

# AER Draft Decision on APA VTS Access Arrangement 2023–27

CCP28 Presentation to AER Public Forum  
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CCP28: Robyn Robinson, Helen Bartley, Ron Ben-David

Consumer  
Challenge  
Panel



## Acknowledgement of country

APA's facilities and networks traverse the lands of many Indigenous nations. We recognise the traditional owners of these lands and honour their customs and traditions and special relationship with the land

- 1. What does the AER's Draft Decision mean for consumers?**
- 2. CCP28 comments on APA's post-lodgment consumer engagement**
- 3. Considerations for the AER in making the Final Decision**

# CCP28 supports many elements of AER's Draft Decision

Consistent with our Advice to the AER on APA's Access Arrangement proposal, we support the AER:

- ▶ Rejecting APA's proposed accelerated depreciation
- ▶ Significantly reducing SW Pipeline expenditure, Security of Critical Infrastructure and IT upgrades
- ▶ Rejecting expenditure on a hydrogen safety and integrity study
- ▶ Rejecting opex step changes for increases in property tax and acquisition of carbon offset certificates

Nevertheless, the AER's Draft Decision delivers:

- ▶ 13.7% increase in opex over the current period
- ▶ Increased average charges for transmission services by around 25%
- ▶ Likely higher charges in the Final Decision due to impact of financial parameters and placeholders in the Draft Decision

**The Draft Decision provides no clear rationale for increase in charges for consumers**

# AER's engagement expectations for APA's revised proposal

- The AER's views align with the CCP28's observations as documented in our February 2022 Advice to the AER
- Where revisions to APA's proposal are required in response to its Draft Decision, the AER expects
  - ▶ “APA to engage with consumers on how they think those changes should be addressed.”
- The AER would like greater consumer engagement including co-designing topics for discussion, greater collaboration and consumer partnership in developing its revised proposal

## CCP28 comments

- APA lodged its AA proposal in December 2021 and the AER published submissions in February 2022
- Over almost 5 months the APA's formal engagement (e.g. roundtables) has been limited to two “updates to stakeholders” presentations (with the May 2022 meeting including an “update” on stakeholder submissions)
- In response to stakeholder concerns, APA has tabled two issues papers – the Business Narrative, and Load and Demand Forecasts (15 July 2022)
- However, we observe limited consideration by APA of issues raised in submissions

## Our challenge to the AER and APA: consumer engagement

APA's revised proposal is due on 10 August 2022, and we are concerned how the AER can realistically expect APA to “co-design” and deliver any meaningful engagement to inform its revised proposal

- ▶ We acknowledge some attempt to gather more feedback from stakeholders in its recent roundtables, but this is not “co-design”
- ▶ At a minimum, the AER should expect APA to:
  - Identify areas where APA is willing to accept the Draft Decision, and areas where it is not
  - Engage deeply and thoughtfully with stakeholder submissions in preparing its revised proposal

Given APA's final access arrangement is due in less than a month, and we have concerns about whether APA can fulfill the AER's expectations for consumer engagement at this late stage, we challenge the AER to explain:

- ▶ How it will consider the long terms interests of consumers in its final determination
- ▶ Without adequate evidence of appropriate and collaborative consumer engagement what objective tests the AER will apply to assessing APA's revised access arrangement

# Looking to the AER's Final Decision ...

The most substantial concern (by far) for this regulatory review boils down to two questions:

1. **How has, and how is APA handling uncertainty?**
2. **How has, and how will the AER handle uncertainty?  
(and how will it respond to APA's handling of uncertainty )**

# APA's handling of uncertainty & the AER's response

## APA access arrangement proposal was poor

- ▷ See our February 2022 Advice on APA's proposal. In short:
  - ▷ It shifted as much (all) of the burden of uncertainty on to consumers
  - ▷ Poorly supported proposals – analysis, reasoning & engagement
  - ▷ A sense of entitlement?

## AER Draft Decision was as critical of a proposal as a regulator is likely to be (publicly)

- ▷ **But...** So what? No consequences. No sanction.
  - ▷ Incentive for networks to 'play' the regulator and consumers
  - ▷ Many doors left open => there could be substantial 'surprises' for consumers
- ▷ **But...** No discussion about how AER will make decisions in light of uncertainty
  - ▷ AER just seeking more information and more engagement
- ▷ **But...** Emphasis on consumer engagement / co-design
  - ▷ To what end at this late stage? What new 'answers' does the AER expect to be answered



## **The Opening Statement in our Advice (Feb 2022) outlined a series of questions ...**

- ▶ What future does APA see for itself?
- ▶ APA's narrative & demand discussion papers (July 2022) offer no new insight into APA's thinking about:
  - ▶ Will it exist in the future? What services will it be providing? To whom? Using which assets? Competitive or monopolistic environment?

## **What 'quid pro quo' is APA offering consumers for bailing it out (with accelerated depreciation)?**

- ▶ APA offers to lower future rate of depreciation if its forecasts prove to be wrong
  - ▶ Big whoop!
  - ▶ Consumers have higher discount rate than networks (especially low income customers)

# Demand forecasts & Accelerated depreciation

## How will AER determine demand estimates?

- ▶ Wide range of plausible assumptions (= uncertainty) => ‘Angels on pinhead’ arguments about forecasts
  - ▶ What role does consumer engagement play in resolving demand forecasts?
- ▶ Long-term demand assumptions and provisions for accelerated depreciation are unavoidably matters for regulatory judgement, but...
  - ▶ “Regulating gas pipelines under uncertainty” (Nov 21) provides no decision-making framework
  - ▶ AER’s Draft Decision Attachment 4 (p.17) recognizes absence of a decision-making framework :
    - (1) how much risk consumers should bear is an “open question”, and
    - (2) “there are limits” to proposition about impact on future investment.
- ▶ Legal, economic, commercial & moral foundations of the alleged “regulatory compact”?
- ▶ What weight would AER place on consumer views about demand and depreciation? (easily manipulated)

**The AER draft decision rejects APA's proposal for accelerated depreciation while acknowledging "it is still an open question ... how much risk consumers should bear"**

# The AER also needs to be consumer-focused – consistent with its expectation of networks

## “Accelerated depreciation” is secret society language

- ▶ From a consumer perspective its about accelerated *payments*
- ▶ How would accelerated payments make “energy consumers better-off, now and in the future”? (AER’s purpose statement)
  - ▶ After all, it’s a ***transfer*** payment – ie. a zero-sum game
  - ▶ AER has no mandate to determine transfers (= redistributive/equity policy)

## In its Final Decision, AER needs to write in a way that explains to consumers:

- ▶ Why it is proposing 10 per cent *real* price increases. No discussion of new benefit this is funding.
- ▶ What’s driving the increase from the last period – i.e. not just changes from APA’s proposal
  - ▶ i.e. the ‘waterfall’ diagram only shows: APA Proposal ==> AER Draft Decision
- ▶ How did leaving so many doors open (in Draft Decision) support:
  - ▶ good regulatory process & consumer confidence in the regulatory framework

**Thank you**  
**Any questions?**