

Network resilience guidelines consultation paper

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About the Justice and Equity Centre

The Justice and Equity Centre stands for a society that is fair and free from discrimination and disadvantage. Established in 1982 as the Public Interest Advocacy Centre (PIAC), we use the law and policy advocacy to challenge injustice and inequality. We do this 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.

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The Justice and Equity Centre acknowledges and pays respects to the Gadigal as the Traditional Owners of the land on which our office stands.

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Recommendations

Recommendation 1

That the AER refine the definition of network resilience to align clearly with the risks and impacts arising from prolonged outages, focusing on the resilience of electricity services provided to consumers during and immediately after prolonged outages. The intent should be to establish a clear and practical distinction between reliability and resilience expenditure based on response and recovery.

Recommendation 2

That the guidelines acknowledge that network businesses have long maintained and improved network service resilience, and position future resilience initiatives as building on existing capabilities rather than implying a baseline of zero resilience.

Recommendation 3

That the AER clarify in the guidelines how "extreme weather events" will be defined, including by identifying and referencing the relevant jurisdictional instruments relied upon under the National Electricity Rules.

Recommendation 4

That the AER avoid creating a separate category for community resilience and instead assess such initiatives within a broader resilience framework focused on supporting consumers and communities during and after prolonged outages.

Acronyms list

Acronym	Full name
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
CER	Consumer Energy Resources
DER	Distributed Energy Resources
DNSP	Distribution Network Service Provider
EWCAP	Energy and Water Consumers' Advocacy Program
NER	National Electricity Rules
STPIS	Service Target Performance Incentive Scheme
VNR	Value of Network Resilience

1. Introduction

The Justice and Equity Centre (JEC) welcomes the opportunity to respond to the Australian Energy Regulator' (AER) Network resilience guidelines consultation paper (the Paper).

There is an appropriate focus on the increasing importance of resilience as the impacts of climate change become clear. But recognising and supporting resilient energy services is not new. The JEC support AER guidance which clarifies a clearly distinct definition for resilience-related considerations and expenditure, ensuring it is prudently and efficiently supported according to the preferences and values of consumers and the community.

This submission is substantially informed by our participation in the AER's work to develop a Value of Network Resilience (VNR)¹², as well as the Australian Energy Market Commission's rule change process to introduce distribution network resilience in the National Electricity Rules³⁴. We also draw on our experience of the most recent NSW electricity network resented processes, and engagement relating to the consideration of resilience issues and expenditure. These processes have provided valuable insights into consumer expectations, the challenges of assessing resilience expenditure, and the role of consumer engagement in resilience-related decision-making. In particular this experience has clarified the need for resilience to be practically defined and regarded as a clearly distinct and additional consideration.

As the impacts of extreme weather events become more frequent and severe, there is a clear need for network businesses, regulators, and consumers to consider how resilience is defined, assessed, and funded. However, this must be done in a way which ensures resilience is considered effectively and distinctly, protecting consumers from inefficient expenditure and ensuring resilience investments align with consumer values and preferences.

In that context, this submission focusses on three key points.

A narrower and more practical definition

We argue the proposed definition of network resilience is too broad and overlaps significantly with reliability, making distinct consideration of resilience impractical. The guidelines should focus on the resilience of electricity services rather than network assets and establish a clearer distinction between resilience and reliability expenditure.

Clear direction on the role of engagement

We argue that resilience expenditure proposals should be supported by clear evidence of need, proportionate and principles-based assessment frameworks, and meaningful consumer engagement that focuses on community values and outcomes rather than technical solutions.

¹ See [JEC submission to AER Value of network resilience 2024 issues paper](#).

² See [JEC submission to AER Value of network resilience 2024 draft determination](#).

³ See [JEC submission to AEMC Including distribution network resilience in the National Electricity Rules consultation paper](#).

⁴ See [JEC submission to AEMC Including distribution network resilience in the National Electricity Rules draft determination](#)

Resilience focused experience during and after events

We argue that creating separate categories such as “community resilience” is unnecessary if resilience is more clearly defined. The focus should remain on measures that help consumers and communities manage and recover from prolonged outages due to extreme weather.

Taken together, these measures would support a more consistent, consumer-focused approach to resilience and help ensure consumers only pay for resilience investments that deliver outcomes they value.

2. Focus resilience on the risks and impact of events

The definition of resilience and the guidance it informs, should refine the scope of resilience and related expenditure. The intent should be to ensure it is capable of being practically considered as a distinct and unique category, subject to distinct consumer preferences, outcomes and assessments.

Inappropriate ambiguity in current scope of resilience

The current network resilience expenditure factors, without further guidance, support the broadest possible definition of resilience. While this may reflect the common definition of resilience, it is not practical for the purposes of the energy regulatory framework. This leaves inappropriate scope for interpretation and increases the risk that consumers will be required to pay for unnecessary expenditure.

The AER guideline should aim to sharpen this definition—specifically as regards establishing a clearer and more practical separation between reliability and resilience expenditure. We consider this can be done within the scope of the existing rules which characterises resilience expenditure as that which:

‘...efficiently reduce the risk and impact on consumers of power outages caused by severe weather events.’

We are particularly concerned that this refers to spending intended to “reduce the risk” of outages caused by extreme weather events, without clarification of which category of risks this refers to. That is, does it refer broadly to any *risks of power outages* occurring, or more narrowly to the *risks which arise due to the occurrence of prolonged outages*. We strongly recommend the AER seek to clarify this through its guidance and ensure the narrower and more practical focus only on the risks arising *due to* events.

Focus on dealing with risks presented by outages rather than risks of outages

The risk of outages occurring is already appropriately dealt with through the lense of reliability.

In our experience it is not practical to effectively distinguish resilience expenditure on “risk reduction” from expenditure intended to improve reliability. Consequently, we do not support any approach to resilience which blurs the distinction between the new, distinct resilience category and that of reliability.

In many cases, it is only possible to determine whether an outage is a reliability event or a resilience ‘event’ after it occurs. Before an outage happens, expenditure intended to prevent (or reduce the risk of) an event occurring at all will look very similar to, or be practically indistinguishable from expenditure intended to maintain/improve reliability. This makes it difficult to assess whether proposed expenditure intended to reduce risks of a reliability event or a longer event which is resilience-related.

Resilience events are, by their nature, low-probability, high-impact events. Their frequency, severity, duration and geographic scope are difficult to estimate with confidence. Basing regulatory guidance on an arbitrary distinction, such as outage duration, makes it harder to determine whether expenditure is prudent and efficient. This is particularly true where the categories of response – such as network hardening – are indistinguishable.

Framing resilience as including measures aimed at “reducing the risk of events” creates a risk of over-investment. Network businesses have strong incentives to minimise risks wherever possible, while consumers ultimately bear the costs of those investments. Given networks do not bear the costs of mitigating such risk, they will inherently err on the side of caution, irrespective of whether doing so is in the interest of consumers.

Focus resilience on consumer experience during prolonged outages

The AER should revise the definition of network resilience set out in the 2022 Network Resilience Guidance Note to focus on risks and impacts which occur as a result of extended outages.

The definition should focus clearly on the resilience of electricity services rather than network assets. This is more closely aligned to the rules’ focus on ‘outages’, which relates to the service (electricity) rather than the infrastructure itself. This is a critical difference. Consumers care about maintaining and restoring access to electricity services during prolonged outages, regardless of whether those services are provided through the network, behind-the-meter resources, or other arrangements.

The definition should also clearly and practically distinguish resilience from reliability. Maintaining a clear distinction (even if artificial) is necessary to avoid the risk duplicative expenditure and ensure investments can be assessed consistently for prudence, efficiency, and alignment with consumer preferences.

The Paper proposes drawing this distinction by considering the “primary driver” of expenditure. Under this approach, expenditure would be considered resilience-related if its primary purpose is to address outages longer than 12 hours caused by extreme weather events.

This raises two important concerns.

- It is impractical. It is unclear how network businesses could meaningfully demonstrate the primary driver of proposed expenditure and its ‘efficiency. For instance, how could one separate network hardening as part of efficient ‘resilience’ response, from network hardening that is simply inefficient reliability expenditure? This introduces unnecessary complexity and place an unreasonable evidentiary burden on both businesses and the regulator that is unlikely to be resolvable with confidence the consumer interest is being promoted in line with

their preferences.

- It does not solve the problem. Related to the first point, the proposed test does not eliminate overlap between resilience and reliability expenditure. At best it merely reduces it. In practice, it accepts that consumers may pay for some inefficient or duplicative investment and seeks only to limit its magnitude.

A clearer and more practical distinction would be to treat issues relating to reducing the risk of outages - outage frequency and duration - as reliability matters, and issues relating service outages themselves - consumers' experiences during and immediately after an outage - as resilience matters. Put differently, network service resilience should centre on preparation for response and recovery⁵.

Recommendation 1

That the AER refine the definition of network resilience to align clearly with the risks and impacts arising from prolonged outages, focusing on the resilience of electricity services provided to consumers during and immediately after prolonged outages. The intent should be to establish a clear and practical distinction between reliability and resilience expenditure based on response and recovery.

This approach would provide a more practical boundary between the two concepts, enabling them to be considered as distinct categories. It would improve the assessment of expenditure proposals and reduce the risk of consumers paying multiple times for resilience and reliability. It would also help ensure resilience expenditure reflects the level and nature of resilience consumers actually value and are willing to fund.

We support applying the guidelines to both distribution and transmission network service providers to promote a consistent approach to resilience expenditure across the sector.

3. Evidence requirements should support efficient and consumer-focused investment

Start with a clear statement of existing network service resilience

Approaches to considering resilience must recognise that while it is a newly distinct category of expenditure, the starting point for resilience of network services is not zero.

In our experience, consumer engagement on resilience often presents resilience as an entirely new area of expenditure with little existing investment or capability. While there is a new focus on resilience resulting from improved understanding of the impact of extreme events and their increasing likelihood, it has long been a consideration for networks directly or implicitly.

While not necessarily intentional, consumers may come to believe that network businesses are unprepared for climate risks, distorting support for expenditure which may not otherwise be

⁵ See, [JEC submission to AEMC Including distribution network resilience in the National Electricity Rules consultation paper](#), pp. 5-6.

justified. It may also create unrealistic expectations about what resilience investments can achieve, including the belief that extended outage risks can be eliminated altogether.

Resilience is not a new issue for network businesses. Networks have long planned for and responded to extreme weather events. As such, they have existing levels of network service resilience. Engagement activities should recognise this and avoid suggesting that resilience efforts are starting from a baseline of zero.

Recommendation 2

That the guidelines explicitly acknowledge network businesses have long maintained and improved network service resilience, and position future resilience initiatives as building on existing capabilities rather than implying a baseline of zero resilience.

Consumer preferences regarding resilience will vary across and within network areas. These preferences will depend on factors such as local climate risks and experience with outages, existing network capabilities, and the importance consumers place on resilience compared with other priorities.

Importantly, strong concern about resilience should not be assumed to mean support for higher expenditure. Consumers may consider resilience a high priority while still opposing higher network charges to fund additional investment.

This was evident in the AER's consumer engagement on the VNR, where participants did not suggest higher consumer contributions were necessary to improve network resilience⁶.

The guidelines should also clarify how "extreme weather events" will be defined. Definitions vary across jurisdictions, and the National Electricity Rules rely on local instruments to identify such events. The AER should identify and reference the relevant instruments in its guidance to provide greater clarity and consistency for stakeholders.

Recommendation 3

That the AER clarify in the guidelines how "extreme weather events" will be defined, including by identifying and referencing the relevant jurisdictional instruments relied upon under the National Electricity Rules.

Evidence requirements should support judgement, not compliance

We are concerned about using a Service Target Performance Incentive Scheme (STPIS) adjustment as evidence to support resilience-related expenditure.

We understand this proposal is intended to avoid double-counting reliability benefits. However, it may also encourage networks to pursue inefficient expenditure to meet higher service performance targets.

⁶ See The Insight Centre, [Consumer engagement on the Value of Network Resilience](#), p. 7.

As long as reliability and resilience expenditure remain closely linked, there is a risk that resilience investments will progressively increase reliability expectations through STPIS adjustments. This may lead to inefficient reliability-related expenditure to meet higher service performance targets.

We agree that avoiding double-counting is important. However, a clearer separation between resilience and reliability expenditure would be a more effective way to address this issue.

We acknowledge long-standing requests from network businesses for greater clarity about the evidence required to support resilience expenditure proposals. However, greater specificity should not come at the expense of good regulatory judgement.

Overly prescriptive evidence requirements risk encouraging compliance with process rather than better decision-making. They may also turn measures intended for assessment into targets that drive behaviour in unintended ways.

Consumer engagement must establish values before solutions

Consumer engagement is a fundamental aspect of a business's demonstration of prudent decision making. An assessment of consumer engagement must be a key focus of the AER's assessment of whether proposed expenditure is prudent. A prudent network business must demonstrate that its proposal is grounded in consumer values and reflects consumer preferences. Preferred resilience options should accordingly be grounded in consumers' values, priorities, and expectations. Specific proposals can then be appropriately assessed for their efficiency.

Engagement should begin with consumer values and priorities rather than with assessment of technical solutions. Where possible, discussions should focus on the outcomes consumers want from resilience investments before considering how those outcomes should be delivered. We discussed engagement in relation to resilience in detail in our response to the most recent NSW DNSP regulatory reset process.^{7 8}

Network businesses should also ensure engagement activities accurately present existing levels of resilience and do not assume that resilience requires entirely new investments or practices. Otherwise, consumers' stated willingness to pay may be artificially inflated.

The guidelines should also recognise that resilience improvements are not always infrastructure investments. Network service resilience can be improved through better planning, communication, preparedness or operational practices. While the benefits of such responses may be more difficult to quantify, they may be more effective and better aligned with consumer preferences.

A carefully considered approach to consumer engagement on resilience is essential because consumers experience resilience differently. Consumers who have experienced prolonged outages often place greater importance on responsiveness and communication during recovery. Consumers who have not experienced prolonged outages may place more weight on

⁷ JEC [Response to NSW DNSP issues paper 2024-2029](#)

⁸ JEC [Response to NSW DNSP Draft determination 2024-29](#)

investments aimed at reducing risk. Consumers who have experienced major outage events may also carry residual stress or trauma that affects how they engage with resilience discussions⁹.

These differences highlight the need for a dedicated engagement framework for resilience. Such a framework should support consistent, meaningful, and inclusive engagement across network businesses.

Without such a framework, there is a risk that resilience expenditure will increase costs for consumers while failing to deliver the aspects of resilience that consumers value most during prolonged outages: quality communications and responsiveness¹⁰.

4. Community resilience should not be treated as a separate category

We do not support dividing resilience into multiple categories. A clearer and narrower definition of resilience – as related to electricity service and outages - would reduce the need for separate categories such as network and community resilience.

Many of the activities currently described as ‘community resilience’ could instead be incorporated within a single resilience framework focused on helping consumers manage the impacts of, and recover from, prolonged outages caused by extreme weather events. This would be in line with the existing definition in the rules which refers to the risks and impacts of outages (as discussed earlier).

Recommendation 4

That the AER avoid creating a separate category for community resilience and instead assess such initiatives within a broader resilience framework focused on supporting consumers and communities during and after prolonged outages.

Network businesses should support, not duplicate, consumer-led resilience

Consumers and communities are increasingly able to improve their own electricity resilience where they have the means to invest. Many of these solutions are community and consumer-led and are neither appropriate for, nor the responsibility of, network businesses to provide.

However, network businesses have an important role in identifying consumers and communities that may be particularly vulnerable to prolonged outages, the nature of the risks and how they may be addressed. This information should be shared with governments and relevant agencies to help target support programs and resilience funding to households and communities that need it most. This is particularly important for those who may have least capacity to enact their own measures.

Network businesses should also assess the extent to which customers within their network areas have already invested in their own resilience measures. These investments will influence how

⁹ See Erne Energy [Approaches to electricity network resilience and consumer electricity resilience](#) p. 13.

¹⁰ See Energy Victoria [Network Outage Review into February 2024 Storm Event](#).

communities experience and recover from extended outages and should therefore inform further resilience considerations and planning.

Improving network visibility would support this objective. This includes providing distribution networks with better access to smart meter data, improving visibility of consumer energy resources (CER), and strengthening compliance with relevant technical standards.

Opportunities to align these efforts with initiatives such as AEMO's DER Register, CER data-sharing arrangements, distribution network development plans, and relevant state government programs should also be considered alongside the guideline.

5. Continued engagement

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.

Appendix A: Response to consultation questions

Q1: What are your views on the definition of network resilience?

The proposed definition of network resilience is too broad and ambiguous and overlaps substantially with reliability. This is impractical and creates a risk consumers will pay for expenditure that is already justified under existing reliability frameworks. The AER should align its definition with the rules focus on the risks and impacts arising from prolonged outages and focus its definition of resilience on the resilience of electricity services, rather than network assets.

We recommend the guidelines treat issues relating to the risk of outages occurring, their frequency and duration as reliability matters, and issues relating to the risks arising from the outages, and consumers' experiences during and immediately after an outage as resilience matters. Put differently, network service resilience should centre on preparation for response and recovery.

Q2: What are your views on whether the network resilience guidelines should apply to transmission network service providers?

We support applying the guidelines to both transmission and distribution network service providers. We consider a consistent approach across all network service providers will improve transparency, assessment of expenditure proposals, and regulatory outcomes for consumers.

Q3: What are your views on a standardised resilience template?

A standardised template could improve consistency and comparability between proposals. However, it should support regulatory assessment rather than become a compliance exercise. The template should focus on clearly demonstrating the need for expenditure, expected consumer benefits, alternatives considered, consumer engagement outcomes, and costs.

Q4: What are your views on implementing a requirement on DNSPs to provide actual resilience spend through Annual Information Orders?

We support greater transparency regarding actual resilience expenditure. Public reporting would improve accountability and help stakeholders understand how resilience investments are evolving over time. Unless there is a compelling reason for NSPs not to provide this data, it should be made available to the regulator—if not the public—as a default.

Q5: What are your views on the type of data that might be useful and publicly available?

Useful information would include actual resilience expenditure, resilience-related project outcomes, outage performance during extreme weather events, recovery times, and consumer engagement findings. Information should be published in a form that allows meaningful comparison across businesses while protecting confidential information where necessary.

The regulator should also consider data that supports a qualitative assessment of resilience expenditure. This includes data that demonstrates how resilience investments affect consumers' experiences during and immediately after prolonged outages caused by extreme weather.

Q6: What are your views on the evidence that the AER has had regard to in assessing a business' preferred resilience solution?

The AER should assess whether a proposal addresses a clearly identified need, reflects consumer preferences, considers alternative options, and represents an efficient response to the problem identified. The AER should avoid overly prescriptive evidentiary requirements that encourage compliance with process rather than sound decision-making.

Q7: What are your views on the key features of genuine consumer engagement on resilience proposals?

Genuine consumer engagement should identify what consumers value most during prolonged outages, their priorities in responding to and recovering from an event, and how much they are willing to pay for improved outcomes. This engagement should consider not just communities that are targets for resilience expenditure but the broader customer base.

Engagement should begin with consumer priorities and desired outcomes rather than technical solutions. It should also recognise that consumers with different experiences of outages may hold different views about resilience expenditure.

Q8: What are your views on the definition of community resilience?

We do not consider a separate category of community resilience necessary. A clearer and narrower definition of resilience would incorporate many activities currently described as community resilience. The focus should remain on measures that help consumers manage the impacts of and recover from prolonged outages.

Q9: What are your views on the factors the AER has regard to when assessing community resilience?

Where resilience proposals target community outcomes, the AER should consider whether they address a demonstrated need, whether they complement rather than duplicate consumer-led or government initiatives, and whether their benefits are likely to be realised by the communities most affected by prolonged outages.

Q10: What are your views on the type of information that should be included in the DAPR to better understand a DNSP's strategy to manage its resilience needs?

If the existing separation between resilience and reliability expenditure is maintained, network businesses should be required to outline the strategy they use to manage expenditure across these two categories.

This should include an explanation of how they balance ex ante investment in reducing risks to network assets before an event with ex post expenditure on repairing damaged network assets after an event. The objective should be to demonstrate that this balance delivers prudent, efficient, and cost-effective outcomes for consumers.

Q11: What are your views on how this new information collection relates to the AER's existing information collection through the Annual Information Orders?

Information requirements should complement existing reporting obligations and avoid duplication. The AER should seek alignment wherever possible so that stakeholders receive consistent information while minimising unnecessary administrative burden on network businesses.

As noted in our response to Question 4, we consider network businesses should provide the AER with any data it deems relevant to assessing resilience expenditure, unless there is a compelling reason for that information to be withheld.

Q12: What are your views on how resilience expenditure should be addressed in the incentive schemes?

Any treatment of resilience expenditure within incentive schemes should avoid double-counting benefits and creating incentives for inefficient investment. The most effective way to achieve this is to maintain a clear distinction between resilience and reliability expenditure. Incentive arrangements should support efficient investment that reflects consumer preferences rather than encourage progressively higher expenditure targets.