



DRAFT DECISION
AusNet Services transmission
determination
2017–18 to 2021–22

Attachment 14 – Negotiating
framework

July 2016

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Note

This attachment forms part of the AER's draft decision on AusNet Services' revenue proposal 2017–22. It should be read with other parts of the draft decision.

The draft decision includes the following documents:

Overview

Attachment 1 – maximum allowed revenue

Attachment 2 – regulatory asset base

Attachment 3 – rate of return

Attachment 4 – value of imputation credits

Attachment 5 – regulatory depreciation

Attachment 6 – capital expenditure

Attachment 7 – operating expenditure

Attachment 8 – corporate income tax

Attachment 9 – efficiency benefit sharing scheme

Attachment 10 – capital expenditure sharing scheme

Attachment 11 – service target performance incentive scheme

Attachment 12 – pricing methodology

Attachment 13 – pass through events

Attachment 14 – negotiated services

Contents

Note	14-2
Contents	14-3
Shortened forms	14-4
14 Negotiating framework	14-6
14.1 Draft decision	14-6
14.2 AusNet Services’ proposal	14-6
14.3 AER’s assessment approach	14-7
14.4 Reasons for draft decision	14-7
14.5 Negotiated transmission service criteria	14-9
14.5.1 The NTCS	14-9
National Electricity Objective.....	14-9
Criteria for terms and conditions of access.....	14-9
Terms and conditions of access	14-9
Price of services.....	14-9
Criteria for access charges	14-10
Access charges.....	14-10

Shortened forms

Shortened form	Extended form
AARR	aggregate annual revenue requirement
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
ASRR	annual service revenue requirement
augex	augmentation expenditure
capex	capital expenditure
CCP	Consumer Challenge Panel
CESS	capital expenditure sharing scheme
CPI	consumer price index
DRP	debt risk premium
EBSS	efficiency benefit sharing scheme
ERP	equity risk premium
MAR	maximum allowed revenue
MRP	market risk premium
NEL	national electricity law
NEM	national electricity market
NEO	national electricity objective
NER	national electricity rules
NSP	network service provider

Shortened form	Extended form
NTSC	negotiated transmission service criteria
opex	operating expenditure
PPI	partial performance indicators
PTRM	post-tax revenue model
RAB	regulatory asset base
RBA	Reserve Bank of Australia
repex	replacement expenditure
RFM	roll forward model
RIN	regulatory information notice
RPP	revenue and pricing principles
SLCAPM	Sharpe-Lintner capital asset pricing model
STPIS	service target performance incentive scheme
TNSP	transmission network service provider
TUoS	transmission use of system
WACC	weighted average cost of capital

14 Negotiating framework

Our transmission determination imposes control over revenues that a transmission business can recover from its provision of prescribed transmission services. But we do not determine the terms and conditions of negotiated transmission services. Under the National Electricity Rules (NER), negotiated services are provided under an agreement or as a result of a determination of a commercial arbitrator. These processes are facilitated by:

- a negotiating framework
- negotiated transmission service criteria (NTSC).

A transmission business must prepare a negotiating framework that sets out procedures for negotiating the terms and conditions of access to a negotiated transmission service. The NTSC, which we develop in consultation with stakeholders, set out criteria that a transmission business must apply in negotiating those terms and conditions, including the prices and access charges for negotiated transmission services. They also contain the criteria that a commercial arbitrator must apply to resolve disputes about such terms and conditions and/or access charges. This attachment sets out our considerations and conclusions on AusNet Services' proposed negotiating framework and the NTSC.

14.1 Draft decision

We approve AusNet Services' proposed negotiating framework because it meets the requirements in the NER.¹ Further, our draft decision is that the NTSC we published in November 2015 will apply to AusNet Services in the 2017–22 regulatory control period, because those criteria give effect to the negotiated transmission service principles.²

14.2 AusNet Services' proposal

On 30 October 2015, AusNet Services submitted its proposed negotiating framework.

AusNet Services' provides transmission services in conjunction with the Australian Energy Market Operator (AEMO). AusNet Services provides and offers connection services whereas AEMO provides shared transmission services. Because of this AusNet Services proposal states that it worked with AEMO to devise a common negotiating framework for them both.³ We approved a common negotiating framework for AusNet Services and AEMO in 2014.⁴

¹ NER, clause 6A.9.5(c).

² NER, clause 6A.9.1.

³ AusNet Services, *Proposed negotiating framework for 1 April 2017 to 31 March 2022*, October 2015, p. 3.

⁴ AER, *Final decision for AusNet Services' (then SP AusNet) 2014–17 regulatory control period*, 31 January 2014; AER, *Final decision for AEMO's 2014–19 regulatory control period*, 1 April 2014.

Given AEMO's transmission responsibilities, AusNet Services outlined how their common negotiating framework would operate. Negotiated transmission services include connection services that are provided to service a specific user, or group of users, at a single transmission connection point.⁵ They also include negotiated transmission services which exceed the network performance requirements under jurisdictional electricity legislation.⁶ Of these types of negotiated services AusNet Services stated that it is responsible for connection services whereas AEMO is responsible for shared transmission services. This is such that AusNet Services proposed that its common negotiating framework applies to:

- AusNet Services and each Service Applicant who applies in writing to AusNet Services for the provision of connection services which are negotiated services
- AEMO and each Service Applicant who applies in writing to AEMO for the provision of shared transmission services which are negotiated services.

In respect of enquiries for connection to its transmission network, AusNet Services or the relevant transmission business (as applicable) has primary responsibility for assessing and advising a Service Applicant on the connection assets at the physical interface with its transmission network (network exit services and network entry services).⁷

14.3 AER's assessment approach

To be approved, a proposed negotiating framework must specify each requirement set out in clause 6A.9.5(c) of the NER. We examined whether AusNet Services' proposed negotiating framework met these requirements.

We consider NTSC that adopt the negotiated transmission service principles would satisfy the NER requirements. We thus assessed whether our proposed NTSC reflect the negotiating transmission service principles in clause 6A.9.1 of the NER.

14.4 Reasons for draft decision

We approve AusNet Services proposed negotiating framework because it complies with the minimum requirements in the NER.⁸ Those requirements include, among other things, a statement that AusNet Services will negotiate in good faith and a description of procedures for dealing with disputes.

Table 14.1 summarises our findings on AusNet Services proposed negotiating framework. It shows that each of the requirements under the NER for a negotiating framework is satisfactorily addressed.

⁵ NER, Chapter 10.

⁶ NER, Chapter 10.

⁷ AusNet Services, *Proposed negotiating framework for 1 April 2017 to 31 March 2022*, October 2015, p.4

⁸ NER, clause 6A.9.5(c).

Table 14.1 AER’s assessment of AusNet Services’ proposed negotiating framework

NER requirements	AER assessment
Requirement for AusNet Services and the applicant of a negotiated transmission service to negotiate in good faith—clause 6A.9.5(c)(1)	Section 4 of AusNet Services’ proposed negotiating framework satisfies this requirement.
Requirement for AusNet Services to provide all such commercial information reasonably required to enable the applicant of a negotiated transmission service to engage in effective negotiations—clause 6A.9.5(c)(2)	Section 8 of AusNet Services’ proposed negotiating framework satisfies this requirement.
Requirement for AusNet Services to identify and inform the negotiated transmission service applicant of the reasonable costs of providing the negotiated service; and demonstrate that charges reflect costs—clause 6A.9.5(c)(3)	Section 8 of AusNet Services’ proposed negotiating framework satisfies this requirement.
Requirement for a negotiated transmission service applicant to provide all such commercial information reasonably required to enable AusNet Services to engage in effective negotiation—clause 6A.9.5(c)(4)	Section 8 of AusNet Services’ proposed negotiating framework satisfies this requirement.
Requirement to specify a reasonable period of time for commencing, progressing and finalising negotiations; and a requirement for each party to use their reasonable endeavours to adhere to those time periods during the negotiation—clause 6A.9.5(c)(5)	Section 5 of AusNet Services’ proposed negotiating framework satisfies this requirement.
Requirement to specify a process for disputes to be dealt with in accordance with the relevant provisions for dispute resolution ⁹ —clause 6A.9.5(c)(6)	Section 10 of AusNet Services’ proposed negotiating framework satisfies this requirement.
Requirement to specify arrangements for the payment of AusNet Services’ reasonable direct expenses incurred in processing the application to provide the negotiated transmission service—clause 6A.9.5(c)(7)	Section 6 of AusNet Services’ proposed negotiating framework satisfies this requirement.
Requirement for AusNet Services to determine the potential impact of the provision of a negotiated transmission service on other network users—clause 6A.9.5(c)(8)	Section 11 of AusNet Services’ proposed negotiating framework satisfies this requirement.
Requirement for AusNet Services to notify and consult with any affected network user and ensure the negotiated transmission service does not result in noncompliance with obligations in relation to other network users under the NER—clause 6A.9.5(c)(9)	Section 11 of AusNet Services’ proposed negotiating framework satisfies this requirement.

Source: AER analysis.

⁹ The relevant provisions for dispute resolution are set out in part K of chapter 6A of the NER.

14.5 Negotiated transmission service criteria

In November 2015, we published an invitation for submissions on the NTSC. Our draft decision is that the NTSC which we published with that invitation (reproduced in section 14.5.1) should apply to SP AusNet's 2017–22 regulatory control period. This is because it adopts the negotiated transmission service principles as its criteria. We did not receive stakeholder submissions on the NTSC.

14.5.1 The NTCS

National Electricity Objective

1. The terms and conditions of access for a negotiated transmission service, including the price that is to be charged for the provision of that service and any access charges, should promote the achievement of the National Electricity Objective.

Criteria for terms and conditions of access

Terms and conditions of access

2. The terms and conditions of access for a negotiated transmission service must be fair, reasonable, and consistent with the safe and reliable operation of the power system in accordance with the NER.
3. The terms and conditions of access for negotiated transmission services, particularly any exclusions and limitations of liability and indemnities, must not be unreasonably onerous. Relevant considerations include the allocation of risk between the TNSP and the other party, the price for the negotiated transmission service and the cost to the TNSP of providing the negotiated service.
4. The terms and conditions of access for a negotiated transmission service must take into account the need for the service to be provided in a manner that does not adversely affect the safe and reliable operation of the power system in accordance with the NER.

Price of services

5. The price of a negotiated transmission service must reflect the cost that the TNSP has incurred or incurs in providing that service, and must be determined in accordance with the principles and policies set out in the Cost Allocation Methodology.
6. Subject to criteria 7 and 8, the price for a negotiated transmission service must be at least equal to the avoided cost of providing that service but no more than the cost of providing it on a stand-alone basis.
7. If the negotiated transmission service is a shared transmission service that:
 - (a) exceeds any network performance requirements which it is required to meet under any relevant electricity legislation; or
 - (b) exceeds the network performance requirements set out in schedule 5.1a and 5.1 of the NER

then the difference between the price for that service and the price for the shared transmission service which meets network performance requirements must reflect the TNSP's incremental cost of providing that service (as appropriate).

8. For shared transmission services, the difference in price between a negotiated transmission service that does not meet or exceed network performance requirements and a service that meets those requirements should reflect the TNSP's avoided costs. Schedule 5.1a and 5.1 of the NER or any relevant electricity legislation must be considered in determining whether any network service performance requirements have not been met or exceeded.
9. The price for a negotiated transmission service must be the same for all Transmission Network Users. The exception is if there is a material difference in the costs of providing the negotiated transmission service to different Transmission Network Users or classes of Transmission Network Users.
10. The price for a negotiated transmission service must be subject to adjustment over time to the extent that the assets used to provide that service are subsequently used to provide services to another person. In such cases the adjustment must reflect the extent to which the costs of that asset are being recovered through charges to that other person.
11. The price for a negotiated transmission service must be such as to enable the TNSP to recover the efficient costs of complying with all regulatory obligations associated with the provision of the negotiated transmission service.

Criteria for access charges

Access charges

12. Any access charges must be based on the costs reasonably incurred by the TNSP in providing Transmission Network User access. This includes the compensation for foregone revenue referred to in clause 5.4A(h) to (j) of the NER and the costs that are likely to be incurred by a person referred to in clause 5.4A(h) to (j) of the NER (as appropriate).