

# Final Decision

**Power and Water Electricity**

**Distribution Determination**

**2024 to 2029**

**(1 July 2024 to 30 June 2029)**

**Attachment 15**

**Pass through events**

**April 2024**

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#### **Amendment record**

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## List of attachments

This attachment forms part of the AER's final decision on the distribution determination that will apply to Power and Water for the 2024–29 period. It should be read with all other parts of the draft decision.

The final decision includes the following documents:

Overview

Attachment 1 – Annual revenue requirement

Attachment 2 – Regulatory asset base

Attachment 4 – Regulatory depreciation

Attachment 5 – Capital expenditure

Attachment 6 – Operating expenditure

Attachment 7 – Corporate income tax

Attachment 13 – Classification of services

Attachment 14 – Control mechanisms

Attachment 15 – Pass through events

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## 15 Pass through events

During the regulatory control period, Power and Water Corporation (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.<sup>1</sup>

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:<sup>2</sup>

- a 'local' event prescribed by the National Electricity (Northern Territory)(National Uniform Legislation)(Modification) Regulations<sup>3</sup>
- an NT transitional regulatory change event prescribed by the National Electricity (Northern Territory)(National Uniform Legislation)(Modification) Regulations<sup>4</sup>
- a regulatory change event
- a service standard event
- a tax change event
- a retailer insolvency event.<sup>5</sup>

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

### 15.1 Final decision

Our final decision pursuant to clause 6.12.1(14) of the NT NER is to accept the six nominated pass through events proposed by Power and Water (terrorism, insurance

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

<sup>2</sup> NT NER, cl. 6.6.1(a1). Each of these prescribed events is defined in Chapter 10 (Glossary) of the NT NER. The retailer insolvency event has no effect until the National Energy Retail Law and the associated retailer of last resort provisions are adopted by the Northern Territory.

<sup>3</sup> NT NER, cl. 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 5, National Electricity (Northern Territory)(National Uniform Law)(Modification) Regulations.

<sup>4</sup> NT NER, cl. 6.6.1(a1)(1AB). This event expires on 1 July 2024: see Part 5, National Electricity (Northern Territory)(National Uniform Law)(Modification) Regulations.

<sup>5</sup> 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.

<sup>6</sup> NT NER, cl. 6.6.1(a1)(5).

coverage, natural disaster, insurer's credit risk, network support, and Northern Territory Electricity Market (NTEM) priority reform restructure events) as defined in Table 15.1.

Our final decision for the terrorism, insurance coverage, natural disaster, and insurer's credit risk pass through events is consistent with our draft decision,<sup>7</sup> which Power and Water fully accepted. We do not discuss them further in this final decision.

The NTEM priority reform restructure and network support pass through events are new.

- We accept the NTEM priority reform restructure event and its definition as amended by Power and Water in its revised proposal. This event was treated as a confidential matter in Power and Water's initial proposal, due the Northern Territory Government's (NT Government) ongoing reform process. However, Power and Water withdrew its confidentiality claim during our final decision process following a public announcement relating to this matter by the NT Government (see section 15.4).<sup>8</sup>
- We have amended the proposed definition of the network support event for the reasons set out in section 15.4, in consultation with Power and Water.

Our reasons for this final decision in section 15.4 relate only to these two new events.

Our definitions for the six nominated pass through events that are to apply to Power and Water over the 2024–29 regulatory control period are set out in Table 15.1.

## 15.2 Power and Water's revised proposal

Power and Water:

- accepted all aspects of our draft decision for the terrorism, insurance coverage, natural disaster, and insurer's credit risk pass through events.
- repropoed the NTEM priority reform restructure event, which we did not accept in our draft decision.
- included a new network support pass through event.<sup>9</sup>

### **NTEM priority reform restructure event**

Power and Water's initial proposal included (confidentially) a new NTEM priority reform restructure pass through event to provide cost recovery for material increases in the costs of providing direct control services as a result of a potential separation of the Northern Territory Electricity System and Market Operator (NTESMO) from the current Power and Water

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<sup>7</sup> The reasons for our decision are set out in: AER, *Draft Decision Attachment 15 - Pass through events - Power and Water Corporation - 2024-29 Distribution revenue proposal*, September 2023, pp. 7-10.

<sup>8</sup> Power and Water's initial proposal included the NTEM priority reform restructure pass through event in a confidential version of Attachment 12.02 (31 January 2023). We did not accept it in our draft decision and our reasons were discussed in a confidential Attachment. Power and Water did not accept our draft decision and provided additional information in its revised proposal. Please see: Power and Water, *Revised regulatory proposal 2024–29 - 6.1 - Nominated cost pass through event*, 15 April 2024, pp. 1-4.

<sup>9</sup> Power and Water, *Revised Regulatory Proposal 2024–29*, 30 November 2023, pp. 39-42.

corporate structure.<sup>10</sup> It submitted that it expects its costs of providing direct control services to increase if a separation occurs.<sup>11</sup>

Power and Water claimed confidentiality on this matter in its initial proposal. In our draft decision, we considered it in a confidential attachment and did not accept this event due to insufficient information available at the time.

Power and Water's revised proposal did not accept our draft decision and it included an amended definition of the NTEM priority reform restructure event. While Power and Water maintained its confidentiality claim on this matter, this position subsequently changed following a public announcement by the NT Government, with Power and Water lifting its confidentiality claim.<sup>12</sup>

In February 2024 the NT Government announced its intention to separate the NTESMO from Power and Water into an independent entity to undertake system operations and real time dispatch, central planning and procurement activities, and market settlement functions in line with the new role for NTESMO in the NTEM.<sup>13</sup> This is part of the NTEM Priority Reform Program, which was announced on 12 June 2020.

In September 2021, the NT Government introduced a Ministerial Code Making Power to enable the Minister to directly initiate and implement strategic energy policy reform where changes to the System Control Technical Code, Network Technical Code and Planning Criteria are required. At the time, a report commissioned by the NT Government (the Gateway Review Report) recommended the separation of NTESMO from the current Power and Water corporate structure.<sup>14</sup>

### **Network support pass through event**

Power and Water's revised proposal included a new network support pass through event to provide it with a reasonable opportunity to recover the cost of network support payments that are likely to arise in the 2024–29 regulatory control period.<sup>15</sup> The proposed event was not included in Power and Water's initial proposal and therefore, we did not consider it in our draft decision.

Power and Water submitted that there is a clear intention under the NTEM Priority Reform Program for it as the transmission and distribution network operator, to be responsible for

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<sup>10</sup> Power and Water, *Revised regulatory proposal 2024–29 - 6.1 - Nominated cost pass through event*, 15 April 2024, p. 1.

<sup>11</sup> Power and Water, *Revised regulatory proposal 2024–29 - 6.1 - Nominated cost pass through event*, 15 April 2024, p. 1.

<sup>12</sup> Power and Water, email received on 26 March 2024; Power and Water, *Revised regulatory proposal 2024–29 - 6.1 - Nominated cost pass through event*, November 2023.

<sup>13</sup> Northern Territory Department of Industry, Tourism and Trade, *Territory Electricity Market - Overview Paper - New arrangements for the Northern Territory's electricity supply to facilitate an orderly and efficient transition to renewable energy*, February 2024, p. 7. See [Reform: Territory Electricity Market | Department of Industry, Tourism and Trade](#) (Accessed on 02/04/2024).

<sup>14</sup> While this report is not confidential, we have been informed that it was only provided to relevant interested stakeholders.

<sup>15</sup> Power and Water, *Revised regulatory proposal 2024–29 - 6.2 - Nominated cost pass through event - Network Support Event*, November 2023, pp. 3–7.

procurement of voltage management / network support and system strength services should a shortfall be identified.<sup>16</sup> This matter was raised in May 2023 in a submission on Power and Water’s initial proposal by Territory Generation.<sup>17</sup>

Power and Water stated that the proposed network support event is a direct response to the risk of a shortfall in revenue resulting from an inability to reasonably recover costs associated with the provision of these network support services.<sup>18</sup>

Power and Water proposed that a network support event would occur if:

Network support payments, as defined in Chapter 10 of the NT NER, are made by Power and Water in its role as the Transmission Network Service Provider.<sup>19</sup>

Power and Water stated that its proposed definitions of *network support event*, *network support pass through amount* and *network support payments* are consistent with Chapter 10 of the NT NER.<sup>20</sup> These are set out below.<sup>21</sup>

#### *A network support event*

- a. If, at the end of a regulatory year of a regulatory control period, the amount of network support payments made by a Transmission Network Service Provider for that previous regulatory year is higher or lower than the amount of the network support payment allowance (if any) for the Transmission Network Service Provider for that previous regulatory year, this constitutes a network support event.
- b. In calculating the amount for the purposes of a network support event referred to in paragraph (a), the amount of network support payments made by a Transmission Network Service Provider must not include an amount of network support payments that are a substitute for a network augmentation where an allowance for capital expenditure in relation to that network augmentation has been provided for in the revenue determination or an approved pass through amount arising from an inertia shortfall event.

#### *Network support pass through amount*

The amount that should be passed through to Transmission Network Users in the regulatory year following the preceding regulatory year, in respect of a network support event for a Transmission Network Service Provider.

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<sup>16</sup> Power and Water, *Revised regulatory proposal 2024–29 - 6.2 - Nominated cost pass through event - Network Support Event*, November 2023, p. 3.

<sup>17</sup> Territory Generation, *Submission - 2024-29 Electricity Determination – PWC*, May 2023, pp. 1-2.

<sup>18</sup> Power and Water, *Revised regulatory proposal 2024–29 - 6.2 - Nominated cost pass through event - Network Support Event*, November 2023, p. 1.

<sup>19</sup> Power and Water, *Revised regulatory proposal 2024–29 - 6.2 - Nominated cost pass through event - Network Support Event*, November 2023, p. 5.

<sup>20</sup> Power and Water, *Revised regulatory proposal 2024–29 - 6.2 - Nominated cost pass through event - Network Support Event*, November 2023, p. 5.

<sup>21</sup> Power and Water, *Revised regulatory proposal 2024–29 - 6.2 - Nominated cost pass through event - Network Support Event*, November 2023, Appendix B.



### *Network support payment*

Any of the following payments:

- a. a payment made by a Transmission Network Service Provider to:
  - i. any Generator providing network support services in accordance with clause 5.3A.12; or
  - ii. any other person providing a network support service that is an alternative to network augmentation;
  - iii. an inertia service payment; and
- b. a system strength service payment.

### *Network support payments and functions*

- a. When negotiating the amount of a network support payment with an Embedded Generator, the Transmission Network Service Provider must take into account the:
  - i. nature of the network support services being provided by the Embedded Generator; and
  - ii. extent to which the Embedded Generator is being, or will be, compensated for providing those network support services by receiving avoided Customer TUOS charges.
- b. Where the relevant Transmission Network Service Provider or Distribution Network Service Provider decides to implement a generation option as an alternative to network augmentation, the Network Service Provider must:
  - i. register the generating unit with AEMO and specify that the generating unit may be periodically used to provide a network support function and will not be eligible to set spot prices when constrained on in accordance with clause 3.9.7; and
  - ii. include the cost of this network support service in the calculation of transmission service and distribution service prices determined in accordance with Chapter 6 or Chapter 6A, as the case may be.

Power and Water submitted that for this Network Support Event:<sup>22</sup>

- Transmission Network Service Provider means Power and Water.
- Transmission Network Users (where referenced) is substituted with Distribution Network Users to align with Power and Water being regulated under Chapter 6.
- Network support services includes voltage management / network support and system strength, consistent with the definition in the ESS draft position paper.
- For network support payments referred to in clause 5.3A.12, this clause has no effect in the NT. Power and Water proposed substituting the reference to 5.3A.12 with the definition of network support payments and functions included in 5.3A.12, where item (i) is removed as the requirements or references to AEMO and chapter 3 (including clause 3.9.7) have no effect in the NT.

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<sup>22</sup> Power and Water, *Revised regulatory proposal 2024–29 - 6.2 - Nominated cost pass through event - Network Support Event*, November 2023, p. 6.

Power and Water also proposed to apply the proposed network support event to alternative control services, particularly to its metering services.<sup>23</sup>

We did not receive any submissions on nominated cost pass through events.

## 15.3 Assessment approach

We applied the same assessment approach in our draft decision.<sup>24</sup>

## 15.4 Reasons for final decision

In this section we discuss the reasons for our decision for the NTEM priority reform restructure and network support pass through events. Our reasons for accepting the terrorism, insurance coverage, natural disaster, and insurer's credit risk pass through events are set out in our draft decision.<sup>25</sup>

### 15.4.1 NTEM priority reform restructure event

We accept Power and Water's NTEM priority reform restructure event as well as its definition as amended in the revised proposal because Power and Water provided additional information, addressing the concern we raised in our draft decision.

In its initial proposal, Power and Water defined the proposed NTEM priority reform restructure event as:

Any **legislative or administrative act** of the Northern Territory Government to implement electricity market reforms which results in a structural change to Power and Water (for example by way of a separation of market and system operation functions) which materially changes the costs to Power and Water of providing direct control services in the next regulatory control period (emphasis added).<sup>26</sup>

In our draft decision we did not accept the NTEM priority reform restructure event because we were unable to form a view on a key nominated pass through event consideration due to insufficient information. In determining whether to accept a nominated pass through event, we must take into account the 'nominated pass through event considerations',<sup>27</sup> in particular, whether the event proposed may already be covered by existing pass through events specified in clauses 6.6.1(a1)(1AA) to (4).<sup>28</sup>

At the time of making our draft decision, we did not have sufficient information to form a view as to whether the proposed event was likely or unlikely to be covered by any category of

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<sup>23</sup> Power and Water, *Revised regulatory proposal 2024–29 - 6.2 - Nominated cost pass through event - Network Support Event*, November 2023, p. 6.

<sup>24</sup> AER, AER, Draft Decision Attachment 15 - Pass through events - Power and Water Corporation - 2024-29 Distribution revenue proposal - September 2023, pp. 4-7.

<sup>25</sup> AER, Draft Decision Attachment 15 - Pass through events - Power and Water Corporation - 2024-29 Distribution revenue proposal - September 2023.

<sup>26</sup> Power and Water, *Regulatory Proposal 2024–29 - 12.02 - Pass through events attachment - Confidential*, 31 January 2023, pp. 8-9.

<sup>27</sup> NT NER, cl. 6.5.10(b).

<sup>28</sup> NT NER, Chapter 10, definition of 'nominated pass through event considerations'.

pass through event specified in clauses 6.6.1(a1)(1AA) to (4) of the NT NER. We are not to accept a proposed nominated pass through event that is likely to be covered by an existing event.

We considered that a reference to ‘**any legislative...act**’ in Power and Water’s initial proposed definition suggested that under specific circumstances the proposed event may be captured under the existing regulatory change pass through event. For example, this could be the case if a separation is implemented as an obligation on, or requirement of Power and Water under an Act, or instrument made or issued under that Act.

Power and Water did not accept our draft decision in its revised proposal.<sup>29</sup> It submitted that while it is feasible that a separation of NTESMO from Power and Water may be implemented via legislative change and therefore covered under a regulatory change event, it is also reasonable to conclude that NTESMO separation could be implemented without legislative change. Power and Water stated examples of credible and likely administrative arrangements as implementation options that would not meet the definition of a regulatory change event. These include the transfer or sale of NTESMO and the transfer/novation of the NT Utilities Commission System Control licence to another party (such as the Australian Energy Market Operator or a newly established entity).<sup>30</sup>

Furthermore, Power and Water’s revised proposal included an amended definition of NTEM priority reform restructure event to reflect that a separation may be implemented as an administrative process. It removed the reference to “**legislative act**”.<sup>31</sup>

Following the NT Government announcement in February 2024, we understand that a separation would proceed as foreshadowed by Power and Water,<sup>32</sup> though this announcement is contingent upon the passage of the necessary legislation through Parliament in 2024.<sup>33</sup>

We agree with Power and Water that it is reasonable to consider that a NTESMO separation could be implemented without legislative change. We are satisfied with the revised definition of the proposed event because it excludes the likelihood of the NTEM priority reform restructure event being captured under the existing regulatory change event. We approved a

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<sup>29</sup> Power and Water, *Regulatory Proposal 2024–29 – 6.1 - Pass through events attachment*, 15 April 2023, p. 3.

<sup>30</sup> Power and Water, *Regulatory Proposal 2024–29 – 6.1 - Pass through events attachment*, 15 April 2023, p. 3.

<sup>31</sup> Power and Water, *Regulatory Proposal 2024–29 – 6.1 - Pass through events attachment*, 15 April 2023, p. 3.

<sup>32</sup> Northern Territory Department of Industry, Tourism and Trade, *Territory Electricity Market - Overview Paper - New arrangements for the Northern Territory’s electricity supply to facilitate an orderly and efficient transition to renewable energy*, February 2024, p. 8. See [Reform: Territory Electricity Market | Department of Industry, Tourism and Trade](#) (Accessed on 02/04/2024).

<sup>33</sup> Northern Territory Department of Industry, Tourism and Trade, *Territory Electricity Market - Overview Paper - New arrangements for the Northern Territory’s electricity supply to facilitate an orderly and efficient transition to renewable energy*, February 2024, p. 8. See [Reform: Territory Electricity Market | Department of Industry, Tourism and Trade](#) (Accessed on 02/04/2024).

similar event in our 2009–14 New South Wales determinations relating to the separation of the NSW electricity distributors from their retail operations.<sup>34</sup>

Table 15.1 sets out the definition accepted in this final decision.

## 15.4.2 Network support event

We accept the network support pass through event proposed by Power and Water. We are satisfied that it meets the considerations for nominated cost pass through events set out in the NT NER, which are discussed in the following paragraphs.<sup>35</sup>

- The proposed event is not covered by an existing category of pass through event
  - We are satisfied that there is no comparable alternative to the proposed network support event in the NT NER. Under the NER, transmission network services providers are able to recover the costs associated with the procurement of network support from customers where the cost increases (or decreases) are beyond their control through a cost pass through event.<sup>36</sup> This is not the case for Power and Water in its operations as a transmission network service provider in the Northern Territory because the provisions of chapter 6A of the NER are not in effect in the NT NER. We understand chapter 6A is unlikely to be adopted under the NT NER given the size and structure of Power and Water combined with the complexity associated with regulating a standalone transmission network.<sup>37</sup>
- The nature of the event is clearly identifiable at this time
  - Power and Water proposed to apply the network support event in its role as the transmission network service provider in the Northern Territory.<sup>38</sup> The proposed event is similar to that which is included in the NER for transmission network service providers in other jurisdictions that we regulate.<sup>39</sup>

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<sup>34</sup> AER, *Final decision New South Wales distribution determination 2009–10 to 2013–14*, April 2009, pp. 282–283.

<sup>35</sup> NT NER, cl. 6.5.10(b)).

<sup>36</sup> NER, cl. 6A.7.2.

<sup>37</sup> Power and Water submitted that services that would otherwise be defined as transmission services are classified as distribution services and subject to economic regulation under Chapter 6, ensuring there is only one regulatory proposal and determination that needs to be made. See, Power and Water, *Revised regulatory proposal 2024–29 - 6.2 - Nominated cost pass through event - Network Support Event*, November 2023, p. 5.

<sup>38</sup> Power and Water, *Revised regulatory proposal 2024–29 - 6.2 - Nominated cost pass through event - Network Support Event*, November 2023, p. 5.

<sup>39</sup> Rule 6.0A(c)(1)-(5) of the NT NER provides a range of interpretations of chapter 6 rule to include transmission network/services. For example, it states the following: (1) a reference to a "distribution network" must be regarded as including a reference to a "transmission network"; (2) a reference to a "distribution system" must be regarded as including a reference to a "transmission system"; (3) a reference to a "Distribution Network User" must be regarded as including a reference to a "Transmission Network User"; (4) a reference to a "Distribution Network Service Provider" must be regarded as including a reference to a "Transmission Network Service Provider"; (5) a reference to a "distribution service" must be regarded as including a reference to a "transmission service".

- 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
  - We consider Power and Water is unlikely to reasonably prevent the requirements on it to comply with network design criteria under the NT Network Technical Code and Planning Criteria, by providing relevant required essential system services.<sup>40</sup> The NT Government has, as part of its ongoing energy reform, signalled its expectations for Power and Water to provide essential system services (e.g., Voltage management / network support and system strength).<sup>41</sup>

While we consider it reasonable to apply the proposed network support event to Power and Water over the 2024-29 regulatory control period, we have amended the definition included in the revised proposal to reflect:

- the provision that pass throughs reflect the totality of network support payments made at the end of a regulatory year of a regulatory control period and ensure Power and Water would have 90 business days to submit its pass through statement under cl 6.6.1(a1)(c) or (f) of the NT NER, rather than the 60 business days under chapter 6A of the NER.
- additional factors the AER would have regard to when assessing a cost pass through application - this is to address the fact that cl 6.6.1(a1)(c)(6)(i) of the NT NER does not require a network service provider to provide evidence “of the actual increase in the amount of network support payments, including certification by an independent and appropriately qualified expert” as is required under cl 6A.7.2(c)(3) of the NER, which is not in effect in the NT NER.
- avoidance of inconsistency (regarding the definition of network support payments) in the event that clause 5.3A.12 is in effect and modified in the NT NER during the next regulatory control period following the NTEM reform.

Power and Water agreed to our amendments.<sup>42</sup> Our definition is set out in Table 15.1.

#### **15.4.2.1 Application of network support event to alternative control services**

Power and Water proposed to apply the new network support event to alternative control services, particularly to its metering services.<sup>43</sup>

We do not accept Power and Water’s proposal. We understand that pass through events under clause 6.6.1 of the NT NER are adjustments to the distribution network service

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<sup>40</sup> Power and Water, *Revised regulatory proposal 2024–29 - 6.2 - Nominated cost pass through event - Network Support Event*, November 2023, p. 7.

<sup>41</sup> Northern Territory Government through the Department of Industry, Tourism and Trade, *Draft Position Paper - NTEM Priority Reform Program: Review of essential system services* ([here](#)), January 2021, Table A, p. 4.

<sup>42</sup> Power and Water, *Response to the AER’s information request IR#036 – Cost pass through proposed amendment – Network support and proposed application to alternative control services*, email received on 12 March 2024.

<sup>43</sup> Power and Water, *Revised regulatory proposal 2024–29 - 6.2 - Nominated cost pass through event - Network Support Event*, November 2023, p. 6.

provider (DNSP)’s building block determination, which are a “component of a distribution determination relevant to the regulation of standard control services”.

- Standard control service is defined in Chapter 10 of the NT NER as a direct control service that is subject to a control mechanism based on a DNSP’s total revenue requirement.
- Alternative control service is defined in Chapter 10 of the NT NER as a distribution service that is a direct control service but not a standard control service.

We also understand that alternative control services are only provided by network service providers that provide distribution services. It is not clear to us in what circumstances Power and Water would seek to pass through costs for alternative control services (distribution services) under its proposed network support pass through event (being payments made in its role as a transmission network service providers).

We raised our concern with Power and Water,<sup>44</sup> and in response it withdrew its proposal to apply the network support pass through event to alternative control services.<sup>45</sup>

**Table 15.1 AER pass through event definitions**

Pass through event	Final decision definition
Insurance coverage event	<p>An insurance coverage event occurs if:</p> <ol style="list-style-type: none"> <li>1. Power and Water:                             <ol style="list-style-type: none"> <li>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</li> <li>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</li> </ol> </li> <li>2. Power and Water incurs costs:                             <ol style="list-style-type: none"> <li>a) beyond a relevant policy limit for that policy or set of insurance policies; or</li> <li>b) that are unrecoverable under that policy or set of insurance policies due to changed circumstances; and</li> </ol> </li> <li>3. The costs referred to in paragraph 2 above materially increase the costs to Power and Water in providing direct control services.</li> </ol> <p>For the purposes of this insurance coverage event:</p> <ul style="list-style-type: none"> <li>• 'changed circumstances' means movements in the relevant insurance liability market that are beyond the control of Power and Water, where those movements mean that it is no longer possible for Power and Water to take out an insurance policy or set of insurance policies at all</li> </ul>

<sup>44</sup> AER, *Information request IR#036 to Power and Water – Cost pass through proposed amendment – Network support and proposed application to alternative control services*, Question 2, on 15 February 2024.

<sup>45</sup> Power and Water, *Response to the AER’s information request IR#036 – Cost pass through proposed amendment – Network support and proposed application to alternative control services*, Question 2, email received on 23 February 2024.

Pass through event	Final decision definition
	<p>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> <ul style="list-style-type: none"> <li>• '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"> <li>– the limit not been exhausted; or</li> <li>– those costs not been unrecoverable due to changed circumstances.</li> </ul> </li> <li>• 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 was regulated; and</li> <li>• Power and Water 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 in relation to any aspect of Power and Water's network or business; and</li> <li>• Power and Water 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 in relation to any aspect of Power and Water's network or business.</li> </ul> <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"> <li>i) the relevant insurance policy or set of insurance policies for the event</li> <li>ii) the level of insurance that an efficient and prudent DNSP would obtain, or would have sought to obtain, in respect of the event;</li> <li>iii) any information provided by Power and Water to the AER about Power and Water's actions and processes; and</li> <li>iv) any guidance published by the AER on matters the AER will likely have regard to in assessing any insurance coverage event that occurs.</li> </ul>
<p>Insurer's credit risk event</p>	<p>An insurer's credit risk event occurs if an insurer of Power and Water 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:</p> <ul style="list-style-type: none"> <li>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</li> <li>b) incurs additional costs associated with funding an insurance claim, which would otherwise have been covered by the insolvent insurer.</li> </ul> <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"> <li>i) Power and Water attempts to mitigate and prevent the event from occurring by reviewing and considering the insurer's track record, size, credit rating and reputation; and</li> </ul>

Pass through event	Final decision definition
	<p>ii) in the event that a claim would have been covered by the insolvent insurer's policy, whether Power and Water 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 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 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> <p>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</p> <p>2. changes the costs to Power and Water in providing direct control services.</p> <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 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> <p>iii) whether a declaration has been made by a relevant government authority that a terrorism event has occurred.</p>
NTEM priority reform restructure event	<p>NTEM priority reform restructure event means:</p> <p>Any administrative act of the Northern Territory Government to implement electricity market reforms which results in a structural change to Power and Water (for example by way of the separation, sale or transfer of market and/or system operation functions to another entity) which materially changes the costs to Power and Water of providing direct control services in the next regulatory control period.</p>



Pass through event	Final decision definition
	<p>Note: If the NTESMO separation is implemented via legislation, then costs will be recovered as a regulatory change pass through event, and this nominated pass through event will not be activated. Any costs associated with separation will only be recovered once.</p>
<p>Network support event</p>	<p>A network support event occurs if:</p> <ul style="list-style-type: none"> <li>i) Network support payments, as defined below, are made by Power and Water in its role as the Transmission Network Service Provider; <u>and</u></li> <li>ii) Network support event falls within no other category of pass through event.</li> </ul> <p>For this Network Support Event, multiple network support events are deemed as constituting a single network support event occurring on the last date of a regulatory year of a regulatory control period.</p> <p>Note: For the purpose of assessing a network support cost pass through application, the AER will have regard, among other things, to evidence of the actual increase in the amount of network support payments, including certification by an independent and appropriately qualified expert.</p> <p>The definitions of Network support event and Network support pass through amount are proposed to apply, consistent with Chapter 10 of the NT NER.</p> <p><b>Network support event</b></p> <ul style="list-style-type: none"> <li>a. If, at the end of a regulatory year of a regulatory control period, the amount of network support payments made by a Transmission Network Service Provider for that previous regulatory year is higher or lower than the amount of the network support payment allowance (if any) for the Transmission Network Service Provider for that previous regulatory year, this constitutes a network support event.</li> <li>b. In calculating the amount for the purposes of a network support event referred to in paragraph (a), the amount of network support payments made by a Transmission Network Service Provider must not include an amount of network support payments that are a substitute for a network augmentation where an allowance for capital expenditure in relation to that network augmentation has been provided for in the revenue determination or an approved pass through amount arising from an inertia shortfall event.</li> </ul> <p><b>Network support pass through amount</b></p> <p>The amount that should be passed through to Transmission Network Users in the regulatory year following the preceding regulatory year, in respect of a network support event for a Transmission Network Service Provider.</p> <p><b>Network support payment</b></p> <p>Any of the following payments:</p> <ul style="list-style-type: none"> <li>a. a payment made by a Transmission Network Service Provider to:</li> </ul>

Pass through event	Final decision definition
	<p>i. any Generator providing network support services in accordance with clause 5.3A.12 of the NT NER if it is in effect, or if cl 5.3A.12 of the NT NER is not in effect, cl 5.3A.12 of the NER, save for subclause 5.3A.12(b)(1); or</p> <p>ii. any other person providing a network support service that is an alternative to network augmentation.</p> <p><b>Network support payments and functions</b></p> <p>a. When negotiating the amount of a network support payment with an Embedded Generator, the Transmission Network Service Provider must take into account the:</p> <p>i. nature of the network support services being provided by the Embedded Generator; and</p> <p>ii. extent to which the Embedded Generator is being, or will be, compensated for providing those network support services by receiving avoided Customer TUOS charges.</p> <p>b. Where the relevant Transmission Network Service Provider or Distribution Network Service Provider decides to implement a generation option as an alternative to network augmentation, the Network Service Provider must:</p> <p>i. register the generating unit with NTESMO and specify that the generating unit may be periodically used to provide a network support function and will not be eligible to set spot prices when constrained on in accordance with clause 3.9.7; and</p> <p>ii. include the cost of this network support service in the calculation of transmission service and distribution service prices determined in accordance with Chapter 6 or Chapter 6A, as the case may be.</p>

Source: AER analysis

## A Shortened forms

Term	Definition
AEMC	Australian Energy Market Commission
AER	Australian Energy Regulator
DNSP	distribution network service provider
NER	national electricity rules
NSP	network service provider
opex	operating expenditure

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