



**Draft decision**

**TasNetworks transmission determination**

**2015-16 to 2018-19**

**Attachment 14: Negotiated services**

November 2014

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## Note

This attachment forms part of the AER's draft decision on the transmission determination for TasNetworks' 2015–18 regulatory control period. It should be read in conjunction 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

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## Shortened forms

Shortened form	Extended form
AARR	aggregate annual revenue requirement
AASB	Australian Accounting Standards Board
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
ARPC	Australian Reinsurance Pool Corporation
ASRR	aggregate service revenue requirement
augex	augmentation expenditure
capex	capital expenditure
capex incentive guideline	AER, <i>Capital Expenditure Incentive Guideline for Electricity Network Service Providers</i> , November 2013
CCP	Consumer Challenge Panel
CESS	capital expenditure sharing scheme
CPI	consumer price index
DRP	debt risk premium
EBSS	efficiency benefit sharing scheme
EMCa	Energy Market Consulting associates
ERP	equity risk premium
EUAA	Energy Users Association of Australia
MAR	maximum allowed revenue
MEU	Major Energy Users
MJA	Marsden Jacob Associates

Shortened form	Extended form
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
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
version one of the EBSS	AER, <i>Electricity transmission network service providers: Efficiency benefit sharing scheme</i> , September 2007
version two of the EBSS	AER, <i>Efficiency benefit sharing scheme for electricity network service providers</i> , November 2013

Shortened form	Extended form
WACC	weighted average cost of capital

## 14 Negotiated services

This chapter set out our determination on TasNetworks negotiating framework for the 2015–19 regulatory control period.<sup>1</sup> We also specify the NTSC that are to apply to TasNetworks.<sup>2</sup>

In contrast to our regulation of prescribed transmission services, we regulate less directly the provision of negotiated transmission services. Instead, under the NER, these services are subject to negotiation between parties, or alternatively arbitration and dispute resolution by a commercial arbitrator.

For the purpose of facilitating such negotiation and arbitration, a transmission business must prepare, for our approval, a negotiating framework which sets out procedures for negotiating the terms and conditions of access to a negotiated transmission service.<sup>3</sup> In addition, 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>4</sup> They also contain the criteria that a commercial arbitrator must apply to resolve disputes about such terms and conditions and/or access charges.<sup>5</sup>

### 14.1 Draft decision

We approve TasNetworks proposed negotiating framework.

We will apply to TasNetworks the NTSC we published in May 2014.<sup>6</sup>

### 14.2 TasNetworks' proposal

TasNetworks stated that its proposed negotiating framework should be approved because it has been prepared in accordance with its obligations under clause 6A.9.5 of the NER. Those obligations relate to the procedures for negotiating the terms and conditions of access to a negotiated transmission service.

### 14.3 AER's assessment approach

In reaching our draft decision, we considered whether:

- the proposed negotiating framework specified the minimum requirements in clause 6A.9.5(c) of the NER<sup>7</sup>
- the NTSC sets out the required criteria and reflects the negotiated transmission service principles in clause 6A.9.1 of the NER<sup>8</sup>

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

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

<sup>3</sup> NER, clause 6A.9.5(a).

<sup>4</sup> NER, clause 6A.9.4(a)(1).

<sup>5</sup> NER, clause 6A.9.4(a)(2).

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

<sup>7</sup> NER, clause 6A.9.5(b)(2); 6A.14.3(f).

<sup>8</sup> NER, clause 6A.9.4(a) and (b); 6A.14.1(i)



## 14.4 Reasons for draft decision

We approve TasNetworks proposed negotiating framework because it specifies the minimum requirements in the NER.<sup>9</sup> Those requirements include, among other things, a statement that TasNetworks will negotiate in good faith and a description of procedures for dealing with disputes.

Table 14.1 summarises our findings on TasNetworks 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 TasNetworks proposed negotiating framework**

NER requirements	AER assessment
Requirement for TasNetworks and the applicant of a negotiated transmission service to negotiate in good faith—clause 6A.9.5(c)(1)	Section 4 of TasNetworks' proposed negotiating framework satisfies this requirement.
Requirement for TasNetworks 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 7 of TasNetworks' proposed negotiating framework satisfies this requirement.
Requirement for TasNetworks 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 TasNetworks' proposed negotiating framework satisfies this requirement.
Requirement for a negotiated transmission service applicant to provide all such commercial information reasonably required to enable TasNetworks to engage in effective negotiation—clause 6A.9.5(c)(4)	Section 9 of TasNetworks' 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)	Sections 10, 10.1, and 10.2 of TasNetworks' proposed negotiating framework satisfy 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)	Section 11 of TasNetworks' proposed negotiating framework satisfies this requirement.
Requirement to specify arrangements for the payment of TasNetworks's reasonable direct expenses incurred in processing the application to provide the negotiated transmission service—clause 6A.9.5(c)(7)	Section 13 of TasNetworks' proposed negotiating framework satisfies this requirement.
Requirement for TasNetworks to determine the potential impact of the provision of a negotiated transmission service on other network users—clause 6A.9.5(c)(8)	Section 14 of TasNetworks' proposed negotiating framework satisfies this requirement.
Requirement for TasNetworks to notify and consult with any	Section 14 of TasNetworks' proposed negotiating framework

<sup>9</sup> NER, clause 6A.9.5(c).

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) satisfies this requirement.

## 14.5 Negotiated transmission service criteria

We have set out below the NTSC we published in June 2014.<sup>10</sup> These NTSC will apply to TasNetworks. We consider that the NTSC set out the required criteria to be applied by TasNetworks in negotiating terms and conditions of access for negotiated transmission services and any access charges. These also set out the criteria to be applied by a commercial arbitrator in resolving any dispute in relation to those matters.<sup>11</sup> The NTSC give effect to and are consistent with the Negotiated Transmission Service Principles in clause 6A.9.1 of the NER<sup>12</sup>

### The NTSC

#### 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.

<sup>10</sup> AER, *Proposed negotiating transmission service criteria for TasNetworks*, June 2014.

<sup>11</sup> NER, clause 6A.9.4(a)

<sup>12</sup> NER, clause 6A.9.4(b)

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 NERthen 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 forgone 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).