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Dear Ms Constable,

The Australian Energy Regulator (AER) is pleased to provide a submission on the exposure draft of the distribution revenue and pricing rules and the accompanying explanatory material.

The AER considers that the exposure draft represents a principled approach to regulating electricity distribution services. However, the AER is concerned that aspects of the regulatory scheme do not provide sufficient certainty, and that some of the regulatory processes are unduly complex and costly.

The AER's submission recommends amendments to the exposure draft to improve the efficiency and effectiveness of regulatory processes. Key areas where amendments are recommended are the process for submission and determination of a regulatory proposal, and the criteria for classifying services and determining control mechanisms.

With the exception of cost allocation arrangements, the AER generally supports the approach to transitional arrangements for the ACT and NSW businesses in the upcoming resets outlined in the explanatory material.

Yours sincerely



Michelle Groves  
Chief Executive Officer



**Ministerial Council on Energy  
Standing Committee of Officials**

**National Electricity Rules  
Distribution Revenue and Pricing Rules  
Exposure Draft**

**25 May 2007**

# Exposure draft of electricity distribution revenue and pricing rules

The AER welcomes the opportunity to comment on the exposure draft of the National Electricity (Economic Regulation of Distribution Services) Amendment Rule 2007 and the accompanying explanatory material. The exposure draft represents a significant step towards harmonising the approach to the economic regulation of electricity distribution services across the National Electricity Market (NEM).

The joint submission of the AER and ERA on the exposure draft of the National Gas Law considered the extent to which the draft satisfied a set of reform principles derived from various reports and MCE policy statements. The AER considers that those reform principles are equally applicable to the electricity Rules, and in commenting on the exposure draft, the AER has considered the extent to which those principles are satisfied:

- A. A principled approach should be used for regulating infrastructure and exempting it from regulation:
  1. the overriding principle for regulation is to achieve the express overarching legislative objective of encouraging efficient investment in, and efficient operation and use, of services for the long-term interests of consumers.
- B. The regulatory scheme should maximise certainty and minimise compliance costs for stakeholders:
  1. a nationally consistent approach to energy regulation
  2. the lightest form of regulation and dispute settlement should apply that is consistent with curbing potential misuse of market power; and
  3. prior consultation with relevant stakeholders should occur on new compliance obligations arising whether by Law or Rules or exercise of regulatory powers
- C. Administration should be simple and effective:
  1. transparent regulatory processes;
  2. streamlined processes and timeframes;
  3. information gathering powers sufficient to discharge regulatory functions; and
  4. sanctions sufficient to secure compliance with the law.

The AER considers that the exposure draft represents a principled approach to regulating electricity distribution services. However, the AER is concerned that aspects

of the regulatory scheme do not provide sufficient certainty, and that some of the regulatory processes are unduly complex and costly.

This submission recommends amendments to the exposure draft to improve the efficiency and effectiveness of regulatory processes. Key areas where amendments are recommended are the process for submission and determination of a regulatory proposal, and the criteria for classifying services and determining control mechanisms.

The AER's views of the approach to transitional arrangements outlined in the explanatory material for the ACT and NSW businesses in the upcoming resets are set out at the end of this submission.

## **Process for submission and determination with respect to a regulatory proposal**

The AER provided comments on the process and timing of classifying services and determining the regulatory mechanism in its submission dated 22 February 2007 on the Exposure Draft National Electricity Law Amendment Bill. The AER reiterates the comments made in that submission.

The exposure draft requires DNSPs to submit a regulatory proposal at least 13 months before the expiry of the current determination. The regulatory proposal must contain:

- a classification proposal with respect to:
  - how services should be classified among direct control and negotiated services
  - how direct control services should be sub-classified among standard control and alternative control services
- a revenue proposal for standard control services and the proposed regulatory mechanism (price cap, revenue cap, etc)
- the proposed regulatory mechanism for alternative control services
- a pricing proposal for all direct control services for the first year of the regulatory period
- a negotiating framework for services classified as negotiated services.

The AER must make a determination on each of these matters at least two months before the commencement of the next regulatory period. This gives the AER 11 months in which to consider the proposal and make a determination.

The AER is concerned that the process detailed in the exposure draft for making a determination may compromise the quality of regulatory determinations. The process set out in the exposure draft is problematic for two reasons. Firstly, the process fails to recognise the interrelationship between the different aspects of a regulatory proposal.

Secondly, the timeframe available to make a determination on each of the matters comprising a regulatory proposal is inadequate.

### **Interrelationship between the elements of a regulatory proposal**

The matters that the AER must determine in its decision on a regulatory proposal can be broadly categorised into three distinct categories:

- *determining the regulatory mechanism to apply to each service provided by a DNSP*: classifying services as direct control or negotiated; determining which control setting methodology to apply to those services, and determining the control mechanism to apply to those services
- *specifying the detail of the regulatory mechanisms* – making a determination on the negotiating framework and the pricing proposal
- *applying the regulatory mechanisms* – applying the control mechanism to standard control services to determine the constraint on revenues or prices.

The AER is concerned that the process in the exposure draft fails to recognise the interrelationship between *determining* the appropriate regulatory mechanisms to apply to services, and *applying* those mechanisms.

A determination on the application of a regulatory mechanism will depend on the specific services to which the regulatory mechanism is applied. In undertaking a building blocks analysis for a particular group of standard control services, the AER will determine, among other things, values for the regulated asset base and forecasts of capital and operating expenditure for that specific group of services. The values determined will depend on the particular services to which they relate. A DNSP's revenue proposal will contain proposed values for the group of services that it considers should be classified as standard control services. If the AER's determination on the composition of the group of standard control services is different to that proposed by a DNSP, adjustments will need to be made to the regulated asset base and the expenditure forecasts submitted by the DNSP.

If the AER's classification of services is significantly different to that proposed by the DNSP, the adjustments may be significant, and may warrant detailed scrutiny by interested parties and the AER. The result will be two assessments of different information relating to the same revenue proposal.

A more efficient decision making process would provide certainty as to the services that are to be subjected to the building block analysis before information is submitted for the purposes of that analysis. A binding determination on the classification of services, and the control mechanism to apply to those services should be made before a revenue proposal is submitted, and before the AER makes a determination on the revenue proposal.

Clause 6.2.8 of the exposure draft provides that the AER may release non-binding guidelines relating to the classification of distribution services and the control mechanisms for direct control services. Notwithstanding the ability to release guidelines, the AER will still be required to make binding determinations for each

regulatory proposal on the classification of services, the control setting methodology, and the form of price control.

The AER may also release regulatory issues papers under clause 6.8.1. Where they relate to a particular DNSP, issues papers must be published at least five months before the DNSP is required to submit its regulatory proposal (paragraph (c)). Although the AER could outline in an issues paper the approaches it intends to take to the classification of services, the control setting methodology, and the form of price control, this would represent a preliminary view of the AER only. It would be possible for a DNSP to submit a regulatory proposal on a basis different to that outlined in an issues paper.

Although an AER guideline or regulatory issues paper will provide an indication of how the AER may classify services, a DNSP may consider that its services should be classified differently, and accordingly submit its information on an assumption that the approach outlined in the guideline or issues paper will not apply. If the AER decides not to accept the DNSP's proposed classification, the information will require adjustments. A binding determination on the classification of services, rather than an indication in a non-binding guideline or issues paper, before the submission of a revenue proposal will minimise the need to adjust information.

### **Timeframe for making a determination on a regulatory proposal**

If time were not of the essence in making a regulatory determination, the need to adjust information in light of the AER's view on the classification of services would not pose a problem. The AER could simply seek further information, subject that information to public consultation, and make a determination after considering all available information. However, the requirement to make a determination within two months of the commencement of the next regulatory period limits the time in which to assess any adjustments to information. Proper scrutiny of adjustments may require more time than is available if those adjustments are significant.

The time available in which to assess information may be shorter than 11 months even if the AER accepts the DNSP's proposals with respect to the classification of services, the control setting methodology, and the control mechanism. This is because a DNSP may resubmit its proposal within a month of being notified by the AER that the original proposal does not comply with a requirement of the Law. The final determination must be made not later than two months before the commencement of the next regulatory period (clause 6.11.3), and there is no provision to extend this timeframe in circumstances where a DNSP has submitted a non-compliant proposal. This means that the time available in which to assess a resubmitted proposal will be reduced by around six weeks (allowing two weeks for the AER to determine the non-compliance, and four weeks for the DNSP to resubmit the proposal). This is a significant amount of time in an 11-month process.

### **Suggested amendment to process**

The AER considers that an amendment is required to ensure reform principle C – administration is simple and effective – is not compromised. The process will not be effective if there is insufficient time to scrutinise information because the relevant information was not provided at the commencement of the process.

The AER anticipates that over time, the classification of services will be subject to minimal changes and hence the process of classifying services will be fairly simple. However, in the transitional period in which the criteria in the new NER are applied to the services provided by each DNSP, it is expected that the classification of services may be a lengthy process. A default process needs to be set out in the NER that ensures there is sufficient time in which to classify services before a revenue proposal is submitted. This process should be subject to flexibility so that as a national approach is established and classifications become generally stable over time, the timing of the process may be undertaken closer to the submission of a revenue proposal.

The AER considers the following process represents an appropriate balance between a simple and effective regime, and recommends it should be adopted as a default process in the NER. However, the NER should provide that steps 1-3 may be dispensed with where there is no change proposed (by either the AER or any interested party) to existing arrangements. The NER should also provide that the AER and relevant DNSPs may agree to a shorter timeframe in which to undertake steps 1-3, commencing later than the indicative timing outlined below.

<b>Step</b>	<b>Timing</b>
1. DNSP submits proposal with respect to: (a) how services should be classified among direct control and negotiated services (b) how direct control services should be sub-classified among standard control and alternative control services (c) the proposed regulatory mechanism to apply to standard control services (d) the proposed regulatory mechanism for alternative control services. <sup>1</sup>	26 months before new regulatory period
2. Following public consultation, the AER releases a draft determination on DNSP's proposal	22 months before new regulatory period
3. Following further public consultation, the AER releases final determination on DNSP's proposal	19 months before new regulatory period
4. Based on the determination in step 3, DNSP submits proposal with respect to: (a) the revenue to be earned for standard control services (a revenue proposal) (b) a pricing proposal for all direct control services for the first year of the regulatory period (c) the negotiating framework to apply to negotiated services.	13 months before new regulatory period
5. Following public consultation, the AER releases draft determination on DNSP's proposal	7 months before new regulatory period

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<sup>1</sup> Alternatively, the proposed regulatory mechanism for alternative control services could be submitted later in the process at step 4. However, the AER considers the process would be simplified if the proposed mechanisms for both standard and alternative control services were submitted simultaneously and decided simultaneously.

<b>Step</b>	<b>Timing</b>
6. Following further public consultation, the AER releases final determination on DNSP's proposal	2 months before new regulatory period

## **Criteria for classifying services and determining control mechanisms**

The exposure draft lists the following separate sets of criteria to which the AER must have regard in determining certain matters in a regulatory determination:

<b>Matter</b>	<b>Criteria to which the AER must have regard in making determination</b>
Classifying distribution service as a direct control service or a negotiated service	<ul style="list-style-type: none"> <li>▪ Form of regulation factors</li> <li>▪ The form of regulation (if any) applicable to the relevant service immediately before the commencement of the distribution determination</li> <li>▪ The need for consistency in the form of regulation for similar services (both within and beyond the relevant jurisdiction)</li> <li>▪ Any other factor the AER considers relevant</li> </ul>
Classifying a direct control services as a standard control or alternative control service	<ul style="list-style-type: none"> <li>▪ The potential for the development of competition in the relevant market and how the classification might influence that potential</li> <li>▪ The possible effects of the classification on administrative costs of the AER, the DNSP and users or potential users</li> <li>▪ The regulatory arrangements (if any) applicable to the relevant service immediately before the commencement of the distribution determination</li> <li>▪ The need for consistency between regulatory arrangements for similar services (both within and beyond the relevant jurisdiction)</li> <li>▪ Any other factor the AER considers relevant</li> </ul>
Determining the control mechanisms for standard control services	<ul style="list-style-type: none"> <li>▪ The need for efficient tariff structures</li> <li>▪ The possible effects of the control mechanism on administrative costs of the AER, the DNSP an users or potential users</li> <li>▪ The regulatory arrangements (if any) applicable to the relevant service immediately before the commencement of the distribution determination</li> <li>▪ The need for consistency between regulatory arrangements for similar services (both within and beyond the relevant jurisdiction)</li> <li>▪ Any other factor the AER considers relevant</li> </ul>



Matter	Criteria to which the AER must have regard in making determination
Determining the control mechanisms for alternative control services	<ul style="list-style-type: none"> <li>▪ The potential for the development of competition in the relevant market and how the control mechanism might influence that potential</li> <li>▪ The possible effects of the control mechanism on administrative costs of the AER, the DNSP an users or potential users</li> <li>▪ The regulatory arrangements (if any) applicable to the relevant service immediately before the commencement of the distribution determination</li> <li>▪ The need for consistency between regulatory arrangements for similar services (both within and beyond the relevant jurisdiction)</li> <li>▪ Any other factor the AER considers relevant</li> </ul>

A report prepared by Network Advisory Services on the nature of distribution services, attached to this submission, indicates that there are around eighty different services provided by DNSPs across the NEM. A requirement to consider each criterion for each of the approximately eighty services across the NEM is likely to impose substantial costs on both DNSPs and the AER, and is likely to be a resource intensive process. As a result, there is likely to be a disproportionate amount of the 11 months between submission and determination spent on classifying services and determining the control setting mechanism, compared to that spent on considering the revenue proposal.

Two criteria that are common to each decision are the previous arrangements applicable immediately before the determination, and the need for consistency in the regulatory arrangements for similar services. These two criteria conflict. The AER has reviewed the current regulatory arrangements across the NEM and found that there is significant inconsistency in both how services are classified, and the control mechanisms that are applied to those services. Application of these two criteria is therefore likely to lead to inconsistent results.

### **Suggested amendments**

The AER is concerned that the extensive and potentially inconsistent criteria to which it must have regard will lead to a regulatory process that creates uncertainty and is unnecessarily complex and costly.

The AER recommends that the process for classifying services and determining control mechanisms should be amended to provide:

1. Regulatory proposals and regulatory determinations may group services for the purposes of classification and determining a control mechanism. For example, a DNSP may propose that all distribution use of system services should be classified as standard control and subject to a weighted average price cap, and the AER may apply the criteria in the NER to that group of services rather than applying the criteria to each of the services within that group. This will minimise the costs and time associated with applying each criterion to each service.

2. The criterion of previous arrangements applicable immediately before the determination referred to in clauses 6.2.1(b)(2), 6.2.2(b)(3), 6.2.5(c)(3), 6.2.5(d)(3) should be removed from those clauses, and replaced with a presumption that the previous arrangements will continue. The remaining criteria specified in those clauses should be considered in determining whether the presumption should hold that previous regulatory arrangements will continue. A presumption will clarify the ambiguity arising from the application of two potentially inconsistent criteria.

## **Miscellaneous comments**

### **Control mechanism for direct control services**

Clause 6.2.6 sets out requirements that the control mechanism for direct control services must satisfy. Paragraph (b)(2) provides that the control mechanism for standard control services must be designed to equalise (in terms of net present value) the revenue to be earned by the DNSP over the regulatory period from the provision of those services with the total revenue requirement for the regulatory period.

The AER considers that this requirement would be more appropriately placed under clause 6.5.8 as a matter to which the AER must have regard in setting the X factor. Clause 6.5.8 should be drafted similarly to clause 6A.5.8 (replacing ‘maximum allowable revenue’ with ‘total revenue requirement’), so that it provides the following criteria to which the AER must have regard in approving the X factors proposed by DNSPs:

- the net present value of the total revenue requirement is equal to the revenue to be actually earned over the period (as currently referred to in clause 6.2.6(b)(2)); and
- the discretion of DNSPs to determine their own revenue profiles is balanced against the impact on network users in terms of price stability.

The counterpart of the second criterion in transmission regulation is clause 6A.6.8(c)(2) which requires that X factors be set such that the revenue allowance in the final year is ‘as close as reasonably possible’ to the building block requirement for that year. The intention of this requirement is to maintain price stability. The AER should be provided with more discretion in assessing the stability of the overall price level for distribution services given their higher proportion in end use prices. Moreover, the size of the X factor directly affects the size of (side) constraints on price movements for individual customers. Accordingly, the second criterion proposed above is broader than in transmission.

### **Review of the weighted average cost of capital parameters**

Clause 6.5.2(f) and (g) of the exposure draft require the AER to initiate a review, in accordance with the distribution consultation procedures, of WACC parameters for electricity distribution on 1 July 2009. The AER is also required under Chapter 6A to commence a review of electricity transmission WACC parameters on that date.

The AER considers it good regulatory practice to set parameters for all distribution businesses at the one time through a review process involving consultation with

interested parties. The AER considers it appropriate that the approach to setting WACC parameters in distribution follows that in transmission.

The AER considers it appropriate that the timing of the distribution and transmission reviews coincide. Concurrent reviews will minimise the burden on stakeholders in contributing to the reviews, and will minimise the likelihood of unwarranted inconsistencies between electricity transmission and distribution. The benefits of five yearly reviews in electricity are equally applicable to gas, and the AER considers that the reviews commencing on 1 July 2009 should extend to consideration of the appropriate parameters for gas. Concurrent consideration of WACC parameters for gas and electricity would not necessarily lead to a conclusion that gas and electricity parameters should be aligned, but it would minimise the likelihood of unwarranted inconsistencies between the parameters applied in the regimes.

The distribution consultation procedures, with which the AER must comply in conducting the review, require the AER to publish the proposed values together with an explanatory statement and an invitation for written submissions (clause 6.16(b)). A final decision must be released within 80 business days of publishing the proposed values. This means that if the AER publishes the proposed WACC parameters on 1 July 2009, the review must be completed by around late October 2009. This will allow for the parameters determined in the review to be applied to the decisions due in April 2010. In order to publish proposed values by 1 July 2009, the AER anticipates it will engage in preliminary discussions with stakeholders before that time to help inform its consideration of issues and develop proposed WACC values.

Clause 6.5.2(j) of the exposure draft sets out the factors to which the AER must have regard in undertaking a review of the WACC parameters. Sub-paragraph (4)(i) refers to the need to achieve an outcome that is consistent with the 'market objective'. This term is not defined, and the AER recommends it should be replaced with the 'national electricity objective', as defined in the exposure draft of the National Electricity Law.

### **Efficiency benefits sharing scheme**

Clause 6.5.5 requires the AER to develop and publish an efficiency benefit sharing scheme, and prescribes three matters to which the AER must have regard in developing and implementing the scheme. Paragraph (c) requires the AER to have regard to any incentives that DNSPs may have to inappropriately capitalise operating expenditure. The AER supports the inclusion of paragraph (c), and recommends that the clause should be broadened to also include the converse of this: incentives to inappropriately classify capital expenditure as operating expenditure.

Where a business classifies assets at very broad levels, replacement and refurbishment projects may be classified by a business as operational expenditure on the basis that they do not involve a complete replacement of an asset on the asset register. If such refurbishment and replacements extend the life of the assets they may be more appropriately capitalised. The AER should allow the efficiency benefit sharing scheme to take account of the fact that DNSPs may inappropriately classify capital expenditure as operational expenditure.

## Cost pass throughs

Clause 6.6.1 of the exposure draft sets out a procedure for the AER to require the pass through to users of costs associated with a ‘negative change event’, and to approve the pass through to users of costs associated with a ‘positive change event’. Clause 6.1.0 defines negative and positive change events:

*‘negative change event means a pass through event that materially reduces the costs of providing direct control services’*

*‘positive change event means a pass through event that materially increases the costs of providing direct control services’*

The drafting of clause 6.6.1 is very similar to the equivalent clause for transmission (clause 6A.7.3). However, the pass through provisions differ between transmission and distribution in that a materiality threshold is explicitly defined in transmission, while there is no guidance on materiality in distribution. The glossary in Chapter 11 explicitly defines ‘materially’ for the purposes of transmission pass throughs:

*For the purposes of the application of clause 6A.7.3, an event (other than a network support event) results in a Transmission Network Service Provider incurring materially higher or materially lower costs if the change in costs (as opposed to the revenue impact) that the Transmission Network Service Provider has incurred and is likely to incur in any regulatory year of the regulatory control period, as a result of that event, exceeds 1% of the maximum allowed revenue for the Transmission Network Service Provider for that regulatory year.*

The AER is concerned that the failure to specify a materiality threshold for pass through events under Chapter 6 creates uncertainty as to what constitutes a material reduction or increase in costs in that context, and accordingly what constitutes a negative or positive change event under Chapter 6.

A clear meaning of negative and positive change events is important to ensure that appropriate cost savings and increases are passed through to users. In the absence of a clearly defined materiality threshold for a negative change event, DNSPs are less likely to submit details of negative change events to the AER. DNSPs may also submit more applications in respect of positive pass through events than would occur if a materiality threshold was clearly defined.

The implications of an unclear meaning of materiality include increased administrative costs because of DNSPs submitting more applications in respect of cost increases and the AER assessing those applications. Another potential cost is the offset of the incentive properties of the regulatory regime. If DNSPs are aware that specific costs may be passed through to users, the incentive to operate in a manner that will minimise such costs may be decreased. A clearly defined materiality threshold will minimise these costs by giving DNSPs more certainty with respect to which costs will be eligible for a pass through.

The AER considers that certainty with respect to the meaning of materiality in the context of negative and positive change events is equally important for transmission and distribution. Therefore, the AER recommends that the glossary definition of ‘materially’ in Chapter 11 should be expanded to include reference to clause 6.6.1 of the exposure draft. The definition should include a materiality threshold of 1% of the average annual

smoothed revenue requirements over the regulatory period, to account for the fact that regulation of distribution networks may involve price caps rather than revenue caps.

### **Service standards**

Clause 6.6.2 of the exposure draft provides that the AER must publish a service target performance incentive scheme within six months of the commencement of the relevant clause. The AER considers that the development of an effective incentive scheme of broad application is likely to take more than six months, and recommends that the NER should allow at least nine months to develop such a scheme.

The AER recommends that the drafting of provisions in the NER relating to service standards should be consistent with the terminology contained in the Australian Energy Market Agreement, which refers to the following types of standards:

- Network service performance standards
- Service reliability standards
- Customer service performance standards

In formulating a service target performance incentive scheme, the exposure draft of the NER requires the AER to apply the relevant ‘distribution service standards’, which are defined in the exposure draft of the National Electricity Law as:

a standard relating to the standard of services provided by a regulated distribution system operator by means of, or in connection with, a distribution system imposed -

(a) by or under jurisdiction electricity legislation; or

(b) by the AER in accordance with the Rules

‘Distribution reliability standards’ are also defined in the exposure draft of the National Electricity Law as:

a standard imposed by or under the Rules or jurisdictional electricity legislation relating to the reliability or performance of a distribution system

It appears that ‘distribution service standard’ in the exposure draft of the NER and NEL equates to a network service performance standard in the Australian Energy Market Agreement, and that ‘distribution reliability standard’ equates to a service reliability standard in the Australian Energy Market Agreement.

Given that the exposure draft expressly requires the AER to have regard to distribution service standards and does not refer to distribution reliability standards, it appears that the intention is for incentive schemes under clause 6.6.2 to include incentives with respect to network service performance standards, and not to include incentives with respect to service reliability standards.

The AER understands that a service target performance incentive scheme under clause 6.6.2 is to relate to network service performance standards. It is unclear whether the scheme may include incentives related to customer service performance standards.

### **Timing of draft decision on a resubmitted proposal**

If the AER determines that a regulatory proposal does not comply with a requirement of the Law, the AER must notify the DNSP and the DNSP must submit its revised proposal within one month of receiving such notification.

Consultation will not commence until a compliant proposal has been submitted. Therefore, if a proposal does not comply with the Law and is subsequently resubmitted, consultation will be delayed. Given that there is no scope for delaying the final decision, the total timeframe in which to consider submissions and make a final decision will be decreased. The question is whether it is more appropriate to decrease the time available for the first half of the process (the process up to the release of the draft decision), or the second half of the process (the process between the release of the draft decision and the final decision).

Clause 6.10.2(a) requires the AER to publish its draft decision *‘as soon as practicable but not later than 6 months after submission of the regulatory proposal was required’*. The AER is concerned that the drafting creates an ambiguity as to whether the six-month period begins:

- on the day that the initial regulatory proposal was required, or
- where the initial proposal does not comply with the Law, the day that the DNSP is required to submit its revised proposal. This will be one month after the AER issues a notice under clause 6.9.1 notifying the DNSP of the non-compliance.

The AER considers that better regulatory outcomes will be achieved if the AER is able to thoroughly examine the issues and reach a well-considered position before the release of the draft decision. A well-considered draft decision will increase the chances of effective consultation on the issues. If there is insufficient time to consider the issues raised in submissions before the draft determination, the AER’s interpretation of those issues will not be tested through formal consultation. Therefore, the AER considers that where a decision making process is to be shortened due to the submission of a non-compliant proposal, it is more appropriate to shorten the second half of the process than the first half.

The AER recommends that Chapter 6 should provide that in circumstances where resubmission of a proposal is required due to non-compliance with the Law, the time in which the AER must release its draft decision may be extended by the amount of time between the date the proposal is first required, and the date the revised proposal is due.

### **Tariff classes**

Clause 6.18.4 provides that separate tariff classes must be constituted for customers to whom standard control services are supplied and customers to whom alternative control services are supplied.

It is not clear why tariff classes are required for customers to whom alternative control services are provided. The AER anticipates that the nature of alternative control services is likely to be similar to those that are currently excluded services. Such services may include special meter reads, upgrades to connections, and disconnections. These

services are generally requested on a one-off basis, and charged directly to the customer. As these costs can be directly attributed to a particular customer, it is appropriate that they are charged as such rather than averaged across a class of customers constituting a tariff class.

The AER recommends that tariff classes should be restricted to standard control services. The information in a pricing proposal set out in clause 6.18.4(b) should be provided in respect of standard control services. The pricing proposal should also contain the following information in respect of alternative control services:

- the charging parameters for each service
- if the tariff is liable to variation or adjustment during the course of the regulatory year, the nature of variation of adjustment and the pass through or other event on which it would be based.

The pricing principles in clause 6.18.5 should be applied for each tariff class, and for each alternative control service.

### **Demand side response and distributed generation - NERA recommendations**

NERA has recommended additional flexibility within the NER to address incentives for demand side response and distributed generation. Providing discretion for the AER to manage these incentives within the revenue and pricing regulatory framework may assist in promoting the national electricity objective of efficient investment.

The AER supports NERA's recommendation that the AER should have the discretion to consider the inclusion of a capital expenditure efficiency incentive mechanism in the building blocks control setting method for individual DNSPs, as it may mitigate any incentives to classify expenditure as capital rather than operating expenditure.

NERA also recommends that the NER should include operating and capital expenditure criteria that require the AER to be satisfied that the forecast expenditure reasonably reflects efficient non-network alternatives available to a DNSP. The AER considers that explicit recognition in the NER of the need to consider non-network alternatives may assist in promoting efficient investment, and therefore supports its inclusion in the operating and capital expenditure criteria.

### **Transitional arrangements for the ACT/NSW resets**

Ideally, the regulatory framework detailed in the new NER would be applied to the upcoming resets of ACT and NSW DNSPs. However, the likely timing of the enactment of the new NER will make application of some parts of the new regulatory framework to the ACT and NSW resets difficult. The AER considers that certainty as to the framework that will apply is desirable, and supports the development of transitional arrangements for the ACT/NSW resets as a means of providing certainty for stakeholders in those resets.

In developing transitional arrangements, the AER considers that the provisions of the exposure draft should be adopted to the maximum extent possible. This will ensure that

the transition to a national framework for electricity distribution regulation is not unnecessarily delayed.

The AER broadly supports the approaches in the explanatory material with respect to the transitional arrangements for the ACT/NSW resets, including the adoption of the provisions of the exposure draft to depreciation, corporate income tax, operating expenditure, capital expenditure, the X factor and pricing methodologies. Comments on specific aspects of the proposal in the explanatory material follow.

### **Form of regulation, price control method and form of price control**

The AER supports the proposal that the transitional rules should specify that:

- Services treated as prescribed services by the ICRC and IPART in the last resets are standard control services
- Services determined to be excluded services by the ICRC and IPART in the last resets are alternative control services
- The forms of price control applied by the ICRC and IPART to prescribed services will be applied to standard control services (an average price cap in the ACT and a weighted average price cap in NSW)
- The AER will have discretion to select the forms of price control to apply to alternative control services (formerly excluded services). The AER understands that the available forms of price control from which the AER may select will be those specified in clause 6.2.5(b) of the exposure draft.

There is unlikely to be sufficient time for DNSPs to submit proposals and the AER to undertake the assessment process detailed in the exposure draft to make determinations on these matters for the ACT/NSW resets. It is therefore appropriate to grandfather the existing arrangements. However, there should be scope for minor variations to the existing arrangements, by agreement between the AER and the ACT/NSW DNSPs. Minor variations may be necessary to ensure that any existing arrangements that do not result in effective regulatory outcomes can be addressed immediately, rather than deferring them for five years.

One variation to existing arrangements that is necessary is the current regulatory arrangements applied to excluded services. Excluded services, which will be deemed to be alternative control services under the transitional arrangements, are currently subject to price monitoring in NSW. However, price monitoring will not be an available form of price control under the exposure draft. There is no compelling reason to continue a form of price control that will not be permitted under the new regulatory arrangements. Given the relatively small number of alternative control services, a determination on the form of price control for these services will not be an onerous task. Therefore, the AER supports the proposal that the AER should select from the forms of price control in the exposure draft in determining the form of price control to apply to alternative control services for the ACT/NSW resets.



## **Revenue proposal and pricing proposal**

Provided that the transitional provisions specify the classifications of services and forms of regulation, the control setting methodologies, and the form of price control for standard control services, the AER considers that a requirement to submit a revenue proposal 13 months before the expiry of the current determinations is appropriate for the ACT/NSW resets.

The AER expects it will be in a position to issue a regulatory information instrument detailing information requirements for the contents of revenue proposals with sufficient time for application in the ACT/NSW resets.

## **Weighted average cost of capital**

The exposure draft requires the AER to commence a NEM-wide WACC review on 1 July 2009. In the absence of a transitional arrangement, the AER would be required to determine the value of the WACC parameters for the ACT/NSW resets. This would mean that the AER and the ACT/NSW DNSPs would engage in the detailed process of a determination on WACC twice in two years.

Given the proximity of the reset to the 2009 review, the perception may be that the AER's position is unlikely to change substantially from the first review to the second. It is therefore likely that DNSPs and TNSPs across the NEM would also seek to comment on the ACT/NSW review as well as the subsequent NEM-wide WACC review. This would impose additional costs on the sector.

The AER considers that the most efficient use of the resources of all stakeholders would be to defer detailed consideration of WACC parameters to the 2009 review.

## **Corporate income tax**

The AER broadly supports the proposed approach for calculating income tax. However, a transitional measure is required to facilitate a change from a pre-tax approach to modelling revenues, which currently applies to the ACT and NSW businesses, to a post-tax approach, which will apply for the next reset.

A value of assets for tax purposes is not required under a pre-tax approach, and therefore is not a part of the regulatory accounts for the ACT and NSW businesses. Under a post-tax approach, however, the value of assets for tax purposes is a key parameter used in the post tax revenue model to calculate a benchmark allowance for corporate tax.

While the tax value of assets has commonly been derived from statutory tax asset values at the commencement of regulation, there are several reasons why certain elements of regulatory accounts (including the tax value of assets) may diverge from statutory accounts over time. Primarily, these reasons stem from the underlying regulatory assumption of a stand-alone benchmark efficient entity. Consequently, in setting the tax value of assets for ACT and NSW businesses, it may be inappropriate to equate regulatory accounts to statutory accounts a decade after regulation commenced.

The AER recommends that the tax value of assets should be set with reference to the statutory tax asset values at the time the regulated entity first became subject to tax, or

in the case of government owned businesses, when they became subject to the national tax equivalence regime.<sup>2</sup> This tax value should then be rolled forward to the commencement of post-tax regulation to take account of tax depreciation, actual capital expenditure and disposals. This approach would ensure greater internal consistency in the regulatory framework as well as with DNSPs currently regulated under a post-tax approach.

In setting the tax asset value, the AER anticipates that the following adjustments to the statutory tax value of assets may be necessary:

1. Non-RAB assets must be excluded from the tax asset base to ensure that the post tax revenue model calculates an appropriate tax building block. If non-RAB assets were included in the tax asset base, the resultant tax building block would be understated.
2. The value of the tax asset base must also reflect elements of previous regulatory decisions such as capital expenditure. If the DNSP is not a stand-alone entity, there may be scope for the business to transfer expenditure between various business units to minimise actual tax liabilities. While the regulatory framework should not inhibit such transactions, it would not be appropriate to use the statutory tax value of assets where this value does not fully represent the activities of the benchmark efficient entity envisaged in clause 6.5.4 of the exposure draft.

In summary, the transitional rules need to provide scope to adjust the statutory tax value of assets in setting the tax value of assets to take account of factors that would lead to internal inconsistency in the regulatory approach. This is necessary to ensure that the tax value of assets used in the post tax revenue model accurately reflects the activities of the regulated business. This issue will be relevant for all DNSPs moving to a post-tax approach, whether they are government or privately owned.

### **Ring fencing**

The explanatory material notes that a national framework for ring fencing is expected to be developed in the non-economic distribution regulation and retail regulation legislative package.

In order to minimise transition costs, the AER considers it is appropriate to continue existing ring fencing arrangements until a national framework for ring fencing is developed. Once national arrangements are in place, they should be applied to the ACT and NSW businesses, subject to appropriate cost pass through arrangements.

### **Cost allocation guidelines**

The explanatory material sets out a transitional arrangement for cost allocation under which the application of the new NER and AER cost allocation guidelines to NSW DNSPs will be deferred until the 2014-19 reset. Under the arrangement NSW

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<sup>2</sup> Governments established state-based tax equivalence regimes because of national competition policy reforms in the mid 1990s. Tax values were established under varying rules across jurisdictions. During the financial year 2001-2002, it is understood that most government owned energy businesses transferred to a newly established National Tax Equivalence Regime.

businesses will continue to allocate costs for the upcoming period in accordance with the existing IPART Accounting Code of Separation, however the businesses will start reporting data annually to the AER in accordance with the AER cost allocation guidelines during the upcoming period.

The reason set out in the explanatory statement for a transitional arrangement for cost allocation in NSW is that the absence of historical cost data on individual services may make immediate application of the new NER and AER guidelines impractical.

The AER considers that the cost allocation framework contemplated by the new NER is more robust than the existing framework in NSW, and disagrees that it will be impractical to implement it immediately. Therefore, the transitional arrangement outlined in the explanatory statement is not warranted, and the new NER and AER cost allocation guidelines should be applied in the next reset.

### ***Advantages of the cost allocation framework in the new NER***

The AER expects its cost allocation guidelines for distribution will be very similar to those for transmission, and has used the transmission guidelines as a basis for comparison of the existing arrangements in NSW to the arrangements under the AER's cost allocation guideline for distribution. The AER's analysis of the two frameworks is set out in Attachment 2 to this submission.

The AER's guidelines are considerably more instructive than the existing arrangements in NSW with respect to the principles and policies that must be applied in attributing and allocating costs. The AER considers that this will result in a higher level of cost transparency and accuracy, and a more robust framework for cost allocation. Key requirements of the AER guidelines that are not given effect in the IPART Code are:

- the requirement to justify the selection of particular allocators
- the prohibition on using non-causal allocators unless:
  - the aggregate of all shared costs subject to non-causal allocators is not material, and
  - the non-causal basis is approved in writing by the regulator
- the requirement to allocate costs among categories of services that, at a minimum, are determined on the basis of the form of regulation applied to those services.

The absence of these requirements in the IPART Code means that the Code does not adequately give effect to the AER guidelines, and therefore the NER. As such, it is not a sufficient replacement for the AER guidelines in allocating the majority of a DNSP's costs across service types.

### ***Implementing the AER cost allocation guidelines***

Given that the principles in the IPART Code and the AER guideline are broadly consistent, it is unlikely that the NSW DNSPs would need to fundamentally amend their existing procedures in order to implement the requirements of the AER's cost allocation

guidelines. While DNSPs may be required to make some amendments to their existing recording and reporting systems to ensure that cost information can be delivered in line with the AER's guideline, this would also be required under the explanatory statement's proposal.

The explanatory statement states that the new NER imply that in undertaking a reset, costs must be allocated to services at the start of the process and built up using building blocks to reach a revenue requirement for individual services. The statement suggests that in the absence of historical cost data for the individual services that constitute the current prescribed services, it may not be practical to apply the AER's cost allocation guidelines for the upcoming reset, as there is insufficient data to allocate costs to individual services.

The AER disagrees that costs must be allocated to individual services at the start of the reset process in order to apply a building blocks analysis. Discrete data on individual services is not required to undertake a building blocks analysis for a bundle of services. The AER's cost allocation guidelines will not require businesses to provide detailed cost information for the upcoming reset on the individual services that constitute the current prescribed services.

Ultimately, the cost allocation arrangements that are applied will not affect the availability of detailed historic cost information. If certain information has not been collected in the past, it cannot be applied to the next reset regardless of which cost allocation arrangements are applied. In these circumstances, the DNSPs will be required to provide the best estimates possible. The absence of particular historical data is no reason to defer application of NEM-wide cost allocation guidelines in NSW.

Given that the framework for cost allocation in the new NER will result in greater cost transparency and accuracy than the existing framework in NSW, and there are no practical impediments to its application in the upcoming reset, the AER considers that it should be applied to NSW businesses upon enactment of the new NER.

### **Capital contributions**

The AER agrees that the existing ICRC and IPART guidelines with respect to capital contributions should continue to apply initially. Once amendments to the NEL/NER providing for a national framework are enacted, changes to the existing arrangements in the ACT and NSW should be made, with appropriate pass through arrangements.

**Attachment 1 – Network Advisory Services report  
‘Review of Services provided by Distribution  
Network Service Providers’**



**Australian Energy Regulator**

Review of Services  
provided by Distribution  
Network Service Providers

November 2006

*This report contains 34 pages*



## **Contents**

1	Introduction	2
1.1	Purpose of this Report	2
1.2	Structure of this Report	2
1.3	Disclaimer	3
2	Key Findings	4
3	Regulatory Framework	7
3.1	NER Definitions	7
3.2	Application of NER by Jurisdictional Regulators	8
3.3	Summary – Excluded Services Across NEM Jurisdictions	26
4	Services Typically Provided by a DNSP	29
4.1	Context of DNSP Service Provision	29
4.2	Services Listing	33
5	Key Jurisdictional Regulatory Instruments	33
6	Metering Installations in the NEM	33

# 1 Introduction

## 1.1 Purpose of this Report

The recently amended *Australian Energy Market Agreement 2006* provides that responsibility for the economic regulation of distribution networks will transfer to the Australian Energy Regulator (AER) from 1 July 2007.

The AER has acknowledged the importance of having a clear understanding of the nature and scope of the services that the thirteen electricity Distribution Network Service Providers (DNSPs) typically provide to enable it to fulfil its regulatory responsibilities in the most effective manner.

Accordingly, Network Advisory Services has been engaged to:

- Identify, and describe the nature of the services that are typically provided by DNSPs across the National Electricity Market (NEM);
- Specify the party to whom the DNSP typically provides its services;
- Review the approach that jurisdictional regulators have taken to categorising the services provided by DNSPs and the form of regulation and price control that have been applied to each type of service in each NEM jurisdiction; and
- Identify the key instruments in each NEM jurisdiction that regulate the services provided by DNSPs.

## 1.2 Structure of this Report

The remainder of this report is structured as follows:

- Section 2 details the key findings of our review;
- Section 3 overviews the relevant provisions of the National Electricity Rules (NER), the application of the NER to categorise the services provided by DNSPs and the form of regulation and price control that have been applied in each NEM jurisdiction;
- Section 4 identifies and describes the nature of the services that are typically provided by DNSPs across the NEM, details the party to whom these services are typically provided and how they are categorised in each jurisdiction for regulatory purposes;
- Section 5 details the key regulatory instruments in each jurisdiction that are relevant to the regulation of services provided by DNSPs; and
- Section 6 sets out the different types of metering installations in the NEM under the NER.



### **1.3 Disclaimer**

This report is the outcome of a desk-top review of jurisdictional regulatory arrangements and services provided by DNSPs. The contents of this Report pertain solely to the information gathered during that review.

Neither Network Advisory Services nor any employee of Network Advisory Services takes responsibility arising in any way whatsoever to any person (other than the AER) in respect of this advice, for any errors or omissions herein, arising through negligence or otherwise however caused. This document is not to be used for any purpose other than those specified herein.

## 2 Key Findings

The key findings of our review of the services provided by DNSPs across the NEM jurisdictions are as follows:

### Nature of Services

- There is a need to distinguish between a service that a DNSP provides directly to other parties and an activity that a DNSP internally undertakes to fulfil its own obligations or requirements, albeit that such an activity may indirectly relate to the provision of a service. An example of a service is a new customer connection whereas an example of an internal activity is DNSP-initiated capital works. This report focuses only on the services provided by DNSPs to other parties, not on internal DNSP activities;
- There are about 80 services that are typically provided by DNSPs and there is a high degree of commonality between the services that are provided by DNSPs in each jurisdiction. A list of services is provided in section 4.2;
- DNSPs principally derive their revenues through the provision of services, although they also earn some revenue from other sources, for example interest income, asset sales and insurance recoveries; and
- The nature and scope of services that a DNSP typically provides are significantly different to those that are typically provided by a transmission network service provider (TNSP).

### Recipients of Services

A DNSP may provide its services to:

- An electricity Retailer;
- An electricity customer of the DNSP (i.e. an end consumer of electricity) – certain services may also be provided to a member of the public who is not otherwise a customer of the DNSP;
- A Registered Electrical Contractor / Builder / Developer; and
- Another DNSP or a TNSP.

It is also noted that DNSPs have certain obligations to NEMMCO, including under MSATS Procedures.

### Regulatory Rights and Obligations

- DNSPs are required to undertake some services but have a right to choose whether to undertake other services. The mandatory services are generally those where the DNSP is the sole supplier, whereas discretionary services are generally those where there is a competitive market serviced by multiple suppliers;

- DNSPs' rights and obligations to provide services are detailed in a large number of legislative and regulatory instruments – some of which are national but most of which are jurisdictionally-based. There is little consistency across the jurisdictional instruments in relation to the ways in which these rights and obligations are expressed; and
- DNSPs must deliver some services to a standard that is defined by regulation, whereas it can determine at what standard it will provide other services.

#### Categorisation of Services

- The services provided by DNSPs are categorised as either distribution or non-distribution services. In all jurisdictions, other than Tasmania, distribution services comprise prescribed and excluded distribution services – in Tasmania, distribution services are either declared or non-declared services;
- Jurisdictional regulators are responsible for categorising services. The general approach has been for distribution services, by default, to be classified as prescribed distribution services unless they are otherwise assessed and categorised as excluded distribution services. The result is that:
  - There is a high level of definition around the nature and scope of excluded distribution services but relatively little definition in relation to the nature and scope of prescribed distribution services; and
  - In some jurisdictions, such as Victoria, South Australia and NSW, there are a large number of excluded distribution services, whereas in Queensland, for example, there are no excluded distribution services with all distribution services being treated as prescribed distribution services.
- The reasons for different categorisations of the same services between jurisdictions include that:
  - Different tests are applied by jurisdictional regulators to assess whether a distribution service should be treated as an excluded distribution service;
  - The markets for the same services have different characteristics, such as different levels of competition in providing the services; and
  - Certain services have been submitted to the jurisdictional regulator for re-assessment of their categorisation in some jurisdictions but not in other jurisdictions.

#### Form of Regulation

- The NER provides for a formal regulatory control being applied to prescribed distribution services and for a “light-handed” form of regulation being applied to excluded distribution services;

- There is no single view across each jurisdiction of what is meant by “light-handed” for the purposes of regulating excluded distribution services. The approach taken by regulators differs by jurisdiction and may involve:
  - Setting the pricing principles for these charges;
  - Taking an active role in approving the charges for excluded services; or
  - Not being involved significantly in approving either the principles for charging or the charges themselves.
- Different forms of price control have been used across the jurisdictions for regulating prices for both prescribed distribution services and excluded distribution services;
- A DNSP’s Distribution Use of System (DUOS) charge typically covers a number of prescribed distribution services. Differences in the categorisation of distribution services across the jurisdictions means DNSPs’ DUOS charges cover different services;
- Certain prescribed distribution services, and almost all excluded distribution services, are charged for on a ‘fee for service’ (individual) basis; and
- By far the majority of each DNSP’s revenues are recovered through the provision of prescribed distribution services.

### **3 Regulatory Framework**

This section overviews the current provisions of the NER relevant to the regulatory categorisation of services provided by DNSPs and to determining the form of regulation that is applied to these services in each NEM jurisdiction.

#### **3.1 NER Definitions**

The NER defines distribution services, prescribed distribution services and excluded distribution services.

##### **3.1.1 Distribution Services**

“Distribution services” are defined as:

*The services provided by a distribution system which are associated with the conveyance of electricity through the distribution system. Distribution services include entry services, distribution network use of system services and exit services.*

“Distribution system” is defined as:

*A distribution network, together with the connection assets associated with the distribution network, which is connected to another transmission or distribution system. Connection assets on their own do not constitute a distribution system.*

“Entry services” are defined as:

*A service provided to serve a Generator or group of Generators at a single connection point.*

“Exit services” are defined as:

*A service provided to serve a Transmission or Distribution Customer or group of Transmission or Distribution Customers at a single connection point.*

“Distribution network use of system service” is defined as:

*A service provided to a Distribution Network User for use of the distribution network for the conveyance of electricity that can be reasonably allocated on a locational and/or voltage basis.*

Services that a DNSP provides that are not distribution services are treated as non-distribution services and are generally not regulated by the jurisdictional regulators.

##### **3.1.2 Prescribed and Excluded Distribution Services**

There are two types of distribution services, being “prescribed distribution services” and “excluded distribution services”.

“Prescribed distribution services” are defined as:

*Distribution services provided by distribution network assets or associated connection assets which are determined by the Jurisdictional Regulator under clause 6.10.4(a) as those which should be subject to economic regulation in accordance with the principles set out in clause 6.10.5.*

“Excluded distribution services” are defined as:

*Distribution services which are subject to a more "light-handed" regulatory approach than that described in clause 6.10.5 with the result that the costs of and revenue for such services are excluded from the revenue cap or price cap which applies to prescribed distribution services.*

## **3.2 Application of NER by Jurisdictional Regulators**

### **3.2.1 Jurisdictional Regulators’ Responsibilities**

Chapter 6 of the NER makes the jurisdictional regulators responsible for determining which distribution services are prescribed distribution services and which are excluded distribution services. Clause 6.10.4 states that:

- (a) *The Jurisdictional Regulator is responsible for determining which, if any, distribution services provided by a Distribution Network Service Provider in the relevant participating jurisdiction should be deemed to be prescribed distribution services and accordingly subject to economic regulation in accordance with clause 6.10.5. In making this determination the Jurisdictional Regulator must have regard to:*
- 1. the principles for regulation of distribution service pricing described in clause 6.10.3;*
  - 2. the extent of effective competition in the provision of that distribution service;*
  - 3. whether sufficient competition exists to warrant the application of a regulatory approach which is more "light handed" than the approach described in clause 6.10.5;*
  - 4. the effectiveness of the form of economic regulation specified under clause 6.10.5 in achieving the efficiency objectives included in clause 6.10.2; and*
  - 5. the form, if any, of that regulation.*
- (b) *Distribution services which are not prescribed distribution services are deemed to be excluded distribution services and, without limiting the discretion of the Jurisdictional Regulator under clause 6.10.4(a), excluded distribution services are those to which it is appropriate to apply a regulatory approach which is more "light-handed" than the approach described in clause 6.10.5 (and so the costs of and revenue for such services are excluded from the revenue cap or price cap which*

*applies to prescribed distribution services). The Jurisdictional Regulator must determine the form of regulation which is to be applied to excluded distribution services.*

Section 5 of Schedule 6.6 of the NER lists the services and activities that may qualify as excluded distribution services.

Clause 6.10.5 of the NER sets out the basis for the jurisdictional regulator determining the form and mechanism of economic regulation to apply to prescribed distribution services and clauses 6.10.2 and 6.10.3 set out a series of principles and objectives for pricing distribution services.

The following sections examine the criteria used by each jurisdictional regulator for categorising distribution services and the form of regulation that have been applied in each jurisdiction. Non-distribution services are not addressed because these services are not regulated by the jurisdictional regulators, with the charges for these services being determined by the DNSPs.

### **3.2.2 New South Wales**

#### Categorisation of Services

The Independent Pricing and Regulatory Tribunal's (IPART) "NSW Electricity Distribution Pricing 2004/05 – 2008/09"<sup>1</sup> includes its "Final Determination" in relation to prescribed distribution services and the "Regulation of Excluded Distribution Services Rule 2004/1". The "Regulation of Excluded Distribution Services Rule 2004/1" was IPART's determination on excluded services submitted by the NSW DNSPs.

The Final Report issued by IPART in relation to the Final Determination states in section 2.1:

*For the purposes of clause 6.10.4(a) of the Code, the Tribunal determines that all Distribution Services are Prescribed Distribution Services, except for the following:*

- (a) Customer Funded Connections;*
- (b) Customer Specific Services;*
- (c) Type 1 to 4 Metering Services; and*
- (d) the construction and maintenance of Public Lighting Infrastructure.<sup>2</sup>*

IPART based its decision to define certain services as excluded distribution services on:

*... whether that service is contestable under the Code of Contestable Works administered by the Department of Energy, Utilities and Sustainability<sup>3</sup>. Being*

<sup>1</sup> <http://www.ipart.nsw.gov.au/files/NSW%20Electricity%20Distribution%20Pricing%202004-05%20to%202008-09%20-%20Final%20Determination.pdf.PDF>

<sup>2</sup> <http://www.ipart.nsw.gov.au/files/op-23.pdf>, page 23

<sup>3</sup> <http://www.deus.nsw.gov.au/index.asp>

*contestable means that service providers other than the DNSPs are able to provide the service. Contestability is the first step towards introducing competition for that service. The extent of the competition that results depends on a number of factors, including the barriers to entry and exit, and the number of service providers entering the market.*<sup>4</sup>

The prescribed distribution services are regulated under the “Final Determination” whereas the excluded distribution services are regulated under the “Regulation of Excluded Distribution Services Rule 2004/1”.

#### Form of Regulation

The form of regulation for prescribed distribution services in NSW is a weighted average price cap for DUOS tariffs and miscellaneous and monopoly fees.<sup>5</sup>

In relation to the form of regulation for excluded distribution services, clause 2.1 of the Regulation of Excluded Distribution Services Rule 2004/1 provides that:

*For the purposes of clause 6.10.4(b) of the Code, the Tribunal determines that for the duration of the Regulatory Control Period:*

*(a) the Excluded Services Regulatory Arrangements set out in clause 2.2 is the form of regulation which will apply to all Excluded Distribution Services, except for:*

*(1) the construction and maintenance of Public Lighting Infrastructure; and*

*(2) any Excluded Distribution Services which the Tribunal determines under clause 2.4(c) have satisfied the Competition Test in Annexure 2;*

*(b) the Public Lighting Regulatory Arrangements set out in clause 2.3 is the form of regulation which will apply to the construction and maintenance Public Lighting Infrastructure; and*

*(c) there will be no form of regulation applying to any Excluded Distribution Services which the Tribunal determines under clause 2.4(c) have satisfied the Competition Test.*<sup>6</sup>

Clauses 2.2 and 2.3 of the Rule include pricing principles and information disclosure requirements with which a DNSP must comply in providing excluded distribution services.

As noted, IPART’s “Regulation of Excluded Distribution Services Rule 2004/1” is its most recent determination in relation to excluded services, and is due to expire at the same time as the determination for prescribed services in June 2009.<sup>7</sup>

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<sup>4</sup> <http://www.ipart.nsw.gov.au/files/op-23.pdf>, page 173

<sup>5</sup> <http://www.ipart.nsw.gov.au/files/op-23.pdf>, page 12

<sup>6</sup> <http://www.ipart.nsw.gov.au/files/NSW%20Electricity%20Distribution%20Pricing%202004-05%20to%202008-09%20-%20Final%20Determination.pdf.PDF>

<sup>7</sup> <http://www.ipart.nsw.gov.au/files/NSW%20Electricity%20Distribution%20Pricing%202004-05%20to%202008-09%20-%20Final%20Determination.pdf.PDF>, page 97



### Pricing of Services

The types of charges allowed for prescribed distribution services are set out in section 3 of IPART's Final Determination.<sup>8</sup> These are:

- Monopoly service charges;
- Miscellaneous service charges;
- Emergency recoverable works charges; and
- Network tariffs for providing distribution use of system charges, which must comprise:
  - A DUOS tariff; and
  - A transmission cost recovery tariff.

Pricing principles for prescribed distribution services are set out in Appendix 13 of the Final Determination.<sup>9</sup> The DNSPs' network tariffs are approved annually by IPART before taking effect from 1 July each year.

In relation to excluded distribution services, the pricing principles in clause 2.2(a)(1) of the Regulation of Excluded Distribution Services Rule 2004/1 state that:

*...the DNSP must use its reasonable endeavours to comply with the following pricing principles:*

*(A) prices are to signal the economic costs of service provision by being subsidy free (i.e. between incremental costs and stand alone costs); and*

*(B) the underlying service classifications, cost data, cost allocations and other elements that contribute to the prices charged by the DNSP for these Excluded Distribution Services should be periodically reviewed and updated where relevant to reflect industry developments and changes in user requirements and preferences, methods of service provision and costs.<sup>10</sup>*

Section 2.2(a)(2) of the "Regulation of Excluded Distribution Services Rule 2004/1" requires DNSP's to make available to customers a document which sets out the prices for excluded services and how these are calculated.

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<sup>8</sup> <http://www.ipart.nsw.gov.au/files/NSW%20Electricity%20Distribution%20Pricing%202004-05%20to%202008-09%20-%20Final%20Determination.pdf.PDF>, page 4 and 5

<sup>9</sup> <http://www.ipart.nsw.gov.au/files/NSW%20Electricity%20Distribution%20Pricing%202004-05%20to%202008-09%20-%20Final%20Determination.pdf.PDF>, page 87

<sup>10</sup> <http://www.ipart.nsw.gov.au/files/NSW%20Electricity%20Distribution%20Pricing%202004-05%20to%202008-09%20-%20Final%20Determination.pdf.PDF>

Energy Australia's pricing methodology<sup>11</sup> for excluded services sets out a number of formulae for calculating its charges:

- For Customer Funded Connections and Metering Services for Type 1-4 meters, the price is equal to the sum of direct labour + direct materials + other direct costs + profit margin + 10% GST;
- For Customer Specific Services, the price is set at (direct labour + direct labour oncosts) x 1.98 x 1.1 contingency allowance for 'fixed price' quotations only + (direct materials + stores handling oncosts) + direct contracted labour services x 1.45 + ALL OTHER DIRECT SERVICES + 10% GST, where:
  - a 98% oncost rate applies to the total direct labour; and
  - a 45% oncost rate applies to any direct contracted labour services, (which includes a component for risk).

Integral Energy<sup>12</sup> and Country Energy<sup>13</sup> apply similar pricing methodologies for their excluded services. Their prices are built up based on its direct labour costs, direct material costs and a profit and overhead component. Applicable Government taxes are then applied to determine a final price for the service.

IPART does not approve the DNSPs' excluded distribution service prices but has powers to investigate any complaints made in relation to the charging under clause 2.2(2)(b) of the Regulation of Excluded Distribution Services Rule 2004/1.

### 3.2.3 Victoria

#### Categorisation of Services

In its "Electricity Distribution Price Review 2006-10, Final Decision Volume 1 - Statement of Purpose and Reasons" (Final Determination), the Essential Services Commission (ESC) created two classes of prescribed distribution services: prescribed DUOS services and prescribed metering services.<sup>14</sup>

In relation to prescribed metering services, the ESC stated:

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<sup>11</sup>[http://www.energy.com.au/energy/ea.nsf/AttachmentsByTitle/Excluded+Services/\\$FILE/Excluded+Services4.pdf](http://www.energy.com.au/energy/ea.nsf/AttachmentsByTitle/Excluded+Services/$FILE/Excluded+Services4.pdf)

<sup>12</sup><http://www.integral.com.au/download.cfm?DownloadFile=12A2DECE-8028-BBAF-1B287C2047FD8FF2>

<sup>13</sup>[http://www.countryenergy.com.au/internet/cewebpub.nsf/AttachmentsByTitle/Customer+Funded+Connections.pdf](http://www.countryenergy.com.au/internet/cewebpub.nsf/AttachmentsByTitle/Customer+Funded+Connections.pdf/$FILE/Customer+Funded+Connections.pdf) and

[http://www.countryenergy.com.au/internet/cewebpub.nsf/AttachmentsByTitle/Type+1-4+Metering+Services.pdf/\\$FILE/Type+1-4+Metering+Services.pdf](http://www.countryenergy.com.au/internet/cewebpub.nsf/AttachmentsByTitle/Type+1-4+Metering+Services.pdf/$FILE/Type+1-4+Metering+Services.pdf)

<sup>14</sup><http://www.esc.vic.gov.au/NR/rdonlyres/AF67E65E-9F47-4139-9702-58471B03A9DD/0/FinalDecisionVolume1StatementPurposeOct05.pdf>

*From 1 January 2006, the distributors will be exclusively responsible for the provision of metering services to:*

- *first tier customers who consume less than 160 MWh per annum and do not have an interval meter that is remotely read; and*
- *subject to the National Electricity Code or Rules (as appropriate), second tier customers with a metering installation type 5, 6 or 7, but excluding those with an interval meter that is remotely read.*

*The Commission will regulate those metering services that distributors are exclusively responsible for as prescribed services. However, it will regulate these services separately to, and unbundled from, the regulatory arrangements applying to distribution use of system tariffs. The prescribed metering services that these new arrangements will apply to include:*

- *meter provision (the supply, installation and maintenance of metering equipment); and*
- *metering data services (the collection, processing, storage of, and provision of access to, metering data).<sup>15</sup>*

Clause 2.2 of the “Victorian Electricity Supply Tariff Order 2005” (2005 Tariff Order) specifies the basis on which the ESC can determine whether a distribution service is an excluded distribution service, when making a price determination. Clause 2.2(b) specifies the criteria that must be satisfied for the ESC when making its determination, being that:

- (1) The cost of providing the Distribution service or kind of Distribution service can be reasonably attributed to a customer provided, or to be provided, with the Distribution service or kind of Distribution service, and that cost need not be recovered through use of system charges; and*
- (2) The market for the Distribution service or kind of Distribution service is characterised by competition or the potential for competition.<sup>16</sup>*

Other parts of clause 2.2 of the 2005 Tariff Order provide guidance to the ESC about how to apply these criteria.

Taken together, the 2005 Tariff Order and the Final Determination provide the approved list of excluded distribution services in Victoria.<sup>17</sup>

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<sup>15</sup> <http://www.esc.vic.gov.au/NR/rdonlyres/AF67E65E-9F47-4139-9702-58471B03A9DD/0/FinalDecisionVolume1StatementPurposeOct05.pdf>, part B4

<sup>16</sup> <http://www.esc.vic.gov.au/NR/rdonlyres/09022EDF-FA55-4BAC-8EC4-78CC8315B256/0/VictorianTariffOrder2005.pdf>

<sup>17</sup> <http://www.esc.vic.gov.au/NR/rdonlyres/87F6EE15-CB75-4223-A10E-0954C116B3EC/0/FinalDecisionVolume2PriceDeterminationOct05.pdf>

### Form of Regulation

The form of regulation for prescribed distribution services in Victoria is a weighted average price cap.<sup>18</sup> The ESC annually approves re-balancing mechanisms under the weighted average price cap as well as network tariffs before the DNSPs issue their tariff schedules to take effect from 1 July each year in line with the Final Determination.

In relation to the excluded distribution services, clause 2.2(h) of the 2005 Tariff Order provides that:

*Terms and charges for a Distributor's Excluded Services will be set in accordance with the provisions of Distributors' Distribution licences issued under Division 3 of Part 2 of the EIA and any applicable guidelines published by the ESC, and subject to oversight under the ESC Act.*<sup>19</sup>

Clause 12.1 of the Distribution Licences<sup>20</sup> provides that:

*The charge for and terms and conditions on which, in the conduct of its distribution business, the Licensee provides any excluded service other than an excluded service contemplated by clauses 6, 7, 8, 9 or 10 must be fair and reasonable and consistent with:*

- (a) the Price Determination or any other applicable price determination made by the Commission; and*
- (b) any applicable approved statement.*<sup>21</sup>

Clause 12.2 of the Distribution Licences states that:

*Any question as to the fairness and reasonableness of such terms and conditions is to be decided by the Commission on the basis of the Commission's opinion of the fairness and reasonableness of the terms and conditions.*

The most recent determination by the ESC in relation to excluded services was in the Final Determination, which provided that prices for excluded services must be set in accordance with "Electricity Industry Guideline 14: Provision of Services by Electricity Distributors".<sup>22</sup>

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<sup>18</sup> <http://www.esc.vic.gov.au/NR/rdonlyres/AF67E65E-9F47-4139-9702-58471B03A9DD/0/FinalDecisionVolume1StatementPurposeOct05.pdf>, page 494

<sup>19</sup> "EIA" refers to the Electricity Industry Act and "ESC Act" refers to the Essential Services Commission Act.

<sup>20</sup> <http://www.esc.vic.gov.au/public/Energy/Regulation+and+Compliance/Licences/Energy+Licences+Issued/Energy+Licences+Issued.htm>

<sup>21</sup> See sample licence at [http://www.esc.vic.gov.au/NR/rdonlyres/8D3FC942-5316-4BB9-A592-DC169567C339/0/ElecDistributionLicenceUED\\_Jan05.pdf](http://www.esc.vic.gov.au/NR/rdonlyres/8D3FC942-5316-4BB9-A592-DC169567C339/0/ElecDistributionLicenceUED_Jan05.pdf)

<sup>22</sup> [http://www.esc.vic.gov.au/NR/rdonlyres/CAB61A89-6A0B-4329-8EBC-2203D91E713C/0/Guideline14\\_Final6Apr04\\_dwc.pdf](http://www.esc.vic.gov.au/NR/rdonlyres/CAB61A89-6A0B-4329-8EBC-2203D91E713C/0/Guideline14_Final6Apr04_dwc.pdf)

This Guideline draws a distinction between “contestable excluded services” and “non-contestable excluded services” in determining what information needs to be provided to the ESC in support of the associated charges. Clause 5.3.1 of the Guidelines state that:

*If the Commission decides that an excluded service is a contestable excluded service, the Commission will not require any distributor to submit any statement of a proposed charge and terms and conditions for that excluded service for approval under clause 16 of the distributor’s distribution licence.*

Clause 5.3.2 sets out a test for what constitutes a “contestable excluded service”. If the ESC determines that the service is non-contestable then the service’s charge and terms and conditions of supply need to be approved by the ESC.

Clause 5.4.1 of the Guideline states that:

*If the Commission decides that an excluded service is a non-contestable excluded service, the Commission may require any distributor to submit a statement of a proposed charge and terms and conditions for that excluded service for approval under clause 16 of the distributor’s distribution licence.*

Clause 5.5 of the Guideline provides that a DNSP’s statement of its proposed charge and terms and conditions (or supporting document) relating to an excluded service submitted to the ESC for approval must include:

- (a) a description of the excluded service, including details of what is actually provided as part of that service;*
- (b) an explanation for any change in the distributor’s proposed charge and terms and conditions for the excluded service including reasons for any change in, or change in the magnitude of, costs incurred by the distributor in providing the excluded service and the effect of any such change on the distributor’s proposed charge and terms and conditions for the excluded service;*
- (c) a breakdown of each estimated cost to be incurred by the distributor in providing the excluded service reflected in the distributor’s proposed charge for the excluded service;*
- (d) details of what is required of the distributor in providing the excluded service, such as materials and labour (including labour type, hourly rates and estimated man-hours to complete the work);*
- (e) if a different charge or different terms and conditions are proposed for providing the excluded service to different customers or classes of customers, the magnitude of and justification for the different costs incurred by the distributor in providing the excluded service to those different customers or classes of customers;*

- (f) if there are any shared or common costs incurred by the distributor in providing the excluded service and in providing any other goods or services, whether in the conduct of the distributor's business as a distributor or any other business, a proportional breakdown and allocation of those costs;
- (g) if the proposed charge for the excluded service is a standard charge reflecting the average costs incurred by the distributor in providing the excluded service across the distributor's customer base, details of the assumptions and calculation used to derive the standard charge;
- (h) details of any consultations with customers undertaken by the distributor in developing the distributor's proposed charge and terms and conditions for the excluded service; and
- (i) any other information relevant in the context of whether the distributor's proposed charge and terms and conditions for the excluded service are fair and reasonable.

Clause 5.6 of the Guidelines then details the basis on which the ESC will consider and approve the DNSP's submission.

### Pricing for Services

The ESC's Final Determination sets out pricing principles for prescribed DUOS services, prescribed metering services and excluded distribution services.<sup>23</sup>

DUOS charges are applied in relation to prescribed DUOS services. The pricing principles for DUOS charges are set out in section 12.2 of the Final Determination and consist of the following three principles, that:

- Tariffs for each customer should generate revenue in excess of the avoidable cost to service the customer;
- Tariffs for each customer should generate revenue less than the cost of providing the service on a stand-alone basis to the customer; and
- Each distribution tariff should signal the impact of additional usage on future investment costs.

The ESC sets the pricing for prescribed metering services in its Final Determination based on:

*The metering service charges proposed by the distributors and scaled by the Commission based on the Commission's decision on the prescribed metering service revenue requirement relative to the distributor's proposal.*<sup>24</sup>

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<sup>23</sup> <http://www.esc.vic.gov.au/NR/rdonlyres/AF67E65E-9F47-4139-9702-58471B03A9DD/0/FinalDecisionVolume1StatementPurposeOct05.pdf>

<sup>24</sup> <http://www.esc.vic.gov.au/NR/rdonlyres/AF67E65E-9F47-4139-9702-58471B03A9DD/0/FinalDecisionVolume1StatementPurposeOct05.pdf>, page 583

The Final Determination sets out each DNSP's proposed charges for its excluded services but does not provide details of the information that the DNSPs presumably submitted to the ESC in support of these charges, as required by the Guideline No. 14.<sup>25</sup>

Powercor / Citipower<sup>26,27,28</sup>, AGL<sup>29</sup>, United Energy<sup>30,31</sup> and SPI-AusNet's<sup>32</sup> prices and terms and conditions for their excluded distribution services are detailed on their respective websites.

### 3.2.4 Queensland

#### Categorisation of Services

The Queensland Competition Authority's (QCA) "Final Determination – Regulation of Electricity Distribution" creates two categories for prescribed distribution services, being:

- DUOS Services; and
- Non-DUOS Services.<sup>33</sup>

The QCA defined "Non-DUOS Services" as:

*Those prescribed distribution services that are not DUOS Services and whose revenue is earned from miscellaneous charges. For Energex these services are: recoverable works not subject to legislative provision; temporary builders services; and subdivision fees. For Ergon these services are: recoverable works not subject to legislative provision; temporary builders services; subdivision fees; and reconnection/disconnection services.<sup>34</sup>*

The QCA's "Electricity Distribution: Determination of Prescribed Services" report issued in September 2000 states that:

*The Authority has decided to adopt an approach whereby:*

- *initially, all services performed by each DNSP that are associated with, or ancillary to, access to that DNSP's network for the supply of electricity within that DNSP's service area are to be declared as 'prescribed services' and therefore subject to economic regulation by the Authority; and*

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<sup>25</sup> <http://www.esc.vic.gov.au/NR/rdonlyres/87F6EE15-CB75-4223-A10E-0954C116B3EC/0/FinalDecisionVolume2PriceDeterminationOct05.pdf>, page 124

<sup>26</sup> [http://www.powercor.com.au/docs/Powercor\\_Excluded\\_Services\\_280306.pdf](http://www.powercor.com.au/docs/Powercor_Excluded_Services_280306.pdf)

<sup>27</sup> [http://www.powercor.com.au/docs/Powercor\\_New\\_Connections\\_Charges\\_incl\\_GST\\_.pdf](http://www.powercor.com.au/docs/Powercor_New_Connections_Charges_incl_GST_.pdf)

<sup>28</sup> [http://www.powercor.com.au/docs/Powercor\\_Excluded\\_Services\\_280306.pdf](http://www.powercor.com.au/docs/Powercor_Excluded_Services_280306.pdf)

<sup>29</sup> [http://www.agl.com.au/NR/rdonlyres/upvywtub43wwwwpimqrjnuzjc77ny27tyrlx45kecbrjzyfovp6n4w25cx6q2x2nyofvnn4ka22vcqenbtbguij6h/Excluded%2bService%2bCharges\\_Public%2bLighting\\_Tariffs.pdf](http://www.agl.com.au/NR/rdonlyres/upvywtub43wwwwpimqrjnuzjc77ny27tyrlx45kecbrjzyfovp6n4w25cx6q2x2nyofvnn4ka22vcqenbtbguij6h/Excluded%2bService%2bCharges_Public%2bLighting_Tariffs.pdf)

<sup>30</sup> [http://www.ue.com.au/industry/network\\_prices/download/standard\\_service\\_prices.pdf](http://www.ue.com.au/industry/network_prices/download/standard_service_prices.pdf)

<sup>31</sup> [http://www.ue.com.au/industry/network\\_prices/np\\_public\\_lighting.htm](http://www.ue.com.au/industry/network_prices/np_public_lighting.htm)

<sup>32</sup> [http://www.sp-ausnet.com.au/CA256FE40021EF93/Lookup/Tariff/\\$file/30-2251.pdf](http://www.sp-ausnet.com.au/CA256FE40021EF93/Lookup/Tariff/$file/30-2251.pdf)

<sup>33</sup> <http://www.qca.org.au/files/ACF14.pdf>

<sup>34</sup> <http://www.qca.org.au/files/ACF14.pdf>, Appendix 2

- *DNSPs, or any other interested party, may apply on a case by case basis to have specific services treated as excluded services where it can be demonstrated that the market for such services is ‘contestable’, that is subject to potential – if not actual – competition.*

*Any case put to the Authority for a service to be treated as excluded, will need to provide evidence that there is a contestable market for that service. A contestable market will be determined to exist if:*

- *the market is one where the DNSP does not have substantial market power, that is, the DNSP does not dominate the market – in the absence of evidence to the contrary, this will be assumed to be the case where the DNSP has a less than 40% market share; or*
- *the market is nonetheless contestable (that is lacks significant barriers to entry).*

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Appendix A of the QCA’s Determination details the contestability test for excluded distribution services.

There are currently no excluded distribution services in Queensland.

#### Form of Regulation

The form of regulation for prescribed distribution services in Queensland is a revenue cap.<sup>36</sup> Under the QCA’s Final Determination, the DNSPs must provide network tariff schedules to the QCA each year for approval prior to of the DNSPs issuing these schedules to apply for the next financial year.

The pricing of prescribed non-DUOS services is regulated via light-handed regulation for most charges, and Ministerial price setting regulation in relation to several charges that have been set in the to the *Electricity Regulation 1994*.

As no distribution services have been declared to be excluded distribution services, the QCA has not set a form of regulation for these services although it has foreshadowed the potential for a more light-handed approach to be applied.<sup>37</sup>

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<sup>35</sup> <http://www.qca.org.au/files/ElectricityDistributionPrescribedServicesFinal.pdf>

<sup>36</sup> <http://www.qca.org.au/files/ACF14.pdf>, page x

<sup>37</sup> <http://www.qca.org.au/files/ElectricityDistributionPrescribedServicesFinal.pdf>, page 5



### Pricing for Services

The QCA leaves the responsibility for determining pricing principles for prescribed DUOS and non-DUOS services to the DNSPs, which are required to submit their Pricing Principles Statements to the QCA for approval.<sup>38</sup> Both Energex and Ergon Energy's approved Pricing Principles Statements are on the QCA's website.<sup>39</sup> These documents note that both distributors charge for their non-DUOS services on the basis of cost plus a 5% margin.<sup>40</sup>

It is noted that, although it approves the Principle Principles Statements, the QCA does not formally approve the charges for non-DUOS services.

As no distribution services have been declared to be excluded distribution services, the QCA has not applied needed to consider the charges for any of these services.

## 3.2.5 South Australia

### Categorisation of Services

The Essential Service Commission of South Australia's (ESCOSA) "2005-2010 Electricity Price Determination – Part A – Statement of Reasons" (Price Determination) provides that:

*Having regard to each of the matters set out in clause 6.10.5, the Commission has formed a view that all distribution services provided by ETSA Utilities should be defined as prescribed distribution services, excepting, however, any individual distribution service deemed by the Commission to be an excluded service.<sup>41</sup>*

ESCOSA states in section 2.5.6 of its Price Determination that:

*Excluded distribution services have been defined as follows for the 2005-2010 regulatory period:*

*excluded distribution services means the services provided by ETSA Utilities set out in Schedule 1 in respect of which the Commission has price determination powers under the ESC Act and a more "light handed" approach to price regulation is taken.<sup>42</sup>*

ESCOSA lists ETSA Utilities' excluded distribution services in section 2.5.6 of its Price Determination.

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<sup>38</sup> <http://www.qca.org.au/files/ACF14.pdf>, page 198

<sup>39</sup> <http://www.qca.org.au/electricity/pricing-principles/principles.php>

<sup>40</sup> <http://www.qca.org.au/files/Energex%20Network%20Pricing%20Principles%20Statement%202006-07May06.pdf>; <http://www.qca.org.au/files/Ergon%20Network%20Pricing%20Principles%202006-07May06.pdf>

<sup>41</sup> [http://www.escosa.sa.gov.au/webdata/resources/files/050405-EDPD\\_Part\\_A\\_StatementofReasons\\_Final.pdf](http://www.escosa.sa.gov.au/webdata/resources/files/050405-EDPD_Part_A_StatementofReasons_Final.pdf), page 16

<sup>42</sup> [http://www.escosa.sa.gov.au/webdata/resources/files/050405-EDPD\\_Part\\_A\\_StatementofReasons\\_Final.pdf](http://www.escosa.sa.gov.au/webdata/resources/files/050405-EDPD_Part_A_StatementofReasons_Final.pdf), page 26

### Form of Regulation

The form of regulation for prescribed distribution services in South Australia is a system-wide maximum average distribution revenue control, where the average revenue is calculated as the weighted average of the revenue yield across ten different customer classes.<sup>43</sup> The details of the price control are set out in the South Australian “Electricity Pricing Order”.<sup>44</sup> This is consistent with the requirement in the Pricing Order that ESCOSA use incentive based regulation adopting a CPI-X approach applying to average revenue.

Clause 2.5.7 of the Price Determination recognises the need for a light-handed form of regulation for excluded distribution services.<sup>45</sup> ESCOSA noted that:

*The term “light-handed” is not defined. However, it is generally taken to mean some combination of:*

- *less regulatory involvement;*
- *less, or more targeted, intervention;*
- *lower administrative and compliance activity; and/or*
- *a simpler structure of regulation.*

*This still allows for a considerable range of options. In the Commission’s experience with other regimes (such as ports and rail), the most significant aspect of a more light handed approach is that it should allow for less regulatory involvement in the day to day aspects of the services being regulated.*<sup>46</sup>

### Pricing for Services

Pricing principles for prescribed distribution services are set out in Schedule 5 of the Price Determination.<sup>47</sup>

ESCOSA approves the list of excluded distribution services as part of its Price Determination, but does not explicitly approve the prices for each service. In its “2005-2010 Electricity Price Determination – Part A – Statement of Reasons”, ESCOSA provides one set of pricing principles to apply to all excluded distribution services other than street-lighting, and another set of pricing principles that only apply to street-lighting.<sup>48</sup> The Determination states that:

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<sup>43</sup> <http://www.escosa.sa.gov.au/webdata/resources/files/060929-D-EDPDPartBPriceDetermination.pdf>, page 41

<sup>44</sup> <http://www.escosa.sa.gov.au/webdata/resources/files/030514-R-EPO.pdf>

<sup>45</sup> [http://www.escosa.sa.gov.au/webdata/resources/files/050405-EDPD\\_Part\\_A\\_StatementofReasons\\_Final.pdf](http://www.escosa.sa.gov.au/webdata/resources/files/050405-EDPD_Part_A_StatementofReasons_Final.pdf), pages 26 - 28

<sup>46</sup> [http://www.escosa.sa.gov.au/webdata/resources/files/050405-EDPD\\_Part\\_A\\_StatementofReasons\\_Final.pdf](http://www.escosa.sa.gov.au/webdata/resources/files/050405-EDPD_Part_A_StatementofReasons_Final.pdf), page 27

<sup>47</sup> <http://www.escosa.sa.gov.au/webdata/resources/files/060929-D-EDPDPartBPriceDetermination.pdf>, page 55

<sup>48</sup> [http://www.escosa.sa.gov.au/webdata/resources/files/050405-EDPD\\_Part\\_A\\_StatementofReasons\\_Final.pdf](http://www.escosa.sa.gov.au/webdata/resources/files/050405-EDPD_Part_A_StatementofReasons_Final.pdf), page 28

*The pricing principles for all excluded services, except standard public lighting (SLUOS), will be as follows:*

- *Prices for excluded services are to be fair and reasonable, including consideration of:*
  - *cost reflectivity; and*
  - *overall profitability in relation to the total grouping of excluded distribution services.*
- *The annual price movement for any particular excluded service should be restricted to no more than CPI+10 % (unless otherwise approved by the Commission).*
- *For those excluded services for which effective competition exists, market determined prices will be considered as being fair and reasonable. However, ETSA Utilities must demonstrate the existence of effective competition to the Commission.*
- *ETSA Utilities will be required to publish its list of prices for excluded services annually. For those services where this is not possible (because the charges would depend on a case-by-case basis) only the list of the services need be published.*
- *In the event of a dispute, the Commission will determine whether an amount proposed to be charged by ETSA Utilities in respect of an excluded service complies with the pricing principles, as set out here.*

*The pricing principles for Streetlighting Use Of Service, an excluded service, will be as follows:*

- *Prices for SLUOS are to be fair and reasonable. The price that will be considered by the Commission to be fair and reasonable during the 2005-2010 regulatory period will be:*
  - *any price that has been negotiated between ETSA Utilities and a customer (or a representative of a group of customers); or*
  - *in the event that agreement is not reached and there is a dispute, the price that is determined by the Commission.*
- *The annual price movement for any particular SLUOS service should be restricted to no more than CPI (unless otherwise approved by the Commission); and*
- *ETSA Utilities will be required to publish its list of prices for SLUOS annually*

ETSA Utilities sets out its excluded services charges on its website,<sup>49</sup> however it does not provide any information on how these charges have been calculated.

ESCOSA issued a Draft Guideline in relation to Excluded Services Regulation in November 2005<sup>50</sup>, which re-stated the above. It made clearer that ETSA Utilities, not ESCOSA, was responsible for setting the prices for excluded services and that “The Commission is only involved in price setting if a dispute between ETSA Utilities and its customer(s) arises”<sup>51</sup>.

### 3.2.6 Tasmania

#### Categorisation of Services

The Office of the Tasmanian Energy Regulator’s (OTTER) “Investigation of Prices for Electricity Distribution Services and Retail Tariffs on Mainland Tasmania Final Report and Proposed Maximum Prices”<sup>52</sup> (Price Investigation) in 2003 for the current regulatory period (2004-2007) was prepared in accordance with the *Electricity Supply Industry (Price Control) Regulations 2003*.<sup>53</sup> As a result, the distinction between prescribed and excluded distribution services set out in Chapter 6 of the NER did not apply in Tasmania.<sup>54</sup> Instead, clause 19(2) of the *Electricity Supply Industry (Price Control) Regulations 2003* states that:

*The Regulator, by notice published in the Gazette, may declare a good or service provided by an electricity entity to be a declared electrical service if the Regulator is of the opinion that –*

- (a) the electricity entity has substantial market power in respect of that good or service; and*
- (b) the promotion of competition, efficiency or the public interest requires the making of the declaration.*

As a result, distribution services in Tasmania are either declared or not declared, rather than prescribed or excluded. However, the costs of, and revenues derived from, distribution services that have been declared in Tasmania are regulated in broadly the same manner as prescribed distribution services under the NER.

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<sup>49</sup> <http://www.etsa.com.au/default.jsp?xcid=881>

<sup>50</sup> <http://www.escosa.sa.gov.au/webdata/resources/files/051102-R-ExcludedServicesDraftReportGuideline.pdf>

<sup>51</sup> <http://www.escosa.sa.gov.au/webdata/resources/files/051102-R-ExcludedServicesDraftReportGuideline.pdf> ,

Page 6

<sup>52</sup> [http://www.energyregulator.tas.gov.au/domino/otter.nsf/LookupFiles/R\\_ElectPriceInvest\\_FinalReport.pdf/\\$file/R\\_ElectPriceInvest\\_FinalReport.pdf](http://www.energyregulator.tas.gov.au/domino/otter.nsf/LookupFiles/R_ElectPriceInvest_FinalReport.pdf/$file/R_ElectPriceInvest_FinalReport.pdf)

<sup>53</sup> [http://www.thelaw.tas.gov.au/tocview/index.w3p;cond=ALL;doc\\_id=%2B54%2B2003%2BAT%40EN%2B20061008150000;histon=;prompt=;rec=;term=price%20control](http://www.thelaw.tas.gov.au/tocview/index.w3p;cond=ALL;doc_id=%2B54%2B2003%2BAT%40EN%2B20061008150000;histon=;prompt=;rec=;term=price%20control)

<sup>54</sup> This is discussed on page 15 of the “Price Control of Electrical Services – Reasons for Declaration of Certain Services” on

[http://www.energyregulator.tas.gov.au/domino/otter.nsf/LookupFiles/R\\_Statement%20of%20reasons%20and%20Revocation%20Notice.pdf/\\$file/R\\_Statement%20of%20reasons%20and%20Revocation%20Notice.pdf](http://www.energyregulator.tas.gov.au/domino/otter.nsf/LookupFiles/R_Statement%20of%20reasons%20and%20Revocation%20Notice.pdf/$file/R_Statement%20of%20reasons%20and%20Revocation%20Notice.pdf)

OTTER issued a “Price Control of Electrical Services – Reasons for Declaration of Certain Services - Statement of Reasons and Revocation Notice” in November 2002 that detailed the declared distribution services in Tasmania.<sup>55</sup>

#### Form of Regulation

The form of regulation for declared distribution services in Tasmania is a revenue cap.<sup>56</sup> OTTER has commenced consultation in relation to the form of regulation for the upcoming regulatory period.<sup>57</sup>

As noted above, there are no excluded distribution services in Tasmania.

#### Pricing for Services

OTTER’s Price Investigation in 2002 states that “Distribution prices are to be set in accordance with any guidelines on pricing methodologies issued by the Regulator”.<sup>58</sup> It is understood that, to date, no such guidelines have been issued.

Aurora does not publish any information concerning the services that it provides to retailers equivalent to the list in section 4 of this Report.

### **3.2.7 Australian Capital Territory**

#### Categorisation of Services

The Independent Competition and Regulatory Commission (ICRC) considered the requirements of clauses 6.10.3, 6.10.4 and 6.10.5 of the NER in deciding what should be prescribed and excluded distribution services. In its Draft Decision for the current regulatory period 1 July 2004 to 30 June 2009, the ICRC stated that:

*The Commission has considered the principles outlined clause 6.10.4(a) of the code and has chosen to define the majority of ActewAGL’s services as prescribed electricity distribution services, primarily in response to concerns over the potential for monopoly pricing outlined in clause 6.10.3(a) of the code. Additionally, the Commission is of the opinion that this approach best balances of the interests of network users and network providers.*<sup>59</sup>

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<sup>55</sup>[http://www.energyregulator.tas.gov.au/domino/otter.nsf/LookupFiles/R\\_Statement%20of%20reasons%20and%20Revocation%20Notice.pdf/\\$file/R\\_Statement%20of%20reasons%20and%20Revocation%20Notice.pdf](http://www.energyregulator.tas.gov.au/domino/otter.nsf/LookupFiles/R_Statement%20of%20reasons%20and%20Revocation%20Notice.pdf/$file/R_Statement%20of%20reasons%20and%20Revocation%20Notice.pdf), pages 13 - 16

<sup>56</sup>[http://www.energyregulator.tas.gov.au/domino/otter.nsf/LookupFiles/R\\_ElectPriceInvest\\_FinalReport.pdf/\\$file/R\\_ElectPriceInvest\\_FinalReport.pdf](http://www.energyregulator.tas.gov.au/domino/otter.nsf/LookupFiles/R_ElectPriceInvest_FinalReport.pdf/$file/R_ElectPriceInvest_FinalReport.pdf), page 102

<sup>57</sup>[http://www.energyregulator.tas.gov.au/domino/otter.nsf/LookupFiles/Framework%20Paper%20ta%20051206.pdf/\\$file/Framework%20Paper%20ta%20051206.pdf](http://www.energyregulator.tas.gov.au/domino/otter.nsf/LookupFiles/Framework%20Paper%20ta%20051206.pdf/$file/Framework%20Paper%20ta%20051206.pdf)

<sup>58</sup>[http://www.energyregulator.tas.gov.au/domino/otter.nsf/LookupFiles/R\\_ElectPriceInvest\\_FinalReport.pdf/\\$file/R\\_ElectPriceInvest\\_FinalReport.pdf](http://www.energyregulator.tas.gov.au/domino/otter.nsf/LookupFiles/R_ElectPriceInvest_FinalReport.pdf/$file/R_ElectPriceInvest_FinalReport.pdf), page 102

<sup>59</sup> [http://www.icrc.act.gov.au/\\_data/assets/pdf\\_file/17500/draftdecisionelecprices7nov03.pdf](http://www.icrc.act.gov.au/_data/assets/pdf_file/17500/draftdecisionelecprices7nov03.pdf), page 22

The ICRC's Final Decision for the "Investigation into Prices for Electricity Distribution Services in the ACT" (Final Decision) states that:

*The approach of the Commission's 2003 draft decision was to define electricity distribution services by exclusion. That is, prescribed distribution services include all distribution services provided by ActewAGL with the exception of the provision of and servicing of meters for customers consuming fewer than 160 megawatt hours per annum, including:*

- *meter testing;*
- *meter reading;*
- *meter checking;*
- *the processing of metering data; and*
- *the provision of non-standard meters.*

*The Commission did not receive any submissions on this matter; therefore, the commission's position remains unchanged between the draft and the final decision.*<sup>60</sup>

#### Form of Regulation

The form of regulation for prescribed distribution services in the ACT is a revenue cap.<sup>61</sup>

In relation to excluded distribution services, the ICRC noted in its Final Decision that:

*Under clause 6.10.4(b) of the Code the Commission is responsible for determining the form of regulation which is to be applied to excluded distribution services. The code provides little guidance to the Commission other than the obligation to determine the form of regulation, and the stipulation that regulation is to be more light handed than the regulation of prescribed electricity distribution services described in clause 6.10.5 of the code.*<sup>62</sup>

As noted above, the ICRC only declared certain metering services to be excluded distribution services for the 2004/05-2008/09 regulatory period. In its Final Decision, the ICRC stated that:

*The Commission considers that the form of 'light handed' regulation that is best applied to metering services is one that decreases as a competitive market is established. When ActewAGL is able to provide the Commission with evidence of contestability in the market, regulation should cease.*

*If ActewAGL is unable to provide the Commission with evidence of the emergence of a contestable competitive market by the end of the next regulatory period, the*

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<sup>60</sup> [http://www.icrc.act.gov.au/\\_data/assets/pdf\\_file/16750/finalrepelecdistnetpricemar04.pdf](http://www.icrc.act.gov.au/_data/assets/pdf_file/16750/finalrepelecdistnetpricemar04.pdf) page 14

<sup>61</sup> [http://www.icrc.act.gov.au/\\_data/assets/pdf\\_file/16750/finalrepelecdistnetpricemar04.pdf](http://www.icrc.act.gov.au/_data/assets/pdf_file/16750/finalrepelecdistnetpricemar04.pdf), page xiv

<sup>62</sup> [http://www.icrc.act.gov.au/\\_data/assets/pdf\\_file/16750/finalrepelecdistnetpricemar04.pdf](http://www.icrc.act.gov.au/_data/assets/pdf_file/16750/finalrepelecdistnetpricemar04.pdf), page 14

*Commission will then reconsider whether or not such services should continue to be excluded services.*<sup>63</sup>

Accordingly, the ICRC chose to regulate excluded metering services using a maximum allowable revenue during the current regulatory period.

Separate revenue caps therefore apply to ActewAGL's prescribed and excluded distribution services.

### Pricing for Services

ActewAGL's prices for its distribution services are set in accordance with pricing principles detailed in section 4 of the ICRC's Final Decision.<sup>64</sup>

The Final Decision requires that, in developing its prices, ActewAGL must submit to the ICRC a Pricing Strategy Statement and an Annual Pricing Statement, which reflect the pricing principles.

The ICRC's Final Decision provides that ActewAGL's Pricing Strategy Statement must include:

- *ActewAGL's medium term pricing strategy*
- *ActewAGL's approach to calculating prices, including its cost allocation methodology*
- *An explanation of how the medium term pricing strategy and the cost allocation methodology comply with the pricing principles outlined in section 4*
- *An outline of the proposed capital expenditure program, the expected consumption and the maximum demand over the medium term and how prices relate to these important price triggers*
- *An outline of potential non-network alternatives to augmentation of the network and current and future demand management programs*
- *An outline of the expected service levels over the regulatory control period*
- *The annual pricing report, as set out in section 5.2, for the first year of the regulatory control period.*<sup>65</sup>

The Final Decision provides that the ActewAGL's Annual Pricing Statement must include:

- *Demonstration of compliance with the first pricing principle set out in section 4 (the commission will consider this section of the report commercial in confidence and will not require this to be made publicly available)*
- *A list of new prices*
- *A discussion of price changes (in excess of 5% higher than the natural price change<sup>79</sup> allowed by the commission's determination) or changes in the structure of prices, and any new or obsolete tariffs*
- *A demonstration of the impact on typical customer's bills and forecast average prices (based on typical bill categories as set by the Electricity Supply Association of Australia)*

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<sup>63</sup> [http://www.icrc.act.gov.au/\\_data/assets/pdf\\_file/16750/finalrepelecdistnnetpricemar04.pdf](http://www.icrc.act.gov.au/_data/assets/pdf_file/16750/finalrepelecdistnnetpricemar04.pdf), page 18

<sup>64</sup> [http://www.icrc.act.gov.au/\\_data/assets/pdf\\_file/16750/finalrepelecdistnnetpricemar04.pdf](http://www.icrc.act.gov.au/_data/assets/pdf_file/16750/finalrepelecdistnnetpricemar04.pdf), page 152

<sup>65</sup> [http://www.icrc.act.gov.au/\\_data/assets/pdf\\_file/16750/finalrepelecdistnnetpricemar04.pdf](http://www.icrc.act.gov.au/_data/assets/pdf_file/16750/finalrepelecdistnnetpricemar04.pdf), page 156

- *An explanation how these prices comply with the medium term pricing strategy, or any change in the strategy (substantial change to the strategy will require a new pricing strategy to be approved by the commission)*
- *An outline of the expected levels of service and projected capital expenditure programs that will occur during the year*
- *An outline of the expected consumption for major customer classes and maximum demand for the year*

*The commission will test ActewAGL's annual pricing report for compliance with its determination and ActewAGL's own pricing strategy statement before approving prices and making this document publicly available.*

ActewAGL sets out the excluded services charges on page 21 of this pricing strategy statement for 2004/5-2008/9, but does not provide any detail of the methodology by which these were calculated.<sup>66</sup> ActewAGL's Annual Pricing Statement does not appear to be publicly available, although its prices are published on its website.<sup>67</sup>

### **3.3 Summary – Excluded Services Across NEM Jurisdictions**

The following table summarises for each NEM jurisdiction:

- The jurisdictional regulator's role in relation to the approval of excluded services charges;
- The timing of the reviews of excluded service charges;
- What information is provided to the Regulator in relation to excluded services charges; and
- What margin is allowed for in excluded services' charges.

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<sup>66</sup> [http://www.icrc.act.gov.au/\\_data/assets/pdf\\_file/17509/actewaglpricingstatement.pdf](http://www.icrc.act.gov.au/_data/assets/pdf_file/17509/actewaglpricingstatement.pdf), page 21

<sup>67</sup> <http://www.actewagl.com.au/electricity/networks/charges.aspx>



<b>Comparison of Excluded Services Charging Across NEM Jurisdictions</b>					
	<b>Regulator's approval role</b>	<b>Timing of reviews</b>	<b>Information used to set charges</b>	<b>Margin allowed by Regulator</b>	<b>Escalation arrangements</b>
NSW	IPART approves the list of excluded services, and pricing principles for excluded service charges. IPART does not explicitly approve the charges.	List of services and pricing principles are set for 5 year revenue control period. Charges are periodically updated by DNSP to account for changes in costs or operating environment.	DNSP publishes pricing principles in public documents. IPART may request information from DNSP about determination of charges if a dispute arises over excluded services prices.	Regulator does not explicitly approve margin for excluded services charges.	Annual price increases permitted (subject to prices remaining subsidy free). No submission required to Regulator. Regulator investigates price increases only if a complaint is made. <sup>68</sup>
Victoria	ESC approves the list of services and the charges as part of the DNSP's pricing determination. ESC also approves charges for non-contestable excluded services, but not for contestable services.	Charges for non-contestable excluded services can only be increased with the approval of the ESC. Charges for contestable excluded services can be increased without the ESC's approval.	Guideline No. 14 details the information that the DNSPs must provide to the ESC in order for a non-contestable excluded service to be approved.	Charges must be "fair and reasonable" in accordance with the DNSP's licence and Guideline No. 14.	Annual indexation of prices, but not automatic. DNSP must apply to ESC. <sup>69</sup>
Qld	There are currently no excluded services in Queensland.	n.a.	n.a.	n.a.	n.a.
South Australia	ESCOSA approves the list of excluded services and pricing principles for excluded services. The list of services can be added to within the period through a "flexibility	Charges are set by ETSA Utilities consistent with ESCOSA's pricing principles and can be amended annually.	ESCOSA does not require ETSA Utilities to provide costings to support the build-up of the charges for services, but has powers to require information in the event of disputes.	The pricing principles require ETSA Utilities to consider its overall profitability from the total grouping of excluded services in determining whether prices	Prices may automatically increase each year by no more than CPI+10 % DNSP not required to submit these for approval to ESCOSA. <sup>70</sup>

<sup>68</sup> <http://www.ipart.nsw.gov.au/files/NSW%20Electricity%20Distribution%20Pricing%202004-05%20to%202008-09%20-%20Final%20Determination.pdf>

<sup>69</sup> <http://www.esc.vic.gov.au/NR/rdonlyres/87F6EE15-CB75-4223-A10E-0954C116B3EC/0/FinalDecisionVolume2PriceDeterminationOct05.pdf>

<sup>70</sup> [http://www.escosa.sa.gov.au/webdata/resources/files/050405-EDPD\\_Part\\_A\\_StatementofReasons\\_Final.pdf](http://www.escosa.sa.gov.au/webdata/resources/files/050405-EDPD_Part_A_StatementofReasons_Final.pdf)

	mechanism”.			are fair and reasonable.	
Tasmania	There are currently no excluded services in Tasmania.	n.a.	n.a.	n.a.	n.a.
ACT	ICRC sets revenue cap for excluded services by establishing a “mini-building-block” form of regulation for these services. ICRC has also established pricing principles for setting charges.	ICRC’s revenue cap and pricing principles and ActewAGL’s Pricing Strategy apply for the full regulatory period. However, charges can change annually under Annual Pricing Statement.	ActewAGL provides forecast cost information to the ICRC to enable the calculation of a revenue cap. ICRC also approves five year Pricing Strategy Statement and Annual Pricing Statement.	ActewAGL must not recover more in revenue in any year than is allowed under its approved revenue cap.	Prices for excluded services permitted to adjust with inflation over the regulatory period. <sup>71</sup>

<sup>71</sup> [http://www.icrc.act.gov.au/\\_data/assets/pdf\\_file/16750/finalrepelecdistnetpricemar04.pdf](http://www.icrc.act.gov.au/_data/assets/pdf_file/16750/finalrepelecdistnetpricemar04.pdf), page 18

## 4 Services Typically Provided by a DNSP

This section identifies and describes the services that are typically provided by DNSPs across the NEM.

### 4.1 Context of DNSP Service Provision

Before addressing the various types of services that are typically provided by a DNSP, it is useful to consider several matters relevant to the provision of these services, being:

- The nature of a customer or Retailer's right to the supply of electricity at a premises;
- The nature of the contractual relationships between the DNSP and the main parties to whom it provides its services – Retailers and customers;
- The means by which different parties may request a service from a DNSP; and
- The various parties involved in the provision of metering services.

These issues are considered in turn.

#### 4.1.1 Supply of Electricity

A customer or Retailer's right to the supply of electricity at a premises in the NEM is provided for in jurisdiction-specific instruments and is typically dealt with in conjunction with a right to connection.

##### NSW

Section 15(2) of the *Electricity Supply Act 1995* provides that:

*A distribution network service provider to which such an application is made is obliged:*

- to provide customer connection services to the applicant's premises under the customer connection contract relevant to the applicant, or*
- to ensure that customer connection services are so provided.*

Section 34 of the *Electricity Supply Act 1995* also provides that:

*(4) If a person who has a right under this section to do so makes an application to a standard retail supplier, the standard retail supplier is under an obligation:*

- to supply electricity to the applicant's premises under a negotiated customer supply contract or to ensure that electricity is so supplied, or*
- in the case of any customer who is a small retail customer and who elects under this section to be supplied under a standard form customer supply contract, to supply electricity to the customer's premises under such a contract or to ensure that electricity is so supplied.*

- (5) *If a small retail customer who has a right under this section to do so makes an application to a standard retail supplier, the standard retail supplier is under an obligation to arrange, on behalf of the customer, for customer connection services to be provided to the premises concerned.*

### Victoria

Clause 6.1 of a DNSP's licence provides that:

*If a retailer or a customer requests the Licensee to offer:*

- (a) to provide connection services so as to allow the supply of electricity from the Licensee's distribution system to an electrical installation of the customer; and*
- (b) to supply electricity from the Licensee's distribution system to that electrical installation,*

*the Licensee must make such an offer within 20 business days in accordance with clause 11 and subject to the Electricity Distribution Code and, if the request is made by a retailer, the offer must be consistent with the retailer's use of system agreement with the Licensee.*

Furthermore, clause 2.2 of the Victorian Electricity Distribution Code provides that:

*Subject to clauses 2.3.1 and 2.6.1, where a connection request has been made by a customer or a retailer on behalf of a customer, a distributor must use best endeavours to connect the customer at a new supply address on the date agreed with the customer or with the retailer on behalf of the customer. Where no date is agreed, the distributor must connect the supply address within 10 business days after the request.*

### Queensland

Section 40(2) of the *Electricity Act 1994* states that:

*A distribution entity to which an application is made has an obligation to provide to the applicant the customer connection services to the premises.*

Section 44 of the *Electricity Act 1994* states that:

*..... it is a condition of a distribution authority that the entity must provide, as far as technically and economically practicable, network services, on fair and reasonable terms, for persons authorised to connect supply of electricity to the network or take electricity from the network.*

Section 10 of the *Electricity Act 1994* defines "network services" as:

*..... services for electricity transfer provided by transmission entities and distribution entities to persons connected to a transmission grid or supply network.*

South Australia

Clause 4.1 of the Distribution Licence states that:

*The Licensee must grant rights to use, or have access to, its distribution network (on non-discriminatory terms):*

- (a) to other electricity entities for the distribution of electricity by the other electricity entities; and*
- (b) to enable the other electricity entities and customers to obtain electricity from the distribution network.*

Tasmania

Section 25 of the *Electricity Supply Industry Act 1995* provides that:

- (1) If an electricity entity has an exclusive right under its licence to sell electricity to non-contestable customers within a particular supply area, the licence is subject to the following conditions:*
  - (a) on request by any person who is, or on the supply of electricity would be, a non-contestable customer, the electricity entity must offer to provide customer retail services to the person at an electrical installation in the area on reasonable terms and conditions;*

ACT

Section 79(1) of the *Utilities Act 2000* provides that:

*An electricity distributor must, on application by a person for any of the following utility services, provide the service in accordance with the utility's standard customer contract:*

- (a) connect the premises to which the application relates to the distributor's network;*
- (b) vary the capacity of the connection between the premises to which the application relates and the distributor's network;*
- (c) if the applicant elects accordingly — allow the connection, or the variation of the capacity of the connection, and the associated work, to be done by another person accredited under the relevant technical code.*

Section 80 of the *Utilities Act 2000* provides that:

*An electricity supplier must, on application by a person, and in accordance with the supplier's standard customer contract, supply electricity to premises owned or occupied by the person.*

#### 4.1.2 Contractual Relationships between DNSP, Retailers and Customers

In considering the provision of services by a DNSP, it is important to understand the nature of its contractual relationships with the main parties to whom it provides its services – Retailers and customers.

Generally where retail competition has been introduced in the NEM, customer-related interactions between Retailers and Distributors are formalised through a Coordination or Use of System Agreement, to ensure that their respective rights and obligations to the customer are streamlined. This Agreement supports the deemed standard or negotiated contract governing the delivery of services by the DNSP to the customer.

The following table sets out the nature of the standard contractual relationship between a DNSP, a Retailer and a customer in each jurisdiction, although it is noted the parties may negotiate alternative arrangements.

Jurisdiction	DNSP and Retailer	DNSP and Customer
NSW	Deemed Use of System Agreement set out in Market Operations Rule (Network Use of System Agreements) No. 2	Standard Customer Connection Contract as provided for by sections 18 to 20 of the <i>Electricity Industry Act</i>
Victoria	Default Use of System Agreement as provided for by clause 4 of the Electricity Distribution Licence	Deemed Distribution Contract as provided for by clause 5 of the Electricity Distribution Licence
Queensland	There is currently no formal provision for a Coordination, or Use of System, Agreement, although a default Coordination Agreement has been prepared for the introduction of full retail competition, the establishment of which will have legislative and regulatory support	Standard Customer Connection Contract under clause 3.3 of the Electricity Industry Code
South Australia	Coordination Agreement as provided for by clause 22 of the Electricity Distribution Licence	Standard Connection and Supply Contract under Part B of the Electricity Distribution Code
ACT	Network Use of System Agreement as required under clause 3 of the Network Use of System Code	Standard Customer Contract under section 79(1) of the <i>Utilities Act 2000</i>

In Tasmania, there is a linear contractual relationship between the DNSP, the Retailer and the customer, whereby only the Retailer has a contractual relationship with the customer. The standard terms and conditions of supply for:

- Contestable customers are provided for by Part 3 of the *Electricity Supply Industry (Contestable Customer) Regulations 2005*; and
- Tariff customers are included in tariff conditions to be approved by the Regulator under clauses 5 and 6 of the *Electricity Supply Industry (Tariff Customers) Regulations 1998*.

### 4.1.3 Requesting Services from a DNSP

A DNSP can provide certain services as part of its routine distribution activities without an explicit request from a third party. However, other services that a DNSP provides are made at the request of one of the following parties:

- Customer – A customer in its own right (i.e. dealing directly with a DNSP without involving a Retailer) could request a DNSP to provide a service. Typically, a customer will make such a request:
  - By telephone through the DNSP’s contact centre; or
  - Face-to-face at a DNSP’s office or depot.
- Registered Electrical Contractor / Builder / Developer – A registered electrical contractor, builder or developer, acting in its own right or on behalf of a customer, could request a DNSP to provide a service. Typically, such a request would be made through a DNSP’s connections group; and
- Retailer – A Retailer could ask a DNSP to provide a service either for its own benefit or on behalf of a customer by making a business-to-business (B2B) service order request.

The NER defines B2B communications as:

*Communications between Local Retailers, Market Customers and Distribution Network Service Providers relating to an end-user or supply to an end-user provided for in the B2B Procedures.*

The electricity industry has agreed to national B2B communication, process and transaction data standards relating to Customer and Site Details Notification Process, Meter Data Process and Service Order Process. In addition to these national arrangements, industry has developed jurisdictional-specific B2B arrangements in relation to particular activities, for example Victoria, South Australia, NSW and the ACT have each defined B2B arrangements in relation to network billing.

NEMMCO’s “B2B Procedure – Service Order Process” is particularly relevant to the consideration of DNSPs’ services as it sets out national processes for the provision of certain defined standard distribution services requested of a DNSP by a Retailer. This procedure:

*....defines standard process and transaction data requirements, which apply to participants in the NEM. This Procedure enables Retailers to request defined services (“Service Orders”) from Service Providers and to receive confirmation that the work will or will not be undertaken (or attempted) and subsequently that the work has or has not been completed as requested using a consistently understood process and transactions.<sup>72</sup>*

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<sup>72</sup> <http://www.nemmco.com.au/meteringandretail/640-0115.pdf>, page 6

The Service Order types covered by this B2B Procedure are as follows:

- Allocate National Metering Identifier (NMI);
- New connection;
- Re-energisation;
- De-energisation;
- Special read;
- Additions and alterations;
- Meter reconfiguration;
- Meter investigation;
- Supply abolishment; and
- Miscellaneous.

The B2B Procedure includes a table which details whether or not the Service Order type applies in respect of NMIs located in a particular jurisdiction. Currently:

- The B2B Procedure does not apply in Queensland or Tasmania, although it is due to be adopted in Queensland from 1 July 2007;
- “New Connection” and “Additions and Alternations” is not used in NSW; and
- “Allocate NMI” is not used in Victoria or South Australia and is not proposed to apply in Queensland.

It is further noted that the B2B Procedure does not apply to a number of types of services, including:

- Processes for unmetered supplies;
- Requests for network augmentations or modifications;
- New connections and metering work performed by Accredited Service Providers in NSW;
- The reporting of faults and emergencies; and
- Work for Type 1 to 4 metering installations that is a contestable service.<sup>73</sup>

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<sup>73</sup> Refer to section 6 for definitions of different types of metering installations.



#### 4.1.4 Parties to Metering Services Provision

DNSPs are responsible under the NER for the provision of certain metering services. Chapter 7 of the NER sets out the various parties involved in the provision of metering services:

- Responsible Person (RP) – this is the entity responsible for providing the metering installation and which also has related obligations regarding the management and maintenance of the metering installation. Typically, the DNSP, as the Local Network Service Providers (LNSP), is the RP for all Type 5 to 7 metering installations within its distribution area. The RP for all Type 1 to 4 metering installations will be either the Financially Responsible Market Participant (FRMP) (e.g. Market Generator or Retailer) for the connection point or, where agreement has been reached between the FRMP and the LNSP, the LNSP;
- Metering Provider (MP) – this is the entity, accredited and registered with NEMMCO that installs, provides and maintains the metering installation. There are two categories of MP:
  - MPA – this type of MP is only accredited to install metering installation Types 5 and 6; and
  - MPB – this type of MP can be accredited to install, provide and maintain metering installation Types 1 to 4, 5 to 6 or 1 to 6.

The NER provides that the RP will nominate the MP to be used at the connection point and pay the MP's fees. Typically, the DNSP, as the RP, engages itself as the MP for all Type 5 and 6 metering installations and may also provide MP services if requested to do so by the RP for Type 1 to 4 metering installations; and

- Metering Data Provider (MDP) – this is the entity, accredited and registered with NEMMCO that undertakes NEMMCO's data collection and processing obligations under the NER. There are two types of MDP for metering installation Types 5 to 7:
  - MPC – this is the entity that only collects metering data for metering installation Types 5 to 6; and
  - MPD - this is the entity that collects, processes and transfers metering data for metering installation Types 5 to 7.

A Metering Data Provider (MDA) is a type of MDP that is accredited and registered with NEMMCO that collects, processes and transfers metering data for metering installation Types 1 to 4.

The NER provides that the RP will nominate the MDP to be used at the connection point and pay the MDP's fees. Typically, the DNSP, as the RP, engages itself as the MDP for all Type 5 and 7 metering installations. The DNSP may also provide MDA services if requested to do so by the RP for Type 1 to 4 metering installations.

Section 6 provides a description of the nature of the different types of metering installations in the NEM.

## **4.2 Services Listing**

The following table details the services that are typically provided by a DNSP. The table details:

- The nature and description of each service;
- The typical recipient of each service, although it is noted that the recipient of services can differ by jurisdiction; and
- How each service is categorised for regulatory purposes in each NEM jurisdiction.

**Table 1: Services Typically Provided by a DNSP**

	Service	Description	Typical Recipient	NSW	Victoria	Qld	SA	Tasmania	ACT
	<b>NMI Standing Data</b>								
1.	National Metering Identifier (NMI) allocation	Allocate new NMI and NMI check sum for each connection point in accordance with responsibilities under Market Settlements and Transfer System (MSATS) Procedures	Retailer	Prescribed,	Prescribed	Prescribed	Prescribed	Declared	Prescribed
2.	NMI Standing Data maintenance	Maintain NMI Standing Data in MSATS accordance with MSATS Procedures	NEMMCO	Prescribed,	Prescribed,	Prescribed,	Prescribed,	Declared,	Prescribed,
3.	Other Local Network Service Provider (LNSP) responsibilities	Fulfill the other responsibilities of the LNSP under the MSATS Procedures <sup>74</sup>	NEMMCO	Prescribed	Prescribed	Prescribed	Prescribed	Declared	Prescribed
	<b>New Connection - Permanent</b>								
4.	New connection – connection assets	Capital works related to new customer connection	Builder / Developer / Customer	Excluded	Excluded	Prescribed	Excluded	Declared	Prescribed
5.	New connection - install new service line	Install service line from property pole to connection point	Builder / Developer / Customer	Excluded	Excluded	Prescribed	Excluded	Declared	Prescribed
6.	New connection – energisation only	Energisation of new customer connection	Retailer	Excluded	Excluded	Prescribed	Excluded	Declared	Prescribed
7.	Revisit charge or delay	Charge for wasted site visit or delays where installation is not ready for connection	Builder / Developer / Customer	Excluded	Excluded	Prescribed	Excluded	Declared	Prescribed
8.	New permanent unmetered supply point	Connection of an permanent unmetered supply point, e.g. bus shelter	Retailer / Customer	Excluded	Excluded	Prescribed	Excluded	Declared	Prescribed

<sup>74</sup> <http://www.nemmco.com.au/meteringandretail/640-0102.pdf>, page 20

	Service	Description	Typical Recipient	NSW	Victoria	Qld	SA	Tasmania	ACT
9.	Embedded generation	Services and system augmentation or extension required to receive energy from an embedded generator	Embedded generator / Customer	Excluded	Excluded	Prescribed	Excluded	Declared	Prescribed
10.	Reserve supply	Charges for reserve (or duplicate) supply	Builder / Developer / Customer	Excluded	Excluded	Prescribed	Excluded	Declared	Prescribed
11.	Stand-by supply	Provision of stand-by supply	Builder / Developer / Customer	Excluded	Excluded	Prescribed	Excluded	Declared	Prescribed
12.	New connection to another DNSP's network	Distribution augmentation required to receive energy from another distributor	Builder / Developer / Customer	Prescribed	Excluded	Prescribed	Not applicable	Not applicable	Prescribed
	<b>New Connection - Temporary</b>								
13.	Temporary connection then disconnection of supply	Building contractor (or like) requires supply to be available but does not take supply	Builder / Developer / Customer	Excluded	Excluded	Prescribed	Excluded	Declared	Prescribed
14.	Temporary disconnection then reconnection of supply	Service wire remains attached but for safety during electrical alternations supply temporarily disconnected then reconnected (e.g. painting)	Builder / Developer / Customer	Excluded	Excluded	Prescribed	Excluded	Declared	Prescribed
15.	Temporary Overhead and Underground Services	Customer requested temporary overhead or underground services (e.g. for building sites until such time as the construction of the facility is complete or until that structure is equipped with its own permanent supply)	Builder / Developer / Customer	Excluded	Excluded	Prescribed	Excluded	Declared	Prescribed
16.	New temporary unmetered supply point	Connection of an temporary unmetered supply point (e.g. caravan)	Retailer / Customer	Excluded	Excluded	Prescribed	Excluded	Declared	Prescribed

	Service	Description	Typical Recipient	NSW	Victoria	Qld	SA	Tasmania	ACT
	<b>Existing Connection</b>								
17.	Additions and alteration to service point of attachment	Additions and alteration to service point of attachment requiring temporary disconnection and reconnection	Builder / Developer / Customer / Retailer	Excluded	Excluded	Prescribed	Excluded	Declared	Prescribed
18.	Relocation of network assets pursuant to statutory obligation	Relocation of network assets pursuant to statutory obligation	Builder / Developer / Customer	Excluded	Excluded	Prescribed	Excluded	Declared	Prescribed
19.	Upgrade, replacement or relocation of existing overhead service	Customer request for upgrade, replacement or relocation of existing overhead service	Builder / Developer / Customer	Excluded	Excluded	Prescribed	Excluded	Declared	Prescribed
20.	Upgrade, replacement or relocation of existing underground service	Customer request for upgrade, replacement or relocation of existing underground service	Builder / Developer / Customer	Excluded	Excluded	Prescribed	Excluded	Declared	Prescribed
21.	Location of DNSP underground cables	Customer requested assistance in locating DNSP underground cables	Builder / Developer / Customer	Excluded	Excluded	Prescribed	Excluded	Declared	Prescribed
22.	Underground service conversion	Customer requested conversion of existing overhead service to underground service	Builder / Developer / Customer	Excluded	Excluded	Non-Distribution	Excluded	Declared	Prescribed
23.	Additional overhead phase for hobby and other non-business purposes	Customer requested installation of additional overhead phase for hobby and other non-business purposes	Builder / Developer / Customer	Excluded	Excluded	Prescribed	Excluded	Declared	Prescribed
24.	Higher reliability or quality of supply including specific services for identified customers	Customer requested increase in reliability or quality of supply above the "base level". Includes conversion to multi-phase supply	Builder / Developer / Customer / Retailer	Excluded	Excluded	Prescribed	Excluded	Declared	Prescribed

	Service	Description	Typical Recipient	NSW	Victoria	Qld	SA	Tasmania	ACT
25.	Inspections of electrical installations	Customer request for inspection of electrical work required to meet certain safety obligations	Builder / Developer / Customer	Excluded	Excluded	Prescribed	Excluded	Declared	Prescribed
	<b>Reconnection / Re-Energisation</b>								
26.	Reconnection / re-energisation during normal business hours	Retailer / customer request for reconnection / re-energisation during normal business hours, including reconnection following disconnection for debt	Retailer	Prescribed	Excluded	Prescribed	Prescribed. Excluded when arising from network user's fault	Declared	Prescribed
27.	Reconnection / re-energisation after normal business hours	Retailer / customer request for reconnection / re-energisation services after normal business hours, including reconnection following disconnection for debt	Retailer	Prescribed	Excluded	Prescribed	Excluded	Declared	Prescribed
	<b>De-Energisation</b>								
28.	Disconnection during business hours at: - pillar box or pole top; or - fuse or meter box	Retailer / customer request for disconnection / de-energisation during business hours	Retailer	Prescribed	Excluded	Prescribed	Excluded	Declared	Prescribed
29.	Disconnection after business hours at: - pillar box or pole top; or - fuse or meter box	Retailer / customer request for disconnection / de-energisation after business hours	Retailer	Prescribed	Excluded	Prescribed	Excluded	Declared	Prescribed

	Service	Description	Typical Recipient	NSW	Victoria	Qld	SA	Tasmania	ACT
	<b>Supply Abolishment</b>								
30.	Supply abolishment – customer / Retailer requested	Retailer / customer request for abolishment of customer connection	Retailer	Excluded	Excluded	Prescribed	Excluded	Declared	Prescribed
	<b>Supply</b>								
31.	Supply of electricity	Supply of electricity through distribution system to a customer’s electrical installation or premises	Retailer / Customer	Prescribed	Prescribed	Prescribed	Prescribed	Declared	Prescribed
	<b>Meter Provision, Installation and Maintenance</b>								
32.	Metering Provider for type 1 to 4 metering installations	Provision, installation and maintenance of type 1 to 4 metering installations	Retailer / Customer	Excluded	Excluded	Prescribed	Excluded	Declared	Non-Distribution
33.	Metering Provider for type 5, 6 and 7 metering installations	Provision, installation and maintenance of type 5, 6 and 7 metering installations	Retailer	Prescribed	Prescribed	Prescribed	Prescribed	Declared	Excluded
34.	Provision of prepayment meters	Installation of prepayment meters at the request of the customer	Retailer	Not applicable	Excluded	Prescribed	Excluded	Declared	Excluded
35.	Meter provision at above standard level of service	Meter installation outside of standard practice at customer's request, for example installed after hours	Retailer	Excluded	Excluded	Prescribed	Excluded	Declared	Excluded
	<b>Meter Additions and Alterations</b>								
36.	Exchange meter	Like for like exchange of meter at customer request	Retailer	Excluded	Excluded	Prescribed	Excluded	Declared	Excluded
37.	Meter re-location at customer or Retailer request	Re-location of metering infrastructure at customer or Retailer request	Retailer	Excluded	Excluded	Prescribed	Excluded	Declared	Excluded

	Service	Description	Typical Recipient	NSW	Victoria	Qld	SA	Tasmania	ACT
38.	Upgrade Meter - Customer/Retailer requested	Provision, installation and maintenance of different category of meter for a customer who would otherwise be provided with a standard category of meter – Retailer or customer initiated	Retailer	Excluded	Excluded	Prescribed	Excluded	Declared	Excluded
39.	Removal of meter at Retailer request	Removal of meter at Retailer request - not related to supply abolishment	Retailer	Excluded	Excluded	Prescribed	Excluded	Declared	Excluded
	<b>Metering Data Collection, Processing, Storage and Transfer</b>								
40.	Metering Data Provider services – standard	Collection, processing, storage and transfer of standard energy data for small customers with type 5, 6 and 7 metering installations	Retailer / Customer	Prescribed	Prescribed	Prescribed	Prescribed	Declared	Excluded
41.	Meter Data Provider services – higher standard at Retailer’s request	Collection, processing, storage and transfer of energy data from type 5 meter for a customer who would otherwise be provided with a type 6 meter – Retailer requested	Retailer / Customer	Excluded	Excluded	Prescribed	Excluded	Declared	Excluded
42.	Meter reading by appointment	Where customer requires DNSP to make an appointment to read the meter	Retailer	Excluded	Excluded	Prescribed	Excluded	Declared	Excluded
	<b>Metering Data Agent</b>								
43.	Metering Data Agent services	Collection, processing, storage and transfer of energy data from types 1 to 4 metering installations	Retailer / Customer	Excluded	Excluded	Prescribed	Non-Distribution	Declared	Non Distribution



	Service	Description	Typical Recipient	NSW	Victoria	Qld	SA	Tasmania	ACT
44.	Metering Data Agent services – higher standard Retailer requested	Collection, processing, storage and transfer of energy data from types 1 to 4 metering installations for a customer who would otherwise be provided with a type 6 metering installation – Retailer requested	Retailer / Customer	Excluded	Excluded	Prescribed	Non-Distribution	Declared	Non Distribution
	<b>Special Meter Reads</b>								
45.	Special meter reading - Check Read	Meter read to check the accuracy of the meter reading	Retailer	Prescribed	Excluded	Non Distribution	Excluded	Declared	Excluded
46.	Special Meter Reading - Final Read	Meter reading to prepare a final customer bill	Retailer	Prescribed	Excluded	Prescribed	Excluded	Declared	Excluded
	<b>Meter Investigations</b>								
47.	Meter investigation / meter test in relation to Type 5 and 6 metering installations	Investigation / testing of type 5 and 6 meters at customer's request, including inspection and re-test	Retailer	Prescribed	Excluded	Prescribed	Excluded	Declared	Excluded
48.	Meter investigation / meter test in relation to type 1 to 4 meter installations	Investigation / testing of type 1 to 4 meter installations at customer's request, including inspection and re-test at request of the customer or MDA	Retailer	Excluded	Excluded	Prescribed	Non Distribution	Declared	Non Distribution
	<b>Meter reconfiguration</b>								
49.	Tariff change that requires meter re-programming	Reconfiguration of meter due to tariff change requested by customer / Retailer	Retailer	Prescribed	Excluded	Non Distribution	Prescribed	Declared	Excluded
	<b>Miscellaneous</b>								
50.	Provision of old billing data	Provision of old billing data to customer / Retailer	Retailer / Customer	Excluded	Excluded	Prescribed	Excluded	Declared	Prescribed

	Service	Description	Typical Recipient	NSW	Victoria	Qld	SA	Tasmania	ACT
51.	Coverage of low voltage mains	Charge where customer requests the line close to a construction site be physically covered to prevent risk of electrocution	Builder / Developer / Customer	Excluded	Excluded	Prescribed	Excluded	Declared	Prescribed
52.	Service truck or van visit	Service truck or van visit required where field service vehicles are not appropriately equipped due to health, safety, environmental or other requirements	Builder / Developer / Customer	Prescribed	Excluded	Prescribed	Prescribed	Declared	Prescribed
53.	Public lighting	Public lighting construction, operation and maintenance (including repair and replacement)	Builder / Developer / Customer	Excluded	Excluded	Prescribed	Excluded	Declared	Prescribed
54.	Property searches / asset information requests	Provision of information to third parties regarding the electricity network. Includes field visit where required	Builder / Developer / Customer	Prescribed	Excluded	Prescribed	Excluded	Declared	Prescribed
55.	Design fees	Provision of detailed design estimate for customer requested works	Builder / Developer / Customer	Prescribed	Excluded	Prescribed	Excluded	Declared	Prescribed
56.	Indicative and offer letter	Provision of offer by DNSP to construct customer requested works	Builder / Developer / Customer	Excluded	Excluded	Prescribed	Excluded	Declared	Prescribed
57.	Review of third party designs	DNSP review of designs prepared by third party to ensure compliance with DNSP's standards	Builder / Developer / Customer	Prescribed	Excluded	Prescribed	Excluded	Declared	Prescribed
58.	Specification fees	DNSP preparation and issuance of specifications for customer extension works	Builder / Developer / Customer	Prescribed	Excluded	Prescribed	Excluded	Declared	Prescribed

	Service	Description	Typical Recipient	NSW	Victoria	Qld	SA	Tasmania	ACT
59.	Inspections	Attendance, assessments and other inspection of third party works by DNSP for DNSP's approval	Builder / Developer / Customer	Prescribed	Excluded	Prescribed	Excluded	Declared	Prescribed
60.	Temporary generation or other equipment hire	DNSP provides temporary generator or other equipment to maintain supply during sub-division works	Builder / Developer / Customer	Non-Distribution	Non Distribution	Prescribed	Non Distribution	Declared	Prescribed
61.	Pole and duct rental	Where broadband/telco service providers make use of distribution network to carry broadband/telco assets	Service providers	Non-Distribution	Non Distribution	Non-Distribution	Non Distribution	Declared	Non Distribution
62.	Installation of 'watchman' lights	Installation of night watchman security lighting requested by customer that is connected to the distribution system	Builder / Developer / Customer	Excluded	Excluded	Non-Distribution	Excluded	Declared	Prescribed
63.	Provision of security camera fitted to poles	Provision of security camera fitted to electricity poles requested by customer	Customer	Excluded	Excluded	Prescribed	Excluded	Declared	Prescribed
64.	High load escort - connecting, reconnecting and lifting	Connection and reconnection of the distribution network and lifting of wires at customer's request to allow a high load vehicle to pass underneath	Vehicle owner / Customer	Excluded	Excluded	Prescribed	Excluded	Declared	Prescribed
65.	Escort Services provided by DNSP	Provision of escort vehicle services to accompany high loads	Vehicle owner / Customer	Excluded	Excluded	Prescribed	Excluded	Declared	Prescribed
66.	Testing and Calibration Services	Provision of testing and calibration services on third party equipment	Third party equipment owner	Non-Distribution	Non-Distribution	Prescribed	Non-Distribution	Declared	Prescribed
67.	Network switching	Switching of network to enable sub-division works to proceed to meet customer's needs	Builder / Developer / Customer	Excluded	Excluded	Non-Distribution	Excluded	Declared	Prescribed

	Service	Description	Typical Recipient	NSW	Victoria	Qld	SA	Tasmania	ACT
68.	Erection of extra poles	Erection of extra poles at request of customer	Builder / Developer / Customer	Excluded	Excluded	Prescribed	Excluded	Declared	Prescribed
69.	Repairs and maintenance	Repairs and maintenance of equipment (e.g. service fuse replacement, loss of supply, voltage and load checks) due to damage by a customer or a third party or fatigue or failure of equipment	Customer	Prescribed	Prescribed	Prescribed	Prescribed	Declared	Prescribed
70.	Works on customer's premise	Services performed by DNSP that are beyond the connection point including maintenance of installations and private power lines, and provision of service fuses	Customer	Non-Distribution	Excluded	Prescribed	Non-Distribution	Declared	Prescribed
71.	Non-NEM activities	Services provided by DNSP outside of the NEM but within its licensed supply area (e.g. remote and isolated networks)	Retailer / customer	Non-Distribution	Non-Distribution	Non-distribution	Non-Distribution	Not applicable	Non Distribution
72.	Services provided outside the DNSPs area	Services provided in areas outside of the DNSP's licensed supply area, such as contract services performed by DNSP's to other DNSPs or TNSPs (e.g. in emergency situations)	Retailer / customer	Non-Distribution	Non-Distribution	Non-Distribution	Non-Distribution	Non-Declared	Non Distribution
73.	Tree trimming on private property	Vegetation management on private property at customer's request	Customer	Non-Distribution	Excluded	Non-Distribution	Excluded	Declared	Prescribed
74.	Retailer of Last Resort (ROLR)	Provision of ROLR services by DNSP	Regulatory requirement	Not applicable – local retailer	Not applicable – local retailer	Not applicable – local retailer	Excluded	Non-Declared	Not applicable – local retailer

	<b>Service</b>	<b>Description</b>	<b>Typical Recipient</b>	<b>NSW</b>	<b>Victoria</b>	<b>Qld</b>	<b>SA</b>	<b>Tasmania</b>	<b>ACT</b>
75.	Rectification of illegal connection or damage to DNSP equipment	Work required as a consequence of an illegal connection or damage to equipment or customer non-compliance with contractual requirements	DNSP initiated	Prescribed	Excluded	not applicable	Excluded	Declared	Prescribed
76.	Issuance of access permit	Provision of a permit by a DNSP to a person authorised to work on or near its distribution system	Permit applicant	Prescribed	Excluded	Prescribed	Prescribed	Declared	Prescribed
77.	Emergency recoverable works	Work carried out by DNSP as a result of emergency, third party action or natural disaster (e.g. car hits pole)	DNSP initiated	Prescribed	Prescribed	Prescribed	Prescribed	Declared	Prescribed
78.	Conversion to aerial bundled cables	Bundling of cables which is carried out at the request of another party	Builder / Developer / Customer	Prescribed	Excluded	Prescribed	Excluded	Declared	Prescribed
79.	Transportation of electricity not consumed in the DNSP's electricity system	Transportation of electricity across DNSP's electricity system but not consumed by a customer within the DNSP's licensed supply area	Customer	Prescribed	Excluded	Prescribed	Excluded	Declared	Prescribed
80.	Provision of reactive power	Charges for the provision or receipt of reactive power and energy to and from a connection point	Customer	Prescribed	Excluded	Prescribed	Excluded	Declared	Prescribed

## 5 Key Jurisdictional Regulatory Instruments

This section lists the key national and jurisdictional regulatory instruments relevant to the provision of services by DNSPs across the NEM.

### National

- National Electricity Rules
- MSATS Procedures, including CATS Procedures
- National Metrology Procedure for Type 1 to 4 Metering Installations, NEMMCO, March 2002
- B2B Procedures:
  - Customer and Site Details Notification Process
  - Meter Data Process
  - Service Order Process

### NSW

- *Electricity Supply Act 1995*
- *Electricity Supply (General) Regulation 2001*
- Market Operations (Arranged Connection Services) Rule No. 1 of 2001
- Market Operations Rule (Network Use of System Agreements) No. 2 of 2001
- Market Operations (NSW Transfer Rules for Retail Electricity Supply) Rules No. 4 of 2001
- Market Operations Rule (Retailer of Last Resort) No. 5 of 2001
- Market Operations Rule (NSW Electricity Business to Business Procedures) No.6 of 2004
- Code of Contestable Works
- Guidelines and Requirements Policy for Electricity Distribution Network Service Providers' and Retail Suppliers' Licences
- Electricity Distribution Network Service Providers – Licence Conditions
- New South Wales Electricity Supply Industry Metrology Procedure – Types 5, 6 and 7 Metering Installation, IPART, January 2003

- NSW Electricity Distribution Pricing 2004/05 – 2008/09, IPART, June 2004

### Victoria

- *Electricity Industry Act 2000*
- *Victorian Electricity Supply Tariff Order 2005*
- Electricity Licences – Distribution
- Electricity Distribution Code, ESC, January 2006
- Public Lighting Code, ESC, April 2005
- Electricity Customer Metering Code, ESC, January 2006
- Electricity Customer Transfer Code, ESC, April 2004
- Electricity System Code, ESC, December 2002
- Electricity Industry Guideline No.15 Connection of Embedded Generation, ESC, August 2004
- Electricity Industry Guideline No. 14: Provision of Services by Electricity Distributors, ESC, April 2004
- Electricity Industry Guideline No. 5: Connection and Use of System Agreements, ESC, November 1996
- Victorian Electricity Supply Industry Metrology Procedure – Types 5, 6 and 7 Metering Installations, ESC, February 2005
- Electricity Distribution Price Review 2006-10, Final Decision Volume 1 - Statement of Purpose and Reasons, ESC, October 2005

### Queensland

- *Electricity Act 1994*
- *Electricity Regulation 2006*
- Electricity Industry Code, second edition, 20 July 2006
- Electricity Authority – Distribution
- Final Determination – Regulation of Electricity Distribution, QCA, April 2005
- Electricity Distribution: Determination of Prescribed Services, QCA, September 2000

- Queensland Electricity Supply Industry Metrology Procedure Types 5, 6 and 7 Metering Installations, QCA, June 2004

#### South Australia

- *Electricity Act 1996*
- Electricity Pricing Order, October 1999
- Electricity Distribution Licence
- Energy Customer Transfer and Consent Code, ESCOSA, April 2005
- Electricity Distribution Code, ESCOSA, July 2005
- Electricity Metering Code, ESCOSA, July 2005
- South Australian Electricity Supply Industry Metrology Procedures – Types 5, 6 and 7 Metering Installations, July 2003
- Application of Chapter 3 of the Electricity Distribution Code Electricity Industry Guideline No. 13, ESCOSA, July 2005
- Excluded Services Regulation – Distribution Electricity Industry - Guideline No. 14, ESCOSA, December 2005
- 2005-2010 Electricity Price Determination – Part A – Statement of Reasons ESCOSA, April 2005
- Electricity Industry Guideline No. 8, Retailer of Last Resort: Pricing and Charging Framework, ESCOSA, September 2001

#### Tasmania

- *Electricity Supply Industry Act 1995*
- *Electricity Supply Industry (Price Control) Regulations 2003*
- Tasmanian Electricity Code
- Distribution Licence
- Price Control of Electrical Services – Reasons for Declaration of Certain Services - Statement of Reasons and Revocation Notice, OTTER, November 2002
- Investigation of Prices for Electricity Distribution Services and Retail Tariffs on Mainland Tasmania Final Report and Proposed Maximum Prices, OTTER, September 2003



ACT

- *Utilities Act 2000*
- Utility Services Licence - Electricity Distribution and Connection Services
- Electricity Network Capital Contributions Code, ICRC, June 2001
- Electricity Customer Transfer Code, ICRC, August 2004
- Electricity Network Boundary Code, ICRC, December 2000
- Electricity Network Use of System Code, ICRC, December 2000
- Electricity Metering Code, ICRC, August 2003
- Electricity Distribution (Supply Standards) Code, ICRC, December 2000
- Electricity Service and Installation Rules Code, ICRC, December 2000
- Consumer Protection Code, ICRC, July 2005
- Retailer of Last Resort Guidelines, Independent Competition and Regulatory Commission, ICRC, December 2002
- ACT Electricity Supply Industry Metrology Procedure - Types 5, 6 and 7 Metering Installations, ICRC
- Investigation into Prices for Electricity Distribution Services in the ACT, ICRC, March 2004

## 6 Metering Installations in the NEM

The requirements for metering installations are specified in schedule 7.2 of the NER with the type of installation required at a connection determined on the basis of the energy that passes through a metering point in a year.

There are seven different types of metering installations, as detailed in the table below.

Number	Type of Metering	Volume limit per annum per connection point
Type 1	Remotely read interval meter	Greater than 1000 GWh
Type 2	Remotely read interval meter	100 to 1000 GWh
Type 3	Remotely read interval meter	0.75 to less than 100 GWh
Type 4	Remotely read interval meter	Less than 750 MWh
Type 5	Manually read interval meter	Less than 'x' MWh
Type 6	Accumulation meter	Less than 'y' MWh
Type 7	Unmetered load	Volume limit not specified

As shown in the table, small customers could potentially be metered using any of Type 4 to 7 metering installations, while large customers could be metered using any of Type 1 to 4 meters.

The values of 'x' and 'y' for Type 5 and 6 metering installations cannot exceed 750 MWh per annum and are detailed in the relevant Metrology Coordinator in each jurisdiction. These thresholds are currently as follows:

- In NSW, the value of x is 160MWh pa, and the value of y is 100MWh pa;<sup>75</sup>
- In Vic, the value of x is 160MWh pa, and the value of y is 160MWh pa;<sup>76</sup>
- In Queensland, the value of x is 100MWh pa, and the value of y is 100MWh pa;<sup>77</sup>
- In South Australia, the value of x is 160MWh pa, and the value of y is 160MWh pa;<sup>78</sup>
- In the ACT, the value of x is 160MWh pa, and the value of y is 160MWh pa;<sup>79</sup> and
- In Tasmania, no values for x and y have not yet been established.

<sup>75</sup> <http://www.ipart.nsw.gov.au/electricity/documents/NSWMetrologyProcedureVersion224Jan2003.pdf>

<sup>76</sup> [http://www.esc.vic.gov.au/NR/rdonlyres/246E3AB9-90D7-4268-B36A-6A377A94A882/0/MP\\_FinalVer4\\_25Nov04dwc.pdf](http://www.esc.vic.gov.au/NR/rdonlyres/246E3AB9-90D7-4268-B36A-6A377A94A882/0/MP_FinalVer4_25Nov04dwc.pdf)

<sup>77</sup> <http://www.qca.org.au/electricity/metrology/metrologyprocedure.php>

<sup>78</sup> <http://www.escosa.sa.gov.au/webdata/resources/files/030711-MetrologyProcedureFinal-July2003.pdf>

<sup>79</sup> [http://www.icrc.act.gov.au/\\_data/assets/pdf\\_file/16763/actmetrologyproctypes567june2005.pdf](http://www.icrc.act.gov.au/_data/assets/pdf_file/16763/actmetrologyproctypes567june2005.pdf)

## Attachment 2 – comparison of AER cost allocation guideline for transmission and IPART Accounting Code of Separation

AER COST ALLOCATION GUIDELINE REQUIREMENT	IPART CODE	IS THE IPART CODE CONSISTENT WITH AND DOES IT GIVE EFFECT TO AER GUIDELINE?
<p><i>Detail of principles and policies</i></p> <p>The principles and policies must be sufficiently detailed. They must specify, among other matters:</p> <ul style="list-style-type: none"> <li>- the categories of services to which cost items are to be attributed or allocated between or within</li> <li>- the characteristics of cost items that make them directly attributable</li> <li>- the reasons for selecting a particular allocator, including why it is the most appropriate allocator</li> <li>- whether the numeric quantity or percentage of an allocator will remain unchanged during the period</li> </ul>	<p>The Code lists functions and activities but does not specify categories of services to which particular costs will be attributed, or categories of services between or within which costs will be allocated.</p> <p>Not a requirement in IPART Code</p> <p>The reasons for selecting certain allocators are not adequately articulated.</p> <p>No requirement to indicate in advance whether quantity or percentage of allocator will change.</p>	<p>Not inconsistent but does not fully give effect to AER guideline.</p>
<p><i>Substance over legal form</i></p> <p>Costs must be directly attributed to or allocated between or within, categories of services based on the substance of the underlying transaction or event rather than the legal form.</p>	<p>Not a requirement of the Code. The IPART guideline ‘Regulatory Information Requirements for Electricity Distributors in New South Wales’ requires that regulatory accounting statements report the substance of transactions over the legal form.</p>	<p>Code does not give effect to AER guideline but IPART guideline gives effect to AER guideline.</p>

AER COST ALLOCATION GUIDELINE REQUIREMENT	IPART CODE	IS THE IPART CODE CONSISTENT WITH AND DOES IT GIVE EFFECT TO AER GUIDELINE?
<p><b><i>Direct costs</i></b></p> <p>Only costs that are directly attributable to a particular category of services may be directly attributed to it.</p>	<p>Costs that can be should be directly allocated. Those that cannot should be allocated to a common service pool. DNSPs may depart from the requirements if they have a documented, defensible basis.</p>	<p>No express prohibition on non-direct costs being attributed to a category of services, however this is implicit in the requirement that non-direct costs are allocated to a common service pool.</p>
<p><b><i>Allocation of shared costs among categories</i></b></p> <p>Shared costs must be allocated:</p> <ul style="list-style-type: none"> <li>- between prescribed and negotiated services; and</li> <li>- within the different types of negotiated services</li> </ul>	<p>Shared costs must be allocated between the network monopoly and other functions of the distributor.</p>	<p>No requirement to allocate shared costs within types of negotiated services. The AER cost allocation guidelines will likely require allocation between standard direct control, alternative direct control and negotiated. The IPART Code does not require such allocations.</p>
<p><b><i>Causal allocators preferred</i></b></p> <p>Shared costs must be allocated between the categories using appropriate causal allocators unless the costs are immaterial or a causal relationship cannot be established without undue cost and effort.</p>	<p>Shared costs must be allocated on a documented defensible basis, preferably on a basis identified in the Code.</p>	<p>No – no requirement to use causal allocators. Conceivably another basis for allocation could be used, provided it is defensible.</p>
<p><b><i>Use of non-causal allocators</i></b></p> <p>Non-causal allocators may not be used unless the aggregate of all shared costs subject to non-causal allocators is not material, and the non-causal basis is approved in writing by the AER.</p>	<p>Shared costs must be allocated on a documented defensible basis, preferably on a basis identified in the Code.</p>	<p>No. Under the IPART Code the business could adopt non-causal allocators without the regulator’s approval. Does not give effect to requirement that aggregate costs are not material.</p>

AER COST ALLOCATION GUIDELINE REQUIREMENT	IPART CODE	IS THE IPART CODE CONSISTENT WITH AND DOES IT GIVE EFFECT TO AER GUIDELINE?
<p><b><i>Approval of methodology</i></b></p> <p>DNSPs are required to submit a Cost Allocation Methodology to the AER for approval.</p>	<p>No requirement to seek approval.</p>	<p>No requirement in the Code to seek approval. However, DNSPs propose to seek approval of IPART Code as a methodology i.e. DNSPs would give effect to AER guideline by seeking approval.</p>
<p><b><i>Amendment to methodology</i></b></p> <p>Amendments require the written approval of the AER. AER will have regard to whether:</p> <ul style="list-style-type: none"> <li>- there has been a material change in circumstances</li> <li>- the amendments would give effect to and be consistent with the guidelines</li> <li>- the amendments would jeopardise the comparability of information with earlier information</li> <li>- the TNSP can quantify and demonstrate the impact of the amendment.</li> </ul>	<p>Any departures from the Code requirements must be clearly identified and there must be a documented defensible basis for these departures.</p>	<p>Code does not give effect to AER guideline, however, if the Code was approved as a Cost Allocation Methodology the DNSPs would be subject to the amendment process in the AER guideline.</p>
<p><b><i>Miscellaneous</i></b></p> <p>The same costs must not be allocated more than once.</p>	<p>No explicit requirement</p>	<p>No</p>
<p>The principles and policies used to attribute costs directly to, or allocate costs between or within, categories of services must be consistent with the Transmission Ring-Fencing Guidelines.</p>	<p>N/A</p>	<p>This will probably be changed to the distribution ring fencing guidelines, which are yet to be developed.</p>

<b>AER COST ALLOCATION GUIDELINE REQUIREMENT</b>	<b>IPART CODE</b>	<b>IS THE IPART CODE CONSISTENT WITH AND DOES IT GIVE EFFECT TO AER GUIDELINE?</b>
Costs attributed or allocated to prescribed services cannot be reattributed or reallocated to negotiated services.	Not explicitly provided for.	No. Terminology would need to be changed to replace prescribed services with standard direct control and alternative direct control services.
Costs attributed or allocated to negotiated services may be reattributed or reallocated to prescribed services.	Not explicitly provided for.	No prohibition but IPART Code would not prevent it so it is not inconsistent.