



FINAL DECISION
ActewAGL distribution
determination
2015–16 to 2018–19

Attachment 15 – Pass through
events

April 2015

© Commonwealth of Australia 2015

This work is copyright. In addition to any use permitted under the Copyright Act 1968, all material contained within this work is provided under a Creative Commons Attributions 3.0 Australia licence, with the exception of:

- the Commonwealth Coat of Arms
- the ACCC and AER logos
- any illustration, diagram, photograph or graphic over which the Australian Competition and Consumer Commission does not hold copyright, but which may be part of or contained within this publication. The details of the relevant licence conditions are available on the Creative Commons website, as is the full legal code for the CC BY 3.0 AU licence.

Requests and inquiries concerning reproduction and rights should be addressed to the:

Director, Corporate Communications
Australian Competition and Consumer Commission
GPO Box 4141, Canberra ACT 2601

or publishing.unit@acc.gov.au.

Inquiries about this publication should be addressed to:

Australian Energy Regulator
GPO Box 520
Melbourne Vic 3001

Tel: (03) 9290 1444

Fax: (03) 9290 1457

Email: AERInquiry@aer.gov.au

AER reference: 52254

Note

This attachment forms part of the AER's final decision on ActewAGL's revenue proposal 2015–19. It should be read with other parts of the final decision.

The final decision includes the following documents:

Overview

Attachment 1 - Annual revenue requirement

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 - Demand management incentive scheme

Attachment 13 - Classification of services

Attachment 14 - Control mechanism

Attachment 15 - Pass through events

Attachment 16 - Alternative control services

Attachment 17 - Negotiated services framework and criteria

Attachment 18 - Connection policy

Attachment 19 - Pricing methodology

Attachment 20 - Analysis of Financial Viability

Contents

| | |
|--|--------------|
| Note | 15-3 |
| Contents | 15-4 |
| Shortened forms | 15-5 |
| 15 Pass through events | 15-7 |
| 15.1 Final decision | 15-7 |
| 15.2 ActewAGL’s revised proposal | 15-10 |
| 15.3 AER’s assessment approach | 15-10 |
| 15.4 Reasons for final decision | 15-11 |
| 15.4.1 Insurance cap event..... | 15-11 |
| 15.4.2 Insurer credit risk event | 15-13 |
| 15.4.3 Terrorism and natural disaster events | 15-15 |
| 15.4.4 General pass through event | 15-16 |
| 15.4.5 Molonglo substation event..... | 15-17 |

Shortened forms

| Shortened form | Extended form |
|----------------------------------|--|
| AEMC | Australian Energy Market Commission |
| AEMO | Australian Energy Market Operator |
| AER | Australian Energy Regulator |
| augex | augmentation expenditure |
| capex | capital expenditure |
| CCP | Consumer Challenge Panel |
| CESS | capital expenditure sharing scheme |
| CPI | consumer price index |
| DRP | debt risk premium |
| DMIA | demand management innovation allowance |
| DMIS | demand management incentive scheme |
| distributor | distribution network service provider |
| DUoS | distribution use of system |
| EBSS | efficiency benefit sharing scheme |
| ERP | equity risk premium |
| Expenditure Assessment Guideline | expenditure forecast assessment Guideline for electricity distribution |
| F&A | framework and approach |
| MRP | market risk premium |
| NEL | national electricity law |
| NEM | national electricity market |
| NEO | national electricity objective |
| NER | national electricity rules |
| NSP | network service provider |
| 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 |
| SAIDI | system average interruption duration index |
| SAIFI | system average interruption frequency index |
| SLCAPM | Sharpe-Lintner capital asset pricing model |
| STPIS | service target performance incentive scheme |
| WACC | weighted average cost of capital |

15 Pass through events

The pass through mechanism of the National Electricity Rules (NER) recognises that a distributor can be exposed to risks beyond its control, which may have a material impact on its costs. A cost pass through enables a distributor to recover (or pass through) the costs of defined unpredictable, high cost events that are not built into our distribution determination. The NER includes the following prescribed pass through events for all distributors:

- a regulatory change event
- a service standard event
- a tax change event
- a retailer insolvency event
- any other event specified in a determination as a pass through event (nominated pass through event).¹

This attachment sets out our final decision on the nominated pass through events that will apply to ActewAGL for the 2015-19 regulatory control period.

15.1 Final decision

Our final decision is that the following nominated pass through events will apply to ActewAGL for the 2015–19 regulatory control period:

- insurance cap event
- insurer's credit risk event
- terrorism event
- natural disaster event

These events have the definitions listed in Table 15.1 below.

Table 15.1 Accepted event definitions

| Event | Definition |
|----------------------------|---|
| Insurance cap event | An insurance cap event occurs if: <ol style="list-style-type: none">1. ActewAGL makes a claim or claims and receives the benefit of a payment or payments under a relevant insurance policy,2. ActewAGL incurs costs beyond the relevant policy limit, and |

¹ NER, clause 6.5.10.

3. the costs beyond the relevant policy limit materially increase the costs to ActewAGL in providing direct control services.

For this insurance cap event:

4. the relevant policy limit is the greater of:

- a. ActewAGL's actual policy limit at the time of the event that gives, or would have given rise to a claim, and
- b. the policy limit that is explicitly or implicitly commensurate with the allowance for insurance premiums that is included in the forecast operating expenditure allowance approved in the AER's final decision for the regulatory control period in which the insurance policy is issued.

5. A relevant insurance policy is an insurance policy held during the 2015-19 regulatory control period or a previous regulatory control period in which ActewAGL was regulated.

Note for the avoidance of doubt, in assessing an insurance cap event cost pass through application under rule 6.6.1(j), the AER will have regard to:

- i. the relevant insurance policy for the event, and
- ii. the level of insurance that an efficient and prudent NSP would obtain in respect of the event.

Insurer's credit risk event

An insurer's credit risk event occurs if:

A nominated insurer of ActewAGL becomes insolvent, and as a result, in respect of an existing or potential insurance claim for a risk that was insured by the insolvent insurer, ActewAGL:

- 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
- incurs additional costs associated with funding an insurance claim, which would otherwise have been covered by the insolvent insurer.

Note: In assessing an insurer's credit risk event pass through application, the AER will have regard to, amongst other things,

- ActewAGL's attempts to mitigate and prevent the event from occurring by reviewing and considering the insurer's track record, size, credit rating and reputation.
- In the event that a claim would have been made after the insurance provider became insolvent, whether ActewAGL had reasonable opportunity to insure the risk with a different provider.

Natural disaster event

A natural disaster event occurs if:

Any major fire, flood, earthquake or other natural

disaster occurs during the 2015-19 regulatory control period and materially increases the costs to ActewAGL in providing direct control services, provided the fire, flood or other event was not a consequence of the acts or omissions of the service provider.

The term 'major' in the above paragraph means an event that is serious and significant. It does not mean material as that term is defined in the Rules (that is 1 per cent of the DNSP's annual revenue requirement for that regulatory year).

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

- i. whether ActewAGL has insurance against the event,
- ii. the level of insurance that an efficient and prudent NSP would obtain in respect of the event,
- iii. whether a relevant government authority has made a declaration that a natural disaster has occurred.

Terrorism event

A terrorism event occurs if:

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 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 which materially increases the costs to ActewAGL 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 ActewAGL 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.

Source: AER analysis.

We have not accepted ActewAGL's proposal for a general pass through event or a Molonglo substation event.

15.2 ActewAGL's revised proposal

In our draft decision we included an insurance cap event, but substituted our own definition, which we considered satisfied the requirements of the NER, for ActewAGL's proposed definition. We did not accept ActewAGL's proposal for:

- a general pass through event,
- an insurer credit risk event, or
- a demand management and embedded generation connection incentive scheme (DMEGCIS) event.²

In its revised proposal, ActewAGL adopted some elements of the draft decision but challenged others. In particular, ActewAGL:³

- challenged our definition of the insurance cap event.
- did not accept our draft decision to reject its proposed insurer credit risk event, and sought to address our concerns that this event was not consistent with the NER.
- did not accept our draft decision to reject its general pass through event, and proposed a new definition for this event. ActewAGL also proposed new terrorism and natural disaster events which it submitted would not fall within its redefined general pass through event.

These are discussed further in section 15.4 below.

15.3 AER's assessment approach

Our approach to assessing cost pass through events was described in detail in attachment 15 of our draft decision for ActewAGL.⁴

Our approach has been guided by the NEO and the RPP. It provides the NSP with a reasonable opportunity to recover at least the efficient costs⁵ the operator incurs⁶, while also providing effective incentives to promote economic efficiency.⁷ It promotes a balance between the economic costs and risks for promoting efficient investment.⁸

We have maintained the same approach in this final decision.

² AER, *Draft decision, ActewAGL, Attachment 15*, p. 7.

³ ActewAGL, *Revised regulatory proposal*, p. 528.

⁴ AER, *Draft decision, ActewAGL, Attachment 15*, pp. 9–10.

⁵ Under clauses 6.6.1(d), (g) and (j) of the NER, we are to make a decision on the costs of providing direct control services as a result of a pass through event occurring. Direct control services include alternative control services and standard control services.

⁶ NEL, s. 7A(2).

⁷ NEL, s. 7A(3).

⁸ NEL, s. 7A(6).

15.4 Reasons for final decision

This section sets out our reasons for the final decision on the pass through events in ActewAGL's revised proposal.

We discuss the arguments in ActewAGL's revised proposal and how we have addressed them in this final decision. In addition, we received submissions on pass through events from the following stakeholders:

- AusNet Services proposed further amendments to the definition of the insurance cap event⁹ (discussed in section 15.4.2 below).
- Jemena Limited proposed that we initiate a market consultation on pass through events. We note that such a review is beyond the scope of this final decision, but that our approach has been informed by the AEMC's recent consultation on pass through events.¹⁰

15.4.1 Interrelationships

As we discussed in the draft decision, the nominated pass through events are interrelated with other parts of this determination, in particular with ActewAGL's proposed opex and capex allowances and the rate of return. These interrelationships require that we balance our decision to accept nominated pass through events with the need to maintain appropriate incentives in other parts of our decision.

15.4.2 Insurance cap event

The purpose of an insurance cap event is to compensate a business where the losses associated with an insured incident are materially higher than the amount payable to the business, by the insurer, under the business' insurance policy.

In our draft decision we rejected ActewAGL's proposed definition for the insurance cap event and substituted an alternative definition that we considered satisfied the requirements of the NER. ActewAGL's revised proposal adopted part of our alternative definition but proposed some amendments.

ActewAGL raised the following issues with the definition we adopted in our draft decision:

- The use of the word 'materially' in the event definition, when the NER already apply a materiality threshold to applications under the event¹¹
- Conditioning the occurrence of an insurance cap event on the receipt of a benefit¹²

⁹ AusNet Services, *Submission*, pp. 9–10.

¹⁰ Jemena, *Submission*, pp. 1–2.

¹¹ ActewAGL, *Revised regulatory proposal*, pp. 540–541.

¹² ActewAGL, *Revised regulatory proposal*, p. 540.

- Defining the relevant policy limit by reference to that commensurate with the allowance for insurance premiums in ActewAGL's forecast opex allowance.¹³

We have considered the use of the term 'material' in our pass through definitions. The use of this term is consistent with its definition in the NER. The definitions of the prescribed pass through events also use these terms. We have therefore maintained the use of the term, 'material', in our pass through definitions.

ActewAGL stated that making the event conditional on the receipt of a benefit is inappropriate because:

ActewAGL Distribution may not receive a benefit notwithstanding that a claim is made in accordance with the insurance policy for various reasons, including for example the insolvency of an insurer or the insurer raising an unmeritorious dispute to the claim or otherwise seeking to evade or failing to honour its contractual obligations.¹⁴

As set out section 15.4.3, we have now approved an insurer credit risk event. Accordingly, ActewAGL would likely be able to pass through costs associated with an insurer becoming insolvent. As to the example of an insurer evading or failing to honour its contractual obligations, we consider that adopting the wider definition proposed by ActewAGL would result in an inefficient allocation of such a risk. ActewAGL has the ability to manage such a loss by pursuing payment of disputed claims directly from the insurer. Under ActewAGL's proposal consumers would be asked to bear the loss in circumstances where ActewAGL has a remedy under its commercial arrangements with its insurer. We therefore consider this aspect of ActewAGL's proposal is inconsistent with the nominated pass through considerations.

ActewAGL also argued that it is inappropriate to limit the application of the event to an insurance cap commensurate with the allowance for insurance premiums in the forecast opex allowance.¹⁵

The insurance cap event allows ActewAGL to recover material costs incurred which exceed its insurance claim limit.¹⁶ ActewAGL is funded through its approved revenues (including its approved opex forecast) to obtain an appropriate level of insurance for these types of risks. We accept that the insurance cap event would protect the network service provider from high cost impact events which would be uneconomical to insure against. We consider consumers benefit from this because they are not required to fund excessive premiums where insurance, while available, would be uneconomic. Instead, consumers then only bear the risk (cost) should an insurance cap event occur.

Our proposed definition is intended to counter the incentive for a distributor to use the insurance cap event as a way to reduce its operating expenditure—for example by

¹³ ActewAGL, *Revised regulatory proposal*, p. 541.

¹⁴ ActewAGL, *Revised regulatory proposal*, p. 540.

¹⁵ ActewAGL, *Revised regulatory proposal*, p. 540.

¹⁶ ActewAGL, *Revised regulatory proposal*, p. 529.

purchasing insurance at a lower level than that which informed its approved opex forecast. It does this by adopting, as a threshold, the greater of the assumed insurance level and that which the distributor goes on to purchase. In this way, consumers will not bear the cost of an insurance cap event where the distributor has chosen to spend less on insurance than was prudent and efficient given its approved opex.

ActewAGL accepted this policy was 'unobjectionable'.¹⁷ However, its proposed definition did not adequately address it. AusNet Services suggested the following refinements to the definition of the insurance cap event in our draft decision, which it stated will achieve greater clarity and consistency with existing definitions and Rules:

- The reference in paragraph 5(i) of the AER's definition of an insurance cap event should be to a 'relevant insurance policy'¹⁸
- Paragraph 5(iii) should be deleted as it duplicates clause 6.6.1(j)(3) of the NER and potentially introduces confusion.¹⁹

'Relevant insurance policy' is defined within our definition of the insurance cap event, and we agree that use of a consistent term throughout the definition is preferable. We have therefore amended the definition to use this term at paragraph 5(i).

We also accept that paragraph 5(iii) of our definition is not required in addition to clause 6.6.1(j)(3). Specifically, in assessing a pass through application clause 6.6.1(j)(3) states we are to consider the efficiency of the NSP's decisions and actions in relation to the risk of the event. We have also made this change to other event definitions where relevant.

15.4.3 Insurer credit risk event

The insurer credit risk event is intended to provide for circumstances in which an insurance claim has been, or would have been, successful, but ActewAGL is unable to recover against its insurance policy as a result of the insolvency of an insurance provider.

In our draft decision, we rejected this event and stated that ActewAGL may be able to prevent this event occurring by purchasing insurance from reputable providers who have the capacity to satisfy any claims.²⁰ We further stated, 'NSPs can assess the viability of an insurer by reviewing its track record, size credit rating and reputation.'²¹ We also had regard to the impact an insurer credit risk event would have on ActewAGL's incentives to acquire insurance prudently.

¹⁷ ActewAGL, *Revised regulatory proposal*, p. 541.

¹⁸ AusNet Services, *Submission*, p. 9.

¹⁹ AusNet Services, *Submission*, pp. 9–10.

²⁰ AER, *Draft decision, ActewAGL, Attachment 15*, pp. 11–12.

²¹ AER, *Draft decision, ActewAGL, Attachment 15*, p. 12.

ActewAGL raised a number of arguments in response to our concerns around the incentives a pass through option may create to reduce insurance costs by shifting this risk entirely to customers. In its revised proposal we consider it has demonstrated a robust and prudent approach to assessing risk and obtaining insurance.²² ActewAGL's explanation of its approach to insurance supports its argument that the regulatory regime already provides incentives to take prudent actions in relation to insurance, and that these are not necessarily weakened by accepting this proposed pass through event. We also note clause 6.6.1(j)(3) of the NER acts as an appropriate balance to any incentive an insurer's credit risk event may create to transfer the risk of insurer failure entirely to customers.

We have considered the example of HIH and how this type of event would impact NSPs. If a similar event were to occur in the 2015–19 regulatory control period, an NSP that had adopted the risk management measures contemplated in our draft decision may nonetheless incur significant costs. The NSP may therefore still potentially suffer a significant loss as a consequence of an insurer becoming insolvent and thereby unable to satisfy an insurance claim. We also consider the options available to NSPs to manage these risks are limited and, given the rarity of such events, may in fact result in greater expenditure on insurance than is prudent or efficient.

We therefore accept that an insurer credit risk event can be consistent with the nominated pass through considerations, but only if appropriately defined. We consulted with ActewAGL on an appropriate definition for this event. As a result of this consultation, we consider that we may allow NSPs to apply to pass through claims that have been successful. We also consider it appropriate to extend this event to claims that would have been made successfully in the period immediately after the insurer became insolvent, and before the NSP had a reasonable opportunity to acquire new insurance for those risks. This amendment maintains an incentive on NSPs to acquire new insurance as soon as reasonably possible after an insurance provider becomes insolvent. We have further clarified the definition of this pass through event to include the matters that we will have regard to in assessing an event.

ActewAGL sought to define this event in a way that would also allow it to pass through the costs associated with increases to insurance premiums as a result of an insurer becoming insolvent.²³ Insurance premiums are a typical business expense. They are subject to ordinary market factors of the economy. We consider this is a risk that distributors, and not their customers, are best placed to bear. We therefore do not consider it appropriate to allow this element of the nominated pass through event.

For the sake of consistency with other determinations made at this time we have referred to this event as the 'insurer's credit risk event'.

²² ActewAGL, *Revised regulatory proposal*, p. 544.

²³ ActewAGL, *Revised regulatory proposal*, pp. 545–546.

15.4.4 Terrorism and natural disaster events

As noted above, ActewAGL included two new events (terrorism and natural disaster events) in its revised proposal. For the reasons set out in section 15.4.5, we have not accepted the revised general event. However, subject to the discussion below, we consider these more specific events are consistent with the nominated pass through considerations.

We note that:

- ActewAGL has a range of measures in place to mitigate the impacts of these events should they occur.²⁴
- ActewAGL currently has an appropriate level of commercial insurance for natural disasters and terrorism events.²⁵ This would not likely cover all the costs associated with a natural disaster event or a terrorism event, however taking out further insurance would likely be inefficient and result in an unnecessary cost increase to customers.²⁶
- ActewAGL has not included a self-insurance amount in its opex proposal as, in the event of a major natural disaster or a terrorism event, it would be unlikely to be in a position to pool enough risk to cover the cost impacts from such an event.²⁷

These events are largely beyond the control of ActewAGL but potentially could have a high cost impact. As noted above, we consider that ActewAGL has taken prudent actions to mitigate the risks of these events occurring and the likely costs to the network if they do occur. Based on our assessment approach these should therefore be included as nominated pass through events.

However, the definitions of the events proposed by ActewAGL are not sufficiently clear to satisfy the nominated event pass through considerations. We consider that the operation of these pass through events should be more clearly defined to provide certainty for ActewAGL and its customers in how they will apply. In particular:

- We note that ActewAGL's opex allowance includes funding for insurance yet it may have an incentive to keep that allowance (and not insure the risk) while managing this risk through the pass through mechanism. We consider that this disincentive to insure against terrorism and natural disaster events can be reduced by clarifying the pass through event definition.
- Whether a relevant government authority has made a relevant declaration in respect of a terrorism event and a natural disaster event is also a factor that we would also have regard to in considering whether to approve such a pass through

²⁴ NER, glossary, definition of 'nominated pass through event considerations', paragraph (c). See ActewAGL, *Revised regulatory proposal*, pp. 550–553.

²⁵ NER, glossary, definition of 'nominated pass through event considerations', paragraph (d)(1).

²⁶ ActewAGL, *Revised regulatory proposal*, pp. 551, 553.

²⁷ NER, glossary, definition of 'nominated pass through event considerations', paragraph (d)(2).

event. We consider that this adds clarity around the purpose of this nominated pass through event and when it is likely to be considered to have occurred.

Accordingly, to address these concerns our final decision includes alternative definitions for the natural disaster and terrorism events, as set out at section 15.1.

15.4.5 General pass through event

ActewAGL did not accept our draft decision to reject its proposed general pass through event. We did not accept the general pass through event in our draft decision because it cannot be clearly identified²⁸, we cannot determine if a provider can insure against the event²⁹ and because accepting it was not consistent with the NEO and the RPP.³⁰

In its revised proposal ActewAGL reinstated its proposal for a general pass through event. ActewAGL also contended that a general pass through event was consistent with the nominated pass through event considerations.³¹ In its revised regulatory proposal, ActewAGL argued that the AEMC rule change determination supported its view that a general pass through event would promote the achievement of the NEO.³² ActewAGL cited the following comments in the AEMC determination:

... the intention of the nominated pass through event considerations was to incorporate and reflect the essential components of a cost pass through regime in the NER. It was intended that in order for appropriate incentives to be maintained, any nominated pass through event should only be accepted when event avoidance, mitigation, commercial insurance and self-insurance are unavailable. That is, a cost pass through is the least efficient option for managing the risk of unforeseen events.³³

ActewAGL argued that a general pass through event that exhibits these essential components (that is, that event avoidance, mitigation, commercial insurance and self-insurance are unavailable) should be accepted by the AER.

ActewAGL also cited the AEMC's determination in arguing that a general pass through event is necessary to allow it to recover its efficient costs:

- where insurance is limited or not available on commercial terms and self-insurance is not appropriate³⁴
- where efficient costs are incurred because unforeseen costs arise as a result of events outside an NSP's control.³⁵

²⁸ NER, glossary, definition of 'nominated pass through event considerations', paragraph (b).

²⁹ NER, glossary, definition of 'nominated pass through event considerations', paragraph (d).

³⁰ AER, *Draft decision, ActewAGL, Attachment 15*, pp. 12–13.

³¹ ActewAGL, *Revised regulatory proposal*, p. 548.

³² ActewAGL, *Revised regulatory proposal*, p. 547.

³³ AEMC, Rule Determination National Electricity Amendment (Cost pass through arrangements for Networks Service Providers) Rule 2012, 2 August 2012, p. 19. Referred to in ActewAGL, *Revised regulatory proposal*, p. 547.

³⁴ ActewAGL, *Revised regulatory proposal*, p. 548.

We recognise that these are relevant considerations in assessing a proposed pass through event. However, in discussing these considerations the AEMC has also made it clear that the AER must have regard to the relative efficiency of a proposed pass through event as an option to manage risk. It suggests that we should only accept a general pass through event when we consider it is *the least inefficient option* to manage an identified risk, for which other mitigation strategies are demonstrably inappropriate:

...the intention of the nominated pass through event considerations is that a pass through event should only be accepted when it is the least inefficient option and event avoidance, mitigation, commercial insurance and self-insurance are found to be inappropriate. That is, it is included after ascertaining the most efficient allocation of the risks between NSPs and end consumers.³⁶

The nominated pass through considerations require that an event be clearly defined at the time a determination is made.³⁷ In its revised proposal³⁸ ActewAGL has added to its proposed general pass through event further matters which would prevent ActewAGL from being allowed a pass through. It has done this by reference to the considerations above. Even with these proposed amendments to the definition, we consider the event proposed could still be triggered in a broad range of situations that cannot be clearly identified at this time. The considerations cited above are intended to be applied in our assessment of a proposed, defined event. We maintain our view that they do not, of themselves, serve as a definition. We consider that specifying the situations in which an otherwise undefined event may *not* apply does not, of itself, satisfy the requirement that the event be clearly identified.

We therefore maintain the position taken in our draft decision and do not accept this event.

15.4.6 Molonglo substation event

In its total forecast capex ActewAGL has included capex for its Molonglo Substation. It submits that if this element of its capex forecast is not accepted we should instead approve a pass through event that would allow it to pass through the costs of this work should it proceed. We have discussed this issue in our assessment of ActewAGL's forecast capex (see Attachment 6). For the reasons set out in that attachment, we do not accept the Molonglo substation event as a pass through event.

³⁵ ActewAGL, *Revised regulatory proposal*, p. 548.

³⁶ AEMC, Rule Determination National Electricity Amendment (Cost pass through arrangements for Networks Service Providers) Rule 2012, 2 August 2012, p. 20.

³⁷ NER, glossary, definition of 'nominated pass through event considerations', paragraph (b).

³⁸ ActewAGL, *Revised regulatory proposal*, p. 549.