



**ActewAGL Distribution**  
**distribution determination**  
**2009–10 to 2013–14**

28 April 2009

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# Summary

Clause 6.11.1 of the transitional chapter 6 rules requires the Australian Energy Regulator (AER) to make a distribution determination in relation to ActewAGL Distribution (ActewAGL).

Under clause 6.12.1 of the transitional chapter 6 rules, this distribution determination is predicated on the following constituent decisions:

- (1) a decision on the classification of the services to be provided by the Distribution Network Service Provider during the course of the regulatory control period;
- (2) a decision on the Distribution Network Service Provider's current building block proposal in which the AER either approves or refuses to approve:
  - (i) the annual revenue requirement for the provider, as set out in the building block proposal, for each regulatory year of the regulatory control period; and
  - (ii) \*\*\*\*\*
- (3) a decision in which the AER either:
  - (i) acting in accordance with clause 6.5.7(c), accepts the total of the forecast capital expenditure for the regulatory control period that is included in the current building block proposal; or
  - (ii) acting in accordance with clause 6.5.7(d), does not accept the total of the forecast capital expenditure for the regulatory control period that is included in the current building block proposal, in which case the AER must set out its reasons for that decision and an estimate of the total of the Distribution Network Service Provider's required capital expenditure for the regulatory control period that the AER is satisfied reasonably reflects the capital expenditure criteria, taking into account the capital expenditure factors;
- (4) a decision in which the AER either:
  - (i) acting in accordance with clause 6.5.6(c), accepts the total of the forecast operating expenditure for the regulatory control period that is included in the current building block proposal; or
  - (ii) acting in accordance with clause 6.5.6(d), does not accept the total of the forecast operating expenditure for the regulatory control period that is included in the current building block proposal, in which case the AER must set out its reasons for that decision and an estimate of the total of the Distribution Network Service Provider's required operating expenditure for the regulatory control period that the AER is satisfied reasonably reflects the operating expenditure criteria, taking into account the operating expenditure factors;
- (5) a decision in relation to the rate of return in accordance with clause 6.5.2;
- (6) a decision on the regulatory asset base as at the commencement of the regulatory control period in accordance with clause 6.5.1 and schedule 6.2;
- (7) a decision on the estimated cost of corporate income tax to the provider for each regulatory year of the regulatory control period in accordance with clause 6.5.3;

- (8) a decision on whether or not to approve the depreciation schedules submitted by the Distribution Network Service Provider and, if the AER decides against approving them, a decision determining depreciation schedules in accordance with clause 6.5.5(b);
- (9) a decision on how any applicable efficiency benefit sharing scheme, service target performance incentive scheme, or demand management incentive scheme is to apply to the Distribution Network Service Provider;
- (10) a decision in which the AER decides other appropriate amounts, values or inputs;
- (11) a decision on the control mechanism (including the X factor) for standard control services;
- (12) a decision on the control mechanism for alternative control services;
- (13) a decision on how compliance with a relevant control mechanism is to be demonstrated;
- (14) a decision on the additional pass through events that are to apply for the regulatory control period;
- (15) a decision on any negotiating framework that is to apply to the Distribution Network Service Provider for the regulatory control period (which may be the negotiating framework as proposed by the provider, some variant of it, or a framework substituted by the AER);
- (16) if relevant, a decision in which the AER decides the Negotiated Distribution Service Criteria for the Distribution Network Service Provider;
- (16A) a decision in which the AER decides which, if any, components of direct control services are negotiable components;
- (16B) if relevant, a decision in which the AER decides the negotiable component criteria for the Distribution Network Service Provider;
- (17) a decision on the procedures for assigning customers to tariff classes, or reassigning customers from one tariff class to another (including any applicable restrictions);
- (18) a decision on whether depreciation for establishing the regulatory asset base as at the commencement of the following regulatory control period is to be based on actual or forecast capital expenditure;
- (19) a decision on how the Distribution Network Service Provider is to report to the AER on its recovery of Transmission Use of System charges for each regulatory year of the regulatory control period and on the adjustments to be made to subsequent pricing proposals to account for over or under recovery of those charges;

In addition to the constituent decisions in clause 6.12.1, the transitional chapter 6 rules set out the following requirements for the distribution determination:

- Clause 6.3.2 requires the AER to make a building block determination in relation to ActewAGL, as a component of a distribution determination. The building block determination is to specify the following matters for a regulatory control period:
  - (1) the Distribution Network Service Provider's annual revenue requirement for each regulatory year of the regulatory control period;
  - (2) appropriate methods for the indexation of the regulatory asset base;

- (3) how any applicable efficiency benefit sharing scheme, service target performance incentive scheme, or demand management incentive scheme are to apply to the Distribution Network Service Provider;
  - (4) the commencement and length of the regulatory control period;
  - (5) any other amounts, values or inputs on which the building block determination is based (differentiating between those contained in, or inferred from, the service provider's building block proposal and those based on the AER's own estimates or assumptions).
- Clause 6.7A provides that the AER may include in the distribution determination a decision that one or more components of the DNSP's direct control services are negotiable components.
  - Clause 6.7A.3 provides that the determination specifying requirements relating to the negotiating framework (forming part of a distribution determination) is to set out requirements that are to be complied with in respect of the preparation, replacement, application or operation of its negotiating framework.
  - Clause 6.7.4(a) provides that the determination specifying the negotiated distribution service criteria (forming part of a distribution determination) is to set out the criteria that are to be applied
    - (1) by the provider in negotiating *terms and conditions of access* including:
      - (i) the prices that are to be charged for the provision of negotiated distribution services by the provider for the relevant regulatory control period; or
      - (ii) any access charges which are negotiated by the provider during that regulatory control period; and
    - (2) by the AER in resolving an access dispute about terms and conditions of access including:
      - (i) the price that is to be charged for the provision of a negotiated distribution service by the provider; or
      - (ii) any access charges that are to be paid to or by the provider.
  - Clause 6.7A.4(a) provides that the determination specifying the negotiable component criteria (forming part of a distribution determination) is to set out the criteria that are to be applied:
    - (1) by the provider in negotiating terms and conditions of access including:
      - (i) the variations to the prices that are to be charged for the provision of the negotiable component of the direct control service concerned by the provider for the relevant regulatory control period; and
      - (ii) any access charges which are negotiated by the provider during that regulatory control period; and
    - (2) by the AER in resolving an access dispute, between the Distribution Network Service Provider and a person who wishes to be provided with a negotiable component, in relation to terms and conditions of access including:
      - (i) the variation of the prices that are to be charged for the provision of the negotiable component of the direct control service concerned by the provider; and

- (ii) any access charges that are to be paid to or by the provider.

Clause 6.12.3(a) of the transitional chapter 6 rules allows the AER the discretion to accept or approve, or refuse to accept or approve any element of a regulatory proposal. Where the AER rejects an amount or methodology relating to a constituent decision, it must substitute an amount or methodology:

- (1) determined on the basis of the current regulatory proposal; and
- (2) amended from that basis only to the extent necessary to enable it to be approved in accordance with the Rules.

The AER's decisions for ActewAGL's distribution determination are set out below. Detailed analysis and discussion of the AER's considerations and reasoning is set out in the AER's final decision, released with this determination. Reference to the final decision is a reference to the AER's final decision released with this determination on 30 April 2009, entitled *Final decision, Australian Capital Territory distribution determination 2009–10 to 2013–14*. Abbreviations have the meaning given to them in the final decision.

## Determination – constituent decisions

In accordance with clause 6.12.1(1) of the transitional chapter 6 rules the following classification of services will apply to ActewAGL for the next regulatory control period:

- a distribution service provided by ActewAGL that was previously determined by the ICRC to be a prescribed distribution service (for the purposes of the current regulatory control period) is deemed to be classified as a direct control service and further classified as a standard control service. Hence, all distribution services provided by ActewAGL (with the exception of those services related to metering as discussed in section 2.4.1 of the draft decision) are classified as standard control services
- a distribution service provided by ActewAGL that was previously classified as an excluded service by the ICRC (for the purposes of the current regulatory control period) is also deemed to be classified as a direct control service and further classified as an alternative control service. The provision of and service of meters for customers consuming below 160 MWh per annum is classified as an alternative control service
- there are no services classified as negotiated distribution services
- ActewAGL provides the following unregulated services: street lighting; training; and contestable metering services.

In accordance with clause 6.12.1(2)(i) of the transitional chapter 6 rules the AER refuses to approve the annual revenue requirement set out in ActewAGL's building block proposal.

In accordance with clause 6.12.1(3)(ii) of the transitional chapter 6 rules the AER does not accept ActewAGL's forecast capex for the next regulatory control period. The AER is not satisfied that ActewAGL's forecast capex, taking into account the capex factors reasonably reflects the capex criteria in clause 6.5.7 of the transitional chapter 6 rules. The AER's reasons for this decision are set out in section 8.6 of the draft decision and 8.5 of the final decision.

The AER's estimate of the total capex required by ActewAGL in the next regulatory control period, that reflects the capex criteria taking into account the capex factors, is set out in table 8.12 of the final decision.

In accordance with clause 6.12.1(4)(ii) of the transitional chapter 6 rules the AER does not accept ActewAGL's proposed opex for the next regulatory control period. The AER is not satisfied that ActewAGL's forecast opex reasonably reflects the opex criteria, including the opex objectives. In coming to this view the AER has had regard to the opex factors. The AER's reasons for this decision are set out in section 9.6 of the draft decision and section 9.5 of the final decision.

The AER's estimate of the total opex required by ActewAGL for the next regulatory control period, that reflects the opex criteria taking into account the opex factors is set out in table 9.17 of the final decision.

In accordance with clause 6.12.1(5) of the transitional chapter 6 rules the rate of return to apply to ActewAGL is 8.79 per cent.

In accordance with clause 6.12.1(6) of the transitional chapter 6 rules ActewAGL's opening RAB for the next regulatory control period is \$598.7 million.

In accordance with clause 6.12.1(7) of the transitional chapter 6 rules the estimated cost of corporate tax to ActewAGL for each regulatory year of the next regulatory control period is specified in table 10.3 of the final decision.

In accordance with clause 6.12.1(8) of the transitional chapter 6 rules the AER has not approved the depreciation schedule submitted by ActewAGL. The AER has determined the depreciation schedule for ActewAGL which results in the regulatory depreciation allowance set out in table 11.3 of the final decision.

In accordance with clause 6.12.1(9) of the transitional chapter 6 rules the demand management incentive scheme to apply to ActewAGL is the DMIA set out in the AER's *Demand management incentive scheme for the ACT and NSW 2009 distribution determinations – Demand management innovation allowance scheme*, November 2008.



In accordance with clause 6.12.1(9) of the transitional chapter 6 rules, the EBSS to apply to ActewAGL is as defined in the AER's *Efficiency benefit sharing scheme for the ACT and NSW 2009 distribution determinations*, published in February 2008. The following opex cost categories will be excluded from the operation of the EBSS for the next regulatory control period:

- debt raising costs
- self insurance costs
- insurance costs
- superannuation costs
- utilities network facilities tax payments
- direct feed-in tariff payments
- non-network alternatives costs.

These are in addition to the costs of pass through events that are excluded by the EBSS.

In accordance with clause 6.12.1(10) of the transitional chapter 6 rules the other appropriate amounts, values or inputs with respect to the past capex to be rolled into ActewAGL's opening RAB for 2009 is set out in table 5.2 of the final decision.

In accordance with clause 6.12.1(10) of the transitional chapter 6 rules the other appropriate amounts, values or inputs with respect to energy forecasting for ActewAGL are those that were provided on 25 March 2009, and are set out in table 7.4 of the final decision.

In accordance with clause 6.12.1(10) of the transitional chapter 6 rules the other appropriate amounts, values or inputs to apply to ActewAGL in respect of WACC parameters are as specified in table 12.6 of the final decision.

In accordance with clause 6.12.1(11) of the transitional chapter 6 rules the control mechanism for standard control services is a maximum allowable average revenue cap. It is calculated in accordance with the formula in section 4.5 of the final decision.

In accordance with clause 6.12.1(11) of the transitional chapter 6 rules the X factors to apply to ActewAGL are as set out in table 17.8 of the final decision.

In accordance with clause 6.12.1(12) of the transitional chapter 6 rules the:

- the control mechanism for alternative control services provided by ActewAGL is a revenue cap as specified in the AER's *Statement on control mechanisms for alternative control services for the ACT and NSW 2009 distribution determinations*, published in February 2008
- the maximum allowed revenue for ActewAGL in each year of the next regulatory control period is set out in table 18.7 (smoothed revenue requirement) of the final decision
- the X factor to apply in each year of the next regulatory control period is set out in table 18.7 of the final decision.

In accordance with clause 6.12.1(13) of the transitional chapter 6 rules compliance with the maximum allowable average revenue cap for standard control services must be demonstrated by ActewAGL using the formulae outlined in section 4.5 and in accordance with appendix F of the final decision.

In accordance with clause 6.12.1(13) of the transitional chapter 6 rules ActewAGL must demonstrate compliance with the control mechanism for alternative control services by submitting to the AER a schedule of metering charges, in the form of table 13.5 of ActewAGL's regulatory proposal, as soon as practicable after prices for each regulatory year are determined.

In accordance with clause 6.12.1(14) of the transitional chapter 6 rules the nominated pass through events that are to apply to ActewAGL for the next regulatory control period are a feed-in tariff direct payment event, a smart meter event, an emissions trading scheme event, and a general pass through event as defined in section 16.6 of the final decision.

In accordance with clauses 6.12.1(15) and 6.7A.3 of the transitional chapter 6 rules the negotiating framework in appendix C of the final decision is to apply to ActewAGL for the next regulatory control period. The preparation of the negotiating framework for 2014–2019 regulatory control period must be undertaken in accordance with the framework and approach processes for that regulatory control period.

In accordance with clauses 6.12.1(16A) and 6.7A of the transitional chapter 6 rules the components of ActewAGL's direct control services which are negotiable components are any component of a direct control service (including the terms and conditions on which that direct control service or component is provided) where:

- (a) the direct control service exceeds the network performance requirements which the direct control service is required to meet under any jurisdictional electricity legislation;
- (b) the direct control service, except to the extent of any prescribed requirements of jurisdictional electricity legislation, exceeds or does not meet the network performance requirements (whether as to quality or quantity) as set out in schedule 5.1a or 5.1 of the NER; or
- (c) the direct control service is a connection service provided to serve network users at a single distribution network connection point, other than connection services that are provided by one network service provider to another network service provider to connect their networks where neither provider is a market network service provider,

but excludes, in relation to any component of a direct control service, requirements imposed under a regulatory instrument (other than the final decision and distribution determination).

In accordance with clauses 6.12.1(16B) and 6.7.4(a) of the transitional chapter 6 rules the NCC for ActewAGL is at appendix B of the final decision.

In accordance with clause 6.12.1(17) of the transitional chapter 6 rules the procedures for assigning customers to tariff classes or reassigning customers from one tariff class to another are specified in appendix A of the final decision.

In accordance with clause 6.12.1(18) of the transitional chapter 6 rules the AER will use actual depreciation for establishing the regulatory asset base for the commencement of the 2014–19 regulatory control period.

In accordance with clause 6.12.1(19) of the transitional chapter 6 rules ActewAGL must submit, as part of its annual pricing proposal, a record of the amount of revenues recovered from TUOS charges and associated payments in accordance with appendix E of the final decision.

## Building block determination

In accordance with clause 6.3.2(a)(1) of the transitional chapter 6 rules ActewAGL's annual revenue requirement for each regulatory year of the next regulatory control period is as set out in table 17.8 of the final decision.

In accordance with clause 6.3.2(a)(2) of the transitional chapter 6 rules the appropriate methodology for indexation of the regulatory asset base is as specified in section 17.4.1 of the final decision.

In accordance with clause 6.3.2(a)(3) of the transitional chapter 6 rules the EBSS to apply to ActewAGL is specified in section 14.5 of the final decision.

In accordance with clause 6.3.2(a)(3) of the transitional chapter 6 rules the application of the demand management incentive scheme to apply to ActewAGL is specified in section 15.6 of the final decision.

In accordance with clause 6.3.2(a)(4) of the transitional chapter 6 rules regulatory control period to which this determination applies commences on 1 July 2009 and will run for 5 years, ending on 30 June 2014.

In accordance with clause 6.3.2(a)(5) of the transitional chapter 6 rules any other amounts, values or inputs on which ActewAGL's building block determination is based are as specified in section 17.4 of the final decision.