

12 November 2024

Anna Collyer  
Chair  
Australian Energy Market Commission  
GPO Box 2603  
Sydney NSW 2000

Submitted via: <https://www.aemc.gov.au/contact-us/lodge-submission> (ERC0400)

Dear Ms Collyer,

### **Including distribution network resilience in the National Electricity Rules**

Nexa Advisory welcomes the opportunity to provide a submission on the AEMC's *Including distribution network resilience in the National Electricity Rules* (ERC0400) initiation paper.

Nexa is a 'for purpose' advisory firm. Our unwavering focus is accelerating the clean energy transition in a way that provides secure, reliable, and affordable power for consumers of all types. Nexa Advisory is a team of experienced specialists in the energy market, policy and regulation design, stakeholder engagement, and advocacy. We work with public and private clients including renewable energy developers, investors and climate impact philanthropists to help them get Australia's clean energy transition done.

Electricity consumers and regional host communities should be at the heart of this rule change. We recognise the complex challenges that arise from catastrophic events which threaten network resilience - and note that these disproportionately impact the regional communities who host large-scale renewables energy projects and transmission infrastructure. These communities often bear the adverse impacts caused by distribution network arrangements, network outages and limited retailer and network competition - without benefiting from the innovations and lower electricity costs of renewable generation. This has led to poor consumer outcomes such as energy poverty and a lack of social licence<sup>1</sup>.

We support the intention of this rule change to improve the resilience, given its critical role in electricity affordability and security and to ensure that these host communities are not left behind in the transition to clean energy.

However, we consider that the AEMC's proposed approach as outlined in the Consultation Paper are yet another incremental reform to a regulatory framework which is not fit-for-purpose. The proposed changes do not address key shortcomings, including:

- an 'incumbency bias' that favours the status quo, inhibiting innovation, investment and new models<sup>2</sup>
- the potential capex bias of regulated distribution network businesses<sup>3</sup>

---

<sup>1</sup> Nexa Advisory, [Accelerating Consumer Energy in Australia](#), April 2024

<sup>2</sup> Ibid

<sup>3</sup> Ibid

- a narrow focus on efficiency and prudence, rather than strategy and performance of regulated network businesses<sup>4</sup>
- ongoing erosion of distribution ring-fencing arrangements which exist to protect consumers, innovation and competition<sup>5</sup>

There remains a clear need for an independent review of distribution network governance and regulatory arrangements. In the context of the current rule change, this would explore the gaps in current arrangements and performance obligations for DNSPs which have resulted in poor consumer outcomes such as energy poverty in regional communities.

Additionally, the value of network resilience must be balanced against the willingness of consumers to bear the associated costs. Any ex-ante resilience measures will ultimately flow through to consumers and increase the network cost component of their electricity bills. Therefore, the AEMC must carefully consider the cost implications of proposed investments in resilience and ensure that they reflect consumer priorities and willingness to pay.

While the Value of Network Resilience<sup>6</sup> provides an indication of how consumers would value these investments, further targeted engagement is required before network businesses implement resilience measures. As such, this rule change should place an obligation on Distribution Network Service Providers (DNSP) to undertake transparent engagement with consumers to determine whether the anticipated benefits of such investments justify their financial burden.

### **Incremental changes to the regulatory framework do not create accountability for network planning, delivery and operation**

It is not clear that a lack of network resilience within existing guidelines / the current rules has been the major blocker to delivering network investments and consumer outcomes.

We have discussed that the regulatory arrangements are not fit-for-purpose and do not create any obligation around the timely and on-budget delivery of projects<sup>7</sup>. In the context of this rule change, it is critical to better outline how the existing reliability arrangements – such as the Value of Customer Reliability and Service Target Performance Incentive Scheme (STIPS) – create accountability for DNSPs to better address long-duration outages.

We do not consider that the AEMC's proposed rule change creates a clear line of sight between these reliability measures and consumer resilience outcomes. While the inclusion of resilience expenditure factors makes progress to achieve this, we consider that creating greater accountability around deliverability and network performance in the regulatory process would better address the intention of the rule change and align the incentives of DNSPs with consumer resilience outcomes.

The electricity networks already generate significant profits, as evidenced by their estimated \$4.35 billion in supernormal profits in the 2023 regulatory year, which is over and above their

---

<sup>4</sup> Nexa Advisory, [Supercharging Transmission Buildout](#), September 2024

<sup>5</sup> Nexa Advisory, [AER Ring-fencing class waiver for community batteries submission](#), January 2023

<sup>6</sup> AER, [Value of Network Resilience 2024](#), September 2024

<sup>7</sup> Nexa Advisory, [Supercharging Transmission Buildout](#), September 2024

regulated profit allowance of \$1.39 billion<sup>8</sup>. At the same time, existing incentive-based regulation which encourages cost efficiency, has not adequately incentivised network resilience investments. This failure to reinvest highlights a disconnect between the profits earned by regulated networks businesses, and their responsibility to improve system resilience, leaving consumers - particularly those in vulnerable communities - exposed to the consequences of extreme weather events.

While the above changes to the treatment of network resilience in the NER and within AER Guidelines is a step in the right direction, we consider that shifting towards performance-based regulation - which encourages networks to take on risk on behalf of consumers – would also align with the intention of this rule change.

### **The role of non-network and other complementary resilience measures**

The AEMC must consider how this rule change could result in the most efficient outcomes – which may include non-network solutions - rather than undertaking ongoing regulatory reforms. We note the advantages of non-network solutions in overcoming challenges around resilience given their smaller footprint, and therefore support the AEMC’s focus to help deliver these solutions.

It is critical that the regulatory framework enables competitive outcomes and innovative solutions. Although this was a transmission outage, the recent Broken Hill outage is a clear example of how a non-network solution (i.e., Silver City Energy Storage Project) could have improved consumer resilience outcomes. This highlights that where regulated monopoly network businesses are unwilling or unable to make the necessary investments to ensure network performance (including in non-network solutions), there is a clear case that the market should be opened to allow unregulated entities to deliver the resilience solutions required.

However, in considering how to deliver resilience outcomes for regional communities, it is important to assess whether regulatory approaches focused on network expenditure are necessary. For example, the Ballarat Energy Network in Victoria has leveraged an innovative approach to develop a community-owned energy network, rather than relying on traditional network investment. This involves a behind-the-meter network to locally generate, share, and store renewable energy. Although this is not specifically targeted at delivering network resilience investment (via regulated network expenditure), this approach demonstrates the potential for non-network solutions to enhance resilience in a cost-effective and consumer-focused manner.

Another non-network alternative solution to regulated resilience network expenditure is the development of Stand-Alone Power Systems (SAPS). We have previously discussed the opportunity to leverage this across regional communities to provide a cost-efficient solution and lower overall network costs while enhancing the reliability outcomes for consumers<sup>9</sup>. However, barriers to their adoption have included:

- complex market arrangements – including pseudo-competitive retail arrangements; and

---

<sup>8</sup> Institute for Energy Economics and Financial Analysis, [Taming electricity price inflation starts with addressing network supernormal profits](#), 5 November 2025

<sup>9</sup> Nexa Advisory, [Accelerating Consumer Energy in Australia](#), April 2024

- difficulty in determining the costs and benefits of locating SAPS across the local electricity networks, due to a lack of network data.

The AEMC should consider how the proposed changes would enable the alternative solutions discussed above, delivering equitable resilience outcomes without necessarily resorting to costly network expenditure. For example, this could include identifying the value of network services (and delivering non-network solutions through innovative, competitive business models) and reflecting the cost of this service as operational expenditure, rather than another capital investment within the Regulated Asset Base. Critically, these solutions require competition, flexibility and innovation.

### **There remains a broader need for a review of distribution network arrangements**

It is critical that distribution ring-fencing rules are upheld, ensuring competition is maintained and that regulated monopoly network businesses do not hinder this innovation from third-party service providers. This would meet consumer reliability outcomes via the solutions discussed above, without requiring ongoing regulatory reforms.

We consider the governance arrangements and specific roles and responsibilities of DNSPs has not been adequately considered in the context of the regulatory reform, distribution services and CER innovation currently underway. This is exemplified by the AER's recent ring-fencing class waiver for Community batteries<sup>10</sup>, which though limited in application, set a precedent which could undermine the intention of ring-fencing<sup>11</sup> to protect competitive market dynamics and consumer outcomes for regulated network monopoly businesses.

We have recently called for an independent review of the role of DNSPs<sup>12</sup>, and note that this also aligns with the AEMC's current Electricity pricing for a consumer-driven future Review<sup>13</sup>. In the context of the current rule change, this would explore the gaps in current arrangements and performance obligations for DNSPs which have resulted in poor consumer outcomes and outages, and how resilience outcomes could be better delivered.

### **Alignment with broader emissions reduction and consumer outcomes is needed**

The current rule change must also be considered alongside the emissions component of the National Electricity Objectives. We see this as compatible with the recent incorporation of emissions reduction (including through the value of emissions reduction) – but note that any additional guidelines must specify how emissions should be included alongside consumer preferences within the decision-making of DNSPs.

---

<sup>10</sup> AER, [Batteries funded under the Commonwealth Government's Community Batteries for Household Solar Program - Ring-fencing class waiver](#), February 2023

<sup>11</sup> AER, [Electricity distribution Ring-fencing Guideline Explanatory statement](#), November 2021

<sup>12</sup> Nexa Advisory, [Submission on the Select Committee on Energy Planning and Regulation in Australia](#), October 2024

<sup>13</sup> Nexa Advisory, [AEMC Electricity pricing for a consumer-driven future: Draft Terms of Reference submission](#), August 2024



Thank you for the opportunity to provide input on this Consultation Paper. We welcome the opportunity to further discuss any aspect of our submission - please contact either myself or Jordan Ferrari, Director - Policy and Analysis, [jordanferrari@nexaadvisory.com.au](mailto:jordanferrari@nexaadvisory.com.au).

Yours Sincerely

Stephanie Bashir  
CEO and Principal  
Nexa Advisory