



Call for submissions

**Proposed negotiated distribution service
criteria for Energex, Ergon Energy and SA
Power Networks – regulatory control
period commencing 1 July 2015**

November 2014

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Call for Submissions

Under the National Electricity Law and the National Electricity Rules (NER), the Australian Energy Regulator (AER) is responsible for the economic regulation of certain electricity distribution services provided by distribution network service providers (distributors) in the National Electricity Market.

The AER must make a distribution determination applying to Energex, Ergon Energy and SA Power Networks for the regulatory control period, 1 July 2015 to 30 June 2020. Distribution services provided by these distributors that are classified as direct control services are regulated by us. Our revenue determination imposes controls over the prices and revenues that Energex, Ergon Energy and SA Power Networks may each recover. Any distribution services that we classify as negotiated distribution services do not have their terms and conditions determined by us. They are, however, subject to a dispute resolution process.

Under clause 6.12.1(16) of the NER, as part of our distribution determination we are required to make a decision on the Negotiated Distribution Service Criteria (NDSC) to apply to Energex, Ergon Energy and SA Power Networks. The NDSC sets out the criteria that each distributor is to apply in negotiating terms and conditions of access for its negotiated distribution services (should we classify any services this way). We will also use the NDSC in resolving any access dispute about any of the terms and conditions of access, as required under clause 6.7.4(a) of the NER.¹ Under clause 6.7.4(b) of the NER, the NDSC must give effect to and be consistent with the negotiated distribution service principles set out in clause 6.7.1 of the NER.

Clause 6.9.3 of the NER requires us to publish our proposed NDSC, together with an invitation for written submissions, in conjunction with the publication of each distributor's regulatory proposal. We are seeking submissions from interested parties in relation to the proposed NDSC to apply to Energex, Ergon Energy and SA Power Networks. Submissions on the proposed NDSC for each distributor are due by close of business on Friday 30 January 2015.

The AER prefers that all written submissions be publicly available to facilitate an informed and transparent consultative process. Submissions will be treated as public documents unless otherwise requested. Parties wishing to submit confidential information are asked to provide both confidential and non-confidential versions of their submission. All non-confidential submissions will be placed on the AER's website www.aer.gov.au.

We will treat all information and documents provided to us as part of this process in accordance with the ACCC/AER's Information Policy dated October 2008, which is available on our website. Submissions can be sent electronically to [QLDelectricity2015@aer.gov.au](mailto:QLDelectricity2015@ aer.gov.au) for Energex and Ergon Energy or [SAelectricity2015@aer.gov.au](mailto:SAelectricity2015@ aer.gov.au) for SA Power Networks.

Alternatively, they can be sent to:

¹ A DNSP is also required to comply with any other relevant legislative requirement or obligation that may relate to negotiated distribution services. For example, the AER anticipates that a DNSP may need to adhere to separate requirements or obligations under the proposed National Energy Retail Law and National Energy Retail Rules in the National Customer Framework currently being developed by the Ministerial Council on Energy.

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1 Proposed Negotiated Distribution Service Criteria

National Electricity Objective

1. The terms and conditions of access for a negotiated distribution 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

1. The terms and conditions of access for a negotiated distribution service must be fair and reasonable and consistent with the safe and reliable operation of the power system in accordance with the NER.
2. The terms and conditions of access for a negotiated distribution service (including in particular, any exclusions and limitations of liability and indemnities) must not be unreasonably onerous taking into account the allocation of risk between a distributor and any other party, the price for the negotiated distribution service and the costs to a distributor of providing the negotiated distribution service.
3. The terms and conditions of access for a negotiated distribution 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

1. The price for a negotiated distribution service must reflect the costs that a distributor has incurred or incurs in providing that service, and must be determined in accordance with the principles and policies set out in the relevant Cost Allocation Method.
2. Subject to criteria 7 and 8, the price for a negotiated distribution service must be at least equal to the cost that would be avoided by not providing that service but no more than the cost of providing it on a stand-alone basis.
3. If a negotiated distribution service is a shared distribution service that:
 - i. exceeds any network performance requirements which it is required to meet under any relevant electricity legislation: or
 - ii. exceeds the network performance requirements set out in schedule 5.1a and 5.1 of the NER,
4. then the difference between the price for that service and the price for the shared distribution service which meets network performance requirements must reflect a distributor's incremental cost of providing that service (as appropriate).
5. If a negotiated distribution service is the provision of a shared distribution service that does not meet or exceed the network performance requirements, the difference between the price for that service and the price for the shared distribution service which meets, but does not exceed, the network performance requirements should reflect the cost a distributor would avoid by not providing that service (as appropriate).

6. The price for a negotiated distribution service must be the same for all Distribution Network Users unless there is a material difference in the costs of providing the negotiated distribution service to different Distribution Network Users or classes of Distribution Network Users.
7. The price for a negotiated distribution 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 which case such adjustment must reflect the extent to which the costs of that asset are being recovered through charges to that other person.
8. The price for a negotiated distribution service must be such as to enable a distributor to recover the efficient costs of complying with all regulatory obligations or requirements associated with the provision of the negotiated service.

Criteria for access charges

Access Charges

1. Any charges must be based on costs reasonably incurred by a distributor in providing distribution network user access, and, in the case of compensation referred to in clauses 5.5(f)(4)(ii) and (iii) of the NER, on the revenue that is likely to be foregone and the costs that are likely to be incurred by a person referred to in those provisions where an event referred to in those provisions occurs (as appropriate).
2. Any charges must be based on costs reasonably incurred by a distributor in providing transmission network user access to services deemed to be negotiated distribution services by clause 6.24.2(c) of the NER, and, in the case of compensation referred to in clauses 5.4A(h) to (j) of the NER, on the revenue that is likely to be foregone and the costs that are likely to be incurred by a person referred to in those provisions where an event referred to in those provisions occurs (as appropriate).