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Friday, 8 May 2026

Kami Kaur  
Acting Executive General Manager, Network Regulation  
Australian Energy Regulator  
GPO Box 3131, Canberra ACT 2601

Dear Kami

### **AER's Preliminary Framework and Approach Paper for Transgrid determination 2028–33**

Transgrid welcomes the opportunity to respond to the Australian Energy Regulator's (AER) Preliminary Framework and Approach Paper for Transgrid's 2028–33 transmission determination. This submission focuses on the AER's preliminary positions regarding the Efficiency Benefit Sharing Scheme (EBSS), Capital Expenditure Sharing Scheme (CESS) and Small-Scale Incentive Scheme (SSIS).

Transgrid supports the continued use of incentive regulation where schemes are designed and applied in a manner that promotes efficient outcomes and fairly shares efficiency gains and losses between networks and consumers. In summary, Transgrid's positions are:

- the EBSS should continue to apply to cost categories where a network has a meaningful ability to influence the outcome and forecast the cost using a single-year method. For category-specific forecasts or step changes where a network does not have the ability to control the cost, such as AEMO participant fees, we do not consider the EBSS should apply; and
- the CESS should continue to apply, but the final Framework and Approach should provide greater certainty that the scheme will be applied flexibly and proportionately following an ex post review. In particular, this flexibility should apply where actual expenditure reflects an efficient increase in the volume of work undertaken during the regulatory period on the shared network that could not reasonably have been foreseen when the revenue proposal was prepared; and
- there is potential to utilise the Small-Scale Incentive Scheme (SSIS) framework to trial a new approach to funding innovation that is broader in scope and less administratively burdensome than the existing Demand Management Innovation Allowance (DMIA) to promote non-network solutions innovation.

We also note the ongoing review of the regulatory framework by the Australian Energy Market Commission (AEMC). This review may result in reforms subsequent to this Framework and Approach which may require revision of these positions during the determination process. In Appendix A we provide a detailed response on these positions. If you require any further information or clarification on this submission, please feel free to contact [REDACTED], Director Regulation, via [REDACTED]

Yours sincerely

[REDACTED]

Alex McPherson  
General Manager of Regulation and Policy

## **Appendix A: Detailed response to the Preliminary Framework and Approach**

### **1. Efficiency Benefit Sharing Scheme**

The AER's preliminary position is to apply EBSS version 2 to Transgrid for the 2028–33 period and to continue applying the scheme to total operating expenditure, including AEMO participant fees and other costs that Transgrid considers to be outside its control.

Transgrid supports the continued operation of the EBSS in principle. However, Transgrid does not agree that AEMO participant fees should be included within the scope of the scheme. These costs are outside of Transgrid's control and vary significantly year-to-year. For this reason, these costs are forecast as category-specific forecasts rather than using a single-year revealed cost method. Such costs are typically excluded from the EBSS, as efficiency gains and losses associated with them risk being borne entirely by the network and not shared with customers in the manner intended by the EBSS.

#### **1.1 AEMO participant fees are not an appropriate cost category for EBSS incentives**

The rationale for the EBSS is to provide a continuous incentive for a regulated business to pursue efficiency improvements in operating expenditure where that business has a meaningful ability to influence expenditure outcomes and for consumers to share in the outcomes of their management. That rationale does not translate well to AEMO participant fees.

AEMO participant fees are material, increasingly volatile, and largely driven by decisions outside Transgrid's control, including AEMO's budget setting, prioritisation of activities and internal resource allocation. For Transgrid, these fees have increased from \$10.7 million in FY24 to \$17.7 million proposed for FY27. This represents annual growth of approximately 18 per cent over that period.

These are not routine cost movements that can be managed through ordinary operational efficiency measures. The application of the EBSS to such costs exposes Transgrid to incentive adjustments on forecasting errors for expenditure that varies year-to-year and that it does not materially control.

#### **1.2 TNSPs have limited practical ability to influence AEMO's total costs**

Transgrid participated actively in AEMO's recent fee structure determination process, including making formal submissions in May and November 2025. That experience reinforced that, while consultation mechanisms exist, TNSPs have very limited practical influence over AEMO's total costs, work program or prioritisation decisions.

The Financial Consultation Committee (FCC) was established in 2021 to improve transparency of the development of AEMO's budget and fees, as well as AEMO's financial health and performance. Transgrid acknowledges that the FCC can play an important role in building stakeholder confidence that AEMO is operating cost-effectively and growing stakeholder understanding of the budgeted fee impacts. However, in our experience, it is not clear that FCC feedback has had a meaningful impact on AEMO's budgeting process.

Contrary to the Australian Energy Market Commission's (AEMC) view that TNSPs have the ability to influence AEMO's total costs through participation in a wide range of forums,<sup>1</sup> Transgrid's experience is that TNSPs have little influence on AEMO's total costs through the FCC or other forums such as the Connection Reform Initiative, National Electricity Market Operations Committee and others.

Consistent with that experience, we note the ongoing AEMO Governance Review initiated by the Federal Minister for Climate Change and Energy in February 2026. The Discussion Paper notes that AEMO's budget has nearly tripled over the last 5 years and intends to examine whether the existing budget process is sufficiently transparent and responsive balanced against the need for sensitive matters to remain confidential.

This context reinforces that AEMO participant fees should not be treated as analogous to ordinary, internally managed operating expenditure categories. There is not a sufficient degree of predictability and controllability for these costs to be reliably shared and managed within the incentives of the EBSS.

### **1.3 The core issue is the need for stronger transparency, accountability and cost discipline in AEMO's budgeting**

The more appropriate regulatory response is not to retain AEMO fees within the EBSS, but to improve the transparency, discipline and predictability of AEMO's budget setting and fee determination process.

Transgrid continues to support reforms that would strengthen the transparency and accountability of AEMO's expenditure, including:

- fixed forward budgets, or at least robust forecasts, over five to seven years;
- clearer articulation of AEMO's priorities and how they are set;
- transparent resourcing assessments for major initiatives;
- improved reporting on delivery of work program commitments;
- stronger processes for incorporating stakeholder input early in planning cycles;
- greater scrutiny of AEMO's NEM functions and total costs by an independent body;
- clearer linkage between work programs and a costed corporate strategy subject to stakeholder review; and
- improvements to the transparency and quality of AEMO's cost-benefit analysis.

These reforms would do more to promote efficient outcomes for consumers than retaining AEMO fees within the EBSS. They would also better reflect the practical reality that the underlying cost drivers are external to TNSPs.

Accordingly, Transgrid submits that the AER should exclude AEMO participant fees from the EBSS for the 2028–33 regulatory period and instead treat them as a specific category forecast. This would better reflect the distinct nature of AEMO participant fees, which cannot reliably be forecast using a single-year revealed

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<sup>1</sup> AEMC, *National Electricity Amendment (Recovering the cost of AEMO's participant fees) rule 2022*, 20 October 2022, page 16.

cost method, and would avoid inefficient sharing of AEMO cost outcomes between Transgrid and customers.

## **2. Capital Expenditure Sharing Scheme**

The AER's preliminary position is to apply the updated CESS (version 4) to Transgrid for the 2028–33 regulatory control period, including the changes made following the AER's 2023 and 2025 reviews.

Transgrid supports the continued application of the CESS in principle. The CESS remains an important part of the incentive framework and, when designed and applied appropriately, can encourage efficient capital delivery to the long-term benefit of consumers.

However, the final Framework and Approach should make clear that the scheme will be applied flexibly and proportionately where actual capital expenditure reflects an efficient increase in the volume of work undertaken during the regulatory period that was not included in forecast capex when the revenue proposal was prepared. This issue is particularly relevant where demand evolves unexpectedly — for example, through accelerated uptake of data centres — giving rise to new or expanded connection and augmentation works that are prudent, efficient and in the long-term interests of consumers.

### **2.1 Efficient increases in work volumes should not attract mechanistic CESS penalties**

The standard application of the CESS may not appropriately accommodate circumstances in which a TNSP undertakes materially more work than forecast because demand and system needs change during the regulatory period. In these circumstances, Transgrid may undertake additional capital works that were not included in its current period forecast, but which are nonetheless prudent, efficient and necessary to meet emerging needs. A rigid application of the CESS in those circumstances would risk penalising Transgrid for responding efficiently to changed conditions, even where the AER subsequently finds that expenditure was prudent and efficient through an ex post review. That would not promote the long-term interests of consumers.

This issue is likely to become increasingly important where there are unforeseen changes in demand, including from large new loads such as data centres, which can materially increase the scale and timing of transmission works required during a regulatory period.

Transgrid's planning assumption is that such customers should, wherever possible, fund an appropriate share of the capital costs they drive through connection charges and related arrangements. Transgrid also recognises and supports the work being undertaken by governments, including NSW state government, to improve planning, coordination and cost-recovery frameworks for data centres and associated infrastructure.

However, notwithstanding these policy efforts, there may be regulatory, timing or practical constraints that limit the extent to which all efficient capital costs associated with such developments can be fully recovered from connecting parties. In these circumstances, residual risk may remain with Transgrid and, ultimately, consumers, in the form of additional shared network investment that was not reasonably foreseeable at the time the revenue proposal was prepared.

Where Transgrid responds efficiently to those developments, the incentive framework should not penalise that response merely because the relevant works were not reflected in the original capex forecast. This is especially so where doing otherwise may create incentives to defer efficient expenditure into the next regulatory period, with adverse implications for service outcomes and long-term costs.

## **2.2 The final Framework and Approach should provide greater certainty on the exercise of AER discretion**

Transgrid therefore considers it important that the final Framework and Approach provide greater clarity on how the AER will exercise its discretion following an ex post review. In particular, the final Framework and Approach should recognise that, where Transgrid demonstrates an efficient and actual increase in the volume of work undertaken during the regulatory period that was not included in forecast capex, the AER may reduce the CESS penalty to reflect that circumstance. This would better align the operation of the scheme with the AER's own guideline recognition that the standard application of the CESS may not always accommodate prudent and efficient increases in a TNSP's scope of works arising from circumstances beyond its control.<sup>2</sup>

In Transgrid's view, the final Framework and Approach should make clear that, in considering whether to vary the application of the CESS following an ex post review, the AER will have regard to matters including:

- whether the relevant projects or works were not included in Transgrid's current period forecast capex;
- whether the ex post review finds that the relevant expenditure was prudent and efficient;
- whether Transgrid has reasonably managed and prioritised its total capex across the regulatory period;
- the extent to which the increase in expenditure was driven by factors beyond Transgrid's control, including unforeseen changes in demand such as increased data centre uptake; and
- the need to avoid outcomes that would encourage the deferral of efficient capex, to the detriment of consumers.

The final Framework and Approach should also confirm that any such adjustment would appropriately account for the time value of money. Providing this clarity would improve regulatory certainty while preserving the underlying incentive properties of the CESS. It would also help ensure that Transgrid is not penalised for undertaking efficient additional work in response to unforeseen demand growth and would better support timely, efficient investment for the benefit of consumers.

## **3. Small-Scale Incentive Scheme**

As noted in the Preliminary Framework and Approach paper, Transgrid intends to engage with consumers on whether a SSIS should apply for the 2028–33 period. It would be valuable to understand whether the AER has a view as to whether this mechanism should be used to trial or apply any new schemes.

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<sup>2</sup> AER, *Capital Expenditure Incentive Guidelines*, August 2025, pages 10–11.

In August 2025 the AER responded to an invitation from the Federal Treasurer to identify regulatory reform opportunities to bolster productivity growth. In this response the AER noted its intention to consult on changes to network expenditure allowances to boost the efficiency of investment. This included setting a standard innovation allowance (as a percentage of Maximum Allowed Revenue) with no ex-ante proposal and assessment requirement compared to the current requirements under the Demand Management Innovation Allowance (DMIA).

Transgrid would support this initiative as it has been clear in practice that the DMIA provides insufficient and narrow funding for innovative projects with significant costs in administering the scheme. In recent determinations, several networks have proposed additional, stand-alone innovation funding with its own set of governance arrangements and exemption from the CESS and EBSS.

The industry would benefit from a standardised approach to innovation funding that can support broader and deeper innovation to help promote non-network solutions to manage future operational challenges and cost pressures. Transgrid would be interested in understanding the AER's plans and is open to utilising this mechanism as a potential avenue to trial a new approach to innovation funding. In particular, confirming whether the AER considers that SSISs are strictly limited to schemes of a particular design that reward or penalise efficiency gains or losses, or whether they could be used to trial a new approach to innovation funding that contributes to the achievement of the National Electricity Objective (NEO).

#### **4. Regulatory uncertainty reinforces the need for flexible application of incentive schemes**

The context in which Transgrid is preparing its revenue proposal extends beyond uncertainty associated with demand and load growth. The broader network regulatory framework is currently under review by the AEMC, creating a reasonable prospect of material changes to existing arrangements during, or shortly before, the 2028–33 regulatory control period. This includes potential changes to cost recovery and pricing methodologies, the design and interaction of incentive mechanisms, and the introduction of transitional arrangements that may affect how network investment is planned, funded, delivered and assessed.

In this environment, there is a heightened risk that efficient decisions made by Transgrid in good faith — including decisions relating to capital expenditure, operating expenditure and innovation — may not align neatly with the assumptions underpinning ex-ante forecasts or the standard operation of existing incentive schemes. If applied mechanistically, incentive schemes may expose Transgrid to penalties, or limit rewards, as a result of regulatory change beyond its control, even where outcomes are efficient and in the long-term interests of consumers.

Accordingly, the final Framework and Approach should explicitly recognise regulatory change as a legitimate source of uncertainty and confirm that the AER will apply incentive schemes flexibly and proportionately where material changes to the regulatory framework affect outcomes during the regulatory period. This includes exercising discretion to ensure that incentive outcomes are not driven by circumstances that could not reasonably have been anticipated when the revenue proposal was prepared.

Providing this clarity would improve regulatory certainty while preserving the core efficiency objectives of incentive schemes. It would also help ensure that Transgrid is not unduly exposed to regulatory risk, and that consumers benefit from timely, efficient and well-coordinated investment and innovation in an evolving regulatory environment.

## 5. Consumer Working Group feedback

Transgrid is engaging closely with its Consumer Working Group (CWG) throughout the preparation of the revenue proposal. As part of our commitment to deeper engagement with consumer advocates, we shared this submission with the CWG. A summary of the feedback received is set out below:

- Overall, consumer advocates indicated that further engagement is required on the issues raised, including the application of incentive schemes. They noted that the F&A process is relatively compressed and does not allow sufficient time to form considered positions. The CWG requested additional, more detailed engagement — particularly in relation to EBSS and CESS.
- At a high level, the CWG appreciated the perspectives of the AER and Transgrid on the application of the EBSS to AEMO fees. The CWG were keen to see these costs managed effectively on behalf of consumers. It was noted that Transgrid should have incentives to manage costs within its control efficiently but that these costs are pass-through in nature should be treated as such.
- In relation to CESS, the CWG requested further consultation as this issue may be closely tied to the position ultimately reached with respect to augmentation and connection capital spend. The CWG also noted that the AER may not be in a position to provide certainty on CESS application at the F&A stage, and that the prudence and efficiency of expenditure may not be the only criteria applied in any ex-post assessment.
- On innovation, the CWG encouraged Transgrid to:
  - Work with the AER to revisit the scope and application of the DMIA to better reflect the transmission context, noting that the scheme is largely derived from distribution frameworks and focused on wholesale market outcomes. The CWG suggested that the allowance should instead focus more directly on network investment, and that modifications for transmission businesses may be warranted.
  - Continue discussions on the application of the SSIS with both the CWG and the AER. While there is interest in developing the scheme, the CWG noted that the F&A process is not the appropriate stage to determine whether and how the scheme should be implemented. The CWG supported further exploration of innovation opportunities, such as those enabling faster connections, and recommended that the AER retain flexibility to consider additional schemes at a later stage rather than making a definitive decision at this point.

## 6. Conclusion

Transgrid appreciates the opportunity to comment on the AER's preliminary positions on incentive regulation for the 2028–33 regulatory control period.

Transgrid supports the continued application of incentive schemes where they are appropriately targeted and promote efficient outcomes in the long-term interests of consumers. In this context, Transgrid submits that the EBSS should apply only to operating expenditure categories that a network can meaningfully influence and reliably forecast. Externally determined and highly volatile costs, such as AEMO participant fees, should therefore be excluded from the scope of the EBSS.

Transgrid also supports the continued application of the CESS, but submits that the final Framework and Approach should provide greater certainty that the scheme will be applied flexibly and proportionately following an ex post review, particularly where efficient additional capital expenditure arises from unforeseen demand growth that could not reasonably have been forecast.

Finally, Transgrid sees merit in considering whether the Small-Scale Incentive Scheme framework could be used to trial a more streamlined and effective approach to promoting non-network and innovative solutions than the existing DMIA, supporting outcomes consistent with the NEO.

More broadly, the final Framework and Approach should recognise the heightened regulatory uncertainty associated with the ongoing AEMC review and ensure incentive schemes are applied in a way that does not distort efficient investment or innovation outcomes due to regulatory change beyond Transgrid's control. These positions are informed by engagement with Transgrid's CWG, which emphasised the need for deeper consultation, particularly on EBSS and CESS. The CWG also broadly supported Transgrid's position that the EBSS should not apply to AEMO fees, and encouraged further collaboration with the AER on the design and application of innovation-related schemes.