



ActewAGL
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ActewAGL House 221 London Circuit Canberra ACT 2600 ■ GPO Box 366 Canberra ACT 2601
Telephone 13 14 93 Facsimile 02 6249 7237 www.actewagl.com.au

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Mr Chris Pattas
General Manager
Network Regulation South Branch
Australian Energy Regulator
GPO Box 520
MELBOURNE VIC 3001

Dear Mr Pattas

ActewAGL Response to AER Annual Information Reporting Requirements Issues Paper

Thank you for the opportunity to comment on the Australian Energy Regulator's Issues Paper *Electricity distribution network service providers: annual information reporting requirements*.

As requested by the AER in the Issues Paper, ActewAGL Distribution has provided responses to the proposed reporting templates and requirements in the attached submission (final section). However, we believe that there are some important issues relating to the purpose and scope of the AER's proposals that need to be addressed before detailed discussion of template design issues can progress. Our comments are set out in the first 6 sections of the attached submission.

Please contact Leanne Holmes, Manager Network Regulation, on 0412 850715 if you would like to discuss our response.

Yours sincerely

David Graham
Director Regulatory Affairs and Pricing

Annual information reporting requirements for electricity DNSPs

ActewAGL Distribution response to
Australian Energy Regulator Issues Paper

October 2008

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Overview of ActewAGL Distribution's response

- ActewAGL Distribution appreciates the importance of distribution network service providers (DNSPs) providing detailed information in their regulatory proposals, to allow the AER to make the constituent decisions for distribution determinations.
- ActewAGL Distribution also recognises that some information is reasonably required by the AER during the regulatory period to demonstrate compliance with NER and the distribution determination, as part of the annual pricing proposal.
- However, the AER's proposed annual reporting requirements go well beyond what is reasonably necessary to allow the AER to perform its regulatory functions.
- The National Electricity Law (NEL) requirement for the AER to consider whether information requests are *reasonably necessary* is designed to ensure that the benefits of information requirements are sufficient to justify the costs imposed.
- The AER's proposed annual reporting requirements would significantly increase the regulatory burden and compliance costs, but the AER has not established the case that there would be certain or sufficient benefits to outweigh these costs.

The benefits and costs of the proposed requirements

- The AER has identified some broad justifications for collecting the proposed information annually. For example, the annual information is intended to "assist the AER" in making its determinations, "provide guidance to the AER and its consultants" and "allow the AER to analyse expenditure during the course of a regulatory period".¹
- These justifications are relatively vague and do not make a compelling case regarding the benefits of collecting the information.
- They are not valid in an *ex-ante* regulatory regime.
 - DNSPs provide detailed information at the time of the regulatory re-set, in accordance with the Regulatory Information Notice (RIN), to allow the AER to make its determination.
- The AER's proposal effectively involves replicating, and in some cases extending, many of the RIN requirements on an annual basis. The compliance costs of this will be significant.
 - The AER's comments in the Issues Paper on compliance costs indicate that it has underestimated their likely magnitude.

Compliance monitoring

- The AER also refers to the need to monitor and enforce compliance as a justification for several of its information requirements. However, the AER has not explained which of its

¹ AER, pp. 1-2

regulatory decisions it needs to enforce through the annual reporting process and how and why the information sought is reasonably necessary.

- ActewAGL Distribution is also concerned about potential overlap with other obligations relating to compliance – for example, obligations to demonstrate compliance in the annual pricing proposal. The AER needs to show how existing reporting requirements will reconcile and synchronise with the proposed new requirements to ensure the costs of information collection are minimised.

Consistency across jurisdictions

- While ActewAGL Distribution accepts that there may be some benefits from greater national consistency in reporting requirements, it is not demonstrated that the benefits of moving to uniform requirements will offset the significant costs involved.
- The AER explains in the Issues Paper that while the annual reporting frameworks for DNSPs and TNSPs share the same fundamental objectives, differences between DNSPs and TNSPs (including scale, asset types and operations) necessitate the development of separate templates and requirements for DNSPs.²
- ActewAGL Distribution believes that differences between DNSPs (including scale, asset types and operations) may also justify efficient departures from rigid uniformity across all DNSPs.

Overlapping or duplicative requirements

- ActewAGL Distribution is concerned that the AER has not addressed in the Issues Paper the potential for overlapping national and jurisdictional requirements. The timing and extent of transition to a new set of national requirements must be addressed, in consultation with jurisdictional regulators, to ensure that DNSPs are not faced with overlapping or duplicative requirements.

The proposed templates and associated requirements

- ActewAGL Distribution believes that it is not appropriate to begin detailed discussion on the design of the templates until the important issues relating to the scope and purpose of the proposed Regulatory Information Order (RIO) are resolved.
- However, comments are provided on some of the specific proposed templates and requirements as they serve to highlight some of the problems involved with the proposals and the main areas where further clarification is required.

² AER, p. 6

1. Introduction

ActewAGL Distribution welcomes the opportunity to respond to the Australian Energy Regulator's (AER's) Issues Paper *Electricity distribution network service providers: annual information reporting requirements*.

ActewAGL Distribution is the electricity distribution network service provider (DNSP) in the ACT. The ACT and New South Wales distribution determinations are the first to be undertaken by the AER under the new national regulatory framework. ActewAGL Distribution submitted its regulatory proposal for the 2009-14 distribution determination to the AER on 2 June 2008. In accordance with the Regulatory Information Notice (RIN) issued by the AER, ActewAGL Distribution submitted information templates as well as associated assurances and statements and detailed supporting documentation.

ActewAGL Distribution appreciates the importance of providing detailed information in regulatory proposals, to allow the AER to make its constituent decisions in accordance with the National Electricity Rules (NER). DNSPs also need to provide some information during the regulatory period to allow the AER to monitor compliance with its final determination.

Collecting, reporting and analysing information is costly. Introducing new reporting requirements, as the AER is proposing, is particularly costly. However, there are also ongoing compliance costs after new reporting frameworks and processes are established, and these can also be significant, particularly when detailed reporting is required annually, as the AER proposes.

The National Electricity Law (NEL) recognises the importance of carefully assessing the benefits and costs of information requirements imposed by the AER. As explained by the Ministerial Council on Energy Senior Committee of Officials (SCO), the requirement in the NEL for the AER to consider whether information requests are *reasonably necessary* "captures the idea of whether the benefit of issuing the notice is sufficient to justify the costs imposed on service providers. It focuses more on the proportionality of what is being sought with the burden that is being imposed".³

ActewAGL Distribution believes that the administrative burden of what is being sought by the AER annually is disproportionate to the possible benefits of collecting the data. The AER's suggested benefits of annually collecting an extensive range of data do not justify the significant compliance costs that will be imposed on DNSPs and their customers.

The AER says that its principal aim in the Issues Paper is to "receive feedback from stakeholders regarding the proposed templates".⁴ ActewAGL Distribution addresses some specific issues with the templates and other requirements in the final section of this submission. However, we believe that before progressing to any specific design issues, the AER must address more immediate issues with its proposal. ActewAGL Distribution has

³ SCO, *Response to consultation on second draft NGL and NEL*, October 2007, p. 6

⁴ AER, *Electricity distribution network service providers: annual information reporting requirements, Issues paper*, August 2008, p. 1

identified concerns about the purpose of the proposed annual requirements, the balance between the costs and benefits of providing the information, the case for consistency across jurisdictions, the scope of the annual compliance reporting and monitoring, and the potential for overlapping jurisdictional and national reporting requirements. ActewAGL Distribution also seeks clarification of the AER's intentions with regard to the treatment of costs of complying with any new annual reporting requirements. These matters are addressed in sections 2 to 6 below.

2. The basis and policy objectives of the RIO

The AER explains in the Issues Paper that the collection of information through the proposed Regulatory Information Order (RIO) via the annual reporting templates has the following objectives:⁵

- to provide inputs to the AER's assessment of the DNSP's business, expenditure and assets in the lead-up to a distribution determination. This will aid the AER in achieving the national electricity objective by providing it with the information it reasonably requires in order to make the constituent decisions under the NER;
- ensure consistency in annual reporting across jurisdictions. This will aid those DNSPs with networks across different jurisdictions to streamline their reporting obligations;
- provide guidance to the AER and consultants as to which aspects of a DNSP's business, expenditure and/or assets are most appropriate for engineering based (or other) review. This will lead to a more efficient process to streamline and better target AER reviews.

ActewAGL has concerns about each of these stated objectives.

The purpose of the detailed set of information provided with the regulatory proposal, in accordance with the RIN, is to provide the AER with the information it requires to make the constituent decisions for a distribution determination. The AER proposal effectively involves replicating on an annual basis, and in several ways extending, many of the requirements in ActewAGL Distribution's RIN for the 2009-14 determination. The stated objectives of providing inputs to the AER's assessments and providing guidance to the AER and its consultants (objectives 1 and 3 above) are not an adequate justification for the significant costs of collecting the information annually. The potential benefits and costs of annual reporting are discussed further in section 3 below.

ActewAGL Distribution also has concerns about the AER's justification for prioritising the need to ensure consistency across jurisdictions. The significant costs of requiring a shift to a nationally uniform approach must be balanced against the stated benefit of aiding those

⁵ AER, p. 2

DNSPs operating in different jurisdictions. Consistency across jurisdictions is discussed further in section 4 below.

In addition to the three basic objectives listed above, the AER explains in the Issues Paper that through the RIO it is seeking to monitor, report on and enforce DNSPs' compliance with the AER regulatory decisions and approved cost allocation method.⁶

The AER has not explained which of its regulatory decisions requires enforcement through the annual reporting process and how and why the information sought is reasonably necessary. ActewAGL Distribution is also concerned about potential overlap with other obligations relating to compliance – for example, the requirement in the NER (section 6.18.2) to demonstrate compliance with determinations as part of the pricing proposal submitted annually. These matters are discussed further in section 5 below. The potential overlap with jurisdictional requirements is a further and substantive concern and is discussed in section 6 below.

3. The benefits and costs of annual reporting

The AER's proposed annual reporting requirements comprise 25 templates, regulatory assurance reports and 2 backcasting templates. The AER also foreshadows further requirements. For example, information required to assess Demand Management Incentive Scheme payments and performance will be specified in the proposed RIO to be published in November 2008.⁷ The AER also says that it "may require DNSPs to produce a report specifying annual distribution system planning data over 5-year periods".⁸

3.1 The benefits of the proposed annual requirements

In its discussion of the basis and objectives of the proposed RIO, the AER says that collecting the information annually will "assist the AER" in making its determinations, "provide guidance to the AER and its consultants" and "enable the AER to assess DNSPs' performance during the course of a regulatory control period leading to enhanced analysis of the data".⁹

ActewAGL Distribution believes that the annual collection of detailed information for these purposes is not justified or reasonable, particularly in an *ex ante* regulatory framework, where DNSPs submit detailed regulatory proposals at the time of the regulatory re-set, usually every 5 years, and the AER must make the constituent decisions that will apply until the next determination. Detailed assessments of the performance of DNSPs during the regulatory period are not required or appropriate under the *ex ante* framework.

The AER says in the Issues Paper that the information collected annually will complement the requirements for the regulatory proposals. ActewAGL Distribution notes that while the proposed annual requirements do not cover demand and expenditure forecasts, as the

⁶ AER, pp. 1-2

⁷ AER, p. 19

⁸ AER, p. 18

⁹ AER, pp. 1-2

ActewAGL Distribution RIN templates do, they extend considerably beyond the RIN requirements in other ways. As noted in the introductory comments to this submission, ActewAGL Distribution submitted completed templates and associated audit reports and assurances for the 2009-14 ACT distribution determination. The AER's proposed annual requirements comprise significantly more templates than were required of ActewAGL Distribution as part of its distribution determination, plus regulatory assurance reports and 2 backcasting templates. Most of these require considerably more detail than is required in ActewAGL Distribution's templates for the 2009-14 determination.

Many of the proposed annual templates have the same titles as those set out in ActewAGL Distribution's RIN. The AER's justifications in the Issues Paper for the annual collection of several of the categories also closely follow the justifications provided in the ActewAGL Distribution's RIN. However, the proposed *annual collection* of the information is not specifically justified. For example, the proposed annual requirements include templates for material projects and programs. While ActewAGL Distribution accepts that it may be reasonably necessary to provide these categories of information at the time of the revenue re-set as part of the regulatory proposal, we do not accept that there is a case for annual collection of the information.

For two of the most significant categories of information requested in the proposed templates – capex and opex – the AER discusses the case for the proposed data structure and classifications, pointing out that the cost categories are considered important to the AER's regulatory functions, particularly distribution determinations.¹⁰ However, the AER does not provide a valid justification for why the detailed capex and opex information needs to be reported *annually* and up to 4 years before a distribution determination.

3.2 Compliance costs

The Issues Paper contains a short section on compliance costs. ActewAGL Distribution believes that this treatment is inadequate and we disagree with the AER's assessments and conclusions.

The AER's first comment in its discussion of compliance costs is that:

The primary costs of introducing a national reporting framework relate to the transition from the current jurisdictional frameworks.

While ActewAGL Distribution agrees that the costs of the transition to a new framework would be significant (as discussed further below), we are concerned that the AER has failed to address in its discussion of compliance costs the significant *ongoing* costs associated with annually reporting an extensive range of information. These should not be understated. ActewAGL Distribution's experience in the preparation of reporting templates and associated documentation for the 2009-14 regulatory proposal demonstrates that it is an extremely resource intensive and costly process. Effectively requiring annual replication of many of the requirements, plus additional requirements, would involve significant additional costs which

¹⁰ AER, p. 8

have not been adequately addressed by the AER. For example, providing audited financial reports annually will involve significant compliance costs that must be borne by the DNSPs and passed on to customers.

After identifying transitional costs as the major element of compliance costs, the AER goes on to say that:

However, as discussed earlier, it is considered that the proposed national templates incorporate the parts of jurisdictional templates most relevant for a national regulator and facilitate a smooth transition to a consistent national reporting framework. Each of the DNSPs will have used most of the cost categories and definitions in the proposed national templates, either for reporting to jurisdictional regulators or for internal business reporting.¹¹

ActewAGL Distribution does not agree with the AER's view on two main grounds.

First, it is a broad generalisation that most of the cost categories are already used. The proposed capex and opex templates include considerably more detail across different categories than has been required of ActewAGL Distribution in past reporting to the jurisdictional regulator.

Secondly, the AER's comment about cost categories reflects a very narrow view of the proposed requirements. The cost reporting is just one component of the proposed requirements. The costs of complying with the other requirements will also be significant. Earlier in the Issues Paper the AER provides a 12-point list of the information requirements of the RIO, and comments that:

the information requirements are similar to existing jurisdictional information reporting requirements¹²

This critical assertion is presented without any supporting evidence and does not convey an accurate assessment of this matter. The AER requirements are much more detailed and go well beyond the current jurisdictional requirements in the ACT. For example, ActewAGL Distribution has not been required to provide separate regulatory accounts, balance sheets, income and cash flow statements, disaggregated base accounts, annual audit reports or directors' responsibility statements.

3.2.1 Cost pass through

ActewAGL Distribution expects that the costs associated with the introduction of new AER annual reporting requirements would be covered by the cost pass through provisions in the NER. As noted in our regulatory proposal for the 2009-14 ACT distribution determination, we expect that the introduction of new AER reporting requirements would fall within the definition of a *regulatory change event*.¹³ We note that the AER has not addressed the regulatory treatment of the costs of complying with any new annual reporting requirements in the Issues

¹¹ AER, p. 23

¹² AER, p. 6

¹³ ActewAGL Distribution 2008, *Regulatory proposal to the Australian Energy Regulator*, June, p. 266

Paper. We seek confirmation that the introduction of the new requirements will constitute a regulatory change event for the purposes of the 2009-14 determination.

ActewAGL Distribution notes that the timing of the introduction of any new requirements will have implications for the pass through of costs. The AER has indicated that it expects to release the RIO in early 2009.¹⁴ Early 2009 would fall within what ActewAGL Distribution has defined in its regulatory proposal as a “transitional period”. We have defined a transitional period event as follows:

transitional period event: Any event that falls within the definition of a cost pass through event set out in the NER or which is approved as a cost pass through event by the AER in its final determination for ActewAGL Distribution for the 2009–2014 period, and which occurs during the period 2 June 2008 to 30 June 2009.¹⁵

If the new reporting requirements are introduced in early 2009, they would constitute a transitional period event.

ActewAGL Distribution has also proposed that no materiality threshold should apply to the pass through of costs associated with the introduction of new AER reporting requirements, as this is a scheduled event.¹⁶ At the time our regulatory proposal was submitted, the AER had indicated its intention to introduce new reporting requirements, but the details including timing had not been confirmed.

Some concerns relating to the costs of specific proposed requirements, particularly those associated with the service target performance information reporting, are discussed in section 7 below.

4. Consistency across jurisdictions

In the discussion of the basis and objectives of the proposed RIO, the AER explains that the benefit of consistency in annual reporting frameworks across jurisdictions is that it will “aid those DNSPs with networks across different jurisdictions to streamline their annual reporting obligations”.¹⁷

While ActewAGL Distribution accepts that this is a potential benefit of nationally consistent reporting requirements, we do not believe that the case has been established to require each DNSP to comply with exactly the same reporting requirements. Some flexibility may be optimal to ensure that only relevant and reasonably necessary information is collected. Information should not be requested primarily to ensure national consistency when this contravenes the need to collect relevant information at the time it is required.

¹⁴ AER, p. 20

¹⁵ ActewAGL Distribution, p. 270

¹⁶ ActewAGL Distribution, p. 278

¹⁷ AER, p. 2.

We note that the AER explains in the Issues Paper that while the annual reporting frameworks for DNSPs and transmission network service providers (TNSPs) share the same fundamental objectives, differences between DNSPs and TNSPs (including scale, asset types and operations) necessitate the development of separate templates and requirements for DNSPs.¹⁸

ActewAGL Distribution believes that differences between DNSPs (including scale, asset types and operations) also justify departures from rigid uniformity in templates and requirements across all DNSPs. For example, while other DNSPs have a mix of regulated and unregulated assets, all ActewAGL Distribution's assets are regulated. There is no need, therefore, for ActewAGL Distribution to provide detailed asset disaggregation statements.

ActewAGL Distribution also notes that the proposed categories in the annual capex and opex templates are different to those in the templates submitted with our regulatory proposal. We are concerned that at the time of the 2014-19 determination we may be required to submit reporting templates in both the old (ie 2009-14 regulatory proposal) and new cost categories, which will significantly add to compliance costs.

5. Compliance monitoring and reporting

The AER explains in the basis and objectives section of the Issues Paper that one of the purposes of the annual reporting is to allow the AER to monitor, report on and enforce DNSPs' compliance with the AER's regulatory decisions. Throughout the Issues Paper the AER refers to the need to monitor compliance as a justification for several of the proposed annual information requirements, including disaggregated financial statements, supporting work papers and network support pass through and cost pass through templates.

ActewAGL Distribution accepts that some information is required during the regulatory period to monitor compliance. However the AER has not explained why it needs such detailed annual information and accompanying assurances and certifications. ActewAGL Distribution believes that, as a starting point, the AER should provide further detail on which aspects of a distribution determination must be monitored, enforced and reported on annually. The AER should then explain why such detailed annual information is reasonably necessary, and that the proposed annual audit assurances and directors assurances are reasonably necessary. ActewAGL Distribution believes that the proposed annual requirements, which are in addition to those associated with the regulatory proposal, are not justified or reasonably necessary.

ActewAGL Distribution believes that the AER must also address the potential overlap between the compliance requirements it refers to in the Issues Paper and those set out elsewhere.

Section 6.18.2 of the NER requires DNSPs to submit an annual pricing proposal to the AER. Included among the 8-point list of requirements for the annual pricing proposal are:

Demonstrate compliance with the Rules and any applicable distribution determination.

¹⁸ AER, p. 6.

The pricing proposal must also set out proposed adjustments to tariffs, including those associated with cost pass throughs. ActewAGL Distribution expects therefore that a significant component of the AER's compliance monitoring task would be handled through the annual pricing proposal. ActewAGL Distribution is concerned that the proposed annual reporting requirements seem to involve another process which has not been reconciled or synchronised with the existing requirements for compliance monitoring.

ActewAGL Distribution acknowledges that compliance with the approved cost allocation methodology may need to be addressed separately, as it may not be covered in the pricing proposal. However, it is not clear that the proposed detailed annual assessment and assurance requirements are reasonably necessary for the AER to ensure that each DNSP is satisfying the NER requirement to comply with the approved cost allocation methodology.

6. Overlapping national and jurisdictional requirements

ActewAGL Distribution is concerned that the AER has not addressed in the Issues Paper the potential for overlapping national requirements and existing and continuing jurisdictional requirements.

Streamlining and improving the quality of regulation was a key part of the original reform agenda agreed by governments through the Australian Energy Market Agreement (AEMA). The AEMA included a key objective to lower the cost and complexity of regulation facing investors.¹⁹ To achieve this objective, the timing and extent of transition to a new set of national requirements should be addressed in consultation with jurisdictional regulators, to ensure that DNSPs are not faced with overlapping or duplicative requirements or requirements for parallel reporting using different reporting frameworks. The potential for overlap with reporting requirements or requests from other agencies such as the Australian Energy Market Commission (AEMC) must also be addressed.

7. The proposed templates and other requirements

ActewAGL Distribution believes that detailed discussion on template design issues should be deferred until fundamental questions about the basis and objectives of the proposed requirements are resolved. For some of the templates (for example capex and opex), the AER asks whether the templates are "appropriate for the AER's regulatory functions". ActewAGL Distribution is unable to support the proposition given that annual collection of detailed information is not justified in an *ex ante* regulatory framework. If the templates are not confirmed as being appropriate for the AER's regulatory functions, then detailed discussion of their design is pre-emptive.

¹⁹ Australian Energy Market Agreement, June 2006.

However, comments are provided on some of the proposed templates and requirements in the following sections in order to highlight some of the specific problems with the proposals and areas where further clarification is required.

7.1 Capex and opex templates

As noted in the earlier discussion of consistency across jurisdictions, ActewAGL Distribution believes that the AER should consider a less rigid approach that recognises the diversity of DNSPs. The need for more flexibility is particularly important with the capex and opex templates.

The proposed annual capex templates require expenditure under each cost driver to be broken down by asset type, voltage level, location and position (overhead or underground). ActewAGL Distribution has not reported in these detailed categories for the 2009-14 regulatory proposal. The required reporting categories for the 2009-14 regulatory proposal, as set out in ActewAGL Distribution's RIN, were the outcome of intensive consultation between ActewAGL Distribution and the AER. The consultation included a process of modifying the AER's original proposed templates to ensure that reporting categories that were not relevant for ActewAGL Distribution were removed. For example, public lighting assets²⁰ and the CBD location category, were removed. The process of modifying the originally proposed set of templates also recognised that some of the proposed disaggregations, for example by voltage level, were unnecessary.

ActewAGL Distribution believes that the AER's proposed uniform set of annual capex and opex templates would benefit if they were reviewed carefully and modified in consultation with each DNSP to ensure that only relevant and reasonably necessary information was included.

7.2 Material projects and programs

The AER seeks comments on whether the information to be collected in the material projects and programs template is appropriate for the AER's regulatory functions.²¹

ActewAGL Distribution's view is that it is not appropriate to collect this information annually. We note that the justification provided in the Issues Paper is very similar to that provided in ActewAGL Distribution's RIN. While it may be reasonable to require this information in the regulatory proposal, the justification does not extend to annual reporting.

7.3 Pro forma statements for financial information

ActewAGL Distribution considers the requirements to provide disaggregated financial statements annually to be a significant new burden. While ActewAGL prepares income statements, balance sheets and cash flow statements for its own financial management purposes, the required disaggregations would involve additional resources at end of month

²⁰ ActewAGL Distribution does not own any public lighting assets

²¹ AER, p. 11

reporting time. This will be a particularly heavy burden for relatively small DNSPs, such as ActewAGL Distribution.

This significant new regulatory burden is not adequately justified by the benefits of collecting the information. The AER says that in receiving the information it "will be in a better position to assess the DNSP's efficient costs under the NEL".²² This is not an adequate justification. The information provided with the regulatory proposal on expenditure proposed for the next 5 years is specifically intended to allow the AER to assess the DNSP's efficient costs.

The AER also refers to the disaggregation statements allowing it to assess whether allocations of revenues, expenditures, assets, liabilities and cash items have been made in accordance with the approved cost allocation methodology.²³ Supporting working papers, setting out details on causal and non-causal allocations, and regulatory adjustment journals are also required under the AER's proposal. ActewAGL Distribution would require further justification from the AER on why such detailed information is required to check compliance with the approved cost allocation methodology, and how the compliance checks are intended to work in practice.

7.4 Asset information

The AER proposes to collect annually detailed asset information, schedules and supporting papers. ActewAGL Distribution accepts that the provision of some annual information on network characteristics may be reasonable (and has been the practice under the jurisdictional regulator), although we note that it would be unlikely to be efficient or practical to have a uniform template for all DNSPs.

ActewAGL Distribution does not accept that the proposed asset disaggregation statement, property plant and equipment reconciliation and asset ageing schedules are justified. These requirements would involve a significant additional burden as ActewAGL Distribution does not currently report in the categories of property, plant and equipment. For the asset ageing schedules, we note that the categories do not match those currently in our post tax revenue model and roll-forward model. Re-classifying assets in the models and running the models annually for the required reconciliations would involve a significant burden. This is not justified for the stated benefit of assisting the AER in assessing the DNSP's regulatory asset base,²⁴ given that detailed information is provided in the regulatory proposal for the purpose of allowing the AER to assess the regulatory asset base.

7.5 Relationships with other entities

The AER proposes annual collection of information on relationships with related entities and expenditures with those entities. We note that ActewAGL Distribution was required to provide information on relationships with related entities in its regulatory proposal, in accordance with

²² AER, p. 11

²³ AER, pp. 12-13

²⁴ AER, p. 16

the requirements of the RIN. ActewAGL Distribution does not accept that it is reasonably necessary to collect this information annually.

7.6 Service performance information

ActewAGL Distribution notes that it will be subject to business-specific service performance information reporting requirements in the 2009-14 regulatory period, instead of the proposed templates currently under consultation. These business-specific reporting requirements are a transitional measure, with more detailed regulatory requirements applying to ActewAGL Distribution from 2014.

Therefore, ActewAGL Distribution's comments on the proposed service performance templates relate to possible implications of information requirements to apply to it from 2014.

7.6.1 Clarification on the proposed application of some templates

ActewAGL Distribution seeks clarification as to the application of some tables included in the proposed templates.

The AER national service target performance incentive scheme (STPIS) finalised in June 2008 established the framework for incentives and information collection for service performance. The national STPIS states in the section on information for annual compliance that the DNSP must:

report on its annual performance against the parameters applicable to it as set out in the relevant distribution determination in accordance with any applicable regulatory information instrument.²⁵

The STPIS specifies the parameters that are applicable to all distribution networks, as well as parameters that can be voluntarily nominated to apply to particular businesses through the framework and approach process for individual price determinations. ActewAGL Distribution notes that no quality of supply parameters are specified in the STPIS. In addition, the only 'required' customer service parameter is telephone answering.

On this basis, ActewAGL Distribution did not include costs of gathering quality of supply and other customer service parameter information in its regulatory proposal submitted to the AER on 2 June 2008. ActewAGL Distribution notes, however, that in spite of the guidance included in the national STPIS, the proposed templates seek information on parameters not applying to distribution businesses through the national STPIS. Relevant tables in the proposed service performance templates are Tables 5, 6, 8, 9, 10 and 11.

ActewAGL Distribution therefore seeks clarification as to the information collection requirements for parameters not applying to distribution businesses through the national STPIS or through the regulatory determination. The proposed templates are unclear as to whether distribution businesses are required to provide information on parameters that are not

²⁵ Australian Energy Regulator *Electricity Distribution Network Service Providers Service target performance incentive scheme*, June 2008, pg 21.

directly applying to them through the national STPIS (or for information collection in preparation for future application determined through the framework and approach process). This includes parameters marked in the proposed templates as optional parameters in the STPIS. It is unclear whether, as an optional parameter of the STPIS, it is also optional to provide information to the AER through the annual reporting templates on that parameter.

Some parameters also apply to services outside of ActewAGL Distribution's regulated responsibilities. Street-lighting assets in the ACT are generally owned by ACT and Commonwealth Governments. Any construction or maintenance services in relation to street-lighting are outsourced by the asset owners through a competitive tendering process. ActewAGL Distribution would therefore not be able to report against this parameter.

7.6.2 Quality of supply parameters

ActewAGL Distribution is concerned that providing information in accordance with some aspects of the proposed templates would be beyond its current information gathering and reporting capabilities. These concerns specifically relate to the *quality of supply* information requirements included in the templates.

All DNSPs face practical difficulties and constraints in being able to continually monitor all distribution network assets. Power quality monitoring is often limited to specific times and/or locations, and many causes of power quality issues may be the result of isolated or infrequent occurrences rather than systemic problems. Examples of isolated events that can cause quality of supply issues include use of a welder in a neighbouring property, or conductors clashing in windy conditions. Causes such as these of quality of supply problems are often difficult to identify post-event or after a complaint is lodged. These limitations will impact the accuracy of data provided to the AER on power quality events and their causes.

While due to the transitional arrangements these reporting requirements would not apply to ActewAGL Distribution until 2014, ActewAGL Distribution would need to undertake the required investments in systems and process in the 2009-14 regulatory period in order to report in accordance with the templates from the beginning of the 2014 -2019 period. This expenditure has not been included in the 2009-14 regulatory proposal.

ActewAGL Distribution seeks confirmation that it would be able to claim additional costs associated with upgrading its information gathering and reporting capabilities to comply with the annual quality of supply information requirements to apply from 2014 through an appropriate cost pass through mechanism in the 2009-14 regulatory period.

7.6.3 Classification of interruption categories

The proposed service performance information templates include "cause" categories for interruptions (Table 4). ActewAGL Distribution notes that these categories have not been subject to consultation through the development of the national STPIS.

The industry, through the Energy Networks Association, is currently developing a methodology for cause definitions and classification that is expected to more accurately reflect current

industry practice and the nature of outages. ActewAGL Distribution intends to apply the new cause classification when it becomes available in the coming months.

ActewAGL Distribution considers that the AER should review the industry proposed measures once finalised, and consider their appropriateness for inclusion in the proposed templates.

7.7 Network planning

ActewAGL Distribution is concerned with the scope and purpose of the AER's network planning information requirements. The AER says that as part of its annual requirements it:

may require DNSPs to produce a report specifying annual distribution system planning data over 5 year periods. This data would go towards demonstrating how DNSPs meet the predicted demand for electricity supplied through its distribution network.²⁶

The AER also says that the information:

would allow the AER to observe emerging constraints and provide a means of identifying those zone substations where more detailed analysis of risks and options for augmentation and non-network alternatives are required in the lead-up to a distribution determination. It would therefore streamline and simplify the regulatory determination process by highlighting aspects of a DNSP's business, expenditure and/or assets which are more appropriate for engineering based (or other) review.²⁷

ActewAGL Distribution accepts that an important part of the regulatory proposal is to demonstrate how the DNSP will meet or manage expected demand, as this is one of the expenditure objectives in the NER. However, we do not accept that the proposed annual reporting of planning data is justified.

The AER has not indicated why this information is reasonably necessary to be collected on an annual basis. Total and peak demand fluctuates from year to year in response to a number of factors. Yearly analysis of demand outcomes is therefore an inappropriate benchmark against which to assess the accuracy of a DNSP's energy forecasts, and to forecast capital and operating expenditure.

ActewAGL Distribution considers that the AER should set out why it is reasonably necessary to require particular information, and how it intends to use that information. ActewAGL Distribution considers that it is not sufficient to state that information would "allow the AER to observe emerging constraints" or to "streamline and simplify the regulatory determination process". ActewAGL Distribution does not consider that these justifications constitute a demonstration that the information is reasonably necessary for the AER to carry out its functions.

Annual assessment of network planning data and emerging constraints is not appropriate in an *ex ante* regulatory framework, nor will it streamline or simplify the regulatory determination

²⁶ AER, p. 18

²⁷ AER, p. 18

process. The information necessary to address the NER expenditure objectives, including meeting or managing expected demand, would be collected as part of the regulatory proposal, not annually.

ActewAGL Distribution is not currently required to report annually on network planning and demand management opportunity assessments. The issue of appropriate public reporting on planning and demand management is currently being considered by the Ministerial Council on Energy through the network connections work stream, as well as by the AEMC in its review of demand side participation in the market. Submissions to both of these processes questioned the efficiency and efficacy of detailed and costly publishing of planning information for the purposes of identifying demand management options.

ActewAGL Distribution suggests the AER investigate this policy process to ensure that issuance of a RIO requiring annual reporting and publishing of this type of information does not circumvent or undermine the policy intent of government policy under the network planning work stream. It is also unclear as to the intended audience of the material proposed to be published and its intended purpose.

7.8 Backcasting templates

ActewAGL Distribution accepts that backcasting information must be provided as part of the regulatory proposal, given the requirements of the NER (clause S6.1.1(6) and S6.1.2(7)). However, we do not accept the AER's proposal that this information needs to be provided annually.

While the AER states that the proposed backcasting templates are "simplified versions" of the proposed capex and opex templates,²⁸ ActewAGL Distribution notes that the required categories are different from those used in its regulatory proposal. Re-classification of historical data would therefore be required in order to complete the proposed backcasting templates.

7.9 Assurance requirements

ActewAGL Distribution accepts that it is appropriate to provide an independent auditor's report on historical capital and operating expenditure and the application of the cost allocation methodology as part of the regulatory proposal. ActewAGL Distribution notes that this was submitted with its 2009-14 regulatory proposal in accordance with the RIN. However, the proposal to require detailed annual audit reports in a *pro forma* format will involve significant additional compliance costs and unreasonable regulatory and resourcing staff burdens. The AER has not established that the additional annual requirements are objectively and reasonably necessary to allow it to make its distribution determinations and monitor compliance with the determinations.

²⁸ AER, p. 22

ActewAGL Distribution also has significant concerns about the proposed directors' responsibility statement requirement. The AER says that the RIO will:

Require information provided by a DNSP to be accompanied by a directors' responsibility statement²⁹

ActewAGL Distribution believes that it is not appropriate to require a directors' responsibility statement to cover all the information provided by a DNSP on an annual basis. Efficient and effective operation of a DNSP requires that responsibilities for day-to-day operations, data and reporting be delegated to the Chief Executive Officer. It is not appropriate that Directors be required to sign-off detailed reports that relate to operational matters. It is more appropriate for that the Chief Executive Officer provide assurance that information provided is complete and accurate.

²⁹ AER, p. 6