects can vary. The draft CEIG includes an ex-ante and ex-post adjustment for larger projects (we understand this to be projects above 10MVA based on AER information requests received by the networks). The ex-post adjustment is intended to be applied based on an assessment of large connection forecasts provided at the time of the regulatory determination. We cannot support this aspect of the draft CEIG.

Ex ante determinations

During our regulatory proposal process, staff from the AER have requested we provide detailed, granular information for all forecast large bespoke projects above 10MVA. Requiring provision of such detailed information is unrealistic and an impossible hurdle to satisfy.

The premise of the current consultation is addressing the unpredictability and visibility of large connection projects. The reason we raised this matter was that connection activity is exogenous to our businesses and hence difficult to forecast. At best we have visibility of connection offers from connection proponents 2 years in advance. Whilst we have some visibility further advance on inquiries, these are characterised by uncertain scopes that make costing a challenge (i.e. while a subset of these or additional projects will undoubtedly progress to construction, which connections and their final scopes is less clear).

Further, we caution the AER against any consideration that excluding large bespoke connections from the CESS would then allow a conservative (i.e. low) connections forecasts, with any changes 'trued up' later. It is incumbent on the AER to still ensure the allowance provided for bespoke connections is efficient, recognising tax and operating expenditure implications from connections activity.

We therefore hold a strong view the process by which the AER intends to determine ex ante large connection activity is unworkable. We do not see an alternative to the current approach that has been used consistently in multiple previous reset analysis based on a 'top down' analysis.

Ex post determinations

Ex post adjustments are applied by our networks today in preparing our large customer connection forecasts. These adjustments are however applied ex-ante. For example, when we forecast large customer connections, we routinely identify and exclude projects we consider unusual in nature and unlikely to reoccur in the next regulatory period (for example a large tunnelling project to support a rail tunnel). Whilst we recognise this may not be readily apparent to the AER, we do this to ensure our requested connection expenditure is not unreasonably impacted by 'outliers'.

The draft CEIG envisages the AER applying discretionary ex post adjustments. We can't support the exercise of such large-scale discretion, given the potential impact such decisions may have on the CESS, and that we have no ability to challenge any decision made by the AER. Further, in relation to ex post CESS exclusions, there needs to be commitment that were nominated by a distributor, the AER must actively consider making an adjustment to the CESS to account for a specific large connection. The adjustments should also be made symmetrically to CESS rewards, not just CESS penalties.

More detail must be provided on how the draft CEIG proposes to undertake ex-post assessment/adjustment in practice, recognising the nature of ours (all) distributors connections forecasts are not bottom-up. It must be demonstrated that the draft CEIG solution is workable, and consulted on, given the magnitude of large bespoke connections a growing distribution network such as Powercor receives, and the level of discretion the AER is affording itself.

We do not support adjustments to CESS rewards the AER deems were not achieved through management effort. Such an approach would necessitate a forensic and bottom-up examination of the causes of cost savings. This is contrary to good regulatory practice and the effective and simple design of the CESS scheme.

In summary, given the exogenous nature of connections activity, the application of the CESS should ensure we are afforded an opportunity to be made whole through this process.

We would be pleased to discuss this submission with the AER should that be of assistance. In the first instance, please reach to me on [REDACTED] or [REDACTED].

Yours sincerely,

[REDACTED]

Lauren Fetherston
Head of Regulatory Policy and Compliance
CitiPower, Powercor and United Energy