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Sent via email: [regulatoryinnovation@aer.gov.au](mailto:regulatoryinnovation@aer.gov.au)

Dear Dr Funston *Kris*

### Submission on AER draft Better Resets Handbook

SA Power Networks welcomes the opportunity to comment on the AER 'draft Better Resets Handbook: toward consumer centric network proposals' (the draft Handbook).

We strongly support the intent, reflected in public statements from the AER Chair, of working to build greater collaboration and trust between the AER, regulated networks, and consumers, and to ensuring that regulatory processes best serve consumers' interests.

While our submission (attached to this letter) recommends further improvements, we welcome the AER initiating work on the Handbook and we would be pleased to continue to collaborate with the AER and other stakeholders on how it can be further refined.

As context to our submission, we consider that reset processes have become increasingly more complex, with increased burden on consumer representatives, networks, the AER, and ultimately consumers.<sup>1</sup> While the Better Regulation process contemplated a greater reliance on 'top-down' reviews and incentive regulation, in practice, resets have moved toward ever-increasing levels of 'bottom-up' detail.

Our assessment is that although the draft Handbook presents some potential improvements in efficiency, it does not materially arrest the complexity and cost of the reset process. Our submission recommends:

- **Establishment of explicit key objectives:** to guide development of the framework. We anticipate these could include: ensuring that consumers have the ability to shape network proposals; improving efficiency for all parties; and the establishment of clear expectations for all parties.
- **Earlier engagement & expectation setting:** between the AER, consumer representatives and networks to map out the most effective process and determine the respective roles of each party. This needs to occur at a very early stage, well before a network lodges its proposal, with view to refining a network's approach to its engagement and analysis methods in producing a proposal, and should include explicit agreement on the role of the AER Consumer Challenge Panel (CCP) as compared to the network's consumer panel.

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<sup>1</sup> For consistency, this cover letter and submission uses the term 'consumer' to refer to those parties (persons and businesses) that pay tariffs (via their retailers or directly) for using services provided by network service providers (networks), irrespective of whether these services involve the consumption or export of electricity.

- **Stronger and earlier guidance from the AER:** in respect of its approach to evaluating a network's proposal, including areas requiring targeted review, and gaps that would need to be addressed in order to achieve a proposal capable of acceptance.
- **A greater focus on value delivered to consumers:** to ensure the AER considers the full scope of a network's engagement process, and the analysis it has employed with respect to the outcomes and outputs for consumers expected from the proposal. This is as compared to a review which is dominantly focused on cost inputs.

In section 4 of our submission, we outline how we foresee these recommendations could be applied in practice.

Furthermore, there are several sections of the draft Handbook that could be clarified, particularly with respect to the expectations on networks' consumer engagement, and their capital and operating expenditure forecasts.

We have also received feedback from consumer representatives that although the increased focus on engagement is likely to deliver better consumer outcomes, those advocating on behalf of consumers are finding it increasingly challenging to devote sufficient time, effort and resources to the regulatory process. We consider the AER should explicitly consider how consumer advocates, and particularly the network businesses own consumer panels, could be further supported through the process – rather than focusing support on the AER CCP.

If you have any queries or require further information in relation to our submission, please contact Bruno Coelho on 0419 666 389 or [bruno.coelho@sapowernetworks.com.au](mailto:bruno.coelho@sapowernetworks.com.au).

Yours sincerely



Mark Vincent  
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## 1. Broader objectives should be set for the Handbook

While some general goals are referred to in the draft Handbook, setting explicit and broader objectives could enable a clearer assessment of how to best deliver improved outcomes for key stakeholders to a reset. We propose that the AER consider applying three key objectives, as set out below.

### Objective 1: Encourage proposals that are shaped by consumers and deliver valued outcomes

The primary objective should be to drive proposals in consumers' interests. AER reviews should consider:

- how consumers have shaped a proposal—this is noting that networks are increasingly employing a broad range of engagement techniques to obtain and incorporate consumers' views, including directly from consumers; and
- the consumer value from the outcomes and outputs expected from a proposal—this is noting that networks are undertaking increasingly sophisticated analysis in valuing service risk and benefits to consumers, including in monetary terms.<sup>2</sup>

### Objective 2: Improve regulatory process efficiency for all key parties

This work should aim to make the regulatory process more efficient, with tangible improvements for all key parties to the reset (i.e. consumers / consumer representatives; the AER; and networks). This is noting that, in our view, resets are becoming increasingly complex and interventionist, with:

- increased burden on consumer representatives— noting the multiple and at times duplicative engagement layers with networks running their own engagement, the AER CCP often joining this engagement late in the process with a mandate that is somewhat unclear to networks and their consumer groups, and the AER then running its own engagement;
- ever increasing detail and volume of documentation (as Figure 1 shows) that the AER expects networks to produce for all aspects of a proposal irrespective of materiality and significance to an assessment;<sup>3</sup> and
- a weakening of incentive regulation, and AER reviews delving further to 'bottom-up' forensic assessments rather than reliance on more 'top-down' approaches.

Figure 1: SAPN 2020-25 reset artefacts

Reset stage	Artefacts
Framework & approach	Documents lodged: 3 Document pages: 64
Regulatory proposal	Documents lodged: 142 Document pages: 6,362
AER draft decision	Information requests: 74 Number of questions: 743
Revised proposal	Documents lodged: 109 Document pages: 2,954
Final AER decision	Information requests: 23 Number of questions: 163

### Objective 3: Establish clear expectations for all key parties

This work should enable clearly understood expectations as to the role that each key party to the reset will play, with view to streamlining the reset process and a no-surprises approach. This is noting that:

- there is typically some confusion and duplication as to the role to be played by a network's consumer panel and representatives versus that of the AER's CCP; and
- networks have little AER insight to focus a proposal's documentation, often only finding out after lodging, if the AER is concerned with the underlying approach the network employed, for example, a key scenario / investment option, or other aspect that it was expecting to see assessed.

<sup>2</sup> That, is, explaining the consumer value of new services, service improvements or service degradation risk in dollar terms.

<sup>3</sup> For example, despite intending a top-down assessment of ICT 'recurrent expenditure' (using revealed costs and benchmarking), the AER still expects business cases for all lines of 'recurrent expenditure' even if forecasts align to actuals. Producing these business cases, a material cost, serves no apparent purpose. Networks must also now do extensive ICT post-implementation reporting on a line-item basis, steering the AER toward bottom-up reviews of specific management decisions.



## 2. The Handbook could further progress the proposed objectives

Assuming, whether stated explicitly or otherwise, that the AER shares our perspective on the key objectives of this process, we have undertaken an assessment as to what extent the draft Handbook aligns with these objectives. We consider that further progress could be made, for the reasons we set out below.

### **Objective 1: Encourage proposals that are shaped by consumers and deliver valued outcomes**

The draft Handbook appears to reflect:

- a view that good consumer engagement is predominantly reflected by calling for written stakeholder submissions and by seeking the views of consumer representatives. We expect to employ a broad range of engagement techniques, including ones which seek insights directly from consumers, and most of our engagement will have occurred before requesting written submissions; and
- a continued focus on inputs, rather than talking to the consumer outcomes and outputs expected from a proposal and how understanding these might drive a more targeted review by the AER.

### **Objective 2: Improve regulatory process efficiency for all key parties**

While the draft Handbook refers to ‘reputational’ benefits to networks in following the Handbook process, our interest is more in ensuring that the process of achieving a regulatory determination that is in consumers’ interests is an efficient one.

Based on what has been presented, we do not anticipate any material improvement to the efficiency of a reset process. This is noting that:

- the AER ‘early signal’ at the Issues Paper stage (i.e. after a proposal has been lodged) on what its review would target, will not serve to inform nor reduce the content networks must submit for their original proposal, which currently drives the majority of effort and cost, as Figure 1 shows;
- there are no apparent changes to evolve the AER’s assessment techniques. On the basis of SA Power Networks’ last reset, the message effectively sent by AER staff is that we need more rather than less detail on all aspects of our next proposal. Further, while the draft Handbook suggests a greater focus where expenditure forecasts are materially higher than actuals, it does not suggest that where this is not the case, less justification and documentation will be expected; and
- there is still uncertainty as to the exact role that the AER CCP will play, when in a network’s engagement process that the CCP will be appointed, and the merit of having two independent assessments / audits of a network’s engagement process (i.e. one by the AER CCP and another by a network’s consumer panel).

### **Objective 3: Establish clear expectations for all key parties**

The draft Handbook fails to set any clear expectations on the AER itself, in terms of what it will commit to providing networks and other key parties, and there is nothing that the AER proposes to do that might help networks focus their original proposal. This is noting that:

- there is no active involvement or commitment proposed for the AER / AER staff in the pre-lodgement phase; and
- the draft Handbook indicates that AER staff will not provide any guidance or advice at all on whether an aspect of a draft proposal will meet AER expectations. We appreciate that AER staff cannot speak for the Board’s decisions, however, it will not serve to improve efficiency for the AER to remain silent on whether a network’s approach to engagement or analysis methods are omitting key things the AER will expect to see.



### 3. Our proposed improvements to the Handbook

We propose several improvements be considered, in order to better align the Handbook to our proposed key objectives, as discussed below.

#### 3.1 Considering if a proposal is in consumers’ interests

In reference to our Objective 1, and without fully understanding the intend behind the language in the draft Handbook, we encourage the AER to ensure that in assessing whether a proposal is in consumers’ interests, that due consideration be given to:









- the full breadth of the consumer engagement that a network has undertaken, and how they have sought to reflect what they have heard from consumers, in terms of what has gone into a proposal, rather than focussing mainly on submissions or views of individual representatives; and
- the analysis that a network has undertaken, on the proposal’s likely expected service outcomes and outputs for consumers.

In future, we would also welcome the AER exploring how to place greater focus on consumer service outcomes and outputs, in its approaches to tracking performance and benchmarking, incentive scheme design, and proposal assessment methods.

#### 3.2 Setting clear expectations on the AER

In reference to our Objectives 1 and 2, our primary recommendation is that clear expectations should be set on the AER, in terms of what it will commit to providing in the reset process. Our views on what we would like to see from the AER are summarised in Figure 2 and discussed below.

Figure 2: SA Power Networks expectations on the AER

	Reset process stage	SAPN expectations of AER	
Pre-lodgement	Pre-engagement agreement 	<ul style="list-style-type: none"> <li>• Joint agreement on process &amp; roles (AER, CCP, network consumer panels, network)</li> <li>• AER to commit staff to early collaboration &amp; attendance at key engagement milestones</li> <li>• AER to appoint CCP or delegate authority to network consumer panel</li> </ul>	
	Engagement 	<ul style="list-style-type: none"> <li>• AER staff to indicate if engagement and analysis approaches / methods being employed are likely to align to AER expectations</li> </ul>	
	NSP draft proposal 	<ul style="list-style-type: none"> <li>• AER to indicate likely areas of a proposal that may require detailed justification</li> </ul>	
Post-lodgement	Regulatory proposal 	Proposal documentation to focus on areas the AER indicated it would require detailed justification	
	Early signalling 	<div style="border: 1px solid black; padding: 5px; background-color: #f9e79f;">                     Current focus of Handbook process                 </div>	
	Forum & submissions 		AER public engagement on its work toward its draft and final decisions to focus more on explaining how the outputs / outcomes of its decisions are likely to meet consumer expectations.
	Draft decision 		AER to consider potential new techniques for assessing material and technically complex aspects of a proposal / revised proposal.
	Revised proposal / Final decision 		



### ***Pre-lodgement stage***

The AER and AER staff, should look to play a more active role in the pre-lodgement phase by:

- participating in a joint agreement, prior to a network starting its engagement programme, to set clear expectations on the engagement process, and the roles that each key party (i.e. AER, CCP, network, and network consumer panel), will play in the engagement and broader reset;
- collaborating with a network and its consumer panel and being prepared to indicate:
  - if key aspects of a network's approach to engagement or its analysis / methods are omitting key things the AER may likely expect to see in its later and formal review, thereby allowing a network and its consumer panel the time to make rectifications (to the analysis and engagement on this) before a proposal is lodged;<sup>4</sup> and
  - if possible, areas of a proposal that are likely to require more detailed justification, so that networks have some idea of where to focus efforts in a proposal.
- appointing the AER CCP at this early stage to avoid role uncertainty and engagement duplication, and ensure appropriate understanding of the desires of a particular jurisdiction's consumers; and
- as an alternative, considering delegating responsibility to a network's consumer panel to serve the role of the AER CCP, subject to some clearly agreed criteria, improving efficiency by having only one panel involved throughout the entirety of the pre and post lodgement process.

### ***Post-lodgement stage***

In assessing a proposal, and in addition to considering expected outputs and outcomes as discussed above, we would like to see the AER:

- in arriving at a draft and final decision, better explaining to consumers and networks (in documents and public forums), why it considers its substitute forecasts (where it has cut proposed expenditures) to be sufficient to align to the service expectations of consumers, noting that:
  - while networks should focus on consumer outcomes in proposals, so too should the AER in its decision making, and doing so will allow consumers to better understand the implications for them of the AER's likely decisions; and
  - at present, we observe that the AER's focus has mainly been on explaining its cuts to forecast expenditure, rather than on the reasonableness of its substitute; and
- exploring new assessing techniques, particularly for material and technically complex issues, noting that:
  - we observe some inefficiency and difficulty with transparency for consumers, in the process of the AER considering views from its external engineering consultants, subsequent network responses to AER information requests, and advice of the AER Technical Advisory Group; and
  - there may be merit in techniques such as 'hearings', as commonly used by other regulatory or government bodies, where all parties can attend and present information before the AER.

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<sup>4</sup> We do not expect this to extend to indicating if expenditure will be approved in the AER, as we appreciate that this can only be done once all information is before the AER Board. However, it would be ideal if the underlying methods undertaken by a network could be resolved prior to a proposal's submission. For example, if a network is forecasting an expenditure area using a risk monetisation approach, it would be ideal for AER staff to indicate if the framework being applied to model probability of failure, likelihood and cost of consequence, is likely to accord with the AER's expectations or if there is a key methodology concern—as opposed to commenting on likely modelling results which would occur later once all information is available. If not, a network could need time to rework its approach and potentially re-run engagement.



### 3.3 Clarifying the expectations on networks

Some aspects of the draft Handbook would benefit from greater clarity, these are outlined below.

Topic	Issues to clarify
<b>Selection for ‘targeted review process’</b>	<ul style="list-style-type: none"> <li>▪ it is unclear how a network is to satisfy the AER that it should be selected for the ‘targeted review process’. We think that an interested network should demonstrate strong executive level support, and have a suitable consumer panel formed; and</li> <li>▪ it is also unclear what a network can expect from a reset if it is not selected for the targeted review. We would hope that for all networks, the AER’s review is proportionate and gives due regard to the quality of the network’s consumer engagement.</li> </ul>
<b>Consumer engagement</b>	<ul style="list-style-type: none"> <li>▪ the draft Handbook requires that a network’s consumer panel be independent and also well-resourced to participate effectively in engagement. The Handbook should clarify if the AER intends to assist with a panel’s resource costs, and if not, if there is any concern that the AER would have with networks financially funding panel members; and</li> <li>▪ if the ‘independent consumer report’ can be prepared by a network consumer panel, or if the AER intends this being done by a party such as a consultant? It would be more meaningful and cost effective for a network consumer panel to provide this assessment.</li> </ul>
<b>Capital expenditure</b>	<ul style="list-style-type: none"> <li>▪ it is unclear if the AER intends that a capex forecast (total or at a category level) materially above actuals, would negate a targeted AER review, irrespective of how well it is justified (i.e. with identified consumer benefits). Any proposal must be reviewed on its merits against the National Electricity Rules (NER) and National Electricity Law (NEL), and if increases in capex are well justified, our view is they should not negate the AER targeting its review on these areas;</li> <li>▪ we are concerned by the implication that forecast capex increases upon actuals, and a non-steady RAB, are to be viewed suspiciously. Not all networks, and areas of capex, are in a ‘steady state’ and there may be legitimate reasons for why capex forecasts need to be higher than actuals to enable good consumer service outcomes, particularly in light of, but not limited to, the consumer-led distributed energy transformation occurring in the sector;<sup>5</sup></li> <li>▪ it is unclear why it is suggested a Regulatory Investment Test (RIT) is needed for eligible projects. Typically, RITs are undertaken after an AER determination, and closer to the time of a network’s identified need. It appears highly inefficient to require RITs be undertaken for all potentially eligible projects, significant years out from when execution is needed; and</li> <li>▪ it is unclear how the AER is defining the term ‘feasible’ in specifying that cost benefit analyses need to assess all feasible options. We would prefer a reference to a ‘reasonable and credible range of options’, to avoid the burden of assessing options that may not be credible (e.g. they may be non-compliant with legislation or regulation) or which are reasonably unlikely to affect the outcome of the overall analysis.</li> </ul>

<sup>5</sup> For example, networks may have

- differing asset age profiles with some like us having most of its older assets installed over a relatively short period of time;
- consumers demanding new services such as: enabling value from Distributed Energy Resources, requiring spend on network hosting capacity; or, new digital-based approaches for obtaining information / data from a network; and / or
- emerging new requirements, as obligations, or in response to changes in load, export, or environmental factors



Topic	Issues to clarify
<b>Operating expenditure</b>	<p>It is unclear if a step-change is proposed that does not conform to the AER's typical approach (i.e. accounting only for legislative / regulatory requirements or capex / opex shifts), that this would negate the possibility of a targeted review. Any such proposal should be reviewed on merit against the NER and NEL noting that:</p> <ul style="list-style-type: none"> <li>▪ the rules do not prescribe a step changes approach, and there is a general requirement for a network to have a reasonable opportunity to at least recover its efficient costs; and</li> <li>▪ there may be situations where the costs within an opex base-year are materially insufficient to reflect the costs that a network may expect to incur.<sup>6</sup></li> </ul> <p>Further, while it is specified that an efficiency score of greater than 0.75 is needed for a base-year to be considered efficient, there is no reference to the specific economic models or time-periods that the AER will use to calculate the efficiency score.</p>

<sup>6</sup> An example may be for the costs of obtaining data from Metering Coordinators to manage DER hosting capacity.

