

30 September 2025

Mr Scott Haig  
Acting General Manager  
Renewable Energy Zones Branch, Networks Regulation  
Australian Energy Regulator  
GPO Box 3131  
Canberra ACT 2601  
Australia

Dear Scott

Ausgrid welcomes the opportunity to comment on the Australian Energy Regulator's (**AER**) draft amended guideline for NSW non-contestable projects (September 2025) (the **Draft Guideline**). We appreciate the AER's proactive efforts to establish a formal framework for hybrid revenue determinations – where a project includes both contestable and non-contestable components.

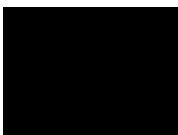
We are broadly supportive of the AER's draft guideline and its intent to formalise a framework for hybrid projects. We agree that a single, integrated process for projects with both competitively-procured and traditionally-regulated elements will provide clarity and flexibility as NSW's Electricity Roadmap projects progress. To further improve the hybrid determination approach, we suggest consideration of the following:

- Provide clarification on role of bidding Network Operators throughout the process of determining whether process is, in fact, contestable.
- To clarify the pre-lodgement steps, we recommend that the AER include a timeline or flowchart showing how the Infrastructure Planner's competitive tender timeline fits in with the AER's review milestones and subsequent revenue determination milestones. This will improve predictability and help both the AER and project proponents manage their schedules.
- We seek clarification on the treatment of costs of contestable components in the Post Tax Revenue Model (PTRM). We believe the contestable component should not be run through the standard building block model to ensure transparency and clarity of the overall revenue components.

Please refer to the Attachment for our detailed responses to the consultation questions.

Thank you for considering our feedback. If you have any questions regarding this submission, please contact Philippe Laspeyres, Economic Regulation Manager, at [philippe.laspeyres@ausgrid.com.au](mailto:philippe.laspeyres@ausgrid.com.au).

Regards,



Fiona McAnally  
Head of Regulation

## **Attachment – Response to consultation questions**

### **Question 1. What other amendments would you suggest to improve our approach to dealing with hybrid revenue determinations?**

#### AER's oversight of the competitive process

The guideline sets out how the AER intends to monitor the competitive assessment process for contestable components and may request information on the competitive assessment undertaken by the Infrastructure Planner to ensure it is genuine and appropriate. The guideline incorporates contestability criteria from the Contestability Guideline:

- Sufficient level of competitive tension exists
- Assessment process that supports detailed, credible and compliant submissions
- Decision-making, governance and probity arrangements to ensure a fair and rigorous process.

This regulatory overlay on top of the Infrastructure Planner process creates uncertainty. These criteria are intended to apply to the Infrastructure Planner process, and are beyond the control of project proponents. This is an unusual situation where the regulatory arrangements relate to one party but another party, the network operator, is affected by the outcome of the assessment. We suggest the AER provides more clarity on role of bidding network operators throughout the process and how the arrangements may affect them.

### **Question 2. What are your views on the proposed new pre-lodgement steps to deal with contestable components? What other changes would you suggest to improve the pre-lodgement process for hybrid revenue determinations?**

#### Establishing a Clear Timeline and Dependencies

We agree that these new pre-lodgement steps are important and appropriate for hybrid projects as they ensure that contestable portions are aligned with regulatory expectations before the formal revenue proposal is lodged. These steps closely align with the existing contestable guideline process. The introduction of these additional steps underscores the complexity of hybrid processes – there are now interactions between the Infrastructure Planner's timetable and the AER's timetable before the lodgement of the revenue proposal. To further clarify these steps, we recommend that the AER include a timeline or flowchart showing how the Infrastructure Planner's competitive tender timeline fits in with the AER's review milestones and the subsequent revenue determination milestones. This would include key dates such as:

- when the procurement strategy should be submitted to AER
- how quickly the AER will respond (the draft mentions aiming for 40 business days for procurement strategy feedback)
- expected timing for information to be provided to the AER during the tender
- when the tender outcome report would need to be delivered relative to the revenue proposal due date.

Having this mapped out will improve predictability and help both the AER and project proponents manage their schedules. The timeline should also clarify how late information (e.g. final tender prices coming in near the revenue proposal deadline) will be managed and whether there will be allowances for updating the proposal if needed, or cut-offs after which adjustments must wait for the next determination.

**Question 3. What changes would you suggest to improve the level of transparency, consultation and information sharing associated with contestable and non-contestable components of a hybrid revenue determination?**

Under the contestable framework, much of the detailed cost information from the tender is confidential – only the high-level revenue determination is published. For hybrid projects, stakeholders will naturally be interested in knowing how the contestable portion influenced the overall allowed revenue. We suggest the AER present its final determination for the revenue requirement separately into “contestable component” and “non-contestable component” parts for each year. This way, consumers and stakeholders can see what portion of the hybrid revenue comes from a competitively-sourced cost and a non-competitive regulated cost. It also sets up a clearer narrative in the AER decision, explaining that the contestable costs were not subject to further efficiency review as a result of competition, while the non-contestable costs were scrutinised through the AER’s usual review process.

**Question 4. What are your views on how the contestable and non-contestable components in a hybrid revenue determination should be presented in a Network Operator’s revenue proposal and the AER’s revenue determination?**

Clear Separation in Revenue Proposal

We recommend that the Network Operator’s revenue proposal clearly separate the two categories of costs. The revenue proposal could be structured in two sections:

- **A section for the contestable component** – describing the project scope that was tendered and the outcome of the tender. This section would present the contract cost profile (for instance, annual service payments or capital recovery charges as specified in the contract). The proposal should confirm that these costs were set via tender and that the Network Operator confirms that they are consistent with the contract and the authorisation by the Consumer Trustee.
- **A separate section for the non-contestable component** – This would cover the non-contestable project costs not determined by the tender. The proposal will include the normal requirements for a regulatory proposal process including providing justification, cost build-up, and evidence of efficiency. It would have elements of a traditional AER proposal, including capex, opex, weighted average cost of capital and maximum annual revenue requirements.

The proposal should then include a consolidated view showing the total revenue requirement combining both parts, for completeness. However, the supporting detail should remain separate. We believe this clear delineation will also help the AER’s internal review processes and modelling. From the Network Operator’s perspective, this approach also reduces the risk of confusion or error. It would avoid mixing fundamentally different types of costs and ensure each is assessed on its own terms.

We also recommend that the AER’s revenue determination mirror the above separation for clarity.

PTRM for Hybrid Revenue Determination

The AER is proposing to include the costs of any assets or services procured through a contestable process as well the assessed capital and operating expenditures associated with the non-contestable components in the PTRM to determine the Network Operator’s regulated revenue and schedule of payments. It notes this is consistent with EII Chapter 6A. However, EII Chapter 6A is applicable to non-contestable network infrastructure projects.

It is unclear how a building block methodology could be applied to the contestable element of a hybrid project where a Network Operator has tendered a fixed price to the Infrastructure Planner. If some form of calculation to convert the capital and ongoing operating costs to a stream of payments has already been

made for the contestable element, those contracted costs should not be included the building block model. The revenue stream would be a single input added to the regulated revenue payment stream.

We suggest that the Draft Guideline provide more clarity on how the contestable element will be assessed if it was procured on the basis of a fixed price for service provision over the long term.