



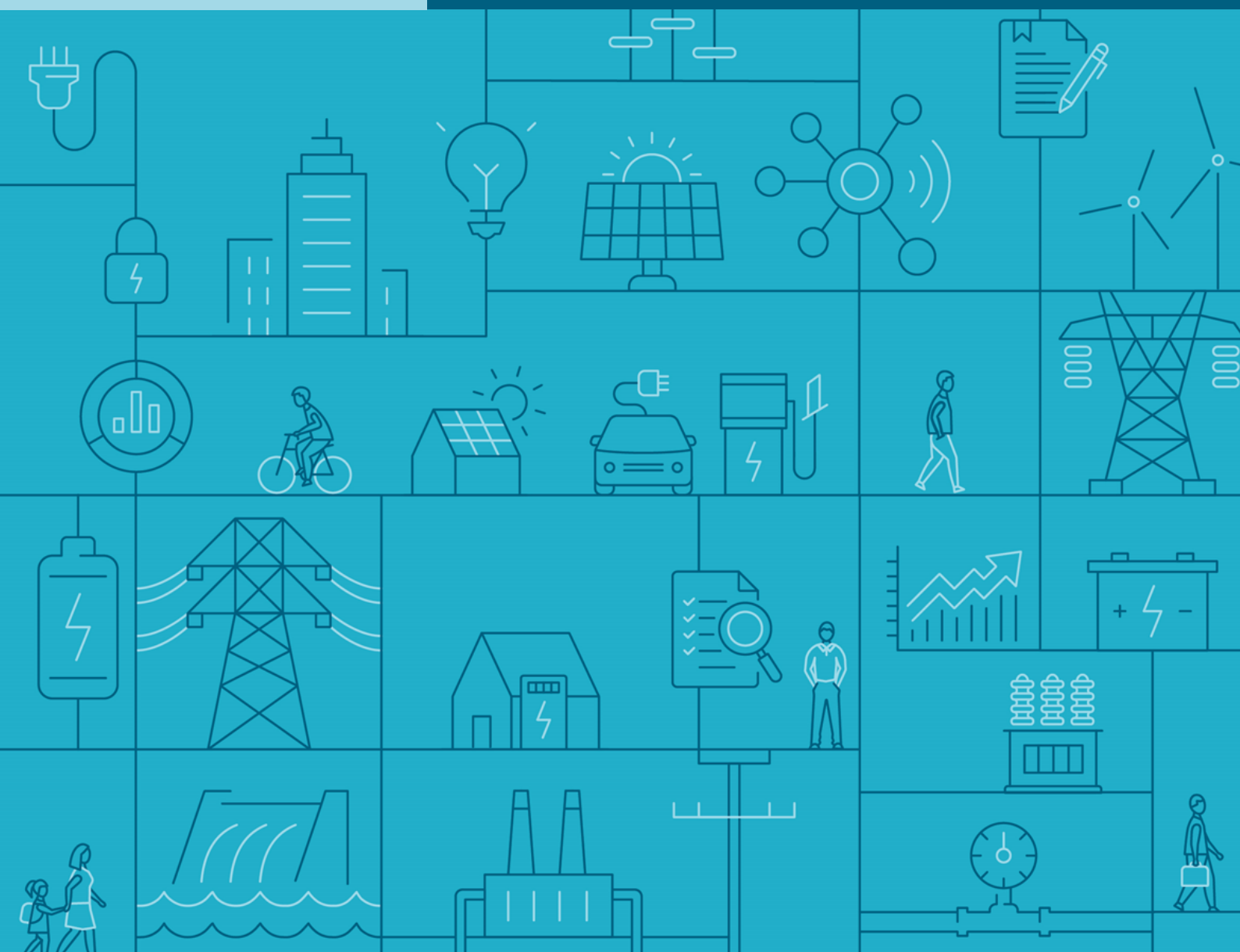
Consumer
Trustee

Statement of Reasons

Access Fee Determination for
South-West Renewable Energy Zone

Public summary of reasons for Consumer
Trustee's decision on Access Fees

December 2024



Important notice

PURPOSE

The Consumer Trustee has published this summary of reasons for its decision to determine the South-West Renewable Energy Zone Network Access Fees, for information purposes only. It is published to outline the approach taken by the Consumer Trustee in reaching its decision, is a summary of that decision and is not intended to be comprehensive. To the maximum extent permitted by law, the Consumer Trustee (including its officers, employees, agents, contractors and consultants) expressly disclaims any and all liability relating to or resulting from the use of, or reliance on, the information in this document by any person or entity.

Any specific questions should be addressed to the Consumer Trustee at stakeholderengagement@aemoservices.com.au

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Summary

AEMO Services Limited (**AEMO Services**) as the NSW Consumer Trustee (**Consumer Trustee**) has made an Access Fee Determination under section 26 of the *Electricity Infrastructure Investment Act 2020* (NSW) (**EII Act**) in relation to Access Rights Holders (**ARHs**) who obtain an Access Right as part of the Initial Allocation of Access Rights for the South-West (**SW**) Renewable Energy Zone (**REZ**).¹ The Consumer Trustee's statutory decision is set out in the Access Fee Determination published on AEMO Services' website.²

In setting Access Fees, the Consumer Trustee is required to act independently and in the long-term financial interests of NSW electricity customers and consistently with the objects of the EII Act. The Consumer Trustee is also required to take into account various other matters prescribed in the EII Act and the *Electricity Infrastructure Investment Regulation 2021* (NSW) (**EII Regulation**).

The Consumer Trustee has set Access Fees to incorporate the following components:

- A contribution to community and employment benefit sharing initiatives in the REZ, as required by sections 26(2) and (4) of the EII Act (**Community & Employment Fee**);
- A contribution to the administration costs of the SW REZ Access Scheme, consistent with section 26(1)(b) of the EII Act (**Administration Fee**); and
- A contribution to the costs of the NSW Electricity Infrastructure Roadmap (**Roadmap**), consistent with maximising the financial value for NSW electricity customers as required by section 26(1)(a) of the EII Act (**Contribution to the Roadmap**).

The Consumer Trustee has set the overall Access Fees at \$4,000 / MW p.a. This level balances the contribution of SW REZ ARHs to the above components with the benefits of encouraging participation by renewable generators in the SW REZ Access Scheme, which the Consumer Trustee expects will place downward pressure on wholesale electricity prices. The Consumer Trustee considers this is in the long-term financial interests of NSW electricity customers.

This document summarises the reasons for the Consumer Trustee's determination of Access Fees for the SW REZ and outlines how the Consumer Trustee's Determination decision is consistent with its statutory requirements in the EII Act and EII Regulation. It is provided to help stakeholders understand the approach taken by the Consumer Trustee in determining Access Fees. It does not form part of the Access Fee Determination.

¹ Defined in the Renewable Energy Zone (South West) Access Scheme Order 2024 dated 4 April 2024 and published in the Government Gazette on 12 April 2024.

² <https://aemoservices.com.au/products/rez>

1. Introduction

The EII Act creates a framework for the implementation of the Roadmap. The Roadmap sets out the plan for the creation of REZs within NSW. REZs support renewable energy generation and storage in locations where electricity can be efficiently transmitted and stored across NSW.

AEMO Services is appointed as the Consumer Trustee under the EII Act³ and is responsible for setting Access Fees under section 26 of the EII Act. The Consumer Trustee sets Access Fees under an Access Fee Determination.

The Energy Corporation of NSW (**EnergyCo**), in its role as the NSW Infrastructure Planner, is responsible for administering Access Schemes for REZs in accordance with the EII Act, EII Regulation and the terms of the Access Scheme.

The SW REZ Access Scheme was formally declared by the Minister for Energy under section 24(1) of the EII Act on 12 April 2024 and is published in the NSW Government Gazette.⁴

Under the SW REZ Access Scheme, an Access Right authorises an ARH to apply to connect an approved Project to the Access Rights Network and send out generation to the Access Rights Network up to its allocated Maximum Capacity.

The Consumer Trustee opened the tender for SW REZ Access Rights for generation and storage projects seeking access to the SW REZ on 22 May 2024. Tenders closed on 27 June 2024.

On 22 May 2024, the Consumer Trustee also published a series of documents to assist proponents in understanding the proposed Access Fee Determination process. These documents included a draft Access Fee Determination and Access Fee Guidelines (**Guidelines**). The Guidelines outlined how the Access Fee for SW REZ is expected to be structured, including its components and how Access Fees are expected to be determined and adjusted.

On 20 December 2024, the Consumer Trustee published updated Access Fee Guidelines. The updated Guidelines did not make any changes to the expected structure or amount of Access Fees but provided updates to the processes for determining and adjusting access fees.

The Consumer Trustee has now made the Access Fee Determination for the SW REZ. The Access Fee Determination is the statutory decision by the Consumer Trustee.

The Access Fee Determination contains a formula to calculate Access Fee amounts payable to the Scheme Financial Vehicle (**SFV**) by ARHs. It applies to all ARHs who obtain an Access Right as part of the Initial Allocation of Access Rights for the SW REZ.

³ Section 60(1) EII Act.

⁴ Renewable Energy Zone (South West) Access Scheme Order 2024 under the Electricity Infrastructure Investment Act 2020.

2. The role of the Consumer Trustee

The Consumer Trustee has a function under section 26 of the EII Act to determine the fees payable to the SFV by participants in an Access Scheme.

When exercising its functions under the EII Act, the Consumer Trustee is to act independently and in the long-term financial interests of NSW electricity customers.⁵ The Consumer Trustee must also exercise its functions in a way that is consistent with the objects set out in section 3 of the EII Act.⁶

When exercising its Access Fee functions, the Consumer Trustee must also take into account the following principles:

- maximising financial value for NSW electricity customers;
- recovering the cost of the operation of the Access Scheme;
- optimal use of the existing and planned network infrastructure in the REZ; and
- other principles prescribed by the regulations, including the EII Regulation prescribing the principle of transparency in total determined or expected fees payable under the Access Scheme for participants.⁷

The fees determined by the Consumer Trustee must include a component that is to be used for a community purpose, as well as a component to be used for an employment purpose, as prescribed by the EII Regulation.⁸

Further, in setting these components, the Consumer Trustee is to seek advice from the Employment Purpose Advisory Committee and to consider the Renewable Energy Sector (**RES**) Board Plan.⁹

⁵ Section 60(3) EII Act.

⁶ Section 3(3) EII Act.

⁷ Section 26(1) EII Act and clause 55A EII Regulation

⁸ Section 26(2) and (4) EII Act.

⁹ Section 26(6) EII Act.

3. Access Fees

3.1 Access Fee Determination

Access Fees for the SW REZ have been set under a single Access Fee Determination that applies to all Access Rights covered by the Initial Allocation of Access Rights in the SW REZ Access Scheme. The Access Fee Determination sets Access Fees for each ARH based on a \$/MW formula, which is further explained in Section 3.3 below.

3.2 Access Fee structure and amounts

Table 1 sets out the Access Fee components and summarises the purpose, quantum and methodology for each component. As discussed in Section 3.3, the Access Fee payable will be calculated by the SFV in accordance with a formula contained in Annexure 1 of the Access Fee Determination.

Table 1: Access Fees

Fee component		Fee purpose	Fee quantum (real \$ in 2024)	Fee methodology
Community and Employment Fee	Community Fee	Contributes to community benefit sharing initiatives in the REZ, as required by section 26(2) of the EII Act.	\$1,700 / MW p.a.	Fees were set to the minimum amount in clause 56(2)(a)(i) of the EII Regulation. Fees are indexed at 2.5% p.a. from 1 July 2024.
	Employment Fee	Contributes to employment benefit sharing initiatives in the REZ, as required by section 26(4) of the EII Act.	\$600 / MW p.a.	Fees were set to the minimum amount in clause 57(2)(a)(i) of the EII Regulation and based on advice from EPAC. Fees are indexed at 2.5% p.a. from 1 July 2024.
Non-Community and Employment Fee	Administration Fee	Contributes to the administration costs of the SW REZ Access Scheme, as required by section 26(1)(b) of the EII Act.	\$691 / MW p.a.	Fees were set to reflect the forecast administration costs of SW REZ, as provided by EnergyCo. Fees are indexed at 2.5% p.a. from 1 July 2024.
	Contribution to NSW Electricity Infrastructure Roadmap	Reflects the benefits of connecting to the SW REZ Access Scheme and supports the financial sustainability and affordability of the NSW Electricity Infrastructure Roadmap, consistent with section 26(1)(a) of the EII Act.	\$1,009 / MW p.a.	Fees set to reflect an amount that would balance maximising financial value for NSW electricity customers as required under section 26(1)(a), while promoting the optimal use of the existing and planned network infrastructure in the REZ as required under section 26(1)(c) of the EII Act. Fees are indexed at 2.5% p.a. from 1 July 2024.

3.3 Access Fee formula

The Access Fee Determination sets the Access Fee based on a formula contained in Annexure 1 of the Determination. The formula will be applied by the SFV when it issues quarterly invoices to ARHs. This formula provides that the Access Fee is set at \$1,000 / MW per quarter multiplied by the ARH's Maximum Capacity and indexation, applied quarterly at 0.625% per quarter (2.5% p.a.) from 1 July 2024.

The ARH's Maximum Capacity for the relevant Initial Allocation Access Right is set out in the Access Rights Register administered and updated by EnergyCo. The process for any variation in the ARH's Maximum Capacity will be administered by EnergyCo under the Access Project Development Agreement and does not require any change to the Access Fee Determination.

4 Reasons for Decision

This section sets out how the SW REZ Access Fees meet the statutory legal requirements for the exercise of the Consumer Trustee's section 26 functions.

As set out in Table 1 above, the Consumer Trustee has designed the SW REZ Access Fee to incorporate several fee components, three of which are prescribed requirements in the EII Act. In summary:

- the **Community Fee** contributes to community benefit sharing initiatives in the REZ, as required by section 26(2) of the EII Act. This Fee has been set to the minimum amount in clause 56(2)(a)(i) of the EII Regulation for the reasons described below.
- the **Employment Fee** contributes to employment benefit sharing initiatives in the REZ, as required by section 26(4) of the EII Act. This Fee has also been set to the minimum amount in clause 57(2)(a)(i) of the EII Regulation based on advice from the Employment Purpose Advisory Committee (EPAC) and for other reasons described in detail below.
- the **Administration Fee** contributes to the administration costs of the SW REZ Access Scheme, as required by section 26(1)(b) of the EII Act. This Fee has been set to reflect the forecast administration costs of SW REZ, as provided by EnergyCo.

Further, as explained below, the Consumer Trustee has determined that an additional fee component is included to recover a contribution to the Roadmap. The Consumer Trustee considers that this additional fee component reflects the expected benefits of connecting to the SW REZ Access Scheme and supports the financial sustainability and affordability of the Roadmap, consistent with section 26(1)(a) of the EII Act. The additional fee component has been set to reflect an amount that would balance maximising financial value for NSW electricity customers as required under section 26(1)(a), while promoting the optimal use of the existing and planned network infrastructure in the REZ as required under section 26(1)(c) of the EII Act.

4.1 Long-term financial interests of NSW electricity customers

In exercising its functions under the EII Act, the Consumer Trustee is required to act independently and in the long-term financial interests of NSW electricity customers.¹⁰ In assessing whether the decision to set SW REZ Access Fees is in the long-term financial interests of NSW electricity customers, the Consumer Trustee considered whether the financial benefits to NSW electricity customers of the decision to set the level of SW REZ Access Fees outweighs the financial costs to NSW electricity customers. NSW electricity customers do not incur any direct costs as a result of the Consumer Trustee's SW REZ Access Fee Determination decision.

The broader costs of implementing the Roadmap - for example, the costs of other REZ network infrastructure projects,¹¹ priority transmission infrastructure projects and Long-Term Energy Service Agreements (**LTESAs**) - are recovered from the SFV and ultimately funded by NSW electricity customers through their retail bills. Costs incurred by Roadmap bodies in performing their functions may also be recovered from the SFV and NSW electricity customers if provided for in the EII Regulation.¹² However, these broader Roadmap costs are expected to be offset by the reduction in wholesale market prices arising from the introduction of more renewables into the grid, which will put downward pressure on retail bills.

In setting the level of Access Fees, the Consumer Trustee has had regard to the ability to use Access Fees to reduce NSW electricity customer contributions to the costs of the Roadmap, balanced with the need to encourage investment in new renewable generation, thereby reducing pressure on wholesale prices for customers.

10 Section 60(3) EII Act.

11 The costs of the transmission projects associated with SW REZ are being funded through Transgrid's transmission charges under the National Electricity Rules (NER). Although these costs will ultimately be recovered from NSW and ACT electricity customers under the NER, they are not recovered under the EII Act and will be incurred regardless of the Access Scheme.

12 Section 66(4) EII Act.

The Consumer Trustee considered the risk that if Access Fees are set too high, intending participants may choose not to connect, or may seek to connect elsewhere rather than in SW REZ. The Consumer Trustee also considered the possibility that intending participants may seek to pass on the costs associated with the higher Access Fees to NSW electricity customers (through LTESA costs, wholesale contracts markets and/or spot market bids). The Consumer Trustee assessed the consequences of lower than anticipated participation in the Access Scheme and the potential risks to investment in new infrastructure, and to affordable, reliable and secure electricity supply. The Consumer Trustee notes that the risk of the passing-on of higher costs by ARHs creates risks to affordability, which is a key enabler of new electricity infrastructure in NSW.

The Consumer Trustee also acknowledges the risk that if Access Fees are set too low, NSW electricity customers face risks to affordability because they will bear a greater share of the costs associated with the Roadmap.

As such, the Consumer Trustee has ensured that the overall fee amount is set with reference to the estimated access premium that ARHs would be willing to pay for the benefits of connecting under the Access Scheme. The Consumer Trustee has based its analysis of access premiums for the SW REZ on analysis which examined the expected value to ARHs of connecting to the REZ and receiving increased certainty of congestion outcomes in exchange for an Access Fee.

The Consumer Trustee has also considered the extent to which Access Fees should be used to reduce contributions by NSW electricity customers to the costs of the Roadmap, which would represent a direct financial benefit to these customers. Based on that assessment, the Consumer Trustee has determined that the SW REZ Access Fees should incorporate a contribution to the costs of the Roadmap, consistent with its long-term financial interest considerations and the principle of maximising the financial value for NSW electricity customers as required by section 26(1)(a) of the EII Act (otherwise known as the **Contribution to the Roadmap**).

This component has been set at a level that, the Consumer Trustee considers, reflects the benefits to ARHs of connecting into the SW REZ, but not at a level that is so high as to deter investment by renewable generators in the SW REZ, thereby supporting the financial sustainability and affordability of the Roadmap. As a result of the Contribution to the Roadmap, the Consumer Trustee considers that the financial benefits to NSW electricity customers of its decision to set the SW REZ Access Fees outweigh the financial costs to NSW electricity customers over the long-term.

4.2 Consistency with the objects of the EII Act

The EII Act has a number of objects which relate to electricity supply, the delivery of new electricity infrastructure and broader socio-economic objectives. The Consumer Trustee must exercise its functions in a way that is consistent with the objects (shown in Table 2).¹³

Table 2: Objects of the EII Act

1 Objects of the EII Act	
A	to improve the affordability, reliability, security and sustainability of electricity supply.
B	to co-ordinate investment in new generation, storage, network and related infrastructure.
C	to encourage investment in new generation, storage, network and related infrastructure by reducing risk for investors.
D	to foster local community support for investment in new generation, storage, network and related infrastructure.
E	to support economic development and manufacturing.
F	to create employment, including employment for Aboriginal and Torres Strait Islander people.
G	to invest in education and training.
H	to promote local industry, manufacturing and jobs.
I	to promote export opportunities for generation, storage and network technology.
2 Additional objects of Parts 4 to 6 of the EII Act	
A	to increase employment and income opportunities for Aboriginal and Torres Strait Islander people in NSW.
B	to promote consultation and negotiation with the traditional Aboriginal owners of land on which generation, storage and network infrastructure is proposed to be constructed or operated under the Act.

¹³ Section 3(3) EII Act.

The Consumer Trustee considered and assessed the objects in determining the SW REZ Access Fees by:

- Preparing quantitative estimates of the benefits to ARHs from participating in a REZ and comparison with counterfactuals (i.e. costs and benefits of connecting outside a REZ).
- Consulting with potential ARHs on the fee components and amounts to promote ARH interest and take-up of Access Rights, and to encourage generation, storage and network technology.
- Consulting with EnergyCo on the fee components and amounts.
- Consulting with the Consumer Reference Group on setting access fees and informing them of the fee components and amounts for SW REZ, including how the Consumer Trustee proposed to take into account affordability considerations.
- Consulting with EPAC and incorporation of its feedback into determination of the Employment Fee.
- Considering the RES Board Plan, which informed the determination of the Community & Employment Fee.
- Considering how the Community & Employment Fee will enable EnergyCo to undertake activities in accordance with the objects.

Having considered the matters set out above, the Consumer Trustee has identified that the main risks to the achievement of the objects of the Act relate to Access Fees not achieving the right balance between:

- maximising ARH's contribution to the costs of the Access Scheme, community and employment benefit sharing and the NSW Electricity Infrastructure Roadmap; and
- maximising participation in the SW REZ to improve affordability, reliability, security, employment and economic development.

These risks have been considered as part of the Consumer Trustee's assessment of the long-term financial interests of NSW electricity customers (refer to Section 4.1) and the Consumer Trustee's consideration of the appropriate level of the Community & Employment component of the Access Fees.

The Consumer Trustee considers that these risks have been appropriately considered and balanced in a way that means the Access Fee Determination for the SW REZ is consistent with the objects of the EII Act.

4.3 Access Fee principles

The Consumer Trustee must take into account the principles outlined in section 26(1) of the EII Act when determining Access Fees.

The Consumer Trustee has undertaken analysis to indicate how these principles have been applied in the Access Fee components, including their methodologies and quantum.

Table 3: Access Fee Principles

#	Principles	Application to SW REZ Access Fees
1	Maximising financial value for NSW electricity customers	<ul style="list-style-type: none"> Access Fees are structured to include the direct costs of the SW REZ Access Scheme (Administration fees). Access Fee components include cost contributions for Community & Employment Purposes as well as a Contribution to the Roadmap. Access Fees are set at a level which balances affordability with the risk that ARHs will not connect to SW REZ if Access Fees are set too high.
2	Recovering the cost of the operation of the Access Scheme	<ul style="list-style-type: none"> Access Fees are structured to include the direct costs of the SW REZ Access Scheme (administration fees). Access Fee methodology takes into account direct cost inputs from EnergyCo to ensure cost-reflectivity.
3	Optimal use of the existing and planned network infrastructure in the REZ	<ul style="list-style-type: none"> Access Fees are set at a level that seeks to encourage participation in SW REZ while recovering contributions to the costs of the operation of the Access Scheme and the Roadmap, including consideration of: <ul style="list-style-type: none"> The key benefits of Access Schemes to ARHs which seek to limit generator curtailment compared to the open access regime under the NER. Balancing the access premium payable by ARHs against the improved cost of capital and lower levelised cost of electricity derived from connecting to the REZ and participating in Access Schemes.
4	Other principles prescribed by the regulations: Transparency in total determined or expected fees payable under the Access Scheme for participants is prescribed by clause 55A of the EII Regulation.	<ul style="list-style-type: none"> The Access Fee components, including their methodologies and quantum, were consulted upon with proposed ARHs, as well as with EnergyCo and the SFV. The Consumer Reference Group was also consulted on the setting of access fees and informed of the fee components and amounts for SW REZ. A draft Determination and Guidelines were published containing important information on the provisional Access Fees payable by SW REZ ARHs for connecting into the SW REZ Access Rights Network.

4.4 Community and employment purposes

The Consumer Trustee must ensure Access Fees include a component that is to be used for employment purposes and a component that is used for community purposes.¹⁴ The matters that are included within the scope of each of these purposes are set out in the EII Regulation.¹⁵

The EII Regulation specifies a minimum annual amount or percentage of an Access Fee that must go towards the community and employment purposes.

The minimum amount for community purposes is:¹⁶

- if the participant's annual Access Fee is \$2,600 / MW or more: \$1,700 / MW, or
- otherwise: 60%

The minimum amount for employment purposes is:¹⁷

- if the participant's annual Access Fee is \$2,600 / MW or more: \$600 / MW, or
- otherwise: 20%.

The EII Regulation specifies that there is no maximum amount for each component during the term of the Access Scheme.¹⁸

The Consumer Trustee has included a Community & Employment component within the Access Fee. This component has been set with reference to the EII Regulation at the minimum amount:

- The Community Fee component of the Community & Employment Fee has been set at \$1,700 / MW p.a.
- The Employment Fee component of the Community & Employment Fee has been set at \$600 / MW p.a.

When setting the Community & Employment component of the Access Fee, the Consumer Trustee considers there is a trade-off between the objects of the EII Act, in that:

- setting this component at a lower amount promotes the affordability object and, by extension, may promote the object related to fostering local community support for investment in new generation, storage, network and related infrastructure. It may also promote the object to encourage investment in new generation, storage, network and related infrastructure by reducing risk for investors; and
- setting this component at a higher amount may promote objects related to employment; education and training; local industry, manufacturing and jobs; and employment and income opportunities for Aboriginal and Torres Strait Islander people in NSW. However, if the component is set so high that it discourages participation in the Access Scheme then it may undermine these objects.

When setting the Community & Employment Fee component, the Consumer Trustee:

- sought the advice of EPAC (see Section 4.5);
- considered the recommendations of the RES Board Plan (discussed in Section 4.6 below);
- informed the Consumer Reference Group established under the Roadmap, which included representatives from the Public Interest Advocacy Centre, Energy Consumers Australia, Energy Users Association of Australia and Business NSW, of the proposed approach; and
- had regard to the NSW Renewable Energy Planning Framework, including the benefit-sharing rates that renewable energy projects are expected to use when determining the total funding value for community benefits for their projects.

¹⁴ Section 26 EII Act.

¹⁵ Clauses 56(1) and 57(1) EII Regulation.

¹⁶ Clause 56(2)(a) EII Regulation.

¹⁷ Clause 57(2)(a) EII Regulation.

¹⁸ Clauses 56(2)(b) and 58(2)(b) EII Regulation.

The above matters informed the Consumer Trustee's assessment that the SW REZ Access Fees are consistent with the objects related to fostering local community support; employment; economic development and manufacturing; investing in education and training; local industry, manufacturing and jobs; export opportunities for generation, storage and network technology. The Community & Employment Fee has been set consistent with the amounts prescribed in the EII Regulation for community and employment purposes. This minimises risks to affordability to NSW electricity customers and will help to achieve social licence and local community support.

4.5 Advice from the Employment Purpose Advisory Committee (EPAC)

The Consumer Trustee must seek the advice of EPAC on the component of Access Fees allocated for employment purposes.¹⁹

On 15 March 2024, EPAC wrote to AEMO Services confirming that AEMO Services as the Consumer Trustee had sought EPAC's advice when determining the employment purpose component. EPAC also confirmed that it is satisfied that AEMO Services' proposed employment purpose component of \$600 / MW p.a., or approximately \$42.8 million (with indexation of 2.5%) over 15 years, is at an appropriate level for the SW REZ. EPAC considered this will meaningfully contribute to addressing employment challenges in the SW REZ. In providing this advice, EPAC stated that it considered unemployment rates, economic diversity, workforce participation from underrepresented groups, social license, availability of training for young people and comparative employment needs of the SW REZ relative to the CWO REZ and regional NSW.

4.6 NSW Renewable Energy Sector (RES) Board Plan

The Consumer Trustee is required to take into account the RES Board Plan in the exercise of its functions.²⁰

The RES Board Plan was published in September 2022.

The Consumer Trustee notes that the only section of the RES Board Plan that is relevant to the determination of Access Fees is a section that sets out the RES Board's recommendations on actions that could be funded from Access Fees including the community and employment component. The RES Board recommends that the Consumer Trustee and Infrastructure Planner prioritise these actions in the allocation of funds from Access Fees. The priority actions are:²¹

- building the capacity of the local manufacturing sector; and
- facilitating workforce redeployment, including opportunities for workers affected by the energy transition.

The Community & Employment component of the Access Fee was set having regard to the RES Board Plan and following consultation with EnergyCo and EPAC.

The Consumer Trustee considers that the Community & Employment component of Access Fees will allow EnergyCo to build the capacity of the local manufacturing sector and facilitate workforce redeployment, including opportunities for workers affected by the energy transition, as a funding priority for Access Fees in the RES Board Plan.

¹⁹ Section 26(1)(6) EII Act

²⁰ Section 9(1) EII Act.

²¹ RES Board Plan, p73.

A1. Legal requirements for the decision

The following table sets out the requirements under the EII Act and EII Regulation for the exercise of the Consumer Trustee's section 26 functions and where each of these is addressed in this document.

Table 4: Statutory requirements for determining Access Fees

#	Requirement	Reference and comment
1	<p>The Consumer Trustee is to take into account the following principles –</p> <ul style="list-style-type: none"> (a) maximising financial value for NSW electricity customers, (b) recovering the cost of the operation of the Access Scheme, (c) optimal use of the existing and planned network infrastructure in the renewable energy zone, (d) other principles prescribed by the regulations (EII Act, s 26(1)(a)-(d). <p>In relation to section 26(1)(d), transparency in total determined or expected fees payable under the Access Scheme for participants is prescribed (EII Regulation, cl 55A).</p>	<p>Section 4.3 of this report sets out how the Consumer Trustee has considered the principles in section 26 of the EII Act and clause 55A of the EII Regulation.</p>
2	<p>The fees determined by the Consumer Trustee must include a component that is to be used for a community purpose prescribed by the regulations (EII Act, s 26(2)). This component is not to be less than the minimum amount or proportion prescribed by the regulations and must not exceed the maximum amount or proportion prescribed by the regulations (EII Act, s 26(3)).</p> <p>A component of a fee is taken to be used for a community purpose if it used to provide one or more of the following benefits to the relevant local community –</p> <ul style="list-style-type: none"> (a) public or community services or infrastructure, (b) health services or infrastructure, (c) accommodation or housing, (d) local or regional energy programs or infrastructure, (e) environmental programs or infrastructure, (f) parks and recreation infrastructure, (g) education programs or research, (h) arts or cultural programs, (i) tourism programs or infrastructure, (j) services, programs or infrastructure for First Nations people, (k) other services, programs or infrastructure that benefit the relevant local community (EII Regulation, cl 56(1)). <p>The minimum proportion for the component of the annual access fee for a participant is –</p> <ul style="list-style-type: none"> (i) if the participant's annual access fee is \$2,600 per megawatt or more – \$1,700 per megawatt, or (ii) otherwise – 60%, and <p>The maximum amount for the component of the annual access fee for a participant is –</p> <ul style="list-style-type: none"> (i) during the term of the Access Scheme – no maximum is prescribed, or (ii) otherwise – \$0 (EII Regulation, cl 56(2)). 	<p>Section 4.4 of this report sets out the Consumer Trustee's approach to the component of the Access Fees that is to be used for community purposes.</p>

#	Requirement	Reference and comment
3	<p>The fees determined by the Consumer Trustee must include a component that is to be used for an employment purpose prescribed by the regulations (EII Act, s 26(4)). This component is not to be less than the minimum amount or proportion prescribed by the regulations and must not exceed the maximum amount or proportion prescribed by the regulations (EII Act, s 26(5)).</p> <p>A component of a fee is taken to be used for an employment purpose if it used to provide for one or more of the following to relevant employees –</p> <ul style="list-style-type: none"> (a) employment programs and associated services and facilities, (b) skills and training programs and associated services and facilities, (c) a program, service or facility that supports the relevant employees to gain employment skills or experience relevant to employment (EII Regulation, cl 57(1)). <p>The minimum proportion for the component of the annual access fee for a participant is –</p> <ul style="list-style-type: none"> (i) if the participant's annual access fee is \$2,600 per megawatt or more – \$600 per megawatt, or (ii) otherwise – 20%, and <p>(b) the maximum amount for the component of the annual access fee for a participant is –</p> <ul style="list-style-type: none"> (i) during the term of the Access Scheme – no maximum is prescribed, or (ii) otherwise – \$0 (EII Regulation, cl 57(2)). 	<p>Section 4.4 of this report sets out the Consumer Trustee's approach to the component of the Access Fees that is to be used for employment purposes.</p>
4	<p>In exercising its function under subsection 26(4), the Consumer Trustee is to seek advice from the committee established under section 34W(1)(b) of the Energy and Utilities Administration Act 1987 (i.e. the Employment Purpose Advisory Committee) (EII Act, s 26(6)).</p>	<p>Section 4.5 of this report sets out the Consumer Trustee's approach to satisfying this requirement.</p>
	<p>The Consumer Trustee will take into account the plan for NSW renewable energy sector (EII Act, s9(1)).</p>	<p>Section 4.6 sets out the Consumer Trustee's approach with respect to this requirement.</p>
5	<p>The Consumer Trustee is to act independently and in the long-term financial interests (LTFI) of NSW electricity customers (EII Act, s60(3)).</p>	<p>Section 3 sets out the Consumer Trustee's approach to independently determining Access Fees.</p> <p>Section 4.1 sets out the LTFI assessment process that has been followed by the Consumer Trustee to form a view on whether the setting of the Access Fees (including their structure and quantum) would be in the LTFI of NSW electricity customers.</p>
6	<p>The Consumer Trustee must exercise its function in a way that is consistent with the objects of the EII Act (EII Act, s3(3)).</p>	<p>Section 4.2 of this report sets out how the Consumer Trustee has assessed whether the Access Fee Determination for the SW REZ is consistent with the objects of the EII Act.</p>