



**DRAFT DECISION**  
**Murraylink transmission**  
**determination**  
**2018 to 2023**

**Attachment 14 – Negotiated**  
**services**

September 2017

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## Note

This attachment forms part of the AER's draft decision on Murraylink's transmission determination for 2018–23. It should be read with all 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

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Attachment 14 – Negotiated services

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## 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
DMIA	demand management innovation allowance
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
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

Shortened form	Extended form
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 Negotiated services

This attachment sets out our draft determination on Murraylink's negotiating framework for the 2018–23 regulatory control period.<sup>1</sup> We also specify the negotiated transmission service criteria (NTSC) that are to apply to Murraylink.<sup>2</sup>

We acknowledge that Murraylink currently provides prescribed transmission services only, and does not currently provide negotiated services or unregulated services. Nonetheless, Murraylink must submit, together with its revenue proposal, a proposed negotiating framework for negotiated services,<sup>3</sup> which we either accept or do not accept. Further, we have to specify the NTSC for Murraylink for the 2018–23 period.<sup>4</sup>

Our proposed NTSC for Murraylink is published on our website . We specify for each transmission business the NTSC that it must apply in negotiating terms and conditions of access, including the prices and access charges for negotiated transmission services.<sup>5</sup> The NTSC are to be applied by a commercial arbitrator in resolving disputes about such terms and conditions and/or access charges.<sup>6</sup> The NTSC for Murraylink are identical to the criteria we developed and applied for other transmission businesses.

### 14.1 Draft decision

We approve Murraylink's proposed negotiating framework.<sup>7</sup> We will also apply to Murraylink the NTSC we published in April 2017.<sup>8</sup>

### 14.2 Murraylink's proposal

Murraylink submitted its proposed negotiating framework for 2018–23 on 31 January 2017.

Murraylink stated that:<sup>9</sup>

- it is registered with AEMO as a TNSP
- its proposed framework was prepared in fulfilment of its obligations under clause 6A.9.5 of the NER to establish a negotiating framework

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<sup>1</sup> NER, cl. 6A.2.2(2); 6A.14.1(6).

<sup>2</sup> NER, cl. 6A.2.2(3); 6A.14.1(7).

<sup>3</sup> NER, cl. 6A.10.1(b).

<sup>4</sup> NER, cl. 6A.2.2(3).

<sup>5</sup> NER, cl. 6A.9.4(a)(1).

<sup>6</sup> NER, cl. 6A.9.4(a)(2).

<sup>7</sup> TransGrid, *TransGrid Negotiating Framework 2018/19 - 2022/23*, 31 January 2017.

<sup>8</sup> AER, *Negotiated transmission service criteria for TransGrid - Regulatory control period 2018-2023 – Call for submissions*, April 2017.

<sup>9</sup> Murraylink Transmission Company Pty Ltd, *Negotiating Framework, Effective July 2018 to June 2023*, January 2017.

- its proposed framework applies to Murraylink and any service applicant who applies to receive a negotiated transmission service
- nothing in its negotiating framework or in the NER will be taken as imposing an obligation on Murraylink to provide any service to the service applicant.

### 14.3 Assessment approach

In reaching our draft decision, we considered whether:

- Murraylink’s proposed negotiating framework specified the minimum requirements in clause 6A.9.5(c) of the NER<sup>10</sup>
- the NTSC reflect the negotiated transmission service principles in clause 6A.9.1 of the NER.<sup>11</sup>

### 14.4 Reasons for draft decision

We approve Murraylink’s proposed negotiating framework because it specifies and meets the minimum NER requirements.<sup>12</sup> These include, among other things, a requirement for Murraylink (and the service applicant) to negotiate in good faith, and that all disputes between the parties will be dealt with in accordance with the NER.<sup>13</sup>

Table 14.1 summarises our assessment of Murraylink’s proposed negotiating framework. It shows that each of the requirements under the NER for a negotiating framework is satisfactorily addressed.

**Table 14.1 AER's assessment of Murraylink’s proposed negotiating framework<sup>14</sup>**

NER requirements	AER assessment
Requirement for Murraylink and the applicant for a negotiated transmission service to negotiate in good faith—clause 6A.9.5(c)(1)	Paragraph 2 of Murraylink’s proposed negotiating framework complies with this requirement.
Requirement for Murraylink 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)	Paragraph 6 of Murraylink’s proposed negotiating framework complies with this requirement.
Requirement for Murraylink to identify and inform the negotiated transmission service applicant of the reasonable costs of providing the negotiated service, and to demonstrate that charges reflect costs—clause 6A.9.5(c)(3)	Paragraph 10 of Murraylink’s proposed negotiating framework complies with this requirement.

<sup>10</sup> NER, cl. 6A.9.5(b)(2); 6A.14.3(f).

<sup>11</sup> NER, cl. 6A.9.4(b).

<sup>12</sup> NER, cl. 6A.9.5(c).

<sup>13</sup> NER, Part K Commercial arbitration for disputes about terms and conditions of access for prescribed and negotiated transmission services, cl 6A.30 to 6A.30.8.

<sup>14</sup> TransGrid, *TransGrid Negotiating Framework 2018/19 - 2022/23*, 31 January 2017.



NER requirements	AER assessment
Requirement for a negotiated transmission service applicant to provide all such commercial information reasonably required to enable Murraylink to engage in effective negotiation—clause 6A.9.5(c)(4)	Paragraphs 4 and 5 of Murraylink’s proposed negotiating framework comply with 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)	Paragraph 3 of Murraylink’s proposed negotiating framework complies with this requirement.
Requirement to specify a process for disputes to be dealt with in accordance with the relevant provisions for dispute resolution —clause 6A.9.5(c)(6)	Paragraph 9 of Murraylink’s proposed negotiating framework complies with this requirement.
Requirement to specify arrangements for the payment of Murraylink’s reasonable direct expenses incurred in processing the application to provide the negotiated transmission service—clause 6A.9.5(c)(7)	Paragraph 10 of Murraylink’s proposed negotiating framework complies with this requirement.
Requirement for Murraylink to determine the potential impact of the provision of a negotiated transmission service on other network users—clause 6A.9.5(c)(8)	Paragraph 7 of Murraylink’s proposed negotiating framework complies with this requirement.
Requirement for Murraylink to notify and consult with any affected network user and ensure the negotiated transmission service does not result in non-compliance with obligations in relation to other network users under the NER—clause 6A.9.5(c)(9)	Paragraph 7 of Murraylink’s proposed negotiating framework complies with this requirement.

Source: AER analysis

## 14.5 Negotiated transmission service criteria

Our draft decision NTSC are set out in Appendix A.

In April 2017, we published an invitation for submissions on the NTSC that we considered should be applied to Murraylink in the 2018–23 regulatory control period. The NSTC we published are set out in Appendix A. We did not receive any submission from stakeholders.

We consider the NTSC for Murraylink that we published are consistent with the negotiated transmission services principles in the NER<sup>15</sup> and with previous criteria we have applied for other TNSPs.

### 14.5.1 Background

We are required to specify the NTSC to be applied to Murraylink in the 2018–23 regulatory control period. The NTSC set out the criteria to be applied by Murraylink in negotiating terms and conditions of access for negotiated transmission services and

<sup>15</sup> NER, clause 6A.9.1

any access charges. The NTSC also set out the criteria to be applied by a commercial arbitrator in resolving any dispute in relation to those matters.<sup>16</sup> When developing the NTSC, we must specify criteria that give effect to and are consistent with the negotiated transmission service principles in clause 6A.9.1 of the NER.<sup>17</sup>

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<sup>16</sup> NER, clause 6A.9.4(a)

<sup>17</sup> NER, clause 6A.9.4(b)

# A Negotiated transmission service criteria

## *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 schedules 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. Schedules 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 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 clauses 5.4A(h) to (j) of the NER and the costs that are likely to be incurred by a person referred to in clauses 5.4A(h) to (j) of the NER (as appropriate).