

Draft Decision

**Power and Water Corporation
Electricity Distribution
Determination 2024 to 2029
(1 July 2024 to 30 June 2029)**

**Attachment 15
Pass through events**

September 2023

© Commonwealth of Australia 2023

This work is copyright. In addition to any use permitted under the *Copyright Act 1968* all material contained within this work is provided under a Creative Commons Attributions 3.0 Australia licence with the exception of:

- the Commonwealth Coat of Arms
- the ACCC and AER logos
- any illustration diagram, photograph or graphic over which the Australian Competition and Consumer Commission does not hold copyright but which may be part of or contained within this publication.

The details of the relevant licence conditions are available on the Creative Commons website as is the full legal code for the CC BY 3.0 AU licence.

Inquiries about this publication should be addressed to:

Australian Energy Regulator
GPO Box 3131
Canberra ACT 2601
Tel: 1300 585 165

AER reference: AER212492

Amendment record

Version	Date	Pages
1	28 September 2023	14

Contents

15	Pass through events	1
15.1	Draft decision.....	2
15.2	Power and Water Corporation’s proposal	2
15.3	Assessment approach	4
15.4	Interrelationships	6
15.5	Reasons for draft decision	7
	Shortened forms.....	14

15 Pass through events

During the regulatory control period Power and Water can apply to pass through to its customers, in the form of higher or lower network charges, certain material changes in its costs caused by pre-defined exogenous events. These events are called cost pass through events. Such events are limited to circumstances where the business can recover potential costs of defined yet unpredictable high-cost events that are outside the control of the business.¹

The National Electricity Rules - Northern Territory (NT NER) prescribe the following pass through events for Power and Water for the 2024-29 regulatory control period:²

- a 'local' event prescribed by the National Electricity (Northern Territory)(National Uniform Legislation)(Modification) Regulations³
- an NT transitional regulatory change event prescribed by the National Electricity (Northern Territory)(National Uniform Legislation)(Modification) Regulations⁴
- a regulatory change event
- a service standard event
- a tax change event
- a retailer insolvency event.⁵

In addition to these prescribed events, other pass through events may be 'nominated' by a service provider for a regulatory control period.⁶ This attachment sets out our draft decision on the nominated pass through events to apply to Power and Water's distribution network for the 2024–29 regulatory control period.

¹ AEMC, *Cost pass through arrangements for Network Service Providers, Rule Determination*, 2 August 2012, p. 2.

² NT NER, r. 6.6.1(a1). Each of these prescribed events is defined in Chapter 10 (Glossary) of the NER. The retailer insolvency event will apply after the National Energy Retail Law and the associated retailer of last resort provisions are adopted by the Northern Territory.

³ NT NER, r. 6.6.1(a1)(1AA). A local event is the failure of a retailer during a regulatory control period, to pay a Distribution Network Service Provider an amount which the provider is entitled for the provision of direct control services, if: an insolvency official has been appointed in respect of that retailer and the provider is not entitled to payment of that amount in full under the terms of any local support in respect of that retailer. The local event expires when the National Energy Retail Law applies as a law of the Northern Territory: see Part 3, National Electricity (Northern Territory)(National Uniform Law)(Modification) Regulations.

⁴ NT NER, r. 6.6.1(a1)(1AB). This event expires on 1 July 2024: see Part 3, National Electricity (Northern Territory)(National Uniform Law)(Modification) Regulations.

⁵ The retailer insolvency event is of no effect until the National Energy Retail Law is applied as a law of the Northern Territory: National Electricity (Northern Territory)(National Uniform Law)(Modification) Regulations, reg. 5A.

⁶ NT NER, r. 6.6.1(a1)(5).

15.1 Draft decision

Our draft decision is to accept four nominated pass through events proposed by Power and Water Corporation (terrorism, insurance coverage, natural disaster, and insurer's credit risk),⁷ subject to drafting amendments to align the definitions of these events with definitions in our most recent determinations for other network service providers.⁸

Our reasons for this draft decision are set out in section 15.5 and our amended definitions in Table 15.2.

15.2 Power and Water Corporation's proposal

Power and Water nominated five pass through events, of which one is confidential.⁹ The non-confidential events are set out in Table 15.1. We discuss the confidential event in a confidential Appendix to this Attachment. Power and Water also proposed that the pass through events apply to both standard control services and alternative control services.¹⁰

Table 15.1 Power and Water Corporation's nominated pass through events

Proposed event	Power and Water Corporation's proposed definition
Insurance coverage event	<p>An insurance coverage event occurs if</p> <ol style="list-style-type: none"> 1. Power and Water Corporation, <ol style="list-style-type: none"> a. makes a claim or claims and receives the benefit of a payment or payments under a relevant insurance policy or set of insurance policies; or b. would have been able to make a claim or claims under a relevant insurance policy or set of policies but for changed circumstances; and 2. Power and Water Corporation incurs costs: <ol style="list-style-type: none"> a. beyond a relevant policy limit or set of insurance policies; or b. that are unrecoverable under that policy or set of insurance policies due to changed circumstances; and 3. The costs referred to in paragraph 2 above materially increase the costs to Power and Water Corporation in providing direct control services. <p>For this Insurance Coverage Event:</p>

⁷ NT NER, cl 6.12.1(14).

⁸ For example. AER, *Draft Decision, AusNet Distribution Determination 2021–26, Attachment 15, Pass through events*, September 2020, pp. 18–20; AER, *Final Decision CitiPower Distribution Determination 2021–26, Attachment 15, Pass through events*, April 2021, pp. 13–15; AER, *Final Decision, SA Power Networks Distribution Determination 2020–25, Attachment 14, Pass through events*, June 2020, pp. 5–6.

⁹ Power and Water, *Regulatory Proposal 2024–29 - 12.02 - Pass through events attachment (Public)*, 31 January 2023, pp. 11–13. Power and Water claimed confidentiality on the fifth pass through event. This is discussed in a confidential attachment.

¹⁰ Power and Water, *Regulatory Proposal 2024–29 - 12.02 - Pass through events attachment (Public)*, 31 January 2023, p. 13.

Proposed event	Power and Water Corporation's proposed definition
	<p>“changed circumstances” means movements in the relevant insurance liability market that are beyond the control of Power and Water Corporation, where those movements mean that it is no longer possible for Power and Water Corporation to take out an insurance policy or set of insurance policies at all or on reasonable commercial terms that include some or all of the costs referred to in paragraph 2 above within the scope of that insurance policy or set of insurance policies.”</p> <p>“costs” means the costs that would have been recovered under the insurance policy or set of insurance policies had:</p> <ul style="list-style-type: none"> • the limit not been exhausted; or • those costs had not been unrecoverable due to changed circumstances. <p>A relevant insurance policy or set of insurance policies is an insurance policy or set of insurance policies held during the 2024-2029 regulatory control period or a previous regulatory control period in which Power and Water Corporation was regulated.</p> <p>Power and Water Corporation will be deemed to have been able to make a claim on a relevant insurance policy or set of insurance policies if, but for changed circumstances, the claim could have been made by a related party of Power and Water Corporation in relation to any aspect of the Network or Power and Water Corporation's network or business.</p> <p>Note for the avoidance of doubt, in assessing an insurance coverage event through application under rule 6.6.1(j), the AER will have regard to:</p> <ul style="list-style-type: none"> • the relevant insurance policy or set of insurance policies for the event; • the level of insurance that an efficient and prudent DNSP would obtain, or would have sought to obtain, in respect of the event; • any information provided by Power and Water Corporation to the AER about Power and Water's actions and processes; and • any guidance published by the AER on the matters the AER will likely to have regard to in assessing any insurance coverage event that occurs.
Insurer's credit risk event	<p>An insurer credit risk event occurs if:</p> <p>An insurer of Power and Water Corporation becomes insolvent, and as a result, in respect of an existing or potential insurance claim for a risk that was insured by the insolvent insurer, Power and Water Corporation:</p> <ol style="list-style-type: none"> a. is subject to a higher or lower claim limit or a higher or lower deductible than would have otherwise applied under the insolvent insurer's policy; or b. incurs additional costs associated with funding an insurance claim, which would otherwise have been covered by the insolvent insurer.

Proposed event	Power and Water Corporation's proposed definition
Natural disaster event	<p>A Natural disaster event means any natural disaster including but not limited to cyclone, fire, flood or earthquake that occurs during the 2024–2029 regulatory control period that changes the costs to Power and Water Corporation in providing direct control services, provided the cyclone, fire, flood, earthquake or other event was:</p> <p>a. a consequence of an act or omission that was necessary for the service provider to comply with a regulatory obligation or requirement or with an applicable regulatory instrument; or</p> <p>b. not a consequence of any other act or omission of the service provider.</p>
Terrorism event	<p>A Terrorism or Cyber Attack event means an act (including, but not limited to, the use of force or violence or the threat of force or violence of any person or group of persons (whether acting alone or on behalf of or in connection with any organisation or government), which:</p> <p>a. is a threat of or actual cyber attack; or</p> <p>b. from its nature or context is done for, or in connection with, political, religious, ideological, ethnic or similar purposes or reasons (including the intention to influence or intimidate any government and/or put the public, or any section of the public, in fear), and which</p> <p>increases the costs to Power and Water Corporation in providing direct control services.</p> <p>For this Terrorism or Cyber Attack event a “cyber attack” includes any malicious or unauthorised access, use, interference, destruction or interruption to the information and computer technology systems or assets, including computer networks, internet communications and operational technology system or assets, used by Power and Water Corporation.</p>

Source: Power and Water, *Regulatory proposal 2024–29 - 12.02, Pass through events attachment*, January 2023, pp. 11–13.

15.3 Assessment approach

The NT NER set out how we must assess nominated pass through events, and how we must assess an application from a service provider to pass through changes in costs where an event occurs.

Our assessment approach is guided by the National Electricity Objective (NEO)¹¹ and the Revenue and Pricing Principles.¹² These provide, in part, that the service provider should have a reasonable opportunity to recover at least the efficient costs of providing services and

¹¹ The NEO is defined in s. 7 of the NEL.

¹² The revenue and pricing principles are set out in s. 7A of the NEL.

complying with regulatory obligations.¹³ They also reflect the importance of incentives to promote economic efficiency and balance the risks of under and over investment.

In the context of pass through events, we have particular regard to the impact on price, quality, reliability and security of supply that may arise as a result of any change in the efficient operation of, and ability and incentive of, a service provider to invest in its network. This is a similar approach to that taken by the AEMC when considering pass through event rule changes.¹⁴

In determining whether we accept a nominated pass through event, we must take into account the 'nominated pass through event considerations' as defined,¹⁵ which are as follows:¹⁶

- a) whether the event proposed is an event covered by a category of pass through event specified in clauses 6.6.1(a1)(1AA) to (4)
- b) whether the nature or type of event can be clearly identified at the time the determination is made for the service provider;
- c) whether a prudent service provider could reasonably prevent an event of that nature or type from occurring or substantially mitigate the cost impact of such an event;
- d) whether the relevant service provider could insure against the event, having regard to:
 - 1) the availability (including the extent of availability in terms of liability limits) of insurance against the event on reasonable commercial terms; or
 - 2) whether the event can be self-insured on the basis that:
 - i.) it is possible to calculate the self-insurance premium; and
 - ii) the potential cost to the relevant service provider would not have a significant impact on the service provider's ability to provide network services; and
- e) any other matter the AER considers relevant and which the AER has notified Network Service Providers is a nominated pass through event consideration.

The AEMC described the purpose of the nominated pass through event considerations as:

... to incorporate and reflect the essential components of a cost pass through regime in the NER. It was intended that in order for appropriate incentives to be maintained, any nominated pass through event should only be accepted when event avoidance, mitigation, commercial insurance and self-insurance are

¹³ NEL, s. 7A(2).

¹⁴ AEMC, *Cost pass through arrangements for Network Service Providers, Rule Determination*, 2 August 2012, p. 6.

¹⁵ NT NER, cl. 6.5.10(b)

¹⁶ NT NER, Chapter 10, definition of 'nominated pass through event considerations'.

unavailable. That is, a cost pass through event is the least efficient option for managing the risk of unforeseen events.¹⁷

... that a pass through event should only be accepted when it is the least inefficient option and event avoidance, mitigation, commercial insurance and self-insurance are found to be inappropriate. That is, it is included after ascertaining the most efficient allocation of risks between a service provider and end customers.¹⁸

This protects the incentive regime under the NT NER by limiting erosion of a service provider's incentives to use market based mechanisms to mitigate the cost impacts that would arise. This promotes the efficient investment in, and efficient operation and use of, network services for the long term interests of consumers with respect to price.¹⁹

As a matter of good regulatory practice, we also take into account the desirability of consistency in our approach to assessing nominated pass through events across our electricity determinations and gas access arrangements.²⁰

15.4 Interrelationships

The pass through mechanism is not the only way service providers can manage their risks under a distribution or transmission determination. It is interrelated with other parts of this decision, in particular with the forecast operating and capital expenditure (opex and capex) and rate of return included in our revenue determination. We must specify and take account of these interrelationships.²¹ This requires us to balance the incentives in the various parts of our decision.

For systemic risks, service providers are compensated through the allowed rate of return. Service providers also face business-specific, or residual, risks. Service providers are compensated for the prudent and efficient management of these risks through the forecast opex and capex we include in our revenue determination for strategies such as:

- prevention (avoiding the risk)
- mitigation (reducing the probability and impact of the risk)
- insurance (transferring the risk to another party)
- self-insurance (putting aside funds to manage the likely costs associated with a risk event).

¹⁷ AEMC, *Cost pass through arrangements for Network Service Providers, Rule Determination*, 2 August 2012, p. 19.

¹⁸ AEMC, *Cost pass through arrangements for Network Service Providers, Rule Determination*, 2 August 2012, p. 20.

¹⁹ AEMC, *Cost pass through arrangements for Network Service Providers, Rule Determination*, 2 August 2012, p. 8.

²⁰ AEMC, *Cost pass through arrangements for Network Service Providers, Rule Determination*, 2 August 2012, p. 18.

²¹ NEL, s. 16(1)(c).

An efficient business will manage its risk by employing the most cost-effective combination of these strategies. In order to maintain appropriate incentives under our determinations, we only accept nominated pass through events where we are satisfied that event avoidance, mitigation, commercial insurance and self-insurance under approved forecasts of prudent and efficient opex and capex are either unavailable or inappropriate.²²

In general, in respect of unforeseen costs that are relatively minor, a service provider should manage them by using up its existing expenditure allowance, or reprioritising or substituting its projects, to avoid seeking cost recovery through the pass through mechanisms.²³ This is reflected in the materiality threshold that applies to cost pass through applications.²⁴

Cost pass through amounts approved in a regulatory control period are added to (or in the case of a negative pass through deducted from) forecast opex and capex for the purpose of calculating efficiency carryover amounts under the Efficiency Benefit Sharing Scheme and Capital Expenditure Sharing Scheme.²⁵

Any capex that has already been recovered in a regulatory control period by way of a cost pass through cannot be recovered again in the roll-forward of the regulatory asset base for the next regulatory control period.²⁶

15.5 Reasons for draft decision

15.5.1 Insurance coverage, insurer's credit risk, natural disaster and terrorism events

We consider, consistent with our recent determinations for other network service providers,²⁷ that Power and Water Corporation's proposed terrorism, natural disaster, insurer's credit risk and insurance coverage pass through events, for the most part, meet the nominated pass through event considerations set out in the NER:²⁸

- the proposed events are not covered by an existing category of pass through event
- the nature of the events are clearly identifiable at this time

²² AEMC, *Cost pass through arrangements for Network Service Providers, Rule Determination*, 2 August 2012, pp. 19–20.

²³ AEMC, *Economic Regulation of Network Service Providers, and Price and Revenue Regulation of Gas Services, Final Rule Determination*, 29 November 2012, p. 186.

²⁴ NT NER, Chapter 10, definition of 'materially'.

²⁵ AER, *Efficiency Benefit Sharing Scheme for Electricity Network Service Providers*, November 2013, p. 7; AER, *Capital Expenditure Incentive Guideline for Electricity Network Service Providers*, November 2013, p. 6.

²⁶ NT NER, cl. S6.2.1(e)(1)(ii).

²⁷ AER, *Draft Decision, AusNet Distribution Determination 2021–26, Attachment 15, Pass through events*, September 2020, pp. 16–18; AER, *Final Decision CitiPower Distribution Determination 2021–26, Attachment 15, Pass through events*, April 2021, pp. 13–15; AER, *Final Decision, SA Power Networks Distribution Determination 2020–25, Attachment 14, Pass through events*, June 2020, pp. 5–6.

²⁸ NT NER, cl. 6.5.10(b); NT NER, Chapter 10, definition of 'nominated pass through event considerations'.

- a prudent service provider could not reasonably prevent an event of that nature or type from occurring or substantially mitigate its cost impact and could not insure (or self-insure) against the events on reasonable commercial terms.

With regard to the latter point, while Power and Water Corporation could take steps to reduce its risk exposure to these events, expenditure beyond a certain level aimed at completely eliminating the risk is likely to be imprudent or inefficient. In that context, sharing the risk between Power and Water Corporation and its customers is appropriate and more likely to be in the long-term interests of consumers with respect to price.

We accept the insurer's credit risk and natural disaster events as proposed because Power and Water Corporation's definitions are consistent with our recent determinations. However, we do not accept the amendments Power and Water Corporation proposed to the definitions for the 'insurance coverage' and 'terrorism' events, which we discuss in turn below. We have applied changes to provide greater consistency between Power and Water Corporation and other network service providers.

We have not received any stakeholder submissions on the proposed cost pass through events.

15.5.1.1 Insurance coverage event

Power and Water Corporation stated its proposed definition for the insurance coverage event aligns with our recent determinations. However, our review identified minor wording differences in the proposed definition compared to our recent determinations for other service providers. For example, Power and Water corporation:

- referred to 'set of policies' rather than 'set of insurance policies' in 1(b) (see Table 15.1 versus Table 15.2)
- referred to 'beyond a relevant policy limit or set of insurance policies' instead of 'beyond a relevant policy limit for that policy or set of insurance policies' in 2(a) (see Table 15.1 versus Table 15.2)
- referred to 'will be deemed to have been able to make a claim' instead of ' will be deemed to have made a claim' when defining 'A relevant insurance policy or set of insurance policies' (see Table 15.1 versus Table 15.2).

We have applied relevant changes to provide greater drafting consistency between Power and Water Corporation and other network service providers.

15.5.1.2 Insurer's credit risk event

Power and Water Corporation stated its proposed definition aligns with our most recent determinations.²⁹ However, it excluded the considerations the AER is to have regard to when assessing a cost pass through application for an insurer's credit risk event. We have added them to provide greater consistency between Power and Water Corporation and other network service providers.

²⁹ Power and Water, *Regulatory proposal 2024–29 - 12.02, Pass through events attachment*, January 2023, p. 6.

15.5.1.3 Natural disaster event

Power and Water Corporation stated its proposed definition aligns with our most recent determinations.³⁰ However, it excluded the considerations the AER is to have regard to when assessing a cost pass through application for a natural disaster event. We have added them to provide greater consistency between Power and Water Corporation and other network service providers.

15.5.1.4 Terrorism event

Power and Water Corporation proposed a change to the definition of the terrorism event to expressly include cyber-attacks because it considered the currently accepted definition of the terrorism event does not adequately address a major cyber-attack.³¹

We do not accept the proposed changes to the terrorism event definition. This is consistent with our recent determinations on this pass through event for other service providers (for example, ElectraNet's 2023–28 determination, SA Power Networks' 2020–25 determination, Citipower's 2021–26 determination).³²

Our draft decision does not mean Power and Water Corporation would not be able to seek a cost pass through for cyber-attacks in any event. We noted in our previous determinations for other distributors that the nominated 'terrorism' pass through event could include cyber-terrorism. In our recent determination for ElectraNet (for the 2023–28 period) we also noted that the insurance coverage event already allows for recovery of cyber-attack costs where the other elements of that definition are satisfied.³³

In proposing to explicitly include a reference to 'cyber-attack' in the definition of terrorism event, Power and Water Corporation noted two recent cyber-attacks in Australia relating to Medibank and Optus. Power and Water Corporation operates national critical infrastructure and is subject to stringent cyber security compliance requirements. We consider Power and Water Corporation should have appropriate safeguards and contingency plans in place to substantially mitigate the risks and cost impacts of major cyber-attacks. Supporting this, we have included in our opex and capex forecasts for this draft decision additional expenditure proposed by Power and Water Corporation, to further enhance its capability to proactively identify, protect, detect, respond to and recover from cyber security threats.

Cyber security risk is one of the key business risks an energy network service provider faces and we consider this business risk should be largely borne by the network service provider, who is best placed to manage it, rather than consumers. We consider it is appropriate

³⁰ Power and Water, *Regulatory proposal 2024–29 - 12.02, Pass through events attachment*, January 2023, p. 8.

³¹ Power and Water, *Regulatory proposal 2024–29 - 12.02, Pass through events attachment*, January 2023, pp. 6–8.

³² AER, *Draft Decision, SA Power Networks Distribution determination 2020–25, Attachment 14, Pass through events*, October 2019, pp. 14–16; AER, *Draft decision, CitiPower 2021–26, Attachment 15, Pass through events*, April 2021, pp. 17–19; AER, *Final decision, ElectraNet transmission determination 2023–28, Attachment 13, Cost pass through events*, April 2023, p. 8; SA Power Networks and Citipower proposed a standalone cyber-attack event, ElectraNet proposed to amend the definition of 'costs' in the insurance coverage definition to explicitly reflect costs related to a cyber-attack.

³³ AER, *Final decision, ElectraNet transmission determination 2023–28, Attachment 13, Cost pass through events*, April 2023, p. 8.

network service providers be incentivised to mitigate the risk of major cyber events occurring, and also to mitigate the extent of damage that may be caused by them and any impact on the provision of direct control services. If we were to accept the proposed changes to the terrorism event, the incentive on Power and Water Corporation and other service providers to proactively manage cyber security risks and adopt best practices would be reduced.

Although Power and Water Corporation has no control on what third parties do, it controls the cyber security and protection of its information and communications technology systems and assets, which affects its susceptibility to cyber-attacks. Power and Water Corporation has a regulatory obligation to maintain the security of supply of electricity and an incentive to ensure the security of its network systems is sufficiently robust and resilient to withstand cyber-threats such that a major interruption to its technology systems and assets would not occur. We consider Power and Water Corporation can substantially mitigate the risk and cost impact of this type of event in a forward-looking manner by ensuring appropriate cyber-security protections are in place and having appropriate contingency precautions, and insurance coverage.

15.5.2 Alternative control services

Power and Water Corporation proposed that pass through events also apply to alternative control services, stating that the NT NER recognises that the pass through event mechanism can apply to alternative control services (cl. 6.2.6). Power and Water Corporation submitted that applying cost pass through events to its metering services is important as they are based on a revenue build up approach to derive prices.

We agree that the NT NER provisions for cost past through events refer to direct control services, which include both standard control services and alternative control services. We consider that the NT NER does not preclude the pass through provisions applying to alternative control services for prescribed events and approved nominated events. Therefore, we accept Power and Water Corporation's proposal.

Table 15.2 summarises the nominated pass through events included in the draft decision.

Table 15.2 AER pass through event definitions

Pass through event	Draft decision definition
Insurance coverage event	<p>An insurance coverage event occurs if:</p> <ol style="list-style-type: none"> 1. Power and Water Corporation: <ol style="list-style-type: none"> a) makes a claim or claims and receives the benefit of a payment or payments under a relevant insurance policy or set of insurance policies; or b) would have been able to make a claim or claims under a relevant insurance policy or set of insurance policies but for changed circumstances; and 2. Power and Water Corporation incurs costs: <ol style="list-style-type: none"> a) beyond a relevant policy limit for that policy or set of insurance policies; or b) that are unrecoverable under that policy or set of insurance policies due to changed circumstances; and

Pass through event	Draft decision definition
	<p>3. The costs referred to in paragraph 2 above materially increase the costs to Power and Water Corporation in providing direct control services.</p> <p>For the purposes of this insurance coverage event:</p> <ul style="list-style-type: none"> • 'changed circumstances' means movements in the relevant insurance liability market that are beyond the control of Power and Water Corporation, where those movements mean that it is no longer possible for Power and Water Corporation to take out an insurance policy or set of insurance policies at all or on reasonable commercial terms that include some or all of the costs referred to in paragraph 2 above within the scope of that insurance policy or set of insurance policies. • 'costs' means the costs that would have been recovered under the insurance policy or set of insurance policies had: <ul style="list-style-type: none"> – the limit not been exhausted; or – those costs not been unrecoverable due to changed circumstances. • A relevant insurance policy or set of insurance policies is an insurance policy or set of insurance policies held during the regulatory control period or a previous regulatory control period in which Power and Water Corporation was regulated; and • Power and Water Corporation will be deemed to have made a claim on a relevant insurance policy or set of insurance policies if the claim is made by a related party of Power and Water Corporation in relation to any aspect of Power and Water Corporation's network or business; and • Power and Water Corporation will be deemed to have been able to make a claim on a relevant insurance policy or set of insurance policies if, but for changed circumstances, the claim could have been made by a related party of Power and Water Corporation in relation to any aspect of Power and Water Corporation's network or business. <p>Note for the avoidance of doubt, in assessing an insurance coverage event through application under rule 6.6.1(j), the AER will have regard to:</p> <ul style="list-style-type: none"> i) the relevant insurance policy or set of insurance policies for the event ii) the level of insurance that an efficient and prudent DNSP would obtain, or would have sought to obtain, in respect of the event; iii) any information provided by Power and Water Corporation to the AER about Power and Water Corporation's actions and processes; and iv) any guidance published by the AER on matters the AER will likely have regard to in assessing any insurance coverage event that occurs.
Insurer's credit risk event	An insurer credit risk event occurs if an insurer of Power and Water Corporation becomes insolvent, and as a result, in respect of an existing or potential claim for a risk that was insured by the insolvent insurer, Power and Water Corporation:

Pass through event	Draft decision definition
	<p>a) is subject to a higher or lower claim limit or a higher or lower deductible than would have otherwise applied under the insolvent insurer's policy; or</p> <p>b) incurs additional costs associated with funding an insurance claim, which would otherwise have been covered by the insolvent insurer.</p> <p>Note: in assessing an insurer credit risk event pass through application, the AER will have regard to, amongst other things:</p> <p>i) Power and Water Corporation attempts to mitigate and prevent the event from occurring by reviewing and considering the insurer's track record, size, credit rating and reputation; and</p> <p>ii) in the event that a claim would have been covered by the insolvent insurer's policy, whether Power and Water Corporation had reasonable opportunity to insure the risk with a different provider.</p>
Natural disaster event	<p>Natural disaster event means any natural disaster including but not limited to cyclone, fire, flood or earthquake that occurs during the 2024–29 regulatory control period that changes the costs to Power and Water Corporation in providing direct control services, provided the cyclone, fire, flood, earthquake or other event was:</p> <p>a) a consequence of an act or omission that was necessary for the service provider to comply with a regulatory obligation or requirement or with an applicable regulatory instrument; or</p> <p>b) not a consequence of any other act or omission of the service provider.</p> <p>Note: In assessing a natural disaster event pass through application, the AER will have regard to, amongst other things:</p> <p>i) whether Power and Water Corporation has insurance against the event;</p> <p>ii) the level of insurance that an efficient and prudent NSP would obtain in respect of the event.</p>
Terrorism event	<p>Terrorism event means an act (including, but not limited to, the use of force or violence or the threat of force or violence) of any person or group of persons (whether acting alone or on behalf of or in connection with any organisation or government), which:</p> <ol style="list-style-type: none"> 1. from its nature or context is done for, or in connection with, political, religious, ideological, ethnic or similar purposes or reasons (including the intention to influence or intimidate any government and/or put the public, or any section of the public, in fear); and 2. changes the costs to Power and Water Corporation in providing direct control services. <p>Note: In assessing a terrorism event pass through application, the AER will have regard to, amongst other things:</p> <p>i) whether Power and Water Corporation has insurance against the event</p> <p>ii) the level of insurance that an efficient and prudent NSP would obtain in respect of the event; and</p>

Attachment 15 - Pass through events | Draft decision - Power and Water Corporation distribution determination 2024–29

Pass through event	Draft decision definition
	iii) whether a declaration has been made by a relevant government authority that a terrorism event has occurred.

Source: AER analysis

Shortened forms

Term	Definition
AEMC	Australian Energy Market Commission
AER	Australian Energy Regulator
Capex	Capital expenditure
DNSP	Distribution network service provider
NEL	National electricity law
NEO	National electricity objective
NT NER	National electricity rules - Northern Territory
NSP	Network service provider
Opex	Operating expenditure
