



DRAFT DECISION

Power and Water Corporation
Distribution Determination
2019 to 2024

Attachment 14
Pass through events

September 2018

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Note

This overview forms part of the AER's draft decision on the distribution determination that will apply to Power and Water Corporation for the 2019–2024 regulatory control period. It should be read with all other parts of the draft decision.

The draft decision includes the following attachments:

Overview

Attachment 1 – Annual revenue requirement

Attachment 2 – Regulatory asset base

Attachment 3 – Rate of return

Attachment 4 – Regulatory depreciation

Attachment 5 – Capital expenditure

Attachment 6 – Operating expenditure

Attachment 7 – Corporate income tax

Attachment 8 – Efficiency benefit sharing scheme

Attachment 9 – Capital expenditure sharing scheme

Attachment 10 – Service target performance incentive scheme

Attachment 11 – Demand management incentive scheme

Attachment 12 – Classification of services

Attachment 13 – Control mechanisms

Attachment 14 – Pass through events

Attachment 15 – Alternative control services

Attachment 16 – Negotiated services framework and criteria

Attachment 17 – Connection policy

Attachment 18 – Tariff structure statement

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Shortened forms

Shortened form	Extended form
ACS	alternative control services
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
augex	augmentation expenditure
capex	capital expenditure
CCP	Consumer Challenge Panel
CCP 13	Consumer Challenge Panel, sub-panel 13
CESS	capital expenditure sharing scheme
CPI	consumer price index
DRP	debt risk premium
DMIAM	demand management innovation allowance (mechanism)
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
NT NER or the rules	National Electricity Rules As in force in the Northern Territory

Shortened form	Extended form
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
SCS	standard control services
SLCAPM	Sharpe-Lintner capital asset pricing model
STPIS	service target performance incentive scheme
WACC	weighted average cost of capital

14 Cost pass through events

During the regulatory control period 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. 'Positive' pass throughs allow Power and Water to recover the efficient costs incurred as a result of events that could not be forecast as part of its regulatory proposal that otherwise would have a significant financial effect on its ability to invest in and operate its network.¹

The NT NER prescribe the following pass through events for Power and Water for the 2019-24 regulatory control period:²

- a 'local' event prescribed by the National Electricity (Northern Territory)(National Uniform Legislation)(Modification) Regulations ³
- an NT transitional regulatory change event prescribed by the National Electricity (Northern Territory)(National Uniform Legislation)(Modification) Regulations⁴
- a regulatory change event
- a service standard event
- a tax change event
- a retailer insolvency event.⁵

In addition to these prescribed events, other pass through events may be 'nominated' by a service provider for a regulatory control period.⁶ This attachment sets out our draft decision on the nominated pass through events to apply to Power and Water's distribution network for the 2019–24 regulatory control period.

¹ AEMC 2012, Cost pass through arrangements for Network Service Providers, Rule Determination, 2 August 2012, p. 2.

² NT NER, r. 6.6.1(a1). Each of these prescribed events is defined in Chapter 10 (Glossary) of the NER. The retailer insolvency event will apply after the National Energy Retail Law and the associated retailer of last resort provisions are adopted by the Northern Territory: Power and Water, Regulatory Proposal 1 July 2019 to 30 June 2024, 31 January 2018, p. 120.

³ NT NER, r. 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 3, National Electricity (Northern Territory)(National Uniform Law)(Modification) Regulations.

⁴ NT NER, r. 6.6.1(a1)(1AB). This event expires on 1 July 2024: see Part 3, National Electricity (Northern Territory)(National Uniform Law)(Modification) Regulations.

⁵ 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.

⁶ NT NER, r. 6.6.1(a1)(5).

14.1 Draft decision

Our draft decision pursuant to clause 6.12.1(14) of the rules is to accept three of the five pass through events nominated by Power and Water.

Accordingly we propose that the following are pass through events for the purpose of clause 6.6.1(1a)(5) of the rules:

- Insurer Credit Risk
- Insurance Cap
- Natural Disaster.

If Power and Water were to nominate a 'Terrorism Event' with the following definition in its revised proposal, then that is likely to be acceptable to the AER:

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:

(a) 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

(b) increases the costs to Power and Water Corporation in providing direct control services.

We do not accept Power and Water's proposed 'NT transitional regulatory change event from 1 July 2019'.

14.2 Power and Water Corporation's proposal

Power and Water nominated five pass through events, which are set out in Table 14-1. Power and Water proposes that the pass through events will apply to standard control services and alternative control services.⁷

Table 14-1 Power and Water nominated pass through events

Proposed event	Proposed definition
Insurer credit risk event	<p>An insurer credit risk event occurs if:</p> <p>An insurer of Power and Water Corporation 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, Power and Water Corporation:</p> <p>(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</p> <p>(b) incurs additional costs associated with funding an insurance claim,</p>

⁷ Power and Water, Regulatory Proposal 1 July 2019 to 30 June 2024, 31 January 2018, p. 125.

which would otherwise have been covered by the insolvent insurer.⁸

Insurance Cap Event ⁹	<p>An insurance cap event occurs if:</p> <ul style="list-style-type: none">(a) Power and Water Corporation makes a claim or claims and receives the benefit of a payment or payments under a relevant insurance policy;(b) Power and Water Corporation incurs costs beyond the policy limit; and(c) the costs beyond the policy limit increase the costs to Power and Water Corporation in providing direct control services. <p>For this Insurance Cap Event:</p> <ul style="list-style-type: none">(d) a relevant insurance policy is an insurance policy held during the 2019-24 regulatory control period or a previous regulatory control period in which Power and Water Corporation was regulated; and(e) Power and Water Corporation will be deemed to have made a claim on a relevant insurance policy if the claim is made by a related party of Power and Water Corporation in relation to any aspect of the Network or Power and Water Corporation's business.
Terrorism Event ¹⁰	<p>Terrorism event means an act (including, but not limited to, the use of force or violence or the threat of force or violence such as a cyber threat that Power and Water Corporation has been unable to insure against on reasonable economic terms) of any person or group of persons (whether acting alone or on behalf of or in connection with any organisation or government), which:</p> <ul style="list-style-type: none">(a) 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(b) increases the costs to Power and Water Corporation in providing direct control services.
Natural Disaster Event ¹¹	<p>Natural disaster event means any natural disaster including but not limited to cyclone, fire, flood or earthquake that occurs during the 2019-20 to 2023-24 regulatory control period that increases the costs to Power and Water Corporation 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.</p>
NT transitional regulatory change event from 1 July 2019 ¹²	<p>NT transitional regulatory change event from 1 July 2019 means the sum of the changes in relevant obligations that are associated with the transition from Northern Territory to national electricity regulation, and that occur between 1 July 2019 and 30 June 2024 if those changes, taken as a sum:</p> <ul style="list-style-type: none">(a) substantially affect the manner in which Power and Water Corporation provides direct control services; and(b) result in a material increase or material decrease in the costs of providing those services, that is incurred, or likely to be incurred, in any regulatory year of the 1st regulatory control period exceeds 1% of the annual revenue requirement for that regulatory year. <p>For the purpose of this definition, relevant obligation means a regulatory</p>

⁸ Power and Water, *Regulatory Proposal 1 July 2019 to 30 June 2024*, 31 January 2018, p. 121.

⁹ Power and Water, *Regulatory Proposal 1 July 2019 to 30 June 2024*, 31 January 2018, pp. 121–122.

¹⁰ Power and Water, *Regulatory Proposal 1 July 2019 to 30 June 2024*, 31 January 2018, p. 122.

¹¹ Power and Water, *Regulatory Proposal 1 July 2019 to 30 June 2024*, 31 January 2018, p. 122.

¹² Power and Water, *Regulatory Proposal 1 July 2019 to 30 June 2024*, 31 January 2018, p. 123.

obligation or requirement, other than an obligation or requirement:

(c) arising from any repeal, amendment, variation or modification to the National Electricity Law, National Electricity Regulations or National Electricity Rules except as made by or under the National Electricity (Northern Territory) (National Uniform) Legislation Act; or

(d) that the AER has considered or accounted for in a distribution determination for the 1st regulatory control period.¹³

14.3 Assessment approach

The NT NER set out how we must assess nominated pass through events, and how we must assess an application from a service provider to pass through changes in costs where an event occurs.

Our assessment approach is guided by the National Electricity Objective (NEO) and the Revenue and Pricing Principles. These provide, in part, that the service provider should have a reasonable opportunity to recover at least the efficient costs of providing services and complying with regulatory obligations.¹⁴ They also reflect the importance of incentives to promote economic efficiency¹⁵ and balance the risks of under and over investment.¹⁶ In the context of pass through events, we have particular regard to the impact on price, quality, reliability and security of supply that may arise as a result of any change in the efficient operation of, and ability and incentive of, a service provider to invest in its network. This is a similar approach to that taken by the AEMC when considering pass through event rule changes.¹⁷

In determining whether we accept a nominated pass through event, we must take into account the 'nominated pass through event considerations', which are as follows:¹⁸

- (a) whether the event proposed is an event covered by a category of pass through event specified in clause 6.6.1(a1)(1AA) to (4)
- (b) whether the nature or type of event can be clearly identified at the time the determination is made for the service provider;
- (c) whether a prudent service provider could reasonably prevent an event of that nature or type from occurring or substantially mitigate the cost impact of such an event;
- (d) whether the relevant service provider could insure against the event, having regard to:

¹³ Power and Water, *Regulatory Proposal 1 July 2019 to 30 June 2024*, 31 January 2018, pp. 122–123.

¹⁴ NEL, s. 7A(2).

¹⁵ NEL, s. 7A(3).

¹⁶ NEL, s. 7A(6).

¹⁷ NEL, s. 7; AEMC 2012, *Cost pass through arrangements for Network Service Providers*, Rule Determination, 2 August 2012, p. 6.

¹⁸ NT NER Part 10 - Glossary.

- i. the availability (including the extent of availability in terms of liability limits) of insurance against the event on reasonable commercial terms; or
 - ii. whether the event can be self-insured on the basis that:
 - A. it is possible to calculate the self-insurance premium; and
 - B. the potential cost to the relevant service provider would not have a significant impact on the service provider's ability to provide network services; and
- (e) any other matter the AER considers relevant and which the AER has notified Network Service Providers is a nominated pass through event consideration.

The AEMC described the purpose of the nominated pass through event considerations as:

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 event is the least efficient option for managing the risk of unforeseen events.¹⁹

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 risks between a service provider and end customers.²⁰

This protects the incentive regime under the NER by limiting erosion of a service provider's incentives to use market based mechanisms to mitigate the cost impacts that would arise.²¹ This promotes the efficient investment in, and efficient operation and use of, network services for the long term interests of consumers with respect to price.²²

As a matter of good regulatory practice, we also take into account the desirability of consistency in our approach to assessing nominated pass through events across our electricity determinations and gas access arrangements.²³

¹⁹ AEMC 2012, Cost pass through arrangements for Network Service Providers, Rule Determination, 2 August 2012, p. 19.

²⁰ AEMC 2012, Cost pass through arrangements for Network Service Providers, Rule Determination, 2 August 2012, p. 20.

²¹ AEMC 2012, Cost pass through arrangements for Network Service Providers, Rule Determination, 2 August 2012, p. 8.

²² AEMC 2012, Cost pass through arrangements for Network Service Providers, Rule Determination, 2 August 2012, p. 8.

²³ AEMC 2012, Cost pass through arrangements for Network Service Providers, Rule Determination, 2 August 2012, p. 18.

14.3.1 Interrelationships

The pass through mechanism is not the only way service providers can manage their risks under a distribution or transmission determination. It is interrelated with other parts of this decision, in particular with the forecast opex and capex and rate of return included in our revenue determination. These interrelationships require us to balance the incentives in the various parts of our decision.

For systemic risks, service providers are compensated through the allowed rate of return. Service providers also face business-specific, or residual, risks. Service providers are compensated for the prudent and efficient management of these risks through the forecast opex and capex we include in our revenue determination for strategies such as:

- prevention (avoiding the risk)
- mitigation (reducing the probability and impact of the risk)
- insurance (transferring the risk to another party)
- self-insurance (putting aside funds to manage the likely costs associated with a risk event).

An efficient business will manage its risk by employing the most cost effective combination of these strategies. In order to maintain appropriate incentives under our determinations, we only accept nominated pass through events where we are satisfied that event avoidance, mitigation, commercial insurance and self-insurance under approved forecasts of prudent and efficient opex and capex are either unavailable or inappropriate.²⁴

In general, in respect of smaller projects a service provider should be using up its existing expenditure allowance, or reprioritising or substituting its projects, to avoid seeking cost recovery through the pass through mechanisms.²⁵ This is reflected in the materiality threshold that applies to cost pass throughs applications.²⁶

Cost pass through amounts approved in a regulatory control period are added to (or in the case of a negative pass through deducted from) forecast opex and capex for the purpose of calculating efficiency carryover amounts under the EBSS and CESS.²⁷

Cost pass through amounts that have already been recovered in a regulatory period cannot be recovered again in the roll-forward of the regulatory asset base (RAB) for the next regulatory period.²⁸

²⁴ AEMC 2012, Cost pass through arrangements for Network Service Providers, Rule Determination, 2 August 2012, pp. 19–20.

²⁵ AEMC 2012, Economic Regulation of Network Service Providers, and Price and Revenue Regulation of Gas Services, Final Position Paper, 29 November 2012, p. 186.

²⁶ NT NER, Chapter 10: Glossary, definition of 'materially'.

²⁷ AER, Efficiency Benefit Sharing Scheme for Electricity Network Service Providers, November 2013, p. 9; AER, Capital Expenditure Incentive Guideline for Electricity Network Service Providers, November 2013, p. 18.

14.4 Reasons for draft decision

14.4.1 Insurer Credit Risk, Insurance Cap, Natural Disaster

These nominated events and the associated definitions are substantially the same as those approved in our recent decisions.²⁹ Consistent with those decisions, we consider these events are supported by the nominated pass through event considerations set out in the NER:³⁰

- The proposed events are not covered by an existing category of pass through event
- The nature of the events are clearly identifiable at this time
- 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.

With regard to the latter point, while Power and Water could take some steps to reduce its exposure to these events, expenditure beyond a certain level aimed at completely eliminating the risk is likely to be imprudent or inefficient. In that context, sharing the risk between Power and Water and its customers is appropriate and more likely to be in the long-term interests of consumers with respect to price.

Recent determinations have identified certain factors likely to be relevant to the consideration of a pass through application under each event definition.³¹ The factors are not exhaustive, with the NER also specifying the relevant considerations in some detail.³²

Power and Water has not followed this approach. However, while identifying factors in advance can improve transparency and predictability, leaving them out will not affect the consideration of a pass through application.

14.4.2 Terrorism Event

Terrorist acts are within the scope of things contemplated by the nominated pass through considerations. This includes terrorist attacks on computer networks or internet communications systems where these occur despite prudent mitigation efforts and

²⁸ NT NER, r. S6.2.1(e)(1)(ii).

²⁹ AER, ElectraNet Transmission Determination 2018 to 2023, April 2018201, p. 33; AER, Overview, TransGrid Transmission Determination 2018 to 2023, May 2018.

³⁰ NT NER, Chapter 10: Glossary.

³¹ AER, Draft Decision, ElectraNet Transmission Determination 2018 to 2023, Attachment 13 Pass Through Events, October 2017, pp. 13-6 to 13-8; AER, Draft Decision, TransGrid Transmission Determination 2018 to 2023, Attachment 13 Pass Through Events, October 2017, pp. 13-6 to 13-8; AER, Overview, TransGrid Transmission Determination 2018 to 2023, May 2018.

³² NER r. 6.6.1(j).

result in loss exceeding efficient levels of insurance. Consistent with our recent decisions we support including a Terrorism Event in this determination.³³

Power and Water's proposed definition of Terrorism Event is largely the same as the definition approved in recent regulatory decisions except that, 'for clarity', it expressly includes 'a cyber threat that Power and Water Corporation has been unable to insure against on reasonable economic terms'.^{34 35} We believe this is unnecessary and counter-productive: referring expressly to one species of terrorist attack (cyber threats) tends to raise questions as to whether other types of attack are included.

Consistent with other recent decisions³⁶ our draft determination excludes the express reference to cyber threats and adopts the following definition:

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:

- (a) 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
- (b) increases the costs to Power and Water Corporation in providing direct control services.

14.4.3 NEM transition 2019 - 2024

Power and Water has proposed an event called 'NT transitional regulatory change event from 1 July 2019', defined as follows:³⁷

'NT transitional regulatory change event from 1 July 2019' means the sum of the changes in relevant obligations that are associated with the transition from Northern Territory to national electricity regulation, and that occur between 1 July 2019 and 30 June 2024 if those changes, taken as a sum:

- (a) substantially affect the manner in which Power and Water Corporation provides direct control services; and
- (b) result in a material increase or material decrease in the costs of providing those services, that is incurred, or likely to be incurred, in any regulatory year

³³ AER, Draft Decision, ElectraNet Transmission Determination 2018 to 2023, Attachment 13 Pass Through Events, October 2017, pp. 13-6, 13-7; AER, Draft Decision, TransGrid Transmission Determination 2018 to 2023, Attachment 13 Pass Through Events, October 2017, pp. 13-6, 13-7.

³⁴ Power Water, Regulatory Proposal 1 July 2019 to 30 June 2024, 31 January 2018, p. 122.

³⁵ We take 'cyber threat' to mean the threat of a 'cyber-attack', that is, an infiltration of the internet communications system of a country, organisation, etc., with the intent to damage or disrupt the system: Macquarie Dictionary (online) 2017.

³⁶ AER, Final Decision, ActewAGL Distribution Access Arrangement 2016 to 2021, Attachment 11 Reference Tariff Variation Mechanism, May 2016, p. 11-39.

³⁷ Power Water, Regulatory Proposal 1 July 2019 to 30 June 2024, 31 January 2018, pp. 122-123.

of the 1st regulatory control period exceeds 1% of the annual revenue requirement for that regulatory year.

For the purpose of this definition, relevant obligation means a regulatory obligation or requirement, other than an obligation or requirement:

(c) arising from any repeal, amendment, variation or modification to the National Electricity Law, National Electricity Regulations or National Electricity Rules except as made by or under the National Electricity (Northern Territory) (National Uniform) Legislation Act; or

(d) that the AER has considered or accounted for in a distribution determination for the 1st regulatory control period.

This event would allow Power and Water to aggregate costs incurred during the regulatory control period arising from the NT's adoption of the NER, and to apply for a pass through when the costs, in total, (a) substantially affect the manner in which Power and Water provides direct control services and (b) exceed the one percent materiality threshold.

Power and Water states it would notify the AER as soon as practicable after an individual change first occurs that may be amendable to summing, but would make a pass through application only if and when the aggregated changes 'substantially affect' the provision of direct control services and materially increase or decrease the costs.³⁸

The NT NER prescribes two pass through events covering regulatory changes. The Regulatory Change Event applies to all electricity determinations and is subject to a materiality threshold, by which an individual regulatory change must have a cost impact of at least one percent of the annual revenue requirement for the relevant regulatory year to be eligible for pass through.³⁹

The second prescribed event, 'a NT transitional regulatory change event' is specific to the Northern Territory and applies only to transitional regulatory changes occurring in the period 1 July 2017 and 30 June 2019 where those changes, in aggregate, (a) substantially affect the manner in which a Network Service Provider provides direct control services, and (b) result in a material increase or material decrease in the costs of providing those services. Once again, a material change in costs is one which exceeds one percent of the annual revenue requirement for the regulatory year.⁴⁰

Power and Water's proposed event is modelled on the second prescribed event, but applies to transitional changes occurring during the regulatory control period rather

³⁸ Power and Water, Regulatory Proposal 1 July 2019 to 30 June 2024, 31 January 2018, p. 123.

³⁹ NT NER Part 10: Glossary: Regulatory Change Event [means] a change in a regulatory obligation or requirement that: (a) falls within no other category of pass through event; and (b) occurs during the course of a regulatory control period; and (c) substantially affects the manner in which the Transmission Network Service Provider provides prescribed transmission services or the Distribution Network Service Provider provides direct control services (as the case requires); and (d) materially increases or materially decreases the costs of providing those services.

⁴⁰ NT NER, r. 6.6.1(a1)(1AB); Clause 10A National Electricity (Northern Territory)(National Uniform Legislation) (Modification) Regulations.

than before it. Like the prescribed event, Power and Water's proposal would allow it to aggregate regulatory changes occurring after 1 July 2019 in order to decide whether they are 'substantial' and 'material'. Power and Water stated:⁴¹

Based on experience to date, it is now reasonable to conclude that transitional arrangements and associated obligations will continue to evolve beyond 1 July 2019 into the next regulatory period, such that an additional nominated pass through event, based on the provisions in Regulation 10A described above, is warranted.

Power and Water submitted that such changes would not be adequately addressed by the standard 'regulatory change event', stating:

[i]t would be inefficient to deal with them individually, given the anticipated number, magnitude and frequency of changes. Moreover, individual changes considered in isolation may not meet the materiality threshold for regulatory change events.

We do not accept the proposed 'NT transitional regulatory change event from 1 July 2019' pass through category. It substantially duplicates the 'regulatory change event' which applies automatically under the NER. Approving it would be inconsistent with the requirement that a nominated pass through event not be covered by an existing category of pass through events.

The 'NT transitional regulatory change event from 1 July 2019' as proposed by Power and Water would reduce the effectiveness of the materiality threshold which applies to the other prescribed pass through categories. The materiality test is integral to the incentive regulation framework established under the NEL and NER. The AEMC has described it as a necessary device to remove the incentive for service providers to submit multiple applications that may, or may not, be trivial in nature, and:

subjecting cost pass through events to a materiality threshold has therefore been, and continues to be, a fundamental part of the cost pass through mechanism.⁴²

Weakening the materiality threshold in this way would alter the pass through mechanism, making it more consistent with a cost of service regulatory framework rather than the incentive framework established by the NEL and NER.

Our decision to not accept the proposed event is consistent with our approach in several recent decisions where regulated entities have nominated additional pass through events for anticipated changes to the regulatory framework which, for various

⁴¹ National Electricity (Northern Territory) (National Uniform Legislation) (Modification) Regulations, r.10A.

⁴² AEMC, Consultation Paper, National Electricity Amendment (Retailer insolvency events - cost pass through provisions) Rule 2015, 30 October 2014, p. 18.

reasons, the entities have been concerned may not be covered by the prescribed 'regulatory change event'.⁴³

Policy makers have considered the treatment of NEM transition costs, determining that these may be aggregated over the period 1 July 2017 to 30 June 2019 for the purpose of assessing materiality. That policy is now reflected in the NT NER.⁴⁴ Cost impacts after this date may be considered for pass through under the 'regulatory change event', subject to the normal materiality threshold.

It is for the above reasons, we do not approve Power and Water's proposed 'NT transitional regulatory change event from 1 July 2019' nominated pass through event.

⁴³ AER, Final Decision, APA VTS Australia Gas Access Arrangement 2018 to 2022, Overview, November 2017, p. 18; AER, Final Decision, AusNet Services Distribution Determination 2016 to 2020, Attachment 15 Pass Through Events, May 2016, pp. 15–20 to 15–22.

⁴⁴ NT NER, r. 6.6.1(a1)(1AB).