

New Reg: AusNet Services Trial

Stage 2: Monitoring report on scope agreement and initial negotiations

16 April 2019

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Glossary

Term	Definition
AusNet Services trial	AusNet Services trial of the New Reg Process to be applied to AusNet Services' Electricity Distribution Pricing Review 2021-25
Customer Forum	In the New Reg Process, the Customer Forum is to be the formal counterparty in negotiation with the network business and, as far as possible, is to reach agreement with the network business on the regulatory proposal prior to its submission. In the AusNet Services trial, it is a five-member panel appointed by AusNet Services with support from ECA and the AER. The first monitoring report describes the appointment process.
Directions Paper	Paper outlining the New Reg Process for the purpose of trialling. AER, ECA, ENA, New Reg: Towards Customer Centric Energy Network Regulation, Directions Paper , March 2018
Draft Proposal	AusNet Services, Delivering better outcomes for customers Draft Electricity Distribution Regulatory Proposal - 1 January 2021 to 31 December 2025 , February 2019.
Early Engagement Plan	AusNet Services' Early Engagement Plan EDPR 2021-25, which has been approved by the AER
Interim Engagement Report	Customer Forum, Customer Forum Interim Engagement Report , February 2019
New Reg Process	A 12-step process explained in the Directions Paper
New Reg project team	A joint project team involving the AER, ECA, ENA
New Reg Trial Evaluation Framework	Paper outlining the framework developed by the independent evaluation consultant, CEPA, and agreed with the New Reg project team. CEPA, New Reg Trial Evaluation Framework , November 2018
Trial participants	AusNet Services, the Customer Forum, and the AER staff team

Abbreviations

Term	Definition
AER	Australian Energy Regulator
augex	Augmentation expenditure
capex	Capital expenditure
DER	Distributed energy resources
ECA	Energy Consumers Australia

EDPR	Electricity Distribution Price Review
ENA	Energy Networks Australia
EV	Electric vehicle
MOU	The memorandum of understanding between AusNet Services, the AER and the chair of the Customer Forum
NEL	National Electricity Law
NER	National Electricity Rules
opex	Operating expenditure
repex	Replacement expenditure

1. Introduction

1.1 BACKGROUND

The Australian Energy Regulator (**AER**), Energy Networks Australia (**ENA**) and Energy Consumers Australia (**ECA**) are exploring ways to improve sector engagement and to identify opportunities for regulatory innovation. On 23 March 2018, a directions paper was published setting out an alternative regulatory approach called the ‘New Reg Process’ (the **Directions Paper**).¹

In parallel, in March 2018, AusNet Services commenced a trial of the New Reg Process (**trial, AusNet Services trial**) to be applied to AusNet Services’ Electricity Distribution Pricing Review 2021-25 (**EDPR 2021-25**). The trial is being overseen by a program board supported by a New Reg project team.

Monitoring of the trial is one of the workstreams being undertaken by the joint AER, ENA and ECA New Reg project team. This monitoring informs:

- the trial evaluator about experiences and outcomes of the trial, and
- stakeholders about the trial’s progress.

Monitoring does not constitute insights or evaluation.

1.2 PURPOSE

This report is the second of a series of monitoring reports prepared on the AusNet Services trial. The report will be published and will feed into an independent evaluation of the trial to be undertaken at key milestones and following trial completion. The first monitoring report and associated evaluation report are available on the AER’s New Reg [website](#).

This second monitoring report covers stage 2 of the trial being the period from August 2018 to February 2019. During this period AusNet Services and the Customer Forum explored topics to be discussed in their negotiations in addition to the agreed scope.² Also initial negotiations took place between the Customer Forum and AusNet Services. Section 2 describes these activities and how they relate to the New Reg Process design set out in the 23 March 2018 Directions Paper.

This report does not describe the substance of the initial negotiations that took place through this period – it should be read together with the documents listed and linked in section 1.3, and the insight report for this stage.



¹ AER, ECA, ENA, New Reg: Towards Customer Centric Energy Network Regulation, [Directions Paper](#), March 2018.

² The scope agreed with the AER staff under the [memorandum of understanding](#) (MOU) was outlined in the July 2018 [AER Staff Guidance Note 2](#).

Readers who wish to understand the substance of the initial negotiations should read:

- The Customer Forum's Interim Engagement Report³
- AusNet Services' Draft Electricity Distribution Regulatory Proposal (**Draft Proposal**)⁴.

The third monitoring report will cover the final negotiations and AusNet Services' submitted EDPR regulatory proposal. Following this third stage it will be possible to undertake a more definitive evaluation of the model trial, noting that final evaluation will occur after the AER's decision.

1.3 APPROACH TO MONITORING

The Directions Paper articulated an early engagement process for the purpose of trialling. The process seeks to better enable consumers' expectations and preferences to shape the development of a regulatory proposal, and its objectives are explained in the Directions Paper. This monitoring report is based on observations against each of the process steps that were relevant for the period August 2018 to February 2019 (see Table 2.1: Elements of the New Reg Process relevant to stage two for a mapping of these steps).

While necessarily observing and reporting on particular participants and their specific responses and experiences of a novel process and trial, where possible, we have tried to step back from the details of this trial and report on systemically important aspects of the New Reg Process.

The current trial is being performed live on a network business's actual price review and on real issues relevant to that business's network, its customers, and the AER's regulatory approach to that review. This means some matters raised by stakeholders would likely have been issues regardless of the New Reg Process trial (for example, the timing of the AER's tax and opex productivity reviews, and impacts of the Victorian Government's Solar Homes announcement).

The approach to preparing this report was as follows:

- In January and February 2019 we developed targeted survey questions for:
 - trial participants that had key responsibilities and, as a result had a detailed knowledge of the trial (**trial participants**), these being: AusNet Services; the Customer Forum; and the AER staff team
 - AusNet Services customers involved in the trial.

These surveys were informed by the New Reg Trial Evaluation Framework⁵ and lessons and feedback from the first monitoring report, and were agreed with the joint New Reg project team.

- Trial participants completed the written surveys in February and we then interviewed each participant on their responses and themes observed across the participants' survey responses.
- We drew on the following two documents which together substantially describe the trial arrangements:
 - the *Memorandum of Understanding* between AusNet Services, AER and the Customer Forum (**MOU**)⁶; and
 - AusNet Services' *Early Engagement Plan EDPR 2021-25* (**Early Engagement Plan**)⁷.

³ Customer Forum, [Customer Forum Interim Engagement Report](#), 6 February 2019.

⁴ AusNet Services, [Delivering better outcomes for customers | Draft Electricity Distribution Regulatory Proposal - 1 January 2021 to 31 December 2025](#), February 2019.

⁵ CEPA, [New Reg Trial Evaluation Framework](#), 29 November 2018.

⁶ AusNet Services, Customer Forum and AER, [Memorandum of Understanding](#), June 2019.

⁷ AusNet Services, [Early Engagement Plan](#), 2018.

- We referenced nine AER staff guidance notes that were released in 2018.⁸
- We referenced the stage 2 trial outputs, namely:
 - The Customer Forum’s Interim Engagement Report⁹
 - AusNet Services’ Draft Electricity Distribution Regulatory Proposal (**Draft Proposal**)¹⁰.

1.4 REPORT STRUCTURE

This report is structured as follows:

- Section 2 sets out the trial activities relevant to stage 2 monitoring and evaluation.
- Section 3 discusses feedback on the determination of the scope of negotiation.
- Section 4 provides observations on customer research and engagement.
- Section 5 provides observations on the AusNet Services – Customer Forum initial negotiations, and AER staff support thereof.

2. Scope of stage 2 activities

2.1 WHAT ACTIVITIES ARE BEING MONITORED?

The New Reg Trial Evaluation Framework identifies that stage two will cover:

... the first round of negotiations, which includes the:

- *Forum’s negotiating position (reflected in the draft Engagement Report)*
- *AusNet’s negotiating position*
- *Progress in agreeing/ disagreeing on a joint position*
- *AusNet’s draft revenue proposal.*¹¹

This trial stage covers the period from August 2018 to February 2019 which encompasses the scope development and initial negotiations. This stage culminated in publication of the Interim Engagement Report and the Draft Proposal.

The key activities in this period were:

- Developing the negotiation scope
- Publication of AER staff guidance notes on matters in the agreed scope of negotiation
- Customer and stakeholder engagement to inform AusNet Services and the Customer Forum
- Initial negotiations
- Preparation and publication of the Customer Forum’s Interim Engagement Report

⁸ AER, AusNet Services Trial - AER Staff Guidance Notes 1 to 8, and Staff Guidance on AusNet Negotiating Position, 2018, available at the AER’s New Reg [website](#).

⁹ Customer Forum, [Customer Forum Interim Engagement Report](#), 6 February 2019

¹⁰ AusNet Services, [Delivering better outcomes for customers | Draft Electricity Distribution Regulatory Proposal - 1 January 2021 to 31 December 2025](#), February 2019.

¹¹ CEPA, [New Reg Trial Evaluation Framework](#), 29 November 2018. p.19.

- Preparation and publication of AusNet Service’s draft proposal.

2.2 HOW DOES STAGE 2 RELATE TO THE NEW REG PROCESS?

For the purposes of monitoring and evaluation, it is important to be clear how the scope agreement and initial negotiations activities in stage 2 relate to the New Reg Process being trialled.

The Directions Paper outlined a 12-step process which constitutes the New Reg Process for the purpose of trialling. The AusNet Services trial is testing this process. Table 2.1 identifies the process steps relevant to monitoring stage 2. The righthand column references the elements that are dealt with in this stage 2 monitoring report. Some steps were agreed in stage 1, such that stage 2 involves monitoring the execution of that agreement (e.g. the roles established in the MOU, or scope agreement in AER staff guidance note 2) whereas other steps are interim or draft versions of matters to be finalised in stage 3 (e.g. the Interim Engagement Report).

We note that some New Reg process steps relevant to stage 2 evaluation relate to the substance of the negotiations and the evidentiary base documented in the Interim Engagement Report and Draft Proposal. These matters will be evaluated based on those papers, which are not summarised herein.

Table 2.1: Elements of the New Reg Process relevant to stage two

New Reg Process step	Relevant to stage 2 monitoring
1. A network business may propose to the AER to undertake an Early Engagement Process to develop its regulatory proposal.	No
2. If a network business decides to pursue the Early Engagement Process, it would submit an Early Engagement Plan to the AER. This would draw on informal discussions and consultation with the AER, the network business’ existing consumer relationships and ECA. The Plan outlines the process the business intends to undertake to develop its regulatory proposal, including:	Yes, noting the plan was approved in stage 1 so this stage executes that plan
a. establishment of a consumer representative group (Customer Forum) which the network would resource and fund	No
b. high-level scope of matters proposed to be considered within the Early Engagement Process	Yes – section 3
c. process of dialogue and engagement that will be followed by the network business and Customer Forum	Yes – section 5.2
d. role and expectations of the AER to support the Early Engagement Process.	Yes – section 5.4
3. The Customer Forum should:	Yes – section 5.3
a. represent, ‘bring’ the perspectives of, and act on behalf of all consumer voices (large and small), having regard to the long term interests of current and future consumers	Yes – section 5.3
b. be fully independent of the network business	Yes – section 5.3

New Reg Process step	Relevant to stage 2 monitoring
c. have the skills and expertise to serve the role of being a credible counterparty to the network business	Yes – section 5.3
d. operate in an open and engaging way to establish and maintain its legitimacy with consumers and the wider community.	Yes – section 5.3
4. The AER will decide whether or not it accepts the proposed Early Engagement Plan. The AER may propose amendments to the Plan. If the AER accepts the Plan, it commits itself to be deeply involved in the Early Engagement Process.	Yes, by reference to the MOU approved in Stage 1
a. This commitment is formalised through an ‘Engagement Agreement’ entered into by the business, the AER and the Customer Forum.	No
b. The Engagement Agreement sets out the roles and expectations of each of the parties, including the scope, funding arrangements, anticipated timelines, ‘off-ramps’ or termination conditions, and arrangements for a jointly conducted ex post review.	Yes – section 5.2.2
5. It is anticipated that the early phases of engagement between the network business and Customer Forum will involve induction, training, and information sharing. The AER will be closely involved in providing background information including on network performance comparisons and previous related decisions, and guidance on AER assessment approaches and its statutory roles and responsibilities in revenue determination processes. Both the business and the Forum will do this in a way that does not require Forum members to have energy industry or regulatory expertise.	Yes, though largely covered in stage 1 – section 5.3
6. The next step involves the business and Customer Forum scoping in detail the matters to be considered in the Early Engagement Process. This should also set out how the parties intend to collect information on the perspectives of customers (for example, through customer research or direct engagement) to inform their consideration of these matters. The scope of matters to be considered must be agreed between the business and Customer Forum, and accepted by the AER—although the AER may be more closely involved in the scoping phase for the purpose of a trial.	Yes – section 3
a. Ideally the business and Customer Forum can agree to the proposal as a whole—and that it fully reflects consumer perspectives and preferences wherever relevant. It is envisaged that the Early Engagement Process will, in principle, deal with any matter that may arise in a network business’ regulatory proposal. However, for reasons of practicality or due to regulatory constraints, certain matters may be taken ‘off the table’. For example, at least for a trial, some aspects of the proposal may be out of the business’ control due to government regulations or reliability standards, or are subject to a binding AER guideline.	Yes – section 3
7. The Early Engagement Plan will specify how the Early Engagement Process will be carried out. Central to the Early Engagement Process is the idea of creating a ‘dynamic conversation’ between the network business and Customer Forum, supported by the AER, to achieve outcomes in the long term interests of consumers. These discussions should be structured with the aim of reaching agreements in a timely way. The AER needs to be assured that it has sufficient visibility during the Early Engagement Process that it can indicate that something will not be acceptable before it is submitted.	Yes – section 5.2

New Reg Process step	Relevant to stage 2 monitoring
<p>a. Throughout the engagement process, the AER will contribute to the process of reaching agreement by providing information and explaining issues through ‘advice notes’ and/or presentations that communicate the ‘boundaries’ of the rules, and what it may consider as an acceptable regulatory outcome—consistent with AER guideline approaches. The AER may also identify aspects of a proposal that in its view would most benefit from consumer perspectives, including through customer research and wider stakeholder consultation.</p>	<p>Yes – section 5.4</p>
<p>b. The Customer Forum should be resourced to communicate directly with end-customers, customer representatives, and other engagement channels and forums the network uses for its business-as-usual engagement, to elicit and understand their preferences, to carry out customer research (or help shape the business’ research program), and to communicate issues and trade-offs back to customers.</p>	<p>Yes – sections 4 and 5.3</p>
<p>8. At the conclusion of the Early Engagement Process the parties submit an Engagement Report setting out the process followed and outcomes from the engagement. The Engagement Report is a critical input to the AER’s subsequent assessment of the regulatory proposal submitted by the network business, contributes to learning and improvement for future applications of the New Reg Process, and supports accountability of the Customer Forum to the end-use consumers.</p>	<p>Yes ¹² – see Interim Engagement Report</p>
<p>a. The Engagement Report includes the scope of matters considered and, for each matter, the agreement that has been reached or, in the event of disagreement, the positions of the relevant parties.</p>	<p>Yes – see Interim Engagement Report</p>
<p>b. For the matters which have been agreed between the parties, the Engagement Report should explain why these agreements reached are consistent with, or best reflect, consumer perspectives and preferences—referencing any customer research or consultation undertaken during the process.</p>	<p>Yes – see Interim Engagement Report</p>
<p>c. For aspects of a proposal for which the business and Customer Forum could not reach agreement, the Engagement Report should identify and explain the reasons these issues were left unresolved. This provides transparency and a useful starting point for the AER’s subsequent assessment of the regulatory proposal.</p>	<p>Yes – see Interim Engagement Report</p>
<p>9. If the network business and its Customer Forum can reach agreement on some or all aspects of the regulatory proposal, there is an expectation that the Engagement Report would evidence how the agreement reflected consumers’ preferences, citing relevant customer research and results of consumer engagement. Provided the Engagement Report accompanies or is included in the network business’ revenue proposal the AER must have regard to it.¹³</p>	<p>Yes – see Interim Engagement Report, and section 4.2 and 5.4.3</p>
<p>10. While the AER would continue to undertake its current assessment process, it would now be able to have regard to the Engagement Report in forming a view about the regulatory proposal. There may be exceptions. For example, the AER may consider the proposed agreement materially disadvantages parties that were not actively represented in the Early Engagement Process</p>	<p>No</p>

¹² Only by reference to the draft plan and draft engagement report (i.e. an interim version of this step).

¹³ Clauses 6.10.1(b)(1), 6.11.1(b)(1), 6A.12.1(a1)(1) & 6A.13.1(a1)(1) of the National Electricity Rules

New Reg Process step	Relevant to stage 2 monitoring
(such as future consumers, which should be part of the Customer Forum's consideration).	
a. The AER is expected to start its assessment of the regulatory proposal by identifying agreed outcomes and unresolved issues. For the latter, it will be important for the AER to take into account the business and Customer Forum's consideration of those aspects of the proposal.	No
b. Although a matter may be unresolved, areas of disagreement should have been identified and explored (see step 8), forming a strong evidentiary basis for the AER's consideration of the matter. It may be, for example, the disagreement between the business and Customer Forum is a question of different, equally credible methodologies. The AER, in those cases, would have the option of choosing between these alternatives, or selecting an alternative approach consistent with the regulatory framework.	No
11. If a business successfully undertakes an Early Engagement Process, and reflects the outcomes of this process in its regulatory proposal, the AER may if it considers appropriate expedite and/or streamline the revenue determination process. For the purposes of a trial, the AER may expedite its regulatory process only after the draft decision stage to allow for consultation on the outcomes of the Early Engagement Process (among other practical considerations).	No
12. To facilitate on-going learning and improvement, especially at the trial stage, it is envisaged that the parties will engage in an ex post review of the process, undertaken by a third party. This includes an assessment of any barriers to the use of the Early Engagement Process, any obstacles to agreement, and any changes in the National Electricity Law or Rules which would facilitate better overall outcomes for the parties from the New Reg Process.	No

3. Observations on the scope of negotiation

During this stage the scope of negotiation evolved, with AusNet Services and the Customer Forum discussing and seeking to reach agreement on topics that were beyond the scope agreed with AER staff under the MOU terms. This section discusses the role of the scope of negotiation in the New Reg Process, what scope the trial participants are working within, how this has evolved, whether it is still seen by the trial participants as appropriate, and what lessons they have observed.

3.1 WHAT IS THE AGREED SCOPE OF NEGOTIATION?

3.1.1 Role of the scope of negotiation

As noted in our stage 1 monitoring report, the MOU provides for the Customer Forum and AusNet Services to agree the scope of negotiations having regard to considerations specified in the MOU.¹⁴ The

¹⁴ Section 4.3 (b) MOU

scope of negotiation can be varied at any time.¹⁵ The scope of negotiation and any variations must be agreed with the AER.¹⁶

These MOU provisions reflect step 6 of the New Reg Process, which:

...involves the business and Customer Forum scoping in detail the matters to be considered in the Early Engagement Process. This should also set out how the parties intend to collect information on the perspectives of customers (for example, through customer research or direct engagement) to inform their consideration of these matters. The scope of matters to be considered must be agreed between the business and Customer Forum, and accepted by the AER—although the AER may be more closely involved in the scoping phase for the purpose of a trial.

At the time of our stage 1 interviews and monitoring report, the trial participants had only commenced scope discussions.¹⁷ AusNet Services had provided its proposed scope to the AER staff who were developing their feedback. At the end of stage 1, the parties agreed the scope of negotiation. To aid this, AER staff published guidance note 2 on scope of negotiation.¹⁸

Following the agreement of scope, AusNet and the Customer Forum negotiated the following:

- matters agreed to be in scope with the AER staff
- additional matters to be discussed between AusNet Services and the Customer Forum which were outside the AER-agreed scope
- matters that were agreed as out of scope.

The relevance of these scope distinctions to the New Reg Process is being tested through the trial, and different terminology has arisen across the MOU and the subsequent Interim Engagement Report and Draft Proposal. The AER staff guidance note 2 seeks to explain the distinction.

For in scope it states, among other things, that:

Specifying the topics that are in scope, and providing guidance on the boundaries of negotiation for those topics, should make the process more efficient. It will reduce the risk that the Forum and AusNet reach an agreed position on a particular matter, which the AER subsequently determines, when assessing AusNet's revenue proposal, to be inconsistent with the regulatory framework. For instance, the position might not be permissible under the National Electricity Law (NEL) or the NER, or the reasons for changing a standard AER approach might not be persuasive.

For out of scope, it states:

Ultimately, however, the negotiation process is between AusNet and the Forum. The AER is not a party to the negotiations. AusNet and the Forum may decide to discuss, or negotiate and reach an agreement on, matters that we have not explicitly agreed to be in scope. For instance, AusNet has not proposed that all categories of its forecast capital expenditure (capex) program should be in scope (eg, capex on information and communications technology), and we have not agreed that all the capex categories

¹⁵ Section 4.3 (c) MOU

¹⁶ Section 4.3 (d) MOU

¹⁷ Farrierswier, New Reg: AusNet Services Trial | Monitoring report on establishment and early operation, 10 Oct 2018, section 4.

¹⁸ AER, [AusNet Services Trial - AER Staff Guidance Note 2: Scope of Negotiation](#), July 2018.

AusNet has proposed to be in scope should be. Nonetheless, based on what it finds from customer research and engagement, the Forum might be in a good position to test AusNet's explanations of the value customers would get from AusNet's forecast expenditure more generally.

A working description of the scope distinctions for the purpose of this stage 2 monitoring report is then:

- in scope matters that the AER staff agreed involve AusNet Services and the Customer Forum negotiating the matter and AER staff publishing guidance on it
- out of scope matters that AusNet Services and the Customer Forum decided to discuss and negotiate which involve AusNet Services and the Customer Forum negotiating without AER staff guidance notes and not having certainty about whether these matters would be deemed permissible under the AER's interpretation of the NEL or National Electricity Rules (**NER**)
- matters that were agreed as out of scope which are not negotiated in the early engagement process.

3.1.2 What scope of negotiation was agreed?

As noted above, the scope agreement was characterised differently by the parties. We set out the respective terminology below, noting that the grouping of items is common across the parties. The Customer Forum captured the agreed scope in the Interim Engagement Report as follows:

1. In scope (AER endorsed)

- *Operating expenditure*
- *Augmentation expenditure - major projects (i.e. zone substation upgrades)*
- *Customer experience and hardship arrangements*
- *Price path*

2. In-scope (AusNet Services and Customer Forum agreed)

- *Replacement expenditure - major projects (i.e. zone substation rebuilds)*
- *Distributed energy resource integration*
- *Innovation expenditure*
- *Metering*
- *Overall 'reasonableness' of proposal*

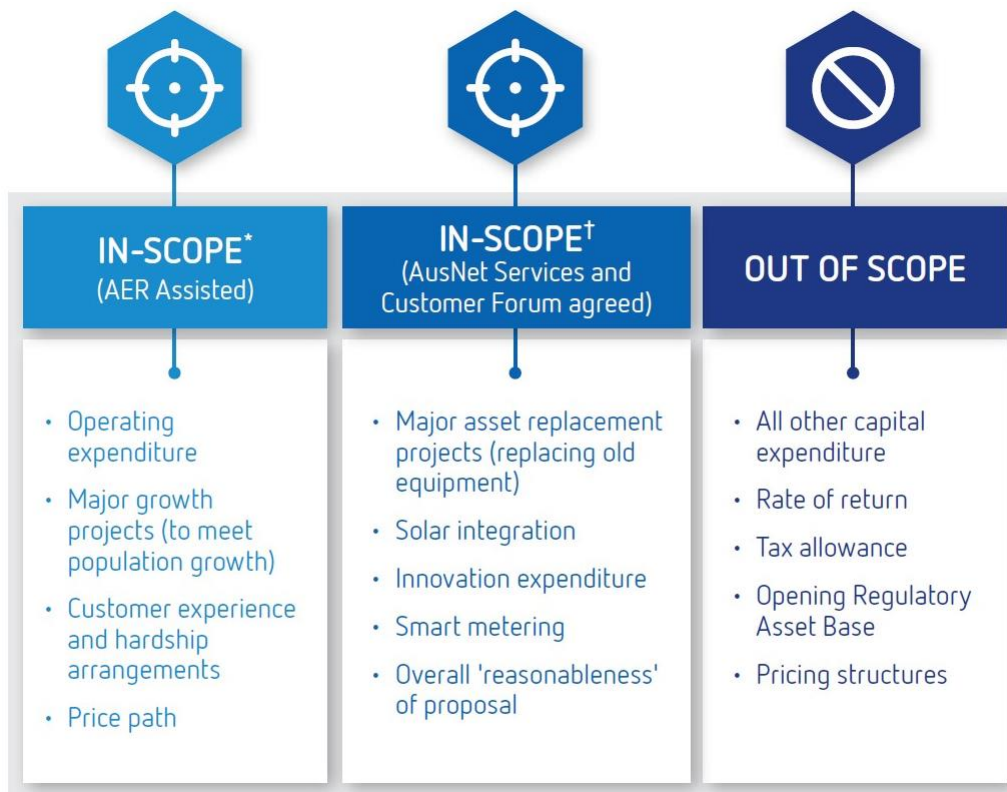
3. Out of scope

- *All other capital expenditure*
- *Rate of return¹⁹*

AusNet Services similarly captured the scope outcome in its Draft Proposal in the following figure.

¹⁹ Customer Forum, [Customer Forum Interim Engagement Report](#), 6 February 2019, p.7.

Figure 3.1: AusNet Services' representation of the scope of Customer Forum negotiations



Source: AusNet Services Draft Proposal figure 2.1

* AER assisting Customer Forum by providing information and independent advice

† AER not advising on these topics.

In contrast, AER staff categorise these using the MOU terminology contemplated in the New Reg Process as being:

- In scope
- Out of scope *and* AusNet Services and Customer Forum have agreed to negotiate on
- Out of scope.²⁰

3.2 HOW DID THE SCOPE EVOLVE IN THIS STAGE?

Even though the end of stage 1 included agreeing the scope of negotiation, the parties to the negotiation decided to agree additional matters during stage 2. When asked if there have been any changes to the parties' roles and responsibilities in this stage of the trial, the Customer Forum and AER staff responded 'yes' and AusNet Services responded 'no'. AER staff stated:

AusNet and the Customer Forum have agreed to consider matters outside the scope agreed by the AER. While this doesn't change the responsibilities of the parties under the Memorandum of Understanding (MOU) and Early Engagement Plan (EEP), it does mean that the Customer Forum and AusNet's attention will be spread across a greater number of matters than that in the agreed scope.

²⁰ AER, AusNet Services Trial - AER Staff Guidance Note 9: AusNet Services draft proposal and the Customer Forum's Interim Engagement Report, March 2019.

The Customer Forum identified the scope changes as relating to AusNet Services' DER proposal and the forum's request to include customer experience:

AusNet Services agreed to the Customer Forum's request to include a 'customer experience' negotiation which covers a range of services important to customers that the forum didn't believe would be covered by the conventional EDPR building blocks. Importantly, some of the initiatives within the customer experience have no cost to customers and have been agreed to commence ASAP.

The forum also agreed with AusNet Services to offer commentary on its DER proposal even though this wasn't within the original scope agreed to by AER.

AusNet Services commented that the customer experience was always part of its broader intentions for improved customer centricity in its business arising from conducting this trial of the New Reg Process. Customer experience and customer hardship arrangements were agreed to be in scope in the AER staff guidance note 2²¹ at the end of stage 1. AusNet Services characterised customer experience as an exercise in working to a commonly desired better outcome rather than negotiating from differing perspectives.

An outcome of the scope evolution in stage 2 (that saw additional topics to be discussed and negotiated between AusNet Services and the Customer Forum) is that of the nine matters covered in the Interim Engagement Report, only four are in scope and reflected in AER staff guidance notes. We note that AusNet Services and the Customer Forum decided to combine customer experience and customer hardship arrangements into one matter.

3.3 DOES THE SCOPE REMAIN APPROPRIATE?

Having completed the initial negotiation, the trial participants were asked whether they still consider the initially agreed scope of negotiation to be appropriate. The Customer Forum and AER staff considered the scope remained appropriate. Apart from noting a change in circumstances for Distributed Energy Resources (DER), AusNet Services otherwise felt the scope remained appropriate.

DER was not in the agreed scope at the end of Stage 1 as captured in the AER staff guidance note 2, and was added as a topic to be discussed between AusNet Services and the Customer Forum during this stage. Then later in this stage the Victorian Government announced its Solar Homes program during the November 2018 election.

AusNet Services considered that the unexpected announcement of the Solar Homes program materially changed the context for its initial DER proposal. It observed:

The late work required to determine how the Vic Government Solar Homes program should be dealt with means that DER integration may not remain in the scope of negotiation. There would not be enough time to reach agreement and factor into reports prior to submission. However, we will explain our approach to the Customer Forum and acknowledge its views, and take these into account to the extent we are able.

The parties have not yet decided whether to remove DER from the matters to be agreed between AusNet Services and the Customer Forum. We note that clause 4.3(c) of the MOU provides for AusNet Services and the Customer Forum to vary the agreed scope of negotiation from time to time, and 4.3(d) requires variations to be agreed with the AER. So far, AusNet Services and the Customer Forum have not asked the AER to add any items to the agreed scope.

²¹ AER, [AusNet Services Trial - AER Staff Guidance Note 2: Scope of Negotiation](#), July 2018.

3.4 PARTICIPANTS' LESSONS

The participants observed several lessons about agreeing the scope of negotiation.

As originally noted in section 4.2 of the stage 1 monitoring report, the parties all still considered that there would have been value in settling the scope earlier in the process.

- The Customer Forum observed in interviews that:
 - Notwithstanding the general benefit of doing this to allow better targeting of its effort and the customer research task, there would be value in retaining provision for the Customer Forum to agree to add items. We note that the MOU provides for this (for example, the parties can agree to discuss, negotiate and reach an agreement on out of scope topics or to add items to the agreed scope where they seek AER staff agreement to the additional items).
 - There is logic in allowing the forum, once recruited, to influence the scope to ensure that the scope enables them to best add value to the negotiation given their skills.
- The AER staff considered there could have been more targeted customer research if the scope of negotiation had been agreed earlier.

The AER staff suggested the monitoring should explore whether expanding the negotiations to cover additional topics may have been too ambitious. This is not because they did not consider the Customer Forum competent enough to cover this material, but rather that the timelines could not be extended to account for this additional material. When asked, neither AusNet Services nor the Customer Forum saw this as an issue.

The AER staff considered that it makes sense to keep efficiency review with the AER staff (who have technical expertise here), and let the Customer Forum focus on areas that do not need technical skills. The Customer Forum appears to have come to this view on some items too (e.g. opex base year and the AER's benchmarking assessment²²).

When asked if any elements of the engagement report appear inconsistent with the regulatory framework, AER staff cited the innovation allowance as an example.

4. Observations on customer research and engagement

4.1 WHAT ENGAGEMENT TOOK PLACE?

As noted in our stage 1 monitoring report, AusNet Services had commenced the exploratory stage of its customer research program when the Customer Forum was established. A key early focus of the Customer Forum once appointed was to engage with AusNet Services on the research program.

During this stage further engagement took place, which comprised:

- Engagement and research independently initiated by the Customer Forum that supplemented AusNet Services' existing program, including:
 - A quantitative telephone survey of business customers (initiated by the Customer Forum)

²² Customer Forum, Interim Engagement Report, p.19.

- Customer Forum meetings with customers identified through its review of the customer research and AusNet Services’ presentation of reliability events, including a trip to Gippsland with AusNet Services’ managing director and executive general manager to visit customers who had met previously with the Customer Forum
- Customer Forum participation in AusNet Services’ engagement program, including three targeted customer advocates workshops covering new tech, vulnerable and business customer advocates.

AusNet Services noted that the Customer Forum’s interaction with smaller groups of customers built on and explored themes identified from more statistically robust research techniques. For example, hearing there were problems with complaints processes, the Customer Forum targeted a community which had experienced problems from a high voltage injection. Similarly, planned outage issues were explored with particular communities that had been affected and who were representative of wider issues that were emerging from research. AusNet Services considered that this approach provided important understanding of what the performance actually looks like at the individual customer level – something that is lost through key performance indicator reporting or survey responses.

Appendix C of the Interim Engagement Report records that the Customer Forum:

- conducted eight meetings with residential customers, three of which were on-site visits
- conducted twenty-six meetings with business customers
- engaged three customer representative groups
- observed eleven customer research sessions
- organised stakeholder meetings with seven Members of Parliament, six local councils, and ten peak bodies.

In addition, the Customer Forum participated in several other meetings with customer advocates organised by AusNet Services.

The Customer Forum observed that:

The Customer Forum was determined from early on to engage with a range of customers to ensure it accessed first hand observations and experiences from across AusNet’s network.

AusNet Services observed that:

The additional research was undertaken to fill gaps in the Forum’s/ our understanding of the priorities of the customer base prior to negotiations. The advocate workshops were held to test the preliminary outcomes of the negotiations with the Customer Forum.

4.2 HOW WAS ENGAGEMENT CAPTURED?

The full suite of research and engagement that informed the initial negotiation is described in:

- Chapter 3, Chapter 6 and appendix C to E of the Interim Engagement Report
- Section 4 of AusNet Services draft proposal, and Attachment 2.

The Customer Forum also captured engagement findings for each topic in the scope of negotiations by including a section on each titled: ‘*What does the evidence say about customer needs and expectations?*’. These can be found in the Interim Engagement Report in sections 7.2 for opex, 8.2 for augmentation expenditure, 9.2 for customer experience and hardship arrangements, 10.2 for replacement expenditure, 11.2 for innovation expenditure, 12.2 for DER, 13.2 for metering and 14.2 for price path.

4.3 PARTICIPANTS' LESSONS

The Draft Proposal and Interim Engagement Report outputs of stage 2 are key customer engagement milestones, and lessons from these will be monitored in stage 3.

A stage 2 lesson observed by the Customer Forum was that while it considered it had adequate resourcing for engagement and research, it felt in hindsight a secretariat function would have eased some of the administrative pressure of engagement.

5. Observations on initial negotiations

5.1 PROCESS AND PURPOSE OF INITIAL NEGOTIATION

The initial negotiation stage was not a stage specifically contemplated in the Directions Paper's New Reg Process steps. It was nonetheless identified by the trial participants as a helpful step in the process and provided for in the MOU. The timeline and purpose of key activities set out at the beginning of the trial early engagement process is shown in Box 1.

Box 1 – Original engagement and negotiation process timeline

A timeline for the Customer Forum operation was developed as follows:

1. In the first half of 2018 the Customer Forum is to be provided with an understanding of the business, the regulatory framework and AusNet Services' customers' preferences.
2. In August 2018 the Customer Forum will engage directly and independently with AusNet Services' customers. This is in addition to attending various parts of AusNet Services' customer and stakeholder engagement program.
3. A series of negotiations is to be held between the Customer Forum and AusNet Services from mid to late 2018 with the aim of reaching agreement on material elements of the revenue proposal. After this process AusNet Services intends to publish a Draft Regulatory Proposal for public consultation, alongside a draft Engagement Agreement, in November 2018. The Customer Forum members may be actively involved in this consultation process.
4. If required, the Customer Forum will be involved in a second negotiation round to assist AusNet Services to finalise its Regulatory Proposal based on the outcomes of the public consultation process.

As at the time of preparing this monitoring report:

- items 2 and 3 have been delivered, and
- item 4 has now been confirmed as occurring in stage 3 to deliver a final Engagement Report and AusNet Services' EDPR regulatory proposal.

We observe that the language used by trial participants when describing what the Customer Forum and AusNet Services did during this stage varies. For example, AER staff use agree, the Customer Forum uses accept, and AusNet Services uses language including agree, reach preliminary agreement, and negotiated. While different language was used, for the purpose of monitoring we read all of these as referring to the initial negotiating positions.

5.2 AUSNET SERVICES' DELIVERY OF ITS APPROVED EARLY ENGAGEMENT PLAN

AusNet Services was seen by the trial participants to have conducted a dynamic conversation with the Customer Forum that:

- iterated positions
- responded with proposals for topics initiated by the Customer Forum
- initial negotiated positions of a number of in scope topics
- carved out some topics as currently subject to further work and independent research which are being held over to the final stage of negotiations.

Matters that challenged this stage were numbers iteration²³ and board approval of AusNet Services' draft proposal.

This assessment is discussed further below.

5.2.1 Role

The Directions Paper explained at step 7 that:

Central to the Early Engagement Process is the idea of creating a 'dynamic conversation' between the network business and Customer Forum, supported by the AER, to achieve outcomes in the long term interests of consumers. These discussions should be structured with the aim of reaching agreements in a timely way.

5.2.2 Evidence

A dynamic conversation

The trial participants confirmed that initial negotiations had involved a dynamic conversation. There is evidence of:

- AusNet Services presenting aspects of its proposal and modifying these for Customer Forum feedback
- the Customer Forum raising issues arising from the customer research and its direct customer engagement, and AusNet Services then providing proposals to address these (both for immediate action and within the proposal for the upcoming regulatory period).

AusNet Services gave the following examples of links between the consumer engagement and the Customer Forum and AusNet Services' positions:

- *Specific customers have raised concerns about the quality of customer service. This has contributed to the customer experience initiatives and customer satisfaction incentive scheme proposal.*
- *Customers did not see Electric Vehicles as a priority for AusNet Services. For this reason, the Customer Forum reduced the proposed innovation allowance to remove expenditure on projects involving EVs.*

²³ See sub section on timeframes and iteration below.

- *The need to thoroughly explore non-network options before agreeing to network augmentation would have arisen during discussions with customer advocates. The Forum has requested an independent engineering review of alternative options to network augmentation prior to the next round of negotiations.*
- *Small business customers in particular were very concerned about energy prices in the very short term. This has shaped the Customer Forum's position on the preferred price path.*

Of this dynamic conversation, the Customer Forum noted that it:

- was pragmatic, looking for solutions, and providing customer advocacy, rather than just coming to the negotiating table with complaints
- learnt early that there was a 'treasure trove of customer experiences and circumstances to be brought into decision making'.

AusNet Services observed that some matters:

- followed a pattern of propose, respond, modify proposal – e.g. innovation funding
- involved collaboratively agreeing a proposal on common interest topics – e.g. customer experience.

The negotiation scope in the whole proposal context

The scope of negotiations is a subset of AusNet Services' total proposal, something the parties were conscious of. The Customer Forum observed from the customer research that customers expect distributors to be efficient and keep their costs down, affordability is important, and customers do not generally perceive their electricity supply represents value for money.²⁴ These observations make it important that the Customer Forum is kept abreast of the rest of AusNet Services proposal.

When asked whether the Customer Forum had been kept sufficiently informed on how parts of the proposal outside the negotiating scope are tracking during the process, the responses differed:

- The Customer Forum said no.

Although we don't feel this was a deliberate omission. In hindsight we would have sought advice much earlier about all factors outside the agreed scope that could shape the final outcome.

The Forum only learnt about AusNet's continual refining of costings throughout the process in late-2018, although we accept that updating costs is an unavoidable feature of EDPR preparations.

The Forum did not understand the potential impact of the tax allowance issue until recently.

- AusNet Services said yes.

Total revenues and key building blocks were presented to the Customer Forum when we revised internal forecasts. The Draft Proposal also formed part of this communication. We weren't able to spend as long on these updates as we would have liked.

AusNet Services observed that on the matter of tax allowance identified by the Customer Forum, AusNet Services also did not have a timely view of the impacts of this change in AER approach. It observed that

²⁴ Interim Engagement Report, pp15-16.

the AER decision was made in December 2018, and the AER staff still have not finalised the modelling approach, which AusNet Services would rely upon to accurately assess the impact. It stated that the Customer Forum was informed as soon as AusNet Services was confident of the likely impacts and its likely responses.

Timeframes and iteration

AusNet Services observed that it was comfortable with the timeframes for negotiation. However, a timeframe issue that all parties observed was the impact of ‘numbers iteration’ on the negotiations. While updated cost forecasts, and revenue and pricing outcomes were understood to be ‘par for the course’ by AusNet Services, the AER staff and eventually by the Customer Forum, this updating initially came as a surprise to the Customer Forum during the negotiations. This was seen to particularly affect:

- opex forecasts when the actual base year data was updated from initial estimates relied upon earlier in the process
- the implications of the AER’s binding rate of return guideline, its tax review and its review of productivity forecasts.

The Customer Forum noted that the Interim Engagement Report milestone is somewhat problematic because the ‘numbers will change’. However it considered that it still is valuable to keep the early engagement process on track and preserve positive perceptions of the process with AusNet Services’ customers. It suggested that with hindsight, it would not have included numbers in the interim report, and instead treated it more like an issues paper or directions paper to share and inform its negotiating positions.

The AER staff observed and shared with the Customer Forum that it considered AusNet Services’ presented information had been transparent about planned updates, citing the example of the opex forecasts. AusNet Services also provided an opex model to the Customer Forum for it to test sensitivity of different productivity assumptions.

AusNet Services reflected that while it had foreshadowed updates, it would in future ensure adequate time is spent on describing updates to revenues, even if these are ‘mechanistic changes’ to update inputs.

In response, the parties have now agreed a list of updates and ‘lock-in’ dates for the final stage of negotiation and proposal finalisation.

AusNet Services identified an issue this iteration point highlights. The NER prescribed consultation windows²⁵ on network submissions are now out of date given the pre-submission engagement processes and lead times for these that all businesses undertake with their customers these days.

Issue resolution

All issues that arose during this stage were resolved between the parties. During these initial negotiations, all parties confirmed that the formal escalation processes and forums agreed in the MOU were not used. When asked about this, they variously stated:

Customer Forum | The need did not arise. The forum maintained confidence that it could reach the outcome sought without reference to the process.

²⁵ For example, Part E of chapter 6 of the NER requires at 6.9.3 that the AER publish an issues paper on the regulatory proposal no more than 40 business days after submission, and that consultation on that issues paper be no less than 30 business days after publication of that issues paper. Likewise 6.10.2 requires that public consultation on the subsequent draft determination be no less than 45 business days after that draft determination is made.

AusNet Services | *Aside from the issues leading to the delay to the publication of the Draft Proposal, no other issue arose that warranted escalation.*

The processes and forums in the MOU are designed to be initiated by the Chair of the Customer Forum – this was not done. Perhaps this was because the issues were successfully resolved through escalations within AusNet Services – which included a meeting between the Chair of the Customer Forum and the Chair of AusNet Services’ Board. Not as clear a direct role for the AER (part of the Reference Committee) in resolving this matter.

AER staff | *The decision to use the escalation processes is a matter for AusNet and the Forum, but AER staff reminded the Customer Forum that this option remained available to them, should the need arise.*

Delay in publication

Publication of the Interim Engagement Report and draft Regulatory Proposal was delayed to 6 Feb 2019 from AusNet Services’ originally published timeline of late 2018. Both the Customer Forum and AusNet Services confirmed that this was not due to changes in the scope of negotiation or the negotiated positions.

AusNet Services observed of the delay that:

The delay in the publication of the Draft Proposal was to allow for Board sign-off. On seeing the Draft Proposal and Customer Forum’s report, AusNet Services’ Board wanted to ensure that the actions described by the company to address customer concerns were comprehensive. It also had detailed questions about the preliminary agreements reached with the Forum and how they were described. Following this, changes were made to the Draft Proposal which required further discussion with the Customer Forum. AusNet Services also requested changes to the Customer Forum’s report, to acknowledge that its regulatory obligations were met, despite some customer concerns with reliability. The Case Studies in the Forum’s report were shortened and where AusNet Services had already taken action, this was acknowledged.

Several iterations to both documents were required to reach a mutually acceptable position, which resulted in the delay to publication.

Importantly, none of the negotiated preliminary agreements were changed, nor were the proposed revenues – the discussion was about language and tone.

The breadth and scope of negotiations were not factors in the delay.

The Customer Forum identified lessons from this experience:

The Forum chair met with the AusNet board chair in mid-January and suggested that it would be helpful to both the board and the forum if board members were to attend negotiation sessions in 2019, something that is now being arranged.

Lessons learnt from this include the need to have a distribution business board firmly linked into to the negotiation process to avoid a misalignment developing. It would also help if any reasonable board sensitivity to language was brought to the forum’s attention at a much earlier point.

5.2.3 Participants' lessons

Participant lessons identified for the topics above were:

- the importance of a common understanding of the proposal development timeline and need for and magnitude of changes to forecasts as assumptions and forecasting inputs are updated
- the potential for early engagement processes that start with long lead times from the formal EDPR submission and AER review process to exacerbate the way forecasts can become out of date and need updating, and that this may have implications for the minimum consultation times mandated in the NER
- the importance of board involvement in or familiarity with the negotiation.

5.3 REPRESENTING CUSTOMERS' PERSPECTIVES

We note that this aspect of our monitoring been informed by both:

1. The survey and interviews of trial participants used throughout this report, and
2. A voluntary online survey of AusNet Services' customers and customer representatives involved with AusNet Services and the Customer Forum during this stage of the trial.

Summary of trial participant views

Feedback from the trial participants and a review of relevant documents indicates that the Customer Forum has effectively undertaken its role to represent and act on behalf of all consumer voices through the Stage 2 of the New Reg Process. The Customer Forum was assessed by the trial participants as having the necessary skills and expertise to be a credible counterparty to AusNet Services and that it had acted independently.

However, the Customer Forum noted that there can be tensions between the interests of different customer groups and these may not be reconcilable.

Lessons learned included that:

- The customer engagement work promoted by the Customer Forum resulted in AusNet Services recognising some of limitations in its past approach to customer engagement and meeting customer needs, and that it had acted to address these.
- There were challenges for the Customer Forum in achieving effective engagement form customer advocates.

This assessment is discussed further below.

Summary of customer and customer advocate survey responses

The customer and customer advocate survey response rate was very low at six responses plus two responses from regulatory policy stakeholders. The results varied, particularly depending on whether the respondent was a customer or a customer advocate. The full survey results are set out in Appendix A and are summarised in Table 5.1.

Table 5.1: Survey responses by question

Question	Yes	No	Unsure
Did you feel the Customer Forum was able to understand your expectations, preferences and concerns?	2 customers 1 advocate 1 community group	1 advocate 1 regulatory policy stakeholders	1 regulatory policy stakeholders 1 advocate
Are you comfortable the Customer Forum will be able to apply this to whatever is negotiated with AusNet?	1 customer	1 advocate 1 community group 2 regulatory policy stakeholders	1 customer 2 advocates
Do you feel the Customer Forum has the skills and expertise to act as a credible counterparty to AusNet Services?	2 customers 1 community group	1 advocate 2 regulatory policy stakeholders	2 advocates

5.3.1 Role

A key role of the Customer Forum in the New Reg Process is to:

represent, 'bring' the perspectives of, and act on behalf of all consumer voices (large and small), having regard to the long-term interests of current and future consumers²⁶

5.3.2 Evidence

Representing customer perspectives

We asked participants how well the Customer Forum had performed its role. All trial participants responded positively.

AusNet Services stated:

The Customer Forum effectively distilled customer perspectives and pushed the business to make commitments beyond what had been proposed. It took into account different customer views – not just urban, views expressed by advocates – but also rural and business customers – groups which it felt had not previously been a focus for AusNet, and who expressed different views to customer advocates.

The AER staff stated:

Overall, for this stage in the process, the Customer Forum was able to represent consumer perspectives (having regard to the long term interests of consumers) in reaching a position on each of the matters within and outside scope.

AusNet and the Customer Forum commissioned a broad range of research and the Customer Forum engaged with different types of customers and advocates across AusNet's network in 2018. The activities undertaken by the Customer Forum to do this is

²⁶ Directions Paper, step 3.a, p.4.

evident from its engagement and use of research (both that prepared by AusNet, and by the Customer Forum) – Chapter 3, Chapter 6 and appendix C to E of the Customer Forum’s report).

The Customer Forum has sought to combine its analysis of each issue with relevant evidence from engagement and research to derive its position. For each of the topics that it sought to negotiate, the Customer Forum drew on the aspects of that research that it considered relevant in the “...What does the evidence say about topic X” sections in its report (which includes materials from research, telephone surveys, case studies and its direct engagement with customers and customer advocates). The Customer Forum’s report then weighs this evidence in bringing it to bear in the topics, in some instances citing the views of different customer types (see section 9.2 on page 28 on Customer Experience and Hardship arrangements) bearing in mind the limitations of some evidence (see. para about section 8.3 on page 24 on Augex), or disagreeing with it (see. Page 34 third para from the bottom on Innovation).

However looking to the next steps, the AER staff noted that there was more work to do:

An important step in the next stage of the process will involve consultation and engagement on the positions that the Customer Forum and AusNet reached in its draft proposal through deep dive meetings and submissions to the draft proposal (due on 31 March 2019). This will provide the Customer Forum and AusNet direct feedback on the draft negotiated positions from stakeholders.

There are some issues on which the Customer Forum did not reach a final position – such as Augex and Innovation. It will be important for the Customer Forum to seek to engage with customers on those issues before finalising its positions.

The customer and customer advocate survey responses gave a mixed result with:

- customers responding that they did feel the Customer Forum was able to understand your expectations, preferences and concerns
- advocates having a spread of views, and
- regulatory policy stakeholders replying no.

Skills and expertise to perform its role

All trial participants said that they were confident that the Customer Forum had the skills and expertise to serve the role of being a credible counterparty to AusNet Services.

The Customer Forum stated:

The skills of the members are complementary and have greatly assisted the forum in its work. The Customer Forum has recognized when its expertise needs to be supplemented by AER advice or external experts.

The AER staff stated:

A broad range of skills are required in order to be a credible counterparty to a network business – these include being able to engage with different types of customers and customer advocates, direct customer research and decide how that customer research should be weighed, and use that information to negotiate with the regulated business. The Customer Forum’s report evidences each of these skills.

While the Customer Forum does not have direct experience in the economic regulation of energy networks or engineering technical expertise, it has sought to lean on AER staff or other experts for that expertise where relevant in its report.²⁷

The customer and customer advocate survey responses again gave a mixed result with:

- customers responding that they did not feel the Customer Forum has the skills and expertise to act as a credible counterparty to AusNet Services
- advocates mostly being unsure, and
- regulatory policy stakeholders replying no.

Analysis commissioned by the Customer Forum

The Customer Forum commissioned the following work to support it in developing its positions:

- an independent assessment of the augex proposal²⁸
- an independent assessment from an engineering consultancy firm on whether non-network alternatives to AusNet Services' augmentation projects are feasible²⁹
- an independent comparison of the AusNet Services proposal with Powercor's proposal
- a business customer survey.

Independence

All trial participants considered that the Customer Forum had been independent in its engagement and representation.

When asked if it acted independently, the Customer Forum stated:

Yes, very much so. The way the Customer Forum held firm after Ausnet Services produced a response to our original draft interim report demonstrates this.

In our interview the Customer Forum said that its independence was important to them and 'something we are precious about'.

The AER staff stated:

We understand that the Customer Forum influenced the scope of its engagement with consumers and advocates which is evident from the meetings that the Customer Forum organised independent from AusNet³⁰. We also understand that the Customer Forum had private meetings with consumer advocates.

The Customer Forum also influenced the scope of AusNet's customer research, and sought to commission its own research on business customers.

²⁷ See Section 7.3 of the Interim Engagement report where it points to subsequent technical assessment to be conducted by the AER).

²⁸ See section 8.5 on page 26 of the Interim Engagement Report. The Customer Forum requested an independent review of the cost effectiveness of different peak load mitigation options for the two augex major projects.

²⁹ While the engagement is with AusNet Services, this was initiated at the request of the forum which has had the opportunity to provide input into the Terms of Reference, the consultants selected and the approach to be taken.

³⁰ See appendix C2 of the Interim Engagement Report

The Customer Forum has reached opposing views with AusNet on topics – this is evident from its positions in its interim engagement report (see, among other things, opex, metering, innovation etc.).

However, we note that the Customer Forum’s approach to resolving the impasse over the release of the final report may risk the perception that the Customer Forum’s independence was impacted (when in actual fact our view was that it was not).

It should be noted that these comments merely relate to the interim report as the Customer Forum clearly states its intention to monitor the improvements made by AusNet and report more fully in the Final Report.

5.3.3 Participants’ lessons

Tensions between the interests of different groups of customers

We asked whether the Customer Forum had identified tensions between the interests of different groups of customers, including business versus domestic, and current versus future customers.

The Customer Forum stated:

We consider that this tension can not necessarily ever be completely resolved. However, the forum has sought to manage the tension through recognising the different ways customer segments rely on the electricity supply AusNet Services provides to them. The forum has drawn AusNet Services’ attention to the need to be assisting customers through:

- *a pro-active presence, especially amongst major customers*
- *more empathetic call centre responses*
- *electrical engineering advice regarding best equipment choices for customers vulnerable to supply interruption*

The above measures will improve the experience of AusNet customers who receive them without causing costs for all customers to rise.

AusNet Services stated:

This is a question for the Customer Forum primarily. However, the Forum has been clear that it wants to provide all customers with a voice in its process and recognise differences in views, even it can’t address each issue.

We found differences in emphasis between end use customer research and engagement findings, and customer advocates – for example, reliability is a big concern to rural customers. Price is the focus of many discussions with advocates.

We also explored in our interviews any tensions in interpreting the National Electricity Objective, which requires the AER to promote efficiency for the long-term interests of consumers.³¹ An example of an issue raised in our interviews (on possible tension between the interests of current and future consumers)

³¹ Section 7, National Electricity Law (South Australia)

is whether AusNet Services should respond to the expected growth in embedded rooftop solar output by building out network capacity so as to reduce future inefficient network access constraints for DER.

There were various perspectives on how the long-term interests of consumers were considered:

- The Interim Engagement Report states that customer research undertaken by AusNet Services had stressed that on average, customers were concerned about high electricity bills and that customers prioritised achieving reductions in electricity bills. We understand that this customer research did not explore customers' understanding of the 'long term' and any tensions between short term and long term consumer interests.³²
- AusNet Services reported that Customer Forum members did appreciate the long-term consequences of some of the choices for AusNet Services. For example, members understood that export limiting was often the lowest cost response for non-solar customers, and AER staff noted that long term interest were considered in discussing some topics such as the optimal timing of augex and repex projects once the need for the project had been agreed.

Increasing customer centricity in service delivery

Both the Customer Forum and AusNet Services considered that one benefit of the customer engagement work promoted by the Customer Forum was AusNet Services' recognition of limitations in its past approach to customer engagement and meeting customer needs. As a result, AusNet Services is in the process of making a number of changes to its business structure and processes.

Appendix F of the Interim Engagement Reports documents these. For example, AusNet Services:

- increased and improved resourcing for customer engagement
- intends to improve systems for collection of information on customer experience
- intends to give greater attention to understanding and addressing particular service quality concerns of small groups of customers.

Involving customer advocates

The Customer Forum noted that while it actively sought engagement from customer advocates, in some cases effective engagement had been difficult to achieve. It thought that resourcing constraints may explain this outcome.

The Customer Forum also noted that some customer advocates had been involved in AusNet Services' engagement forums over a long period of time, and historically had tended to operate within the terms set by AusNet Services. It questioned whether there was benefit in 'refreshing' the pool of people involved in customer advocacy and encouraging a wider range of perspectives.

For example, it observed that AusNet Services' customer consultative committee had farming representation from chicken farmers. It pointed out that this farming sector has already invested in customer-side energy reliability infrastructure to manage outages (given its potential impact on production losses). In contrast, dairy farmers were not represented and do not yet have equivalent investments that lessen the impact of AusNet Services' reliability.

³² See section 7.2 of the Interim Engagement Report. AusNet Services' customer research highlights customers' concerns about the cost of energy. In May 2018, 67% of residential customers and 64% of small to medium enterprises reported an increase in their electricity bills over the last two years (Quantum Market Research). More than a quarter reported they had increased "a lot". The qualitative research undertaken by Newgate Research also found customers were conscious of significant price rises with "many concerned it was becoming increasingly unaffordable and hard to pay their bills" (page 20).

Support for the Customer Forum's work

The Customer Forum considered it had adequate support from both AusNet Services and AER staff to fulfil its role and responsibilities. AusNet Services provided resource for the Customer Forum to appoint a drafting resource to assist in preparing its Interim Engagement Report.

The Customer Forum observed that:

- In hindsight a secretariat function would have eased some of the administrative pressure.
- Writing its interim report whilst continuing to negotiate was challenging.
- The flow of information was at times difficult to manage and there has been a noticeable build up in administrative work (conference invitations, monitoring and oversight report participation, AER staff meetings, etc).

5.4 THE AER STAFF'S PROVISION OF SUPPORT FOR THE NEGOTIATION

The trial participants felt adequately supported by the AER staff, and the AER staff have and will continue to provide feedback on scope, consistency with rule requirements and adequacy of the Interim Engagement Report for its evidentiary purposes in the New Reg Process.

5.4.1 Role

The Directions Paper set out several roles for the AER relevant to this stage:

- At step 6 it notes that:

The scope of matters to be considered must be agreed between the business and Customer Forum, and accepted by the AER—although the AER may be more closely involved in the scoping phase for the purpose of a trial.

- At step 7 it explains that the dynamic conversation should involve the AER:

The AER needs to be assured that it has sufficient visibility during the Early Engagement Process that it can indicate that something will not be acceptable before it is submitted.

Throughout the engagement process, the AER will contribute to the process of reaching agreement by providing information and explaining issues through 'advice notes' and/or presentations that communicate the 'boundaries' of the rules, and what it may consider as an acceptable regulatory outcome—consistent with AER guideline approaches. The AER may also identify aspects of a proposal that in its view would most benefit from consumer perspectives, including through customer research and wider stakeholder consultation.

5.4.2 Evidence

Agreeing scope

As discussed in section 3.1, the AER staff agreed to five items being in scope:

- Operating expenditure
- Augmentation expenditure - major projects (i.e. zone substation upgrades)
- Customer experience
- Customer hardship arrangements

- Price path.

To explain this, it published AusNet Trial – AER Staff Guidance Note 2: Scope of Negotiation in July 2018, as well as guidance notes on each of these in scope items.

AER staff have also given feedback before submission on matters that may not be acceptable. For example, rule requirements and processes associated with required consultation on a small-scale incentive scheme, and the AER's approach to funding innovation.

AER staff support for the initial negotiation

All parties considered the AER staff have been adequately involved in this stage. The AER staff stated:

AER staff have released guidance notes for each of the topics in the agreed scope as well as releasing a note on the initial negotiating position. AER staff have also responded to questions from the Customer Forum on request, and attended some (not all) of the meetings with AusNet and the Customer Forum. AER staff also facilitated engagement between the Customer Forum and the AER's Consumer Challenge Panel.

All parties also considered the scope of AER staff involvement was appropriate, responding as follows:

Customer Forum | *Yes. The forum has felt that the AER has been neither too close nor too distant throughout the past year. Whenever we have required assistance, we have been able to obtain it.*

AusNet Services | *Yes, generally appropriate. AER was not directly involved in the negotiation stage. However, have provided advice to the Forum and been available to provide input and advice as required.*

AER | *Yes. Beyond the guidance notes, the scope of the AER staff's role was limited to observing and providing support when requested during this phase. While there is the opportunity for AER staff to attend negotiation meetings as observers, AER staff did not do so – as the AER is not a party to the negotiation process. AER staff released a guidance note on its role in the negotiation process (see. [guidance note 8](#))*

Reflecting on its own role the AER staff stated:

From the Establishment Phase AER staff developed a good working relationship with the Forum and are confident it sufficiently understood its role, the process and the surrounding regulatory framework. The Forum also demonstrated that it was sufficiently engaged in the issues, understood the resources it could draw on, and had a clear idea of what evidence and information it needed and how it could obtain it. After this, AER staff were then able to take a step back to an advisory role, observing the developments of this Phase.

The AER staff published guidance notes that set out the boundaries of the NER and the AER's guidelines for the topics in scope of the negotiation. When interviewed about whether the AER staff guidance notes were helpful and to whom, the trial participants made the following observations:

- AusNet Services stated that it understood these were mainly intended for the Customer Forum's benefit.
- The Customer Forum considered that the AER staff guidance notes were helpful but involved too much reading. It stated that, while parts of them were useful at times, they were largely predicated on

a belief that this is a formal negotiation, which it hasn't been. The Customer Forum explained that it is not entirely an economic negotiation, it is qualitative negotiation – 'we found ourselves being a broker rather than a negotiator and picking bits of both AER and AusNet Services' sides'. It questioned how the guidance would help with representing customer perspectives and managing customer experience.

5.4.3 Participants' lessons

A key opportunity that this interim trial milestone provides is for the AER staff to give public feedback to the Customer Forum about the adequacy of the Interim Engagement Report for its evidentiary purposes in the New Reg Process.

When asked how well it considers the Interim Engagement Report has achieved the expectations of step 8 of the New Reg Directions Paper, and what feedback will it be providing, the AER staff responded as quoted below. We note that this feedback should be read in conjunction with the AER staff's submission to be provided to the Customer Forum on the Interim Engagement Report.

The draft engagement report covered a number of key points required by the MoU. However, the first half of the report outlined the role of the Forum, its approach to its role, the resulting evidence base, and discussion of topics for negotiation structured around:

- *What was proposed*
- *What does the evidence say about customer needs and expectations*
- *Does the proposal adequately recognise needs and expectations of customers?*
- *What is the customer benefit and is it tangible?*
- *Does the Customer Forum believe the proposal represents overall value for money?*

While the MoU required it to be structured around answering the following points:

- *Matters in scope and considered by the Forum*
- *Areas of agreement and disagreement with AusNet Services*
- *How these positions are in the interest of consumers*

We appreciate that it summarises the research and engagement undertaken by the Forum and that this document has been targeted at facilitating consultation with customers and advocates, rather than at addressing the requirements of the AER to support the reset process. However, we have raised this discrepancy with the Forum and will remind them of the requirements for the Final Engagement Report in our staff guidance note on the draft regulatory proposal and interim engagement report.

Notwithstanding the above feedback, the AER staff considered the Interim Engagement Report remains a helpful process step, in part because it forces the timing of negotiation to stay on track.

Appendix A Customer and representative survey results

Did you feel the Customer Forum was able to understand your expectations, preferences and concerns?	Are you comfortable the Customer Forum will be able to apply this to whatever is negotiated with AusNet?	Do you feel the Customer Forum has the skills and expertise to act as a credible counterparty to AusNet Services?	Type of stakeholder
<p>Yes Led by Tony Robinson, the Customer Forum members meeting with ASH on site in Heyfield enabled clear understanding of all aspects of the business and the importance and issues associated with Ausnet Services supply.</p> <p>The only comment for improvement I have is that it was nearly by accident the forum came to ASH. The forum had a meeting with Wellington Shire who suggested ASH should be visited. That afternoon Tony visited and understood first hand the issues. If that contact had not been made, then the outcome may be different.</p>	<p>Yes Already action has occurred. Ausnet, upon listening to direct feedback from Tony and the forum, have allocated a customer liaison person and Ausnet and ASH are progressing through the supply issues. This is in stark contrast to previous when Ausnet was a black box with very limited interaction opportunity</p>	<p>Yes The Chairmanship is critical in this role. Tony's understanding of business and supply and his ability to understand and communicate the issues were critical.</p>	Consumer
<p>Yes Some of the issues raised were new to the team but they spent time exploring them to be sure that they had the detail.</p>	<p>Unsure Whilst the issues raised were very practical, limited solutions were proposed and it was not clear to me whether AusNet was motivated to address those issues.</p>	Yes	Consumer

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<p>No While I had little direct contact with the Customer Forum as a consumer, I accept that the CF did some good work in seeking consumer views. However, there is a significant difference between getting consumer views about preferences and applying these to a regulatory reset. From first hand discussions with consumers, I know there is a major issue about providing consumers with enough information sufficient for them to understand about the competing elements in a reset for them to provide sound advice and make informed comment about what needs to go into a regulatory reset</p>	<p>No As noted above, there is a world of difference between hearing what consumers would like to translating this into what should be included in a regulatory reset. I do not consider the CF had the skill set to carry out this translation. Therefore I do not consider the CF is able to "negotiate" with the network on behalf of consumers, or even provide arguments about aspects of the reset.</p> <p>The bulk of the learning about regulation and network operations the CF did receive came from the network and this allowed the network to strongly influence what the CF heard. While I do not assert that Ausnet biased the information it provided to the CF, the fact is the CF did not have the knowledge or skill set to discard some information it was given or to more deeply interrogate issues and this means I have doubts as to whether the CF outcomes meet the needs of consumers.</p> <p>A CF with a better skill set and knowledge would have better met the needs of consumers</p>	<p>No See comments above</p> <p>To gain the necessary knowledge and skills to provide informed and strong advocacy to a regulatory reset takes longer than the time allowed the CF. Advocates for energy consumers have developed their knowledge and skills after years of being involved in resets. As noted above, the CF did not have this experience incorporated into its team. Providing informed consumer input to a regulatory reset requires sufficient knowledge about the history of previous resets, how the networks can "game" the system, why some decisions were made and how consumer needs can be addressed within the technical requirements for a network; this specific skill set is lacking in the CF team</p>	<p>Other - both a consumer in Ausnet's network and an advocate for energy consumers^(a)</p>

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<p>Unsure Yes in the case of consumer engagement, unsure in the case of the specific items in their negotiation with AusNet.</p> <p>The CF has expertise in consumer engagement and have produced some excellent findings that AusNet has started to act upon which is great to see.</p> <p>The CF has less knowledge to be able to undertake a comprehensive negotiation with AusNet on specific capex/opex items</p>	<p>Unsure see previous answer</p>	<p>Unsure yes for consumer engagement, no for specific negotiations on opex and capex</p>	<p>Advocate</p>
<p>Yes</p>	<p>Unsure</p>	<p>Unsure</p>	<p>Advocate</p>
<p>Yes</p>	<p>Unsure</p>	<p>Yes</p>	<p>Community Group</p>
<p>Unsure My contact was via the Chair of the Ausnet Forum and was specifically to discuss issues around the difficulties consumers, customers and businesses having with new connections.</p>	<p>No The issues that arise are a function of the atomised and "ring fenced" nature of the industry. This in turn reflects the fundamental structural defects in the overall regulatory regime. Principally the lack of incentives under NEL that blunt a DB focus on creating consumer value including fast connection.</p>	<p>No The forum will never be able to compensate for the fundamental structural defects in the regulatory regime and the zero sum game that exists between consumers and the businesses.</p> <p>Similar forums in the US are a little better positioned but they operate in a very different regulatory regime where Utility Commissions essentially arbitrate on competing positions rather than the AER standing in the shoes of the consumer.</p>	<p>Other – regulator^(b)</p>

Did you feel the Customer Forum was able to understand your expectations, preferences and concerns?	Are you comfortable the Customer Forum will be able to apply this to whatever is negotiated with AusNet?	Do you feel the Customer Forum has the skills and expertise to act as a credible counterparty to AusNet Services?	Type of stakeholder
No I don't believe the forum has a sophisticated approach to reliability. For example the reliance on the outcomes of a telephone survey rather than in depth willingness to pay analysis	No I don't believe they have the skills or expertise	No I think they lack technical analysis skills, regulation, engineering, economics	Other – advocate not representing AusNet Services customers ^(b)

(a) For the purpose of monitoring we have grouped this response with advocates.

(b) For other responders who are not and do not represent AusNet Services' customers, we have grouped their responses as '*regulatory policy stakeholders*'. These stakeholders have an interest in methods of economic regulation however they are not directly affected by the trial but rather have an interest in the New Reg Process as a regulatory innovation.