

9 October 2026

[REDACTED]
[REDACTED]
Australian Energy Regulator

Submitted via email: aer inquiry@aer.gov.au

Dear [REDACTED],

Transgrid Project EnergyConnect reopener – supplementary submission on the AER’s preliminary position

Energy Networks Australia (ENA) welcomes the opportunity to respond to the AER’s consultation paper on Transgrid’s application to reopen its 2023–28 revenue determination. This submission is made on behalf of ENA’s transmission members. It does not comment on the facts of Transgrid’s application. It focuses on the principles at stake. As the AER notes, the application raises questions of interpretation with no precedent. How the AER interprets clause 6A.7.1 in this decision will shape how every transmission network manages delivery risk, and potentially every distribution network under the equivalent clause 6.6.5.

The context matters

The NEM is at the most demanding stage of the energy transition. Networks are delivering a large and urgent pipeline of investment while facing tight supply chains, limited contractor capacity, cost escalation and global competition for capital. In this environment, conditions change quickly, and decisions often have to be made in real time. Customers are best served when networks can act early and decisively, in line with prudent and efficient operation and investment, rather than wait for full regulatory certainty while costs and risks grow.

Equally, investors need confidence that efficient costs will be recoverable when circumstances change beyond a network’s control. Providing appropriate regulatory certainty for investors is an important precondition for timely delivery of the substantial pipeline of large-scale transmission investment infrastructure. An approach that introduces regulatory uncertainty and increases perceived investment risk may undermine future investment, increase financing costs, and ultimately increase long term costs for consumers. Better outcomes for customers can be achieved through a framework that supports predictability and trust in the regulatory determination process and enables sufficient flexibility to manage uncertainty.

Uncertainty mechanisms inform investment signals

No ex-ante forecast can anticipate every outcome over a five-year period. Reopeners, pass-throughs and contingent projects exist as complementary uncertainty mechanisms within the framework so that it can respond to genuine uncertainty in the most appropriate way. When and how these are applied underpins the environment in which investors make decisions in real time, with appropriate and timely use of these mechanisms providing confidence that the framework will support decisions in customers’ interests. A narrow or unpredictable reading shifts unmanageable risk onto networks, which risks increasing capital costs, slowing key investment decisions and forcing unmanageable risks onto contractors who can only manage those risks through higher prices.

Key principles for the AER's final decision

- **Give effect to the reopener's purpose.** The AEMC designed the reopener to overcome the incentive for a NSP to defer or halt major vital investment despite major unforeseeable events occurring. To give effect to that purpose, the reopener should apply to capex incurred during the regulatory control period to rectify the adverse consequences of an event, from the time the event occurs. A reading that requires networks to pause efficient rectification work until approval is granted would work against that intended incentive. Ultimately, the reopener criteria operates as a gateway. They establish whether the circumstances justify revisiting the forecast. They do not determine how much is recovered. Clause 6A.7.1(f) then limits any adjustment to the amount the AER determines is appropriate, which the AER has indicated means the prudent and efficient amount to rectify the adverse consequences of the event.
- **Reflect how events emerge in practice.** Delivery risks such as contractor distress usually unfold over time, and networks must act on their own assessment before formal triggers occur. The framework should reward proactive management of situations like these in customers' best interests.
- **Keep threshold tests separate from prudence.** ENA considers the reasonable control test should ask whether the NSP, acting as a reasonable and prudent operator, could have prevented the event from occurring, not whether it could have managed its response differently. The quality of the response is properly assessed when determining the appropriate amount, and through ex post review.
- **Apply a workable foreseeability test.** Every major project faces known categories of risk: weather, inflation, labour shortages and supplier financial stress. If mere awareness of these categories makes a specific event foreseeable, no major-project event could ever qualify. The test should focus on the specific event, reasonably assessed at a clear and practical point in the determination process.
- **Properly consider the contribution of ISP projects to reliability and security.** Actionable Integrated System Plan (ISP) projects form part of the least-cost pathway to maintain a reliable and secure system as thermal generation retires. ISP status alone does not establish that reliability or security would be materially compromised if a project were delayed. However, a project's contribution should be properly assessed on the evidence. It should not be discounted because it is expressed as an improvement to the system as planned, or because other mechanisms might respond to a shortfall.

ENA asks the AER to consider its final interpretation of clause 6A.7.1 in this broader context, so that the broader uncertainty mechanisms framework operates as intended. This will give networks and investors the confidence to keep making timely, prudent and efficient decisions, without halting critical major works, that deliver the transition at the lowest long-term cost to customers.

If you would like to discuss this submission, please contact [REDACTED], Head of Transmission, at [REDACTED].

Yours sincerely,

[REDACTED]

Dominic Adams

Chief Operations Officer