



EnergyAustralia
draft distribution determination
2009–10 to 2013–14

21 November 2008

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Summary

Clause 6.10.1 of the transitional chapter 6 rules requires the Australian Energy Regulator (AER) to make a draft distribution determination in relation to EnergyAustralia.

Under clause 6.12.1 this draft distribution determination is predicated on the following constituent decisions:

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

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

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

- Clause 6.3.2 requires the AER to make a building block determination in relation to EnergyAustralia, as a component of a distribution determination. The building block determination is to specify the following matters for a regulatory control period:

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

- (i) the variation of the prices that are to be charged for the provision of the negotiable component of the direct control service concerned by the provider; and
- (ii) any access charges that are to be paid to or by the provider.

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

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

The AER's decisions for the distribution determination are set out below. Detailed analysis and discussion of the AER's considerations and reasoning is set out in the AER's draft decision, released with this draft determination. Reference to the draft decision is a reference to the AER's draft decision released with this draft determination on 28 November 2008, entitled *Draft decision, NSW distribution determination 2009–10 to 2013–14*. Abbreviations have the meaning given to them in the draft decision.

Draft determination – constituent decisions

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

- a distribution service provided by EnergyAustralia that was previously determined by IPART to be a prescribed distribution service (for the purposes of the current regulatory control period) is deemed to be classified as a direct control service and further classified as a standard control service
- a distribution service provided by EnergyAustralia that was previously classified as an excluded service by IPART, specifically the excluded distribution service of the construction and maintenance of public lighting infrastructure (for the purposes of the current regulatory control period) is deemed to be classified as a direct control service and further classified as an alternative control service
- a distribution service provided by EnergyAustralia that was previously classified as an excluded service by IPART, and is not the excluded distribution service of the construction and maintenance of public lighting infrastructure (for the purposes of the current regulatory control period) is deemed to be classified as an unregulated distribution service
- a service provided by means of, or in connection with, the EnergyAustralia transmission support network and that, but for clause 6.1.6(d) of the transitional chapter 6 rules, would be a negotiated transmission service is deemed to be classified as a negotiated distribution service
- other distribution services provided by EnergyAustralia are unclassified and not regulated under the transitional chapter 6 rules.

In accordance with clause 6.12.1(2)(i) of the transitional chapter 6 rules the AER refuses to approve the annual revenue requirement for distribution proposed by EnergyAustralia.

In accordance with clause 6.12.1(2)(i) of the transitional chapter 6 rules the AER refuses to approve the annual revenue requirement for transmission proposed by EnergyAustralia.

In accordance with clause 6.12.1(3)(ii) of the transitional chapter 6 rules the AER does not accept EnergyAustralia's forecast capex for the next regulatory control period. The AER is not satisfied that EnergyAustralia's forecast capex, taking into account the capex factors reasonably reflects the capex criteria in clause 6.5.7 of the transitional chapter 6 rules. The AER's reasons for this decision are set out in section 7.8 of the draft decision. The AER's estimate of the total distribution and transmission capex required by EnergyAustralia in the next regulatory control period, that reflects the capex criteria taking into account the capex factors, is set out in tables 7.7 and 7.8 respectively of the draft decision.

In accordance with clause 6.12.1(4)(ii) of the transitional chapter 6 rules the AER does not accept EnergyAustralia's proposed opex expenditure for the next regulatory control period. The AER's reasons are set out in section 8.6 of the draft decision. The AER's estimate of EnergyAustralia's required opex for the next regulatory control period is set out in tables 8.23 and 8.25 of the draft decision.

In accordance with clause 6.12.1(5) of the transitional chapter 6 rules the AER decides the rate of return to apply to EnergyAustralia is 9.72 per cent.

In accordance with clause 6.12.1(6) of the transitional chapter 6 rules the AER has decided that the distribution opening regulatory asset base at 1 July 2009 for EnergyAustralia is set out in table 5.6 of the draft decision.

In accordance with clause 6.12.1(6) of the transitional chapter 6 rules the AER has decided that the transmission opening regulatory asset base at 1 July 2009 for EnergyAustralia is as set out in table 5.7 of the draft decision.

In accordance with clause 6.12.1(7) of the transitional chapter 6 rules the AER has decided the estimated cost of corporate tax to EnergyAustralia for each regulatory year of the next regulatory control period is specified in table 9.1 of the draft decision.

In accordance with clause 6.12.1(8) of the transitional chapter 6 rules the AER decides not to approve the depreciation schedules submitted by EnergyAustralia. The AER has determined the depreciation schedule for EnergyAustralia is set out in table 10.6 of the draft decision.

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

- debt raising costs
- self insurance costs
- insurance costs
- superannuation costs relating to defined benefit and retirement schemes
- non-network alternatives.

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

In accordance with clause 6.12.1(9) of the transitional chapter 6 rules the AER decides that, with the agreement of EnergyAustralia the demand management incentive scheme to apply to EnergyAustralia is the DMIA set out in the AER's *Demand management incentive scheme for the ACT and NSW 2009 distribution determinations – Demand management innovation allowance scheme*, November 2008, and the D-factor scheme set out in IPART's *Guidelines on the Application of the D-factor in the Tribunal's 2004 NSW Electricity Distribution Pricing Determination*.

In accordance with clause 6.12.1(10) of the transitional chapter 6 rules the AER decides the other appropriate amounts, values or inputs to apply to EnergyAustralia are as specified in table 11.4 of the draft decision.

In accordance with clause 6.12.1(10) of the transitional chapter 6 rules the AER has decided that the other appropriate amounts, values or inputs with respect to energy consumption forecasting are to be provided by EnergyAustralia as a revised energy delivered forecast, within the input sheet of EnergyAustralia's post tax revenue model for standard control services, by COB on 20 February 2009.

In accordance with clause 6.12.1(10) of the transitional chapter 6 rules the AER has decided that the other appropriate amounts, values or inputs with respect to customer number forecasting for EnergyAustralia are those that were provided to the AER on 29 October 2008, and that are contained in table 6.7 of the draft decision.

In accordance with clause 6.12.1(11) of the transitional chapter 6 rules, the AER decides that the control mechanism for standard control services provided by EnergyAustralia is a weighted average price cap. The applicable formulas are set out in section 4.5 of the draft decision.

In accordance with clause 6.12.1(11) of the transitional chapter 6 rules, the AER decides that EnergyAustralia's:

- miscellaneous services, monopoly services and emergency recoverable works for the next regulatory period are set out in appendix G of the draft decision
- schedule of fees and/charges for miscellaneous services, monopoly services and emergency recoverable works for the next regulatory period are set out in appendix H of the draft decision.

In accordance with clause 6.12.1(11) of the transitional chapter 6 rules the AER decides the distribution X factors to apply to EnergyAustralia are as specified in table 16.20 of the draft decision.

In accordance with clause 6.12.1(11) of the transitional chapter 6 rules the AER decides the transmission X factors to apply to EnergyAustralia are as specified in table 16.21 of the draft decision.

In accordance with clause 6.12.1(12) of the transitional chapter 6 rules, the AER decides that the control mechanism for alternative control services is:

- a schedule of fixed prices in the first year of the next regulatory control period for assets constructed before 1 July 2009 and a schedule of fixed prices in the first year of the next regulatory control period for assets constructed after 30 June 2009
- a price path, such as CPI, for the remaining years of the next regulatory control period.

EnergyAustralia will submit its proposed schedules of fixed prices and price path to the AER by 16 January 2009 for consideration by the AER and for public consultation. EnergyAustralia must follow the approach set out in section 17.6.11 of the draft decision when preparing its proposed schedules of fixed prices and price path.

In accordance with clause 6.12.1(13) of the transitional chapter 6 rules, the AER decides that compliance with the alternative control services control mechanism is to be demonstrated through annual approval of changes in the schedules of prices.

In accordance with clause 6.12.1(14) of the transitional chapter 6 rules the AER decides that the nominated pass through events that are to apply to EnergyAustralia for the next regulatory control period are a retail project event and a force majeure event as defined in section 15.7 of the draft decision.

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

In accordance with clauses 6.12.1(16) and 6.7.4(a) of the transitional chapter 6 rules the AER decides that the negotiated distribution service criteria in appendix C of the draft decision is to apply to EnergyAustralia for the next regulatory control period.

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

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

In accordance with clauses 6.12.1(16B) and 6.7A.4(a) of the transitional chapter 6 rules the AER decides the NCC for EnergyAustralia is at appendix B of the draft decision.

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

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

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

In accordance with clause 6.12.1(20) the AER decides to approve EnergyAustralia's pricing methodology, as set out in appendix T of the draft decision.

Building block determination

In accordance with clause 6.3.2(a)(1) of the transitional chapter 6 rules, the AER decides EnergyAustralia's distribution annual revenue requirement for each regulatory year of the next regulatory control period is as set out in table 16.20 of the draft decision.

In accordance with clause 6.3.2(a)(1) of the transitional chapter 6 rules, the AER decides EnergyAustralia's transmission annual revenue requirement for each regulatory year of the next regulatory control period is as set out in table 16.21 of the draft decision.

In accordance with clause 6.3.2(a)(2) of the transitional chapter 6 rules, the AER decides an appropriate methodology for indexation of the regulatory asset base is as specified in section 16.5.3 of the draft decision.

In accordance with clause 6.3.2(a)(3) of the transitional chapter 6 rules, the AER decides that the application of:

- the efficiency benefit sharing scheme to apply to EnergyAustralia is as specified in section 13.6 of the draft decision.
- the service target performance incentive scheme to apply to EnergyAustralia is as specified in section 12.6 of the draft decision.
- the demand management incentive scheme to apply to EnergyAustralia is as specified in section 14.6 of the draft decision.

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

In accordance with clause 6.3.2(a)(5) of the transitional chapter 6 rules, the AER decides any other amounts, values or inputs on which EnergyAustralia's building block determination is based are as specified in section 16.5 and 16.6 of the draft decision.