

Determination

22 February to 7 March 2022

Flood event

Cost pass through

Energex

March 2023

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Contents

- Overview 1**
- 1 Introduction 3**
 - 1.1 Who we are and our role in this process 3
 - 1.2 Energex’s application..... 3
- 2 Determination 4**
- 3 Relevant regulatory requirements and assessment approach 5**
 - 3.1 Timing matters 5
- 4 Reasons for determination 6**
 - 4.1 Occurrence of a natural disaster 6
 - 4.2 Positive change event..... 7
 - 4.3 Timing of Energex’ application 8
 - 4.4 Assessment of the pass through amount 8
 - 4.5 Timing of cost pass through recovery..... 11
- 5 NER requirements and stakeholder submissions..... 12**
- Glossary..... 16**

Overview

On 16 December 2022, Energex Limited (Energex) submitted a cost pass through application seeking to recover actual costs it experienced as a result of the flooding event that occurred during the period 22 February to 7 March 2022 in South East Queensland. Energex stated that the flood event caused major damage to and / or destruction of a large number of network assets, resulting in major outages which impacted over 246,000 customers.¹

Energex is seeking to recover \$20.3 million (\$nominal) in incremental costs (capital and operating expenditure) that were not allowed for in Energex's distribution determination for the 2020–25 regulatory control period. This equates to Energex proposing a cost pass through amount of \$17.0 million (\$nominal, smoothed) in incremental revenue, to be recovered in 2024-25, the final year of the current 2020–25 regulatory control period.

Under the National Electricity Rules (NER), Energex is able seek the approval of the Australian Energy Regulator (AER), to pass through to network users a positive pass through amount in respect of certain events (referred to in the NER as positive change events).² A cost pass through application must address specified matters.³

If the AER determines that a positive change event has occurred in respect of a cost pass through application, the AER is required to determine (within a specified timeframe):

- the approved pass through amount, and
- how much of that amount should be passed through to distribution network users in the regulatory year, and each regulatory year after that, in which the positive change event occurred,

taking into account the matters referred to in clause 6.6.1(j) of the NER.⁴

On 19 January 2023, we published Energex's application on our website and invited stakeholder submissions. We did not receive any stakeholder submissions.

This determination sets out our assessment of Energex's application and addresses the cost pass through requirements as set out in clause 6.6.1 of the NER.

We are satisfied that the 22 February to 7 March 2022 Flood event meets the definition of a natural disaster pass through event. Based on our consideration of the factors set out in clause 6.6.1(j) of the NER, we determine to allow the pass through of the costs proposed by Energex in its 22 February to 7 March 2022 Flood event cost pass through application. However, we have updated Energex's incremental revenues to account for the time value of money consistent with the PTRM. This increased Energex's incremental revenue to be recovered by

¹ Energex, *Energex February-March 2022 Flood Event Cost pass through application*, December 2022, p. 1.

² NER, cl. 6.6.1(a). A positive change event is: (a) a pass through event, other than a retailer insolvency event, which entails the Distribution Network Service Provider incurring materially higher costs in providing direct control services than it would have incurred but for that event but does not include a contingent project or an associated trigger event; or (b) a retailer insolvency event. A pass through event is those events specified in clause 6.6.1(a1).

³ NER, cl. 6.6.1(c).

⁴ NER, cl. 6.6.1(d).

\$1.1 million (\$nominal, smoothed), from \$17.0 million (\$nominal) to \$18.1 million (\$nominal, smoothed).

We are satisfied that the materiality threshold to constitute a positive change event has been met and that the costs incurred by Energex as a direct result of the 22 February to 7 March 2022 Flood event were prudent and efficient.

Our determination is to approve a positive pass through amount of \$18.1 million (\$nominal, smoothed) to be recovered in the final year of Energex's 2020–25 regulatory control period through the X-factor set in the PTRM.

We estimate that the approved cost pass through amount will add approximately \$7 to the average residential customer's bill and \$14 to the average small business' bill in 2024-25.

1 Introduction

This section sets out the AER’s role in assessing cost pass through applications from electricity distribution network service providers (DNSPs), and information on Energex’s application.

1.1 Who we are and our role in this process

The AER regulates Energex’s revenues through five-year distribution revenue determinations. Energex’s current revenue determination for the 2020–25 regulatory control period runs from 1 July 2020 to 30 June 2025.

We are responsible for assessing cost pass through applications.⁵ Under the NER, a distribution business may apply to us seeking the recovery of additional costs incurred during a regulatory control period, if predefined events occur as specified in either the NER or in its respective revenue determination.⁶

1.2 Energex’s application

On 16 December 2022, Energex submitted a cost pass through application seeking to recover the costs it has incurred, and is forecast to incur, as a result of the 22 February to 7 March 2022 Flood event in South East Queensland.⁷

Energex submitted that the 22 February to 7 March 2022 Flood event caused major damage to and / or destruction of a large number of network assets, including substations, transformers, powerlines and pillars across its distribution network, and resulted in over 246,000 customers losing electricity supply.⁸

Energex stated that it has incurred \$20.3 million (\$nominal) in additional costs as a result of the 22 February to 7 March 2022 Flood event, apportioned as shown in table 1 below.

Table 1: Energex – additional costs related to the 22 February to 7 March Flood (\$million, \$nominal)

	2020-21	2021-22	2022-23	2023-24	2024-25	Total
Opex	-	15.3	0.3	-	-	15.6
Capex	-	1.0	3.8	-	-	4.7
Total	-	16.3	4.0	-	-	20.3

Source: Energex, *Information Request #001 response Q2*, February 2023.

Numbers may not add up to total due to rounding. Differences of '0.0' and '-0.0' represent small variances and '-' represents no variance.

The revenue impact of the proposed pass through amount is \$17.0 million (\$nominal, smoothed), which Energex has proposed be recovered in 2024-25.

⁵ NER, cl. 6.6.1(d).

⁶ NER, cl. 6.6.1(a).

⁷ Energex, *February-March 2022 Flood event cost pass through application*, December 2022.

⁸ Energex, *February-March 2022 Flood Event Cost pass through application*, December 2022, p. 1.

2 Determination

Based on our consideration of all the matters set out in this decision, we consider that Energex's application establishes that a pass through event has occurred in respect of the 22 February to 7 March 2022 Flood event, being a natural disaster pass through event as specified in Energex's 2020-25 revenue determination. Our assessment against the requirements of a positive change event is summarised in section 5 (Table 4).

We are satisfied that the 22 February to 7 March 2022 Flood event constitutes a positive change event as defined under the NER. In particular, we are satisfied that Energex incurred a material increase in the costs of providing direct control services in the 2021–22 regulatory year as a result of this pass through event.

Our determination is to approve a positive pass through amount of \$18.1 million (\$nominal, smoothed), to be recovered in 2024-25, the final year of Energex's 2020-25 regulatory control period through the X-factor set in the PTRM.

Sections 4 and 5 set out our assessment of Energex's cost pass through application and the positive pass through amount.

3 Relevant regulatory requirements and assessment approach

The pass through mechanism recognises that an efficient revenue allowance cannot account for certain matters that are uncertain and outside the control of the business and which cannot be prevented or mitigated by prudent operational risk management. A cost pass through enables a network service provider to recover the costs of defined unpredictable, high-cost events not factored into our five-year revenue determination for the business.

Clause 6.6.1(a1) of the NER defines a pass through event as one of the following prescribed pass through events for all distribution network service providers: a regulatory change event; a service standard event; a tax change event; a retailer insolvency event, and any other event specified in a distribution determination as a pass through event for the determination (a nominated pass through event).

The first step in our assessment is to determine whether a pass through event has occurred and examine timing matters, e.g. whether an application is submitted within the timeframe set out in the NER. Once we have determined that a pass through event has occurred, we are to determine whether it is a positive (or negative) change event.

The NER defines a positive change event for a DNSP as:

“a pass through event...which entails the DNSP incurring materially higher costs in providing direct control services than it would have incurred but for that event...”⁹

We undertake this assessment with reference to the NER and the revenue determination applicable to Energex when the 22 February to 7 March 2022 Flood event occurred, which is Energex’s distribution determination for the 2020-25 regulatory control period.

As part of this process, we examine whether Energex’s application has addressed matters specified in clause 6.6.1(c) of the NER (see section 5 below (Table 4 and Table 5)). We also determine the materiality of the proposed pass through amount.

If the AER determines that a positive change event has occurred, the AER must determine:

- the approved pass through amount, and
- the amount that should be passed through to distribution network users in the regulatory year, and each regulatory year after that, in which the positive change event occurred.

3.1 Timing matters

To seek the approval of the AER to pass through a positive pass through amount, clause 6.6.1(c) of the NER requires a DNSP to submit a written statement specifying a range of details relating to the event within 90 business days of the positive change event occurring.

The NER requires us to make a determination within the timeframe specified in clause 6.6.1(e). That is, within 40 business days from the later of the date the AER received Energex’s cost pass through application and the date it received any additional information required by it through a notice issued under clause 6.6.1(e1) of the NER.

⁹ NER, chapter 10.

4 Reasons for determination

The sections below set out the reasons for our determination.

4.1 Occurrence of a natural disaster

This determination relates to a nominated pass through event, being a natural disaster event as specified in Energex’s 2020-25 revenue determination.

A natural disaster event is defined in Energex’s 2020-25 revenue determination:¹⁰

“Natural disaster event means any natural disaster including but not limited to cyclone, fire, flood or earthquake that occurs during the 2020–25 regulatory control period that increases the costs to Energex in providing direct control services, provided the fire, flood or other event was:

- *a consequence of an act or omission that was necessary for the service provider to comply with a regulatory obligation or requirement or with an applicable regulatory instrument; or*
- *not a consequence of any other act or omission of the service provider.*

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

- *whether Energex has insurance against the event,*
- *the level of insurance that an efficient and prudent NSP would obtain in respect of the event.”*

4.1.1 Natural disaster event

We consider the 22 February to 7 March 2022 Flood event satisfies the definition of a natural disaster pass through event as specified in Energex’s determination. In particular, the 22 February to 7 March 2022 Flood was:

- responded to by State and Federal Governments as a natural disaster;¹¹
- unexpected; and
- caused severe damage to property.

For example, the Australian Government made disaster relief payments to assist South East Queensland residents to recover from the damage caused by the flood that occurred from 22 February to 7 March 2022 (the subject of Energex’s application).

The 22 February to 7 March 2022 Flood event increased the costs to Energex in providing direct control services and the event was not a consequence of an act or omission of Energex – it was outside of Energex’s control, and it was unforeseeable.

¹⁰ AER, *Final decision Energex distribution determination - Attachment 14 - Pass through events* – June 2020, p. 6.

¹¹ Australian Government, <https://www.disasterassist.gov.au/Pages/disasters/current-disasters/Queensland/se-qld-rainfall-flooding-22-28-february-2022.aspx>, viewed 03 February 2023.

4.1.1.1 Effect of the event could not be prevented or mitigated

Energex’s application stated: “the severe weather and resulting flooding throughout South East Queensland between 22 February and 7 March 2022 was an uncontrollable and unexpected natural disaster event, the occurrence of which could not have been prevented or mitigated by Energex”.¹²

Energex submitted its Natural Hazards Management Plan (NHMP) detailing its planning and preparation activities critical to providing South East Queensland with a reliable network where disruptions are minimised during natural hazard events.¹³ The NHMP practices include, in the lead up to each annual severe weather season (October to May), undertaking various asset maintenance and inspections, vegetation management and asset improvement initiatives, capital investment programs, and preparedness training.

We accept that Energex’s network risk management and planning practices were appropriate and that Energex did not reasonably do anything or omit to do anything that had the potential to increase the pass through amount.

4.2 Positive change event

If we are satisfied a pass through event has occurred, we must determine whether the event qualifies as a “positive change event”. That is, whether Energex incurred materially higher costs in providing direct control services than it would have incurred but for the event.

The NER defines “materially” as:

“For the purposes of the application of clause 6.6.1, an event results in a DNSP incurring materially higher or materially lower costs if the change in costs (as opposed to the revenue impact) that the DNSP has incurred and is likely to incur in any regulatory year of a regulatory control period, as a result of that event, exceeds 1% of the annual revenue requirement for the DNSP for that regulatory year.”

As is evidenced in Table 2 below, we consider the additional costs incurred by Energex in providing direct control services as a result of the 22 February to 7 March 2022 Flood event meet the materiality threshold for the 2021–22 regulatory year.¹⁴

Table 2: AER – Materiality assessment of the event (\$million, nominal)

	2020-21	2021-22	2022-23	2023-24	2024-25	Total
Approved cost pass through opex	-	15.3	0.3	-	-	15.6
Approved cost pass through capex	-	1.0	3.8	-	-	4.7
Total proposed capex and opex	-	16.3	4.0	-	-	20.3
AER approved unsmoothed revenues as per 2022-23 RoD updated PTRM	1131.7	1188.7	1221.0	1241.1	1234.8	6017.2
Materiality	-	1.4%	0.3%	-	-	0.3%

Source: Energex, *Information Request #001 response*, Q2, February 2023; AER analysis. Numbers may not add up due to rounding. Differences of '0.0' and '-0.0' represent small variances and '-' represents no variance.

¹² Energex, *February-March 2022 Flood Event Cost pass through application*, December 2022, p. 17.

¹³ Energex, *2022 Flood Event Cost Pass Through Application – Attachment 1 -Energy Queensland's Natural Hazards Management*, October 2021.

¹⁴ The materiality has been assessed on AER’s determination of approved additional costs required.

4.3 Timing of Energex' application

Clause 6.6.1(c) of the NER requires a DNSP to submit a pass through application to us within 90 business days of the positive change event occurring.

We consider Energex's Flood event to have occurred between 22 February and 7 March 2022. Energex requested on 14 July 2022 an extension to submit the 22 February to 7 March 2022 Flood event cost pass through application by 31 December 2022.¹⁵ Clause 6.6.1 (k) of the NER requires the AER to extend the fixed time limit if it is satisfied that the difficulty of assessing or quantifying the effect of the pass through justifies the extension. Based on the information provided by Energex, the AER was satisfied that the extension was required.¹⁶

We received Energex' pass through application on 16 December 2022.

Following our initial assessment of Energex' application, we issued an information notice to Energex (on 31 January 2023) under clause 6.6.1(e1) of the NER, requesting further information on the scope of works and associated costs.

We received Energex's response to our information notice on 8 February 2022. Accordingly, we are required to make this determination by 5 April 2023.

4.4 Assessment of the pass through amount

In assessing a pass through application, the NER requires us to take into account a range of relevant factors,¹⁷ including the need to ensure that Energex only recovers any actual or likely increment in costs, to the extent that such an increment is solely as a consequence of the pass through event,¹⁸ and that Energex does not recover costs that have or will be factored into Energex's annual revenue requirement.¹⁹

We approach this assessment by ensuring, amongst other factors, that:

- the pass through amount reflects only those costs incurred as a result of the 22 February to 7 March 2022 Flood natural disaster event, and not costs incurred as a result of other positive change events, business-as-usual costs, or costs of increasing the scope of network services provided by Energex
- the costs incurred are prudent and efficient costs required to rectify the damage caused by the flood
- the pass through amount reflects only the incremental cost of the 22 February to 7 March 2022 Flood event, taking into account deductions for actual and expected cost savings that will occur as a result of works undertaken to address the flood. For example, the replacement of older assets damaged by the floods with new assets may result in lower

¹⁵ Energex, *Request for extension – cost pass through application for flooding in SE Qld*, 14 July 2022.

¹⁶ AER, *AER – Letter to Energex – SEQ floods time limit extension*, 29 July 2022.

¹⁷ NER, cl. 6.6.1(j).

¹⁸ NER, cl. 6.6.1(j)(5).

¹⁹ NER, cl. 6.6.1(j)(7).

future inspection and maintenance costs, which should be deducted from the costs to be passed through.

We are satisfied that Energex's estimates of the increase in capex and opex costs due to the 22 February to 7 March 2022 Flood, accounting for the identified avoided costs, are prudent and efficient.

As such, our determination on the approved incremental capex and opex costs for the 22 February to 7 March 2022 Flood event is set out below in Table 3 which details our determination on incremental revenue.

Table 3: AER – Approved incremental revenue for the 22 February to 07 March 2022 Flood event (\$million, nominal)

	2020-21	2021-22	2022-23	2023-24	2024-25	Total
Return on capital	-	-	0.0	0.2	0.2	0.5
Return of capital (regulatory depreciation)	-	-	-0.0	-0.0	-0.0	-0.1
Operating expenditure	-	15.3	0.3	-	-	15.6
Net tax allowance	-	-	-0.0	-0.0	-0.0	-0.1
Incremental annual revenue requirement (unsmoothed)	-	15.3	0.3	0.2	0.2	16.0
Incremental annual expected revenue (smoothed)	-	-	-	-	18.1	18.1

Source: AER's analysis

Note: '0.0' and '-0.0' represent small nonzero number and '-' represents zero. The smoothed and unsmoothed revenues are equal in NPV terms. The difference between the nominal smoothed and unsmoothed total revenues is explained by the time value of money.

4.4.1 Incremental revenue and pass through amount calculations

We have reviewed Energex's cost pass through incremental revenue amounts and pass through calculations. We consider that the pass through amount reflects only the incremental costs incurred as a result of the 22 February to 7 March 2022 Flood natural disaster event. Our assessment determines that Energex's \$20.3 million (\$nominal) in additional costs reasonably reflects the prudent and efficient amount to rectify the damage caused by the flood.

However, we have updated Energex's incremental revenues to account for the time value of money consistent with the PTRM. This increased Energex's incremental revenues to be recovered from \$17.0 million (\$nominal, smoothed) to \$18.1 million (\$nominal, smoothed).

4.4.2 Costs reflect only 22 February to 7 March 2022 Flood event-related costs and not business-as-usual costs

Energex's proposal identified total costs resulting from the flood, incremental and non-incremental, of \$33.8 million (\$nominal).²⁰ We requested further information asking Energex to

²⁰ Energex, *February-March 2022 Flood Event Cost pass through application*, December 2022, p. 27.

explain its methodology for calculating the \$20.3 million (\$nominal) incremental costs from total \$33.8 million (\$nominal) total costs.

Energex stated that “to enable accurate identification and segregation from other program of work costs, a works request (unique number) and subsidiary parent workorders were created with Energex’s works management system application within its enterprise resource platform allowing cost capture and reporting capabilities for the event”.²¹ Energex also provided its *Energy Queensland Emergency Costing Guidelines* which describe this process.

In calculating the eligible pass through amount, Energex included only the incremental costs for those activities that were incurred solely as a result of the positive change event. To be clear, Energex excluded the following costs from their claim:

- ordinary time of employees categorised as support labour as employee labour costs of this type are considered non-incremental
- corporate overheads
- fleet allocation charges for operating costs and depreciation
- failed in service replacement of high voltage equipment
- costs associated with rectification or replacement of damaged or destroyed insured assets.

We are satisfied that the costs Energex has incurred are costs incurred as a consequence of the 22 February to 7 March 2022 Flood event and do not include business-as-usual costs or cost related to insured assets. These costs have been demonstrated to be incremental costs and separate to the business-as-usual costs of operating the distribution network.

We have reviewed Energex’s cost calculations and are satisfied Energex’s application reflected only the costs incurred as a result of the 22 February to 7 March 2022 Flood event.

4.4.3 The level of 22 February to 7 March 2022 Flood event-related costs is the prudent and efficient costs to maintain service levels

We are satisfied that the level of costs Energex has incurred as a result of the 22 February to 7 March 2022 Flood event reflect efficient costs. We have examined the scope of the actions and works Energex undertook in response to the 22 February to 7 March 2022 Flood event, and sought additional information from Energex regarding the breakdown of costs incurred. Based on our review, we consider Energex’s proposed costs to be reasonable and in line with good industry practice in relation to an event of this nature.

4.4.4 Cost reflects adjustments for savings to business-as-usual costs resulting from the 22 February to 7 March 2022 Flood expenditure

We are satisfied that Energex’s pass through amount reflects deductions for savings to business-as-usual costs resulting from its flood related expenditure.

²¹ Energex, *IR Energex 2022 Flood Event Cost Pass Through Applications – 08 February 2023 – Final signed*, Q2, 08 February 2023.

4.5 Timing of cost pass through recovery

Energex has proposed to recover the incremental revenue arising from its cost pass through application in 2024-25, the final year of its current 2020-25 regulatory control period. We agree with this proposed approach.

5 NER requirements and stakeholder submissions

For a cost pass through to be determined, there must be a positive change event that results in an eligible pass through amount. Energex can then submit a pass through application, that must address certain matters specified in the NER.²² We make a determination on Energex’s cost pass through application and determine the approved pass through amount and the regulatory years in which that pass through amount is to be recovered.²³

For the reasons set out in Table 4, we are satisfied that a positive change event has occurred, and that Energex’s application relating to the 22 February to 7 March 2022 Flood event specifies the necessary matters required by the NER. Additionally, after consideration of the factors set out in Table 4, we are satisfied the appropriate pass through amount is \$18.1 million (\$nominal), to be recovered in 2024-25, the final year of the 2020-25 regulatory control period.

Table 4: Requirements for determining a positive change event has occurred

Requirement of the NER	Our consideration
Is the pass through event a regulatory change event, service standard event, tax change event, or retailer insolvency event? ²⁴	No.
Is the pass through event a contingent project or a trigger event associated with a contingent project? ²⁵	No.
Does the pass through relate to any other event specified in Energex’ 2019–24 distribution determination as a pass through event for that determination? ²⁶	Yes. We consider that the 22 February to 7 March 2022 Flood satisfies the natural disaster pass through event specified in Energex’s determination, which is defined as including cyclone, fire, flood, earthquake or other event, provided the event was not a consequence of the acts or omissions of the service provider. ²⁷
Was the pass through event a consequence of acts or omissions of Energex?	No, there is no evidence that Energex’s acts or omissions caused the 22 February to 7 March 2022 Flood event.
Did the 22 February to 07 March 2022 Flood event cost pass through event entail Energex incurring materially higher costs in providing direct control services than it would have incurred but for the event? ²⁸	Yes. As discussed in section 4.2, we consider the additional costs incurred by Energex in providing standard control services as a result of the 22 February to 7 March 2022 Flood event meet the materiality threshold. Energex’s annual revenue requirement (unsmoothed) for the 2021–22 regulatory year during which the floods occurred was \$1,189 million (\$nominal), 1% of which is \$11.9 million (\$nominal). We consider that the efficient amount of opex and capex incurred as a result of the 22 February to 7 March 2022 Flood event in 2021–22 (\$16.3 million, \$nominal) exceeds this amount, and therefore the increase in costs incurred in providing direct control services as a result of the event exceed the materiality threshold.

²² NER, cl. 6.6.1(c).
²³ NER, cl. 6.6.1 (d).
²⁴ NER, cl. 6.6.1(a1)(1) through 6.6.1(a1)(4); and chapter 10.
²⁵ See the definition of “positive change event” in chapter 10 of the NER.
²⁶ NER, cl. 6.6.1(a1)(5)
²⁷ AER, *Draft decision Energex distribution determination - Attachment 14 - Pass through events* – November 2018, p. 10.
²⁸ That is, does it meet the definition of a “positive change event” as defined in chapter 10 of the Rules.

Requirement of the NER	Our consideration
What is the date on which the positive change event occurred?	For the purpose of complying with 6.6.1(c), Energex indicated that the flooding occurred from 22nd February to early 7 March 2022. We agree with Energex as the Queensland and Federal Governments recognise this date in providing assistance packages to affected individuals and communities. ²⁹
Did Energex submit a written statement of its pass through application within 90 business days of the positive change event occurring? ³⁰	Yes. As discussed in section 4.3, Energex was approved an extension to submit its cost pass through application by 31 December 2022. We consider that Energex has submitted its written statement within the allowed timeframe.
Did Energex specify details of the positive change event, including the date on which the event occurred, in its written statement? ³¹	Yes. Energex's written statement is available on our website. ³²
Did Energex specify in its written statement the eligible pass through amount, the proposed positive pass through amount, and the amounts proposed to be recovered from customers in each regulatory year? ³³	Yes. Energex proposed an eligible, positive pass through amount of \$17.0 million (\$nominal) to be recovered from consumers in 2024-25, the last year of the current regulatory control period 2020-25.
Did Energex specify in its written statement evidence of the actual and likely increase in costs that occurred solely as a consequence of the positive change event? ³⁴	Yes. Energex' pass through application (that is, its written statement) set out the costs it incurred as a result of the 22 February to 7 March 2022 Flood event, as well as how it calculated its proposed pass through amount. ³⁵
Was there a regulatory information instrument applicable to the pass through application? ³⁶	No.
Is the pass through amount, in whole or in part, in respect of expenditure for a restricted asset? ³⁷	No.

Source: AER's analysis

Table 5: Factors that the AER is to consider under the NER when determining a positive pass through amount

Relevant factors under cl. 6.6.1(j)	AER consideration
In making the pass through determination we must take into account the matters and proposals set out in Energex' written statement. ³⁸	This decision sets out how we have taken into account the matters and proposals set out in Energex's pass through application (written statement).

²⁹ Australian Government, <https://www.disasterassist.gov.au/Pages/disasters/current-disasters/Queensland/se-ql-d-rainfall-flooding-22-28-february-2022.aspx>, viewed 03 February 2023..

³⁰ NER, cl. 6.6.1(c).

³¹ NER, cll. 6.6.1(c)(1) and 6.6.1(c)(2).

³² <https://www.aer.gov.au/networks-pipelines/determinations-access-arrangements/cost-pass-throughs/essential-energy-cost-pass-through-2022-flood-event>

³³ NER, cll. 6.6.1(c)(3), 6.6.1(c)(4), and 6.6.1(c)(5).

³⁴ NER, cl. 6.6.1(c)(6).

³⁵ Energex, *Energex Cost pass through application – February-March 2022 Flood event - December 2022*, p. 12; Energex, *Energex Attachment C – Detailed cost information.xls – Public*, December 2022.

³⁶ NER, 6.6.1(c)(7).

³⁷ NER, cl. 6.6.1(c1) and (d2).

³⁸ NER, cl. 6.6.1(j)(1).

Relevant factors under cl. 6.6.1(j)	AER consideration
We must take into account the incremental increase in costs in providing direct control services resulting from the pass through event. ³⁹	In section 4.4 above we set out our assessment of the costs incurred by Energex as a consequence of the 22 February to 7 March 2022 Flood event. We have considered the costs that Energex has incurred and is likely to incur as a result of the flooding event as well as the likely cost savings to Energex's business-as-usual activities as a result of its expenditure related to the 22 February to 7 March 2022 Flood event.
We must take into account the efficiency of Energex' decisions and actions in relation to the risk of the event. ⁴⁰	<p>In making this determination, we must take into account the efficiency of Energex' decisions and actions in relation to the risk of the positive change event, including whether Energex has failed to take any action that could reasonably be taken to reduce the magnitude of the eligible pass through amount, or omitted to take any action where such action has increased the magnitude of the amount.</p> <p>We do not have evidence to consider that Energex's decisions and actions in relation to the risk of the positive change events were inefficient. We believe Energex has taken positive actions during the positive change event, including working collaboratively and assisting with authorities where necessary.</p> <p>There does not appear to be any action that Energex has failed to take, that it could reasonably have taken, to reduce the magnitude of the flood repair costs, or that it took or omitted to take which has increased the magnitude of these costs.</p> <p>Therefore, we do not consider that Energex's actions increased the magnitude of the pass through amount.</p>
We must take into account the time cost of money. ⁴¹	To account for the recovery of the pass through amount in 2024-25, we have used the nominal rate of return, as determined in Energex' 2020-25 distribution determination reflecting the most recent return on debt update in the approved PTRM.
We must take into account the need to ensure that the pass through amount reflects only costs incurred solely as a consequence of the 22 February to 7 March flood. ⁴²	<p>We have investigated the costs proposed by Energex in its proposal and its response to our subsequent information request.</p> <p>We are satisfied that the costs included in our approved pass through amount were solely incurred because of the 22 February to 7 March 2022 Flood event. Energex has taken appropriate approach to identify flood related costs and exclude non-incremental costs from its application.</p>
The AER will have regard to whether Energex has insurance against the event, and whether it is the level of insurance that an efficient and prudent network operator would obtain? ⁴³	Energex submitted that none of the costs in this application related to insured structures. Energex also submitted that it did not have insurance covering poles and wires of its network, and the insurance was limited to structures such as substations and buildings. Energex stated that not insuring poles and wires is consistent with other network businesses. It explained that obtaining this insurance product is difficult and expensive as few insurers are willing to provide this high

³⁹ NER, cl. 6.6.1(j)(2).

⁴⁰ NER, cl. 6.6.1(j)(3).

⁴¹ NER, cl. 6.6.1(j)(4).

⁴² NER, cl. 6.6.1 (j)(5).

⁴³ AER, *Final decision Energex distribution determination - Attachment 14 - Pass through events* – June 2020, p. 6.

Relevant factors under cl. 6.6.1(j)	AER consideration
	<p>risk product. The associated premiums would consequently result in consistently high network charges for customers.⁴⁴</p> <p>We note that this approach to managing this risk is generally consistent with comparable peer NEM networks including those also impacted by other natural disasters (e.g., bushfires). As such, we are satisfied that it was prudent and efficient for Energex to not obtain insurance cover for its poles and wires assets.</p>
<p>We must take into account whether the costs of the pass through event have already been factored into the calculation of the Distribution Network Service Provider's annual revenue requirement for the regulatory control period in which the pass through event occurred or will be factored into the calculation of the Distribution Network Service Provider's annual revenue requirement for a subsequent regulatory control period.⁴⁵</p>	<p>We do not consider the costs that Energex is proposing to recover have been factored into Energex's annual revenue requirement for the regulatory control period in which the pass through event occurred (e.g. 2020-25).</p>
<p>We must take into account the extent to which Energex' costs have already been funded by previous pass through determinations.⁴⁶</p>	<p>There is no evidence to suggest that costs included in Energex's application have already been funded by previous pass through determinations.</p>
<p>We must take into account any other factors that we consider relevant.⁴⁷</p>	<p>The other factors we took into account in our assessment of Energex's application are set out below.</p> <p>The AER must exercise its power in a manner that will or is likely to contribute to the achievement of the National Electricity Objective (NEO).</p>

Source: AER analysis

⁴⁴ Energex, *Cost pass through application – February-March 2022 Flood event* - December 2022, p. 19.

⁴⁵ NER, cl. 6.6.1(j)(7).

⁴⁶ NER, cl. 6.6.1(j)(7A).

⁴⁷ NER, cl. 6.6.1(j)(8).

Glossary

Term	Definition
AER	Australian Energy Regulator
Capex	Capital Expenditure
NEL	National Electricity Law
NEM	National Electricity Market
NEO	National Electricity Objective
Opex	Operating Expenditure
