

## AER Publishes the Eligible Experts' Report for the 2026 Rate of Return Instrument Review - Submission Objection

<https://www.aer.gov.au/news/articles/communications/aer-publishes-eligible-experts-report-2026-rate-return-instrument-review>

### **1. The Core Problem: Process Over Outcomes**

The AER repeatedly asserts that "consumers are at the heart of our work", yet the entire RORI framework is inward-looking, technocratic, and self-validating.

The paper is overwhelmingly focused on:

financial mechanics,  
investor expectations,  
capital market stability,  
and regulatory continuity

**There is no serious interrogation of outcomes**, such as:

whether recent network investment has delivered reliability,  
whether consumers are better off,  
or whether regulated networks have demonstrated competence or accountability,  
whether a moratorium is required rather than fast tracking - when there is ongoing litigation and disputes.

This is regulation by process compliance, not by performance.

### **2. "Largely Settled" = Closed to Challenge**

The AER repeatedly states that most issues are "largely settled" and will not be revisited.

We contest from practical experience of TransGrid's plethora of failures that:

These issues are "settled" internally, not empirically

The framework is effectively locked in, even as:

transmission failures increase,  
capital expenditure explodes,  
ecological and community impacts escalate,  
and major NSPs (notably Transgrid) are under active dispute and enforcement action

This gives the appearance of regulatory path dependence — defending past decisions rather than reassessing whether the framework is still fit for purpose.

### **3. Rate of Return Logic Is Asymmetric**

The RORI is framed as "balanced" between consumers and service providers, but in practice: Downside risks (cost overruns, delays, planning errors, ecological damage, unethical sourcing, CCP sabotage) are:

socialised to consumers and communities.

Upside certainty (guaranteed returns, inflation protection, long asset lives) is: preserved for networks and investors

The AER's own evidence that investment has not been deterred is presented as success — yet no evidence is offered that this investment is:  
efficient,  
reliable,  
affordable,  
secure,  
necessary,  
or beneficial.

"No lack of capital expenditure" is not a consumer benefit — it is the problem.

#### **4. Weighted Trailing Average: A Solution to the Wrong Problem**

The weighted trailing average return on debt is presented as a technical refinement to better match financing timing for "large, lumpy" investments.

Practical reality proves this is:

an attempt to fine-tune compensation for massive transmission build-outs  
without ever questioning whether those build-outs are justified, prudent, or competently delivered

Key concerns:

Extreme modelling complexity (up to 55 debt tranches) with:  
forecast dependence,  
optional true-ups,  
CESS interactions,  
trigger thresholds that invite gaming.

The AER itself concedes:

incentive misalignment risk,  
administrative burden,  
distortion of investment signals

In other words, the **model is acknowledged to be fragile, yet still pursued to protect financeability for projects already assumed to be necessary which aren't at all.**

#### **5. Transgrid's Position Is Revealing**

Transgrid's submission effectively admits:

**\*the weighted trailing average is second-order  
\*the real problem is credit rating pressure from massive early-stage debt raising.**

**This is damning:**

If projects cannot maintain a BBB+ credit rating under benchmark regulation, that suggests scale, timing, or risk is excessive, not that regulation is too harsh.

The response, however, is not to pause or re-examine projects — but to adapt the financial framework to accommodate them.

## This is wrong!

### **6. "Independent" Eligible Experts: Independence Not Demonstrated**

The Eligible Experts process raises serious credibility questions.

Experts are:

appointed by the AER,  
tasked with responding to AER-defined questions,  
operating inside the same economic paradigm

No disclosure is provided of:

past work for networks, regulators, or investors, consulting roles,  
financial or institutional affiliations.

Their independence is asserted, not demonstrated.

The process appears to be:

"Regulator-selected experts validating a regulator-defined framework."

That is not adversarial testing; it is managed consensus.

### **7. Consumer Reference Group: Not Genuinely Representative**

While a selected Consumer Reference Group exists, it does not represent those most impacted and the vast numbers of consumers and landowners vehemently opposed to unnecessary interconnectors and Industrialised RenewaBulls.

it is advisory only,  
has no veto,  
no binding role,  
and operates inside a framework already declared "largely settled".

This is consultation without power or consideration of impacted rural communities suffering terribly from network operators underhanded and inappropriate actions - resistance not consumer prioritisation.

## **Final Assessment**

The AER's Rate of Return framework prioritises investment continuity over accountability

It assumes network expansion is inherently beneficial

It treats financial refinements as solutions to what are actually governance, planning, and risk failures

It rewards scale, speed and capital intensity even as reliability, safety, quality, security, affordability, trust, and environmental outcomes clearly deteriorate in a severely retrograde manner

Independent scrutiny is procedural, not structural

The core question is never asked:

Should networks that are disputed, litigated, operationally failing, and socially contested continue to receive guaranteed, protected, long-term financial returns at all?

Until that question is confronted, the RORI is not consumer protection — it is financial risk laundering through regulation.