Consumer
Challenge
Panel

CCP17

Advice to the AER on the Victorian Electricity Distributors' Revised (Final) Regulatory Proposals for the Regulatory Determination 2021-26

AER Consumer Challenge Panel – Sub-Panel CCP17

Robyn Robinson (Chair)

David Prins

Mark Henley

Mike Swanston

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Acknowledgements

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In preparing this advice, the companies gave CCP17 specific briefings and responded promptly to questions that we asked.

We also thank the AER staff for their support and guidance during this process.

Confidentiality

We wish to advise that to the best of our knowledge this advice neither presents any confidential information nor relies on confidential information for the comments.

The Consumer Challenge Panel sub-panel CCP17

The AER established the Consumer Challenge Panel (CCP) in July 2013 as part of its Better Regulation reforms. These reforms aimed to deliver an improved regulatory framework focused on the long-term interests of consumers.

The CCP assists the AER to make better regulatory determinations by providing input on issues of importance to consumers. The expert members of the CCP bring consumer perspectives to the AER to better balance the range of views considered as part of the AER's decisions.

CCP17 is a sub-panel of the AER's Consumer Challenge Panel. The AER established the sub-panel to focus specifically on the AER's regulatory determination of the five Victorian electricity distributors for 2021-2026. CCP17 has provided advice related to these determinations throughout 2018-20, which can be found on the AER website.

Acknowledgement of Country

We recognise the traditional owners of the land on which the Victorian electricity distribution businesses operate. We respect the elders of these nations, past and present along with the emerging leaders.

Executive Summary

The AER is guided by the National Energy Objective (NEO): "*to promote efficient investment in, and efficient operation and use of, energy services for the long-term interests of consumers of energy with respect to price, quality, safety, reliability and security of supply of energy"*.

On 3 December 2020, the five Victorian electricity distribution businesses, AusNet Services, CitiPower, Jemena, Powercor and United Energy each submitted Revised Regulatory Proposals for the July 2021 to June 2026 regulatory period. These proposals set out the revised position by each business to collect revenue from its customers through distribution charges from 1 July 2021 to 30 June 2026, following the release of the AER Draft Decisions in September 2020.

In this document, CCP17 provides advice to the AER on issues arising since the release of the draft decisions in September 2020, and in respect of the revised regulatory proposals for each of the Victorian electricity distribution businesses, with a particular focus on issues of importance to energy consumers.

Uncommon circumstances

This regulatory review has been like no other.

Under the shadow of the global pandemic, the *uncertainty* in forecasting energy and demand growth, consumer expectations, business conditions and the impact of government incentive schemes place the risk of even greater variations in revenue and capital investment requirements. Engagement, particularly in the final year of the regulatory reset, has been undertaken under unique and somewhat difficult circumstances.

Through this reset, the *role of consumers* has been placed under the microscope following the trial of the NewReg process with the involvement of a Customer Forum working closely with AusNet Services in establishing their proposal. The AER also employed a fundamentally top-down assessment for the draft decision, requiring consumers to consider their approach to the revenue decision for AusNet quite differently. A wide conversation on the nature and future of consumer engagement was sparked.

Consumer engagement was undertaken by the Victorian distribution companies in quite diverse ways. The AusNet Customer Forum, the Jemena Peoples Panel and the community forums of the Victorian Power Networks (CitiPower, Powercor and United Energy) highlighted the spectrum of the forms of engagement, generating discussion in regulatory and consumer circles around their efficiency, effectiveness and influence. The AER, in the draft decision, unveiled a new view of assessing the role and effectiveness of engagement in the regulatory reset process. Considering the 'breadth' and 'depth' of engagement became a focus, along with establishing proof points.

Powercor, following investigations by Energy Safe Victoria into the devastating fires in Western Victoria of 2018 have presented a proposal for a significantly increased investment in wood pole replacement, challenging consumers and regulators to take a much more active consideration of the *role of long-term asset management and the impact on the community*.

Finally, the addition of the *six-month extension* to the regulatory reset date, initiated by the Victorian Government, introduced not only the need for an interim assessment by the AER, but presented consumers with a significantly extended period of involvement with this reset, further stretching the limited resources of consumers, distributors and the regulator alike.

A review of role and objectives of consumer engagement

A large component of this advice considers the role of consumers and other stakeholders in informing and shaping the regulatory proposals. We consider the questions posed by the AER in the Draft Decisions central to the introduction of the ***Framework for considering consumer engagement***, referred to in this document as '***Table 7'***.

In so doing, we summarise some of the milestones in regulatory engagement to date, including the CCP10 '*Signals paper'* and intent of engagement expressed by the then-chair of the AER in 2017. A summary of some recent overseas initiatives, including the Council of European Energy Regulator's *2030 Vision for energy consumers* and the UK's *Sustainability First is provided*.

Against this background, we establish what CCP17 calls 'clues'; indicators from the engagement of the Victorian distribution businesses that correlate with or inform the key issues nominated in the AER engagement framework. Ultimately, when reflecting on the AER framework and the questions posed in the Draft Decisions, we propose ten key features of good engagement:

a) *The need for a clear relationship between any assessment and a broader, tangible vision, including a defined timeframe,*

b) *Recognition that various objectives can exist for engagement,*

c) *Engagement activity needs to be part of a wider engagement strategy and plan,*

d) *Qualitative as well as quantitative measures are necessary,*

e) *Engagement must demonstrably address inclusiveness and equity,*

f) *The transparency of engagement - not only doing, but being seen to do - is important,*

g) *Engagement needs to be well organised and resourced,*

h) *Good engagement builds capacity and capability; not only in that of stakeholders but also of the business itself,*

i) *Engagement must be integrated with 'business as usual', and*

j) *Engagement must be 'bi-focal' – that is, not only address medium-term plans, but also demonstrate Innovation, looking well forward and taking a strategic view.*

The impact of engagement by the Victorian electricity distributors

There were three fundamentally different approaches to engagement in this reset, and the processes continued to varying degrees beyond the draft decision to help inform the revised proposals.

AusNet Services

While the CCP17 took a more distanced role in relation to the engagement for AusNet Services, we continued to be included in much of the process. Like the other Victorian electricity distribution businesses, AusNet Services was challenged by the limited time available for in-depth consumer and stakeholder engagement between publication of the AER's Draft Decision and the deadline for submitting the revised regulatory proposal. For AusNet Services, this challenge was exacerbated by the lack of a comprehensive Consumer and Stakeholder Engagement Plan spanning the full timeline of the regulatory reset process that laid out the steps to be taken, and why.

We observed instances where stakeholder feedback has clearly influenced the revised proposal, and that influence is highlighted in the AusNet Services proposal itself. Some sectors of the community, such as culturally and linguistically diverse consumers and larger industry could have been more involved in the

engagement program. A greater level of transparency and clarity of the role of the Customer Consultative Committee would be advantageous.

Jemena Electricity

Jemena Electricity continued its approach with the expansive Peoples Panel. CCP17 was supportive of this group of 'everyday citizens', and the way Jemena supported and responded to the Panel. Through its engagement process, Jemena capitalised on the realisation that its customers are not homogenous, and that each customer type has its own set of priorities and engagement requirements.

Jemena's approach, particularly in contrast to that of AusNet Services, brought the 'breadth' and 'depth' aspects of engagement into stark reality.

The major focus of recent engagement by Jemena has been about the AER's base year Draft Determination, and members from Jemena's Peoples Panel will lodge a submission following this engagement. Our assessment is that this engagement will probably not result in a neat and definitive consumer view. We regard the engagement as being significant in the putting the key issues into the consumer discussion, yielding longer term strategic information for Jemena rather than the result that may be delivered in the shorter term.

CitiPower, Powercor and United Energy

The three Victorian Power Network distributors – CitiPower, Powercor and United Energy – continued their unified engagement process, with the Powercor proposal tending to lead the conversation. Notable in their engagement is the formation of the Consumer Advisory Panel (CAP), which has been more effective in helping the businesses respond to the Draft Decisions with their revised proposals and will be useful in maintaining effective engagement into the next regulatory period. Since its establishment, the CAP has mainly been involved in early stages of major 'icon' matters such as asset replacement and customer service fulfilment; and to date have not been given the opportunity to consider each of the revised proposals 'as a whole'. We do not see that as a significant shortcoming though, especially given the short time the CAP has been operating.

We welcome the fact that the three businesses have been open about learning from the comments on engagement in the AER's Draft Decisions and have addressed many of the issues raised by the AER. The businesses have held focused stakeholder engagement meetings since the Draft Decisions, and have consistently involved CCP17. We also welcome the setting out of 'business as usual' engagement plans, a key component in our view of effective engagement discussed in detail in the next section of this Advice.

Key matters arising from the AER's draft decisions and revised proposals

The evolution of engagement, a major issue for all stakeholders that has become prevalent in the latter stages of this Victorian regulatory reset, is discussed widely in this Advice, particularly in Section 2.

Section 3 of this Advice considers the main issues that have arisen following the AER's Draft Decisions.

Our initial observation has been the high level of acceptance by the distributors of many of the matters raised in the Draft Decisions. For example, general acceptance by the distribution companies of the AER's proposed adjustment to connection volumes early in the regulatory period, and the focus on extracting maximum benefit from the 'smart network' opportunities in Victoria to meet the rapid growth in rooftop solar PV, is commended. Similarly, the reconsideration of many of the opex step changes seen in the initial proposals will bring benefits to consumers.

Based on our consideration of the revised proposals, we consider the largest issues facing Victorian electricity distributors in the next regulatory period to be:

- Dealing with the uncertainties in growth and business conditions related to the global pandemic,

- The importance of maintaining effective engagement with consumers in these challenging times to continually gain information on consumer expectations and behaviour, and to keep customers informed should the distributors not be able to adequately deliver services in difficult times,
- (re) Establishing trust in asset management practices and the safety of network assets, particularly in western Victoria,
- Developing the technical capability, facilities and commercial arrangements (tariffs) needed to facilitate the efficient response to the growth of Distributed Energy Resources,
- Maintaining adequate insurance cover as market conditions evolve, and
- Progressing tariff reform in Victoria to meet changing energy use and demand patterns.

These challenges, considered in detail in subsequent sections of this Advice, must be considered with a continuous strong awareness of the impact of investment on the regulated asset base. Interest rates and hence return on capital will rise again at some point, with risk of significant cost increases for consumers if the current low return on capital environment leads to increased regulated asset base values.

Broader issues for the AER's consideration

Over the considerable period of this regulatory reset, several broader matters have emerged.

a) The role of engagement

The fundamental question of "*How do distributors best reflect the true expectations of their consumers?*" has come to the fore, as evidenced by the proportion of this Advice dedicated to that issue. We are pleased the AER has put a document on the table that has initiated an energetic conversation. Our view is that it is a dynamic position, and CCP17 is keen to work with the AER and the businesses to refine and develop the proposal and help put the concepts into action. This includes further development of the signals to distributors reflecting the benefit if good engagement.

b) Understanding the changing investment needs of utilities

Traditional asset augmentation to meet growing demand is in many ways becoming overshadowed by the challenges of distributed energy resources, falling asset utilisation and consumers seeking alternatives to energy from traditional energy networks. As assets age, and community risks remain in focus, the ability to reasonably *assess asset health and safety* as a benchmark indicator becomes more pressing.

c) The role of targeted detailed analysis within a broader 'top down' assessment model

The top-down assessment of AusNet Services' initial proposal highlighted that there are alternative ways to assess the prudency and efficiency of proposed expenditure. The role of the Customer Forum shows that there may be a pathway to lighter-handed regulation, relying more on gradually improving long-term trends than intensive, detailed analysis.

There is a middle ground – a framework that takes an initial approach from the top-down, considering high-level trends after removing the impact of any large abnormal events, the use of robust modelling and encouraging distributors to seek efficiencies through viewing an overall programme rather than a build-up of individual events.

That being said, there still is an important role of detailed ground-up external analysis. There are areas of investment and expenditure that remain very dynamic - such as the safety risks associated with ageing assets, the wide-ranging impacts of the growth in distributed energy resources and the service expectation of consumers in what remains a complex and changing energy landscape. In these complex areas, detailed assessment by experts remains necessary.

Such action is also a precursor to consumer confidence in the regulatory reset process, where expert analysis and consideration must not only be done, but it must also be seen to be done.

a) A shift in the sharing of risk

Of note in the proposals is the trend to nominated pass-throughs, new opex steps and relatively minor capital investments. We see this development emerging from the commercial pressures from shareholders to maximise returns in this low rate-of-return environment, and to share the risk of the uncertainty of government intervention. In this Advice, we highlight the importance of this action not being asymmetric and passing risks inappropriately to customers.

d) Refining the role of efficiency schemes

A recurring theme in recent advice from various CCP teams has been the need to review and reform the role of efficiency schemes, predominantly EBSS and CESS, in regulatory determinations. We remain strong supporters of the part efficiency schemes play in the regulatory framework. However, there are cases where utilities have been rewarded for actions that would not be considered by consumers as reflecting true efficiency developments.

Also, some investments have the opportunity for 'double dipping' – improving the performance of the distributors while the costs of such action are passed to consumers.

We support the AER's commitment to review the nature and role of efficiency schemes.

1 A comprehensive review of consumer and stakeholder engagement

In the Draft Decisions for the Victorian Electricity Distribution Revenue Proposals, the AER highlighted that proposals which have been developed with the informed influence of consumers, where their preferences can be clearly seen as being meaningfully considered in the proposal, are more likely to be in the long-term interests of consumers than otherwise.

Taking this into account, the AER outlined their view of the elements that represent a range of considerations that can clearly demonstrate whether consumers have been genuinely engaged in the development of the proposals. This is summarised in 'Table 7' of the Draft Determinations.

In this section we first consider the approach that the AER has taken, using the term *'table 7'* as shorthand to include the thinking behind the components of the table and its practical implications. In responding we provide a version of some of the history leading to the current context, some overseas experience and our own perspective.

CCP17 consider that there are three key questions that are central to this table; we present them as:

- What is effective consumer engagement for energy network (natural monopoly) businesses?
- How is consumer engagement assessed, particularly by an (economic) regulator?
- What roles should a regulator play in encouraging continuous improvement in consumer engagement?

The Consumer Challenge Panel, as well as other stakeholders, is interested in these questions and how they are applied using the approach summarised in 'table 7'. We also note the AER comment "These elements are intended to show how our thinking has evolved since our 2013 Consumer Engagement Guideline but are not intended to provide a fixed view. Our framework will continue to evolve as distributors' models of consumer engagement mature over time."

Our comments in this section of our Advice are intended to inform this evolution.

1.1 AER Engagement Assessment table

In each of the Draft Decisions for the Victorian distribution businesses, the AER made the following statement about consumer engagement, and in particular about the approach that they have taken in assessing the impact of consumer engagement on a regulatory proposal.

> *"… we believe that proposals which have been developed with the influence of consumers, and their preferences, are more likely to be in the long-term interests of consumers than those which have not. Taking this into account, the elements outlined in Table 7 represent a range of considerations that we think can clearly demonstrate whether consumers have been genuinely engaged in the development of the proposals."*

Element	Examples of how this could be assessed
Nature of engagement	• Consumers partner in forming the proposal rather than asked for feedback on distributor's proposal • Relevant skills and experience of the consumers, representatives, and advocates • Consumers provided with impartial support to engage with energy sector issues • Sincerity of engagement with consumers • Independence of consumers and their funding • Multiple channels used to engage with a range of consumers across a distributor's consumer base
Breadth and depth	• Clear identification of topics for engagement and how these will feed into the regulatory proposal • Consumers consulted on broad range of topics • Consumers able to influence topics for engagement • Consumers encouraged to test the assumptions and strategies underpinning the proposal • Consumers were able to access and resource independent research and engagement
Clearly evidenced impact	• Proposal clearly tied to expressed views of consumers • High level of business engagement, e.g. consumers given access to the distributor's CEO and/or board • Distributors responding to consumer views rather than just recording them • Impact of engagement can be clearly identified • Submissions on proposal show consumers feel the impact is consistent with their expectations

Proof point	• Reasonable opex and capex allowances proposed
	  ○ In line with, or lower than, historical expenditure
	  ○ In line with, or lower than, our top down analysis of appropriate expenditure
	  ○ If not in line with top down, can be explained through bottom up category analysis

Table 1: Assessment of Consumer Engagement (AER 'Table 7')

1.2 How did we get here?

The following is a brief summary of some of the key developments from the last 4-5 years that we suggest have led to current considerations by the AER Board.

We also observe that a greater emphasis on consumer needs and interests has been building from 2012 when various political and regulatory processes led the AER to establish the CCP, and the Customer Consultative Group, and to develop a consumer engagement guideline. We are also acutely aware of the frustration for consumers and the regulator that resulted from a regular use of limited merits review

appeals by network businesses to challenge regulator decisions, adding considerable cost burden to consumers. We commence this brief recap of recent history with the Limited Merits Review.

Limited Merits Review

The legislation summary from the APH website states:[1]

Date introduced:	10 August 2017
House:	House of Representatives
Portfolio:	Environment and Energy
Commencement:	The day after Royal Assent.

Purpose of the Bill:

"The purpose of the Bill is to amend the *Competition and Consumer Act 2010* (the *CCA*) to provide that certain decisions made by the Australian Energy Regulator (AER) are no longer subject to merits review by the Australian Competition Tribunal or any state or territory body. The Government considers that this will reduce pressure on electricity prices."

The removal from the regulatory process of easy access to Limited Merits Review has required energy network businesses to amend their approach to regulatory processes, and particularly to significantly upgrade their consumer engagement and responsiveness.

CCP10 "Signals paper"

This paper was prepared by CCP10 in August 2017, when considering the Framework and Approach (F&A) for NSW and ACT electricity distribution business regulation 2019-24. It states that:

"*CCP10 considers that all parties should be seeking an end goal of ensuring:*

1. regulatory proposals lodged by network businesses where there are "no surprises" for stakeholders, including consumers, and

2. processes for the development, submission and review of proposals are transparent, provide stakeholders with the opportunity to participate, and ensure that the views expressed are considered.

This can be achieved through consultation that achieves agreement wherever possible. (Note that "no surprises" does not mean agreement, nor is consensus assumed, though it is desired.) The proposed end goal is that regulatory proposals lodged by network businesses contain no surprises for stakeholders, including consumers, by applying transparent and informed processes that are not appealed (recognising that removal of Limited Merits Review contributes to this); this being achieved through consultation that achieves agreement wherever possible.

We suggest that the AER can provide a range of 'signals' to network businesses about many aspects of consumer engagement to enhance certainty for NSP's in developing "no surprises" regulatory proposals. We have identified a list of potential 'signals' for consideration by the AER Board. In considering these signals we recognise that some potential actions are in progress now or can happen in the short term (ST), while other potential actions are longer terms options (LT).

We have also identified 4 areas of potential benefit for network businesses, being:

1. *Reputation, including being seen to be 'decent' members of society, with a social license to operate,*
2. *Efficient use of their resources, saving money and time,*
3. *Efficiency in the complex and resource- heavy regulatory process, and*

[1] https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/bd/bd1718a/18bd025

4. *Increased financial return.*

Through the AER providing appropriate 'signals' to network businesses about expectations and benefits of consumer engagement, there is greater certainty in process for network businesses, which will lead to reduced transaction costs associated with regulatory proposal development and application with benefits shared between customers and network business shareholders."

CCP10 recommended that the AER include a 'signals' statement in future Framework and Approach documents to encourage high calibre consumer engagement. "Framework and Approach statements signalling such engagement should also be produced for gas network Access Arrangements. There will also need to be recognition of the business context in which the engagement process is occurring."

We suggest that the AER could take the "Statement of Expectations" approach that has been applied to COVID during 2020 to develop a "Statement of Expectations" about consumer engagement. This would be principles based, rather than being prescriptive.

AER Chair Paula Conboy, ENA Conference, Brisbane 2017 [2]

At the 2017 Energy Networks Association conference, AER Chair, Paula Conboy made the following directional comments.

> *"We want to engage with you and with consumers earlier in the process. We want to identify key points of disagreement early and we want to work collaboratively to resolve them. In my experience, the sooner you can all agree on the issues of a proposal, the areas of contention, the easier it is to resolve them.*
>
> *It is a new way; and in a post Limited Merits review world; I would suggest it is the only way. So there are a number of things that need to change, and I want to spend some time on that now.*
>
> *First: Our new funding model is not simply about upsizing the organisation but about changing the way we operate.*
>
> *This is the single most significant change in scale since the inception of the AER and will require careful planning, time and close consultation.*
>
> *We are essentially kicking off AER 2.0".*

We observe that this statement from the Chair of the AER, specifically to energy network businesses, summarises a significant attitudinal change and clearly emphasises the importance of engagement both between networks and their customers, and between networks and the AER. The statement provides a strong signal about the centrality of engagement, a perspective that continues.

Consumer Engagement Awards

The establishment of an annual consumer engagement award for Australian energy network businesses has also been a useful focus to promote high-quality consumer engagement. The award was first presented in 2017, with four businesses now having achieved the award: ElectraNet, Essential Energy, Jemena and Australian Gas Networks. Each of these businesses has been recognised for undertaking a range of engagement activities and for demonstrably implementing much of the advice provided by customers. The active involvement of CEOs and Board members has been a significant aspect of various strategies that have been recognised.

[2] https://www.aer.gov.au/news/working-together-to-restore-confidence-in-energy-regulation

Gill Owen Lecture, 7th February 2018

Delivered by Sharon Darcy from Sustain *ability* in the UK, with a focus on consumer engagement and particularly the UK experience, current at that time. In recognising the contribution to energy policy of the late Dr Gill Owen (a CCP colleague), this lecture provided insight and stimulus in thinking about consumer engagement practice and challenges in Australia.

NewReg

NewReg was established by ENA, ECA and the AER to trial 'a new approach' to consumer engagement. The approach paper from March 2018[3] includes:

"The Proposed Approach: The Directions Paper sets out the process for an alternative regulatory approach that we wish to trial. The process has been developed using experiences in international approaches. It seeks to materially augment and complement networks' existing reset and business-as-usual engagement activities, not replace these. The project expects a scale shift in the extent and magnitude of engagement activities. The Design of the Process: The overarching principle in the design of the process is the opportunity for a network to reach agreement with its consumers on its revenue proposal resulting in a regulatory proposal that reflects consumer preferences."

CCP17 Observations

We have provided this brief summary of aspects of the development of consumer engagement strategies in Australia over the last half decade to highlight that the publishing of 'table 7' to reflect AER thinking, particularly about assessing good quality consumer engagement, is the most recent stage of an evolving process that has had prominence particularly over the last 4 to 5 years. This brief history also highlights that energy network businesses have responded relatively rapidly to increase their consumer engagement understanding, expertise and practice and have been prepared to trial a diversity of engagement methodologies to respond to different settings and different challenges. This is evidenced by our observations in response to initial proposals for Victorian distribution businesses, that each business had undertaken high-quality engagement.

There is also value in recognising that the AER has provided sound leadership in promoting, encouraging and recognising effective consumer engagement as being central to achieving the best outcomes for customers of energy services.

1.3 Some overseas observations

European Commission[4] - Strengthening consumer resilience for sustainable recovery

The European Commission released a statement about strengthening consumer resilience for a sustainable recovery on 13th November 2020. Their new consumer agenda states:

"New Consumer Agenda -Strengthening consumer resilience for sustainable recovery"

Introduction:

European consumers rightly expect to benefit fully from the single market and to be empowered to make informed choices and play an active role in the green and digital transition whenever and wherever they

[3] https://www.aer.gov.au/system/files/NewReg%20Approach%20Paper%20-%20Towards%20Consumer-Centric%20Energy%20Network%20Regulation%20-%20March%202018.pdf
[4] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020DC0696

are in the EU. They expect to have free access to goods and services across the EU and reassurance that their rights as consumers are protected, notwithstanding traditional and emerging challenges.

The New Consumer Agenda ('the Agenda') presents a vision for EU consumer policy from 2020 to 2025, building on the 2012 Consumer Agenda (which expires in 2020) and the 2018 New Deal for Consumers. It also aims to address consumers' immediate needs in the face of the ongoing COVID-19 pandemic and to increase their resilience. The pandemic has raised significant challenges affecting the daily lives of consumers, in particular in relation to the availability and accessibility of products and services, as well as travel within, and to and from the EU.

The Agenda covers five key priority areas:

1. *The green transition,*
2. *The digital transformation,*
3. *Redress and enforcement of consumer rights,*
4. *Specific needs of certain consumer groups; and*
5. *International cooperation."*

CEER – BEUC 2030 Vision for energy consumers

A collaboration of the Council of European Energy Regulators (CEER) and the European Consumer organisation, BEUC (acronym is French, hence the apparent nonalignment of name and English description) has produced a "long term energy transition for sustainability and climate neutrality: Affordability, Simplicity, Protection, Inclusiveness, Reliability and Empowerment."

These six elements of the 2030 vision for energy customers are summarised by the acronym ASPIRE.

The vision's partners explain: "looking ahead to 2030 and the EU's 2050 sustainability and climate utility objectives, we envision a future where effective policies and frameworks ensure that consumer rights are promoted and protected while delivering these objectives.

Our 2030 vision for energy consumers includes our newest principle, inclusiveness, to ensure no one is left behind in the energy transition. The renewal and expansion of our core principles are driven by the deep transformation of our society and economy towards a decarbonised sustainable future."

Further detail about the six elements of ASPIRE are listed in Appendix 2: CEER - BEUC 2030 plan.

The CEER – BUEC vision provides a useful perspective in response to the question we have posed "What is effective consumer engagement for energy network (natural monopoly) businesses?" This vision provides some purpose, and consequently focus, for consumer engagement and goes a long way in providing detail about what "putting the customer at the centre" means, at a higher level, for network businesses as well as regulators, in the case of CEER members.

This notion of a shared vision between the regulators and consumer groups about what consumers want, has merit for the Australian context with the "ASPIRE" elements also being a potentially useful starting point for discussion in Australia.

In considering the role of the regulator in encouraging and assessing effective consumer engagement, the CEER – BEUC vision includes the following roles:

- CEER, representing its regulator members, has played a leadership role in partnering to develop a vision for energy consumers.
- as part of the affordability element, the vision includes "distributional impact assessment", whereby policy makers regularly conduct a distributional impact assessment of plan policies on consumers to ensure that measures considered (decarbonisation in this instance) do not put an

unreasonable extra burden on certain customer groups, particularly those in vulnerable situations. In the Australian context, the AER could conduct distributional impact assessments - or similar- of key matters under their regulatory oversight.

- The inclusiveness element requires that "public authorities should promote cross sectoral dialogue with key stakeholders to discuss the best policy solutions for vulnerable customers". This is a role the AER could also undertake.
- The reliability element includes a focus of "trust." Regulators in general, and the AER in particular for Australian energy customers, have a crucial role in ensuring that processes, policies and systems are all applied in a manner that builds trust of consumers in the market, individual businesses, regulators and dispute resolution processes. The role of the AER in overseeing regulatory processes that are trustworthy cannot be underestimated.

Sustainability first

The UK-based organisation Sustainability *first* describes itself as: "we are an environment think tank rooted in experience, with a clear commitment to promoting long-term sustainability through practical thought leadership. We work on sustainability policy and practice for energy and water supply management." CCP17 considers Sustainability *first* to be an important thought leader, particularly with the strong perspective on consumer-focused engagement for policy and regulatory approaches.

An important project of Sustainability *first* has been the NEW-Pin[5] (New Energy and Water Public Interest Network) project which recently released their final report from about five years of activity. The Sustainability *first* website says that: "New-Pin was set up to help tackle the tension that can exist between short and long run interests in the energy and water sectors and to develop a more democratic, inclusive and coherent approach to change".

In this Advice, we draw on aspects of the final report of the New-Pin project and also recap some comments made by Sustainability *first* director, Sharon Darcy, who delivered the first Gill Owen Memorial lecture in February 2018.

Sustainability *first* defines engagement as follows:

> *"engagement of consumers, citizens and stakeholders covers a wide range of activities, including direct engagement of 'real' people in their individual capacities, consumer research (including through individual behavioural experiments); minimal 'listening exercises'; engagement of representatives and experts in full collaboration between different parties."*

The purpose of engagement they describe as: "decision-makers (at every level) need to set clear objectives for any engagement exercise. New-Pin proposes three overarching objectives for consumer, citizen and stakeholder engagement in long-term issues in energy and water sectors:

- consumer outcomes (efficient value for money services)
- cultural (to alter behaviour and culture in sectors and with consumers) and
- legitimacy (shaping service levels or packages and helping to ensure decisions are seen as legitimate / acceptable,)"

New-Pin then summarises the overarching objectives for engagement as follows:

[5] https://www.sustainabilityfirst.org.uk/images/publications/new-pin/New-Pin%20Looking%20to%20the%20long%20term%20FINAL%20report.pdf

Figure 1: Objectives for Engagement (source: Sustainability First)

CCP17 considers this diagram to be helpful in identifying the purpose for engagement that flows from various types of engagement with customers; episodic, embedded and deliberative/collaborative. We think that this Sustainability *first* framework provides a useful overlay to the AER's table 7, particularly by recognising the different objectives that engagement activities can legitimately have.

NEW-Pin Final Report

The New-Pin Final Report was released in November 2020 and identified eight public interest agendas under two broader headings, with suggested levers for change for each of the eight agendas. The various levers for change mainly relate to New-Pin project frameworks and approaches and are available on their website. The eight public interest agendas are:

a) Tackling the "hard" public interest topics in energy and water

1. Public interest agenda 1: long run affordability
2. Public interest agenda 2: long run resilience
3. Public interest agenda 3: trust and confidence

b) Delivering public interest outcomes for energy and water

4. public interest agenda 4: market led approaches to public interest outcomes,
5. public interest agenda 5: innovation, regulation and government interventions for public interest outcomes,
6. public interest agenda 6: purposeful engagement and understanding the public interest,
7. public interest agenda 7: Board, governance and public interest outcomes, and
8. Public interest agenda 8: planning for future services with a focus on public interest outcomes

The following extract (Figure 2) is taken from the New-Pin Final Report's consideration of agenda 6, which is about effective consumer engagement.

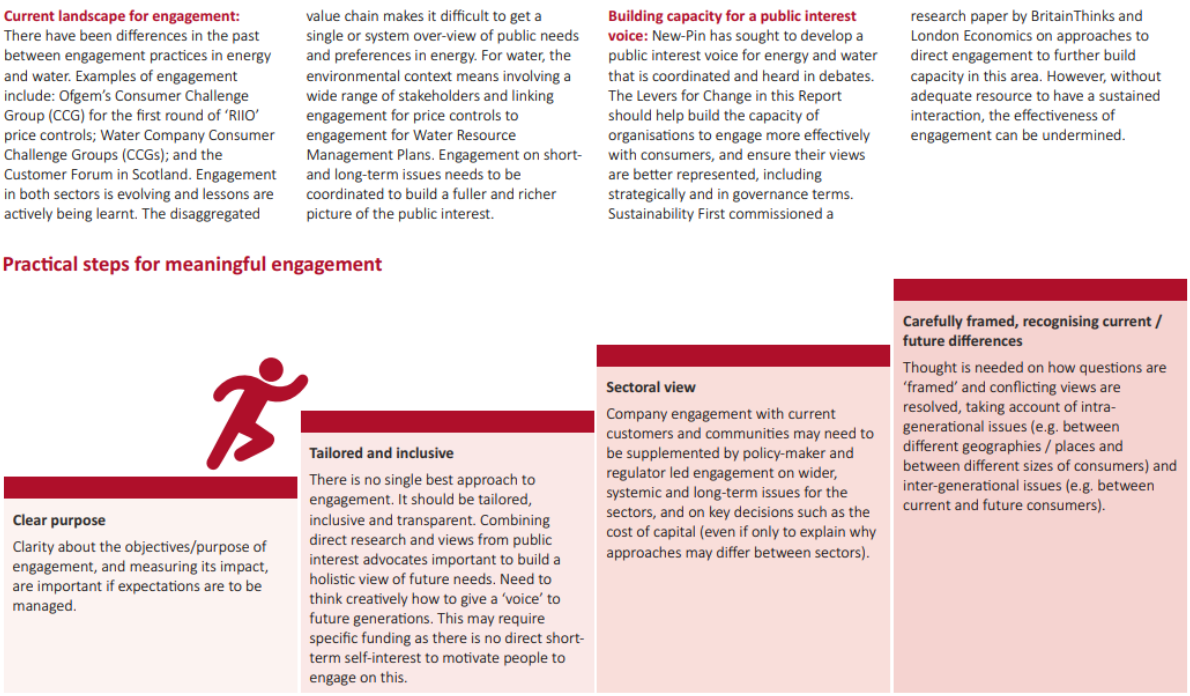

Figure 2: Aspects of effective consumer engagement (source: NEW-Pin final report)

Following on from these practical steps, New-Pin has created a decision-making framework which is relevant for energy businesses regulators, consumer groups and policymakers, for use when designing engagement approaches for longer term consumer benefit. They say that this framework builds on work previously undertaken by the UK regulators network that produced principles for effective engagement as well as similar work by the UK water regulator, Ofwat.

New-Pin Decision Making Framework for Effective Engagement

Objectives

1. Why do you want to engage? What is the objective of the engagement exercise?
2. Who owns the decision and the engagement process?
3. What are the policy, regulatory and company 'red lines' that you should or shouldn't engage on, and are these clear?

Inclusive

4. How will you ensure that the people that you want to engage a sufficiently representative?
5. What barriers to engagement to those who seek to involve face and what measures have you put in place to help overcome these?

Tailored

6. When is the right time to engage?
7. What are the most appropriate / proportionate engagement approaches for the circumstances?
8. What are the roles, responsibilities and reporting arrangements for the engagement process?
9. How are you ensuring that those who seek to engage have adequate and timely access to information? Is it clear how this is best provided, and they are resourced to analyse it?
10. What arrangements are in place between those engaged and those who do the engaging, and between those engaged and wider stakeholders, to build understanding and legitimacy?

Developing

11. Is there agreement on how the impact of engagement will be assessed and who will do this?
12. What arrangements are in place to embed and refresh engagement as appropriate, following this exercise?
13. What have those undertaking the engagement done to take any wider findings from this exercise into the organisation's policies and procedures?

Further questions and prompts related to each of the 8 elements of this framework from the New-Pin Final Report are provided in appendix 2.

Practical Steps for Government and Regulators

We also note the practical steps for government and regulators that are copied from the report in response to the public interest agenda 5: innovation, regulation and government interventions for public interest outcomes. We think that this information is also helpful.

Sustainability *first* commissioned research by "Britain Thinks" and "London School of Economics"[6] with the objectives and intended audience being: "The purpose of this paper is to provide an independent and objective high-level overview about different research approaches relevant to uncovering the long run public interest in the water and energy sectors, and which can be of practical use to decision-makers."

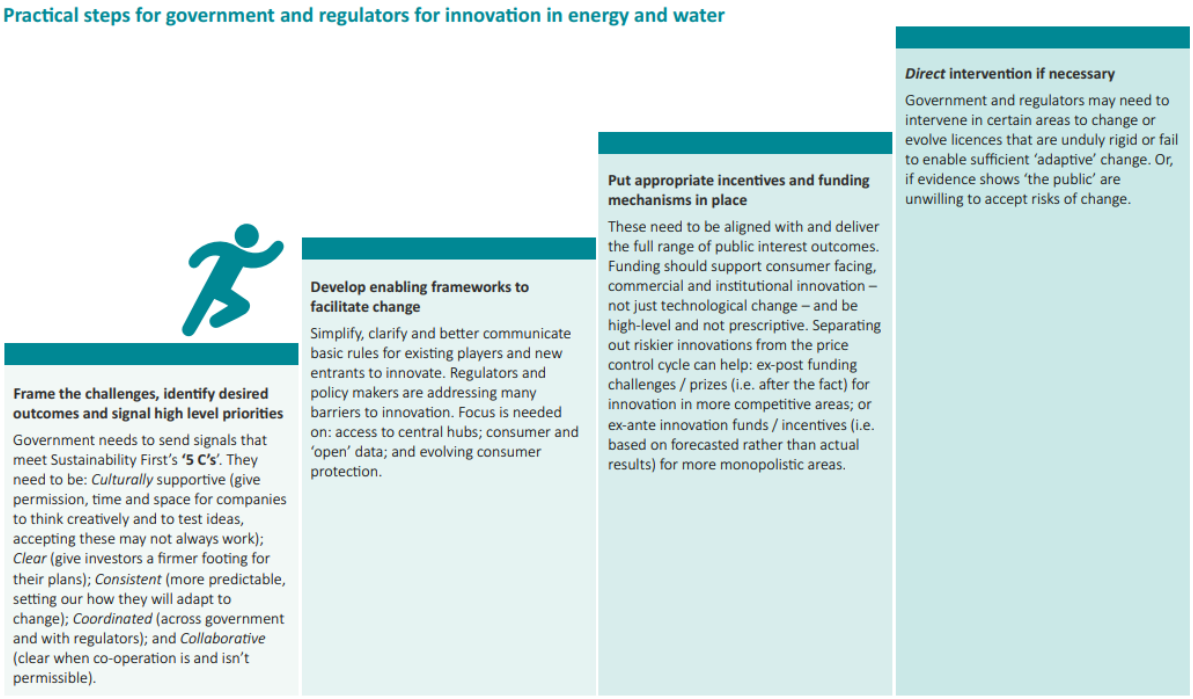

Figure 3: Practical steps for innovation in energy regulation (source: NEW-Pin final report)

Summary of Approaches

The report included the following:

"Summary of approaches:

[6] http://www.sustainabilityfirst.org.uk/images/publications/new-pin/New-Pin_-_Research_Approaches_for_Stakeholder_Engagement_-_Overview_-_Britain_Thinks_and_London_Economics_-_FINAL_-_November_2016.pdf

The research approaches set out in this paper share the following relevant characteristics:

They involve direct interaction with customers, for example via surveys or workshops (except in the case of some revealed preference techniques which look at customer data)

They provide practitioners with the opportunity to explore long term and / or complex issues

Use of such research methodologies can enable organisations to build a thorough understanding of customer views and attitudes around long-term or complex issues in order to bring the public perspective into business decision making.

They split broadly into quantitative approaches (Stated Preference and Revealed Preference techniques that reveal values and Behavioural Experiments which test responses) and qualitative approaches (Deliberative Research and Qualitative Panels that can demonstrate the principles driving thinking). At the highest level, and as a general rule of thumb, quantitative approaches will provide organisations with robust findings which are statistically significant and therefore representative of a population as a whole (and / or selected subsets of a population).

Their findings offer quantified data that can be scalable and from which wider inferences can be made. Such quantification can be used to make comparisons and to feed into Cost Benefit Analysis (e.g., Stated Preference) and to design customer programmes and policy interventions (e.g., Behavioural Experiments).

Qualitative approaches can provide an in-depth exploration of views and a more considered input on a particular issue. Such approaches can give insights into why people think the way they do and how individuals or groups might approach complex trade-offs.

While this report offers a broad outline of each approach, it is important to note that no single approach works in isolation to provide a full 'solution-set' to issues with the levels of complexity likely to be explored. Rather, the ideal would be to use a range of different techniques and build up a fuller and more robust picture of stakeholder and customer opinion. For example:

- Qualitative approaches can be used to inform the design of quantitative surveys (e.g., to identify outcomes to test in choice modelling exercises or to ensure the 'right' language is used).
- Quantitative approaches can explore the prevalence of views identified in qualitative studies or identify differences between demographic groups.
- Qualitative research can additionally be used to explore and flesh out quantitative findings in more detail (e.g., to understand drivers behind unexpected results or to better understand a particular demographic perspective).

Use of a range of techniques can help build a richer and more flexible picture of the public interest. This can also be adapted to take local views into account. However, the downside is that this can then lead to a more fragmented picture, which could make comparisons between different organisations harder. Ultimately, the most appropriate research approach or combination of techniques depends on an organisation's objectives. The following questions may be a useful guide for public interest advocates involved in considering which research methodology to select when considering how to better understand long-term and complex trade-offs:

- What is the overall purpose of the research (e.g., hard data on customer preferences; understanding trade-offs made by the public; the perspective of local communities etc.)?
- What budget and time are available? Have you considered a mix of different research techniques to obtain the insights you seek and / or the order in which to do this?
- For different research techniques, how informed do the public need to be about an issue, to be consulted on it? There are pros and cons of informing consumers at the start of a research activity

(it can increase understanding and motivate respondents to take part but, on the downside, may shade / influence their input).

- What are the potential biases to be aware of? (e.g., 'present' bias, 'optimism' bias, 'framing' bias etc.) How can the research agency structure the research to avoid these?
- Is the number of choices / variables being explored practical? For example, from both the point of view of the engaged public (too many may be confusing); and for those carrying out and using the research?
- With which audience do you need to engage? (e.g., 'mainstream' customers vs business; hard-to-reach customers). How can you reassure that the sample is representative/appropriate? What research has already been conducted in this area? Is it comparable?
- What research are others currently commissioning? How will this build on / complement that?
- How / will the research be piloted?
- Who will 'own' the research? How will its findings be expressed / made public?"

The table below summarises the research approaches, the types of situations they might be used for, and the outcomes that might reasonably be expected from adopting them.

Research Approach	Outcomes / what it can provide	Summary	Also known as / includes	Best for		Other points to note
				Robust data	Deep insight	
Stated preference	Valuation of goods and services that have no market price; indication of relative values attached to different attributes	Quantitative surveys that ask people to determine the value to them of a good / service	Contingent Valuation; Choice Modelling / Choice Experiments; Willingness to Pay (WTP) / Willingness to Accept (WTA)	✓		Water companies were required to conduct stated preference surveys with customers as part of the 2014 Ofwat price review process to establish willingness to pay
Revealed preference	Valuation of goods and services that are part of a market but not directly bought and sold	Quantitative techniques that look at people's behaviour to estimate the value of 'non-market' goods / services	Travel Cost method; Hedonic Pricing	✓		
Behavioural experiments	Indication of how public will behave	Quantitative techniques which compare how different interventions affect behaviour and allows testing of customer responses	Sits within Behavioural Economics	✓		Often used in conjunction with qualitative focus groups and quantitative surveys including stated preference
Deliberative	In-depth exploration of public views on an issue	Qualitative face-to-face workshops in which people are provided with sufficient time and information to come to informed decision about an issue	Citizens' juries		✓	
Qualitative panels	In-depth exploration of public views on an issue and changes over time	On-going qualitative research with same group of participants	Reconvened groups		✓	

Table 2: Research approaches (source: Sustainability first)

We consider this work by Sustainability *first,* including the commissioned report from Britain Thinks and London School of Economics as being germane to current considerations in Australia regarding effective engagement and assessment by the regulator of the effectiveness of engagement.

Sustainability *first* applies a heavy weight to clarity about the objectives of any engagement activity, which we agree is crucial in determining whether an engagement activity or process is fit for the purpose for which it was intended. They also recognise that there is a plurality of objectives for engagement, which can all have legitimacy.

There is clarion recognition that effective engagement utilises different methodologies for different purposes, an important concept that the Australian energy regulator has also recognised.

Perhaps this is frustrating to regulators that generally prefer effectiveness measures that have the elegance of an unambiguous quantitative measure to determine effectiveness, (or not) when assessing the effectiveness of consumer engagement.

The report recognises the importance of good qualitative evidence / measures as well. The *Britain Thinks/LSE* table above appropriately recognises that different engagement methodologies (research approaches) deliver either robust data or deep insight; no methodology delivers both. Yet the Sustainability *first* analysis is crystal clear that both robust data and deep insight are crucial in meaningful outcomes; we concur.

Gill Owen Lecture 7th February 2018[7], presented by Sharon Darcy.

Dr Gill Owen was a CCP colleague and highly respected international academic whose work focused on consumer outcomes, particularly for vulnerable customers. To honour Gill's contribution a lecture was held in her honour in February 2018 and presented by Sharon Darcy from Sustainability *first.*

Sharon's lecture was titled "*Putting customer, future customer and wider stakeholder interests at the heart of company and regulatory decision-making - beyond window dressing*", with her perspective being from UK energy markets.

The lecture included the overview of public engagement, reproduced in Figure 4.

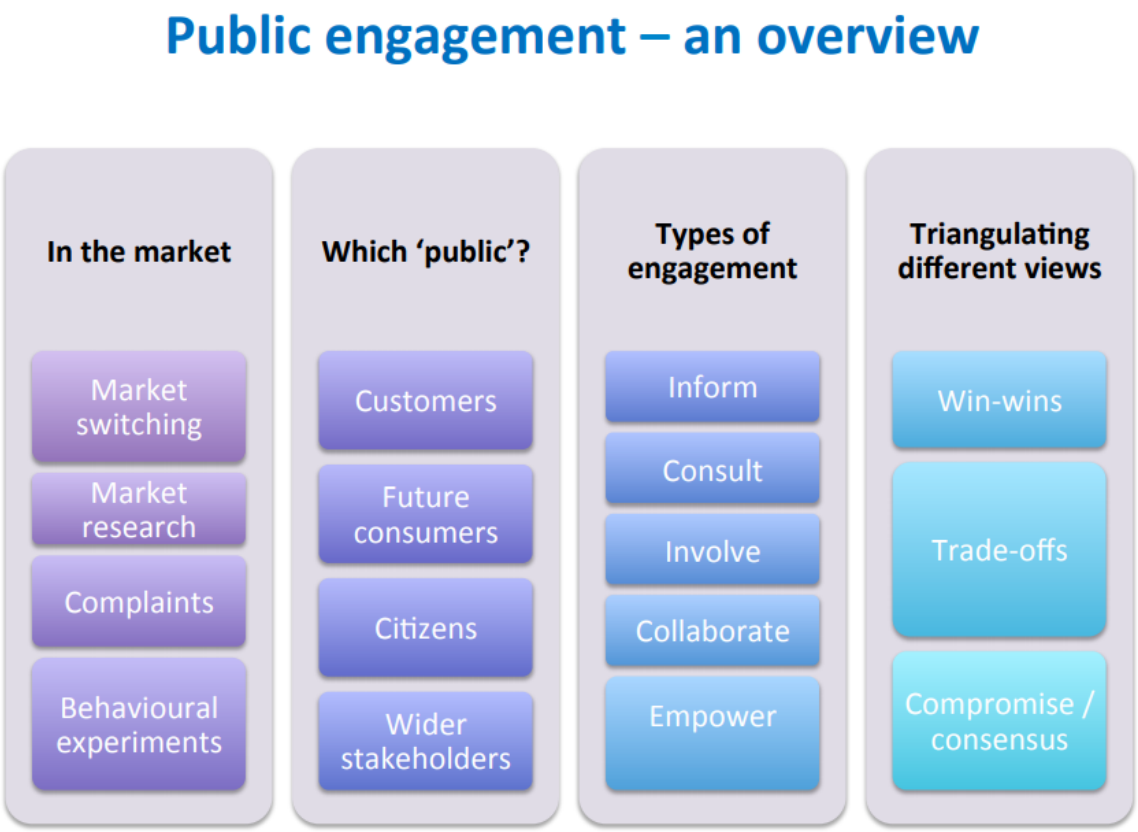

Figure 4: Public engagement (Source: Gill Owen Lecture, 2018, Sharon Darcy from Sustainability first)

CCP17 Observations

[7] https://www.aer.gov.au/system/files/Sharon%20Darcy%20-%20Sustainability%20First%20presentation%20-%20Gill%20Owen%20Memorial%20Lecture%20-%207%20February%202017.pdf

The overview is particularly in useful in identifying various audiences ('public') for engagement and for the different classes of outcomes (Triangulating different views). Sharon also included the chart as part of a discussion about the Sustainability *first* New-Pin Final Report.

The outstanding lecture was concluded with the following observations:

- Under intense political pressure, energy companies in the UK are starting to listen to their customers and work with them to deliver the energy transition.
- There is still a long way to go.
- Companies have a major opportunity to seize the day and get better at engaging with their customers, consumers and wider stakeholders.
- If they do not do this, they will be left behind in the new smart world of active demand and increasing calls for more participatory decision making.
- In the absence of a more collaborative approach, they may even face failure.
- Embedding public engagement in the business is crucial to manage risks in this area.
- Australia can learn from the UK example but 'lift and shift' approaches to engagement are unlikely to work.
- Engagement needs to have a clear purpose and reflect the context within which it is being introduced.
- Boards need to lead, and engagement needs to go through the organisation – like a *golden thread."*

While this Gill Owen lecture was presented nearly 3 years ago, the focus on customer engagement at the time of energy transition is even more germane in a COVID / post COVID context and we suggest that the last three dot points remain particularly relevant to the considerations that we have summarised as 'table 7' elements.

The observation that Australia can learn from UK but that 'lift and shift' approaches are unlikely to be effective, is a useful reminder that the best consumer engagement approaches are designed specifically for the context and challenges of the time. So, simply replicating approaches used elsewhere is unlikely to be effective. This includes temptations to replicate methodologies that have been effective for a particular Australian network business at a particular time and context.

The observation that engagement needs to have clear purpose and reflect context has been strongly made in the New-Pin Final Report and was clearly a strong learning for Sustainability *first* some time ago, a learning that has currency in Australia.

The final clear message from the lecture was the importance of Boards leading with engagement being "the golden thread" that links all elements of an organisation. We suggest that some network businesses in Australia have not demonstrated visible Board support for their engagement, however the more successful businesses have.

The presentation of Jemena's People Panel recommendations to a Board member is a recent example of Board leadership and visibility. This being recognised as an assessment measure in 'table 7' is reinforced. We also suggest that the role of 'Boards leading' applies to regulators, including the AER, with their leadership that has been provided around consumer engagement very constructive to date and needing to continue.

1.4 Application of the AER draft framework as observed in the Draft Decisions

Recognising that 'table 7' is the most recent consideration of aspects of consumer engagement, by the AER, this section considers the four elements of 'table 7' against the commentary from the five Victorian electricity distribution Draft Decisions.

We identify 'clues' about the application of the AER's assessment of consumer engagement with respect to the four elements, these being:

1. nature of engagement,
2. breadth and depth,
3. clearly evidenced impact, and
4. proof point.

This then leads to some observations regarding future application and development of 'table 7'.

Nature of engagement

In considering the AusNet Services engagement approach, the AER said:

> *"Overall we consider that AusNet Services' consumer engagement was genuine, independent and consumer focused. We have not undertaken a formal audit against the IAP2 spectrum. However, from the information provided it would appear that AusNet's proposal is broadly consistent with the collaborate or empower end of the spectrum."*

In response to Jemena's engagement, the AER said:

> *"Overall, we consider that Jemena's consumer engagement was genuine and collaborative. From the outset, in the development of its regulatory proposal, Jemena has strived to operate at the "collaborate" level of engagement in the IAP2 spectrum."*

Clue	Effective engagement needs to be "genuine, independent and consumer focussed"
Clue	Engagement should include at least some elements that are at the 'collaborate' and 'empower' end of the IAP2 spectrum of public participation

Breadth and depth

The AER made the following statement regarding the CPU engagement: "Consumers were clearly consulted on a broad range of topics. However, this was often at a high level with the issues and agendas guided by the distributor's staff. While we appreciate the use of Woolcott Research to support the distributor's engagement, we are not aware of independent resources being made available to consumers to assist in supporting their decision making and engagement."

Regarding AusNet Services and the NewReg approach, the AER said:

> *"Overall, we consider that AusNet Services' consumer engagement was appropriately broad and went into detail where necessary."*

While in considering Jemena, the AER said:

> *"Overall, we consider that Jemena's consumer engagement was broad, covering a range of topics across a diverse customer cohort. We consider the depth of engagement a challenge for Jemena, particularly in relation to the People's Panel. While the People's Panel covered a broad range of*

topics, Jemena faced the challenge of building the capacity of everyday citizens to be able to engage in the complex topics Jemena wanted feedback on."

Clue	Consumers should have access to independent resources to enable their assessment / consideration of a distributor's regulatory proposal
Clue	Engagement needs to occur at appropriate levels of detail, not just being "high level"
Clue	Topics for engagement need to be set with consumers

Clearly evidenced impact

The AER made the following statement regarding the CPU engagement:

> *"We recognise the work that has gone into shaping the engagement process. However, we have been unable to clearly identify the elements of the proposal that were shaped by consumer preferences. This has lessened the weight which the AER has been able to give to the consumer engagement process in this draft determination. Although we believe there are still many opportunities for the revised proposals to outline and clarify how this engagement specifically shaped elements of their proposals."*

Regarding AusNet Services, the AER said:

> *"… we believe that overall, the Customer Forum has assisted in focussing AusNet Services' attention on the priorities of consumers, which has had a positive impact on the development of its regulatory proposal. This has resulted in a demonstrated cultural shift in AusNet Services' approach to developing its regulatory proposals and putting customers at the heart of its decision making.*

For Jemena's engagement the AER concluded:

> *"We find that Jemena's consumer engagement has set out with purpose and intent to ensure that the views of consumers were included in the development of its regulatory proposal. Jemena achieved this using a range of engagement strategies and a willingness to try new approaches in order to involve the full diversity of customer segments, from low-income households through to large customers and energy retailers."*
>
> *"Further, as observed by CCP17, Jemena has been innovative and attempted to make to make engagement 'fun' which is a challenge in the energy space. We agree with CCP17's overall assessment, that Jemena's claim to be operating at or near the IAP2 level of 'collaborate' is "real in practice as well as aspiration".*

Clue	Clear evidence needed to demonstrate how engagement with consumers / stakeholders has influenced proposals, particularly where there is an increase in expenditure.
Clue	"Cultural shift" within the regulated business is an important outcome of consumer engagement.

Proof point

The AER made the following statement regarding the United Energy engagement:

"United Energy is proposing materially increased expenditure. As outlined in sections 2.4 (capex) and 2.5 (opex) we do not consider United Energy provided enough evidence that increasing allowances above the historical level would be in the long-term interest of consumers. The outcomes of United Energy's consumer engagement process have not persuaded the AER that a more thorough bottom-up analysis is not warranted, or that the increased expenditure forecasts should be accepted in the face of this bottom-up analysis."

In assessing the AusNet Services engagement, the AER said:

"We accept that the revenue proposal submitted by AusNet Services was developed with the influence of its consumers, who through the Customer Forum found that the revenue proposal represents overall value for money for customers. We agree with CCP17, EUAA and VCO that the outcomes from the Customer Forum's negotiation process should inform rather than determine our decision. As a result, we have applied appropriate weight to whether the proposal addresses the concerns of consumers, as required by the Rules, and ensured that the revenue proposal meets the capex and opex criteria."

Similarly, in considering Jemena's engagement the AER said:

"We accept that the revenue proposal submitted by Jemena was developed in collaboration with its consumers and reflects the feedback received, with some elements of the proposal, such as capex evidently influenced by consumers. As noted in our AusNet Services overview, we consider that consumer engagement should inform rather than determine our decision. As a result, we have applied appropriate weight to aspects of the proposal that address the concerns of consumers and ensured that our draft decision meets the Rules criteria."

We note that the AER also said:

"We could not clearly see how Jemena's consumers had engaged on the efficiency of the proposed opex forecast and our assessment found that Jemena's opex has been relatively inefficient over time and in the 2018 base year".

This matter is considered in the Jemena Opex section of this submission, section 4.2.

Clue	Preference for greater weight to be given to "top down" expenditure forecasts
Clue	Consumer engagement should inform rather than determine the regulator's decisions
Clue	Higher weights can / should be afforded by the regulator to aspects of a proposal that address consumer concerns

Summary of observations ('clues')

The following table takes the 'clues' that we have identified above, matches them against 'table 7' and then provides some commentary from CCP17 about this first application of 'table 7'.

Clue	Table 7 Elements	CCP17 Comment
Effective engagement needs to be "genuine, independent and consumer focussed	Shown as "Example" for element 1, (Nature of Engagement) "sincerity of engagement."	Agreed, though 'measurement' of sincerity is not clear cut and will need to be qualitative.
Some IAP2 Collaborate / empower processes	IAP2 spectrum elements are not specifically mentioned, but clearly implied.	Strong support for key aspects of engagement to be at the Collaborate level with promise to public "we will incorporate your advice …into the decisions to the fullest extent possible". Empowerment remains desirable and aspirational.
Consumers should have access to independent resources to enable their assessment.	Shown as "Example" for element 1, (Nature of Engagement) "consumers provided with impartial support" Also, Element 2, (Breadth and Depth) "consumers able to test assumptions"	Adequate resourcing for active consumer-side engagement remains problematic and is crucial to thorough engagement.
Topics for engagement need to be set with consumers	Element 1 (Nature of engagement) "Consumers partner in forming the proposal" Element 2 (Breadth and Depth) "Consumers able to influence topics for engagement"	Table 7 does not explicitly state that consumers should be part of setting the topics for engagement. This is a stronger measure than those given in table 7 and should be added in a next iteration of the table
Engagement needs to occur at appropriate levels of detail, not just being "high level"	This 'clue' is not specifically given in table 7, though the expectation is clear that consumers are engaged on a breadth of topics.	This is a tension in assessing consumer engagement. "Proof Point" looks for proposals that are in line with 'top down' analysis while consumers also need to be engaged in 'appropriate detail'.
Clear evidence needed to demonstrate how engagement with consumers / stakeholders has influenced proposals, particularly for $ increases	Consistent with both elements 3 and 4 (Clearly Evidenced Impact) and (Proof Point)	This 'clue' is at the nub of consumer engagement. Increases in expenditure in particular need to be supported by a diversity of consumers/stakeholders.

Clue	Table 7 Elements	CCP17 Comment
"Cultural shift" evident within the regulated business	The 'clue' is not listed in 'table 7', though compatible with element 3 (Clearly Evidenced Impact) "… consumers given access to distributors CEO and/or Board)	This is also a highly significant outcome from consumer engagement and also requires qualitative measures for assessment.
Preference for greater weight to be given to "top down" expenditure forecasts	Element 4 (Proof Point) "in line with or lower than our top-down analysis"	This expectation helps to set parameters for engagement, but also is part of the tension between "top down" analysis, while consumers also need to be engaged in 'appropriate detail'.
Higher weights can / should be afforded by the regulator to aspects of a proposal that address consumer concerns.	Element 3 (Clearly Evidenced Impact) "submissions on a proposal show consumers feel the impact is consistent with their expectations."	Strong support for this approach
Consumer engagement should inform rather than determine the regulator's decisions	Not explicitly mentioned in table 7.	This 'clue' is strongly supported, though we consider it to be more of an understanding of the regulator's role rather that an element or measure for assessment of engagement.

Table 3: CCP17 observations of engagement relative to objectives (source: CCP17)

We observe that the AER has sought to carefully apply the elements of table 7 and particularly to give attention to the examples of how the elements can be assessed. There would appear to be some need for clarification in application to the Victorian electricity distribution businesses' regulatory proposals.

For example, the extent to which consumers are involved with setting the topics for engagement goes a step further than expecting "a clear identification of the topics for engagement" and "consumers partner in forming the proposal rather than asked for feedback on the distributors proposal".

We are aware that both Australian Gas Networks and Powerlink have conducted co-design processes at the outset of their engagement strategies. The value of cultural shift occurring within businesses, through their engagement, is also an important element of engagement.

We also recognise that some aspects of the elements from table 7 cannot be assessed using quantitative measures, meaning that more work will need to be undertaken to develop qualitative measures to assist the AER in assessing the effectiveness of the breadth of consumer engagement.

1.5 CCP17 reflections on 'Table 7'

The following is a series of reflections from CCP17 about whether there may be anything missing from 'table 7', along with some observations about the four elements, based both on our own experience and on the various comments from the rest of this section. Table 7, as published by the AER is given as Table 1 earlier in this section.

What is missing or could be made more overt?

The following comments provide CCP17 reflection about what might be missing or under-represented from 'table 7' and are intended for discussion and further debate, building on the groundwork provided by the table and the analysis and thinking behind it. Each of these measures should be reflected in assessment of consumer engagement.

a) The need for a clear relationship between any assessment and a broader, tangible vision, including a defined timeframe.

The experience of both Sustainability *first* / New-Pin and the CEER – BEUC 2030 Vision for Energy Consumers emphasise the importance of the context in which consumer engagement occurs and the value of what we will call "tangible vision" which provides greater specificity for a long-term objective like the NEO.

Consumers and network businesses would be better placed to engage with each other with a short, but clearer set of (say) 10-year objectives than currently exist in Australia. We recognise that there is potential for the Energy Charter and other current processes to make progress on this front.

b) *Recognition that various objectives for engagement can exist*.

The overseas examples that we have cited recognise that there is a range of objectives that can occur from engagement, with table 2 from Sustainability *first* providing a useful overview of these objectives.

The role of engagement in developing trust and in enhancing culture change within businesses as well as consumer groups and other stakeholders has been recognised by the AER in considering the Victorian electricity distribution businesses' engagement, but we suggest needs to be made more overt in future iterations of table 7.

c) Engagement activity needs to be part of a wider engagement strategy and plan.

Any engagement activity needs to be part of an engagement strategy and plan that includes commentary about the purpose of engagement for the business, the consumers and stakeholders with whom engagement will occur and measures of effectiveness of engagement that will be utilised and reported.

d) *Qualitative as well as quantitative measures are necessary*.

The "Britain Thinks" and London School of Economics paper prepared for Sustainability *first* provides very helpful commentary on different "research approaches" and the intended outcomes for which various approaches / engagement methodologies are most helpful.

The table that includes columns indicating "best for" robust data and deep insight we think is worthy of further consideration by the AER to identify measures for assessing the elements that are both qualitative as well as quantitative.

e) Engagement must demonstrably address inclusiveness and equity.

While table 7 includes "multiple channels used to engage with a range of consumers across a distributor's consumer base", we think that a greater emphasis in assessment of consumer engagement should be given to equity considerations, with a particular focus on low income and disadvantaged households. This has been a strength of the AER's COVID responsiveness. These are the households for whom high energy costs have had the greatest negative impact over the last couple of decades.

f) The transparency of engagement - not only doing but being seen to do - is important.

Engagement processes and discussions need to be transparent to all stakeholders, including 'consumers at large'.

g) *Engagement needs to be well organised and resourced.*

Engagement needs to be well organised with documentation circulated before engagement activities with participants having enough time to read and understand the material to be presented and discussed. Effective organisation is timely in setting event times well in advance, in providing updates and providing written records of meeting decisions and actions. Good organisation is respectful of participants and recognises that most people engaged with energy businesses have multiple other roles and responsibilities with most consumer groups having limited resourcing to participate.

h) Engagement must be integrated with 'business as usual'.

Effective engagement is ongoing, and any engagement activity needs to both be part of a broader engagement strategy and plan and also link with ongoing engagement undertaken by the business.

i) Good engagement builds capacity and capability; not only in that of stakeholders but also of the company itself.

Effective engagement builds the understanding and capacity of participants and builds the experience and expertise of the business.

j) Engagement must be 'bi-focal' – that is, not only address medium-term plans, but also demonstrate Innovation, looking well forward and taking a strategic view.

Some Australian energy network businesses are increasingly looking for regulatory allowances that allocate expenses for innovation, and the European and UK analysis that we have mentioned cites innovation as a crucial issue particularly in times of transition. We agree that innovation is an especially important aspect of energy market transformation over coming years and that consumers need to be included in every aspect of innovation consideration. Consequently, we think there is scope for measures for consumer engagement that explicitly consider innovation. In a similar vein, the measures should have a stronger 'forward looking' perspective to balance the links to past and current experience. This could be linked with the business narratives that CCP has encouraged businesses to develop and disseminate.

The Four Elements – CCP17 Observations

a) Nature of Engagement

The notion of 'sincerity' of engagement with consumers stands out for this element and how it is assessed. Assessment of a concept like sincerity is clearly vexed with there being no ready quantitative method to unambiguously determine the extent of sincerity or genuineness of an engagement activity or process. That having been said, the regulator should start with the presumption that network businesses and consumers enter into engagement with sincerity. A lack of sincerity would need to be demonstrated to perceive otherwise.

We also strongly agree that independence of consumers is paramount, and this includes resourcing. Impartial support and assistance are also crucial.

Importantly too, this element should assess the extent to which consumers were able to set the agenda by having clear input from the beginning, about topics or issues that they wanted to explore. Consumers should also be able to influence topics for consideration throughout any engagement process.

An absolute priority as part of Nature of Engagement is the recognition that there is a wide diversity of engagement methodologies and even a diversity of intended engagement outcomes, so the choice of engagement methodology is crucial. It would be inappropriate for the regulator or any other party to seek

to impose any particular methodology for engagement or to assume / imply that there is a superior or preferred methodology. Just as technology neutrality is essential for the engineering side of the network business, methodological neutrality is essential for engagement work of a network business.

We also note the theme that was drawn out earlier in this section from European and UK experience about the importance of context, including the bigger picture, in assessing the effectiveness of any engagement activity. This could usefully be added as a measure in the next iteration of table 7.

b) Breadth and Depth

The AER has indicated that both breadth and depth of engagement are important for engagement. In 'table 7', the following measure is given:

"Consumers consulted on a broad range of topics."

In the clues from Draft Determinations, we identified:

"Engagement needs to occur at appropriate levels of detail, not just being "high level."

and

"Preference for greater weight to be given to "top down" expenditure forecasts.

We understand from the Draft Determinations' commentary that while recognising the need for both breadth and depth of engagement, a higher weight is afforded to 'depth' of engagement. CCP17 considers this to be a particularly important consideration and some members lean towards 'breadth' of engagement being of higher weight, particularly given the AER's role and capacity for deep analysis.

We recognise that there are pros and cons with methodologies that focus on either breadth or depth for engagement, as noted below.

Breadth	
Pros	• *recognises the non-homogeneity of consumer views* • *provides for a range of consumer views, including from more disadvantaged communities.* • *can help build capacity by bringing large and small business together with household consumers and advocates to identify common ground and to work through points of difference.* • *can enable higher-level response to a topic or series of topics over a relatively short period of time*
Cons	• *difficult to build capacity through deeper understanding of key issues across a diversity of (mainly poorly resourced) customer and customer interest groups.* • *can allow the network business to have greater control over the agenda / topics to be considered.* • *loud consumer voices can dominate, to the exclusion of others.*

Depth	
Pros	• *can build trust between all participants* • *enables more complex issues to be worked through in detail* • *facilitates greater equality between business and consumer perspectives can debate* • *provides greater opportunity for the network business to be challenged*
Cons	• *how deep is "too deep"? There is a potential for considerable time and effort to be spent on relatively non-productive but highly detailed topics* • *potential to miss the bigger picture by focusing on detail* • *cost, both in dollars and time for network businesses as well is for consumers who are part of the 'depth' processes*

Table 4: Pros and cons of the breadth and depth of engagement (source: CCP17)

A 'though experiment' is attached as appendix 4 that raises questions about whether there are engagement strategies that have an optimal mix of 'breadth' and 'depth' activities and how they might be measured.

c) Clearly evidenced impact

Various CCP subpanels have summarised consumer engagement, at its most basic, through three questions:

1. What was tried?
2. What was heard?
3. What was applied?

With the response to "what was applied/" being the most important. We strongly agree with the direction of the measures being considered in 'table 7', about the element of "clearly evidenced impact."

The ultimate measure of consumer preferences and perspectives being incorporated into a regulatory proposal is through customers and consumer groups clearly stating this, independently, for example in submissions to the AER. We note that timing (an 8 January deadline for responses for this important set of regulatory proposals is not consumer friendly timing), as well as resourcing and capacity hinder this as a measure that can be applied regularly. We suggest that it is quite appropriate for the AER to directly ask consumer groups and consumer interests about the extent that the consumer voice has been reflected in a regulatory proposal.

CCP17 also strongly supports a measure for assessment as being the extent to which CEOs, senior staff and Board members of network businesses are both cognisant of and more importantly engaged with their business's consumers and have a clear understanding about what consumers are telling them. (CCP members have seen examples of high-quality consumer engagement being undertaken by the engagement team in a network business, only to realise that engagement outcomes are not evident further up the management line).

As Sharon Darcy said: "*consumer engagement is the golden thread that must run through all aspects of a business".*

d) ***Proof Point***

This element of assessment of consumer engagement raises the really important question of top-down versus bottom-up assessment of a network's regulatory proposal. The 'table 7' assessment of "Proof Point" is weighted towards opex and capex proposals that are in line with or lower than historical expenditure and in line with AER top-down analysis.

There are aspects of this suggested approach that we think need further development:

1. Why engage with consumers at some (bottom-up or project specific) depth when a final regulatory proposal can be (at least theoretically) approved on the basis that proposed expenditures were in line with historical expenditure? This assumes that historical and current expenditures are "materially efficient" when there can be a fair bit of flex in the understanding of "materially". More importantly though is the extent to which consumers are engaged in the detail, particularly for higher expenditure projects and with complex and emerging issues.
2. To what extent can consumers be satisfied that past performance is efficient?
    - The relying on top-down assessment based on past or current performance assumes that current expenditure both opex and capex is efficient and in the best interests of customers. This approach can mean that past period, high expenditure levels are carried through to some extent to the current expenditure which may not be efficient in the current settings.
    - Even reductions in capex and opex do not necessarily lead to best outcomes for customers. This was evident with Essential Energy's last regulatory proposal when, after award-winning consumer engagement and reductions in both operating expenditure and capital expenditure, prices were still going to go rise for customers. This was largely due to a RAB "overhang" from past periods that could potentially have been missed by a top-down assessment of opex and capex. Essential Energy continued their engagement with customers and responded proactively to explore options to reduce RAB impact on future customer bills.
3. Is a broader consideration of the proposal 'as a whole' required, rather than just a focus on opex and capex? Elements of a regulatory proposal beyond opex and capex expenditures can have a significant impact on customers. For example, AusNet Services' proposal for accelerated depreciation had a major impact on customers' bills yet was outside the remit of the Customer Forum.
4. How are broader contextual measures considered?
    The context in which a regulatory proposal was developed are important and so assessment of engagement needs to build in a forward-looking component reflective of context as well as assessing proposed expenditure against past and current expenditure levels.

1.6 CCP17 comments

This section commenced by raising 3 questions pertinent to consideration of 'table 7' which provides a framework for assessment of consumer engagement by energy network businesses, these questions being:

1. What is effective consumer engagement for energy network (natural monopoly) businesses?
2. How is consumer engagement assessed, particularly by an (economic) regulator?
3. What roles should a regulator play in encouraging continuous improvement in consumer engagement?

We now summarise our thinking regarding these three questions.

1. *What is effective consumer engagement for energy network (natural monopoly) businesses?*

Our views on this are well summarised by Sharon Darcy who described consumer engagement as a golden thread that runs through all aspects of a business's activity and certainly lead by CEO, Board members and senior staff.

We recognise that the publishing of 'table 7' to reflect AER thinking, particularly about assessing good quality consumer engagement, is the most recent stage of an evolving process that has had prominence particularly over the last 4 to 5 years.

We also observe that energy network businesses have responded relatively rapidly to increase their consumer engagement understanding, expertise and practice and have been prepared to trial a diversity of engagement methodologies to respond to different settings and different challenges and that each of the Victorian distribution businesses has undertaken high-quality engagement.

The observation that engagement needs to have a clear purpose and reflect context has been strongly made in the New-Pin Final Report and was clearly a strong learning for Sustainability *first* some time ago, a learning that has currency in Australia: context matters.

Effective engagement is designed with consumers / consumer groups, with engagement strategies designed to consider the context in which engagement topics are to occur, and also provide input from a broad range of consumer perspectives. In addition, the design must provide opportunity for detailed focus on priority areas including major expenditure items, and particularly the tough challenges facing the business. A different set of engagement approaches will need to be applied to each engagement activity / strategy - any prescription of methodology or engagement approach would be counter-productive.

Engagement needs to include a strong 'forward-looking' element.

Effective consumer engagement will also include a focus on methodologies which apply at the 'collaborate' and 'empower' levels of the IAP2 spectrum for public participation, with the associated 'promises to the public' being, for 'collaborate', "we will look to you for advice and innovation in formulating solutions and incorporate your advice and recommendations into the decisions to the fullest extent possible." The 'empower' promise to the public is "we will implement what you decide." We consider moving to some activity at the 'empower' end of the IAP2 spectrum should be the 'stretch target' that network businesses set themselves.

A note re NewReg

Regarding NewReg, it is important to put this strategy, which was applied by AusNet Services into context. It was a trial of a new approach to consumer engagement that was influenced by a strong desire to explore an approach of direct negotiation between consumer interest and network business, in an Australian energy business setting. The approach was effectively conducted by AusNet Services with each of the five members of the Customer Forum making substantial contributions.

The trial has been very effective. At the same time, other network businesses have also applied engagement strategies appropriate to their business and these too have been effective and developed sound learning. The lessons from NewReg, and the suite of other engagement approaches that have been applied by other energy network businesses now need to be taken forward to improve future engagement which will need to be bespoke for each network business and the context at the time.

2. *How is consumer engagement assessed, particularly by an (economic) regulator?*

This question is addressed by our responses to "table 7," which we have described as being a helpful next step in the development of robust and responsive consumer influence on energy network expenditure planning and development. Our observations include:

1. The relationship between assessment and a broader, tangible vision, i.e. NEO spelled out, applied and within a defined timeframe. The experience of both Sustainability first / New-Pin and the CEER – BEUC 2030 Vision for Energy Consumers emphasise the importance of context in which consumer engagement occurs and the value of what we will call "tangible vision."
2. The need to recognise the various objectives that can occur for engagement.
3. Consumer outcomes (efficient value for money services) that include:
    a. Cultural (to alter behaviour and culture in sectors and with consumers) and
    b. Legitimacy (shaping service levels or packages and helping to ensure decisions are seen as legitimate / acceptable)
4. The role of engagement in developing trust and in enhancing culture change within businesses as well as consumer groups should be more overt.
5. Qualitative as well as quantitative measures. This recognises the value of both "robust data" and "deep insight"
6. Inclusiveness/equity
7. Innovation/forward looking

In addition to these observations, we have also considered the four elements from table 7 and suggest areas for further consideration and refinement, particularly for two of the categories, we suggest:

Breadth and Depth

We have noted the risk of considering consumer engagement methodology to be a 'breadth versus depth' question and are strongly of the view that solid consumer engagement includes both breadth and depth, using appropriate methodologies for each.

We have played with an idea that may help to assess optimal combinations of breadth and depth together, and we suggest that assessment of the breadth and depth of engagement will necessarily involve both qualitative as well as quantitative measures.

Proof Point

We have suggested that the assessment proposed as 'proof point' may place too much reliance on top-down assessment of expenditure with the 'rear view mirror' perspective, but inadequate forward-looking perspective.

We propose a three-step assessment process with regard to the proof point element, these being in the following sequence:

1. Is the regulatory proposal in line with outcomes from the various AER assessment models (PTRM, repex etc)?
2. Have the important aspects (expenditure and from the business narrative) been effectively engaged with consumers and consumer input evidently influential?
3. Does the proposal make sense from a top-down perspective i.e., in line with or lower than current expenditure ("The pub test"), after all of the considerations and analysis, does the outcome feel right for consumers?

We suggest that this approach enables the various aspects of 'proof point' to be considered separately as well as in combination.

3 What roles should a regulator play in encouraging continuous improvement in consumer engagement?

Along with continuing to debate and iterate the 'table 7' approach, we suggest that the AER could take the "Statement of Expectations" approach that has been applied to COVID during 2020 to develop a "Statement of Expectations" about consumer engagement. This would be principles based, rather than being prescriptive.

The AER should also develop a section in Framework and Approach documentation that sets out clear expectations about a network business's engagement and the assessment approaches that the AER intends to apply.

There would also be merit in the AER working with consumer groups to develop 'tangible vision' statements for Australia, say for the next decade. This could use the CEER-BEUC vision for consumers as a place to start.

The AER should also set up a section on their website to specifically deal with Consumer Engagement, including the Consumer Engagement Guideline, AER engagement expectations (as identified in the preceding sentences), reports about consumer engagement and links to international reports and decisions regarding consumer engagement in regulated markets.

2 Commentary on the engagement by the Victorian distributors

2.1 AusNet Services

2.1.1 Summary of engagement prior to Draft Decision

The major focus of AusNet Services' consumer engagement leading up to lodgement of their Regulatory Proposal in January 2020 was the work of the AusNet Services Customer Forum, the centrepiece of the NewReg Trial. According to the guidelines established for the NewReg trial, CCP17 did not participate as an observer in consumer engagement activities undertaken by the Customer Forum, and nor did CCP17 evaluate the effectiveness of the consumer engagement role performed by the Customer Forum. This responsibility was assigned to Cambridge Economic Policy Associates (CEPA).

CEPA's most recent evaluation report – 'New Reg: AusNet Services Trial Interim Evaluation Report', dated 4th December 2020[8] is intended to cover events up to and including the Draft Decision. CEPA explains:

> *"this report will not present an evaluation of the trial against the Trial Assessment Factors. This reflects that, within the timelines for delivering this report, we have not been able to review AusNet Services' revised proposal, submissions on the Draft Decision or trial participants' estimates of their costs throughout the process (which will in any event not be known until the Final Decision)"*[9]

Over the term of the Customer Forum's 2-year engagement, CCP17 participated in four meetings with the Customer Forum to assist the Customer Forum in forming its views on issues within its scope, and to share perspectives on issues that are common across all network businesses.

CCP17 did observe a limited set of consumer engagement events conducted by AusNet Services independently of the Customer Forum. Consequently, compared with our involvement in other Victorian DNSPs' Consumer Engagement programs, CCP17 had limited opportunities to witness AusNet's consumer engagement program in practice. As a result, our observations were largely based on documented outcomes.

In our Advice to the AER on the Victorian Electricity Distributors' Regulatory Proposals for the Regulatory Determination 2021-26, CCP17 expressed the view that:

> *'the AusNet Services' Regulatory Proposal strongly reflects customer perspectives for those aspects within scope for the Customer Forum'.*[10]

CCP17 has expressed concerns that limiting scope for the Customer Forum could restrict its ability to contribute to important aspects of the regulatory proposal on a holistic basis. For example, the application of accelerated depreciation had a significant impact on the regulated revenue outcome and hence on prices for customers, yet depreciation was not in-scope for the Customer Forum. We questioned whether the

[8] https://www.aer.gov.au/system/files/CEPA%20-%20New%20Reg%20AusNet%20Trial%20-%20Interim%20Evaluation%20Report%20-%202020.pdf
[9] Ibid, p12
[10] https://www.aer.gov.au/system/files/Consumer%20Challenge%20Panel%2017-%20Submission%20on%20the%20Victorian%20Electricity%20Distribution%20Regulatory%20Proposal%202021-26%20-%20June%202020.pdf, p19

Customer Forum was in a position to assess the 'Overall Reasonableness' of the Revenue proposal without being able to consider such a significant factor.[11] This question was reiterated by the EUAA.[12]

2.1.2 AER Assessment of AusNet Services Engagement

The AER Draft Decision found that AusNet Services' regulatory proposal was strongly and directly influenced by its consumers[13], and that proposed capex and opex proposals were clearly influenced by its commitment to consumer affordability[14]. It also found that the scope of AusNet Services' engagement was 'sufficiently broad'[15].

The AER has provided an analysis of AusNet Services engagement against the four elements – nature of engagement, breadth and depth, clearly evidenced impact and proof point[16].

While we agree largely with the AER's analysis in respect of the influence of the Customer Forum on AusNet Services' regulatory proposal, we are not convinced that important feedback provided by stakeholders has been fully considered. Recognising the limitations of its negotiation scope, some stakeholders challenged the Customer Forum's ability to assess the overall reasonableness of the proposal. Stakeholders also requested that the AER should use the outcomes from the Customer Forum's negotiation process to inform rather than determine their decision.

There was support for closer AER scrutiny of aspects of the AusNet Services proposal that fell outside the Customer Forum's scope. CCP17 agrees with this view. We suggest that changes to AusNet Services' regulatory proposal which have not been subject to close consideration by the Customer Forum, should be subject to the AER's normal scrutiny.

2.1.3 Engagement since Draft Decision

Figure 5 below identifies the major consumer and stakeholder engagement activities conducted by AusNet Services since publication of the Draft Decision.

The AusNet Services Regulatory Team also offered individual briefing sessions to interested stakeholders.

In addition, AusNet Services convened a meeting with CCP17 on 7 December, and a stakeholder session on 17 December to provide a briefing on the content of the Revised Regulatory Proposal.

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[11] www.aer.gov.au/system/files/Consumer%20Challenge%20Panel%2017-%20Submission%20on%20the%20Victorian%20Electricity%20Distribution%20Regulatory%20Proposal%202021-26%20-%20June%202020.pdf, p19

[12] https://www.aer.gov.au/system/files/Energy%20Users%20Association%20of%20Australia%20-%20Submission%20on%20the%20Victorian%20Electricity%20Distribution%20Regulatory%20Proposal%202021-26%20-%20June%202020_0.pdf, p5

[13] https://www.aer.gov.au/system/files/AER%20-%20Draft%20decision%20-%20AusNet%20Services%20distribution%20determination%202021-26%20-%20Overview%20-%20September%202020.pdf, p5

[14] Ibid, p6

[15] Ibid, p5

[16] https://www.aer.gov.au/system/files/AER%20-%20Draft%20decision%20-%20AusNet%20Services%20distribution%20determination%202021-26%20-%20Overview%20-%20September%202020.pdf, pp46-52

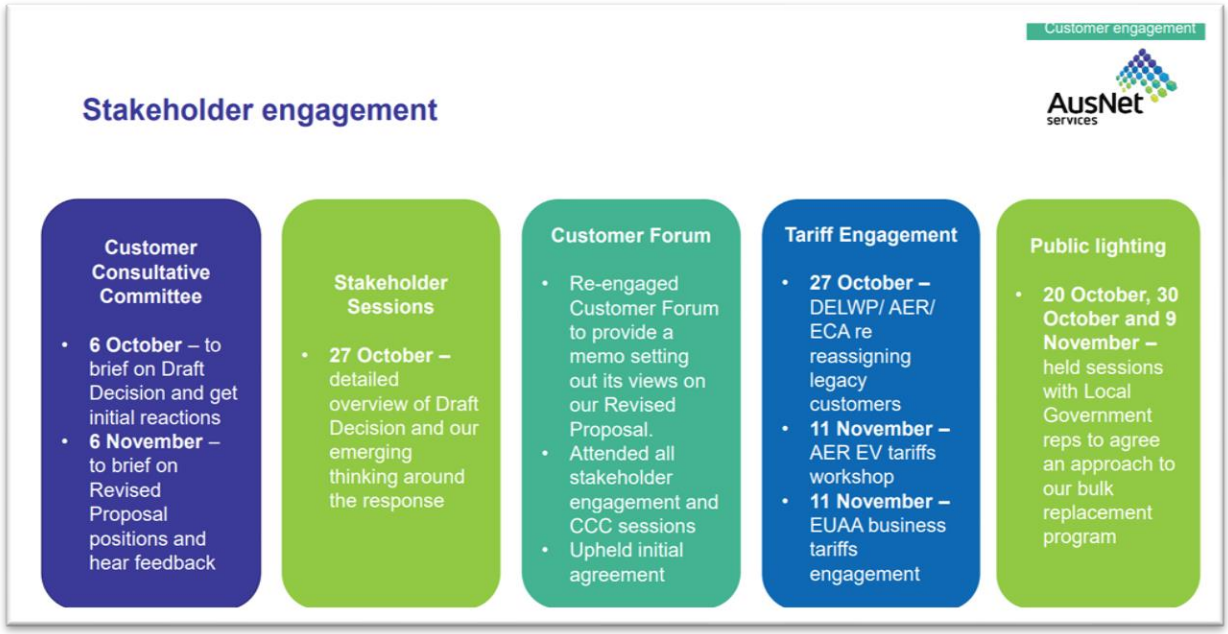

Figure 5: AusNet Services – Post Draft Decision customer engagement (EDPR Revised Revenue Proposal Stakeholder Session – 17 December 2020)

Stakeholder Sessions 27 October

AusNet Services convened Stakeholder Sessions on 27 October to seek feedback on whether aspects of the regulatory proposal should be altered or remain the same in response to the AER's Draft Decision.

Areas where feedback was sought included:

- Approaches for developing customer number and connections forecasts
- Inclusion of Doreen zone substation
- Re-proposing ICT Cloud Step Change
- Further reallocation of metering costs to SCS
- Alternative tariff options for medium to large businesses.

During the session, stakeholders requested that AusNet Services consider Federal budget modelling of the impacts of COVID-19 in developing forecasts.

Customer Forum

AusNet Services re-engaged the Customer Forum and invited it to contribute views on AusNet Services' proposed amended EDPR submission. The Customer Forum provided its views in a Memorandum to AusNet Services which was lodged with the Revised Regulatory Proposal.[17] It was noted that the views expressed in the Memorandum are confined to matters the Customer Forum has previously examined and commented on.

The Customer Forum confirmed its support for the ICT Cloud Step Change and reallocation of metering costs to SCS, by drawing on conclusions noted in the Customer Forum's two earlier engagement reports.

[17] https://www.aer.gov.au/system/files/AusNet%20Services%20-%20Revised%20Regulatory%20Proposal%20-%202021-26%20-%20Appendix%203A%20-%20Customer%20Forum%20Memo%20-%20December%202020.pdf

2.1.4 CCP17 involvement

CCP17 attended the following events as observers:

- 27 October Stakeholder Session
- 6 November Customer Consultative Committee
- 11 November AER EV tariffs workshop.

We were not aware of, and hence did not attend:

- 6 October Customer Consultative Committee
- 27 October, 11 November tariff discussions
- 20 October, 30 October, 9 November Public lighting sessions.

CCP17 has not interacted with the Customer Forum during this period.

2.1.5 CCP17 observations

Like the other Victorian DNSPs, AusNet Services was challenged by the limited time available for in-depth consumer and stakeholder engagement between publication of the AER's Draft Decision and the deadline for submitting the Revised Regulatory Proposal. For AusNet Services, this challenge was exacerbated by the lack of a comprehensive Consumer and Stakeholder Engagement Plan spanning the full timeline of the regulatory reset process.

Nevertheless, CCP17 considers that AusNet Services has effectively informed key stakeholders of the changes incorporated in its revised regulatory proposal, and has provided some opportunity for feedback. We also observed or saw documentation of instances where stakeholder feedback influenced the final proposal, i.e. development of forecast customer numbers, ICT Cloud Step Change, and reallocation of metering costs.

Consistent with our Advice to the AER on the Victorian Electricity Distributors' Regulatory Proposals for the Regulatory Determination 2021-26 [18], CCP17 observes that there are opportunities for ongoing improvement in AusNet Services engagement program including development of an overarching Consumer Engagement Strategy, more transparency of the Customer Consultative Committee's operations, development of contemporary interactive engagement tools, and targeted engagement with culturally and linguistically diverse consumers. We encourage AusNet Services to give consideration to progressing these and other initiatives to develop a 'whole of business' approach to consumer and stakeholder engagement for business-as-usual activities as well as future regulatory resets.

2.2 Jemena Electricity Networks

2.2.1 Summary of engagement prior to Draft Decision

The People's Panel was a core aspect of Jemena's engagement program, being a group of 43 people selected from across the Jemena region to demographically reflect Jemena's customer base. The group was recruited by market research company, Capire and was brought together on 6 occasions (initially) to consider a selection of the main issues with which Jemena was grappling in preparing its regulatory proposal. The sessions were either all of Saturday workshops or extended evening events of about 3 hours.

[18] https://www.aer.gov.au/system/files/Consumer%20Challenge%20Panel%2017-%20Submission%20on%20the%20Victorian%20Electricity%20Distribution%20Regulatory%20Proposal%202021-26%20-%20June%202020.pdf, p15

We said in our response to the initial proposal: 'CCP17 thinks that the diversity of engagement by Jemena over an extended period of time (nearly 2½ years) is as significant as the People's Panel process'. Jemena's other engagement comprised:

- 43 residential customers involved with the People's Panel over nine sessions
- 13 focus groups
- 319 online surveys completed
- 7,400 visitors to the Jemena website for aspects of their regulatory proposal development engagement
- 87 direct "contact hours" of engagement activity (excluding online)
- 10 Board and senior management members attended various engagement activities.

Our review of Jemena's engagement in the lead up to the lodgement of their proposal included the following.

> "The *engagement we have observed has many strengths including:*
>
> *A range of engagement strategies have been used.*
>
> *There has been strong intent to engage with a diversity of customer segments including lower income household customers, small business, local government, large businesses and energy retailers.*
>
> *A clear desire to listen to customer input and to "incorporate advice and recommendations into decisions to the maximum possible extent".*
>
> *Willingness to try new approaches with the preparedness to accept that some approaches might not "work" but that there will be learnings whatever happens.*
>
> *Preparedness to talk about innovation and not claim to have all the answers*
>
> *Real attempt to make engagement 'fun' which is a challenge in the energy space!*
>
> *Jemena claims to be operating their consumer engagement at or near the "collaborate" level of the IAP2 spectrum. From engagement that we have observed so far, we are inclined to accept this claim as being real in practice as well as aspiration."*

2.2.2 AER assessment of Jemena's engagement

The following comments are taken from the AER's Draft Determination.

Nature of Engagement:

The design of the People's Panel was underpinned by a set of principles to enable this set of "everyday citizens" to develop and agree on a robust set of recommendations to deliver outcomes that could be trusted by the broader community. Jemena's People's Panel consumer engagement approach was recognised by the ENA / ECA Consumer Engagement Awards in 2019, with Jemena winning the award for its consumer engagement work in both the New South Wales gas network and in Victoria, for the People's Panel approach. Through its engagement process, Jemena realised that its customers are not homogenous, and that each customer type has its own set of priorities and engagement requirements. For example, initiatives like the People's Panel were not effective for small business customers, which responded to a survey approach instead. Large businesses were engaged through the regular account management process.

Breadth and Depth:

Overall, we consider that Jemena's consumer engagement was broad, covering a range of topics across a diverse customer cohort. We consider the depth of engagement a challenge for Jemena, particularly in relation to the People's Panel. While the People's Panel covered a broad range of topics, Jemena faced the challenge of building the capacity of everyday citizens to be able to engage in the complex topics Jemena wanted feedback on.

… Several stakeholders expressed concerns with the efficiency of Jemena's opex and suggested we should evaluate its opex efficiency and make an adjustment.

Clearly evidenced impact

We find the themes from the broader engagement, along with the recommendations from the People's Panel reflected throughout the regulatory proposal. It is clear that Jemena is committed to including consumers in its decisions. For example, members of Jemena's senior leadership team actively participated in engagement activities and were on hand to personally accept the advice of the People's Panel, and after reviewing that advice, agreed to accept all 25 recommendations.

We find that Jemena's consumer engagement has set out with purpose and intent to ensure that the views of consumers were included in the development of its regulatory proposal. Jemena achieved this using a range of engagement strategies and a willingness to try new approaches in order to involve the full diversity of customer segments, from low-income households through to large customers and energy retailers. Further, as observed by CCP17, Jemena has been innovative and attempted to make to make engagement 'fun' which is a challenge in the energy space. We agree with CCP17's overall assessment, that Jemena's claim to be operating at or near the IAP2 level of 'collaborate' is "real in practice as well as aspiration".

Proof Point

As outlined in section 2.4, our assessment found that Jemena's proposed capex proposal was clearly influenced by its commitment to consumer affordability. Its capex forecast is 2 per cent above its trend from 2011. While Jemena's proposed capex is nine per cent above its actual and estimated expenditure in the current regulatory period, the main drivers are investments for bush fire risk mitigation and Jemena's expenditure to facilitate increasing DER penetration, which was also influenced by consumers. Jemena's opex forecast was 29.6 per cent higher than its actual and estimated opex for the 2016–20 period. As outlined in section 2.5, our draft decision alternative estimate of total opex is 12.3 percent higher (on a like for like basis, is 1.0 per cent lower) than Jemena's actual and estimated opex in the current regulatory control period. We could not clearly see how Jemena's consumers had engaged on the efficiency of the proposed opex forecast and our assessment found that Jemena's opex has been relatively inefficient over time and in the 2018 base year.

These comments reflect an AER view that Jemena's engagement was effective and that consumer views were reflected in many aspects of their proposal. The main challenge from the AER is the extent to which consumer views were sought and reflected regarding the opex expenditure proposal that was submitted. The reflection is that a near 30% increase in forecast opex, compared to current period expenditure, does not reflect a stated consumer preference for lower prices.

2.2.3 Engagement since draft decision

Since the Draft Decision was published, Jemena has continued to hold their Customer Council meetings on a quarterly basis, which included separate meetings with both small customers and commercial and industrial customer representatives. In October Jemena engaged with their Customer Council on pricing strategies.

The major focus of recent engagement by Jemena has been about the AER's base year Draft Determination which found that their operating base year was "materially inefficient," and so set a lower operating cost allowance than Jemena had sought.

The main focus of engagement about the opex base year decision and the associated benchmarking methodology that the AER had used for their "materially inefficient" finding was to reconvene the People's Panel to seek their perspective. This resulted in two meetings of the People's Panel in November, and subsequently a subgroup of volunteers from the People's Panel (7 people) who engaged in three separate ninety-minute video link discussions on consecutive Monday nights during December.

An independent consultant was appointed to assist the People's Panel subgroup from Farrier Swier. We understand the consultant will collate input from the subgroup members both as expressed during the December meetings as well as separate comments provided by individuals directly to the consultant.

Each subgroup member was provided a 'work sheet' at the start of the three-session process which they were asked to complete and pass on to the independent consultant promptly after the conclusion of the third session.

We understand that this collated input will form a submission to the AER regarding benchmarking and the Jemena opex base year finding to be lodged by 8 January 2021, in line with the AER's published timelines.

2.2.4 CCP17 involvement

CCP17 members were able to observe each of the engagement activities undertaken by Jemena, post Draft Determination including Customer Council meetings. A separate briefing was provided for CCP17 in November 2020 about Jemena's proposed revised revenue proposal.

One CCP17 member observed each of the People's Panel and People's Panel subgroup video link sessions and provided input to the People's Panel members about the role of CCP in representing consumer views and commenting on network business engagement processes, to the AER.

2.2.5 CCP17 observations

Jemena was clearly "stung' by the Draft Determination finding of their opex being "materially inefficient." We have however been impressed by the willingness of Jemena staff to work with AER, consumers and other stakeholders to explore the decision and to respond cogently in their revised revenue proposal. We leave our discussion of "content" of this debate to section 4.2 of this submission that deals with operating costs. In this section we respond to the "process" of Jemena's response and specifically its consumer engagement.

Jemena decided to seek to engage with customers on an AER decision with which they disagreed. They decided to return to the People's Panel, an engagement methodology that had proven to be highly effective and a group of people who had developed a good understanding of the Jemena distribution business and trust for the staff involved.

We observe that this was a 'stretching 'process for Jemena who clearly wanted to stay true to the integrity of the People's Panel process, wanted an independent and informed consumer perspective while also wanting support for their perspective as compared to that of the AER. They wanted to achieve this in a short timeframe, during the lead up to Christmas and with a pair of complex topics, benchmarking and efficiency of operating cost base year. The business is to be lauded for attempting what could be considered to be an audacious challenge and it has also stretched the engagement approach. A debrief and write-up of the debrief, outside the pressure of a regulatory process, will be a really helpful contribution to understanding this application to consumer engagement approaches.

CCP17 observed that the effort that Jemena staff put into developing presentations that provided adequate context, detail and opportunity for open exploration of the issues through the engagement was clear. This

was reciprocated by the People's Panel members who made the considerable effort to try to understand the nuances of the topics at hand while also asking probing questions.

We reflect that the process would have benefited from greater external input and probably from a process managed by a third party. In hindsight, Jemena probably tried to provide more detail than was necessary about benchmarking method - though this is a useful topic for subsequent debrief.

Applying the 'table 7' assessment measures we conclude that a majority of these have been achieved through this re-engaged People's Panel process from the first three elements of the table. We do not consider "proof point" applicable at this stage, the document submitted to the AER by the People's Panel subgroup and subsequent AER final decision will be more relevant.

We highlight the following assessment examples as being relevant to this engagement:

a) Nature of engagement

b) consumers provided with impartial support to engage with energy sector issues

c) sincerity of engagement

d) Breadth and depth

e) consumers encouraged to test the assumptions and strategies underpinning the proposal

f) Clearly evidenced impact

g) proposal clearly tied to express views of consumers

h) impact of engagement can be clearly identified

This engagement will probably not result in a neat and definitive consumer view however we regard the engagement as being significant in the 'wrestling' with the topics rather than the result that may be delivered in the shorter term. Every individual involved from the People's Panel and from the Jemena staff team invested considerable 'personal capital' in the 'wrestling' that occurred.

2.3 CitiPower, Powercor and United Energy

2.3.1 Summary of engagement prior to Draft Decision

In our previous Advice to the AER,[19] we recapped our substantial engagement with these three businesses in the run-up to the submission of their regulatory proposals to the AER in January 2020. In that Advice we built on our previous Progress Report on Consumer Engagement by the Victorian Electricity Distribution Businesses for the 2021-2025 Regulatory Reset to the AER in March 2019, and some further comments that we had made in our presentation to the AER public forum in April 2020.

CitiPower, Powercor and United Energy ran their consumer engagement based on a consistent approach and using the same Melbourne-based staff for each engagement activity.

The consumer engagement activities regarding the upcoming regulatory proposals were branded "Energised 2021-2025".

The consumer engagement activities commenced with the publication of a single Regulatory Reset 2021-2025 Stakeholder Engagement Plan in November 2017 that covered all three businesses – CitiPower, Powercor and United Energy.

We set out in that previous Advice how that plan had been followed.

[19] Advice to the AER on the Victorian Electricity Distributors' Regulatory Proposals for the Regulatory Determination 2021-26, CCP17, 10 June 2020, section 3.6, pages 24-28

Since its inception in November 2017, CCP17 has liaised closely with the three businesses.

We sent at least one CCP17 representative to most of the events to which we were invited, but clearly did not have the resource to attend every event. We have generally encouraged the businesses on the paths that they have chosen, on the shared understanding that not every consumer engagement activity will prove successful. The businesses were on a steep learning curve, and much learning came from trial and error.

After the submission of their regulatory proposals to the AER in January 2020, COVID-19 started to affect meetings in Australia in March 2020. We continued engagement via telephone and electronic remote meeting apps. We engaged directly with the businesses on their regulatory proposals submitted in January 2020, participated in the AER's virtual public forum in April 2020, and had follow-up discussions with the businesses after that forum.

We noted that we understood that COVID-19 makes it more difficult for the businesses to engage with consumers. CitiPower, Powercor and United Energy have been using electronic means, including placing an interactive multi-media version of their AER Public Forum presentations and their regulatory proposal documents on their 'Talking Electricity' website.

At the completion of the engagement process, the businesses reviewed their process against their evaluation indicators. The businesses summarised this review including network specific indicators collected and whole of Energise 2021-2026 program indicators, and engagement process evaluation outcomes.

We agreed with the businesses' conclusion:

> *We are committed to ongoing engagement with our customers and stakeholders. Engagement does not stop after the regulatory reset process. We are committed to improve our engagement process with customers and stakeholders now and into the future.*

The businesses' stakeholder engagement appendices to their January 2020 regulatory proposals ended with recommendations for the next reset. Engagement does not stop after the regulatory reset process and should be continued as 'business as usual'. We looked forward to seeing the businesses' plans for 'business as usual' stakeholder engagement.

2.3.2 AER assessment of the engagement of CitiPower, Powercor and United Energy

In its draft decisions in September 2020, the AER agreed that

> *For the purpose of engagement, CitiPower, Powercor and United Energy operated an overarching engagement program developed to support the three networks, noting that when differences were identified measures were taken to engage further or differently with customers and stakeholders as required.*

The AER also found that "from the information provided it would appear that CitiPower's proposal is broadly consistent with the consult or involve end of the spectrum".

The AER stated:

> *We acknowledge that CitiPower, Powercor and United Energy have done extensive work in reaching customers in order to gain a clearer understanding of the values of a diverse customer base. This has occurred across multiple channels and 'touch points' and investment in this degree of activity suggests a sincere level of engagement from the distributors. For example, CCP17 noted that they had no major issues with the consumer engagement and that they were pleased that 'the reports from Woolcott do not paint a picture of perfect understanding of customers'.*

The AER quoted widely from the submissions from CCP17 and from the Victorian Community Organisations (VCO).

While some positive examples were quoted where the distributors demonstrated listening to feedback provided by stakeholders throughout their engagement process, overall the AER found:

> *We weren't always able to identify how consumer views were incorporated in their proposals.*
>
> *…*
>
> *We recognise the work that has gone into shaping the engagement process. However, we have been unable to clearly identify the elements of the proposal that were shaped by consumer preferences. This has lessened the weight which the AER has been able to give to the consumer engagement process in this draft determination. Although we believe there are still many opportunities for the revised proposals to outline and clarify how this engagement specifically shaped elements of their proposals.*

2.3.3 Engagement since draft decision

The three businesses took on board the comments of the AER, CCP17 and other stakeholders, acknowledging in their revised proposals:

> *We are constantly learning and improving our engagement approach.*

For example, CCP17 had commented and the AER had quoted that the Energy Futures Customer Advisory Panel (EFCAP) set up by the businesses had not achieved its full potential. CCP17 had concluded:

> *We wait with interest to see how the EFCAP process will be reinvigorated, to provide a more pro-active advisory role in the coming months leading up to the regulatory proposals.*

The businesses responded:

> *We have received relatively consistent feedback about our engagement over those four years—that while our engagement has been broad and comprehensive, a stronger link between engagement outcomes and our regulatory proposal was sought. In preparing our revised proposal, we have listened to our stakeholders and reshaped our engagement to a more collaborative and targeted program with key customer representatives, which complements our grass-roots approach. We established a new Customer Advisory Panel (**CAP**), comprising five informed representatives of different customer groups and policy makers. We have equipped the CAP with detailed information packs about our marquee programs and topics of engagement, allowing for deep and meaningful input into our revised proposal plans. This collaborative approach is the cornerstone of our revised proposal—together with the CAP we have reduced our expenditure proposal by $47 million to address our customers' growing affordability concerns.*
>
> *…*
>
> *Together with the CAP we have begun a process of developing measurable outcomes-driven commitments, that will ensure we deliver on the programs in our revised proposal, as well as other programs that form part of our business as usual improvements. We plan to finalise the commitments in the first quarter of 2021. These commitments will be endorsed by the Chief Executive Officer and the Executive Management Team and build on the already outstanding service outcomes we deliver year on year, that separate us from our peers.*

The businesses' revised proposals include significant sections on:

- What we've been doing since our regulatory proposal;
- We've received valuable feedback from stakeholders;

- Our engagement for the revised proposal is more targeted;
- We have collaborated with the CAP to get the best outcomes for customers.

The revised proposals include positive quotes from CAP members. For example, Gavin Dufty (St Vincent de Paul) is quoted as saying:

> *The formation of the CAP is a significant step forward by CitiPower, Powercor and United Energy and is a step forward to further enhance consumer outcomes. I have found the meetings to date informative, respectful and responsive to views and expectations presented by members. As this process is developed, I believe it will lead to enhanced outcomes for energy consumers.*

Importantly, section 2.4 of the revised proposals addresses the issue raised by the AER that the AER was not always able to identify how consumer views were incorporated in the businesses' proposals by setting out in some detail "What we've heard and how we've responded", covering the following topics:

- How we are improving our stakeholder engagement;
- Shaping our Customer Strategy together;
- Our revised Customer Enablement program;
- Incorporating the impacts of COVID-19 in our forecasts;
- Our revised Future Network proposal; and
- Our revised wood poles asset management proposal.

These are supplemented by further details appendices and attachments.

Also importantly, the businesses set out their Business As Usual (BAU) stakeholder engagement plans:

> *Most importantly—the journey does not end here, this is just the beginning. Our CAP will become one part of our business as usual stakeholder engagement and customer communication strategy summarised in this chapter and detailed within UE RRP APP02. We will also work with the CAP to develop measurable output-based commitments that we can report against to improve transparency, trust and understanding of our performance against targets.*

2.3.4 CCP17 involvement

Our involvement with the businesses' stakeholder engagement since our previous advice to the AER has included:

- Monthly catch-up meetings with the businesses;
- 9 September 2020 – deep dive COVID-19
- 16 September 2020 – CAP meeting #1
- 23 September 2020 – deep dive Energy Market Transformation
- 5 October 2020 – CAP meeting #2 – COVID19
- 7 October 2020 – deep dive – Asset replacement
- 20 October 2020 – CAP meetings #3,4 – Future networks, poles
- 5 November 2020 – CAP meeting #5 – future plans

2.3.5 CCP17 observations

We welcome the fact that the businesses have been open about learning from the comments in the AER's Draft Decisions and have addressed the issues raised by the AER. We welcome the formation of the CAP,

which has been more effective in helping the businesses respond to the Draft Decisions with their revised proposals.

The businesses have held significant focused stakeholder engagement meetings since the Draft Decisions and have consistently involved CCP17. We also welcome the setting out of BAU engagement plans, as set out above.

3 Matters common to all revised proposals

3.1 Introduction

The initial proposals by the Victorian electricity distribution businesses, with the exception of AusNet Services, all tended to include greater levels of expenditure and investment than before. We are pleased that so many of the revisions outlined by the AER in the Draft Decisions were accepted.

All the revised proposals had to deal with several common issues. We note the propensity to list many step changes in the operating expenditure proposals. Some are of substance, as we recognise the pressures of the global insurance market in requiring distributors to reconsider the levels of cover and sharing of risk.

Also, all the proposals exist in an environment of wide-ranging government investment plans to address the financial impacts of the global pandemic.

The field of distributed energy resources remains almost chaotic, as the level of embedded generation increases, raising new concerns such as how to implement safe network 'operating envelopes' and address the emerging challenge of minimum daytime demand.

Although the uptake of electric vehicles is likely to remain low for some time yet, we see this regulatory period as an ideal time to establish targeted connection requirements and tariff arrangements to, as much as possible, 'get ahead of the game'.

Most distributors raise the proposal to invest further in systems and processes related to customer service fulfilment. This is a vexed issue. On the one hand, the service focus of distributors can be significantly improved, an issue that has been highlighted by the work of the AusNet Services' Customer Forum. However, in this complex industry framework, traditional components such as retailers remain key, and the emergence of new industry entities such as demand aggregators, operators of virtual power plants (VPPs) and others, not unlike what we have seen recently in South Australia will continue to disrupt the line-of-sight between distributors and customers. We remain supportive of the initiatives regarding the introduction of the Customer Service Incentive Scheme.

There remains plenty of room for the distributors to continue to improve their basic service fulfilment – appointments, connections and network reliability.

3.2 COVID-19 and uncertainty

In our response to the initial proposals and the AER's Issues Paper, CCP17 recognised the uncertainty confronting customers, the regulator and network businesses in response to COVID-19. We noted that the engagement for the regulatory proposals had occurred prior to COVID but that there were still significant impacts likely to flow from the pandemic, and associated uncertainty.

We identified four key COVID-19 responses:

1. Engagement needs to continue, but differently,
2. Regular updates in the interest of 'no surprises',
3. Be flexible and note that the standard processes may not work as well due to exogenous factors, and
4. Consider re-openings triggers and process.

We also described various responses that were needed, being:

a) Consumer Engagement

While consumer engagement processes will be impacted as social isolation and public gathering conditions apply, this is no reason for consumer engagement activity to be reduced. Engagement methodologies will need to be adjusted to approaches that do not require groups of people in the same location. Neither should effective consultative approaches be readily discarded because "there's no time to do them"…

Consumer engagement should be an ongoing priority for network businesses and the AER should expect to see evidence of consumer support for key network business decisions. Indeed, it is a CCP17 opinion that times of heightened uncertainty mean that the best responses are those where there is a greater level of shared understanding of the challenges and shared decision-making.

a) Statement of Expectations

The AER's initial Statement of Expectations was timely, responsive and appropriate.

b) Embrace mistakes

Some responses to the challenges thrown by COVID-19, made in good faith and on reasonable evidence, will, in hindsight prove to be the wrong decisions. It is critically important that a culture of "no blame" is applied in such circumstances.

c) Getting on the Front Foot

CCP17 expects that the AER will carry out sensitivity analysis on the components within the revenue determination building blocks and form a plan to respond to these variations should they arise. This is preferable to scrambling to develop a response after major problems have occurred.

d) Regular Updates

In order to attempt to keep key stakeholders in touch with the rapidly changing circumstances that envelop this reset, we suggest that the AER with the businesses should consider providing updates and briefings for stakeholders.

e) Greater Flexibility

In the Issues paper, the AER has committed to a "greater degree of flexibility in our approach to requesting and receiving information" for this reset. We support this approach and observe that the impacts of COVID-19 uncertainty have been and should continue to be an attitude of flexibility, even forgiveness, when things do not go as planned or anticipated.

f) Decision Review

We suggest that in this instance the AER should signal that it will be reviewing the final decision in response to COVID-19 impacts, and perhaps suggest a notional timeframe, maybe 18 to 24 months after the final decision is made."

Six months later and we continue to stand by these as appropriate with the following updates:

- General Responses

  While uncertainty persists, there is now more experience of lockdown and customer responses to the various public health and economic responses that have been made to the virus. In general, we suggest that the current situation is somewhat more certain than six months ago and that impacts on electricity network businesses have not been as substantial as initial thinking suggested they could be. Uncertainty remains, but there is enough predictability for network businesses and the regulator to be confident in the appropriateness of the April 2021 final determinations.

- Consumer engagement

  The network businesses have continued to engage with selected stakeholders and we suggest that they now need to move into strategies that both regularly update stakeholders with changes and developments and also continue to engage actively on continuing issues including insurance premiums, demand forecasts and solar PV uptake.

- Statement of Expectations

  The AER has now released two Statements of Expectations which we think have been particularly helpful and we expect this approach to continue into 2021.

- Decision Review

  The relatively greater predictability that we suggest now exists diminishes the likely need for decision review is response to uncertainty. We pick up this theme a little later in this section.

At the predetermination conference we said that the best approach into the near future in response to uncertainty was, to invoke the UK World War II slogan, "keep calm and carry on." We think that this approach is appropriate for the period up to the AER's final determination for the Victorian distribution businesses, and beyond.

3.3 Jurisdictional Impacts

3.3.1 ESC Victoria Electricity Distribution Code Review

The Victorian Government's Essential Services Commission carried out a review of the customer service standards included in the Victorian Electricity Distribution Code during 2019 and 2020, with the Final Decision published in November 2020[20]. Relevant to the Victorian DNSP's regulatory proposals are the following changes which come into effect from 1 July 2021:

a) Improving the methods of notification for planned outages

Retailers and distributors must enable customers to nominate their preferred notifications method or methods. Customers who cannot or do not engage to nominate their preferences will continue to receive hard copy notices.

b) Changes to the Guaranteed Service Level (GSL) Scheme

The ESC's final decision on the Distribution Code review makes the following adjustments related to GSLs:

- slight increase to payment levels
- slight reduction to payment thresholds
- introduction of single interruption payments threshold to the major event day (MED)
- exclusion of MEDs from annual duration and interruption threshold.

Because the final GSL scheme details were published after the AER's Draft Decision, each of the businesses has included a placeholder in their Revised Proposals, identifying the estimated impact of the revised GSL scheme. We expect that AER review of the modelling approaches may result in further changes to GSL allowances.

20 https://www.esc.vic.gov.au/sites/default/files/documents/Electricity%20Distribution%20Code%20Review%20-%20Customer%20Service%20Standards%20-%20Final%20Decision%20as%20amended%20on%2022%20December%202020.pdf

($million, June 2021)	Original proposal	Draft Decision	Revised proposal (new GSL Scheme)
AusNet Services	46.7	46.0	29.8
Jemena	0.8	0.9	0.9
CitiPower	0.8	0.7	0.8
Powercor	3.2	5.6	12.1
United Energy	1.1	3.6	5.2

Table 5: Impact of Changes to the Victorian GSL Scheme (source: CCP17 analysis)

Revision of GSL costs for each business is discussed in section 3.5.

3.3.2 Update to Victorian Environmental Protection Law

A new Environment Protection Act 2018 was passed in the Victorian Parliament in 2018, and was due to come into effect in July 2020, along with various regulations and other instruments. The new act changes how pollution, waste and contamination are regulated in Victoria. The amendments are intended to shift from a 'reactive' regulatory framework to a 'proactive' framework including by the:

- imposition of a 'general environmental duty' which, relevantly, requires systems to be put in place to prevent pollution.
- imposition of specific duties to manage contaminated land and to notify the Environmental Protection Authority Victoria of specific contaminated sites.
- codification and augmentation of the existing noise framework, including by imposition of a night noise limit and giving force of law to the existing non-binding guidelines in regional Victoria[21].

Introduction of the new act was affected by the COVID pandemic, and it is now expected that the commencement date will be 1 July 2021. The Victorian Government has advised that regulations and standards will be made closer to the new commencement date[22]. There is still uncertainty about the timing and content of the regulations and standards.

3.3.3 The possible impact of Victorian Government announcements

In November 2020, the Victorian Government announced a $797 million energy efficiency stimulus package to improve the quality of homes, create jobs and boost public health.

The stimulus measures include:

- $335 million to replace old wood, electric and gas-fired heaters with new energy-efficient systems in 250,000 homes;

[21] See for example https://www.aer.gov.au/system/files/CitiPower%20-%20Revised%20Regulatory%20Proposal%20-%202021-26%20-%20APP04%20-%20Uncertainty%20appendix%20-%20December%202020.pdf, p13
[22] Ibid

- $112 million to upgrade the comfort and efficiency of 35,000 social homes;
- $14 million for appliance upgrades under the Victorian Energy Upgrades program; and
- New minimum energy efficiency standards for rental homes to ensure that they are fit for habitation will be in place from 2022.

The government is also providing funding to help set Victoria up for the move to seven star efficiency standards for new homes, supporting skills, training and jobs in the construction sector.

The funding was announced in various media releases from the Premier of Victoria, including releases on 15 November,[23] 17 November[24] and 24 November 2020,[25] with the details in the *Victorian Budget 2020/21*, which was handed down on 24 November 2020.[26]

These announcements came only a week or two before the businesses submitted their revised proposals to the AER. The businesses recognised that the stimulus package would have significant impacts on their networks. For example, CitiPower noted:[27]

> *In response to the COVID-19 pandemic and economic slowdown, on 24 November 2020 the Victorian Government handed down its budget with $49 billion of spending over the next four years. This substantial stimulus, with a strong focus on infrastructure spend, will also have significant impacts on our network.*

However, there was time available only to take some of the headline items in the stimulus package into account in the revised proposals to a limited degree. For example, CitiPower has noted in regard to trends in connection:[28]

> *While residential connections may slow in the near term, stimulus packages such as the Victorian Government's Big Housing Build are likely to maintain construction activity in the sector.*
>
> *For non-residential connections, the Federal Government stimulus package and Victorian Government initiatives are expected to lead to an increase in connections activity, especially infrastructure and commercial/retail developments. For example, the West Gate Tunnel project will be completed, and the recent Federal budget announced infrastructure funding of over $1.1 billion for Victoria.*

CCP17 view

We discuss uncertainty more generally in section 3.2 of this Advice. This government announcement may be seen to add certainty in the sense that it creates a definitive view of where the State Government sees its role in investment, but it also creates uncertainty because it is difficult to forecast what the impacts of this large stimulus investment will be on the energy market in Victoria in general, and on the Victorian distribution businesses in particular.

As with other elements of uncertainty, our reaction is to call for business agility as a key part of the business narrative, so that the businesses can handle change and not be phased by it.

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[23] *Victoria's Big Housing Build*, 15 November 2020, available at https://www.premier.vic.gov.au/victorias-big-housing-build
[24] *Helping Victorians Pay Their Power Bills*, 17 November 2020, available at https://www.premier.vic.gov.au/helping-victorians-pay-their-power-bills
[25] *Making Victoria A Renewable Energy Powerhouse*, 24 November 2020, available at https://www.premier.vic.gov.au/making-victoria-renewable-energy-powerhouse
[26] See https://www.budget.vic.gov.au/clean-energy-power-our-recovery
[27] CitiPower Revised Proposal, section 1.6, page 9
[28] CitiPower Revised Proposal, section 7.5.2, page 91

We also note that there is considerable merit in national consistency in energy and regulatory policy, including how investments in network infrastructure and other investments are assessed to be in the long-term interests of consumers. To some extent, differences in jurisdictional government policies inevitably lead to different regulatory and business outcomes in different jurisdictions. We caution the AER and the businesses to retain the overall national vision for energy regulation, and not to be swayed to unnecessarily different solutions in different jurisdictions which are not in customers' long term interests.

3.4 Forecasts

Forecasts are important as they underlie several elements of the building blocks that the AER uses to determine the businesses' allowed revenue in the forthcoming regulatory period.

In our previous advice to the AER, we noted that the businesses' proposals were submitted in January 2020, while the impacts of COVID-19 only started to be felt in Australia in March 2020. We cited versus effects of COVID-19, and concluded:

> *Clearly there are some discrepancies between business views and AEMO forecasts, with CP-PC-UE going as far as to say that AEMO's forecasts are not accurate and unbiased.*
>
> *Importantly, AEMO's forecasts and the businesses' forecasts are to be revisited when there is more clarity regarding the effects of COVID-19. We expect to see revised forecasts considering the points mentioned in this section of our advice, and other relevant matters, and we will then reassess those revised forecasts at a later date.*[29]

We recognise that demand forecasting including new connections has continued to be somewhat uncertain due to the different scenarios that exist regarding potential housing demand, new developments, urban to regional shifts and working from home.

The AER's Draft Decision approach is to use the Housing Industry Association (HIA) data as a basis for estimating of future demand.

We commend this approach and agree that the AER should use the best available data from independent sources including AEMO and the HIA at the time that the AER needs to make its final decisions for 2021-26.

As further population and housing growth estimates emerge, distribution businesses, customers and the AER will be able to work through any further implications. We also note that under a revenue cap any under-recovery or over-recovery of the allowed revenue in any given year is accounted for in adjustments to allowed revenue and hence to tariffs in future years.

3.5 Operating expenditure (opex)

3.5.1 AER Draft Determination Opex Decisions

Each of the distribution companies have proposed increases in their operating expenditure from that in ten current regulatory period.

The following Table 6 tracks total operating cost proposals from the initial proposals through subsequent revisions where applicable and provides the AER's Draft Determination and updated revised revenue proposal opex bids.

[29] Advice to the AER on the Victorian Electricity Distributors' Regulatory Proposals for the Regulatory Determination 2021-26, CCP17, 10 June 2020, section 6, pages 59-62

Operating expenditure ($20/21) M	United Energy	CitiPower	Powercor	Jemena	AusNet Services
Proposed	797.7	568.8	1536.9	576.6	1233.4
Revised	785.9	562.8	1500.8	559	1233.4^
AER draft decision	694.6	462.9	1320.5	499.8	1187.4
Difference	- 11.6%	- 17.8%	- 12%	- 10.6%	- 3.7%
Allowance Last Period $2015	726.3	431.5	1190.2	452.3	1169.6
DD vs last period actuals	+ 8%	+15.6%	+15.1%	+12.3%	+ 5.1%
Revised proposal	712	472	1388	532.3	1193
Difference from draft	+ 2.5%	+ 1.9%	+ 1.9%	+ 6.5%	+ 0.5%

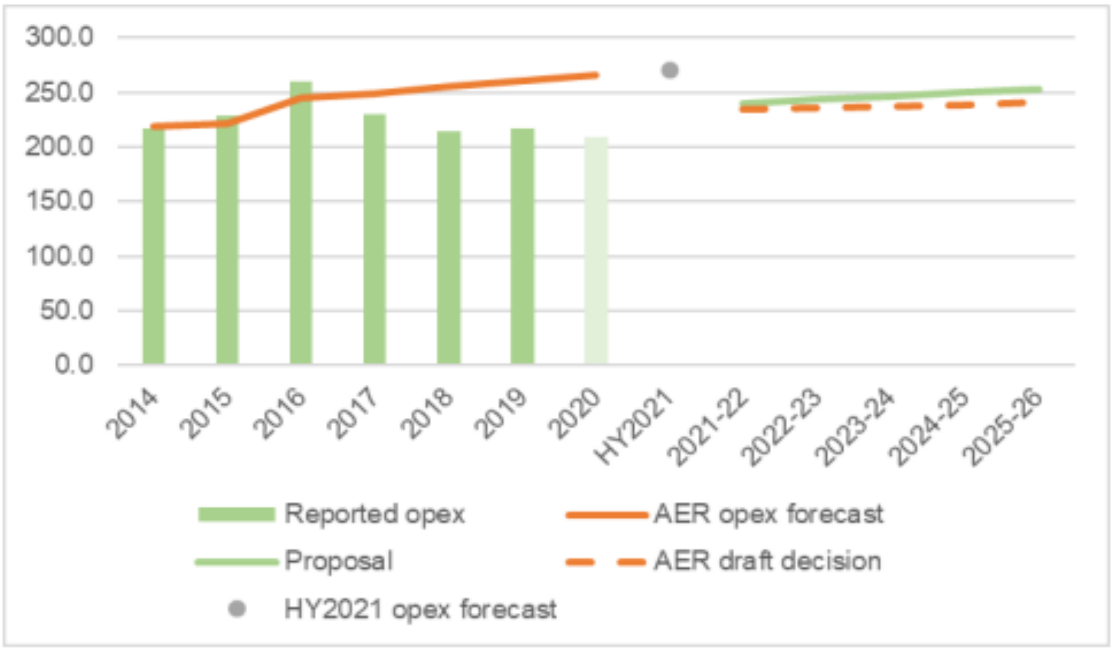
Table 6: Summary of Opex proposals (source: CCP17 analysis of proposals)

Note: ^ refers to AusNet Services not changing their proposal, as lodged, prior to the Draft Determination.

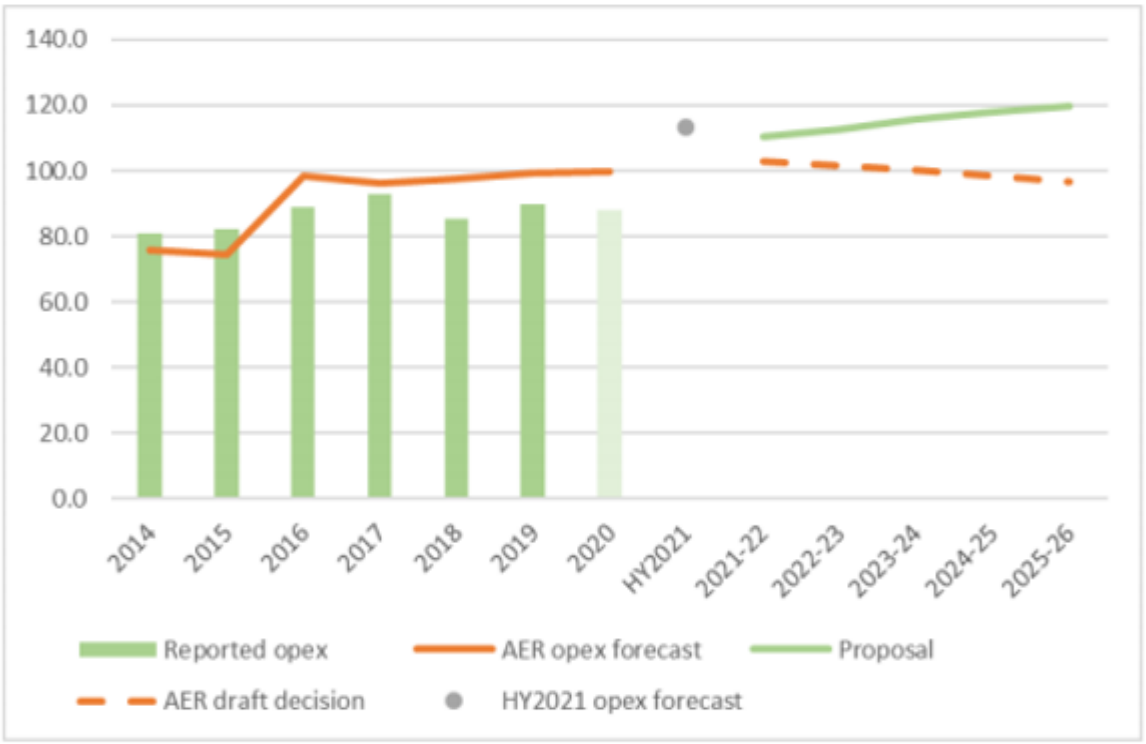
The following summary charts from the AER Draft Determinations for each of the five businesses show actual and forecast costs for the current regulatory period along with the associated AER operating cost allowance for the current period.

The AER operating cost proposal for the 2021 - 26 regulatory period is then given alongside the proposals from the businesses.

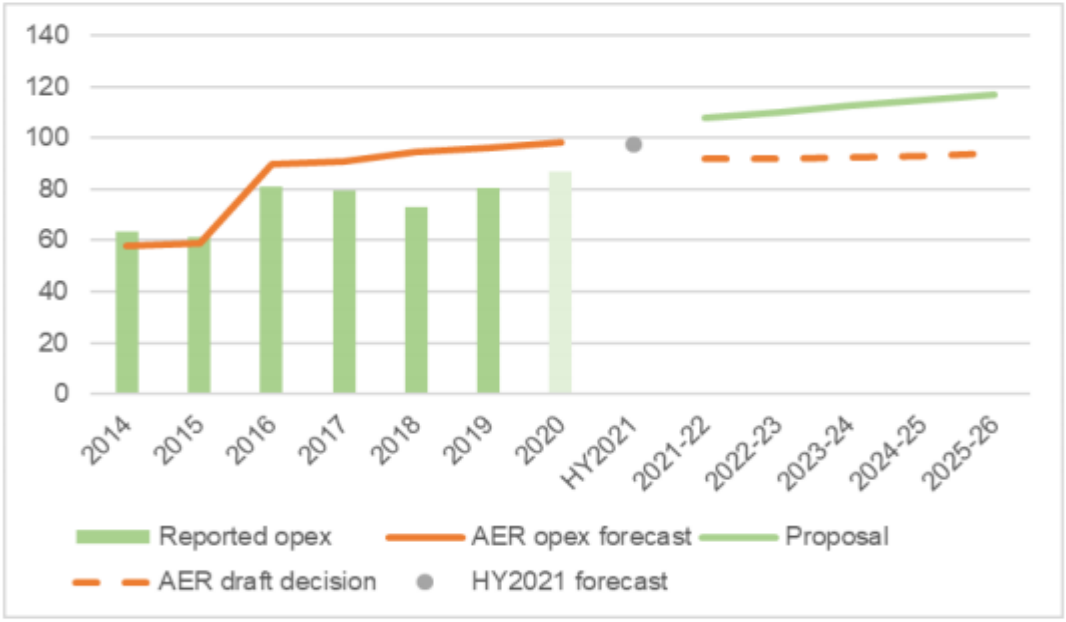
AusNet Services



Jemena

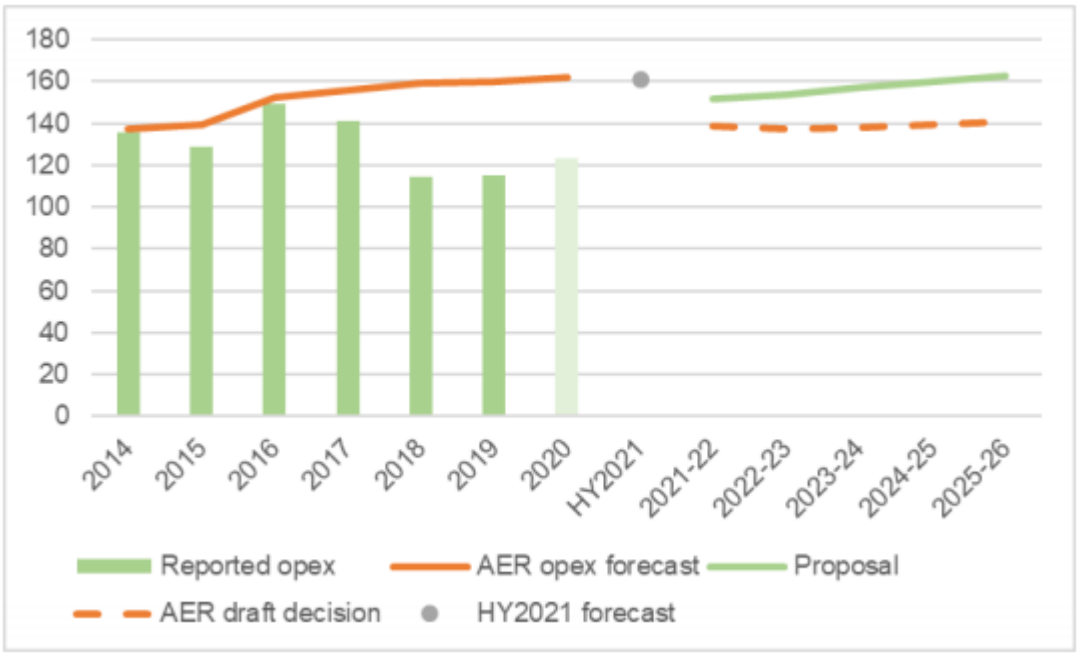


CitiPower



Powercor

United Energy



The following figure shows the amount of reduction that is provided by the AER Draft Determination by comparison with the initial proposal, in most instances revised, that was lodged with the regulator.

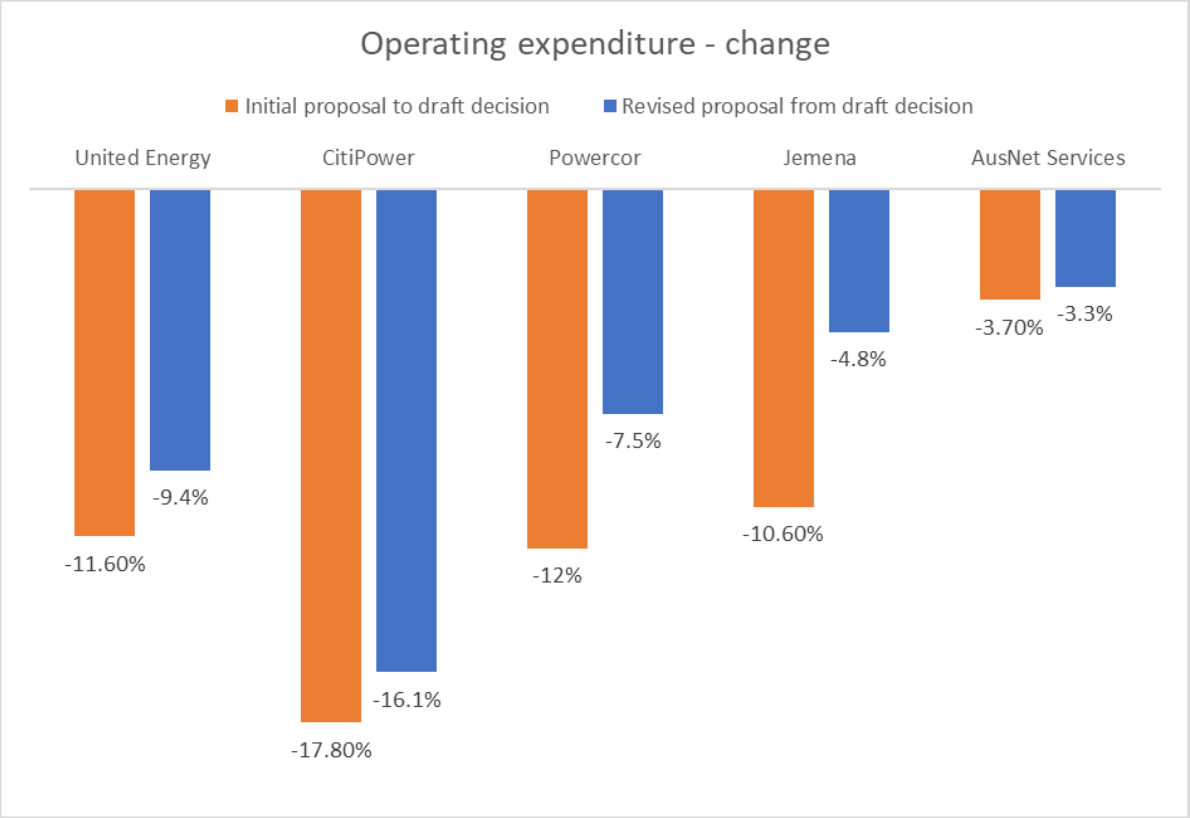


Figure 6: Change in operating expenditure - initial to draft decision to final proposal (source: CCP17 analysis)

Trends and Overview

From considering the information provided above we make the following general observations:

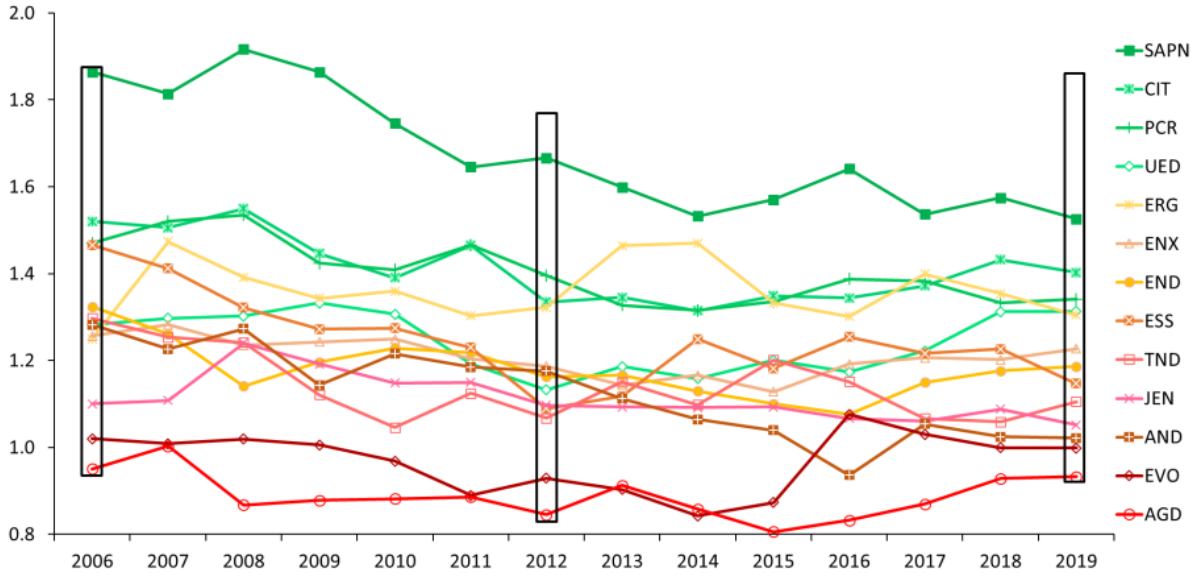
- Each of the network businesses has underspent their operating costs against the current regulatory allowance for the current period.
- The operating cost proposals for each business were significantly (in most instances) higher than both their current actual spending and the AER allowance for the current period.
- The Draft Determination operating cost allowance is lower for each business than the corresponding proposal; the reduction is much smaller for AusNet Services.
- The Draft Determination allowance, 2021 – 26, for each business is higher than their actual expenditure for the current period.
- Each revised revenue proposal is a little higher than the Draft Determination, with the Jemena revised proposal having the highest level of increase compared to the Draft Determination.

3.5.2 Multilateral partial factor productivity (MPFP) and Base year

This section considers the recent 2020 benchmarking data for the two "headline" measures; MPFP (Multilateral partial factor productivity) and MTFP (Multilateral total factor productivity). Note that MPFP is measured for both operating expenditure and capital expenditure. These benchmarks provide a very helpful indication of the relative efficiency of spending by the 13 electricity distribution network businesses in Australia as well as industry-wide trends, which include generally declining network productivity over the last decade and a half.

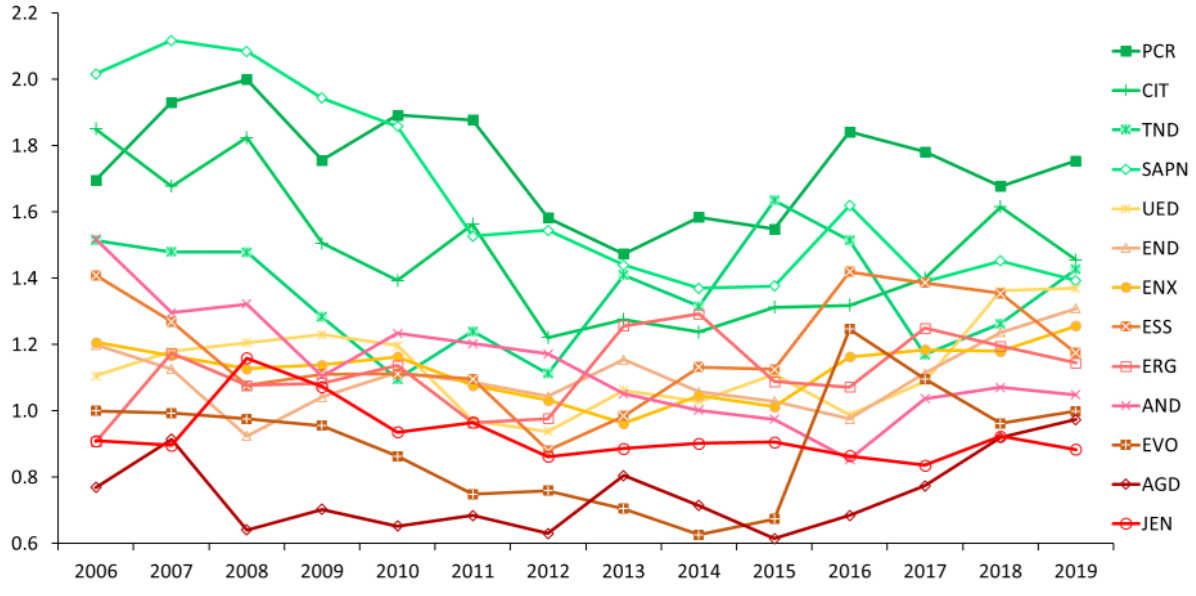
This benchmarking data will also be used in the next section that considers the efficiency of base year operating costs, which is the basis of the base – step - trend model that is used in Australia for operating expenditure considerations.

Figure 4.2 MTFP indexes by individual DNSP, 2006–19



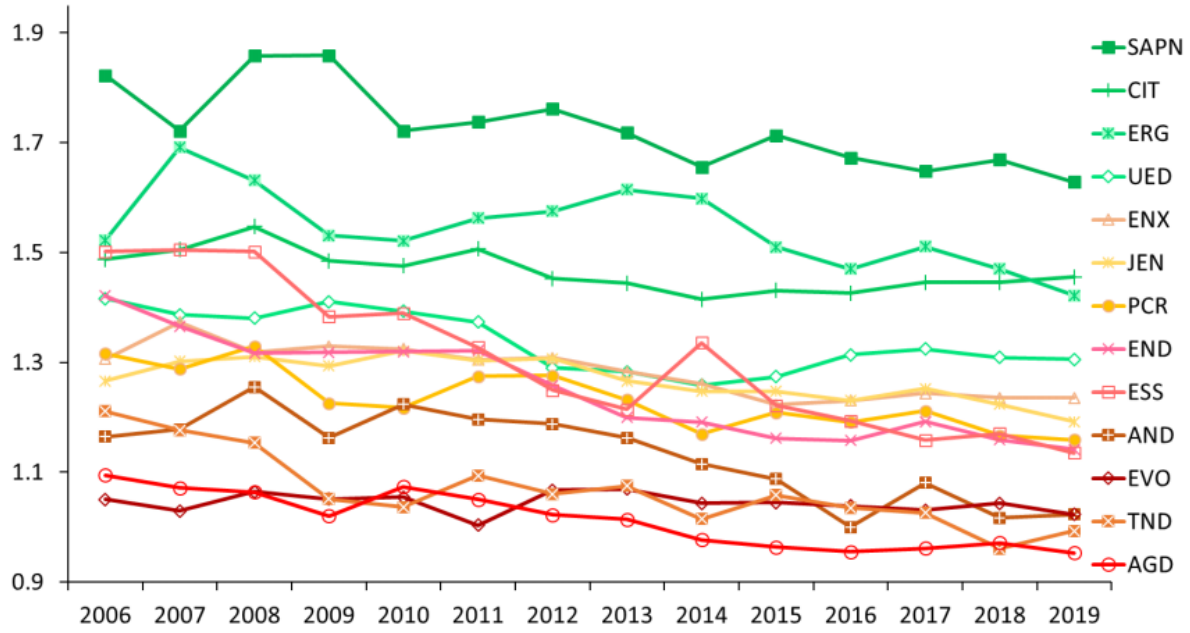
Source: Economic Insights; AER analysis.

Figure 4.3 DNSP opex multilateral partial factor productivity indexes, 2006–19



Source: Economic Insights; AER analysis.

Figure 4.4 DNSP capital multilateral partial factor productivity indexes, 2006–19



Source: Economic Insights; AER analysis.

The following table summarises the positions for each of the benchmarked measures for the five Victorian electricity network distribution businesses, using the data from the AER's 2020 benchmarking report, as published. In presenting this table we are well aware that each business is different and that there are arguments that challenge the inferred rankings from the benchmarking methodology that is used by the AER.

While recognising the debates that have arisen since the AER first released its benchmarking reports, CCP has been a strong supporter of the benchmarking reports as being a very good starting point for consideration of the relative efficiency of the network businesses' spending, and consequently the basis for any considerations of nuanced interpretation or results. They also assist with external scrutiny and transparency of distributor costs and efficiency.

	Multilateral total factor productivity (MTFP)	MPFP Opex	MPFP Capex
United Energy	4	5	4
CitiPower	2	2	2
Powercor	3	1	7
Jemena	10	13	6
AusNet Services	11	10	9

Table 7: Victorian DNSP's Productivity rankings, 2020

This data shows that United Energy, CitiPower and Powercor are among the more efficient businesses in Australia for all measures and particularly operating costs. Jemena has the poorest operating cost MPFP

with AusNet Services also poor, using the published data. Jemena and AusNet Services are also at the lower end of efficiency for total factor productivity but perform better for MPFP capex for which Jemena and Powercor are in the middle of the range for the 13 distributors.

At the predetermination conference in October 2020, CCP17 highlighted the different decisions regarding the relative efficiency of the distributors' base year opex, presenting the following.

Figure 7: Efficiency scale observations at draft determination (Source: CCP17)

We also said that CCP17 will be exploring the nuance between relatively inefficient and relatively efficient assessments.

We are acutely aware that Jemena are unhappy about the finding that their base year operating costs are "relatively inefficient", and we have been actively involved with the some of the debates associated with the Jemena base year finding. It is probably the most contested finding from the five Draft Determinations, regarding operating costs. More detailed examination of Jemena's base year operating costs and our observations about this debate are presented in section 4.2.1.

3.5.3 Step Changes

Materiality

Before we consider the specific step changes, we return to the matter of "materiality".

In our Advice on the businesses' initial regulatory proposals, we discussed criteria for considering step changes and provided some views on 'materiality' in that context.

Regarding criteria for step changes, we said:

> *"CCP17 has considered that there are three criteria for assessing whether a proposed expenditure meets the requirements for a step change:*
>
> - *Legitimate obligations or capex / opex trade-offs.*
> - *Something that is new and exogenous, meaning that is imposed from outside of the business.*
> - *Recurrent, or likely to be recurrent, it cannot be a one-off cost."*

We also made the following comments about "materiality" of step change proposals:

> *"In considering the significant number of step changes that were proposed by the five Victorian network businesses for the forthcoming regulatory period, we observed that there were proposed step changes that did not meet strict interpretation of either the first criterion or the second criterion, because they are existing costs and recurrent. However, the rate of increase is likely to be much higher than could reasonably have been expected by the business when considering past and current costs. Externally imposed levies and insurance premiums are a couple of examples from the proposed step changes.*
>
> *This gives rise to a fourth criterion: materiality. By this we mean increases in costs for an existing recurrent item that an efficient business could not readily absorb into their cost structure. This is*

perhaps a function of the AER and consumer expectations that a 0.5% operating cost productivity 'dividend' be provided by network businesses to incentivise dynamic operating cost efficiency. …

We then considered that any recurrent cost item that increased by more than 50% could be readily regarded as material.

This then leaves a fairly large band of "grey". We consider that materiality increases as the shade of grey increases from about a 5% increase to 50% increase with the decree of materiality being a lower percentage for higher cost expenditure. While very much a "rule of thumb" we have considered that the scale provides some basis for initial consideration of materiality with each expenditure increase being then reviewed from a reasonableness perspective."

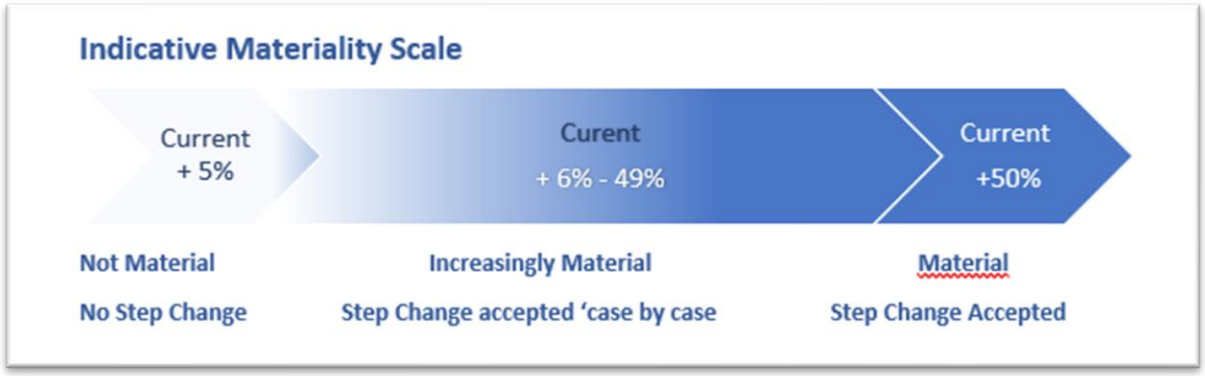


Figure 8: Operating expense materiality scale (proposed) (source: CCP17)

The CPU businesses have challenged the application of "materiality" as a guide for determining the acceptability of a step change, they have said:

"The NER require the AER to accept our operating expenditure forecasts where they represent the prudent and efficient costs. The Rules do not stipulate a requirement for a materiality threshold in relation to step changes. We are concerned that introducing such a concept could create perverse outcomes where inefficient cost increases are rewarded as material, but efficient cost increases that do not meet a materiality threshold are not. Further, applying materiality thresholds on operating expenditure step changes such that involve capital -operating expenditure trade-offs, the AER is creating a bias against efficient operating expenditure solutions such as demand management.

Additionally, materiality assessments have been applied inconsistently across determinations. This has included approval of very minor step changes, including the recent SA Power Networks 2020–2026 final determination and in AusNet Services 2021–2026 Draft Determination (i.e., $1.2 million innovation fund step change). Given these considerations, we have reproposed a number of step changes and we expect the AER will give full consideration to ensuring we can recover our efficient and prudent costs for these activities."

CCP17 agrees that the NER requires the AER to accept expenditure forecasts, including for opex, which are prudent and efficient. In our previous discussion about materiality we made two main observations.

We referred to 'materiality' in the context of recurring operating costs. We continue to state that a step change for a recurring cost is only legitimate where the increase is 'material', meaning that it is significantly greater than a prudent business could reasonably anticipate. Our second observation was saying that 'prudent and efficient' costs are not absolute – there is no single correct dollar value that is the one true 'prudent and efficient' cost. 'Materiality' recognised that there are 'shades of grey' in any cost estimate and our discussion sought to provide some guidance through the sometimes caliginous aspects of prudency.

For example, each Victorian electricity distribution business submitted a regulatory proposal to the AER at the beginning of 2020 which they believed was 'prudent and efficient', and we do not doubt that this was the view of each business at the time of lodgement. However, each of the five businesses has submitted a revised revenue proposal that is lower than their original proposal. This revised proposal they also regard as 'prudent and efficient'. This reinforces our view that there are shades of grey in any consideration of prudent and efficient. Indeed, there is a legitimate argument that says that the AER's Draft Determinations are also prudent and efficient, each of these being lower than the revised revenue proposals, so the range of 'grey' is extended to being somewhere between initial regulatory proposals and the AER's Draft Determinations.

We do not accept the argument that considering materiality "could create perverse outcomes where inefficient costs are awarded as material". Our consideration of 'materiality' was quite different; we were suggesting that modest changes to existing costs were likely to be immaterial and so did not warrant being treated as a step change.

Similarly, we do not regard considerations of materiality to skew opex / capex trade-offs, as it is the responsibility of the business to demonstrate that customers are better off from whatever trade-off is proposed between operating and capital costs.

Step changes can also be 'negative', being reductions in recurring opex. We strongly suspect that the businesses already apply the concept of materiality to negative step changes, which is why they are so rare. CCP17 considers that if materiality is applicable to negative step changes, then the principle is equally applicable to positive step changes.

We conclude this brief discussion by highlighting that materiality is a guide in helping to determine whether higher recurring costs are 'prudent and efficient'. We struggle to think of a situation where consumers and a sensible regulator would approve immaterial costs as prudent and efficient or material costs that were inefficient. We stand by our view that 'materiality' is a useful guide in determining whether a proposed change (increases in the case of these resets) for a recurring cost that consumers would pay, is in fact 'prudent and efficient'.

Revised Step Changes

We recognised the step change proposals from each business at the predetermination conference with the following table.

Step Change	ANS	ANS	JEN	JEN	PC	PC	CP	CP	UE	UE
	Revised	AER	Revised	AER	Revised	AER	Revised	AER	Revised	AER
Security Inf'struce / cyber	4.7	0	2.9	2.9	14.5	13.4	14.4	13.4	45.9	32.5
REFCL opex					13.3	10.8				
REFCL test	5.9	5.8	1.3	1.3						
EDO fuses					11.2	0				
Solar able					6.2	0	1.3	0	4.2	0
IT Cloud	2.6	0			5.9	5.5	2.3	2.2	4.7	4.5
Insurance					5.0	5.0			2.2	0
Bushfire Insurance			28.8	28.2						
5 Min Set'l	3.6	3.5			4.9	4.5	1.9	1.8	3.9	3.7
ESV Levy					4.0	0	1.5	0	2.5	0
FinRiN			0.5	0	1.8	0	1.8	0	1.8	0
Yarra trams							14.4	0		
Demand Managem't									8.6	0
Future Grid			3.8	0						

Table 8: Overview of proposed OPEX step changes at draft decision (source: CCP17 analysis)

We also recognised that there had been considerable discussion about step changes over the years leading up to revenue proposal lodgement and that each business had engaged with customers and had reduced the amount claimed in step changes from their initial thinking, largely in response to customer and stakeholder concerns.

The green cells indicate acceptance of the proposed step change in the Draft Determinations, with red meaning rejection and ochre suggesting some uncertainty. Note that the "revised" column refers to revisions from the original proposals and does not refer to Revised Revenue Proposals

The following table summarises our understanding of the status of step changes from the revised revenue proposals.

Step Changes / Revised Revenue Proposals	ANS DD	ANS RRP	JEN DD	JEN RRP	CP DD	CP RRP	PC DD	PC RRP	UE DD	UE RRP
5 min Settlement	3.5	3.5			1.8	1.8	4.5		3.7	
Cyber security	0	0	2.9	2.9	13.4	8.9	13.4	8.9	32.4	31.2
ICT	0	2.6			2.2	2.2	5.5		4.5	
REFCL	5.8	4.5	1.3	1.2			2.6	3.7		

Step Changes / Revised Revenue Proposals	ANS DD	ANS RRP	JEN DD	JEN RRP	CP DD	CP RRP	PC DD	PC RRP	UE DD	UE RRP
Insurance	**New**	**10.5**	28.2	28.2			**0**	**28.1**	**0**	**11.8**
Solar Enablement					**0**	**1.3**	**0**	**4.8**	**0**	**3.9**
Demand Management									**0**	**3.1**

Table 9: Overview of step changes (revised proposals) (source: CCP17 analysis)

We note that the AER asked for updated costings for some proposed step changes, mainly associated with compliance with bushfire safety requirements (REFCL) and cyber security. Three businesses have also provided new step change proposals associated with insurance costs, particularly for bushfire risk insurance. We consider insurance costs separately in the following section. New or re-proposed step changes are shown in red in the table.

Commentary on the specific step change proposals for each business is provided in section 4 of this Advice. Where there is acceptance of the AER Draft Determination, we provide no further comment, and revised estimates of accepted step change categories are also not the subject of further comment as we accept these as reasonable.

3.5.4 Insurance

Jemena sought a step change to meet rising insurance costs in its initial proposal which was accepted by the AER in the Draft Determination. The remaining businesses, except CitiPower, which has minimal exposure to bushfire risk, have each proposed a new step change to meet rising insurance costs, predominantly for bushfire insurance premiums.

We consider two aspects to the question of insurance cost increases step changes:

- The situation causing the claims; and
- Consumer engagement related to insurance.

Situation of increased insurance costs

In the revised revenue proposal, AusNet Services provides the following situation summary of the insurance market, specifically for bushfire risk insurance costs. We think that this summary effectively explains the twin issues of withdrawn insurance capacity and reduced cover.

Box 4.1: Longer bushfire seasons are increasing risks and pushing up premiums

In Australia and overseas, climate change is causing longer fire seasons with increased bushfire risk and the areas at risk are expanding. In addition, population and property assets are growing in the highest risk areas as they are also generally aesthetically pleasing locations to live.

Fires are burning with higher intensity and over wider areas worldwide:

- Victoria – 2009 (AUD$4.4 billion), 2014 (AUD$10 million) and 2017
- California – 2017 (US$20 billion), 2018 (US$24 billion), 2019 and 2020
- Canada – 2017 (largest wild fire ever recorded)
- Spain – 2017 and Greece – 2018

Insurance underwriters are constantly reassessing this risk after each event and are reacting by:

i. Increasing premiums (one underwriter required a $360 million premium for just $800 million of cover in 2018);

ii. Reducing capacity; or

iii. Withdrawing cover from the market (as indicated by the chart below).

Networks have seen significant premium rises over the last decade and have seen a significant amount of capacity withdrawn from the international insurance market.

CCP is aware that insurance costs are rising rapidly for all Australian electricity network businesses, so this is certainly not an issue particular to Victorian electricity distribution businesses.

We are also aware that businesses renew their insurance cover annually, most in September/ October so the revised revenue proposals would be expected to reflect the most recent costs. The new step change proposals for increased insurance premiums come as no surprise.

In our discussion about materiality, it is costs like insurance for which a broad materiality test makes sense. Insurance costs are a standard business cost and so are embedded in base year costs. Consumers would realistically expect that a modest annual rise in insurance premiums can be predicted by a business and so met from ongoing operating cost budgets.

CCP17 accepts the reality of global insurance markets, as described by AusNet Services and the other businesses, as one of both significant premium rises and reduced cover. We also understand that the increases are 'material' and so well beyond reasonable annual budget projections.

The global insurance market and particularly the number of underwriting businesses has tended to be cyclical over recent decades. Increasing claims cause several underwriters to exit the market, with re-entry as claims and premiums stabilise. There is an argument that this cycle will repeat with more underwriters returning to the global market over the next 2-3 years, in line with past trends, and so premiums falling with increased competitiveness. The counter argument is that the climate change is causing a structural change in the insurance markets, and that there will be no return to lower premiums in the foreseeable

future. We think that there is validity in the second argument, meaning that particularly climate related insurance premiums are more likely to rise or stay high than to fall. Consequently, we accept that the higher insurance prices are likely to remain over the coming regulatory period.

The options that network businesses have are extremely limited since the reduction in global underwriting firms means that, in practice, there is not a competitive insurance market for cover for large cost events with increasing insurance risk. The option of not having insurance and meeting costs in the event of a bushfire or related calamity is for pass through costs for network repair after a disaster. This simply leaves unacceptably high risk for customers. So, the options are for an increasingly narrow band of higher cost and reduce cover insurance choices.

Consumer engagement relating to insurance

While the businesses all talked about insurance costs with consumers, mainly through customer reference / advisory groups, the engagement that CCP17 observed was at the 'inform' level of the IAP2 spectrum, where consumers were advised about the tightness of the insurance market and the issues summarised above. They were largely presented with network views that there is not much that network businesses could do.

This begs the question about what appropriate engagement about insurance would look like?

We suggest that insurance cover is a significant issue for customers and particularly the levels of risk that they would expect, accept or reject. The engagement to address the issues involved needs to be ongoing between consumer interests and network businesses and should at least occur at the 'Involve' level of the IAP2 spectrum with the associated 'promise to the public' being "We will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision."

The most pertinent aspects of the AER's 'table 7' that should apply being:

- Nature of Engagement: Consumers partner in forming the proposal rather than being asked for feedback on a distributor's proposal
- Nature of Engagement: Sincerity of engagement with consumers
- Nature of Engagement: multiple channels used to engage with a range of consumers across a distributor's customer base
- Breadth and Depth: Consumers encouraged to test the assumption and strategies underpinning the proposal
- Clearly Evidenced Impact: Proposal clearly tied to expressed views of consumers
- Clearly Evidenced Impact: Impact of engagement can be clearly identified
- Proof Point: Reasonable costs and risk sharing (given the circumstances)

In application, specific workshops / forums should be conducted with consumers that explore the range of insurance options, particularly for bushfire / disaster risk, ranging from minimal cover and pass throughs as 'self-insurance', through lower cover levels, higher cover with higher premiums as well as impacts of risk mitigation action including spending on REFCL's. These arrangements should be reviewed at least annually with the relevant customer reference groups and updated information provided, including form the distributor's insurance broker about conditions in insurance markets, including easing as it arises.

It is vitally important that network businesses continue to engage actively with customer interests about insurance cover and the amount of risk customers are prepared to accept in return for changed insurance premiums.

CCP17 observations

CCP17 is accepting of the step change proposals made by the businesses to cover rising insurance costs. We consider the cost increases to be well beyond normal budgeting considerations and so are 'material' cost increases that are reasonable as a step change.

3.5.5 Guaranteed Service Levels – category specific adjustment

As outlined in section 3.3.1, each business was waiting for the Essential Services Commission of Victoria review of GSL payments during the development of their regulatory proposals.

The AER's Draft Determinations applied a common methodology to GSL forecasts for all 5 businesses:

> "*We have forecast GSL payments as the average of GSL payments made by (whichever business) between 2015 and 2019 (some businesses applied different calculation parameters). The incentives provided by our forecasting approach are consistent with adopting a single year revealed cost approach and applying the EBSS.*

The AER also noted that "for the 2016–20 regulatory control period we included GSL payments as a category specific forecast."

AusNet Services said in their revised revenue Proposal:

> *"The ESC's final decision proposed slightly higher payment rates, slightly lower payment thresholds, and the introduction of Major Event Day (MED) exclusions.110 To understand the net impact of these changes, we have re-cast our historical data from 2015 to 2019 for the final scheme. Our modelling estimated that if the final scheme had applied during the 2015 to 2019 period, our average GSL payment would have been $6.4 million per year (nominal). Consistent with the AER's previous approach, and its Draft Decision, we propose to adopt the updated historical average as our forecast for the upcoming regulatory period. This gives rise to the forecast GSL allowance set out in the table below, which shows that our total forecast GSL of $29.8 million ($2021) is 36% less than our Initial Proposal.*

In addition, we have proposed a transitional amount to close out the current scheme. We have calculated our transitional amount based on the difference between:

Our actual GSL payments (that is the current scheme with the current exclusion threshold); and

The current scheme with the ESC's exclusion threshold (MED exclusions that are aligned to a 2.5 standard deviation beta threshold) adjusted for MED payments.

The major difference between the current and final scheme is the introduction of MED exclusions. Under the current scheme, the exclusion threshold is set very high thus making it unlikely that an event would be excluded from the DNSP's obligation to make a GSL payment to affected customers. In contrast, the final scheme will introduce MED exclusions that are aligned to a 2.5 standard deviation beta threshold, which is a much lower threshold. As a result, some historical events where we have made significant GSL payments have become excluded under the final scheme and therefore excluded in our GSL allowance cost build up for the 2022-26 regulatory period.

For example, if a major storm occurs in 2016, increasing our GSL payments by $10 million, then the way in which we would normally recover this amount (assuming the current scheme continues) is through a future GSL opex allowance of +$2 million per year over 5 years. By removing this particular event from our forecast cost build up, we are left to self-fund the costs for an event that is out of our control.

Over the 2015 to 2019 period, we made significant GSL payments for events that are outside of our control and which are now excluded in the modelling of our GSL allowance for the 2022-26 period. As such, we have sought a transitional amount to close out the current scheme."

This proposed transitional amount is $16.1 million, giving a total proposed GSL 'allowance' for AusNet Services of $45.9million.

In their Revised Revenue Proposal, Jemena said "We have reviewed the ESCV's final decision on its EDC review and our analysis shows that although the payment amounts and volume of payments are both expected to increase, the overall increase in costs (relative to the Draft Decision) is likely to be immaterial. We consider that this increase can be managed within the allowance approved in the Draft Decision. As such, we have adopted the Draft Decision specific forecast for GSL payments.

The state of play, at time of writing, for GSL payments is summarised in the following table:

GSL Proposals, $m 20/21	AusNet Services	JEN	CitiPower	Powercor	UE
AER Draft Determination	46.0	0.9	0.3	13	3.3
Revised Proposal	45.9	-	0.4	19.5	4.9
Subsequent revisions	(includes $16.1 transitional amount)	-	0.1	14.5	4.1

Table 10: GSL payment allowances (source: CCP17 analysis)

We recognise that GSL schemes are going to have higher payments in non-metropolitan areas due to the much greater areas covered by 'poles and wires,' lower customer densities and greater distances from depots to network faults requiring repair. It is not unreasonable that AusNet Services and Powercor are the networks with the highest GSL claims.

Who Should Pay for GSL Schemes?

The GSL payments have been regarded as a 'cost passthrough' by all network businesses and treated as category specific adjustments by the AER.

The argument is that customers in aggregate should pay for GSL schemes since they are about providing some compensation to customers who have had poorer than normal service. GSL schemes are also requirements under the National Energy Customer Framework (NECF), or in the case of Victoria (which hasn't accepted the NECF) are prescribed by the Essential Services Commission Victoria. Consequently, network businesses argue that they should regard them as exogenously imposed charges over which they have no control and so the costs involved should be regarded as a cost that are shared by all customers.

CCP17 is not convinced by this argument as we are strongly of the view that GSL schemes have been established to both provide compensation to aggrieved customers and also to provide incentive for network businesses to improve the service of their customers receive. This incentive to improve customer service through GSL payments is voided by regarding them as a pass through. Indeed, we contend that regarding GSL's as a passthrough can provide an incentive for a network business to not act to improve services.

There is a low level of incentive for businesses to improve the services for which GSL payments apply if the costs are simply passed through to all customers.

Where a business has some control over the situation that results in a GSL payment being made, then the business owners should also bear some costs for GSL payments.

To test this view, we have listed below the schedule of GSL payments that apply for all Victorian electricity distribution businesses from the Essential Services Commission of Victoria website. [30]

Minimum Amount Payable	Reason for Payment
Single Outages	
$80.00	Urban area – single outage lasting more than 12 hours, but less than 20 hours per year
$80.00	Rural area – single outage lasting more than 18 hours, but less than 20 hours per year
Multiple Outages	
$120.00	More than 20 hours per year
$180.00	More than 30 hours per year
$360.00	More than 60 hours per year
Multiple outages	Number of unplanned, sustained outages
$120.00	More than 8 per year
$180.00	More than 12 per year
$360.00	More than 24 per year
Momentary outages	Less than one minute each
$30.00	More than 24 per year
$40.00	More than 36 per year
Late or missed appointments	
$30.00	More than 15 minutes late for an agreed appointment window
Delay to New Connections	
$70.00 per day to maximum of $350.00	Where a new electricity supply is not connected on the agreed date

Table 11: ESC schedule of GSL payments (source: Essential Services Commission)

It is our view that network businesses have high levels of control over some of these payment categories, in particular late or missed appointments and delay to new connections. These factors are well within the control of the business and not subject to the vagaries of weather or an externally imposed obligation. This view was shared by the AusNet Services' Customer Forum who negotiated with AusNet Services for them to fully meet these GSL payments, over which the business had control. We remain supportive of this negotiation.

[30] https://www.esc.vic.gov.au/electricity-and-gas/information-consumers/customer-payments-energy-outages. Viewed 4 January 2021

While we accept that the variabilities of weather, vehicle accidents and other factors contribute to supply outages beyond the control of network businesses, there is also a degree of control over all of the other GSL payment categories.

Consequently, we propose that the AER actively reviews the extent to which GSL payments should be met by the business and not passed through their customers.

As a starting point, we think that all network businesses should meet from their own sources, GSL payments resulting from 'late or missed appointments' and 'delay to connections' as AusNet Services has agreed. For the remaining GSL incentive categories, the 30% / 70% split (that applies to CESS and EBSS) would be an appropriate split for the share of costs for GSL payments, 30% met by the business and 70% by its customers.

GSL allowances should be revised down to meet these two criteria:

- No allowance for 'late of missed appointments' and 'delay to connections.
- 70% of other categories as identified by the ESCV.

CCP17 is also not convinced by the "transitional allowance" of $16.1m, sought by AusNet Services. We are unaware of any transition arrangement being considered by the ESCV decision while the removal of Major Event Days from GSL application reduces future risk for network businesses. From our perspective, the proposed "transitional allowance" is not in the best interests of consumers, we look to the AER's detailed analysis to determine any validity of this claim.

3.5.6 CCP17 general observations on revised opex proposals

CCP17 was concerned that each of the 5 businesses initial proposals sought operating cost increases for the 2021-26 regulatory period that were well above actual (and projected) costs for the current period. We recognise that the revised proposals are much nearer to current spending levels. We have also accepted some step changes, particularly insurance.

We remain unconvinced that improving productivity is as strong a driver of operating costs as it could be.

While the Revised Revenue Proposals are much closer to current spending levels, all are higher than the AER's Draft Decisions and we suspect that they could be closer to the Draft Determinations than the revised proposals.

3.6 Incentive schemes

3.6.1 Review of Efficiency Incentive Schemes

Following publication of the AER's Draft Decision, and lodgement of the Victorian DNSPs' Revised Regulatory Proposals, we have recalculated the substantial contributions to regulated revenue for the businesses flowing from efficiency incentive schemes in 2021-26. This is shown in Table 12 below.

The revised proposals would result in an additional **$485.6M** in total revenue for the Victorian businesses flowing from the application of efficiency incentive schemes, which is an increase of $66.4M over the original proposals.

($million, June 2021)	EBSS Original	EBSS Revised	CESS Original	CESS Revised

AusNet Services	90.3	109.3	47.5	72.6
Jemena	23.6	25.1	25.6	38.2
CitiPower	-7.8	0.4	56	63.8
Powercor	0.6	-12.1	72.8	67.7
United Energy	72.4	70.9	40	49.7
Total	**179.1**	**193.6**	**241.9**	**292**

Table 12: Analysis of Revised Carryover Benefits (Source: AER Draft Decisions, Revised Proposals)

CCP17 has previously raised serious concerns as to whether the twin efficiency incentive schemes – Efficiency Benefit Sharing Scheme (EBSS) and Capital Expenditure Sharing Scheme (CESS) are delivering the expected outcomes for the Victorian DNSPs.[31] We therefore strongly support the proposed broad review of incentive schemes announced by the AER at the Vic EDPR 2021–26 - Draft decisions Predetermination Conference on 15 October 2020. We urge the AER to assign a high priority to this work program in 2021.

3.6.2 Customer Service Incentive Scheme

Driven by an initiative of the AusNet Services Customer Forum, the AER developed and consulted on a new Customer Service Incentive Scheme (CSIS) in parallel with the Victorian electricity distributors regulatory reset process. The AER's final decision on design and implementation of the scheme was published in July 2020.[32]

CCP17 has been supportive of the CSIS, and its introduction for AusNet Services, CitiPower, Powercor and United Energy for the 2021-26 regulatory period.[33]

As part of its Final Decision on the CSIS, the AER indicated that it would annually 'publish raw performance data shortly after we receive it from distributors. We will present the outcomes of the scheme in our performance reports'.[34]

While CCP17 views this as a desirable and necessary step, it is unlikely to be sufficient to instil confidence in the scheme for customers and stakeholders. The AER also acknowledged that 'that the CSIS may not be readily accessible to representative groups and other stakeholders. This is a challenge and something that we will continue to work on'.[35] We encourage the AER to give consideration as to how this challenge might be addressed through 2021, potentially by consulting with customer representatives and other stakeholders to understand how best to analyse and present the information in a meaningful way.

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[31] https://www.aer.gov.au/system/files/Consumer%20Challenge%20Panel%2017-%20Submission%20on%20the%20Victorian%20Electricity%20Distribution%20Regulatory%20Proposal%202021-26%20-%20June%202020.pdf, p35

[32] https://www.aer.gov.au/system/files/Customer%20Service%20Incentive%20Scheme%20explanatory%20statement.pdf

[33] We have also been supportive of Jemena's choice not to adopt a CSIS for 2021-26

[34] https://www.aer.gov.au/system/files/Customer%20Service%20Incentive%20Scheme%20explanatory%20statement.pdf, p17

[35] Ibid, p17

In our response to the AER's Draft Decision on the CSIS, CCP17 raised questions concerning how the CSIS, which was developed as a 'trial' scheme, would be objectively evaluated,[36] enabling time for review, reflection, and adjustment if preferable, during the course of the trial. We agree that the information disclosure steps as previously described provide a good starting point for an evaluation. However, a broader review is necessary to ensure that the new scheme is meeting the intended objectives, and that there are no unintended consequences arising from its application.

3.7 Contingent projects, cost pass-throughs and deferring decisions

CCP17 has observed that one of the emerging responses to the uncertainty from COVID and from other uncertainties about energy markets has been increased interest by a range of networks about seeking to move some potential costs out of regulatory proposals and regard them as contingent projects, or cost pass throughs or to find other ways to defer commitment to likely or potential projects.

As a general comment, CCP17 is very wary of any approach that exposes consumers to potential risk of higher future prices and that potentially reduces stakeholder scrutiny being applied to major expenditure items.

The established regulatory process provides all parties, including consumers, with a degree of certainty about future expenses by network businesses and strongly indicative network costs over a five-year period. Regulatory processes are clearly described by National Electricity Rules and provide customers and other stakeholders with the opportunity to see business wide expenditure as well as proposed expenditure for specific projects.

Contingent projects, cost pass throughs, regulatory information tests and any other process that defer or 'park' a potential expenditure outside of the regulatory process, risk an absence of customer scrutiny which is essential for any consumer-focused business.

Consequently, we urge the AER and network businesses to only use expenditure deferring processes outside of full regulatory process, where established rules and practice are inadequate.

We also note that the National Electricity Rules provide clarity for most circumstances in which major unexpected costs can be imposed or are absolutely necessary.

Environmental Protection Act

As mentioned in section 3.4.2, Victoria's updated EPA legislation has been deferred. Therefore, businesses that had originally proposed step changes for EPA related costs have withdrawn those proposals. This topic remains alive with a potential for increased costs for the businesses, and each has proposed a 'pass through event' to capture any increased costs as contingent projects.

We understand that the intent of legislation is to require long term planning and appropriate adjustments in practices by the businesses to improve environmental outcomes.

Should there be any legislative change, with cost implications, these are covered by the NER which provides for the meeting of costs associated with legislative change. Consequently, we do not consider that any provision is needed for changes in EPA costs in the Final Determination, unless the Victorian Parliament legislates before this decision is made. Nor do we consider that Environmental Pass-Through Events are necessary.

[36] https://www.aer.gov.au/system/files/Consumer%20Challenge%20Panel%20-%20Submission%20on%20the%20draft%20Customer%20Satisfaction%20Incentive%20Scheme%20-%2014%20February%202020.pdf, p19

3.8 Tariff Structure Statements

3.8.1 Integration of tariffs and tariff structures with other elements of the businesses' proposals

In its previous advice to the AER, CCP17 referred to the need for a "holistic approach":[37]

> *We support the view of the AER that the tariff proposals need to be considered in the context of their proposals on expenditure, connection policies and demand management initiatives, and whether the overall package of the distributors' proposals provides a sensible and coherent strategy to address the energy system transition. It is important to consider the interactions both ways between pricing and other areas such as capex, uptake of electric vehicles, demand response, demand growth, and the impact of solar generation uptake.*

In its Draft Decisions, the AER has acknowledged that:[38]

> *A tariff structure statement … also explains how a distributor's tariff strategy aligns with other initiatives it is undertaking, such as the management of distributed energy resources and demand management.*

The action that resulted from this was that the AER suggested that the Victorian networks should consider in their revised proposals:[39]

> *… a statement on how tariff proposals are integrated with demand management and other initiatives.*

It is the view of CCP17 that a "holistic approach" should comprise of more than "a statement" as suggested by the AER.

In their Revised Proposal TSS explanatory documents, the businesses have responded to the AER's suggestion as follows:

CitiPower, Powercor and United Energy

CitiPower, Powercor and United Energy have provided discussion on:[40]

- The fact that the proposed tariff structures are a product of years of consultation with stakeholders;
- Integration of DER through the businesses' Future Network program;
- Electric vehicles;
- Solar sponge; and
- Tariff trials.

This discussion is helpful in addressing the desire that CCP17 expressed for a "holistic approach". We also note in passing these businesses' statement that "there is still a long way to establish the level of cost-reflectivity that exists in the wholesale electricity market". The aim for electricity network tariffs is to reflect the cost structures in the network business rather than in the wholesale electricity market. Stakeholders should not be concerned if the cost-reflectivity in electricity network tariffs differs from the

[37] Advice to the AER on the Victorian Electricity Distributors' Regulatory Proposals for the Regulatory Determination 2021-26, CCP17, 10 June 2020, section 10.6, page 143
[38] Draft decisions, Attachment 19, Tariff structure statement, September 2020, page 19-4
[39] Draft decisions, Attachment 19, Tariff structure statement, September 2020, page 19-6
[40] CP PC UE TSS Explanatory document 2021-2026, section 3.1 – How our tariff structures align with our overall expenditure program, pages 8-11

cost-reflectivity in the wholesale electricity market. The wholesale electricity market and the provision of electricity distribution services have quite different characteristics. Network tariffs do not need to aim for the same outcomes as are found in the electricity wholesale market prices.

AusNet Services

In its Revised TSS Explanatory statement,[41] **AusNet Services** has provided discussion on subjects including:

- Trends influencing tariff development;
    - Meeting customers' peak demands;
        - Growth in air conditioners and other appliances;
        - Electric vehicles;
        - Solar PV and home batteries
- Tariff reform in the future; and
- Complementary measures to tariff design.

Section 1.8.1 of the AusNet Services' revised TSS Explanatory statement is entitled "Demand response as an alternative to tariffs". We suggest that demand response should be used as an additional tool alongside tariffs rather than as an alternative to tariffs, and this is likely also what AusNet Services has in mind, despite the section title.

The discussion provided by AusNetServices is helpful in addressing our desire for a "holistic approach".

Jemena

Jemena has included in its Revised TSS explanatory document[42] discussion on

- Meeting customers' peak demand;
- Complementary measures to tariff design;
- DER integration;
- EV tariffs and trials.

As for AusNet Services, section 1.8.1 of the Jemena revised TSS Explanatory statement is entitled "Demand response as an alternative to tariffs". We suggest that demand response should be used as an additional tool alongside tariffs rather than as an alternative to tariffs, and this is likely also what Jemena has in mind, despite the section title.

The discussion provided by Jemena is helpful in addressing our desire for a "holistic approach".

3.8.2 The concept of cost-reflective tariffs

In our previous advice to the AER on the businesses' initial regulatory proposals, we stated:[43]

[41] AusNet, Revised Tariff Structure Statement 2022-26, Explanatory paper, 3 December 2020
[42] Jemena Electricity Networks (Vic) Ltd, 2021-26 Electricity Distribution Price Review, Revised Proposal, Attachment 12-02, Tariff structure statement - Explanatory document for 1 July 2021 to 30 June 2026, 3 December 2020
[43] Advice to the AER on the Victorian Electricity Distributors' Regulatory Proposals for the Regulatory Determination 2021-26, CCP17, 10 June 2020, section 10.7, page 143

Tariff reform should seek to promote additional investment in the network by distributors only when consumers value that increased demand more than the cost of delivering the additional network capacity necessary to meet that demand.

Nowadays, consumers make more decisions than whether to consumer more or less electricity. They may also choose whether to generate their own electricity, to generate surplus electricity to export, and/or to invest in battery or other storage. Tariff reform must take those more complex consumer decisions into account as well.

We also stated:

A tariff that is not flat may or may not have a more cost reflective structure than a flat tariff. If it is badly designed, a complex non-flat tariff may actually be counter-cost reflective. It should not be assumed that every possible complex tariff is more cost reflective than a flat tariff. There remains an onus on any proponent of a complex tariff to demonstrate that it really is more cost reflective than a flat tariff.

Further, we quoted from the views of the AER as stated in its final determination of Energy Queensland's TSS for 2020-25:

"*While we and the Queensland distributors consider network tariff reform is important, our reasons for supporting network tariff reform and the majority of the Queensland distributors' revised TSS proposals reflects our own views on what we consider to be the key rationale for network tariff reform in Queensland. This is somewhat different to the Queensland distributors' reasons for their proposals which, among other matters, was framed in terms of unwinding what the Queensland distributors considers to be cross-subsidies between different consumers.*

Our reasons are framed more in terms of creating the right incentives on retailers and consumers for more efficient and innovative retail products and more efficient and informed end user choices in when and how they utilise the grid. In turn, we expect this to lead to more efficient utilisation of the network and network investment in the long-term interests of all consumers.[44]

We concluded:

It is important that network tariff reform is forward looking, focused on increasing efficiency of future use of the grid and of future investments.

The AER responded in its Draft Decisions:[45]

The CCP17 argued in its submission that a badly designed non-flat tariff may not be more cost-reflective than a flat tariff. However, DELWP submitted that flat tariffs are no longer a fair or effective way to recover electricity provision costs. We do not think that CCP17's argument is applicable here, because there are no cost-reflective elements to the proposed flat tariff. However, we think that flat tariffs can be effective in recovering electricity provision costs, if they are coupled with a cost-reflective element such as a demand or critical peak pricing charge.

We note that DELWP stated that "flat tariffs are no longer the most effective or fairest means of recovering the costs of providing electricity",[46] which is not quite the same as saying that they are no longer (at all) fair or effective.

[44] Attachment 18: Tariff structure statement | Final decision – Ergon Energy and Energex 2020–25, page 18-18
[45] Draft decisions, Attachment 19, Tariff structure statement, September 2020, page 19-24
[46] Victorian Department of the Environment, Land, Water and Planning, Victorian Government submission on tariff structure statements 2021–26, 29 May 2020, p.1

We agree with DELWP that there are more effective ways and fairer ways of recovering the costs of providing electricity than flat tariffs. We agree with DELWP and with the AER that more complex tariffs give more opportunity to provide appropriate incentives to retailers and to consumers.

We accept the reasons given by the businesses as to why their revised proposed tariff structures are an improvement on flat tariffs, and therefore in this case we agree with the AER that these tariff structures are appropriate. That does not mean that in the abstract more complex tariffs are always more cost-reflective or more appropriate than less complex tariffs.

3.8.3 Vulnerable customers

In our previous advice to the AER, we stated:[47]

> *We are concerned regarding the effects of tariff reform on vulnerable customers. Research conducted by ACIL Allen that was discussed above showed that, while on average vulnerable customers would receive lower bills, there would still be around 27% of vulnerable customers who would be negatively impacted by more than $10 per annum. Across the population of Victorian vulnerable customers, this would be a significant number of households.*
>
> *The ACIL Allen analysis covered a limited number of customers and was also restricted to a single flat rate against TOU tariff comparison. We suggest that further work is needed to consider the effects on vulnerable customers, using a larger sample, and using tariffs that reflect what actually might be implemented. Specifically, the ratio of peak to off-peak rates should match the businesses' proposals, and some sensitivity analysis should be conducted around that ratio.*
>
> *We also note that seasonality affects budgeting even if tariffs do not vary seasonally. The results published by ACIL Allen only included annual impacts and have not considered bill variability due to seasonality which is significant in Victoria. Even if customers will pay a lower bill in total on an annual basis, in future their bills might vary more significantly than previously in different seasons. Those who have difficulty budgeting may be adversely affected if an individual monthly or quarterly bill is higher, even if their total bill annually is lower.*

In its Draft Decisions, the AER put the onus on instruments under the control of the Victorian Government, rather than to address vulnerable customers directly as a factor in its network pricing TSS decisions. The AER stated:[48]

> *The Victorian government has a number of complementary measures to ensure customers are in control of their retail offer and to support vulnerable customers.*

A word search suggested this was the only reference to "vulnerable customers" or vulnerability in the AER's Draft Decisions, Attachment 19, Tariff structure statement.

In their revised TSS:

- CitiPower, Powercor and United Energy address the issue of vulnerable customers by stating:[49]

  > *As our TSS proposes the new TOU tariff is applies to new connections, supply upgrades and new solar connections, we believe this addresses the issues of vulnerability somewhat as we are not proposing to move existing vulnerable customers to the TOU tariff*
  >
  > *While our revised TSS does include a reassignment of legacy TOU customers to the new TOU tariff, section 3.2 indicates that bill impacts across the legacy TOU population is*

[47] Advice to the AER on the Victorian Electricity Distributors' Regulatory Proposals for the Regulatory Determination 2021-26, CCP17, 10 June 2020, section 10.9, pages 144-145
[48] Draft decisions, Attachment 19, Tariff structure statement, September 2020, page 19-19
[49] CP PC UE TSS Explanatory document 2021-2026, section 4 – Responding to stakeholder feedback, page 25

overwhelmingly a bill reduction. Those customers who are negatively impacted can still opt out to the single rate tariff

Unfortunately, we have not had time to conduct a more detailed sensitivity analysis for the revised TSS.

- AusNet Services presented again early analysis and ACIL Allen analysis, notwithstanding that this analysis was limited and was based on specific tariffs that are not the same tariffs as those in the businesses' current revised proposals. AusNet Services also stated that the customers being targeted for TOU tariffs were non-vulnerable customers.[50]
- Jemena's comments regarding vulnerable customers were similar to those of AusNet. Jemena presented again early analysis and ACIL Allen analysis, notwithstanding that this analysis was limited and was based on specific tariffs that are not the same tariffs as those in the businesses' current revised proposals. Jemena also stated:

  To minimise the potential to inadvertently and negatively impact vulnerable customers, we only assign or reassign customers when there is a customer-led trigger that is less likely to be associated with vulnerable customers. i.e., new connections, installing solar, upgrading to a three-phase power supply and potentially EV's. [51]

CCP17 current views

We were disappointed that in its Draft Decisions the AER put the onus on instruments under the control of the Victorian Government,[52] rather than address vulnerable customers directly as a factor in its TSS decisions. The NER specifically require proposed tariffs to take into account the impact on end-use customers of changes in network tariffs.[53] The Victorian Default Offer (VDO) and the Advanced Metering Infrastructure (AMI) Orders in Council to which the AER refers are under the control of the Victorian government, and how they deliver for consumers is outside the control of the AER.

We are also concerned at the businesses' responses regarding vulnerable customers. CP, PC and UE state that it is "unfortunate" that there has not been time to conduct a more detailed sensitivity analysis for the revised TSS. We consider it more than "unfortunate". It is a significant omission which should be addressed by all the businesses in time to inform the AER's final decisions.

We note the businesses' comments that they are not deliberately targeting vulnerable customers, but we are sure that some of the customers targeted for TOU tariffs will be vulnerable customers. Some new connections will be vulnerable customers. Some of the businesses themselves have acknowledged that some customers on retailer payment assistant schemes or claiming the mains electricity concession, who the business can't individually identify, could still be negatively impacted by being reassigned to a new tariff structure. They also point out that mortgage stress customers or some pensioners—who as a group are increasingly installing solar panels—may also be considered vulnerable.[54] While the businesses discuss "EV owners", customers with EVs may not be EV owners. They may for example be lower paid workers

[50] AusNet Services, Revised Tariff Structure Statement 2022-26, Explanatory paper, 3 December 2020, page 38
[51] Jemena Electricity Networks (Vic) Ltd, 2021-26 Electricity Distribution Price Review, Revised Proposal, Attachment 12-02, Tariff structure statement – Explanatory document for 1 July 2021 to 30 June 2026, 3 December 2020, page 21
[52] Draft decisions, Attachment 19, Tariff structure statement, September 2020, page 19-19
[53] See for example NER cl. 6.18.5(h)
[54] See for example Jemena Electricity Networks (Vic) Ltd, 2021-26 Electricity Distribution Price Review, Revised Proposal, Attachment 12-02, Tariff structure statement – Explanatory document for 1 July 2021 to 30 June 2026, 3 December 2020, pages 8-9

who happen to be supplied with an EV for work purposes and have to charge their vehicle at home each day (for which they may or may not be recompensed by their employer).

In addition to vulnerability, there is an increasing number of residential and business customers who would not normally be classed as vulnerable but are now experiencing issues with affordability. Particularly due to the impact of COVID 19 on incomes and on the economy, many customers are facing affordability issues for the first time ever and are ill-equipped with the skills or experience needed to cope with their new-found situations. This group of customers now facing affordability issues is likely to be wider and larger than the range of customers that would be considered as "vulnerable" customers.

Further, the remedy being proposed by the network businesses for these customers facing vulnerability or affordability issues is unclear. On the one hand, the businesses are stating the remedy to be that these customers are not being targeted for TOU tariffs and can remain on flat tariffs. On the other hand, they are saying that most customers will be better off on TOU tariffs than on flat tariffs. TOU tariffs are being deliberately discounted to attract more customers. Given the need for the businesses to set tariffs that recover their allowed revenue, discounts on TOU tariffs mean that customers on flat tariffs pay more. So the customers who can least afford it will be protected by keeping them on a higher priced flat tariff rather than being targeted to switch to a lower priced TOU tariff?

Clearly something is not right here. The reality is that some customers (with or without vulnerability or affordability issues) will be better off on flat tariffs, and some will be better off on TOU tariffs. We are lacking information and analysis to identify which customers are in which category.

The businesses identified:

> *Our stakeholders have told us that tariff reform needs to be accompanied by a strong communication and education program for customers. They considered that a successful communication plan requires cross-industry cooperation and that working effectively with retailers is important.*[55]

This was identified at the beginning of tariff reform discussions a few years ago. However, strong communication and education program for customers will not just appear out of nowhere. There is now less than six months to go before new tariffs come into place at 1 July 2021. It is still unclear where the leadership will come from for the critically needed "strong communication and education program for customers"? There will be roles for governments, regulators, retailers, networks and community organisations, as well as customers themselves. But who will take the lead to make sure that a strong communication and education program for customers is rolled out in a timely fashion and is fit for purpose?

3.8.4 Legacy non-flat tariffs for residential and small business customers

The AER's Draft Decisions encouraged the distributors to consider closing their legacy time of use tariffs and reassigning those customers to the new time of use tariffs.[56]

> *In encouraging the Victorian distributors to consider reassigning those on the legacy cost reflective tariffs, we also encourage them to explore whether 1 July 2021 or 1 July 2022 would be more appropriate for this reassignment.*

The businesses have all enthusiastically embraced this action to take effect at the earlier of the AER's two proposed dates – 1 July 2021.

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[55] See for example Jemena Electricity Networks (Vic) Ltd, 2021-26 Electricity Distribution Price Review, Revised Proposal, Attachment 12-02, Tariff structure statement – Explanatory document for 1 July 2021 to 30 June 2026, 3 December 2020, page 10

[56] Draft decisions, Attachment 19, Tariff structure statement, September 2020, page 19-19

We see the logic for this change. Some of the existing legacy TOU tariffs may no longer be cost reflective and may even be less cost reflective than flat tariffs. As well as hastening the pace of moving customers to the new tariff structures, retiring the existing legacy TOU tariffs will result in less confusion for customers trying to compare tariffs and prices. The Victorian Energy Compare website tries to ascertain the tariff structure that customers are currently on, in order to determine which tariffs with which retailers they are eligible to take up, as this depends on their current tariff structure. It can be confusing for customers. It may also place an unnecessary burden on retailers and networks to maintain an unnecessarily large range of tariffs.

In their TSS explanatory documents, CP, PC and UE state that "bill impacts across the legacy TOU population are overwhelmingly a bill reduction. Those customers who are negatively impacted can still opt out to the single rate tariff."[57] However, the comparison made was comparing 2020 network bills with 2021/22 network bills if legacy TOU tariff residential customers are reassigned to the new TOU tariff. The analysis does not compare 2020 network bills against other tariff options in 2021/22, or 2021/22 tariff against each other. Therefore, the effects of tariff reform are unknown. What we are seeing in these comparisons is to a large extent the effect of other building block components on tariffs – such as rate of return and treatment of tax.

AusNet Services and Jemena present similar results in sections 3.7 and 3.5.6 respectively of their TSS explanatory documents.

While we support closing legacy tariffs in principle, we would prefer to see the effects of tariff reform on customers' network bills, rather than just analysing from one regulatory period to another, which masks the effects of tariff reform in the amalgam of other building block changes.

3.8.5 Discounting of non-flat tariffs

As requested by the AER, the Victorian distribution businesses have discounted their more complex residential tariffs as against flat tariffs, to provide more incentive for customers to move to more complex tariffs. Given the need for the businesses to set tariffs to recover their allowed revenue, this means that flat tariffs are set at a higher level than where they would otherwise be set. Discounting residential complex tariffs could mean those remaining on flat tariffs pay more than their fair share of network costs.

In our previous advice to the AER we spoke against this:[58]

> *It is important that the level of the flat rate is not set artificially high in comparison to the TOU rate, to encourage vulnerable customers not to opt-out. The flat rate tariff must offer a reasonable safety net for these customers. The more complex tariff should not be set at a significant discount to the flat tariff as that would detract from the effectiveness of the flat rate tariff as a safety net tariff.*

CP, PC and UE responded:

> *Our original and revised TSS propose a small differential between the new TOU and single rate tariffs. We believe this strikes the right balance between encouraging uptake of the new TOU tariff and the single rate tariff acting as a safety net.*

Cost reflectivity is reflected not just in tariff structures but in the levels at which tariffs are set. All other things being equal, if one set of tariffs is discounted for reasons other than underlying costs, while another set of tariffs is increased to preserve cost recovery, again for reasons other than underlying costs, this act of rebalancing is a distortion of cost-reflectivity as against if the rebalancing had not occurred.

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[57] CP PC UE TSS Explanatory document 2021-2026, section 4 – Responding to stakeholder feedback, page 25

[58] Advice to the AER on the Victorian Electricity Distributors' Regulatory Proposals for the Regulatory Determination 2021-26, CCP17, 10 June 2020, section 10.9, page 146

We understand that the view of the AER and of the businesses is that the distortion can be tolerated, because the distortion is small, and in the opinion of the AER and the businesses the benefits that they perceive from encouraging more customers onto more complex tariffs outweighs the downside of the distortion.

However, we have not seen any analysis of this balance between benefits and downside. We could accept the rebalancing if there is quantitative analysis of benefits against downside that shows that at the level of distortion proposed the benefits of encouraging more customers onto complex tariffs do exceed the downside of distortion.

3.8.6 Retail tariffs

In our previous advice to the AER, we stated:

> *We understand that the AER considers that the target audience for cost reflective network tariffs is primarily retailers, not end-use customers. However, among the pricing principles set out in the NER:*
>
> - *The network must consider the impact on retail customers of changes in tariffs from the previous regulatory year.*
> - *The structure of each tariff must be reasonably capable of being understood by retail customers that are assigned to that tariff.*
>
> *These pricing principles are aimed at impacts on customers rather than retailers, and capability of understanding by customers and not just retailers. Thus, the AER does need to consider the network tariffs from a customer perspective rather than just a retailer perspective.*

We maintain this view.

The AER stated in its Draft Decisions:

> *We consider the potential approaches available to retailers to respond to cost reflective network tariffs can be grouped into three main categories:*
>
> - *Insurance style – the retailer manages network price volatility on the customer's behalf and simply charges a fixed charge and flat kWh energy charge.*
> - *Pass through offers – the retailer passes the price signals and associated volatility directly through to the customer for a lower margin.*
> - *Prices for devices – the retailer (or third party) manages the customers' smart devices to respond to price signals and charges a simple, discounted retail structure.*

We agree that this is the likely range of retailer responses, and it will be up to retailers to set the tariff structures and price levels that they wish to offer. It is unclear what form the "insurance style" tariffs will take. Insurance is not free. Insurance often comes at a cost that customers might be asked to pay. Further, while retailers can buy instruments to cover energy cost volatility, such as swap contracts and other financial instruments for hedging, there are no instruments through which retailers can hedge volatility in network costs. On that basis, customers seeking flat retail offers might be better served through flat network pricing so that there is no "insurance premium" for the retailer managing network cost volatility.

3.8.7 Providing more tariff options for larger usage customers

The AER stated in its Draft Decisions:[59]

[59] Draft decisions, Attachment 19, Tariff structure statement, September 2020, page 19-16

We require the following changes to achieve compliance with the pricing principles for direct control services including:

…

- *the five Victorian distributors to introduce tariff choice for large business customers in addition to the proposed default tariff in the form of individually calculated customer (ICC) tariffs.*

The distribution businesses have responded as follows:

CP, PC and UE stated:[60]

We were not expecting this requirement to be included in the Draft Decision and consider that there is insufficient time in the nine-week revised proposal period to design and develop a completely new tariff. However, we are proposing to enhance the United Energy large customer tariff structure to make it more cost-reflective and apply it across CitiPower, Powercor and United Energy.

Jemena considered the issues raised by the AER within the window available for submitting its revised proposal. The business engaged its Customer Council, sought Large Business views via a survey, and investigated ICC tariffs provided by DNSPs in other jurisdictions.[61]

Jemena has not proposed ICCs.[62] Jemena's decision is based on stakeholder consultation, and the business' own assessment that ICC tariffs would provide limited additional benefit from Jemena's proposed position. Jemena's assessment included that:

There are practical and administrative difficulties to commit to ICCs for the revised proposal, including appropriate consultation, building/licensing/running a new locational pricing model, developing a negotiating framework and increasing internal resources to administer.

We have concerns about making this optional, leading to customers self-selecting the cheapest tariff, which has no associated behavioural change benefit.

CCP17 view

CCP17 has sympathy with the view that there is insufficient time in the nine-week revised proposal period to design and develop a completely new tariff such as proposed by the AER in its Draft Decisions. We commend Jemena for undertaking the stakeholder consultation that it has done on ICCs in the time available since the Draft Decisions.

We also resonate with the comment above from Jemena that tariff choice can lead to customers self-selecting the cheapest tariff, which has no associated behavioural change benefit. This is true across all classes of customers, including residential and small business customers, and not just large business customers.

We quoted above and in our previous advice to the AER from the views of the AER as stated in its final determination of Energy Queensland's TSS for 2020-25:

"*While we and the Queensland distributors consider network tariff reform is important, our reasons for supporting network tariff reform and the majority of the Queensland distributors' revised TSS*

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[60] CP PC UE TSS Explanatory document 2021-2026, section 3.3 – Large business, page 17

[61] Jemena Electricity Networks (Vic) Ltd, 2021-26 Electricity Distribution Price Review, Revised Proposal, Attachment 12-02, Tariff structure statement – Explanatory document for 1 July 2021 to 30 June 2026, 3 December 2020, page 60

[62] Jemena Electricity Networks (Vic) Ltd, 2021-26 Electricity Distribution Price Review, Revised Proposal, Attachment 12-02, Tariff structure statement – Explanatory document for 1 July 2021 to 30 June 2026, 3 December 2020, page 70

proposals reflects our own views on what we consider to be the key rationale for network tariff reform in Queensland. This is somewhat different to the Queensland distributors' reasons for their proposals which, among other matters, was framed in terms of unwinding what the Queensland distributors considers to be cross-subsidies between different consumers.

Our reasons are framed more in terms of creating the right incentives on retailers and consumers for more efficient and innovative retail products and more efficient and informed end user choices in when and how they utilise the grid. In turn, we expect this to lead to more efficient utilisation of the network and network investment in the long-term interests of all consumers.[63]

With any tariff reform, there will always be customers who move to new tariff structures to save money, without any changed behaviour. We also understand that network businesses see tariff reform as a mechanism to address what they perceive as historic cross-subsidies. But most importantly, across all customer segments (residential, small business and large business), we agree with the AER that we expect tariff reform to lead to more efficient utilisation of the network and network investment in the long-term interests of all consumers. We do not expect to see tariff reform justified solely or primarily on the basis of statements that more complex tariffs are more "cost-reflective" than flat tariffs. Rather, we expect to see the way in which tariff reform will lead to those outcomes articulated, justified and verified in businesses' proposals and revised proposals. Over time we expect to see the efficiency gains that are captured by the businesses directly through tariff reform to lead explicitly to lower levels of spending by the businesses and to lower network tariffs.

3.8.8 Customer well-being

In our previous advice to the AER on the businesses' regulatory proposals, we stated:[64]

Often, in comparing the effects of tariff reform on consumers, network businesses define whether a customer is "better or worse off" solely in relation to the size of the electricity bill, without regard to levels of household stress that may be adversely affected by more complex tariffs. Customer wellbeing is important and needs to be assessed as part of network businesses' impact analyses of new proposed tariff structures. There is a growing body of research that has found that complex tariffs could risk customers' wellbeing by causing discomfort and anxiety.

We welcome the AER considering customer well-being in its consideration of network TSS in order to satisfy the customer impact principle in the Rules.

We did not see such consideration in the AER's Draft Decisions, and we would welcome seeing this matter addressed in the AER's final decisions. There have been various academic studies on this matter, which were discussed in two Etrog Consulting submissions to the AER's consideration of the TSS to apply in Queensland from 2020 to 2025.[65]

3.8.9 Effects of tariff reform on customers

We have discussed in various places in this submission and in previous submissions the fact that comparisons are made against old tariff structures in a previous regulatory period rather than what the tariffs would be with or without tariff reform in the upcoming regulatory period.

In this case, analysis has been undertaken by the businesses that compares 2020 network bills against new tariffs in 2021/22, rather than comparing various 2021/22 tariffs against each other. Therefore, the effects

[63] Attachment 18: Tariff structure statement | Final decision – Ergon Energy and Energex 2020–25, page 18-18
[64] Advice to the AER on the Victorian Electricity Distributors' Regulatory Proposals for the Regulatory Determination 2021-26, CCP17, 10 June 2020, section 10.10, page 145
[65] See Etrog Consulting: Report on TSS 31 May 2019, and Report on AER draft determination 2020-25 and EQ revised TSS 15 January 2020

of tariff reform are unknown. What we are seeing in these comparisons is to a large extent the effect of other building block components on tariffs – such as rate of return and treatment of tax.

We understand that the NER refer to comparing effects of customers from one year to the next, but this does not and should preclude comparisons hat actually show what effects tariff reform in its own right (and not muddied through other year-on-year changes) is having on consumers. Information provision such as that is key to understanding the "winners and losers" of tariff reform, and what complementary measures are required to support customers who may "lose" through tariff reform. It is also key to understanding whether tariff reform in its own right is in the long-term interests of consumers.

We often hear it said that now is a good time to implement tariff reform, because with other changes lowering customers' bills overall, they will help to hide any bill-increasing aspects of tariff reform. We understand that there are "winners and losers" in any tariff reform, and having other measures that serve to decrease bills and thereby offset increases in tariffs that result from tariff reform is clearly helpful.

However, on the other hand, we feel that sometimes this argument is used to justify less scrutiny of the benefits of tariff reform per se than would be the case in the absence of other factors pushing down prices at the same time. As with other elements of network pricing determinations, tariff reform should be scrutinised in its own right to determine its appropriateness whether other aspects of pricing are pushing prices up or down or neither.

3.8.10 The ratio of peak to off-peak pricing

In its Draft Decisions, the AER suggested that the Victorian networks consider elements of their tariff structure proposals with a view to making further improvements including "CitiPower, Powercor and United Energy consider a larger peak to off peak ratio for their small customer cost reflective tariffs to more closely align with their historical values, as well as the ratios proposed by AusNet Services and Jemena".[66]

The AER wrote further on this matter:[67]

> *Higher peak to off-peak ratios reward response*
>
> *In their proposed tariff structure statements, CitiPower, Powercor, and United Energy proposed tariff structures with a peak to off-peak ratio of 2.5 for residential customer tariffs. In contrast, Jemena proposed a ratio of around 3, while AusNet Services proposed a ratio closer to 5 which effectively maintains the ratios their customers have been facing during the current regulatory control period (2016–20).*
>
> *For small business tariff structures, AusNet Services proposed a peak to off-peak ratio of 4.4, CitiPower 2.5, Jemena 5.1, Powercor 4.5, and United Energy 4.5. These proposed ratios are broadly consistent with the ratios AusNet Services, Jemena, and Powercor's customers currently face, but are a reduction for CitiPower and United Energy's customers.*
>
> *The use of peak to off-peak ratios of around 2.5 for residential and around 4.5 for small business tariffs is a result of the early engagement with customers. These ratios were established to inform the assumptions underpinning the consumer impact analysis undertaken by distributors and allow for comparison between the distributors. But they were not aligned with the historical ratios residential customers and their retailers have been engaging with during the 2016–20 regulatory control period.*
>
> *For example, in their 2020 annual pricing proposals the five distributors' approved peak to off-peak ratios for residential customers averaged around 5, ranging from 3.8 for CitiPower's tariffs (C2R*

[66] Draft decisions, Attachment 19, Tariff structure statement, September 2020, page 19-6
[67] Draft decisions, Attachment 19, Tariff structure statement, September 2020, page 19-14 to 19-15

and C3R) to 6.4 for United Energy's tariff (LVS2R). The equivalent ratio for small business users averaged 4.6, ranging from 3.2 for CitiPower's tariff (C2G5) to 6.3 for the summer component of United Energy's tariff (LVM2R5D).

As distributors' tariffs are set to recover their regulated revenue requirement, to reduce the ratio from the rates in tariffs for the current regulatory period, the off-peak rate must be increased relative to the current period. This means that customers will receive a weaker incentive to change their behaviour and reduce investment requirements, as well as facing higher prices for consumption that is not driving network costs.

We consider the proposed ratios to be reasonable. However we encourage CitiPower, Powercor, and United Energy to continue with their review of their proposed ratios. We note that small users and their retailers will be given a choice between flat rate, time of use, and demand tariff structures to help them decide what will work best for them. We also consider at least maintaining the current ratios would be more consistent with the pricing principles for direct control services which require distributors to progress along the path to more cost reflective network tariffs with each round of tariff structure statements.

CP, PC, UE wrote in response:[68]

The AER asked us to consider a larger peak to off peak ratio for their small customer cost reflective tariffs to more closely align with their historical values

We propose a peak/offpeak ratio of 4.0 for residential and 4.5 for non-residential to better align with legacy tariff ratios. This minimises bill impacts associated with legacy TOU tariff customers being moved to the new TOU tariff. It also lowers our off-peak rate which applies during solar export times and therefore resembles a solar sponge.

CCP17 has examined the peak/off-peak ratio now being proposed in the revised proposals for residential customers. We used the NUOS rates for comparison, partly because they represent the totality of the network component of customers' bills and partly because AusNet Services appears only to have included NUOS charges in its revised indicative tariffs for 2021-26, and not the full breakout into DUOS, TUOS and jurisdictional cost components. Our analysis confirms that the peak to off-peak price ratio in the revised proposed residential TOU tariffs are approximately:

- 4 in the case of CP, PC and UE
- 3.2 in the case of Jemena
- 4.75 in the case of AusNet Services

We are concerned that he wording of the AER's Draft Decisions may be interpreted as suggesting that the higher the peak/off-peak ratio in the TOU tariffs the more cost-reflective the tariffs are. This is not necessarily the case. We would have preferred to see some analysis from CP, PC and UE to show that the change of ratio from 2.5 to 4 really is more cost-reflective and will engender more efficient outcomes.

3.8.11 Lower bill for a residential customer on a flat tariff or TOU tariff

We have undertaken some analysis to see whether a small usage residential customer would face a lower network component of the bill with a flat tariff or a TOU tariff.

Each of the businesses has the same fixed charge for both single and two rate tariffs within that business – which are for example 25c/day for CP, 38c/day for PC.

[68] CP PC UE TSS Explanatory document 2021-2026, section 3.3 – Large business, page 7

This is helpful because it means that comparing revised proposed indicative NUOS charges one can see whether a customer faces a lower network component of the bill on two-rate vs single rate just by comparing the ratio of off-peak (i.e., 9pm to midnight and midnight to 3pm) to peak (3-9pm) consumption, and ignoring fixed charges.

Of course, it doesn't tell us how retailers will present the charges.

The AusNet fixed rate tariff has two blocks. Our calculations are based on an AusNet residential customer's usage being solely in the first block. If an AusNet residential customer's usage spills into a second block, then the off-peak to peak usage that makes the network component of the bill smaller on TOU rather than flat rate tariff is lower than shown below.

Roughly, a small residential customer's network charge for 2021-22 is lower on TOU rather than single rate if their off-peak usage is at least the following multiple of their peak usage:

- Jemena: 1.02
- AusNet: 1.12
- PC: 1.88
- CP: 1.94
- UE: 2.17

We see no underlying network cost reason for the range, which goes from off-peak usage just a little higher than peak usage to off-peak usage more than double the peak usage.

These differences may affect the messaging that is communicated to retailers and to customers regarding the characteristics of customers that might face lower charges with TOU as against single rate tariffs.

All other things being equal, we would expect these ratios to reduce as the distortion to rates to encourage more take-up of TOU tariffs increases year-on-year in the upcoming regulatory period.

3.9 Specific comments regarding Electric Vehicle tariffs

Under the title *Tariff trials can help inform future strategies*, the AER wrote in its Draft Decisions:[69]

> *In their tariff structure statement proposals the distributors expressed interest in exploring network tariff trials during this regulatory period. For example, we understand they have been engaging with Energy Consumers Australia (ECA) on its proposed electric vehicle tariff to consider whether this could be adopted as a tariff offer or trialled during the regulatory control period. However, significant detail remains to be clarified regarding how this tariff may be applied.*
>
> *…*
>
> *We believe tariff trials are a valuable tool for exploring alternative arrangements and building distributor, retailer, and consumer understanding of how these alternative arrangements may work in practice. However, distributors should outline their intentions and strategy in their tariff structure statement proposals so this can be done in a systematic, transparent manner.*

We were pleased to attend an EV workshop on Victorian tariff structure statement proposals for 2021-26 which the AER convened on 11 November 2020.[70]

The workshop included presentations from:

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[69] Draft decisions, Attachment 19, Tariff structure statement, September 2020, page 19-20

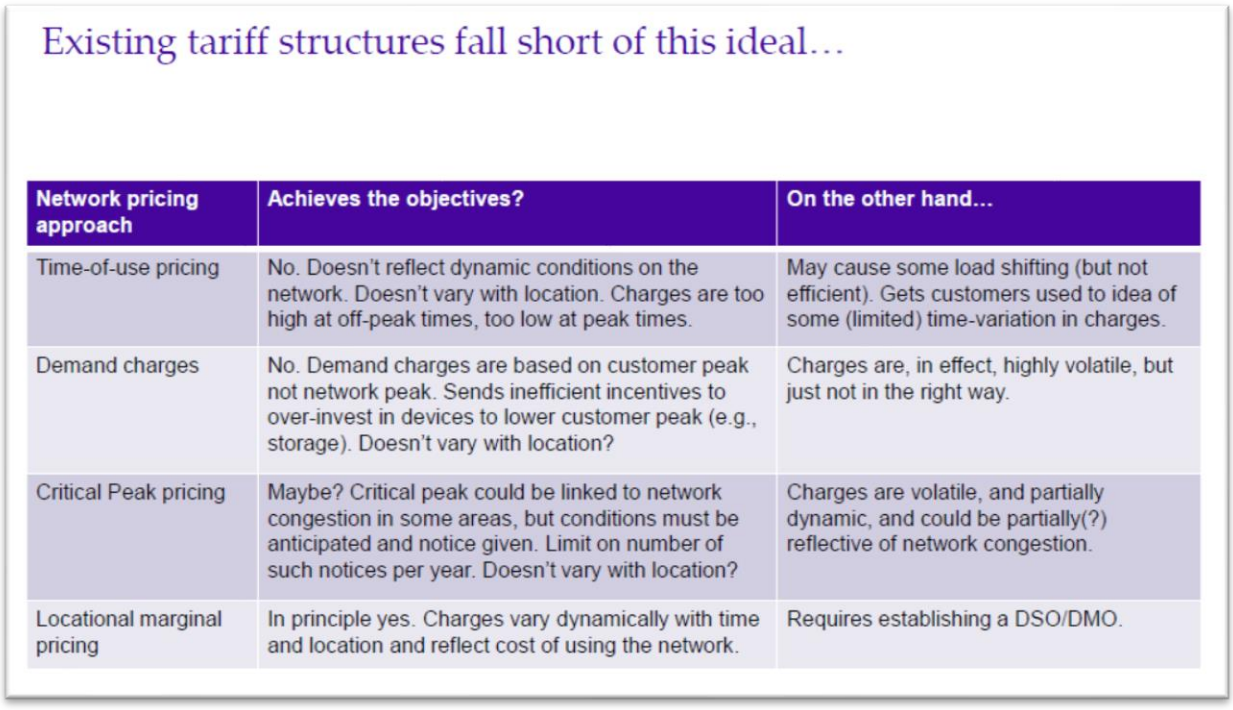
[70] Presentation slides from the workshop and other relevant material can be found at https://www.aer.gov.au/networks-pipelines/network-tariff-reform

- DELWP;
- ACCC Regulatory Economics Unit;
- AER;
- ECA and Energeia; and
- Electric Vehicle Council.

This workshop and the summary paper produced afterwards were very useful to understand the range of views and issues to be addressed, as well as next steps.

Our additional comments that were not included in the AER's summary paper included the following:

1. The summary paper referred to participants having "generally accepted the long-term goal of network tariff reform". Sometimes there is lack of clarity regarding what is the long-term goal of network tariff reform. Sometimes we fear that people have lost track of what the goal is. They mistake the goal as being the implementation of complex network tariffs, and the more retailers face complex network tariffs the greater the extent to which the goal has been achieved. We disagree with that. That is not the goal.
2. A particularly useful slide (reproduced below) from the ACCC Regulatory Economics Unit in the workshop made it clear that existing tariffs fall short of the ideal tariff structure.
3. The provision of network capacity does to some extent still drive network costs, but it is no longer the biggest driver. The integration of DER is now driving network costs to a far greater extent than provision of network capacity. Declining minimum demands are these days troubling distribution and transmission networks and the market operator more than rising maximum demands.



Existing tariff structures fall short of this ideal…

Network pricing approach	Achieves the objectives?	On the other hand…
Time-of-use pricing	No. Doesn't reflect dynamic conditions on the network. Doesn't vary with location. Charges are too high at off-peak times, too low at peak times.	May cause some load shifting (but not efficient). Gets customers used to idea of some (limited) time-variation in charges.
Demand charges	No. Demand charges are based on customer peak not network peak. Sends inefficient incentives to over-invest in devices to lower customer peak (e.g., storage). Doesn't vary with location?	Charges are, in effect, highly volatile, but just not in the right way.
Critical Peak pricing	Maybe? Critical peak could be linked to network congestion in some areas, but conditions must be anticipated and notice given. Limit on number of such notices per year. Doesn't vary with location?	Charges are volatile, and partially dynamic, and could be partially(?) reflective of network congestion.
Locational marginal pricing	In principle yes. Charges vary dynamically with time and location and reflect cost of using the network.	Requires establishing a DSO/DMO.

Table 13: Electric vehicle tariff considerations (source: AER)

One retailer – Powershop – introduced in 2019 a "super off-peak tariff" for electric vehicle owners, with lower rates aimed at EV charging between the hours of 12am – 4am.[71]

There is a lot of work still required on EV tariffs.

We support tariff trials, which need to include not just trials of tariffs themselves, but also need to take into account real usage cases. Not all EV drivers will be owner-occupiers who can install their own charging equipment in their own property. Some will be renters. Some will park their EV overnight in a car parking space managed by a body corporate. Some will not have access to their own off-road charging facilities and will be reliant on public charging facilities. Some EV drivers will be EV owners; others will be responsible for charging an EV that they drive which may be provided by a third party such as their employer. These issues also need to be taken into account in future considerations.

3.10 Future Networks

Addressing Future Networks, including addressing the continued rapid growth in Distributed Energy Resources (DER), continued as a major point of discussion for network businesses, governments and regulators, and of course customers and the wider community.

All of the Victorian electricity distributors continue some level of engagement with their consumer representatives about how to meet expectations of new energy technologies.

Since our Advice to the AER for the initial proposals way back in June 2020, we have seen the release of the Value of Distributed Energy Resources (VaDER) report by the CSIRO and Cutler Merz, as well as rule change requests from AEMO and consumer groups that address the technical requirements and connection obligations on networks to enable customers to connect to the network and export some energy. There are also wide discussions in cost allocation and pricing, including tariffs, which relate to DER, energy storage and consumer technologies such as Virtual Power Plants, Electric Vehicles and energy storage (on both sides of the meter).

There is no doubt that whatever 'peg in the sand' that arises from this final decision, it will be no more than an interim position from a commercial, technical, market and consumer point of view.

In our response to the initial proposals, CCP17 spent considerable time considering the consumer sentiment towards energy export and network costs, as well as the role of some form of inverter control to improve network conditions and customer equity at time of peak export. We also considered the capability of the solar PV industry to meet the objectives of the aggressive Victorian Government Solar Homes Programme.

Ultimately, we advocated five key activities that we hoped utilities would adopt over the next 5 years, being:

a) Adopt a staged, information-driven approach to addressing DER and new technology capability, which we referred to as 'plan – do – check – act' over more than 1 regulatory period.

b) Prioritise investment to extract as much benefit from a 'smart network', levering off the extensive application of AMI data and network automation, to plan and operate the network in the most efficient way,

[71] See https://www.canstarblue.com.au/electricity/powershop-super-off-peak-tariff-electric-vehicle, https://www.powershop.com.au/electric-vehicle-tariff

c) Maintain a close 2-way communication channel with customers, informing and influencing decisions wherever and however appropriate, to enhance service delivery, network connection planning and customer expectations, and

d) Consider a capability for the application of 'network technical operating envelopes, which includes not only technical control capacity but the customer communication and engagement pathways necessary for an effective implementation once the need arises.

e) Take a holistic view of DER integration and network futures, embracing the interrelationships between technical advances, tariffs and pricing, demand response, connection standards, consumer engagement and communication and informing regulatory decisions.

We are pleased that the AER has largely reflected that approach in their Draft Decisions, and that the distributors to a large extent have accepted that opportunity.

The Draft Decisions included digital network expenditure that was the subject of consumer and consultant concerns. We acknowledge that there has been a lot of 'post proposal' work between AER and the DBs developing a broader picture of the role, uptake and impact of DER in Victoria.

Across their revised proposals, the distributors continue, quite understandably, to reflect a level of risk that a reduced level of DER investment may hold. These concerns include:

- Continued strong growth in DER penetration and the associated technical challenges this presents for the efficient operation of the network
- Enhanced support from the Victorian Government for DER and energy efficiency schemes
- Continued strong customer investment in DER, particularly rooftop solar PV, often equal to 'maximum rate of uptake' forecasts developed since the initial proposals
- The number of market and regulatory influences under way in parallel – AEMC sprint and rule changes, technical standard changes and changing demand patterns from working from home.

CCP17 acknowledges these risks, and agrees that the distributors are well-justified in raising them now and in the future in both regulatory and community forums.

We continue to advocate for DNSPs to look beyond 'solar enablement' to a 'future operating model' that considers utilisation, tariff signals, changing energy mix, EV's, and 'smart' demand response.

3.11 Electric vehicles

The uptake of electric vehicles (EVs) is a subject of great interest to energy consumers and networks alike. There is little experience of how and where customers choose to charge EVs, and the rapid adoption of intelligent energy systems to charge vehicles directly from rooftop solar installations and vehicle-to-grid opportunities make policy setting difficult.

It is important to discuss this matter, albeit briefly, in this Advice.

a) Pass-through event

Some distributors have proposed pass through arrangements should the uptake of electric vehicles in the regulatory period reach a point where additional network augmentation may be required.

CitiPower, Powercor and United Energy consider the possibility of an *electric vehicle event* should a government announcement directly related to increased electric vehicle uptake occur during the 2021–2026 regulatory period that materially increases localised electricity demand.

Despite the increasing trend of electric vehicle sales in Australia and the Victorian Government clean energy budget announcements including rolling out a fast-charging network for electric vehicles, we do not

share the view of some that a significant increase in electric vehicle numbers, in the residential and small commercial sector at least, is imminent.

Sales of EVs remains a very small proportion of households, Victoria already appears to have the highest number of public charging locations in the state (July 2019 data).

NSW	Vic	Qld	SA	WA	Tas	NT	ACT
161	216	162	76	122	21	5	20

Table 14: Number of Charging Stations by State (source: Budget Direct)[72]

In addition, there are significant opportunities in establishing guidelines for the efficient connection of charging facilities and the incentives for charging to occur in a manner that has lesser impact on the electricity network.

Therefore, we do not support the application of a pass-through event related to possible significant step-up in electric vehicle numbers.

b) Likely network impacts

There is great value however in considering the connection and tariff arrangements for electric vehicles. We note reports and actions being undertaken by the Victorian electricity distribution businesses, the AER, the Electric Vehicle Council and others to consider the impact of vehicle charging on networks.

There are fundamentally four types of EV charging facilities:

a) Level 1 chargers - Portable or small fixed household charger that can be installed without any significant modification to existing household or small business electrical installation. They tend to be of the order of 4 (single phase) to 12 (three phase) kilowatt devices. Charging time is typically 6 – 16. These are most common in residential applications and tend to be referred to as 'overnight charging'. Regarding network impact, to a large extent they can be considered similar loads to a storage water heater.
b) Level 2 chargers, or fast chargers – are units in the 10-to-30-kilowatt range. Common in shopping centres or businesses, these can be installed in residential or business applications but will generally require specific wiring such as a dedicated higher-capacity circuit from the switchboard. These are rare in households as they require three-phase power. Charging times are generally of the order of 3 hours.
c) Level 3, or rapid chargers – are dedicated specific units located at road service centres or fleet charging where there is a high turnover of vehicles or charging time is critical to the vehicle's use. These large units generally exceed 50kW capacity, with newer technologies providing charging power of up to 350KW.

This is an opportune time for electricity distribution businesses to consider the nature of EV charging in some detail, particularly what guidance can be put in place regarding the connection requirements and applicable tariffs to apply for EV connections, particularly in households.

In so doing, we advocate for a study to be undertaken to better understand the charging expectations and behaviour of customers with EVs, as well as the current use of charging facilities.

[72] Budget Direct Research, *Electric Car Sales 2020*, https://www.budgetdirect.com.au/car-insurance/research/electric-car-sales-australia.html

4 Matters specific to individual businesses

4.1 AusNet Services

4.1.1 Operating expenditure (opex)

Step Changes

AusNet Services has not accepted the AER's rejection of the proposed "transition of ICT functionality to the Cloud" proposal and has included a reproposed cost of $2.6m.

They have also proposed a new step change of $10.5m for increased insurance costs.

In addition, AusNet Services state that there is about $21 million of additional cost pressures that they are absorbing and not claiming as a step change, in response to their customer's affordability concerns.

AusNet Services have provided updated modelling which they say demonstrates that the $2.6 million ICT cloud functionality opex step change proposal is an efficient opex / capex trade-off that provides a better outcome for customers than a higher capital expenditure. We note that the capex component of this project has been accepted by the AER (having been approved and deferred from previous regulatory periods).

The project is about implementing a customer relationship management (CRM) system and AusNet Services has had a CSIS (Customer Services Incentive Scheme) that was negotiated with the Customer Forum approved. Benefits of the new CRM system are claimed to include improved customer satisfaction for management of outages, a performance measure for which AusNet Services can be rewarded under the CSIS. CCP17 remains concerned about whether customers are being asked to pay twice – for AusNet Services' approved capex/opex allowances, as well as through CSIS rewards.

CCP17 does not oppose a 'cloud based' approach if this is demonstrated to be the most effective technical solution, however we oppose acceptance of the step change unless the AER is convinced that the project is justified, provides sound benefits for customers and is not replicating potential CSIS rewards.

4.1.2 Capital Investment (capex)

Form of Assessment

The focus on top-down assessment taken in the Draft Decision, while reasonable, in some ways presented challenges for consumer groups to consider any detail of the revised proposal. The independent analysis by the AER and expert consultants regarding on the prudency and efficiency of specific aspects of the proposal normally provides consumer groups with the confidence that specific matters have been adequately considered and provides information from which further analysis can be based.

This is particularly the case in areas subject to higher rates of change or variability, such as DER, ICT, the final stages of the REFCL programme and, in these times of pandemic, connections. Also, given the issues raised by Powercor regarding pole maintenance, a more detailed consideration of what is happening in the not-dissimilar environment of AusNet Services, which is subject to the similar community expectations, would have been especially useful.

In the final determination, we acknowledge that the AER may again choose to take a high-level approach to determining prudent and efficient capital investment. We ask however that a couple of specific matters of interest to consumers be considered in some detail. We see this as important in maintaining a level of trust by consumers and other stakeholders that the high-level approach does not mask any specific issues that may be considered inefficient or related to other approvals that may not be forthcoming.

In this revised proposal, two issues – those that depart most from the Draft Decision - warrant deeper examination, mainly as they have not been exposed to a significant level of scrutiny by any consumer forum convened by AusNet. As the AER in the Draft Decision places weight on a level of acceptance of the proposal by reasonably informed consumer representatives, this criterion has not, in our opinion, been met.

Each, taken separately, represents an increase in cost beyond that of the initial proposal. They are:

a) Connection capital investment – in particular, gross connection costs, and

b) Augmentation - the cost to meet REFCL obligations in the Kalkallo region.

Overview of the revised proposal – capital investment

We understand from the commentary in the AER Draft Decision that AusNet Services issued an updated capital forecast after the lodging of the initial proposal, noting a reduction of $27.5M from the estimate in the initial proposal documents due to a modelling update.

In the Draft Decision, the AER took a 'top down' assessment of the capital proposal, and assessed a further $63M (-4%) reduction in the capital allowance, being:

- A $15.4M reduction in net connections costs by adjusting the 2022 volume down in line with HIA estimates. We note that this adjustment includes large embedded generation connections, a change that AusNet Services refutes. Whist we support the adjustment for residential and business connections, we concur with AusNet Services that the adjustment to large connections by the AER was inappropriate.
- A $16M reduction for the reallocation of metering costs, and
- A $31M reduction for updated escalation to labour costs.

Despite a $27M reduction in the REFCL augmentation programme, AusNet Services proposes a net 4.3% ($63.7M) uplift in total capital expenditure from that of the Draft Decision, reversing the impact of the Draft Decision and returning the proposed capex to that of the initial proposition. AusNet Services quotes the main contributors to the increase since the Draft Decision include:

- The application of changed labour cost escalators and overheads,
- an increased cost for delivery of tranche 3 of the REFCL programme,
- An increase in connection costs as a result of a reduction in the level of customer contributions, and
- A metering cost reallocation in response to the Draft Decision.

We commend AusNet Services for absorbing some possible increases, such as augmentation of the Doreen substation and planned ICT upgrades.

Figure 9 shows the main areas affected by the revised proposal.

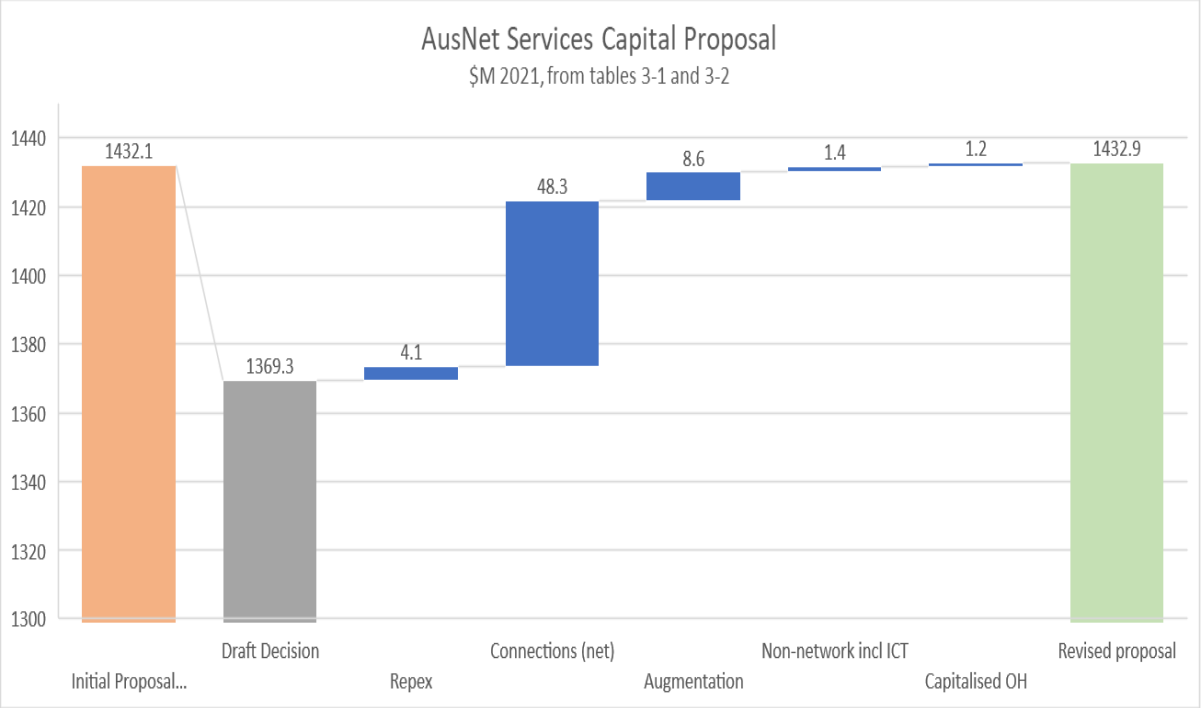


Figure 9: Capital requirement, AusNet Services (Source: CCP17 analysis of the AND Revised Proposal)

We raise no concerns regarding the incremental increases in most capex categories, on the understanding that the AER will consider the prudency of the labour cost escalations.

We ask the AER to consider in more detail two issues that appear, on the surface, to be largely non-controversial, but the detail of which warrant further explanation to consumers. These are:

a) the 'plusses and minuses' in the cost of the REFCL programme, and

b) what is going on 'under the hood' with the significant rise of net connection costs.

Transparency of data

AusNet Services' capex proposal invited more detailed examination due to changes proposed after the Draft Decision; particularly to 'follow the money' regarding the changes to connection costs and the REFCL investments to determine the value to customers.

Despite the revised AusNet Services regulatory proposal containing a detailed commentary and a proliferation of quantitative information, we still found some difficulty in analysing the publicly available information; to the point where it can be considered that the information is not reasonably transparent and could even been a little misleading in places.

It is not that all other businesses provide all their data in clearly expressed tables with consistent trend data, by any means. Public proposal documents that mix real and nominal values, with or without included overheads, with a tendency to use simplified graphics or highly detailed spreadsheets with complex references across many tabs are unfortunately not uncommon in proposals. Given the large volume of documents being prepared, the opportunity to consider readability and address possible errors is not ideal. In this case however, AusNet Services' submission just seems to be more difficult than average to follow.

We know that the AER is in close discussion with AusNet Services as the analysis of the proposal proceeds, and the opportunity to clarify information or re-cast it exists. However, for consumer groups who may choose to consider the proposals in detail, the manner in which the data is presented can be significantly improved to support a reasonable level of transparency and understanding.

REFCL investment

REFCL costs are a significant component of AusNet Services' proposal, and therefore it is reasonable that consumers expect a level of transparency and clarity in the explanation of any change to expected investment.

We found AusNet Services' discussion on REFCL costs a little confusing, with various references to the 'REFCL proposal', 'REFCL augmentation', 'Tranche 3 decision' and the Kalkallo project (KLO). With REFCL cost estimates spanning back to the tranche 3 Contingent Project Application, trying to follow the actual costs of the REFCL work, particularly the impact of the reduction of $27M in the REFCL augmentation programme, Is not straightforward.

The AER Draft Decision deferred consideration of the overall REFCL investment, seeking more information as it unfolded. In the Draft, the AER notes AusNet Services' proposed $143M for REFCL augex [73] as being across two programmes:

a) $48.6M for the REFCL installation programme, essentially work to complete commitments across tranches 2 and 3 of the overall programme (noting this is assessed outside this determination process yet with costs being included in this proposal. The AusNet Services' classification is 'REFCL program'), and

b) $94.3M for ongoing compliance (augmentation) at 8 substations.

The revised proposal discusses mainly second programme, the REFCL compliance activities, where AusNet Services has commendably identified opportunities to reduce the cost of ongoing compliance (REFCL augmentation) by approximately $27M. AusNet highlights this achievement in various places in its proposal and in recent stakeholder engagement. For example, the section 'REFCL regulatory requirements'[74] in the revised proposal highlights the review of the application of multiple units in a substation, stating:

"This has resulted in a $27 million reduction to our augmentation program"

Elsewhere in the proposal, AusNet Services highlights the cost reductions:

> *"We also heard positive feedback on our proposed reduction in REFCL augmentation capex as we have adopted lower-cost solutions"* [75]

What is not so clear are the changes to the Kalkallo (KLO) REFCL project costs.

The project cost estimate appears to have increased from its original estimate under Tranche 3 of the REFCL installation programme. With the delay in the project, a large part of the costs has been removed from the current regulatory period and added to this proposal. The $22M allocated but not needed in the current regulatory period for the project has been appropriately adjusted, including a reduction in the CESS amount to reflect that transfer is not due to capital efficiencies.

It does appear, though, that the project overall cost has increased to around $38.6M, around $10M than that initially envisaged. In its briefing to consumer groups on 17th December 2020, attendees were advised:

> *(on REFCL capex and opex) – "Capex reduced to reflect new, innovative approaches", and*
>
> *"saves customers a total of $17.4M (opex and capex), (despite) the Kalkallo project cost increasing by $10.9M from the placeholder amount."* [76]

[73] AER Draft Decision, AusNet Services, att 5: Capital Expenditure, p 5-18
[74] AusNet Revised Regulatory Proposal, p13
[75] AusNet Revised Regulatory Proposal, p16
[76] AusNet EDPR Revised Revenue Proposal Stakeholder Workshop, 17 December 2020, slide 6

AusNet Services did in the initial regulatory proposal note the complexity of the project, stating:

> *"The AER's decision on Tranche 3 did not approve our preferred solution for the Kalkallo zone substation. However, the AER did recognise that we may wish to pursue our preferred solution, instead of the solution approved in its decision …. We are currently pursuing exemptions with the ESV and, if approved, we will change our proposal to reflect our preferred solution.* [77]

Given the weight put on the transparency and capability of public acceptance of the AusNet Services proposals, we feel that the 'good story' of the savings in the REFCL compliance programme were well communicated, however the 'not so good story' of the cost increases of the KLO project were nowhere as well explained. Consumers would have been better placed to scrutinise the REFCL programme costs overall should the adjustments behind the KLO project been presented a more clearly.

With the $10M increase in the cost of the Kalkallo development, as well as the proposed additional $8M proposed by Jemena for works in the same area, we encourage the AER in its final decision to examine the efficiency of the overall cost of the joint AusNet Services / Jemena Kalkallo solution.

Connections costs

The predominant increase in planned capital expenditure is in the area of customer connections, and this area of expenditure warrants detailed analysis.

AusNet Services, in their revised proposal, after considerable analysis of customer growth scenarios, conclude:

> *"We have accepted the AER's Draft Decision regarding connections volumes (other than for large embedded generators), as it represents a reasonable, albeit conservative, expectation of the impact of COVID-19 on customer numbers (connections).*[78]

The revised proposal however includes a significant increase in net connections costs of over 30% ($48M) since the Draft Decision, taking the cost to 17% ($31M) more than the initial proposal. AusNet Services note this increase is due to: [79]

- Updating the forecast of customer contributions based on prevailing rates of return,
- an updated forecast of large embedded generation connections, and
- Updating forecast unit rates for various connection activities.

Overall, AusNet Services highlights the reduction in the capital contributions from customers as the primary driver of the increased connection costs.

We acknowledge the complex factors that impact the calculation of capital contributions, including capitalisation and connection policies. The impact of falling rates of return on customer connection costs is acknowledged. Our main interest is in the other two factors, gross connection costs (residential and business) and the updated forecast for the connection of large embedded generators.

We consider each of these issues below.

a) Large embedded generators

A significant contribution to the increased gross connection costs is the re-estimation of the connection requirement for large embedded generators, increasing the gross allowance by $23.9M to $87.8M, on the basis of the continued support through the Victorian Government VRET scheme. While we recognise the

[77] AusNet Regulatory Proposal, 31 Jan 2020, Part 3, p90
[78] AusNet Revised Regulatory Proposal, s3.5.3, p51
[79] AusNet Revised Regulatory Proposal, s 3.5.3, p51

point that Victoria's VRET scheme is designed to grow the level of embedded generation, we have seen little evidence to support AusNet Services' argument that investment will increase in eastern and north-eastern Victoria at a pace similar to that expected in the western part of the state. CCP17 is understandably not privy to the applications that have been made to AusNet Services, nor can we comment on the likelihood that they will proceed, and we can only trust that evidence to the AER supports this proposed change.

Also, it is difficult to argue that investment in large-scale renewable energy will remain stable and predictable, especially in light of the other investment priorities in Victoria including the Solar Homes programme. Therefore, while we acknowledge AusNet Services' advice that these works are almost 100% funded through capital contributions and therefore have no impact on the net connections costs, we cannot support this increase in gross connections costs the basis of the information available to consumers to date.

AusNet Services floats the idea of these costs being considered as an Alternate Control Service. Given the nature of these costs as being relatively 'one off' and fully recovered, we are not averse to the AER considering AusNet Services' proposal.

b) Gross connection capital costs

As noted above, AusNet Services has accepted the AER's adjustment to the volume of new connections for FY22 (other than for large, embedded generators) as a result of the impacts of the global pandemic, confirming[80]:

> *"We consider the AER's proposed adjustment to our connections forecast is reasonable, albeit moderately conservative. We have, therefore, reduced our 2021-22 connections forecast in line with the AER's Draft Decision. We have not updated our forecasts for the remaining years, given our initial forecasts were accepted in the Draft Decision."*

In its briefing to consumer representatives on 17 December 2020, AusNet Services noted its acceptance of the AER's adjustment to the volume of new connections for FY22 but also presented an increase in net connections.

> *"Compared with our Initial Proposal this represents a 0.1% change in gross connections capex (before overheads) and a $30.9 million or 17.4% increase in net connections capex."* [81]

AusNet Services highlights the reduction in net connections as the prime influence on the rise in net connection cost, noting: [82]

> *"… we expect customer contributions to fall by 46% on average compared to current regulatory period or around $10 million per annum over the 2022-26 regulatory period …"*
>
> *"Consequently, our net connections capex forecast has increased by $51.8 million or 27% relative to the Draft Decision."*

While we do not dispute the fact that the reduction in capital contributions do have a marked effect on the net connections capital, it is hard to see the impact in the revised proposal where the gross connection costs proposed by the AER appear to be largely reversed by new costs introduced in the revised proposal. These new costs deserve deeper consideration.

The changes to connection costs are shown in Figure 10.

[80] AusNet Revised Regulatory Proposal, s3.3.2, p47
[81] AusNet Revised Regulatory Proposal, s3.5.4, p54
[82] AusNet Revised Regulatory Proposal, s3.5.1, p52

Connections Capex, AusNet Services $M, $2021	Initial Proposal	Draft Decision	Revised Proposal	Change DD -> Revised		Change Init -> Revised	
Gross Connections	529.6	466.3	530.2	+64	+13.7%	+1	+0.1%
Capital Contributions	352.3	306.3	321.9	+16	+5.1%	-30	--8.6%
Net connections	177.3	160	208.3	+48	+30.2%	**+31**	**+17.4%**
Data Source	RP s3.5.1	RP table 3-1	RP table 3-5				

Figure 10: Connections Capex, AusNet Services (source: AusNet RP)

We view gross connection costs as being essentially *volume * unit cost,* and therefore not influenced by the changes in Rate of Return and consequentially capital contributions.

AusNet Services has been helpful in responding to the CCP17 request to clarify the situation. Based on that additional information, Figure 11 below summaries the proposed changes to the gross connection costs.

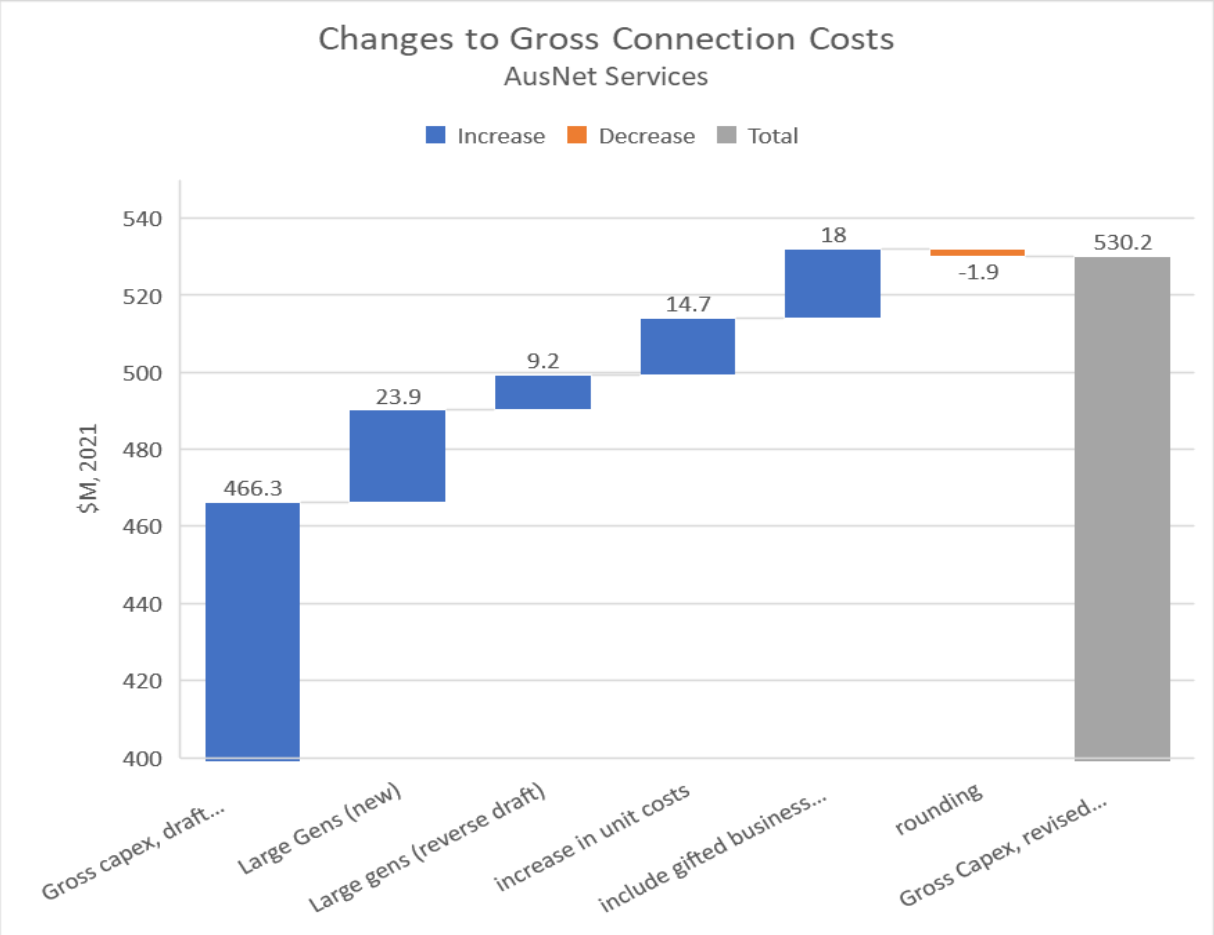


Figure 11: Changes to gross connections capex, AusNet Services (Source: CCP17 analysis of AusNet data)

AusNet advises that adjustments such as the gifted business connections are subject to almost full cost recovery, and therefore have no effect on net connections capex and therefore the total capex allowance.

In its December briefing, AusNet Services noted some $14.7M increase in gross capex due to more recent unit rates.

We do not support this increase. In its Draft Decision, the AER noted:

> *"We have also adjusted AusNet Services' contract labour to not include any real cost escalations. We consider CPI growth is the best estimate of forecast growth in the price of contracted services (because) contracted services can be adjusted to address changes in the labour market and/or economic climate, and forecasting labour price growth for contracted services, without taking into account productivity growth, would likely overstate the growth in the price of contracted service."* [83]

We agree with this position taken by the AER, and trust that similar thinking will apply when assessing the forecast efficient costs for connection and subdivision works.

Overall, we again highlight the difficulty to consider the detail of the proposal. Also, sweeping statements that suggest the significant increase in connection costs are almost exclusively due to rate of return changes do not provide a level off transparency to other costs and activities that form part of the overall proposal.

Metering cost reallocation

CCP17 accepts that the customer metering and the related communications infrastructure play a large role in the operation and development of the network itself, more so in Victoria than other states. Therefore, we agree with the principle of allocating some level of capital expenditure on metering and communications to standard control services. We agree with the broader rationale that, in addition to supporting core metering functions, the AMI metering network has been enhanced to collect a range of important distribution network data that can be used to provide data and, in some cases, control of the performance of the distribution network. This will grow with the role of smart networks in the increasing DER environment.

AusNet Services, in its initial proposal, allocated $17.59M in capital from the metering Alternative Control Service (ACS) to Standard Control (SCS) due to the increasing reliance of communications to run the network. In the Draft Decision, that amount was reduced to $2.12M. Similar consideration was applied to operating expenditure.

The AER, in its Draft Decision, outlined their reasons for not accepting the 50/50 cost allocation proposal by AusNet Services.[84] In principle, CCP17 continues to support that reasoning expressed by the AER and the Customer Forum, with a particular view that, despite the greater role of metering in network operation:

a) Metering, overall, remains fundamentally for the purposes of determining energy consumption,

b) Competition - if not in metering itself then in the emerging role of aggregators, VPP operators and providers of new energy services to consumers may need to compete with distributors for customer attention. We agree with the submission from Vector that the risk of cross subsidising from natural monopoly service providers exists.[85]

That being said, we are not opposed to AusNet Services' response to the AER Draft Decision in proposing a moderate shift in the SCS / ACS balance, reflecting the role of 'smart networks' in offsetting more traditional capital investment in network capacity and DER connection capability.

Revision to the connection policy

The AER has proposed changes to AusNet Services' connection policy, with the majority of the recommendations being accepted. We support the changes to the connection policy with the intent to

[83] AER Draft Decision for AusNet Services- Capital Expenditure, p5-17
[84] AER Draft Decision for AusNet Services, Attachment 16, p16
[85] Vector, Submission on the AER;s Issues Paper, June 2020

make it as 'user friendly' as possible and, wherever possible, consistent with the policies of similar electricity distributors. Realignment with recent tax arrangements is also seen as logical.

We note AusNet Services' comments and exceptions to the AER's proposal. Based on the engagement we observed and our understanding of similar policies, we support AusNet Services' actions outlined in section 11.1 of the revised proposal. Comments regarding limiting SWER connections augmentation threshold to 10kVA, updating cost recovery for REFCL feeders and updated Model Standing Offers appear consistent with the objectives of a customer-focussed connection policy.

Deliverability of the capex programme

In our response to the initial proposal, we raised concerns regarding AusNet Services' ability to deliver the significant capital programme. Based on more recent information provided directly to CCP17, data in the revised proposal and in its consumer presentations, we no longer express that concern.

4.1.3 Incentive Schemes

Capital Expenditure Sharing Scheme Reforecast

AusNet Services' initial proposal forecast a CESS carryover amount of $47.5M, which was updated to $56.5M by the AER in the Draft Decision once more recent inflation, WACC and actual 2019 capex data was taken into account.[86]

In the Revised Proposal, AusNet Services has significantly increased the proposed CESS carryover amount to $72.6M. AusNet Services states that this is primarily due to the updated 2020 actual capex being lower than the Initial Proposal, mainly due to COVID-19 impacts on capital works programs including planned replacement works.[87] CCP17 notes that these drivers were outside the control of AusNet Services, and suggest that the lower capex expenditure in 2020, and hence the $16M CESS windfall gain, was not driven by capital efficiencies delivered by the business. This outcome does not appear to be consistent with the objectives of the incentive scheme.

AusNet Services have advised that they anticipate that these programs will be deferred to the 2021-26 period, and that they have been meticulous in ensuring no double counting of capex and CESS. While this may be so, and we expect the AER to assess whether the proposed deferral arrangements are not inefficient, CCP17 wish to highlight that this appears to be another case where application of the CESS can result in perverse outcomes for consumers.

Service Target Performance Incentive Scheme

CCP17 notes the AER's Draft Decision on AusNet Services' proposed Service Target Performance Incentive Scheme (STPIS).[88]

AusNet Services elected not to include the telephone answering parameter in the design of their CSIS, and also to exclude this parameter from the STPIS. In our Advice to the AER on AusNet Services' Regulatory Proposal, CCP17 highlighted that telephone answering remains an important service for many consumers, and sought reassurance that speed of telephone answering will continue to be an important metric for

[86] https://www.aer.gov.au/system/files/AusNet%20Services%20-%20Revised%20Regulatory%20Proposal%20-%202021-26%20-%20December%202020.pdf, p149
[87] Ibid, p150
[88] https://www.aer.gov.au/system/files/AER%20-%20Draft%20decision%20-%20AusNet%20Services%20distribution%20determination%202021-26%20%20-%20Attachment%2010%20-%20Service%20target%20performance%20incentive%20scheme%20-%20September%202020.pdf

DNSPs, even if it does not contribute to their incentive rewards.[89] We welcome the AER Draft Decision on AusNet Services' STPIS which states that 'we consider that AusNet Services should continue to report on the telephone answering parameter in the next regulatory control period for transparency purposes'.[90]

CCP17 considers that this will be an important factor in assessing the outcomes of the CSIS trial.

4.1.4 Accelerated Depreciation of SCADA/Network control assets

AusNet Services' initial proposal included accelerated depreciation of $209.1M for SCADA/Network control assets. We understand that AusNet Services and the AER engaged extensively on this issue prior to the Draft Decision.[91] Several stakeholders, including CCP17 raised concerns with this proposal due to its significant impact on customer bills over the next regulatory period, and the lack of engagement on this adjustment. CCP17 suggested that 'that if there are circumstances where reducing lives of assets makes sense, then the adjustment should be made over 2 periods, rather than one'.[92]

We note that the Draft Decision, while approving the accelerated depreciation in principle, resulted in the proposed accelerated depreciation being applied over two regulatory periods i.e., $155.3 million would be recoverable in the 2022-26 regulatory period and a further $41.3 million would be recoverable in the following regulatory period, and that AusNet Services has accepted this decision.

CCP17 is supportive of this change in timing, and acknowledge that it goes part way to addressing the affordability impacts identified as concerns by several stakeholders.

4.2 Jemena Electricity

4.2.1 Jemena Opex base year

We note that this discussion has included very detailed input about various benchmarking models from consultants engaged by both Jemena and the AER. We do not have the proficiency to pass comment on the technical arguments presented by the various parties, rather we seek to present the key arguments and conclude with some general observations.

Importantly we note that, from what we have experienced, the AER and Jemena experts have worked closely with each other to understand concerns and to seek resolution. We recognise that at the time of writing this submission, these discussions continue with no final verdict on what the AER's final determination regarding the efficiency of Jemena' s operating costs will be. We respect the willingness of both parties to work together with considerable 'goodwill'.

JEN Base Year

In our response to the initial proposals, we wondered about 2018 as base year and whether a more recent year might be more usefully be used as a base year. The AER accepts 2018 as base year, for the reasons they have given in appendix 6 of the Draft Determination. Jemena continues to propose 2018 as their base

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[89] https://www.aer.gov.au/system/files/Consumer%20Challenge%20Panel%2017-%20Submission%20on%20the%20Victorian%20Electricity%20Distribution%20Regulatory%20Proposal%202021-26%20-%20June%202020.pdf, p36

[90] https://www.aer.gov.au/system/files/AER%20-%20Draft%20decision%20-%20AusNet%20Services%20distribution%20determination%202021-26%20%20-%20Attachment%2010%20-%20Service%20target%20performance%20incentive%20scheme%20-%20September%202020.pdf, p10

[91] https://www.aer.gov.au/system/files/AusNet%20Services%20-%20Revised%20Regulatory%20Proposal%20-%202021-26%20-%20December%202020.pdf, p118

[92] https://www.aer.gov.au/system/files/Consumer%20Challenge%20Panel%2017-%20Submission%20on%20the%20Victorian%20Electricity%20Distribution%20Regulatory%20Proposal%202021-26%20-%20June%202020.pdf, p33

year noting that it has been the lowest spending year for operating costs, from the current regulatory period. We agree with 2018 as the Jemena base year.

The AER's Draft Determination makes the following findings regarding Jemena's operating cost efficiency:

> *"From our assessment of revealed costs, a range of benchmarking techniques and our analysis of its category costs we consider that Jemena's opex has been relatively inefficient over time and in the 2018 base year. Given this, we have made an efficiency adjustment to Jemena's base year opex. While we consider base year opex should be 15 per cent lower, we also consider that it will take time and involve costs for management to implement the required programs over the next regulatory control period to transition to efficient costs.*
>
> *Given this, we have used a glide path to reduce opex by 3 per cent per annum, resulting in cumulative a reduction of 15 per cent in the last year of the five year regulatory control period. We consider that this provides for the prudent, practicably achievable, efficient costs that will enable Jemena to maintain the quality, reliability, security and safety of services. This means our alternative estimate is $44.9 million ($2020–21) lower than Jemena's initial proposal. Taking into account Jemena's update to reduce its opex forecast by $20.2 million (and hand back the results of its 2019 transformation program more quickly), means our efficiency adjustment is $24.7 million ($2020–21) more than Jemena included in its updated proposal."*

	Jemena's Proposal	Updated proposal	AER draft decision	Difference
Base (reported opex in 2018)	427.8	427.8	422.5	-5.3
Efficiency adjustment	0.0	0.0	-44.9	-44.9
Base year adjustments	62.1	0.0	0.0	-62.1

Table 15: Jemena base year proposal ($M, $2021) (Source: AER)

AER re JEN consumer engagement

The AER also commented on its perspectives of Jemena's engagement about base year opex, as follows:

> *"Jemena's consumer consultation appears to have been mainly high level and focused on total opex. Noting the importance of affordability to customers, and maintaining safe and reliable services, it stated that it is committed to delivering initiatives aimed at reducing costs now and into the future. In our assessment we have not been convinced that its opex proposal is efficient and passes lower costs on to consumers in the next regulatory control period. In addition, while over 90 per cent of its People Panel were comfortable that Jemena's draft plan (including the opex proposal) sufficiently considers their long-term interests, we could not clearly see how Jemena had engaged with its customers in relation to specific components of its proposal. In contrast, we received feedback from a number of stakeholders who had concerns with specific aspects of Jemena's proposal."*

We understand Jemena's concerns to be summarised as follows:

1. Benchmarking capitalisation approach. Jemena classifies more items as opex rather than capex than most other businesses, so their opex benchmarking will look comparatively worse.
2. Consequently, Jemena regards themselves as efficient when using a total expenditure (totex) perspective.
3. Benchmarking doesn't adequately reflect recent improvements in efficiency.
4. Jemena's base year was accepted as efficient last time, for the current regulatory period.

Jemena engaged consulting firm CEPA to review their base year opex and the benchmarking. The CEPA summary says:

"Jemena has engaged CEPA to review the Australian Energy Regulator's (AER's) and its consultants, Economic Insights, most recent (August and October 2020) benchmarking analysis and the AER's September 2020 draft decision for Jemena, and to provide our advice on:

1. *Whether an adjustment(s) should be made to Jemena's econometric operating expenditure (opex) efficiency scores for the impact of distribution network service providers' (DNSPs') capitalisation policies, which are part of their Cost Allocation Methodologies (CAMs).*
2. *Whether there are benchmarking models that the AER should place less reliance on.*

In this report, we show that:

a) DNSPs' capitalisation policies (i.e., their accounting decisions) have a material impact on Jemena's efficiency score; Jemena's efficiency score increases by 15-17% using current rather than historical CAMs. This impact is distinct from DNSPs' opex/ capital expenditure (capex) trade-off decision (e.g., using capex instead of opex to provide outputs). This finding is in contrast to the AER's findings which rely on, as acknowledged by the AER, imperfect combined measures (ratios) of capitalisation and opex/ capex trade-offs.

b) The translog models estimated by Economic Insights have very divergent elasticities on outputs. Elasticities show the percentage change in opex required to deliver a percentage change in the outputs. For example, Jemena's average customer number elasticity varies from 0.14 in one model (translog least squares) to 1.04 in another (translog stochastic frontier analysis (SFA)). This indicates that, in the first model, Jemena's opex increases by 0.14% for every 1% increase in customer numbers, while in the second model Jemena's opex increases by 1.04% for every 1% increase in customer numbers. These differences are inconsistent with economic and engineering theory.

c) Economic Insights' multilateral productivity models are not statistically robust, and the output weights in these models should not be used to roll forward opex (the output weights generated by the models are based on total costs and not opex). Economic Insights' claim that the models are simple and therefore do not need to meet a standard of statistical robustness. However, statistical robustness helps to identify if the models are mis-specified and/ or if there are errors in the modelling. Economic Insights' output weight models predominately have insignificant coefficients and low R2 values (the latter being a measure of how well the model explains the variance in the data).

A more detailed summary of our findings is set out below, with full analysis in the remainder of the document. We have not reviewed other aspects of the AER's opex assessment such as its operating environment factor (OEF) for vegetation management.

The impact of capitalisation policies

DNSPs have different policies for capitalisation of opex, and these policies have changed over time. The opex data that Economic Insights' use in its benchmarking is after deducting the capitalised amounts. Economic Insights has made no adjustment for different capitalisation policies adopted by each DNSP. This means that different capitalisation policies, e.g., one DNSP capitalisation 20% of overheads while another capitalises 30%, will affect the opex benchmarking efficiency scores."

This report supports Jemena's opinion that capitalisation policy impacts them adversely in benchmarking reporting, challenges aspects of the AER benchmarking methodology, undertaken by Economic Insights and finds Jemena's opex to be relatively efficient, when appropriate adjustments are made.

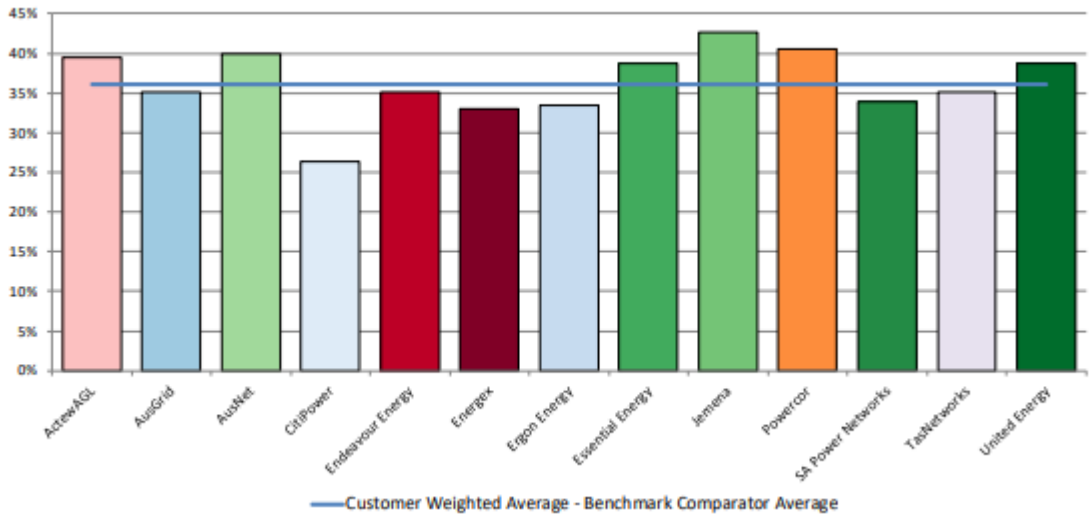
The AER reported on Jemena's base year efficiency and benchmarking results in a comprehensive opex report that is part of the Draft Determination.[93] The AER states:

"While increasing over time, Jemena's opex has been below our forecast for the current regulatory control period. Its actual and estimated opex in the current regulatory control period is 9.5 per cent below our opex forecast and its actual opex in the base year of 2018 is 12.6 per cent below our forecast. This is in contrast to Jemena's actual opex in the previous regulatory control period, which was on average 12.8 per cent higher per 6-28 Attachment 6: Operating expenditure | Draft decision – Jemena 2021–26 annum than our opex forecast. This performance is reflected in Jemena's positive EBSS carryovers, as discussed in Attachment 8 of this draft decision. However, as indicated by its benchmarking performance, Jemena has not been able to achieve the same degree of cost reductions as the more efficient distribution businesses.

First, while Jemena has a relatively high ratio of opex to capital inputs (measured as the annual user cost of capital, as opposed to capex), we do not accept Jemena's argument that opex/capital input trade-offs are not captured in the opex benchmarking models. Economic theory would suggest that capital inputs would be an explanatory variable in the opex benchmarking models, and this was explored in our original model specification.

Second, we have examined the average opex/total cost (opex plus capital annual user cost) ratio for all the distribution businesses as shown in Figure C.1 and C.2 for the 2006–18 period and 2012–18 periods. Using this approach and consistent with Jemena's submission, we find that Jemena's opex/total cost ratio over both benchmarking periods is higher than the benchmark comparator-average ratio. However, in addition to the previous point, we consider that annual user cost is an imperfect measure of capital inputs, notably due to inconsistencies among the distribution businesses in approaches to asset valuation, asset age and depreciation profile."

The following two charts for the AER's Draft Determination attachment 6, Opex, compares JEN's opex to total cost ratios for the 12-year period, 2006 – 2018 with the more recent period, 2012-18. The charts show that Jemena has a higher opex to totex ratio than other businesses, but that the higher ratio is not substantially higher than other businesses. The two charts also show that there has been minimal change for the more recent period, countering Jemena's claim that they have been more efficient recently.



[93] https://www.aer.gov.au/system/files/AER%20-%20Draft%20decision%20-%20Jemena%20distribution%20determination%202021-26%20-%20Attachment%206%20-%20Operating%20expenditure%20-%20September%202020.pdf

Figure 12: Opex to total cost ratios, 2006 - 18 (source AER economic benchmarking)

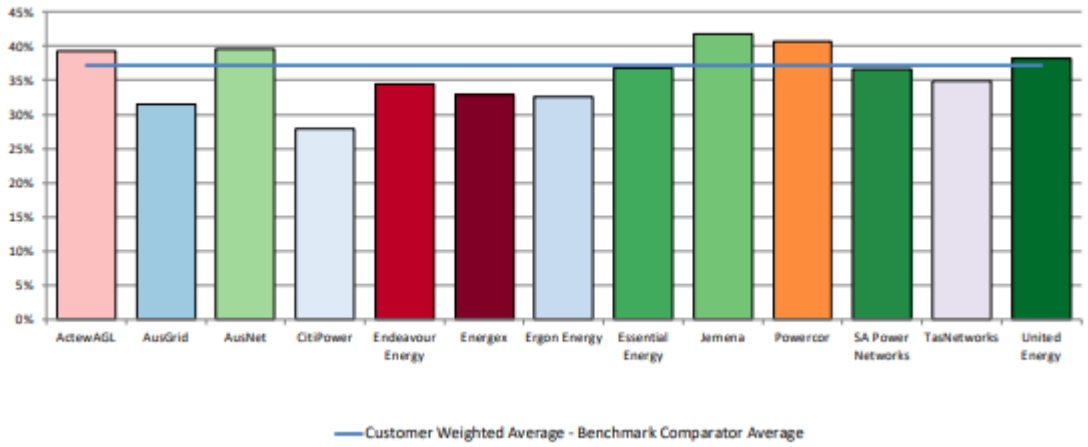


Figure 13: Opex to total cost ratios, 2012 - 18 (source AER economic benchmarking)

The AER summarised its finding with "we find that Jemena's opex/totex ratio is not materially different from the benchmark comparator-average ratio. This suggests that, in regard to annual expenditure, it does not favour opex over capex more than the comparator businesses. This suggests that a positive OEF adjustment for Jemena's opex intensity is not warranted."

The following chart shows opex to totex ratios for all electricity distributors.

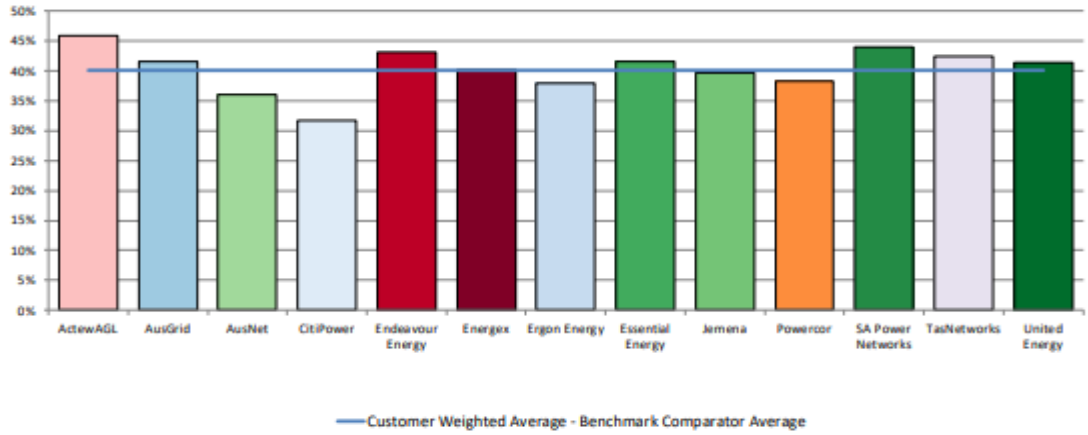


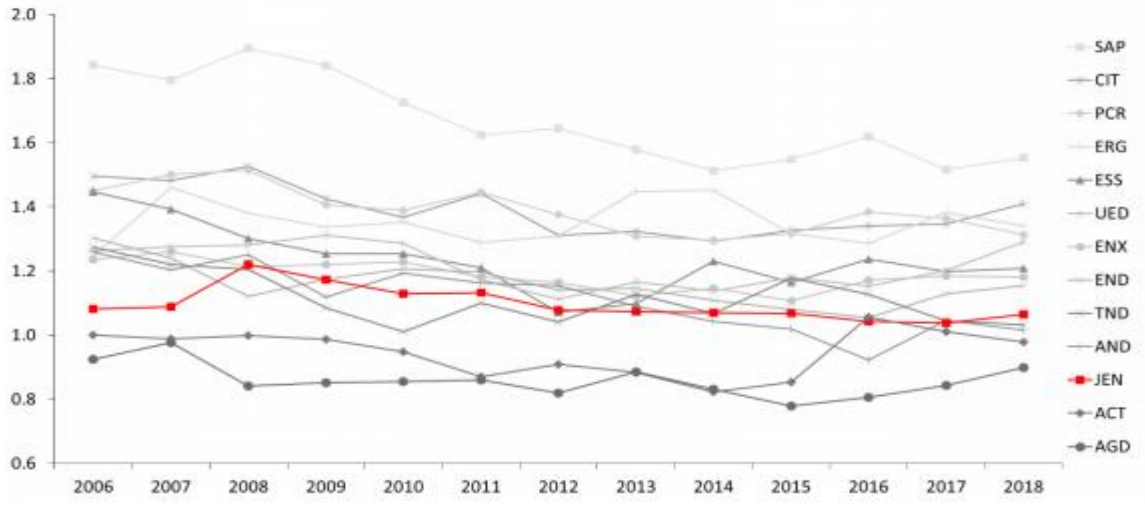
Figure 14: Opex to totex ratios for distribution businesses, 2012-18 (source: AER)

The AER concludes "Jemena's argument that it is cost efficient overall is in large part based on its performing well on the top down MTFP (and capital MPFP) benchmarking. These are reproduced below in Figure C.6 and C.7 which show that Jemena ranked relatively highly across both measures. However, this conclusion was made on the basis of results in the 2019 Annual Benchmarking Report.

As a result of some recent updates to the economic benchmarking data, and the correction of a coding error in the estimation of the output weights used in the productivity index measure, we have examined the impact of these changes on our benchmarking. We asked Economic Insights to examine the impact of these changes on the 2019 Annual Benchmarking report. With these changes, including the corrected output weights, the MTFP and MPFP rankings of the distribution businesses have changed. For Jemena, its MTFP performance with the corrected weights is generally in the bottom four to five of 13 distributors over

the 2006-19 period, which can be seen in Figure C.8. Its performance previously, with the uncorrected weights, was in the middle or slightly above the middle of the thirteen distribution businesses."

The following chart shows JEN's multilateral total factor productivity compared to their peers.



Source: Economic Insights, *Revised files for 2019 DNSP Economic Benchmarking Report*, 24 August 2020; AER analysis

Figure 15: MTFP (corrected results by business, 2006-18 (source: AER)

In their revised revenue proposal, Jemena provides the following commentary:

> *"Our revised forecast operating expenditure (including DRC) for the next regulatory period is $532 million, which is approximately $33 million higher than the AER's draft decision and $27 million lower than our updated proposal.*

Ultimately, we are concerned that economic benchmarking was applied deterministically in the Draft Decision to JEN's detriment. In our view, it should not apply deterministically unless:

a) detailed bottom-up analysis of costs (including capital expenditure) is first used to understand the differences between the DNSPs,

b) differences in capitalisation and other accounting policies of other DNSPs are normalised, and

c) benchmarking results are sensible, robust, and not volatile irrespective of the choice of output weights— especially where these output weights are not determined in a statistically robust manner.

In its report, CEPA sought to test the impact that differences in capitalisation policies can have on benchmark results. To do so, CEPA compared JEN's efficiency scores reflected in data based on the 2019 CAMs to that reflected in the 2014 CAMs. As shown in Table 2–5, the impact is material with a significant improvement in efficiency score over both the 2006–2019 and 2012–2019 time periods.

Table 2–5: JEN's operating expenditure efficiency score under different CAMs

	Economic Insights (2014 CAMs)	2019 CAMs
2006–2019		
Average all models	0.62	0.71 (+15%)
Average Cobb-Douglas models	0.63	0.74 (+17%)
2012–2019		
Average all models	0.55	0.64 (+15%)
Average Cobb-Douglas models	0.60	0.69 (+15%)

Figure 16: JEN operating expenditure efficiency score under different CAMs (source: Jemena)

This analysis highlights just how much of an impact the differences in capitalisation policies can have on efficiency scores. As a minimum, it suggests that the AER should reconsider its Draft Decision that capitalisation differences do not materially affect JEN's operating expenditure benchmarking efficiency score.

Based on the above, we conclude that:

a) differences in capitalisation policies can–and in JEN's case do–have a material impact on operating expenditure efficiency results that cannot be ignored,

b) capitalisation policies and operating expenditure/capital expenditure trade-offs are two very distinct factors that affect reported operating expenditure and need to be assessed separately,

c) operating expenditure/capital expenditure trade-offs, according to the AER, are already partially reflected in the operating expenditure econometric models applied by Economic Insights and relied on by the AER–and so the focus should be on differences in capitalisation policies,

d) if the operating expenditure ratios are used to assess the impact of capitalisation differences, then more detailed investigation into capital expenditure is required and the ratios need to be adjusted accordingly to avoid inadvertently including irrelevant capital expenditure differences,

e) JEN's efficiency score materially improves under an alternative common capitalisation approach (using operating expenditure to total expenditure ratios) and JEN's operating expenditure proposal with $4M per annum reduction is within the benchmark efficient range, and

f) to adjust those operating expenditure ratios properly, to reflect the differences in capitalisation policies only, requires more data. This activity does not appear feasible in time for the AER's final decision for JEN.

Given this, we propose that the AER should assess the efficiency of JEN's base operating expenditure using both its 2014 and 2019 CAMs, with the latter being the most relevant given that it better reflects the current cost structure of DNSPs and that most likely to apply over the next regulatory period. If relying on the operating expenditure efficiency scores based on the 2014 CAMs, then adopt an OEF for capitalisation, based on one of two options: –

- Option 1: adopt a value of 15% for both the 2006–19 and 2012–19 periods based on CEPA's comparison of JEN's efficiency scores from applying the 2014 and 2019 CAMs, or
- Option 2: adopt, more conservatively, 9.4% for the 2006–19 period and 8.8% for the 2012–19 period based on an average of the three operating expenditure ratios for the respective periods,

If benchmarking results are based on 2019 CAMs being used, then consider a third option:

- Option 3: adopt an OEF for capitalisation of -3.4% for both the 2006–19 and 2012-19 periods.

Also, don't apply translog models to Jemena, and Vegetation Management OEF's over-stated.

CCP17 observations

Jemena says that the AER should conclude that they are not materially inefficient.

We recognise that technical aspects of the benchmarking reports remain a simmering tension between network businesses (some more than others) the AER and the AER consultants, Economic Insights.

As strong supporters of benchmarking as a crucial regulatory "tool" and as a basis for greater visibility of network performance for customers, we agree that the time is right for review of some of the technical aspects of the benchmarking methodology.

Regarding the question of the efficiency of Jemena's operating expenditure, we have no doubt that Jemena has made considerable efforts to increase its operating cost efficiency, particularly over recent years, and that Jemena believes that its current operating costs are efficient.

Considering Jemena's arguments that they allocate more costs to operating costs that other networks allocate to capital costs, we see that there is some truth in this argument. There is no argument that Jemena performs poorly under current published MPFP opex metrics. However, consideration of both MPFP capex measures and opex / total expenditure measures, while showing an improved position for Jemena are not strong enough, in our opinion, for us to fully accept Jemena's argument that they are efficient.

The argument that says that recent improvements in operating cost efficiency will take some time to show up in benchmarking reports also has some validity, but again not enough evidence exists to convince us that Jemena's operating costs are efficient.

As to the arguments about Jemena's operating cost efficiency scores under different CAM's, we understand that this question is part of continuing forensic investigation involving both AER and Jemena. We are not well placed to comment on this matter at this stage.

We also restate earlier comments that Jemena's attempts to engage with customers, through the People's Panel, were laudable without being definitive, and that we look forward to reading what the People's Panel members engaged have to say in their (assumed) response to the AER.

4.2.2 OPEX Step changes

Jemena has accepted all of the AER's step change decisions from the Draft Decision with a very minor adjustment of $0.1m for REFCL operation costs.

4.2.3 Application of EBSS for Jemena in 2021-26 control period

The AER's Draft Decision for Jemena is not to apply the EBSS for the 2021-26 control period based on the view that Jemena's base opex is inefficient and that Jemena's proposal has not shown that it aims to reach an efficient level of opex by the end of the 2021–26 regulatory control period,[94] as per the requirements set out in the Victorian distributors' framework and approach.

Section 4.1.1 of this Advice provides CCP17's perspective on the efficiency of Jemena's opex.

[94] https://www.aer.gov.au/system/files/AER%20-%20Draft%20decision%20-%20Jemena%20distribution%20determination%202021-26%20-%20Attachment%208%20-%20Efficiency%20benefit%20sharing%20scheme%20-%20September%202020.pdf, p5

Should the AER uphold its Draft Decision on Jemena's opex efficiency, CCP17 supports the decision not to apply the EBSS for the 2021-26 control period. In this circumstance, we also support continued application of the CESS.

CCP17 considered the implications of a distributor operating under a CESS but not an EBSS for the next regulatory period. In general, when the CESS and EBSS both apply, opex incentives are balanced with capex incentives, and a distributor does not have an incentive to favour opex over capex, or vice-versa. If the CESS and EBSS are both applied, these incentives will be relatively balanced.

We understand that under the efficiency adjustments imposed by the AER, Jemena will be operating in a constrained opex environment in 2021-26. In order to achieve the opex targets, there may be incentives to allocate costs to capex as far as possible. In our view, having a CESS in place in this situation will mitigate the risk of inappropriate capex allocations and associated RAB increases.

4.2.4 Capital Investment (capex)

CCP17 supported Jemena's approach to capital expenditure in their initial proposal. Similarly, we do not raise any significant concerns regarding the capital investment plans in revised proposal, despite the fact that the revision restores the capex 'bottom line' to that before Draft Decision.

We note that Jemena accepted the AER's adjustment to connection costs and increased the proposed expenditure on augmentation and ICT; in particular a change to the REFCL and bushfire mitigation scope and the inclusion of an additional ICT project that was omitted from the initial proposal.

Jemena did not discuss their updated capital proposals with their Peoples' Panel in any detail, other than to outline their intent for continued reliability, maintaining bushfire safety and developing the network to reasonably meet consumers' expectations of new customer energy technologies.

Overall, while accepting the increase, we remain wary of the proposed increase to the overall capital plan. The projects do appear reasonably justified; however, the fact that Jemena was able to realise a significant underspend of approximately 22% in the current period, judging from the CESS amount being proposed, demonstrates the distributor's ability to seek efficiencies in their capital allocation and therefore absorb some cost increases.

We have summarised the changes proposed in the revised proposal in Figure 17 below.

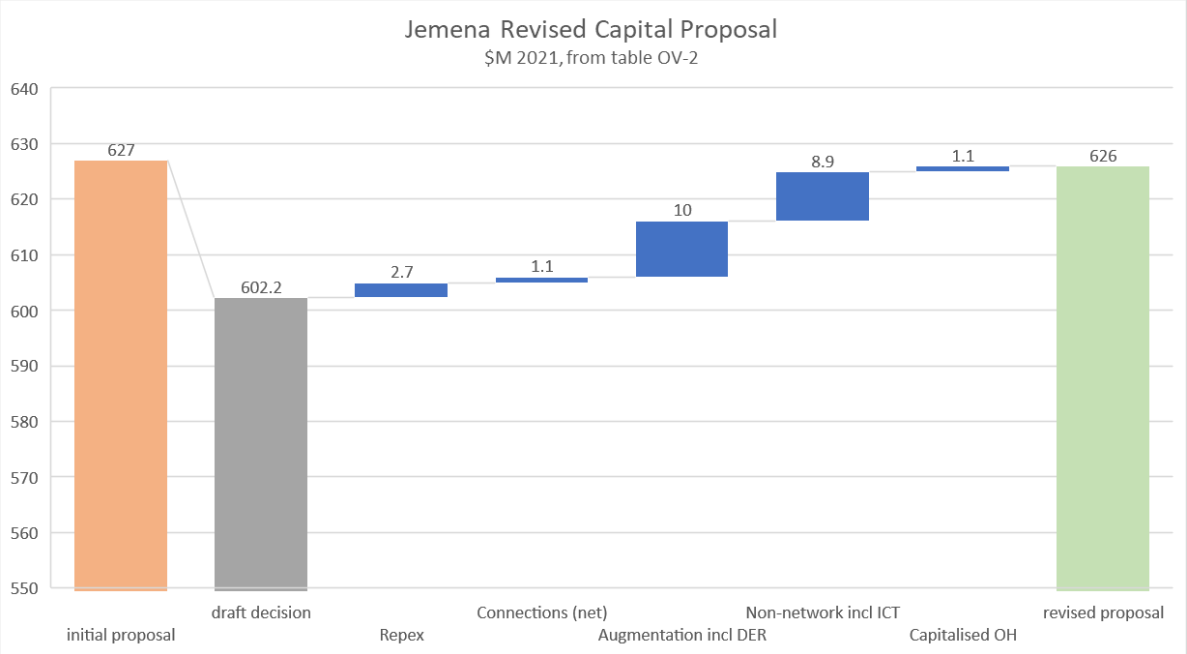


Figure 17: Capital requirement, Jemena Electricity (Source: JEN Revised Proposal Table OV-2)

We wish to specifically comment on six aspects of Jemena's capital proposal.

Connections

Jemena has accepted the AER's forecasts of growth in new customer connections, noting that *"We do, however, request that the AER update its adjustment methodology using HIA's November 2020 forecasts when making its final determination, as we were unable to incorporate these into our revised proposal due to the submission timeframes."* [95]

In their engagement, Jemena expressed this expectation clearly. In light of the rapidly changing investment and market factors, CCP17 sees this as a reasonable approach and supports the AER substituting updated housing growth forecasts.

We note that Jemena has, unlike other distributors, not chosen to reforecast commercial and industrial connection growth or the impact of large infrastructure connections, saying "*We therefore consider that an alternative forecasting approach to reflect the aggregate effects of COVID-19 would likely not result in a material change to our net connections expenditure from that which the AER applied in the draft decision."*[96]

We commend Jemena for taking this position. We also note that Jemena, unlike the other distributors, remains silent on any impact that the reduced Rate of Return may have on capital contributions and therefore the level of investment in new connections.

Augmentation

Jemena has highlighted the impact of 'spatial demand variance' in its proposal, the influence of which has expanded as a result of changed conditions related to the global pandemic. Anecdotal evidence from their Peoples' Panel and elsewhere supports assessing demand growth in residential areas and commercial / industrial regions quite differently. This is a reasonable approach supported by a body of community information demonstrating changed economic conditions and work practices.

This drives a redistribution of network augmentation changes in the revision, where projects have in some cases been brought forward since the initial proposal, and in other cases deferred. The community appears to be quite accepting of these changes in the current environment.

REFCL

REFCL compliance costs remain a point of interest for consumers. We note the placeholder approach taken by the AER in the Draft Decisions of both Jemena and AusNet Services, recognising the ongoing work by both distributors to efficiently meet their compliance obligations.

Jemena's work in pursuing the changes in the Coolaroo compliance approach is appreciated, representing a $4M reduction in compliance costs relative to the placeholder amount in the Draft Decision.[97]

Taking a joint JEN / AusNet Services approach to bushfire risk in the Kalkallo region is seen as sensible. We note that AusNet Services in their revised proposal has significantly increased the cost to meet their tranche 3 compliance objectives at Kalkallo. Similarly, Jemena is proposing an additional $10M for their share of the work. It is of some concern that both utilities have needed to increase their allocations beyond the

[95] Jemena Revised Proposal Attachment 04-1, p6
[96] Jemena Revised Proposal Attachment 04-1, p11
[97] Jemena Revised proposal Attachment 04-1, p21, Fig 3-6

placeholders for this project, and we look forward to the AER's assessment of the prudency and efficiency of this project.

Overall, we raise no objection to the changes to augmentation expenditure proposed by Jemena.

Distributed Energy Resources

Jemena has provided evidence of energetic DER growth since the initial proposal was prepared. It is clear that the impact of the Victorian Government's Solar Homes Programme is continuing to fuel strong DER growth.

We support the incentives for distributors to seek innovative ways to approach DER growth, and only in extreme cases undertake traditional network augmentation to address DER growth. Jemena is seeking a small increase in its DER capital allowance for further investment in foundational systems and capabilities. Given their relatively low level of 'foundational capability' expenditure in relation to other distributors,[98] it is our view that this additional investment is reasonable.

Non-network expenditure

Jemena notes the predominant increase in this expenditure category, $8.1M, is the cost for migration of their metering infrastructure to the new SAP S/4 system; a cost that was inadvertently omitted from the initial proposal.

The business case provided by Jemena[99] does not clearly present the benefits of the project for consumers. Such business cases would benefit greatly by explaining not only how this investment in ICT capability will contribute to their ongoing efficiency improvement but then lead to demonstrated cost reductions for metering services.

With the understanding that the AER will need to be satisfied with the business case for this proposal, from a consumer point of view we support the consideration of this project.

Capital Efficiency Sharing Scheme (CESS) reforecast

The AER's Draft Decision of September 2020 noted a significant increase in Jemena's proposed CESS payment from $25.6M ($2020-21) to $30.2M after an information request found an error in calculations.[100] While we tend to agree with Jemena's claim that the under expenditure of close to $162M does not give rise to a materially higher capex forecast for the 2021-26 period ($8M), such a high level of capex deferral, estimated at over 20% of the approved capex allowance, further fuels a level of distrust and suspicion by consumers as to the accuracy and content of capital investment forecasts.

Notwithstanding this concern, we acknowledge the AER's comment in the Draft Decision that:

> *"Of the Victorian distributors, Jemena provided the most comprehensive and transparent information in identifying the drivers of its capex underspend and deferrals"*[101]

CCP17 supports the AER's commitment to a review of the efficiency schemes, and we would use this particular situation as an example of the clear ability for distributors to reduce capital expenditure through a range of efficiencies and deferrals with limited impact on network services.

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[98] Interpretation of Figure 4.4 of the Jemena Revised Proposal Attachment 04-1, p29
[99] Jemena Electricity Revised Proposal, attachment 04-01, Appendix A
[100] AER Draft Decision, Jemena, Attachment 9 (CESS) p9-6
[101] AER Draft Decision, Jemena, Attachment 5, p9

4.3 CitiPower

4.3.1 Capital Investment (capex)

Overview of the revised proposal – capital investment

CCP17 is supportive of the significant reduction in the Draft Decision of CitiPower's proposed capital investment. Most of the key issues raised in our Advice on the initial regulatory proposal are reflected in the consideration by the AER, including concerns regarding the cost of the risk-driven pole replacement strategy and ICT investment in customer information facilities. We agreed with the AER that the CitiPower's network performance and services to customers are quite good, even with a regulatory underspend of 31% in the current period, demonstrating the distributor's capability to operate effectively at existing levels of investment.

We are pleased to note that CitiPower has responded by accepting most of the matters raised in the Draft Decision, with the outcome being a proposed total capital investment that is 12% higher than the Draft, yet remarkably 21% less than the initial proposal. We acknowledge CitiPower's advice that the revised proposal is much more in line with historical levels of investment.

Figure 18 summarises the departures from the Draft Decision that feature in the revised proposal.

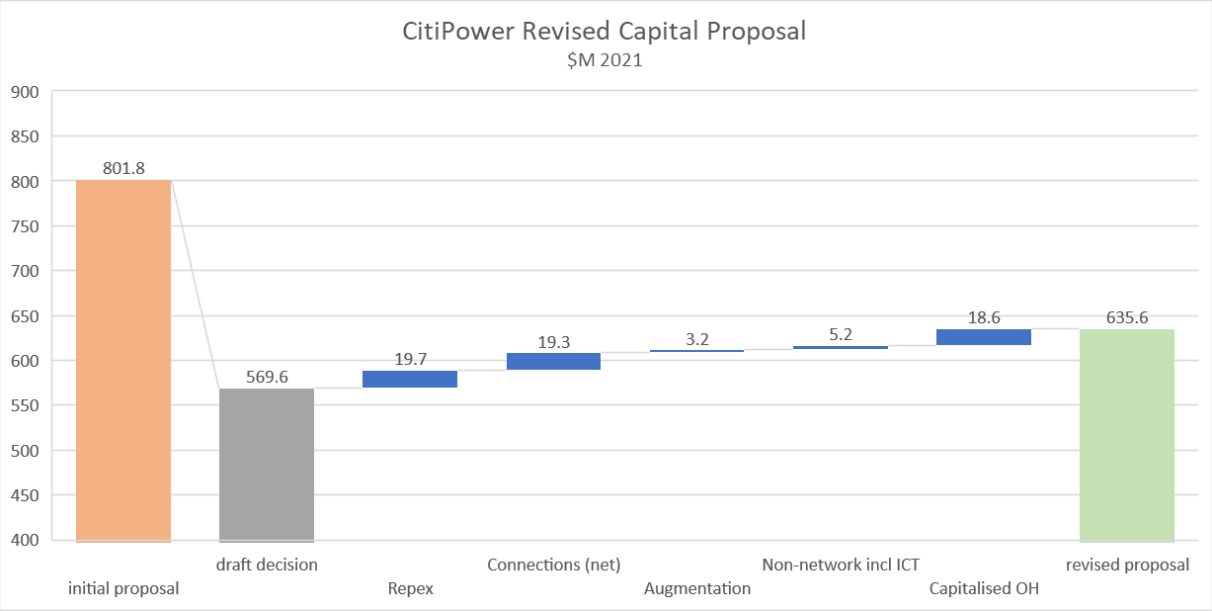


Figure 18: Capital investment proposal, CitiPower (Source: CitiPower revised proposal, p64)

Overall, we are supportive of the CitiPower revised proposal. We acknowledge the removal of the forecast risk-driven pole intervention forecast, a position that was taken after a high level of consultation with their Customer Advisory Committee, notably the meeting of 20 October 2020.

We commend CitiPower in accepting the many of the reductions in capital expenditure proposed by the AER in the Draft Decision. CitiPower is acknowledged as a somewhat unique operator of a highly urbanised network, and its journey as a 'World Class' operator will be one to watch.

In this advice, we wish to specifically comment on two aspects of the CitiPower revised proposal.

Asset replacement

CitiPower has commendably accepted many of the reductions in planned capital expenditure proposed by the AER in their Draft Decision and forecast replacement investment seems more in line with historical

trends. In their revised proposal, the predominant matters for funding appear to be wood poles, transformers, circuit breakers and cable pits.

CitiPower has continued to effectively reinforce the case for public safety and supply security when considering circuit breaker and cable pit condition. In our advice to the initial proposal, we supported the investment in a proactive replacement or refurbishment programme, provided the expenditure was proven to be efficient. Our position on this work has not changed. We see parallels with distributors such as Ausgrid who face similar challenges in CBD situations.

In the more recent engagement on this issue, CitiPower presents a strong safety-based case for the replacement or major refurbishment of these assets. While we remain supportive of objective of CitiPower's circuit breaker and pit replacement strategy, it would have been helpful to present a broader counterfactual argument that considered options such as a replacement over a longer period or presented further high-level evidence that supported the timing and costs of the proposal.

Also, we can't help but ask the question regarding the role of a robust, long term inspection and routine maintenance programme that may have alleviated, or at lease moderated, the need for a more pressing and costly intervention programme.

Therefore, we support the AER's consideration of the efficient delivery of the programme, ensuring that the unit costs are reasonable and efficient, and that the volume of work is reflective of a balanced and fact-based risk assessment.

For power transformers, we note that CitiPower has updated its business case to the AER. There has not been much discussion with their community stakeholders on this issue that we have observed, as it involves supply security standards more than public safety risk.

Power transformer replacement, unlike circuit breakers and pits, do not in our view present such a high risk of public safety, as they are generally not subject to explosive or catastrophic failure. The risk is more around supply security should a transformer trip at times of high load.

There is evidence that suggests the load factors and peak demand of CBD substations is changing as a result of changing work practices. Therefore, we would support a review of network security in the CBD with a reference to any new demand data that is available over the next year or so; with the consequential assessment of transformer failure risk.

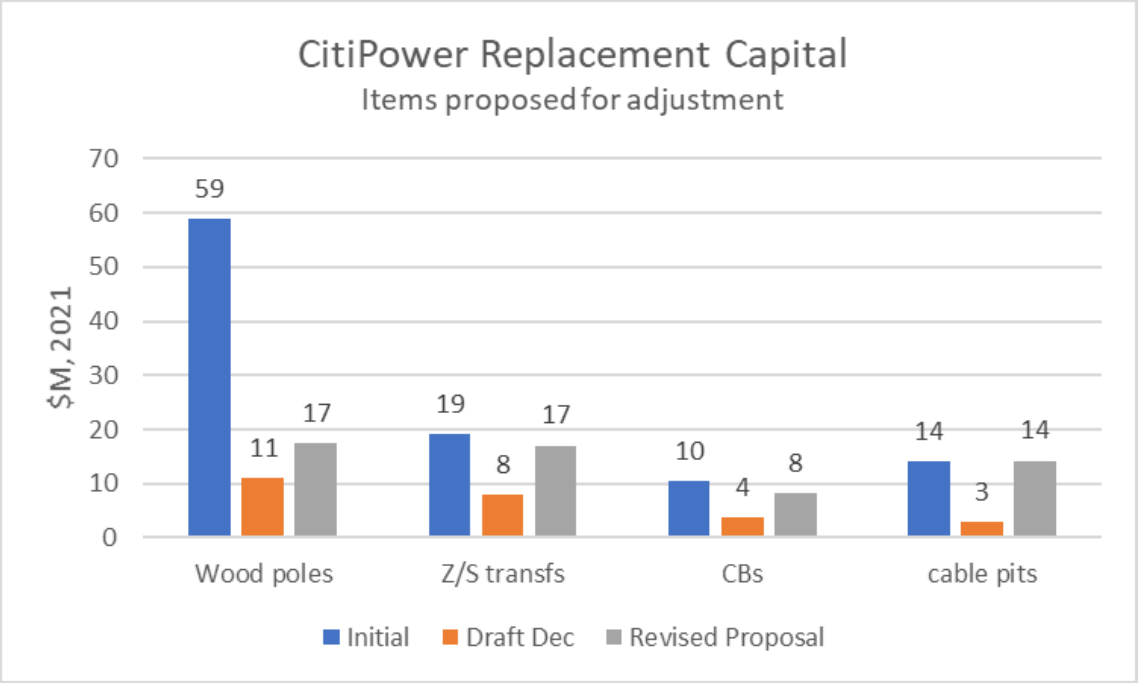


Figure 19: CitiPower capital proposal - replacement capital (source: CP revised proposal p76)

Regarding wood poles, VPN commissioned an engagement company *Forethought* to run a workshop to consider stakeholder views on asset replacement. The workshop tended to see CitiPower as having different challenges and risks to those in the Powercor area. As a result, CitiPower has moderated its pole replacement forecasts.

CitiPower has in many ways addressed the concerns raised by consumers following the significant increase in proposal capital expenditure for wood pole replacement. With the obvious proviso of the AER's modelling analysis, we are much more comfortable with CitiPower's revised repex proposal.

Non-network – ICT, Customer Enablement

In our advice to the AER regarding the initial regulatory proposals, CCP17 was critical of the expenditure proposed by the distributors that sought to establish customer service and information provision capability that largely replicated that which could be more effectively provided by others, such as retailers. We supported the view by the AER in the Draft Decision to scale down such investment.

We still remain sceptical of some information services provided by networks, to the end where we would like to see network businesses publish customer feedback and usage statistics over time to demonstrate the effectiveness and 'return on investment' of some web-based initiatives.

CitiPower, along with United Energy and Powercor, raised this issue with their Consumer Advisory Panel (CAP), who reiterated the need for clear benefit and use of the investment, and highlighted the need for a seamless facility focussed on service delivery.[102]

CitiPower have advised that they have refocussed their customer enablement proposal to remove any services better provided by others, and to focus on a common platform across the three VPN networks. Presented to their CAP in October 2020, VPN outlined the role of the investment in the wider context of Customer Commitments, including establishing an oversight mechanism to assist with any development being consultative in nature.[103]

[102] VPN presentation to their Consumer Advisory Panel meetings #3, 20 October 2020
[103] VPN presentation to their Consumer Advisory Panel meetings #4, 5 November 2020

On this basis, we support the revised investment by CitiPower on customer enablement.

4.3.2 Operating expenditure (opex)

Step Changes – CitiPower, Powercor and United Energy

Each of these businesses has revised down their cyber security costs and have re-proposed step changes for "solar enablement," arguing that these are very efficient costs that respond to customers wishes regarding increasing the amount of domestic PV that can be generated and recognised. Of particular concern to these three businesses is their reporting that around 60% to 70% of new solar installations are non-compliant with required inverter settings.

They state "Our monitoring and compliance program includes costs to implement remote monitoring using our existing information management systems, based on current rates of non-compliance, assuming it takes one hour on average to rectify the non-compliance. This is a conservative estimate given we expect noncompliance with the new inverter settings to be much higher based on the experience of other distributors and our experience to date."

CCP17 supports an approach to the increasing penetration of rooftop solar and other distributed energy resources being managed largely through better information and automated network responses; using AMI data, improved real-time network monitoring and the intelligent control of network voltage. We acknowledge that there will still be a component of 'on the ground' action such as adjusting tap settings on many distribution transformers and carrying out compliance checks on existing DER installations. Therefore, we support the inclusion of the proposed 'solar enablement' step changes to undertake this work.

As with some other step changes, we observe that these actions are time-limited. Over time, the number of transformers to be changed will reduce, and more robust and advanced connection arrangements should reduce the number of field compliance checks. This raises the question about how a time limited program of work is removed from base the opex once the project has been completed?"

In accepting the proposal, we opine that aspects of it are second-best solutions. The first best solution for compliance with inverter settings is that installers apply them. However, the practical difficulties of this are recognised. The need for consumers to pay collectively for network business to rectify for non-compliance is reasonable, though not optimal.

Both Powercor and United Energy have also proposed new step changes for their insurance costs.

4.4 Powercor Australia

4.4.1 Capital Investment (capex)

Engagement on capital expenditure proposal

We are aware that Powercor has carried out significant engagement with a wide range of stakeholders, including the AER and their newly minted Consumer Advisory Panel (CAP), regarding specific matters such as the capital requirements for pole safety and customer service requirements. VPN is to be congratulated on the way it has managed to carry out a high level of engagement in these difficult times.

CCP17 has had ample opportunity to join these conversations, a testament to Powercor's considerably active engagement strategy following the Draft Decision. While we recognise the engagement that Powercor has undertaken on significant issues such as wood pole replacement, customer service schemes and future networks, in retrospect there may have been a missed opportunity to present their revised proposal 'as a whole', including the contingent projects and new activities, to their CAP for consideration.

Perhaps one reason this was not done is the fact that the CAP was not constituted until after the Draft Decision was released, and a very full agenda was already in place. Despite this, consideration of the full impact of the revised capital proposal by their Consumer Advisory Panel would have been particularly useful.

Powercor's engagement is discussed in detail in section 3 of this advice.

Overview of the revised proposal – capital investment

CCP17 raised concerns regarding Powercor's approach to capital expenditure in its initial proposal, in particular Powercor's materially higher forecast relative to the current regulatory control period, combined with an underspend of approximately 15 per cent. We support the significant examination of Powercor's capital proposal undertaken in the Draft Decision.

The community safety issues leading to a significant step-up planned wood pole replacements is the centrepiece of discussion, however many other areas of were also of concern.

In its revised proposal, Powercor has forecast a capital investment of $1849M ($2021); a 17% increase from that of the Draft Decision yet 15% ($318M) less than the initial proposal, as shown in Figure 20.

We are pleased with many aspects of Powercor's revised proposal which, with the exception of wood pole replacement and contingent projects, is much more in line with historical expenditure trends. For example, Powercor has either accepted or only marginally adjusted the AER's Draft Decision in relation to future network costs and non-network investment, accepting the challenge to use innovative network technologies and a staged approach to address the growth in distributed energy resources.

While there are adjustments to connections costs including AER-adjusted volumes and a reduction to capital contributions, the ultimate result being a 5% decrease in net connection capital from the initial proposal is seen as reasonable. We note the significant reduction in gross connection costs.

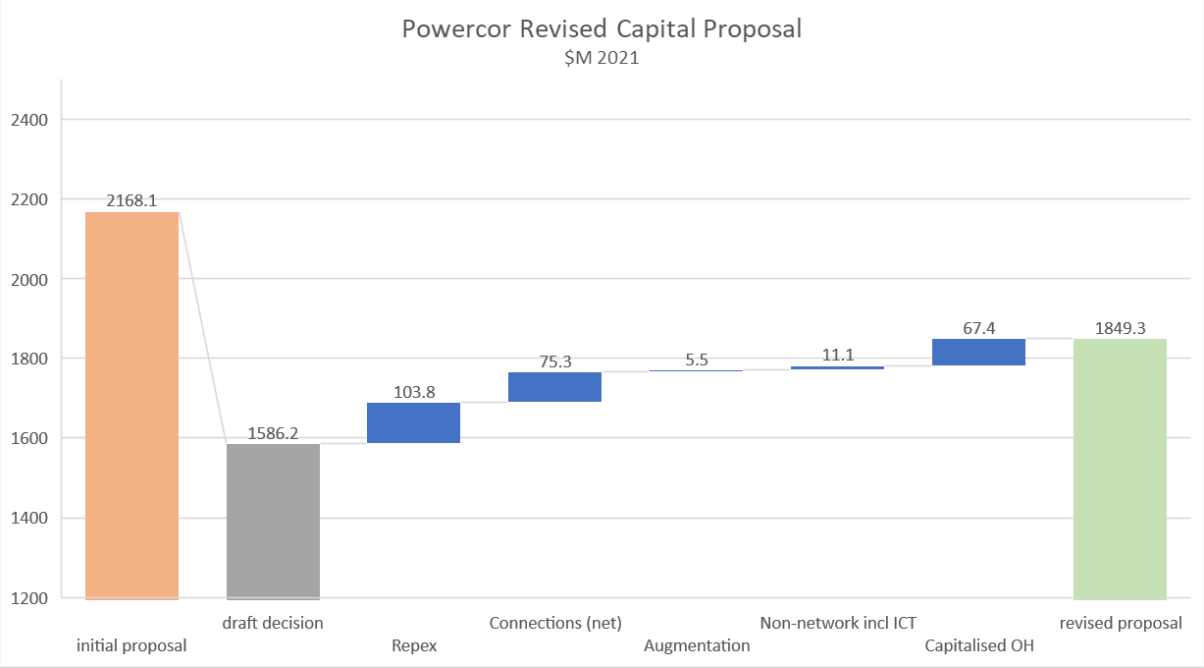


Figure 20: Capital requirement, Powercor (Source: Powercor Revised Proposal p72)

Wood pole repex remains a point requiring more detailed consideration. As well, of significant concern is the introduction of contingent projects into the revised proposal. The rise in augmentation investment has

been reduced significantly by shifting one large project, Ballarat West substation, to the status of a contingent project. We discuss these specific points from the revised proposal below:

Asset Replacement

Powercor notes that the revised proposal accepts the Draft Decision for most asset categories, except for wood poles and switchgear.[104] We acknowledge this decision by Powercor and commend the acceptance of many of the investment categories.

Wood pole management

CCP17 recognises the importance of robust asset management capability, maintaining a safe electricity distribution network, particularly in areas prone to bushfire. Public and worker safety – both in reality and as an element of trust by the community – is a necessary given.

The need for the significant step-up in asset replacement investment proposed by Powercor casts some doubt on the efficient, responsible long-term management of the core assets fundamental to a regional distribution network operator. In particular, the pole inspection and safety assessment practices that should provide the early detection and measured response to emerging failure trends must be questioned. While the ageing of network assets, particularly poles and crossarms, is recognised as a driver of increased asset replacement costs in many utilities in Australia, the magnitude of this proposed change stands out as being unusual.

We are aware that the AER, Powercor, Energy Safe Victoria and other stakeholders are in detailed and technical discussions regarding Powercor's asset replacement needs.

While we understand the need to analyse the details that underpin this significant increase in pole replacement volumes and therefore costs, CCP17 is taking a different approach. Public information indicates that many Powercor field assets are in a worrying condition, as highlighted by increasing failure rates. Just searching 'Powercor ESV' on the internet returns the initial matches as "*ESV investigation requires safety improvements for Powercor ...*" and "*ESV prosecutes Powercor for line clearance breaches (Port Campbell)...", Powercor pleads guilty and fined for line clearance breaches (Shepparton).*"

Clearly, there is a problem, not only of the asset safety itself but also of community trust in the safety of network assets.

CCP17 has not changed its position that there is a clear need for an increase in pole intervention volumes for both staking and replacement. The change is not only as a result of assets ageing, as is the narrative in many other utilities, but because something has 'gone wrong' with the process of long term, stable asset management. Whether this is an external factor such as a change in the acceptable of bush fire risk, or as a result of inattention by the distributor, or both, is unclear.

With the level of information in the public domain, including the significant under expenditure in the previous period,[105] it is inevitable that the community conclude that there is fundamentally a 'backlog' of work, and a significant yet temporary increase in investment is needed to bring the wood pole management process back to an even keel.

The questions on consumers' minds are 'how much should it cost to get the wood pole issue back under control, and who should pay?'

We note that the Powercor CAP considers that the situation has devolved into opposing positions between two competing regulators – the AER and Energy Safe Victoria.[106] We do not support that view, as we

[104] Powercor Revised proposal, s 8.3.3, p83
[105] AER Draft Decision attachment 5, Capital Expenditure, p 5-18
[106] Powercor Consumer Advisory Committee, Minutes of meeting of 20 October 2020

consider that the distributor itself has had a major hand in the situation that has arisen, through their pole management practices over many years. Therefore, we consider that an outcome where the distributor will have to absorb a share of the costs of restitution as likely.

Powercor proposal

Powercor has categorised its pole replacement programme into three classes, as shown below [107]:

Wood Pole Intervention volume	Initial proposal	Draft determination	Revised proposal
Compliance Driven (condition based)	15,983		20,117
Compliance Driven (defects)	8,231		3,479
Risk Driven	15,556		4,756
TOTAL	39,770	16,969	28,352

Table 16: Forecast wood pole intervention volumes (source: Powercor)

We note the Poles Replacement Peer Review by Cutler Merz (CM) that Powercor has provided as part of the supporting information for the risk driven component of their pole management strategy, leading to a significant reduction in investment in that category in the revised proposal. CCP17 respects CM as a capable and balanced independent engineering reviewer, and we note its findings. In hindsight, it may have been useful to extend the CM brief to all categories of pole intervention.

Also, Powercor has outlined in their proposal the change to the standards that drive the defect-driven volumes. While we acknowledge the importance of Powercor addressing poles that do not meet community visual standards, under the circumstances Powercor's changed response is acceptable.

Engagement on asset replacement

Powercor has to their credit run a couple of consumer workshops specifically targeted at asset management expectations; one facilitated by engagement company Forethought and another with their Consumer Advisory Panel (CAP).

In the former, consumers expressed an expectation that:[108]

> "Stakeholders expected **meticulous planning** to ensure safety, reliability and affordability were delivered to customers."

The Forethought session raised very poignant expectations regarding asset management. With the current work on the Powercor proposal, it is difficult to see where these expectations feature in the revised proposal. For instance, consumers noted:

> *"The processes involved in providing safety, affordability and reliability to consumers involved short and **long-term plans to minimise risk to customers. This involved both short-term and long-term plans for when** assets should be replaced and maintained at an overall level and individual asset-level."*

[107] Powercor revised proposal, Attachment BUS4.02 – Wood Pole Management, table 1.1, p5
[108] Forethought: Report to VPN on industry engagement: Asset replacement, 14 October 2020

"This extended to the external management of the network including vegetation management and communication with the public, to ensure they understood how the assets served the community."

"An organisational culture orientated toward constant improvement (is needed); meeting the desired performance levels then finding efficiencies whilst maintaining that performance."

"There was also a need for greater consideration regarding implementation of alternative power sources and technologies. Stakeholders questioned how the current strategy would fit into a greater plan for mitigating risk factors such as climate change, and incorporate technological advances moving forward."

CCP17 advice

From our own information and our understanding of the relevant consumer engagement, there are three issues that need to be considered regarding the challenges Powercor has raised.

First, what actions and investment are needed to get Powercor back to a stable, balanced position regarding wood pole management, consistent with its peers and community expectations, *but no more*.

Second, who should carry that cost?

Finally, has Powercor established adequate arrangements in pole inspection and condition assessment (noting these are generally operating costs) to avoid such a situation arising again, restoring Powercor's pole management practices back to a more stable, long-term state that reasonably balances cost of ownership with the safety expectations of the community ?

On the first issue of investment to return to a stable operating environment, we would expect that any current proposed action, such as that in the Powercor proposal, be extrapolated to ensure the response does not 'overshoot the mark' and, in some ways, lead to an 'over-maintained' system. This is not in the consumer interest, especially with the focus on the increase in the value of the Regulated Asset Base. Any proposed actions should be considered as temporary, with the intent of returning the asset base to a more stable long-term model.

Also, we would hope that the investments in other bushfire risk mitigation capability, in particular REFCLs, can be seen as in some ways mitigating the urgency to address the situation.

Regarding costs, we continue to support the CESS adjustment made by the AER on the assumption that deferral of expenditure in the past may not have been appropriate in the longer term. While it is our view that Powercor should shoulder an even greater component of these costs, we see it as inevitable that some additional costs to address the accelerated maintenance required will be borne by consumers. This is appropriate for two reasons.

1) Consumers, overall, have been the beneficiaries of the maintenance and replacement programme to date (not to understate the devastating impact to those affected by the consequence of some asset failures); and

2) There is value in 'getting on top of this problem' quickly in regard to trust in the condition of the assets and of course the reduction in the severe consequences of asset failure.

Based on the discussion above, the CCP17 position on asset replacement is:

a) There is a valid case for Powercor to undertake the increase in pole replacement volumes and bushfire risk activities outlined in sections 4 and 5 of their revised proposal.

b) This increase in volumes, and hence repex investment, should not be considered as the 'new normal', but as a means to return the pole safety situation back to a stable long-term trajectory of investment (as well as the operating cost of inspection) consistent with their peers.

c) We remain supportive of the action taken by the AER in adjusting the Capital Efficiency Sharing Scheme payment in the Draft Decision and suggest that an even greater share of the expected remediation costs in the forthcoming regulatory period should be carried by Powercor.

d) It is reasonable to expect that a share of the step-up in cost can be borne by customers, including those who have strongly expressed their expectation of a safer network.

e) The reduction in risk-based and defect-based pole intervention volumes proposed in the revised proposal is supported.

f) Consideration of the past effectiveness of pole inspection and intervention decision tables is required, and practices revised in light of the current situation.

g) We continue to support the work being done to resolve the need for increased volumes of condition-based replacements, however we also expect the efficiency of the work to also be considered closely. We support the use of the AER's repex models to guide this consideration.

We are pleased to be invited to further work with the AER and Powercor to progress this analysis.

Non-network – ICT and Customer Enablement

In our advice to the AER regarding the initial regulatory proposals, CCP17 was critical of the expenditure proposed by the distributors that sought to establish customer service and information provision capability that largely replicated that which could be more effectively provided by others, such as retailers. We supported the view by the AER in the Draft Decision to scale down such investment.

Consistent with our advice regarding similar projects for CitiPower and United Energy, we support the revised investment by United Energy on customer enablement. We acknowledge the work done by Powercor in presenting their customer enablement proposal to their Consumer Advisory Panel and reflecting many of the comments from that Panel in their revised proposal.

Powercor presented the project to replace their now-unsupported field dispatch product to CCP17. The case centred on replacing an unsupported product that was currently well-established in operational processes. We support this investment as it maintains an existing process central to efficient field service delivery, including direct services to customers.

Contingent projects and pass-through events (capex related)

Powercor has chosen to placemark two contingent projects and three capex-related pass-through events. The contingent projects are:

- *Ballarat West Zone Substation and associated REFCL installation*, a $31M project originally part of the network augmentation capital allowance, and
- A significant investment in undergrounding powerlines as a result of a recommendation from the Victorian Auditor-General relating to the *undergrounding or insulating overhead power lines in 33 highest bushfire risk areas.*

The capital-related pass-through events that have been nominated are:

- *Pass-through event for electric vehicles* - An electric vehicle event occurs if a government announcement directly-related to increased electric vehicle uptake occurs during the 2021–2026 regulatory period that materially increases localised electricity demand (not accepted by the Draft Decision)
- *Environmental protection event* – An event related to the Environmental Protection Amendment Act 2018 (Victoria)

- *Pole management practices event* – Should Energy Safe Victoria require Powercor to act in respect of Powercor's pole management practices.

CCP17 does not support these proposals, for several reasons. Granted, the situations for which the events are nominated have high degrees of uncertainty as to their ultimate need, timing and scope. However, in each case the distributor has choices regarding how to respond to the event, at what cost, and to what schedule. Also, as pass-through events they tend to attract less scrutiny by stakeholders and risk becoming a 'cost of service' activity. Asymmetric risks exist.

In addition, we view the pass-through events as ones which can be ultimately reasonably served as '*regulatory change event'* under s6.6.1(a1)1 of the NER, and we see no advantage for them to be presented as a '*nominated pass-through events'* as part of this proposal.

We consider them in detail below.

a) Contingent project - Ballarat West Zone Substation

A contingent project is a project that is reasonably required to be undertaken, but which is excluded from a distributor's general capital expenditure allowance because of uncertainty about its requirement, timing or costs. In addition, the project must nominate a 'trigger event' that is reasonably specific, and it is not sufficiently certain that the event or condition will occur during the regulatory control period.

Given Powercor's comment that both BAN and BAS are likely to cease being 'complying substations' in the forthcoming regulatory period, we understand that the likelihood of the establishment of this new substation is high, and that the 'trigger event' is highly probable. From our reading of the proposal, the main reason for establishing this as a contingent project is to protect against a significant over or under-estimation of the cost to establish the substation and the subsequent inclusion of a highly inaccurate cost estimate into the revenue determination.

We are sympathetic to Powercor's concerns about the lack of surety related to the establishment of a new zone substation, and appreciate the issues associated with nominating an expected cost early in the scoping stage.

However, when we read the contingent project for the proposed substation, it is difficult not to substitute the reasons for the new investment, being 'REFCL technical compliance cannot be met by adjacent substations' with the more traditional reason for establishing a zone substation, i.e., 'demand cannot be met by adjacent substations'. Otherwise, the uncertainties of the development – location, land acquisition, configuration, feeder routes, undergrounding and the like – are largely identical to those of a traditional zone substation project.

On that basis, the project should be subject to the same analysis and engagement within the regulatory proposal as are other major augmentation projects. If the allowed costs are exceeded, which seems possible given the revised allowance of $52M, these can be considered in the normal assessments at the end of the regulatory period

There are other concerns about shifting this to a contingent project. By doing so, the headline augmentation capital cost is lowered by the estimate of the project, in some ways distorting Powercor's claim that the revised proposal augex is in line with that of the Draft Decision. In this case, we would have been much more supportive had this change been clearly enunciated in the proposal and with stakeholders in the lead-up to the revised proposal.

b) Contingent project – conductor replacement

It is useful that Powercor has provided an early 'heads up' on the possible impact of the Auditor-General's report. The issue of undergrounding lines in high-bushfire prone areas has been on agendas for some time.

Our view is that it will take some time for the Victorian Government to consider, appropriately engage and develop any recommendation to the point where a directive is likely. Also, the nature of any directive is unknown but would hopefully consider existing practices and the cost impact in consumers.

Also, we note that Powercor has effective asset management plans in place that include insulating or undergrounding lines that we assume are currently funded.

Therefore, we are unable to support the proposal.

c) Environmental Protection pass-through Event

The change to environmental management requirements related to network assets Is not an unusual event. In most states, changes in the requirements for noise management, insulating oil control and other environmental factors have been managed without the need for a pass-through mechanism. Distributors can choose interim solutions, integrate upgrades into augmentation or replacement works, or undertake a needs-based programme.

We have not seen any evidence that any change to the relevant legislation will include a requirement to address all risks proactively in less than one regulatory period and note that the commencement date has not yet been proclaimed and no further information regarding the Subordinate Instruments has been made available.

d) Pole management practices pass-through event

The issue of pole management for Powercor has been under intense scrutiny by the AER, Powercor, ESV and other stakeholders since the initial revenue proposal was tabled in early 2020. Surely this work will reach some form of conclusion leading up to the final proposal, and the bodies likely to initiate any further requirements as suggested by this proposal are likely to be involved in that decision.

Our observation is that ESV tends not to make rulings in isolation, rather approve or reject asset management plans proposed by distributors. In essence then, the pass through is to cover an action that could be initiated by Powercor itself.

We see no necessity for an additional 'safety net' for Powercor to address any further change in pole intervention requirements. If additional investment is needed, it can be considered at the end of the period as part of the normal RAB prudency assessment.

4.5 United Energy

4.5.1 Capital Investment (capex)

Overview of the revised proposal – capital investment

CCP17 was largely supportive of the significant reduction in the Draft Decision of United Energy's proposed capital expenditure. Most of the key issues of our advice at that time are reflected in the consideration by the AER, including the risk-driven pole replacement strategy and additional ICT investment. We agreed that the current levels of historical capex appeared sufficient to support the safe and reliable provision of network services.

The level of under-expenditure by United Energy in the current period, estimated in the Draft Decision as being close to 20% of the capital allowance, demonstrates United Energy's ability to effectively realise efficiencies from their capital programmes.

We note that United Energy has responded to the Draft by providing more information, and by raising the issues in more detail with their newly formed Consumer Advisory Panel. The outcome is a proposal that is 13% higher than the Draft Decision, yet 16% less than the initial proposal – effectively 'splitting the difference'. Given the level of scrutiny and analysis by the AER that led to the significant reduction in

allowed capex in the Draft Decision, we are not surprised that United Energy has come back with vigorous arguments to reinstate some elements of their proposal.

Figure 21 summarises the departures from the Draft Decision that feature in the revised proposal.

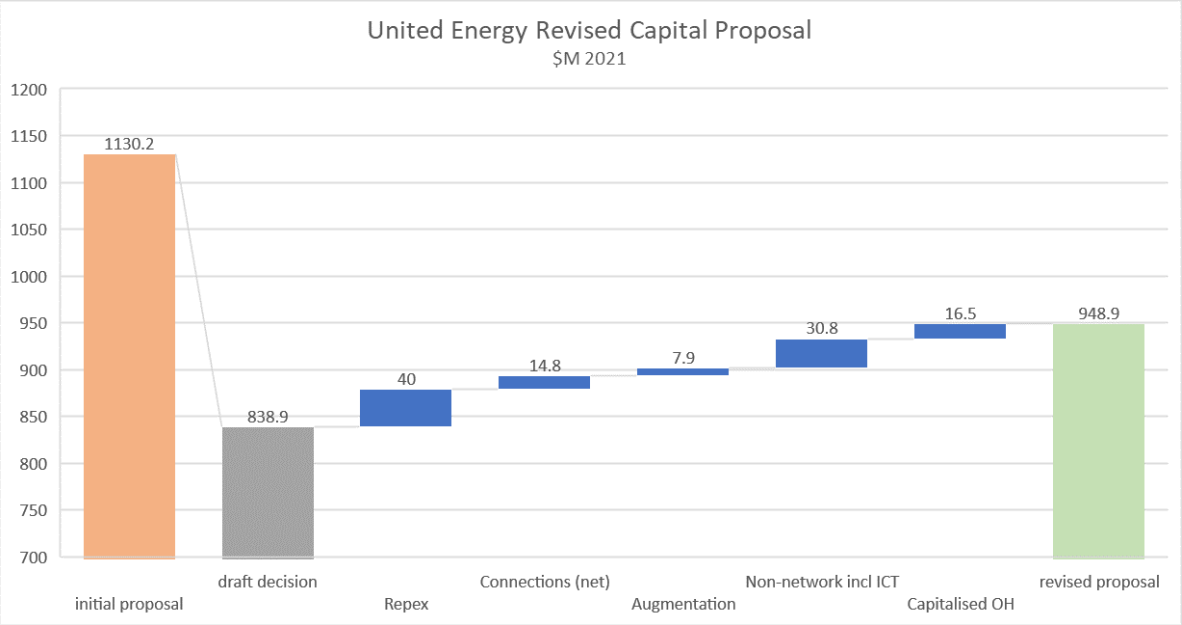


Figure 21:Capital investment proposal, United Energy (Source: UE revised proposal, p60)

Overall, we are supportive of the United Energy revised proposal. We acknowledge the removal of the forecast risk-driven pole intervention forecast, the updated information on the ICT tools required to meet improved customer service, and the further justification of the investment in depots.

We commend United Energy in accepting the reduction in DER integration expenditure. United Energy is often acknowledged in Victoria as a leader in the application of demand response and new network operation strategies, particularly in urban and rural residential areas. It will be interesting to watch how United Energy makes good use of the available funds for DER integration and 'smart networks' over the next period.

Non-network – property

United Energy has provided additional information regarding the proposed depot facility upgrades in both the revised proposal and to their Consumer Advisory Panel. CCP17 attended this discussion and is largely sympathetic to the need for distributors – particularly those with a large amount of residential and industrial development on the fringe of the urban footprint – to develop new sites in order to be able to reasonably service new areas.

In addition, with the establishment of many urban depots and sites during the growth of the sixties and seventies, we appreciate the need and cost to redevelop these locations. Ausgrid's Hornsby and Zetland depots and Energex's Greenslopes site are examples of this need.

Therefore, we raise no objection in principle to the depot property upgrades proposed by United Energy, on the proviso that the AER is satisfied that the investments are considered efficient use of funds and reflect fair upgrades commensurate with good commercial / industrial property practice.

Non-network – ICT, Customer Enablement

In our advice to the AER regarding the initial regulatory proposals, CCP17 was critical of the expenditure proposed by the distributors that sought to establish customer service and information provision capability

that largely replicated that which could be more effectively provided by others, such as retailers. We supported the view by the AER in the Draft Decision to scale down such investment.

We still remain sceptical of some information services provided by networks, to the end where we would like to see network businesses publish customer feedback and usage statistics over time to demonstrate the effectiveness and 'return on investment' of some web-based initiatives.

United Energy, along with CitiPower and Powercor, raised this issue with their Consumer Advisory Panel, who reiterated the need for clear benefit and use of the investment, and highlighted the need for a seamless facility focussed on service delivery.[109]

United Energy have advised that they have refocussed their customer enablement proposal to remove any services better provided by others, and to focus on a common platform across the three VPN networks. Presented to their CAP in October 2020, VPN outlined the role of the investment in the wider context of Customer Commitments, including establishing an oversight mechanism to assist with any development being consultative in nature.[110]

On this basis, we support the revised investment by United Energy on customer enablement. We also commend United Energy on its approach to absorbing costs on the Dial-before-you-dig mobile application.

Connections policy and connection costs

United Energy has accepted the AER COVID adjustment on connections expenditure in so far as it applies to residential connections only. Even after considering the factors affecting connection costs presented by United Energy, we note a 22.5% reduction in gross connection costs in their revised proposal when compared to the initial proposal.

United Energy presents details of their proposed amendments to their connection policy. Given that United Energy state that, after any amendment, shared network augmentation rates compare well with other distributors, we do not raise any concerns with this proposal. Consistent with our acceptance with revisions to connection charge threshold guidelines for other distributors, we support a consistent approach by the AER to this issue.

With an overall reduction of 11.7% in its proposed connection costs (net) from their initial proposal, we generally support United Energy's revised connection costs.

Asset Replacement

United Energy has commendably accepted many of the reductions in planned capital expenditure proposed by the AER in their Draft Decision and forecast replacement investment seems more in line with historical trends. The main items of departure from the Draft Decision appear to be poles, zone substation transformers and service lines, as shown in Figure 22.

CCP17 supports the AER position in the Draft Decision, in particular the approach that:

> *"United Energy has not demonstrated that a 33 per cent step-up in repex is required to maintain safety and reliability. In particular, the 69 per cent increase in wood poles repex is unsupported by sound quantitative analysis. Where a business proposes a large increase in repex relative to current regulatory control period spend we expect that it will provide clear evidence of the need for the investment"*[111]

[109] VPN presentation to their Consumer Advisory Panel meetings #3, 20 October 2020
[110] VPN presentation to their Consumer Advisory Panel meetings #4, 5 November 2020
[111] AER Draft Decision – United Energy, p5-12

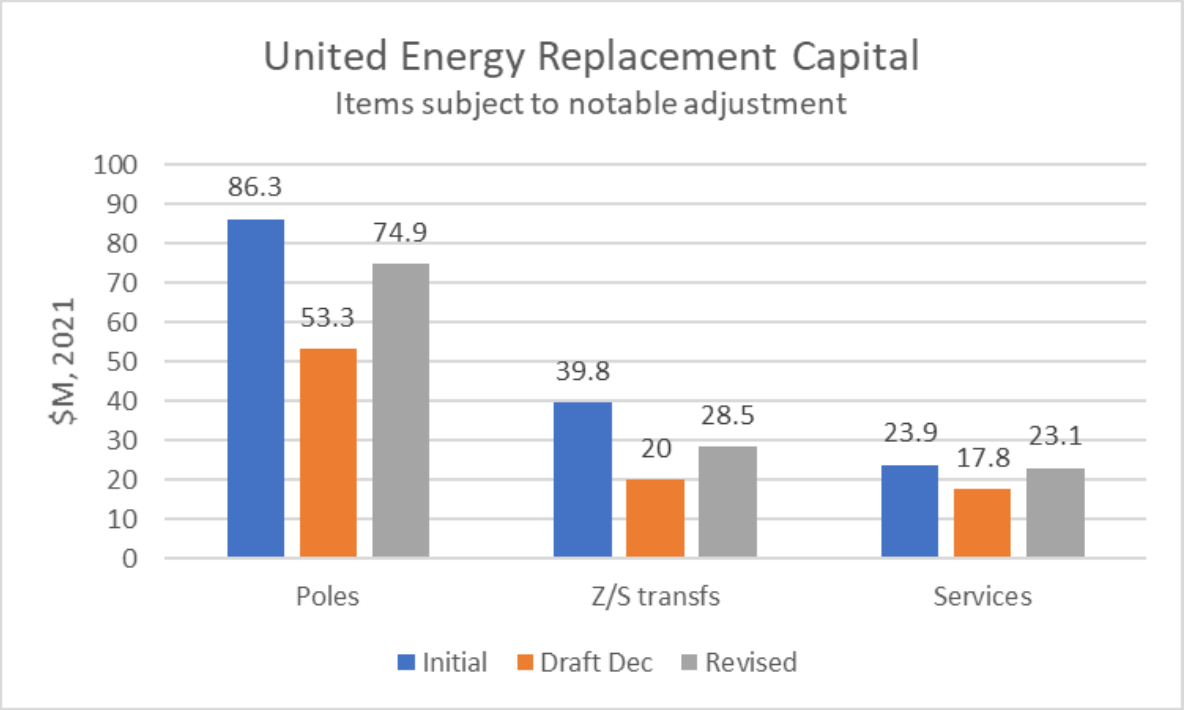


Figure 22: United Energy capital proposal - replacement capital (source: UE revised proposal p71)

a) Poles

Poles are a major point of ongoing discussion across the three Victorian Power Network (VPN) companies – Powercor, CitiPower and United Energy. We note that United Energy has a slightly different asset management practice to that of the other two companies and has forecast its proposed wood pole replacement programme in a different basis.

VPN continues to undertake an intensive engagement programme with its CAP and others to support its view of increasing failure risk of its poles. This engagement focusses largely on Powercor, with some flow-on discussion regarding CitiPower and United Energy. At its meeting of 20 October 2020, the VPN CAP considered the pole replacement issue with a detailed briefing from technical experts. The workshop focussed heavily on the issues in Western Victoria but did mention United Energy's plans to remove the risk-driven pole intervention strategy component of their proposal and maintain a condition-driven forecast. There was no comment from the CAP in relation to the United Energy proposal.

While agreeing with United Energy's case that pole failure rates are a lag indicator, we view the reasonable pole failure performance as an indictment of a long period of effective asset management. In section 4 of the revised proposal, United Energy concludes that the increase in the pole intervention forecast is not driven by proposed changes to wood pole inspection or asset management policies, and the forecast will maintain the existing risk profile of the wood pole population (all else equal).

We trust the AER modelling will assist to assess whether the proposed increase in investment in wood pole replacement reflects continued effective asset management in the context of an ageing asset.

Ultimately, consumers are keen to see United Energy's good record of low wood pole failure rates continue.

b) Transformers and service lines

Advice to United Energy from most stakeholders was that the company has been successfully maintaining the health and reliability of its network to date – including basic 'non-timber' assets such as transformers and service wires – and the need for increased investment in the next regulatory period was not clear.

We are pleased that United Energy has reassessed the need to replace power transformers based on updated demand forecasts, further condition testing and the application of more recent VCR data. To our knowledge, United Energy has not brought the consideration of outage impact to the consumers affected by the transformer failure risk in a way that AusNet Services did for the Doreen zone substation augmentation proposal. It may be informative to consider such action, which would 'personalise' the impact of transformer failure that may lead to a supply interruption and assist in determining the impact on then community of an interruption more effectively than the application of VCR.

Otherwise, we defer to the AER's detailed analysis on the transformer replacement proposal.

In regard to service wires, we share the AER's view that condition-based replacement should be the basis of the capital requirement for service wire replacement. There are factors that argue both sides of the case for a broader replacement programme.

On one hand, the fact that many Victorian houses have the service fuse on the facia or switchboard suggests that any fallen service wire will be reliant on the protection at the distribution transformer, which is traditionally less sensitive than service line fuses and therefore can present a heightened safety risk. Alternatively, the application of smart metering in Victoria to alarm many service faults suggests a case-by-case replacement programme may be effective.

It is our view that the AER's position is reasonable. Should public safety risks from service lines continue to escalate, the distributor is best placed to consider the most effective response within existing capital allocation priorities.

4.5.2 Operating expenditure (opex)

Step changes

United Energy is also seeking a step change of $3.1 million for the proposed demand management programs.

United Energy has generally been recognised as being at the forefront of the use of demand management to assist in deferring capital investment to meet growth in peak demand. We note their trials in areas of the Mornington Peninsula. Therefore, we are generally supportive of capital / operating trade-offs where augmentation in areas with 'peaky' load growth can be deferred though innovative demand management schemes that engage customers in the use of new technologies and changed energy use patterns.

Consequently, provided the AER analysis can provide confidence that there is a clear link between the operating expense of the proposed demand response programmes and the deferral of 'pole and wires' augmentation, we support the step change.

Appendix 1: Acronyms and abbreviations

Acronym/Abbreviation	Meaning
$ nominal	These are nominal dollars of the day
real $2020-21	These are dollar terms as at 30 June 2021
Regulatory control period	The period commencing 1 July 2021 and ending 30 June 2026
ACCC	Australian Competition and Consumer Commission
ACS	Alternative Control Service
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
ARR	Annual Revenue Requirement
ATO	Australian Tax Office
Augex	Augmentation expenditure
BEUC	The European consumer organisation (acronym is French so no direct English translation)
CALD	Culturally and Linguistically Diverse
CAM	Cost allocation method
capex	Capital expenditure
CBD	Central business district
CCP	Consumer Challenge Panel
CEER	Council of European Energy Regulators
CESS	Capital efficiency sharing scheme
CIM / CRM	Customer Information / Relationship Management
CP	CitiPower
CPI	Consumer Price Index
CPU (or VPN, or CP-PC-UE)	CitiPower, Powercor and United Energy
Current regulatory period	1 January 2016 to 31 December 2020
DENOP	Distribution Energy Network Optimisation Platform
DER	Distributed energy resources
DB / DNSP	Distribution Network Service Provider
DM / DR	Demand Management / Demand Response
DMIA	Demand Management Incentive Allowance
DMIAM	Demand Management Innovation Allowance Mechanism
DMIS	Demand Management Incentive Scheme

DUOS	Distribution Use of System
DVMS	Dynamic Voltage Management System
EBSS	Efficiency benefits sharing scheme
ECA	Energy Consumers Australia
EDPR	Electricity Distribution Price Review
ESV	Energy Safe Victoria
EV	Electric Vehicle
Extension period	1 January to 30 June 2021
F&A	Framework and Approach
GSL	Guaranteed service level
GWh	gigawatt hours
HV	High voltage
ICT	Information and Communication Technologies
JEN	Jemena Electricity Networks
LRMC	Long Run Marginal Cost
LV	Low voltage
MW	megawatt
NEL	National Electricity Law
NEO	National Electricity Objective
NER	National Electricity Rules (or Rules)
Next regulatory period	the period commencing 1 July 2021 and ending 30 Jun 2026
NEW-Pin	New Energy and Water Public Interest Network, a project undertaken by UK organisation, Sustainability *first*
NMI	National Metering Identifier
Opex	Operating and Maintenance Expenditure
PC	Powercor
POC	Power of Choice
PTRM	Post-tax revenue model
PV	Photovoltaic (Solar PV)
RAB	Regulatory Asset Base
RBA	Reserve Bank of Australia
Regulatory Proposal	regulatory proposal submitted under clause 6.8 of the NER
Repex	Replacement capital expenditure
Revised Regulatory Proposal	revised proposal submitted under clause 6.10.3 of the NER
RFM	Roll Forward Model

RIN	Regulatory Information Notice
SAIDI	System Average Interruption Duration Index
SAIFI	System Average Interruption Frequency Index
SCS	Standard Control Service
SRET	Small-scale Renewable Energy Target
STPIS	Service target Performance Incentive Scheme
TSS	Tariff Structure Statement
TUOS	Transmission Use of System
UE	United Energy
WACC	Weighted Average Cost of Capital (also known as Rate of Return)

Appendix 2: CEER - BEUC 2030 plan

A collaboration of the Council of European Energy Regulators (CEER) and the European Consumer organisation, BEUC) has produced a "long term energy transition for sustainability and climate neutrality" The strategy outlines 6 focus areas: Affordability, Simplicity, Protection, Inclusiveness, Reliability and Empowerment which form the acronym ASPIRE. The following summary description of each of these focus areas is copied here.

1. AFFORDABILITY

ENERGY EFFICIENCY FIRST

The energy efficiency first principle is implemented, and consumers rely on energy efficient technologies and systems. Energy efficiency allows consumers to reduce their bills and to limit the amount of wasted energy.

ALLOCATION OF ENERGY SYSTEM COSTS

The efficient costs for the development and maintenance of energy networks and for the sustainable energy transition are shared fairly and equitably among all users. The charges to consumers are clear and kept to reasonable levels, ensuring value for money at a level consistent with funding the investments needed to develop and maintain these networks.

DISTRIBUTIONAL IMPACT ASSESSMENT

Policy-makers regularly conduct a 'distributional impact assessment' of planned policies on consumers, to ensure that further actions to decarbonise the energy system do not put an unreasonable extra burden on certain consumer groups, particularly those in vulnerable situations.

2. SIMPLICITY

TRANSPARENCY

The information provided to consumers is simple, readily accessible, comparable and makes it easy for them to make choices that are sustainable as well as climate neutral and right for them (price/consumption). "Transparency" means both transparency on the product and the contractual relationship. It also means clarity and transparency on how processes that affect customers operate (e.g. regarding customer service, points of contact, etc.) as well as moving, switching between suppliers, billing and dispute resolution.

CLARITY AND ACCURACY

Information is provided to consumers in an understandable manner, without overloading them. Wide-reaching campaigns are carefully designed and targeted to explain how to understand and apply the abundance of available energy data and information. In terms of consistency, the definitions and terminology used in the contract, offer and bill are the same, facilitating understanding. All information is up-to-date, correct, complete and comparable, allowing consumers easily to assess independently their choices and the implications of their decisions.

INNOVATIVE SERVICES

The information on tariffs of both traditional and innovative energy services (such as demand response, aggregation or bundled products) is kept simple and allows consumers to compare easily different offers also in terms of environmental impact (e.g. level of greenhouse gas emissions) and to choose those that are most convenient for them. There is a continuous effort to simplify bills.

ADVICE

Consumers receive reliable, clear advice on how to use energy sustainably to satisfy their needs, including heating and mobility, how to reduce their energy bills and which tariffs are most suitable for them (including dynamic pricing). Behavioural science helps to understand consumers and to identify solutions that best suit their needs.

3. PROTECTION

CONSUMER PROTECTION AND REDRESS

Consumers enjoy the rights and protections included in horizontal consumer protection legislation, such as protection against unfair commercial practices, as well as sector-specific rules. In the implementation of these rights, the diverse needs of customers, particularly those of the most vulnerable in society, are recognised and protected. Consumer complaints are resolved in a transparent, fair and quick way through alternative dispute resolution (ADR) or judicial processes. Sector-specific rules reflect consumer issues and are adapted to developments emerging during the energy transition, such as explaining opportunities/risks of dynamic pricing contracts.

DATA PROTECTION

Consumers are protected against unlawful or unfair treatment of their data, for instance in relation to price discrimination. Companies are clear about what data is collected, who has access to that data, for which purpose it is used, how the data is protected and how the consumers' right to access their data is respected. In the development of smart energy technologies and services, companies follow the rules on privacy by design and privacy by default. Companies' practices in privacy protection go beyond mere compliance with the EU's General Data Protection Regulation (GDPR).

CYBERSECURITY

Companies developing and offering smart energy technologies and services ensure that consumers enjoy the highest level of protection from cybersecurity risks.

PROTECTION AGAINST PRICE MANIPULATION

Consumers are well protected against possible new forms of abuse of market power or algorithmic manipulation of prices that may result from energy companies or new providers having access to detailed information on consumers' energy consumption and an increasing use of artificial intelligence.

CONSUMER CRISIS MANAGEMENT

As COVID-19 illustrated, extreme situations may require the adoption of temporary and extraordinary measures. Protecting essential services such as energy, and mitigating the financial and legal impact of the crisis on energy consumers and the energy system, is a key concern for policy-makers, regulatory authorities and energy companies, in line with the Vision's ASPIRE principles. Contingency plans are in place to respond to such situations, including communicating with energy consumers on the measures applied. Sustainability goals are safeguarded and optimised, where possible, to support recovery policies to the benefit of consumers and society overall.

4. INCLUSIVENESS

INCLUSIVE POLICIES

Energy policies at the EU and national level are redistributive and promote behaviour and practices that allow consumers to reduce their energy bills. Beyond energy policies, wider social policies have an important role to play, especially for the poorest and more vulnerable. Public authorities should promote cross-sectoral dialogue with key stakeholders to discuss the best policy solutions for vulnerable consumers.

INCLUSIVE PRACTICES AND ENERGY JUSTICE

Consumers in vulnerable situations and/or in energy poverty enjoy an increased protection, thanks to specific policies and regulations, such as energy efficiency schemes, targeted advice and protection against disconnection. No one should be left behind in the energy transition.

DIGITAL DIVIDE

The energy transition is not only an opportunity to tackle the energy divide but also the digital divide. Increasing consumer education and information on how to benefit from newly developed tools for better energy use is key – independent of consumers' technical equipment (e.g. internet access) or technical skills. If need be, consumers must be offered alternative tools in order to participate equally. These tools are affordable, easily accessible and provided by energy companies or social institutions to support consumers in vulnerable situations, including those with low digital literacy.

INTEGRATION

The transition towards a sustainable and carbon neutral society is achieved in an integrated way, meaning closer interlinkages between sectors, including energy, and how consumers interact with each of them. Consumers are themselves integral participants in this process.

5. RELIABILITY

ENERGY SUPPLY AS AN ESSENTIAL SERVICE OF GENERAL ECONOMIC INTEREST

Whilst energy and energy-related services are goods traded on the market, the supply of energy is an essential service, distinguishing it from "conventional" traded goods. Energy suppliers are aware of their responsibilities and their public service obligations and act accordingly.

RELIABILITY

Consumers have access to reliable and secure energy supply as regards both technical processes and commercial practices. The commercial systems and processes that provide continuous access and affect customer service levels, such as billing, are dependable and stable, as are the processes that allow problems and disputes to be resolved transparently, fairly and quickly.

TRUST

For consumers to engage with and benefit from the energy market, they need to be able to find and trust relevant information. Information on the impact of energy consumption on the environment is correct, certified and verifiable, and is trusted by consumers. Consumers have access to energy offers which are proven to be sustainable. Methods are developed and evaluated which make switching to renewable energy and sustainable consumption the most sensible choice for consumers.

6. EMPOWERMENT

LEVEL-PLAYING FIELD

The same level of protection is granted and enjoyed by all consumers with a contract for energy services, regardless of whether they have a traditional supply arrangement or rely on new energy services (such as aggregation, peer-to-peer trade, energy communities, etc.) and regardless of which company (national or from another Member State) provides them with the service.

ACTIVE ENERGY CONSUMERS

Consumers contributing to the stability of the grid through demand response and prosumers who help stabilise the grid by feeding in their electricity are rewarded economically for their active behaviour and benefit from the same standards of consumer protection, including when they have bundled contracts for selling and buying energy. Prosumers can easily sell the electricity they produce to the grid and to other consumers as the processes allowing them to do so are simple, while at the same time compatible with market design (i.e. do not create market distortions). For this to happen at a large scale, authorities need to ensure well-functioning markets with efficient price signals enabling consumers to fully participate in markets (e.g. no unreasonably high thresholds to enter the market).

Appendix 3: New-Pin Consumer engagement considerations from Final Report[112]

NEW-Pin, New Energy and Water Public Interest Network, a project undertaken by UK organisation, Sustainability *first* has recently released its final report detailing 8 "public interest agendas" for energy consumers, Agenda 6 being engagement. The summary of "Levers for Change" from this section are copied in this appendix.

Agenda 6: Engagement

Objectives

1. Why do you want to engage? What is the objective of the engagement exercise?
   - What's the problem or weakness that you hope engagement can help you address?
   - Why do you think that the people that you intend to engage with will be able to help you?
   - What other ways may there be to address this issue (Eg could in-put be gained from other sources such as complaints data, talking to staff elsewhere within the organisation)?
2. Who owns the decision and the engagement process?
   - Who will be responsible for setting the agenda for the engagement activity? Will this be regulators, companies or those engaged?
   - Is the issue that you want to engage on within your control / sphere of influence?
3. What are the policy, regulatory and company 'red lines' as to what you should / shouldn't engage in and are these clear?
   - Why has the engagement exercise been 'framed'as it has?
   - Where have the social and environmental policy lines been drawn?
   - Should you assume that what is currently 'reserved' for policy makers, regulators and companies is fixed? Is there any flexibility?

[112] https://www.sustainabilityfirst.org.uk/images/publications/new-pin/New-Pin%20Looking%20to%20the%20long%20term%20FINAL%20report.pdf

Inclusive

4. How will you ensure that the people that you want to engage are sufficiently representative?
   - What balance do you want to strike between engaging *individual* consumers / stakeholders directly and engaging consumer / citizen / stakeholder *representatives* or experts?
   - How will you bridge the gap between consumer and citizen in-put and, where appropriate, local, regional and national views?
5. What barriers to engagement do those you seek to involve face and what measures have you put in place to help overcome these?
   - How will you 'nurture' and build capacity amongst your stakeholders over time?
   - How will you enage with those that may not have 'a voice' – eg people in vulnerable circumstances, young people / future generations, the wider environment?
   - What steps have you taken to address the technical language and processes that can act as a barrier to engagement for many stakeholders?

Tailored

6. When is the right time to engage?
   - How will you ensure early engagement for strategic, long-term and upstream issues so that people can understand and shape the future decision making process?
   - How will you co-ordinate your engagement activity to prioritise the big issues, avoid consultation fatigue and link in with any cross-sector decisions that may need to be made (possibly at different geographical levels)?
7. What are the most appropriate / proportionate engagement approaches for the circumstances?
   - How have your engagement approaches taken into account behavioural insights?
   - How will the out-puts from engagement be used by decision makers?
   - How will different stakholder in-puts be weighted / triangulated? *Who* will be responsible for balancing these?
   - How will you deal with trade-offs between short and long-term interests, resilience and affordability, the needs of one community over another?
   - On what basis will you make your judgements? What ethical values / principles (eg fairness) will you refer to? Will you engage others on these?
   - Who is best placed to carry out the engagement? Policy makers / regulators / companies / third parties? Depending on who asks 'the question' there may be different results.

Transparent

8. What are the roles, responsibilities and Reporting arrangements for the engagement process?
   - How are these set out in governance arrangements and what checks and balances are in place to ensure independence? How will you arrange recruitment, payment, appraisals, terms of office etc to avoid 'consumer capture'?
   - How is the board demonstrating support for the engagement process?
   - What has been done to ensure that those that will be engaged understand what impact their involvement may have and what could change as a result?
9. How are you ensuring that those you seek to engage have adequate and timely access to information and is it clear how this is best provided to them and they are resourced to anslyse it?
   - Is it clear what the 'vision' for the organisation is, the behaviours that are being encouraged and how engagement can feed into these?
   - Should comparative/contextual information (eg on long-term issues and challenges faced by the sectors) best be provided by policy makers, regulators, companies or third parties?
   - What is an 'adequate' amount of information?
   - How will you ensure that information is robust, objective, sufficiently comprehensive (including on long-term issues) and impartial so that it is trusted by those engaged?
   - Do those engaged have full access to the necessary staff and resources (eg admin support or a discretionary research budget) to be able to make an informed contribution?
10. What feedback arrangements are place between those engaged and those doing the engaging, and between those engaged and wider stakeholders, to build understanding and legitimacy?
    - Is it clear to those engaged what the 'golden thread' linking their in-put into key decisions is?
    - When you have not taken account of the views of stakeholders, have you made the reasons for your decisions clear?
    - How will you maintain feedback over a longer period (given that the energy and water sectors have long-term planning horizons)?

Developing

11. Is there agreement on how the impact of engagement be assessed and who will do this?
    - What outcomes will the engagement deliver?
    - What mechanisms are in place to assess the pros and cons of the exercise in a timely manner? Is there a balanced scorecard to measure the total impact of the activity?
    - How will the engagement be benchmarked against similar activity?
12. What arrangements are in place to embed and refresh engagement as appropriate following this exercise?
    - What will be done to ensure that there is sufficient turn-over of those engaged to ensure continued challenge and prevent capture?
    - How will engagement be 'future proofed'?
13. What have those undertaking the engagement done to take any wider findings from this exercise into the organisation's policies and procedures?
    - What knowledge management systems are in place to improve ongoing business intelligence and develop a more holistic picture of the end-to-end customer experience and views?
    - What wider lessons from the engagement process are being fed back into the future decision-making processes?

Source: Sustainability First

Appendix 4: Measuring breadth and depth

This following section should be read as a 'though experiment' about the question of how breadth and depth might be measured quantitatively, which is the purpose of 'table 7'. We explore total hours of engagement and number of consumers engaged as simple units of measurement and draw on microeconomics models to ask whether there might be optimal combinations of strategies that provide both breadth and depth to an engagement strategy.

Depth

As a measure to assist in assessment of depth of engagement, we suggest an indicative measures of hours per consumer (direct constituent connected advocate, end customer, consumer perspective participant and others) of direct engagement (we have not included reading and preparation time) with a network business over a year, noting that engagement for a reset can occur over 2 years or more. The usefulness of this measure is that it is simple and more importantly, the more time a person spends understanding a business and the market, the likely greater value from engagement for all parties.

Taking this approach, the number of hours of direct engagement per participant can be placed on a (non-linear) continuum, as below.

< 2 8 20 > 100

¼ly reference group (8-10) *PL RPRG (32-40)*

Single deep dive (3-5) *Customer Forum (>100)*

Casual survey *Repeat deliberative forums (6-10)* *Peoples Panel (40-45)*

Workshop (2-5) *Citizens Jury (30-35)*

The examples given are examples only and are shown for indicative rather than comprehensiveness purposes. The number of hours per engagement methodology can also be quite variable. For example, a Citizens Jury can be run over a couple of weekends, or over several months.

Breadth

Similarly, as a simple measure for breadth of engagement the number of people involved in engagement can be easily measured. With a (non-linear) continuum resulting, as follows

Number of people (directly) involved

2 5 10 40 100 >500

PL RPRG (10) *Casual (online) survey (>100)*

¼ reference Group (6-12) People's Panel (42) *repeat deliberative forums (80)*

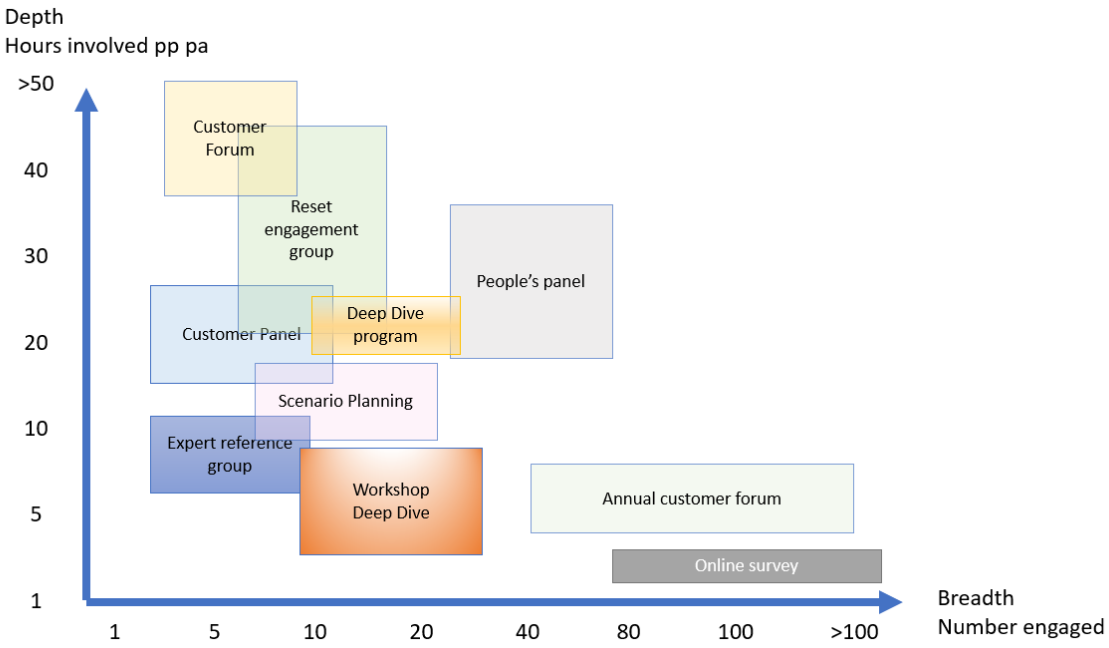
Customer Forum (5) *workshop/deep dive (10-20)*

Citizens Jury (10-30)

These two measures can then be tabulated, again noting that the numbers that we have used are indicative, and that the range of engagement methodologies is also indicative rather than comprehensive. The resulting table follows:

Engagement methodology	Example	Hours per person Depth (pa)	Number of people Breadth (pa)
Online survey	Most NSP's	1 (or less)	Over 100
Reference group (1/4ly)	Most NSP's	8-10	6-12
Customer Consultative Panel	SAPN	20+	12(?)
Reset engagement group	Powerlink	32-40	10
Scenario planning	CPU	15-18	10-12
Deep Dive	ElectraNet and others	4-5	6-8
Workshop	Endeavour and others	3-4	20-50
Annual Forum	Powerlink	3-4	200+
Customer Forum	AusNet Services (NewReg)	>100	5
Targeted repeat forums	AGN	2-3 per session 6-9 in total	5-20 per session (7 locations), 40-60 in total
Repeat Deliberative forums	Essential Energy	3 hours per session 6 with one repeat	80 per session 560 in total (7 locations)
People's Panel	JEN	40-45	42
Citizens Jury	Evoenergy	30-35	
etc			

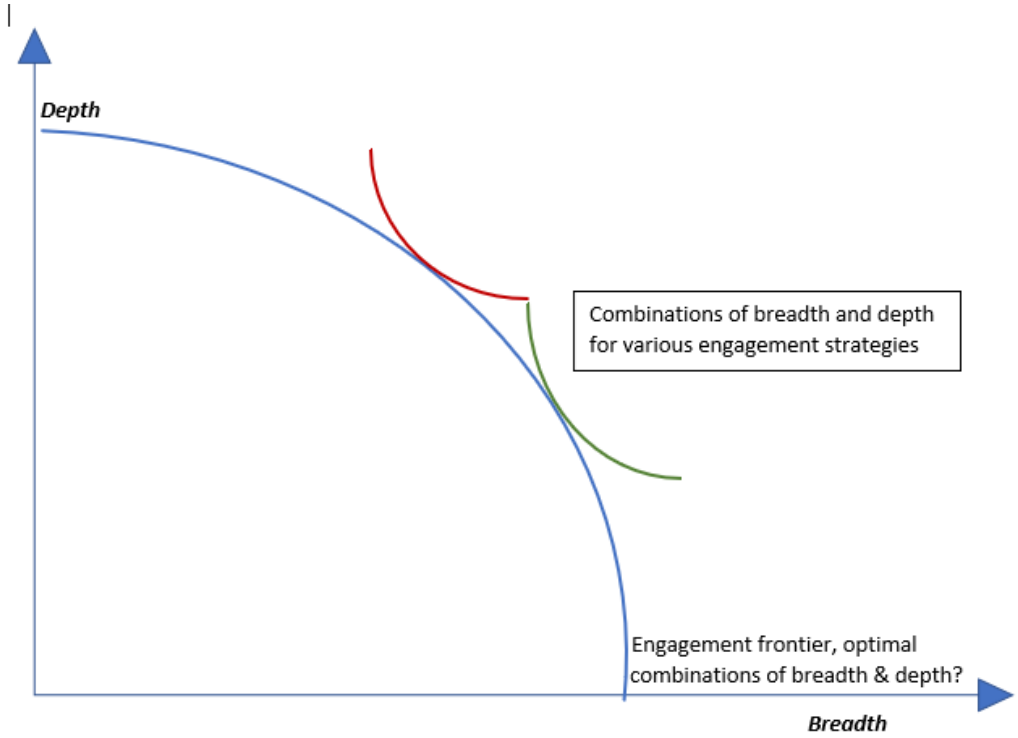
These methodologies can then be plotted using their depth and breadth numbers as given the following 'plot'.



Using a micro-economics type analysis, we then suggest that there are optimum combinations of depth and breadth from this 'field' of methodologies, that might form engagement effectiveness 'frontiers' (shown in blue), with different frontiers for different resourcing availability.

As with any micro-economics 'frontier', moving along the frontier from either axis yields a greater increase in the lesser elements for a small reduction in the dominant element.

We then suggest that for any engagement activity or strategy there are different combinations of breadth and depth that are likely to be more effective.



This chart shows one (of many) 'engagement frontiers', concave to the origin, which represent trade-offs between breadth and depth methodologies.

For any engagement focus, we suggest that there are many engagement strategies, combining breadth and depth methodologies that could be applied for an engagement strategy. These are represented by the two smaller curves (green and red curves), convex to the origin that meet the frontier, maybe suggesting that they are optimal engagement strategies for breadth and depth.

We note that this appendix is the result of some initial thinking by CCP17 members, that may be worth further consideration with other people in seeking answers to some of the questions raised by 'table 7' about measuring consumer engagement, and in particular measuring and identifying preferable, for a given situation, combinations of breadth and depth engagement methodologies