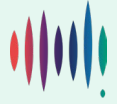




Post Draft Decision Discussion Paper

Submission to the Australian Energy
Regulator

DATE: 23/10/2026



Energy Consumers Australia is the national voice for household and small business energy consumers. We advocate for a fair, affordable and reliable energy system that meets everyone's needs and leaves no one behind on the journey to net zero.

ECA welcomes the opportunity to respond to the AER's Post Draft Decision Discussion Paper. As we understand it, the primary purpose of the discussion paper is to respond to the Independent Panel's report.¹

Our overarching principle is unchanged: **the Rate of Return Instrument (RORI), and its associated parameters, should be set at the minimum level necessary to attract prudent and efficient investment in networks.** The AER must do more to ensure the 2026 RORI achieves this objective in the coming years.

Our submission makes the following four key points and associated recommendations:

The new analysis supports a further reduction in equity beta

We consider the AER's additional analysis strengthens the case for reducing equity beta and provides a stronger evidentiary basis than the Draft Decision. Equity beta should be no higher than 0.5.

The MRP remains upwardly biased

The AER should give primary weight to the weighted-average historical excess returns metric when determining the MRP. On this basis, the MRP should be no higher than 6.0%.

The AER must do more to ensure consumers will not overpay

The AER's discussion paper responds extensively to the Independent Panel's recommendations regarding the equity beta and market risk premium (MRP). However, it provides far less consideration of the Panel's recommendation that the AER demonstrate that the RORI will result in prices being no higher than necessary to support efficient investment.

The AER must immediately commence a review of the regulatory treatment of inflation

A key driver of network financial outperformance has been the way higher-than-forecast inflation flows through the regulatory framework. Given the potential for continued inflation volatility, the AER should commence an immediate review to determine whether the current approach remains fit for purpose.

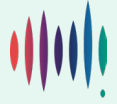
We provide further detail below. Thank you for considering this submission.

Regards

Ashley Bradshaw

Executive Manager – Advocacy and Policy

¹ AER. Post Draft Decision Discussion Paper, October 2026, p. 5.



The new analysis supports a further reduction of equity beta

The AER's Draft Decision adopted an equity beta of 0.55, being the midpoint of a range from 0.4 to 0.7, where:

- 0.4 was the average equity beta of the majority-regulated firms in the domestic data set.
- 0.7 was the average equity beta of the new international data set.

In our submission on the Draft Decision, we raised concerns with this approach, noting that:

- primary weight should be given to majority-regulated dataset;
- four of the five businesses in the domestic sample had an equity beta below 0.4, raising questions as to why 0.4 should be considered the lower bound of an appropriate range; and
- many businesses in the international dataset were exposed to systematic risks not faced by Australian networks.²

We considered that the 2026 RORI equity beta should be no higher than 0.5, noting that previous decisions have established a historical precedent for a 0.1 reduction in equity beta.

Overall, we support the additional analysis undertaken by the AER and consider it provides a stronger basis for estimating equity beta. In particular, we commend the AER for refining its international sample to improve comparability with Australian network service providers.

The updated analysis reports a longest-period average equity beta of 0.37 for majority-regulated Australian firms and 0.56 for the revised European sample (excluding Hera Group).³ Applying the same midpoint methodology used in the Draft Decision would imply an equity beta of approximately 0.47.

The updated evidence therefore supports a lower equity beta than that proposed in the Draft Decision and is broadly consistent with our previous submission that equity beta should be no higher than 0.5. Notably, an equity beta of 0.5 remains above the average estimate for the domestic majority-regulated sample, suggesting a further reduction is warranted.

The MRP remains upwardly biased

The AER states that the Independent Panel considered that the Draft Decision did not make a persuasive case for reducing the MRP.⁴ However, our reading of the Panel's report is more nuanced. The Independent Panel concluded that applying the 2022 methodology to updated data did not provide a strong basis for reducing the MRP.⁵ Importantly, the Independent Panel also stated that it "has not formed the view that a value of 6.1% for the MRP would be inappropriate."⁶

This distinction is important. In both the 2018 and 2022 reviews, the AER set the MRP at a level equivalent to the arithmetic average of historical excess returns (HER) since 1988.⁷ As the Independent Panel notes, in previous Explanatory Statements, the AER has said it primarily relies on this metric to estimate MRP (while considering other indicators).

² ECA, Submission to Draft RORI Decision, July 2026.

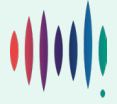
³ AER, Post Draft Decision Discussion Paper, October 2026, p. 24

⁴ Ibid., p. 27,

⁵ Independent Panel, Report for the AER Draft Rate of Return Instrument, July 2026, p. 3

⁶ Ibid.

⁷ Ibid. p. 31



As at December 2025, the arithmetic average HER is approximately 6.3%. Viewed through this lens, it is understandable why the Independent Panel concluded that updated data alone does not provide a strong case for a reduction. However, both ECA and the Consumer Reference Group have previously raised concerns that excessive reliance on the arithmetic average systematically biases the MRP upwards.

In 2022, the AER first introduced the weighted average metric – a weighted average of the arithmetic and geometric average of the HER. As the AER stated in the 2022 review, the literature suggests such a metric produces the least biased estimate over the long-term.⁸ The arithmetic average receives a 75% weight and it therefore places the weighted average closer to the arithmetic average.

If that rationale remains valid, the weighted-average estimate should be given primary consideration in determining the MRP. However, despite the weighted-average estimate being 5.9% in the 2022 review, the AER increased the MRP from 6.1% to 6.2%.⁹ That outcome coincided with the arithmetic-average estimate and, in our view, reflected an upward bias that was not clearly justified.

The updated weighted-average estimate is now 6.0%.¹⁰ Consistent with the AER's own rationale for adopting this measure, we remain of the view that the MRP should be no higher than 6.0 per cent.

The AER needs to ensure that consumers do not overpay

We remain concerned that the 2026 RORI will contribute to customers overpaying for network investment, largely due to the treatment of inflation.

The Independent Panel's report made two main recommendations:¹¹

1. The AER needs to demonstrate that its final decision on RORI will result in prices being no higher than necessary to deliver required investment
2. The AER needs to more clearly demonstrate its reasoning behind its decision to change equity beta and market risk premium.

While the AER's Post Draft Decision Paper provides an extensive response to the second recommendation, it gives comparatively little attention to the first. We remain concerned that the AER has not sufficiently examined whether historical and future returns are likely to exceed the level necessary to support efficient investment.

As the Independent Panel noted, recent acquisitions of AusNet Services and Spark Infrastructure occurred at significant premiums to their regulatory asset bases.¹² This suggests investors expected returns above those implied by the regulatory framework and were nevertheless willing to commit substantial capital.

Our previous submissions highlighted the AER's own analysis showing that actual historical returns have often materially exceeded regulated returns. A key driver of this outcome is the regulatory treatment of

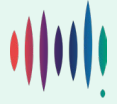
⁸ AER, Post Draft Decision Discussion Paper, October 2026, p. 34

⁹ Independent Panel, Report for the AER Draft Rate of Return Instrument, July 2026, p. 31

¹⁰ Ibid. p. 60.

¹¹ Independent Panel, Report for the AER Draft Rate of Return Instrument, July 2026, p. 6

¹² Ibid., p. 13



inflation, discussed in the following section.¹³ We are concerned that the AER has given limited attention to this evidence, instead focusing primarily on questions about the estimation of individual parameters.

While it may now be too late for the AER to provide consumers with confidence that past and future returns are no higher than necessary, we strongly encourage the AER to make this a central focus of future reviews. The next RORI review should begin with a backward-looking assessment of how the existing framework has performed in practice, including whether it has delivered returns consistent with the NEO. Establishing this context first would help ensure discussions about parameter estimation remain connected to the fundamental question: are consumers paying no more than is necessary to attract efficient investment?

The AER must immediately commence a review of the regulatory treatment of inflation

The AER should immediately undertake a comprehensive review of how inflation is treated within the regulatory framework and expedite implementation of any necessary reforms.

As our previous submissions have highlighted, higher-than-forecast inflation has resulted in higher-than-forecast returns on equity due to the way inflation is treated within the regulatory framework. The Independent Panel acknowledged this issue, noting that:¹⁴

“One consequence of higher inflation, ... is that it can have a significant effect on raising actual rates of return of energy network service providers. The AER has shown in its performance reports on the sector how inflation and regulatory incentives have contributed to this strong financial outperformance.”

However, we are concerned that the Independent Panel's discussion did not fully engage with the issue we raised. The Panel considered the matter within a chapter addressing cost-of-living pressures and concluded that “the AER should not set RORI according to any cost-of-living considerations or drivers”.¹⁵

This was not the issue raised in our submission. Our concern is not that returns should be adjusted because inflation has increased consumers' cost of living. Rather, it is that differences between forecast and actual inflation can materially affect the returns earned by investors under the regulatory framework. We continue to advocate for reforms that reduce the risk that volatility in inflation alone results in substantial divergences between regulated and actual returns. In our view, persistent mismatches of this nature are unlikely to be in the long-term interests of consumers. Other regulators have identified similar issues and implemented reforms to address them.¹⁶

Both the AER and the Independent Panel ultimately concluded that inflation is outside the scope of this RORI review.¹⁷ We remain unconvinced by this position given the clear effect inflation can have on actual investor returns and, consequently, the prices consumers pay. Regardless of whether reforms can be considered within the current review, there is a compelling case for the AER to immediately commence a dedicated review of the regulatory treatment of inflation and assess whether the current

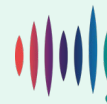
¹³ See ECA Submissions to AER Discussion Paper and Draft Decision, and attached reports by EMAS.

¹⁴ See reference 3.

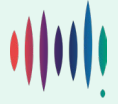
¹⁵ See reference 3.

¹⁶ See Consumer Reference Group, Inflation Advice to the AER, July 2026.

¹⁷ Independent Panel, Report for the AER Draft Rate of Return Instrument, July 2026, p. 6



approach remains fit for purpose. We refer the AER to our previous submissions for further discussion of the issue and potential reform options.



Responses to the consultation questions

Given the difference between majority- and minority-regulated firms in the AER's domestic sample, what would be the case for the AER to treat all domestic firms equally?

There is **no** justification for treating all domestic firms equally. The evidence suggests majority-regulated firms have lower exposure to systematic risk than minority-regulated firms and are therefore more comparable to Australian NSPs. The AER should place primary weight on the majority-regulated sample.

Given the long-term stability of domestic data, what would be the case for the AER to place reliance on international data?

The domestic data set provides the best basis for estimating equity beta. The international data show materially higher risk exposure than Australian firms, suggesting caution is required when placing weight on those estimates. To the extent the AER relies on international data, it should ensure those firms operate under regulatory frameworks that are comparable to those applying to Australian NSPs. But it must be aware of a potential bias in this new data, and ensure that it gives primary weight to the domestic data.

We support the AER's additional analysis of the comparability of international NSPs to domestic NSPs. We agree with the AER that the European NSPs are the most comparable.

Should the AER give consideration to the decrease in the most recent 5-year estimates of equity beta for both domestic (APA Group) and international firms?

The decline is notable and directionally consistent with a lower equity beta. However, we continue to agree with the AER that equity beta should be estimated using longer-term evidence. On that basis, the longest-period estimate for majority-regulated firms remains the most reliable indicator and is 0.37.

Do you agree with the inclusion of 5 additional European firms to the AER's proposed international sample of firms, as suggested by the Independent Panel in its report?

The inclusion of the additional European firms appears to improve the sample's comparability. However, we continue to emphasise that international evidence should play a secondary role to the domestic majority-regulated sample. Of the international options considered, the revised European sample is the most suitable.

Should the AER remove Hera Group from the proposed international sample of firms, given that a relatively small proportion of its energy revenue is derived from regulated networks?

Yes. We agree with the AER's assessment.

Section 4.2 sets out our further analysis of what has driven the decline in the DGM estimates since the 2022 RORI review. What is the case for giving weight to the DGM evidence in estimating the MRP, having regard to that analysis?

The DGM evidence provides useful contextual information and can assist in understanding changes in investor expectations over time. However, we remain cautious about placing substantial weight on DGM estimates when determining the MRP. At a minimum, the decline in DGM estimates does not support maintaining or increasing the MRP and is directionally consistent with a lower estimate.

**The national voice for residential and
small business energy consumers**



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