

Hunter-Central Coast Renewable Energy Zone Network Infrastructure Project

10 September 2025

Justice and Equity Centre
ABN 77 002 773 524
www.jec.org.au

Gadigal Country
Level 5, 175 Liverpool St
Sydney NSW 2000
Phone + 61 2 8898 6500
Email contact@jec.org.au



About the Justice and Equity Centre

The Justice and Equity Centre is a leading, independent law and policy centre. Established in 1982 as the Public Interest Advocacy Centre (PIAC), we work with people and communities who are marginalised and facing disadvantage.

The Centre tackles injustice and inequality through:

- legal advice and representation, specialising in test cases and strategic casework;
- research, analysis and policy development; and
- advocacy for systems change to deliver social justice.

Energy and Water Justice

Our Energy and Water Justice work improves regulation and policy so all people can access the sustainable, dependable and affordable energy and water they need. We ensure consumer protections improve equity and limit disadvantage and support communities to play a meaningful role in decision-making. We help to accelerate a transition away from fossil fuels that also improves outcomes for people. We work collaboratively with community and consumer groups across the country, and our work receives input from a community-based reference group whose members include:

- Affiliated Residential Park Residents Association NSW;
- Anglicare;
- Combined Pensioners and Superannuants Association of NSW;
- Energy and Water Ombudsman NSW;
- Ethnic Communities Council NSW;
- Financial Counsellors Association of NSW;
- NSW Council of Social Service;
- Physical Disability Council of NSW;
- St Vincent de Paul Society of NSW;
- Salvation Army;
- Tenants Union NSW; and
- The Sydney Alliance.

Contact

Jan Kucic-Riker
The Justice and Equity Centre
Level 5, 175 Liverpool St
Sydney NSW 2000

T: +61 2 8898 6500
E: jkucicriker@jec.org.au

Website: www.jec.org.au

The Justice and Equity Centre office is located on the land of the Gadigal of the Eora Nation.

Contents

Recommendations	2
1. Introduction	3
2. Revenue adjustment mechanisms	3
3. Consumer engagement and social licence	5
The case for stronger consumer engagement.....	5
Reframing 'social licence' as community inclusion expenditure.....	5

Recommendations

Recommendation 1

That the AER limit consumer exposure to adjustment event costs by applying a maximum cap on revenue recovery, using a delayed capex forecast adjustment, and further assessing adjustment events at the time they are triggered, where appropriate.

Recommendation 2

That the AER publish clear criteria for triggering a redetermination, including how the 'reasonableness' test under the EII Act will be applied.

Recommendation 3

That the AER advocate for amendments to the EII Act to require consumer engagement by EnergyCo, AEMO, and network businesses.

Recommendation 4

That the AER adopt the term community inclusion expenditure (or a similar alternative) to better reflect the purpose of related activities and enable more meaningful and objective evaluation of their impact.

1. Introduction

The Justice and Equity Centre (JEC) welcomes the opportunity to respond to the Australian Energy Regulator's (AER) Hunter-Central Coast Renewable Energy Zone (REZ) network infrastructure project preliminary position paper (the Paper).

Our submission focuses on two key areas of concern:

1. Revenue adjustment mechanisms – particularly the treatment of cost and risk sharing associated with adjustment events, and the implications of recent amendments to the Electricity Infrastructure Investment (EII) Act. We examine the transparency of proposed mechanisms, the shifting of risk onto consumers, and approaches to manage adjustment events.
2. Consumer engagement and social licence – including the absence of mandated consumer engagement under the EII framework, the importance of meaningful participation in building trust, and the conceptual treatment of 'social licence' expenditure. We propose reframing this expenditure as community inclusion expenditure to better reflect its purpose and enable more effective and objective assessment of its impact.

In addition to commenting on Ausgrid's proposal, we offer reflections on broader regulatory practice under the EII Act, including recommendations for future assessments and governance mechanisms to support more meaningful consumer involvement. These are outlined in greater detail in our discussion of consumer engagement and in our submission to the NSW Transmission Planning Review¹ which we commend to the AER.

2. Revenue adjustment mechanisms

Our primary concern with Ausgrid's revenue proposal relates to the treatment of cost and risk sharing associated with adjustment events.

Ausgrid has proposed 25 adjustment mechanisms enabling it to seek changes to the revenue determination. Initially, six of these mechanisms were subject to confidentiality claims. We commend the AER for working with EnergyCo and Ausgrid to significantly reduce these claims. Transparency should be the default as a matter of principle. Greater transparency in these mechanisms is essential for informed stakeholder engagement and is a critical basis for mitigating capital expenditure (capex) risk for NSW consumers.

Revenue adjustment mechanisms are of particular concern in this determination given recent amendments to the EII Act that make it so the maximum capital cost (MCC) of projects is no longer a binding cost cap. That is, the MCC no longer applies to future adjustments nor any redetermination of capital costs subsequent to the AER's initial determination. Adjustment mechanisms may therefore lead to expenditure in excess of what the Consumer Trustee sets as

¹ See [JEC submission to NSW Transmission Planning Review Options Paper](#).

the maximum amount for the prudent, efficient, and reasonable capital costs to develop and construct the network infrastructure project.

These changes may be aimed at accelerating project delivery, but they inappropriately shift material risk onto NSW consumers. Leaving consumers to carry these costs contradicts the principle that risks should be borne by the party best able to manage them.

We strongly support the AER's exploration of mechanisms to limit the scope and cost of adjustment events, including:

- Applying a maximum cap to revenue recovery,
- Using a delayed capex forecast adjustment, and
- Further assessing adjustment events at the time they are triggered.

These (and any other such measures) will be critical to ensuring consumers are not exposed to risks they cannot manage and that the foundations and intent of the incentive-based regulatory framework remain intact.

Recommendation 1

That the AER limit consumer exposure to adjustment event costs by applying a maximum cap on revenue recovery, using a delayed capex forecast adjustment, and further assessing adjustment events at the time they are triggered where appropriate.

For adjustment events within Ausgrid's control, a delayed capex forecast may be most appropriate. For events genuinely outside Ausgrid's control, a recovery cap may be more suitable. We also encourage the AER to consider a hybrid approach that combines both mechanisms to ensure efficient risk management and capex minimisation in the interests of NSW consumers.

Regarding the proposal to reassess adjustment mechanisms when triggered, we are interested in the materiality threshold which would trigger the AER to remake a determination. We are particularly interested in how the 'reasonableness' test under the EII Act may influence this threshold. We strongly encourage the AER to develop and publish the criteria that guide these determinations to ensure transparency and consistency in its approach. Should the AER reopen a determination, any reassessment of costs must meaningfully incorporate consumer perspectives.

Recommendation 2

That the AER publish clear criteria for triggering a redetermination, including how the 'reasonableness' test under the EII Act will be applied.

We also urge the AER to extend any transparency requirements for adjustment events determined for Ausgrid's HCC REZ proposal to other roadmap initiatives, such as Transgrid's enabling works for the Central-West Orana REZ. While practical issues may interfere with the implementation of such approaches in this determination, the AER should strive for a consistent

and comprehensive approach to derisking adjustment mechanism costs in future assessments under the EII Act.

3. Consumer engagement and social licence

The case for stronger consumer engagement

The EII Act does not currently require AEMO, EnergyCo, or network businesses to undertake consumer engagement. We regard this as inappropriate oversight which should be addressed in ongoing EII framework reforms. In this context, we welcome Ausgrid's decision to establish a regulatory panel to derive consumer perspectives on the HCC REZ. Waiving this responsibility on grounds of expediency is unacceptable, especially when NSW consumers bear material costs and significant risks with limited opportunity to understand or influence them.

Consumer engagement is essential to retaining social licence for the energy transition. Without meaningful engagement, consumers are likely to view the transition as an externally imposed process – particularly given the significant short- to medium-term costs – rather than one that invites their involvement and input. We already see these effects evident as limited transparency and engagement has undermined trust and fostered resistance amongst many affected communities.

We strongly recommend strengthening consumer engagement requirements under the EII Act. As a first step, EnergyCo should be required to establish and fund a consumer and community panel, as proposed in the NSW Transmission Planning Review. To support this, we have outlined key considerations and governance mechanisms for the development of such a panel in our submission to the review².

Recommendation 3

That the AER advocate for amendments to the EII Act to require consumer engagement by EnergyCo, AEMO, and network businesses.

Reframing 'social licence' as community inclusion expenditure

Community 'social licence expenditure' cannot be viewed as a substitute for consumer engagement. These activities serve related but distinct purposes, target different stakeholders, and require distinct approaches. Ausgrid's proposal to exclude 'social licence' expenditure from the Capital Expenditure Sharing Scheme (CESS) is based on an intent to ensure impacted communities receive the full benefit of the proposed expenditure.

As proposed, we find it difficult to see how expenditure linked to 'social licence' could be meaningfully exposed to impact assessment let alone an efficiency incentive. We consider this a fundamental difficulty related to the concept of 'social licence' itself.

We caution against framing social licence as a commodity that can be 'bought' through defined expenditure. In our view, social licence is neither a tangible asset nor a meaningfully measurable

² Ibid, p. 6.

basis for expenditure. We share the AER's view that "social licence is not an end point in and of itself". Evaluating the efficiency of expenditure based on this concept is inherently challenging – if not impossible – given its subjective nature. Social licence is often only visible in its absence, when trust has been lost or community support withdrawn.

For these reasons, we propose a more accurate and practical framing: community inclusion expenditure, or a similar alternative. This terminology better reflects the intent and character of the activities involved. Crucially, it also enables a more meaningful and objective assessment of expenditure, based on how well it responds to community needs and the breadth and depth of its impact on affected communities.

Recommendation 4

That the AER adopt the term community inclusion expenditure (or a similar alternative) to better reflect the purpose of related activities and enable more meaningful and objective evaluation of their impact.

We welcome the opportunity to meet with the AER project team and other stakeholders to discuss these issues in more depth. Please contact Jan Kucic-Riker at jkucicriker@jec.org.au regarding any further inquiries.