



Attachment 14 - Pass through events

2025–30 Regulatory Proposal

January 2024



Empowering South Australia

Company information

SA Power Networks is the registered Distribution Network Service Provider for South Australia. For information about SA Power Networks visit sapowernetworks.com.au

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Disclaimer

This document forms part of SA Power Networks' Regulatory Proposal to the Australian Energy Regulator for the 1 July 2025 to 30 June 2030 regulatory control period. The Proposal and its attachments were prepared solely for the current regulatory process and are current as at the time of lodgement.

This document contains certain predictions, estimates and statements that reflect various assumptions concerning, amongst other things, economic growth and load growth forecasts. The Proposal includes documents and data that are part of SA Power Networks' normal business processes and are therefore subject to ongoing change and development.

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Note

This attachment forms part of our Proposal for the 2025-30 Regulatory Control Period. It should be read in conjunction with the other parts of the Proposal.

Our Proposal comprises the overview and attachments listed below, and the supporting documents that are listed in Attachment 20:

Document	Description
	Regulatory Proposal overview
Attachment 0	Customer and stakeholder engagement program
Attachment 1	Annual revenue requirement and control mechanism
Attachment 2	Regulatory Asset Base
Attachment 3	Rate of Return
Attachment 4	Regulatory Depreciation
Attachment 5	Capital expenditure
Attachment 6	Operating expenditure
Attachment 7	Corporate income tax
Attachment 8	Efficiency Benefit Sharing Scheme
Attachment 9	Capital Expenditure Sharing Scheme
Attachment 10	Service Target Performance Incentive Scheme
Attachment 11	Customer Service Incentive Scheme
Attachment 12	Demand management incentives and allowance
Attachment 13	Classification of services
Attachment 14	Pass through events
Attachment 15	Alternative Control Services
Attachment 16	Negotiated services framework and criteria
Attachment 17	Connection Policy
Attachment 18	Tariff Structure Statement Part A
Attachment 18	Tariff Structure Statement Part B - Explanatory Statement
Attachment 19	Legacy Metering
Attachment 20	List of Proposal documentation

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1 Overview

This Attachment sets out:

- the additional pass through events proposed by SA Power Networks for the 2025–30 regulatory control period (**RCP**);
- a summary of the considerations that the Australian Energy Regulator (**AER**) must take into account (the **nominated pass through event considerations**) when determining whether to accept the additional pass through events proposed by SA Power Networks for the 2025–30 RCP; and
- an explanation as to how each additional pass through event is consistent with the nominated pass through event considerations.

The National Electricity Rules (**NER**) regulatory framework recognises that a Distribution Network Service Provider (**DNSP**) cannot reasonably be expected to forecast costs for unforeseen events that could potentially occur during an RCP.

The regulatory framework addresses this issue by including a cost pass through mechanism within Chapter 6 of the NER. Under the pass through mechanism, DNSPs can seek the AER's approval to recover costs (or pass through the savings) in excess of a 'materiality' threshold, that are related to the occurrence of defined, unpredictable and high cost exogenous event(s) for which a distribution determination does not provide a regulatory allowance.

SA Power Networks proposes the following additional pass through events for the 2025–30 RCP:

- natural disaster event;
- insurance coverage event;
- insurer credit risk event; and
- terrorism event.

Each additional pass through event is discussed further in section 4.

2 Rule requirements

The NER¹ specify that a pass through event for a distribution determination is any of the following:

1. a 'regulatory change event';
2. a 'service standard event';
3. a 'tax change event';
4. a 'retailer insolvency event'; and
5. any other event specified in a distribution determination as a pass-through event for the determination.

Under the NER, SA Power Networks can request in its regulatory proposal for the 2025–30 RCP (**Proposal**), the inclusion of additional pass through events² in its distribution determination having regard to the 'nominated pass through event considerations'³.

The 'nominated pass through event considerations' are defined in Chapter 10 of the NER as follows:

- (a) whether the event proposed is an event covered by a category of 'pass through event' specified in clause 6.6.1(a1)(1) to (4) (in the case of a distribution determination);
- (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.

¹ NER Rule 6.6.1.

² NER 6.5.10(a) and 6.6.1(a1)(5).

³ NER Chapter 10.

3 Role of pass through events

The NER regulatory framework recognises that a DNSP cannot reasonably be expected to forecast costs for unforeseen events that could potentially occur during an RCP.

The regulatory framework addresses this issue by including a cost pass through mechanism in Chapter 6 of the NER. Under the pass through mechanism, a DNSP can seek the AER’s approval to recover costs (or pass through savings) in excess of a 'materiality' threshold, where those costs or savings are related to the occurrence of defined, unpredictable and exogenous event(s) for which a distribution determination does not provide a revenue allowance.

Incentive regulation provides for the setting of a revenue or price cap on a forward-looking basis for a set period (usually five years). Generally, the DNSP is permitted to earn revenues, or charge prices in accordance with the forward-looking revenue or price cap, even if it successfully controls costs below the cap or fails to control costs and exceeds the cap.

The incentive regulation structure works well for costs that are within the influence or control of the DNSP. However, there are certain costs that are:

- beyond the control of the DNSP – in other words, it does not matter how well or how poorly the DNSP manages its costs, the costs will be exogenously determined; and/or
- very difficult or impossible to estimate on a forward-looking basis when setting the revenue or price cap.

The first principle was recognised by the Australian Energy Market Commission (**AEMC**) in August 2012⁴, when it stated that:

With the exception of the capital expenditure re-opening provisions, the Commission considers that cost pass throughs should be the last option available to network businesses with respect to risk management. This is to protect the incentive mechanisms that operate under the building block approach to revenue determination, which help ensure that prices for consumers are no more than necessary to provide an appropriate level of service.

However, the Commission recognises that in order to provide network businesses with a reasonable opportunity to recover their efficient costs for providing direct control network services, network businesses should be able to recover the costs associated with events that are outside of their reasonable control.

In some cases insurance is an appropriate and efficient means of addressing the risk of these types of cost changes. Often, however, insurance coverage will be only partial, uneconomic to procure or in some cases, impossible to obtain. The cost and availability of insurance coverage will also change over time as exogenous events impact upon the cost, availability and level of insurance coverage.

Taking these factors into account, it will often be more efficient to ‘pass through’ these 'out of the ordinary' cost changes by permitting additional, or requiring reduced, revenues or prices during the RCP.

Pass through events are in the long term interests of consumers of electricity (ie when the relevant events are not well suited to incentive regulation and it is a cheaper, or the only, way to manage the relevant risk). This was recognised by the AEMC in August 2012⁵, when it stated that:

⁴ AEMC Rule Determination titled “National Electricity Amendment (Cost pass through arrangements for Network Service Providers) Rule 2012, dated 2 August 2012.

⁵ AEMC, National Electricity Amendment (Cost pass through arrangements for Network Service Providers) Rule 2012, 2 August 2012.

...providing factors for consideration by the AER when approving nominated pass through events should help ensure that pass through events are only used in situations where commercial insurance and self-insurance are not available on a reasonable basis, or the NSP is unable to mitigate or avoid the event without creating unacceptable risks. This should protect the incentive regime under the NER and better promote the efficient investment in, and efficient operation and use of, network services for the long term interests of consumers of electricity with respect to price;

In light of these comments, it is appropriate that costs which the DNSP cannot control are passed through to the customer, because the extent to which a DNSP can manage these risks is limited.

It is also worth noting that including a pass through event does not remove regulatory oversight. The DNSP must, by way of example, take measures to reduce the magnitude of the pass through amount.⁶

On that basis, in relation to each nominated pass through event, SA Power Networks will retain its incentive to operate efficiently and mitigate its costs.

For the reasons discussed above, it is not likely to promote efficient investment in electricity services, nor is it in the long-term interests of consumers of electricity, for DNSP's to bear remote risks, which may never eventuate, and are outside of their control.

⁶ NER 6.6.1(j).

4 Proposed additional pass through events

In addition to the four pass through events specified in the NER outlined in Section 2, SA Power Networks is nominating the following four additional pass through events for the 2025–30 RCP. These four pass through events were approved by the AER for our current, 2020–25 RCP. The AER also recently approved the same events in its Draft Decisions for its 2024–29 New South Wales (**NSW**), Australian Capital Territory (**ACT**) Tasmania and Northern Territory (**NT**) Distribution Determinations. The proposed definitions have had some minor amendments to those approved for the current period to align with the AER’s recent Draft Decisions.

Table 1: SA Power Networks proposed pass through events

Pass through event	Proposed definition
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 2025–30 regulatory control period that changes the costs to SA Power Networks in providing direct control services, provided the cyclone, fire, flood, earthquake or other event was:</p> <ul style="list-style-type: none"> (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 (b) not a consequence of any other act or omission of the service provider. <p>Note: In assessing a natural disaster event pass through application, the AER will have regard to, amongst other things:</p> <ul style="list-style-type: none"> (i) whether SA Power Networks has insurance against the event; and (ii) the level of insurance that an efficient and prudent NSP would obtain in respect of the event
Insurer credit risk event	<p>An insurer credit risk event occurs if an insurer of SA Power Networks becomes insolvent, and as a result, in respect of an existing or potential claim for a risk that was insured by the insolvent insurer, SA Power Networks:</p> <ul 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. <p>Note: in assessing an insurer credit risk event pass through application, the AER will have regard to, amongst other things:</p> <ul style="list-style-type: none"> (i) SA Power Networks attempts to mitigate and prevent the event from occurring by reviewing and considering the insurer’s track record, size, credit rating and reputation; and (ii) in the event that a claim would have been covered by the insolvent insurer’s policy, whether SA Power Networks had reasonable opportunity to insure the risk with a different provider.
Insurance coverage event	<p>An insurance coverage event occurs if:</p> <ol style="list-style-type: none"> 1. SA Power Networks: <ul 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. SA Power Networks incurs costs: <ul 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

3. The costs referred to in paragraph 2 above materially increase the costs to SA Power Networks in providing direct control services.

For the purposes of this insurance coverage event:

- 'changed circumstances' means movements in the relevant insurance liability market that are beyond the control of SA Power Networks, where those movements mean that it is no longer possible for SA Power Networks 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:
 - 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 SA Power Networks was regulated;
- SA Power Networks 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 SA Power Networks in relation to any aspect of SA Power Networks' network or business; and
- SA Power Networks 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 SA Power Networks in relation to any aspect of SA Power Networks' network or business.

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:

- 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 SA Power Networks to the AER about SA Power Networks' 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.

Terrorism event

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:

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 SA Power Networks in providing direct control services.

Note: In assessing a terrorism event pass through application, the AER will have regard to, amongst other things:

- i) whether SA Power Networks has insurance against the event;
 - ii) the level of insurance that an efficient and prudent NSP would obtain in respect of the event; and
 - iii) whether a declaration has been made by a relevant government authority that a terrorism event has occurred.
-

4.1 Natural disaster event

SA Power Networks proposes a pass through event for a ‘natural disaster event’. The proposed definition is detailed in Table 1.

In support of the acceptance of this proposed pass through event, SA Power Networks notes that:

- (a) a natural disaster event is not already covered by any of the categories of pass through events specified in clause 6.6.1(a1)(1) to (4) of the NER;
- (b) this type of event can be and is clearly identified;
- (c) SA Power Networks cannot prevent this type of event from occurring and cannot substantially mitigate the cost impacts of this type of event (both prior to and after the occurrence of this type of event);
- (d) SA Power Networks cannot obtain appropriate insurances on reasonable commercial terms covering the full range of costs that could potentially be incurred as a result of the occurrence of this type of event;
- (e) the occurrence of a particular natural disaster event is not foreseeable, has a low probability of occurrence but a high consequence or magnitude; and
- (f) a natural disaster event is beyond the control of SA Power Networks.

We note that a similar pass through event was accepted by the AER in its Draft Decisions for the NSW, ACT, Tasmanian and NT DNSPs for the 2024–29 RCP and the factors which supported the acceptance of this type of additional pass through event in relation to those determinations are equally applicable to SA Power Networks.

4.2 Insurance coverage event

SA Power Networks proposes a pass through event for an ‘insurance coverage event’. The proposed definition is detailed in Table 1.

In support of the acceptance of this proposed pass through event, SA Power Networks notes that:

- (a) an insurance coverage event is not already covered by any of the categories of pass through events specified in clause 6.6.1(a1)(1) to (4) of the NER;
- (b) this type of event can be and is clearly identified;
- (c) SA Power Networks cannot prevent this type of event from occurring (ie it is an outcome from the general insurance market and the requirement to obtain the level of insurance which an efficient and prudent DNSP would obtain in respect of this type of cost) and cannot substantially mitigate the cost impacts of this type of event (both prior to and after the occurrence of this type of event);
- (d) SA Power Networks cannot obtain appropriate insurances on reasonable commercial terms covering costs that exceed its policy limits;
- (e) the occurrence of a particular insurance coverage event is not foreseeable, has a low probability of occurrence but a high consequence or magnitude; and
- (f) an insurance coverage event is beyond the control of SA Power Networks.

Again, a similar Insurance coverage pass through event was accepted by the AER in its Draft Decisions for the NSW, ACT, Tasmanian and NT DNSPs for the 2024–29 RCP and the factors which supported the acceptance of this type of additional pass through event in relation to those determinations are equally applicable to SA Power Networks.

4.3 Insurer credit risk event

SA Power Networks proposes a pass through event for an ‘insurer credit risk event’. This event is triggered where SA Power Networks’ insurer becomes insolvent, and SA Power Networks is subject to higher or lower costs or a higher or lower claims limit or deductible than those allowed under its insurance policy with that insurer. The proposed definition is detailed in Table 1.

In support of the acceptance of this proposed pass through event, SA Power Networks notes that:

- (a) an insurer credit risk event is not already covered by any of the categories of pass through events specified in clause 6.6.1(a1)(1) to (4) of the NER;
- (b) this type of event can be and is clearly identified;
- (c) SA Power Networks cannot prevent this type of event from occurring and cannot substantially mitigate the cost impacts of this type of event (both prior to and after the occurrence of this type of event);
- (d) SA Power Networks cannot obtain appropriate insurances on reasonable commercial terms covering the occurrence of this type of event;
- (e) the occurrence of a particular insurer credit risk event is not foreseeable, has a low probability of occurrence but a high consequence or magnitude, and
- (f) an insurer credit risk event is beyond the control of SA Power Networks.

SA Power Networks submits that the occurrence of increased insurance premiums (or deductibles) from external insurers (where the original insurer becomes insolvent) is beyond its control, and that the costs associated with higher insurance premiums are also beyond the control of SA Power Networks (in that they cannot be reasonably mitigated).

A similar pass through event was accepted by the AER in its Draft Decisions for the NSW, ACT, Tasmanian and NT DNSPs for the 2024-29 RCP and the factors which supported the acceptance of this type of additional pass through event in relation to those determinations are equally applicable to SA Power Networks.

4.4 Terrorism event

SA Power Networks proposes a pass through event for a ‘terrorism event’. The proposed definition is detailed in Table 1.

In support of the acceptance of this proposed pass through event, SA Power Networks notes that:

- (a) a terrorism event is not already covered by any of the categories of pass through events specified in clause 6.6.1(a1)(1) to (4) of the NER;
- (b) this type of event can be and is clearly identified;
- (c) SA Power Networks cannot prevent this type of event from occurring and cannot substantially mitigate the cost impacts of this type of event (both prior to and after the occurrence of this type of event);
- (d) SA Power Networks cannot obtain appropriate insurances on reasonable commercial terms covering the full range of costs that could potentially be incurred as a result of the occurrence of this type of event;
- (e) the occurrence of a particular terrorism event is not foreseeable, has a low probability of occurrence but a high consequence or magnitude, and
- (f) a terrorism event is beyond the control of SA Power Networks.

Finally, we note that a similar terrorism pass through event was also accepted by the AER in its Draft Decisions for the NSW, ACT, Tasmanian and NT DNSPs for the 2024–29 RCP and the factors which supported the acceptance of this type of additional pass through event in relation to those determinations are equally applicable to SA Power Networks.

Glossary

Acronym / term	Definition
ACT	Australian Capital Territory
AEMC	Australian Energy Market Commission
AER	Australian Energy Regulator
DNSP	Distribution network service provider
NER	National Electricity Rules
NSW	New South Wales
NT	Northern Territory
Proposal	2025–30 Regulatory Proposal
RCP	Regulatory control period