

New Reg: AusNet Services Trial

Stage 3: Monitoring report on conclusion of the Early Engagement Process

8 April 2020

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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	<p>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.</p> <p>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.</p>
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
Engagement Report	Customer Forum, Engagement Report , 31 January 2020
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
Regulatory Proposal	AusNet Services' 2022-26 Electricity Distribution Regulatory Proposal , 31 January 2020
Stub period	The six-month extension of the current regulatory period from 1 January 2021 to 30 June 2021, which delayed the final negotiations by six months and the final Engagement Report and Regulatory Proposal by the same. This also caused the next regulatory period to vary from that expected during stages 1 and 2 of the trial. Section 2.2 of the Engagement Report explains this.
Trial participants	AusNet Services, the Customer Forum, and the AER staff team

Abbreviations

Term	Definition
AER	Australian Energy Regulator
ASH	Australian Sustainable Hardwood
augex	Augmentation expenditure
capex	Capital expenditure
DELWP	Department of Environment, Lands, Water and Planning
DER	Distributed energy resources
ECA	Energy Consumers Australia
EDPR	Electricity Distribution Price Review
ENA	Energy Networks Australia
EV	Electric vehicle
HVI	High voltage injection
MOU	The memorandum of understanding between AusNet Services, the AER and the chair of the Customer Forum
NEL	National Electricity Law
NEO	National Electricity Objective
NER	National Electricity Rules
opex	Operating expenditure
repex	Replacement expenditure
VCR	Value of Customer Reliability

1. Introduction

1.1 BACKGROUND

Since 2017, the Australian Energy Regulator (**AER**), Energy Networks Australia (**ENA**) and Energy Consumers Australia (**ECA**) have been 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**) in Victoria. The trial is being overseen by a New Reg 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.

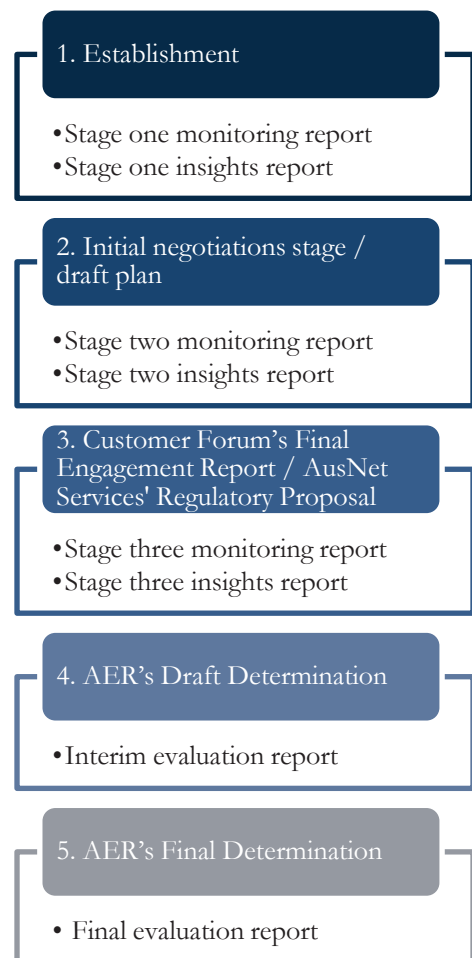
1.2 PURPOSE

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

This third monitoring report covers stage 3 of the trial which involved conclusion of the Early Engagement Process and covered the period from March 2019 to January 2020.

During this period AusNet Services and the Customer Forum completed their negotiations, culminating in submission of AusNet Services’ regulatory proposal and the Customer Forum’s Final Engagement Report to the AER on 31 January 2020. 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 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.

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

- the Customer Forum's [Final Engagement Report](#)
- and AusNet Services' 2022-26 Electricity Distribution [Regulatory Proposal](#).

This is a monitoring report rather than an evaluation, because the Early Engagement Process conclusion now enables evaluation to be conducted based on the AER's published draft and final decisions in the fourth and fifth stages of the trial. The report sets out our findings in detail as requested by the joint AER, ENA and ECA New Reg project team.

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 March 2019 to January 2020 (see Table 2.1: Elements of the New Reg Process relevant to stage 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, or the Victorian Government's delay to the Victorian distribution price review process and change in the regulatory period).

The approach to preparing this report was as follows:

- In January and February 2020 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 Framework² and lessons and feedback from the first and second monitoring reports, and were agreed with the joint New Reg project team.

- Trial participants completed the written surveys in March and we then interviewed each participant on their responses and themes observed across the participants' survey responses.
- Our monitoring draws 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**)³; and
 - AusNet Services' *Early Engagement Plan EDPR 2021-25 (Early Engagement Plan)*⁴.

² CEPA, [New Reg Trial Evaluation Framework](#), 29 November 2018.

³ AusNet Services, Customer Forum and AER, [Memorandum of Understanding](#), June 2019.

⁴ AusNet Services, [Early Engagement Plan](#), 2018.

- We referenced 11 AER staff guidance notes, include two that were released in 2019 during stage 3 to support the final negotiation.⁵
- We referenced the stage 3 trial outputs, namely:
 - the Customer Forum’s [Final Engagement Report](#)
 - and AusNet Services’ 2022-26 Electricity Distribution [Regulatory Proposal](#).

1.4 REPORT STRUCTURE

This report is structured as follows:

- Section 2 sets out the trial activities relevant to stage 3 monitoring and evaluation.
- Section 3 discusses feedback on the final scope of negotiation.
- Section 4 provides observations on customer research and engagement during stage 3.
- Section 5 provides observations on the AusNet Services and Customer Forum final negotiations, the AER staff support thereof, and the three respective roles in that negotiation.
- Section 6 provides observations on documenting the negotiation outcomes.
- Section 7 provides observations on achieving the New Reg vision and matters participants have flagged for consideration after later stages.

We note that this structure largely aligns to that of our stage 2 monitoring report. Stage 2 was essentially an interim version of this final negotiation stage in terms of the New Reg Process steps it tested. We have therefore retained a common structure for sections 2 to 5.

⁵ AER, AusNet Services Trial - AER Staff Guidance Notes 1 to 10, and Staff Guidance on AusNet Negotiating Position, 2018 and 2019, available at the AER’s New Reg [website](#).

2. Scope of stage 3 activities

2.1 WHAT ACTIVITIES ARE BEING MONITORED?

The New Reg Trial Evaluation Framework identified that stage three will cover the agreement reached by the Customer Forum and AusNet Services, and how it is captured in AusNet Services' Regulatory Proposal. The evaluation framework states that this Insights Report will predominantly cover the process and outcomes factors, and that the stage three Insights Report will seek to provide evaluation and feedback on:

- *The Customer Forum's process for reaching its final negotiating position, including from submissions received of the draft positions.*
- *AusNet Services' process for reaching its final negotiating position, including from submissions received of the draft positions.*
- *The Customer Forum's effect on AusNet Services' proposal.*⁶

This trial stage involved conclusion of the Early Engagement Process and covered the period from March 2019 to January 2020. This stage culminated in publication of the Engagement Report and the Regulatory Proposal.

The key activities in this period were:

- Further information provision to and interrogation by the Customer Forum for matters not settled in the Customer Forum's Interim Engagement Report⁷
- Adjustment of proposals and negotiating positions for stakeholder submissions to and feedback on AusNet Services' Draft Electricity Distribution Regulatory Proposal (**Draft Proposal**)⁸ and the Interim Engagement Report
- Publication of AER staff guidance notes on:
 - the Draft Proposal and Interim Engagement Report
 - AusNet Services' final negotiating positions
- Further customer research, and customer and stakeholder engagement to inform AusNet Services and the Customer Forum
- Provision of external technical advice requested by the Customer Forum
- Final negotiations
- Preparation and publication of the Customer Forum's Final Engagement Report
- Preparation and publication of AusNet Service's Regulatory Proposal.

We note that this stage was extended by six months relative to the original trial timetable. This extension followed a Victorian Government [announcement](#) of a six month delay in the Victorian electricity distribution price review owing to its decision to change the regulatory years from a calendar basis to a financial year basis. The MOU was amended to account for the change to regulatory periods.

⁶ CEPA, [New Reg Trial Evaluation Framework](#), 29 November 2018. p.22.

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

⁸ AusNet Services, [Delivering better outcomes for customers | Draft Electricity Distribution Regulatory Proposal - 1 January 2021 to 31 December 2025](#), February 2019.

2.2 HOW DOES STAGE 3 RELATE TO THE NEW REG PROCESS?

For the purposes of monitoring and evaluation, it is important to be clear how the activities in stage 3 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 3. The righthand column references the elements that are dealt with in this stage 3 monitoring report. Some steps were agreed in stage 1 or stage 2, such that stage 3 involves monitoring the execution of that agreement (e.g. the roles established in the MOU, and changes to the agreed scope of negotiation). Other steps represent the final positions that had been in interim or draft form as at stage 2 (e.g. in the Interim Engagement Report compared to the final Engagement Report lodged with the AER on 31 January 2020).

We note that some New Reg process steps relevant to stage 3 evaluation relate to the substance of the final negotiations and the evidentiary base documented in the Engagement Report and Regulatory 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 three

New Reg Process step	Relevant to stage 3 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 and is for relevant matters shown below
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 5.1
d. role and expectations of the AER to support the Early Engagement Process.	Yes – section 5.3
3. The Customer Forum should:	Yes – section 5.2
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 5.2
b. be fully independent of the network business	Yes – section 5.2
c. have the skills and expertise to serve the role of being a credible counterparty to the network business	Yes – section 5.2
d. operate in an open and engaging way to establish and maintain its legitimacy with consumers and the wider community.	Yes – section 5.2

New Reg Process step	Relevant to stage 3 monitoring
<p>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.</p>	<p>Yes, by reference to the MOU approved in Stage 1</p>
<p>a. This commitment is formalised through an ‘Engagement Agreement’ entered into by the business, the AER and the Customer Forum.</p>	<p>Yes, by reference to the MOU</p>
<p>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.</p>	<p>Yes, by reference to the MOU – section 5</p>
<p>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.</p>	<p>No – though some lessons have been identified for the induction performed in stage 1 -section 5.2.3</p>
<p>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.</p>	<p>Yes (where scope has varied since stage 2) – section 3</p>
<p>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.</p>	<p>Yes – section 3</p>
<p>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.</p>	<p>Yes – section 5.1</p>
<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</p>	<p>Yes – section 5.3</p>

New Reg Process step	Relevant to stage 3 monitoring
<p>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>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 5.2</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 – see Engagement Report section 6</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 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 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 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.⁹</p>	<p>Yes – see Engagement Report, and sections 4.2 and 6</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 (such as future consumers, which should be part of the Customer Forum’s consideration).</p>	<p>No</p>

⁹ 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 3 monitoring
<p>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.</p>	No
<p>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.</p>	No
<p>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).</p>	No
<p>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.</p>	No

3. Observations on the final scope of negotiation

During this final negotiation stage, the scope of negotiation was retained from the stage 2 interim negotiation. This means it remained broader than what was agreed with the AER under the MOU, and in this stage AER staff provided feedback on a broader range of issues than the agreed scope of negotiation.

This section recaps the role of the scope of negotiation in the New Reg Process, documents what scope the final negotiations reflected, whether it is still seen by the trial participants as appropriate, and what lessons they have observed.

3.1 WHAT WAS THE FINAL AGREED SCOPE OF NEGOTIATION?

3.1.1 Role of the scope of negotiation

As noted in our stage 1 and 2 monitoring reports, the MOU provides for the Customer Forum and AusNet Services to agree the scope of negotiations having regard to considerations specified in the MOU.¹⁰ The scope of negotiation can be varied at any time.¹¹ The scope of negotiation and any variations must be agreed with the AER.¹²

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.

Our stage 2 monitoring report observed that during that stage AusNet Services 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.

These scope distinctions have persisted through stage 3 and their relevance to the New Reg Process is still being tested through the trial. This monitoring report therefore retains the working description of the scope distinctions adopted in the stage 2 monitoring report, namely:

- 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

¹⁰ Section 4.3 (b) MOU

¹¹ Section 4.3 (c) MOU

¹² Section 4.3 (d) MOU

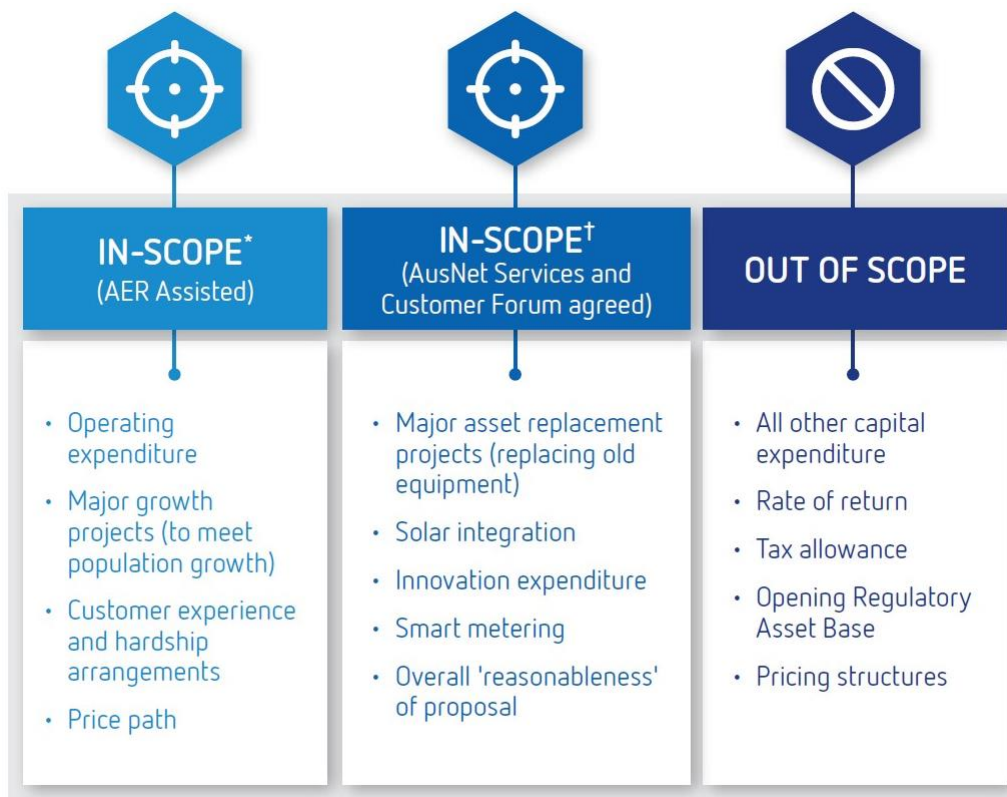
guidance notes and (potentially) not having certainty about whether these matters would be deemed permissible under the AER's interpretation of the NEL or National Electricity Rules (NER)

- matters that were agreed as out of scope which were not negotiated in the early engagement process.

3.1.2 What scope of negotiation was finally agreed?

The final scope of negotiations did not change during stage 3. The Customer Forum's Final Engagement Report stated that the scope of negotiations as detailed in the Customer Forum's Interim Engagement Report¹³ did not change through the final negotiations.¹⁴ AusNet Services similarly captured the scope outcome in its Regulatory Proposal in the following figure, which remained unchanged from the Draft Proposal.

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



Source: AusNet Services Regulatory Proposal figure 2.1

* AER assisting Customer Forum by providing information and independent advice

† AER not advising on these topics.

Participant feedback on evolution within this final scope

Notwithstanding that the final scope did not change in stage 3, the Customer Forum observed:

Although the scope of negotiations did not change, it was at times narrowed slightly by AusNet Services through decisions it made regarding its proposal. Some aspects of opex (super guarantee levy increases, EPA monitoring costs, some IT expenditure and cyber security) were not negotiated to a conclusion as AusNet Services decided to absorb the

¹³ Customer Forum, Interim Engagement Report, 6 February 2019, p.7.

¹⁴ Customer Forum, Engagement Report, 31 January 2020, p.7.

costs in order to achieve a higher productivity gain (something the Customer Forum pushed for much of our engagement), or recognising that the complexity of the item should best be determined by the AER.

At the very end of our engagement in January 2020 AusNet Services described to us the detail of its proposal for modified accelerated depreciation as part of its submission. This was out of scope but because it impacts on the price paid by customers AusNet Services was interested in the Customer Forum's view. The Customer Forum, while interested in its impact on price, chose not to offer a comment as the detail of this issue was raised far too late into the process.

We asked AusNet Services how it decided which out of scope items to engage or not engage on.

It responded that the Customer Forum's interest led to discussions on some aspects (such as tariffs). For others, the materiality of revenue movements led AusNet Services to update the Customer Forum periodically (i.e. changes in the rate of return, tax allowance and depreciation). It stated:

There were a few reasons for engaging on out of scope items including:

- *If there was an interaction between an in-scope and out of scope issue. For example, ICT capex was out of scope, but a broad understanding of the ICT plans and strategy was relevant to the Customer Forum's assessment of the cloud-based IT step changes. This was similar for the REFCL capex and opex step change.*
- *If an out of scope item would have a material impact on overall revenue and prices for customers e.g. the Customer Forum were kept informed of WACC, depreciation and tax building block changes.*
- *If the out of scope item could impact on the delivery of agreed improvements in customer services agreed with the Customer Forum e.g. IT system capabilities.*

3.2 DOES THE SCOPE REMAIN APPROPRIATE?

Having completed the initial negotiation in stage 2, the trial participants were asked in our stage 2 monitoring whether they still consider the initially agreed scope of negotiation (from stage 1) 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.

Having now completed the final negotiation, we asked whether participants' views on the appropriateness of that scope had changed. This revealed a diversity of views with the Customer Forum's views having changed, AER staff considering the scope remained appropriate and AusNet Services being unsure.

A common theme in participants survey responses and during interviews was that this scope has been used in the first trial of the New Reg Process, so the scope for future trials could differ.

The Customer Forum stated:

We have made some observations on this question in our reflections commentary in the Final Engagement report.^[15] We believe the repex negotiation was too narrowly focussed. It included the zone substation refurbishment proposals which made up around 20% of the

¹⁵ These reflections set out in section 14.1 of the Final Engagement Report, and are quoted below in section 3.3.

total capital spend. We think the process would have benefitted from us being able to scrutinise other large chunks of expenditure on that category such as poles and conductors.

The Customer Forum also noted that:

- its scope on price path had been challenged by the AER staff's initial rules interpretation, and
- the innovation expenditure scope was likewise frustrated by its efforts having to go beyond considering and agreeing its merits (which it did) into then needing to broker these with the AER staff's views on their acceptability. We discuss both these matters in section 7.2.2.

AusNet Services responded that:

The scope could have been broader. This is somewhat consistent with AusNet's initial view in which we sought a wider scope than ultimately agreed.

This would have reduced the level of detail addressed on each topic but would have enabled a broader scope of expenditures / trade-offs to have benefitted from the Customer Forum's focus.

However, think the weight the AER is expected to place on the agreement is important in determining the scope. This is why, for a trial, it may have been appropriate to keep the scope relatively narrow. The broader the scope, the more certainty needed from the AER that it won't just 'pick and choose' parts of the decision.

In the interview AusNet Services elaborated that:

- Resourcing the negotiation was a consideration in the breadth of its scope for this first trial, and
- Ultimately the appropriateness of the scope will depend on whether and how the AER relies on the proposals agreed through negotiation in its decision making. We discuss this further in section 7.2.

AER staff responded that:

As the first trial of its kind it was appropriate to restrict the scope to a manageable amount of topics that consumer preferences could clearly add value to. We believe the initial scope did this.

However, we do acknowledge that the additional 6 months provided by a change in policy and timelines from the Victorian Government did allow the Customer Forum to deliver more than initially expected.

Should the depreciation methodology have been in scope

AER staff questioned why depreciation methodology wasn't included, given its materiality. The modified accelerated depreciation that was considered by AusNet Services would have increased prices in the short run and reduced them in the long run.

The Customer Forum stated that, notwithstanding the late timing of the matter, it felt that AusNet Services would have already had a working understanding of the Customer Forum's views on this proposal by inferring these from the Customer Forum's focus on the need to minimise customer prices during the 2021-26 period.

AusNet Services commented that it had not included depreciation methodology in the engagement earlier largely due to its perception of the rules governing the AER's decision making on depreciation

methodology. It had not discussed this topic in detail as it was outside of the scope of negotiation. However, it also observed that a presentation on the accelerated depreciation case was delivered to the Customer Forum in mid-2019 and that this was included in its revenue forecasts prior to the final round negotiations.

3.3 PARTICIPANTS' LESSONS

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

Flexibility to revisit scope during the process is valuable

The Customer Forum noted in the interview that:

As a trial, it was about what we could manage, a forum could have more next time. The flexibility to amend our scope would have been good (e.g. we would have been more comfortable with the rest of repex by the end of the process). The opposite example would be the IT capex and cyber security expenditure which we would have removed. This was a key learning.

The stage 2 monitoring report observed the differing views and approach to scope between the AER staff and the two negotiating parties. We asked AusNet Services and the Customer Forum if these differences created any problems during the final negotiation?

The Customer Forum said no:

At an early stage in our engagement we agreed with AusNet Services that we would include in negotiation some matters that were beyond the scope initially agreed to by the AER and AusNet Services. We had no reason to rethink that decision. If anything our confidence grew through the engagement about our capacity to handle matters that remained outside the scope agreed to. A good example is the balance of repex expenditure (we only looked at revenue required for zone substation refurbishments which accounted for around 20% of total repex).

AusNet Services responded that it was unsure, stating:

They did not present any issues for AusNet so far – although there may be differences in the weight attributed to these different areas in the AER's decisions.

We note that the AER provided significant advice to the Customer Forum on issues that they did not agree to be within their scope e.g. innovation and DER expenditure.

Approach to out of scope items within AusNet's overall regulatory proposal

Our stage 2 monitoring report observed the lessons the participants had gained about the importance of the Customer Forum being kept informed about key elements of the overall proposal beyond the scope of the negotiation.

We asked if the Customer Forum had been kept sufficiently informed on how parts of the proposal outside the negotiating scope were tracking during the process, and both parties responded that yes, they were.

The Customer Form responded:

AusNet Services provided continuous advice about the possibility of the Victorian Government extending the current EDPR period and timely advice about most elements of its proposal. However, we did feel a little ambushed by late changes to some costings within the opex negotiation, the cost of capital and taxation being two examples.

AusNet Services responded:

The Customer Forum were given regular briefings on the development of the overall revenue case and the movement of key expenditure building blocks.

We have talked through major changes in revenue with the Customer Forum throughout the process. Material has been presented and published on our website.

In its reflections, the Customer Forum observed:

The scope assigned to the Customer Forum was narrow, yet it was asked to consider the overall reasonableness of the proposal. For example, the Customer Forum negotiated on approximately \$100 million of the repex proposal, but it was not given visibility over the balance, predominantly for replacement poles, cross arms and conductors totalling around \$500 million. Future Customer Forums should be given greater visibility across the proposal.¹⁶

On this reflection, AusNet Services observed:

- That the scope could have been broadened, and
- In future it would be helpful to agree up front how much visibility the Customer Forum wants on out of scope aspects, and how much time should be dedicated to this.

AER staff feedback on out of scope items

During this stage, AER staff did not constrain their advice only to matters in the agreed scope of negotiations. Instead, staff provided guidance on innovation, smart metering, major asset replacement, and DER. These advices were contained in:

- AER staff [guidance note 9](#) on draft proposal and the Customer Forum's Interim Engagement Report
- AER staff [guidance note 10](#) on the final negotiating positions.

Section 5.3 below documents the trial participants' feedback on AER guidance during this stage.

Out of scope items beyond the AER's remit for a regulatory proposal

The parties also observed value created through Customer Forum engagement on matters that expanded beyond the distribution price review and AER decisions on AusNet services revenues, pricing and incentives. These are discussed in section 5.2.3.

¹⁶ Customer Forum, Final [Engagement Report](#), 31 January 2020, p.53.

4. Observations on customer research and engagement

4.1 WHAT ENGAGEMENT TOOK PLACE IN THIS STAGE?

The bulk of customer engagement activities initiated by the Customer Forum took place during stage 2 and were reported on in the stage 2 monitoring report. Similarly, the Customer Forum influenced the scope and form of AusNet's customer research and engagement activities in each of the earlier stages as documented in our stage 1 and stage 2 monitoring reports and in the Customer Forum's Interim Engagement Report.

The Customer Forum's Interim Engagement Report and AusNet Services' Draft Proposal were both key instruments used to initiate feedback to inform stage 3 and the Customer Forum commissioned additional research during stage 3.

In this stage, AusNet Services and the Customer Forum undertook a range of activities to engage with AusNet Services' customers and interested parties on the Draft Proposal and Interim Engagement Report. This included through:

- A series of five "deep dive" workshops held to discuss key proposal elements in detail which were organised by AusNet Services, facilitated by Seed Advisory, and attended by the Customer Forum
- Six submissions responding to the Draft Proposal and Interim Engagement report
- Email and phone interview feedback.¹⁷

Further to this joint engagement, the Customer Forum initiated two additional customer surveys to further inform stage 3:

- Healesville Bundoora Customer Survey (Box 1)
- Who should pay survey to inform DER negotiations with AusNet Services (Box 2).

Box 1 Healesville Bundoora Customer Survey

Following a June 2018 high voltage incident in Healesville¹⁸ AusNet Services reviewed its claims process for customers impacted by such an event. In January 2019, a group of Bundoora customers experienced a similar high voltage incident. To verify that changes to AusNet Services claims processes translated to improved customer experience the Customer Forum initiated a comparative survey of affected customers from the Healesville incident and customers affected by the Bundoora incident. This research was neither additional to nor a substitute for AusNet Services planned engagement; rather the Customer Forum initiated it to ensure independence and objectivity and the outcomes were shared with AusNet Services.

¹⁷ Details of these activities, submissions and feedback are available on AusNet Services' [website](#).

¹⁸ Appendix E4 of the Customer Forum's Interim Engagement Report.

Box 2 Who should pay survey to inform DER negotiations with AusNet Services

This survey was initiated to inform the Customer Forum’s DER negotiations with AusNet Services. The survey was an extension of previous research and aimed to establish whether widespread willingness to pay existed among customers for network upgrades to cater for rooftop solar panels and support demand management. In particular, this research considered willingness to pay among all customers, not just those who had rooftop solar panels or who had the potential to install solar, but customers for varying reasons could not install rooftop solar.

This research was neither additional to nor a substitute for AusNet Services planned engagement; rather the Customer Forum initiated it to fill in a void in knowledge and inform negotiations; outcomes were shared with AusNet Services.

The Customer Forum also undertook a number of additional meetings with residential and business customers, customer advocates and others, to better inform the final negotiation.¹⁹ The stub period allowed the Customer Forum to engage more comprehensively to strengthen its understanding of customers’ issues, needs and expectations and monitor AusNet Services’ response to issues raised by customers in relation to customer experience negotiations.

Engagement initiated by AusNet Services during this period was focused (through the deep dives) on testing specific positions included in its draft proposal. This was aimed at ensuring that AusNet Services and the Customer Forum would be aware of the views of advocates and government in forming their final negotiating positions.

4.2 HOW WAS ENGAGEMENT CAPTURED?

A record of the customer engagement and research that informed the final negotiations can be found:

- in the Final Engagement Report in chapter 4 and appendices C, D and E
- on AusNet Services’ [website](#)
- in Part I – Customer Engagement, Findings and Feedback of AusNet Services’ Regulatory Proposal and 15 appendices from appendix 3A to appendix 30.

4.3 PARTICIPANTS’ LESSONS

Customer engagement resourcing

The peak of the Customer Forum’s customer engagement workload occurred during stage 2, though significant further engagement activity was also reported in stage 3. The Customer Forum reported that it felt that the resourcing provided to undertake its customer engagement activities during stage 3 was appropriate. As reported in the stage 2 monitoring report, the Customer Forum considered that while it had adequate resourcing for engagement and research, it felt in hindsight a secretariat function would have eased some of the administrative pressure. It noted this again in its stage 3 reflections in its Final Engagement Report.

¹⁹ These are documented in Appendix C of the Customer Forum’s [Engagement Report](#).

Reflections on customer research

Section 14.2 of the Customer Forum’s Final Engagement Report documents the Customer Forum’s reflections on customer research. These spanned lessons from the entire Early Engagement Process (i.e. stages 1, 2 and 3) and for AusNet Services internal approach to customer research. For items that relate to New Reg process design considerations, Table 4.1 provides a summary of the lessons from the Customer Forum, and AusNet Services’ response when we questioned them on these.

Table 4.1: Customer research reflections

Topic	Customer Forum	AusNet Services
Customer Forum input into research	‘While the Customer Forum was given ample opportunity to comment on customer research that AusNet Services initiated, no protocol existed to enable the Customer Forum to initiate independent customer research. It was important the Customer Forum independently build its evidence base to test and validate its proposed negotiating positions. With the support of AusNet Services’ EDPR team, and in the available time, the Customer Forum initiated a number of customer surveys.’	AusNet Services would be happy for such a protocol to be developed in future if useful for Customer Forum. From its perspective, not having this didn't impede the Customer Forum's ability to commission research.
Customer Forum research budget	‘...the Customer Forum initiated five customer surveys. Rather than having to request funding and seek approval each time, the process could be simplified if the Customer Forum had access to a discretionary budget, so that research could be independently undertaken to test or validate proposals.’	Agreed

Topic	Customer Forum	AusNet Services
Customer research recommendations	<ul style="list-style-type: none"> • Ensure the Customer Forum is: <ul style="list-style-type: none"> – introduced to staff members responsible for customers and customer research, and maintains contact with them; – provided with an organised and catalogued library of customer research; – provided with updates as new research is initiated, has the opportunity to scrutinise it at all stages; and – briefed on the AER’s expectations regarding the use of customer research as evidence for negotiations and the extent it is expected to initiate its own research. • Develop an understanding how a distribution business and the Customer Forum will collaborate to implement customer research in support of the EDPR. • Establish protocols around: <ul style="list-style-type: none"> – research budget; – approval processes; – choice of research supplier; and – expectations around data analysis, report preparation and delivery. 	AusNet Services agree that these are good topics for upfront agreement with a Customer Forum in future.

Reflections on customer engagement

The Customer Forum likewise outlined in section 14.3 of its Engagement Report a range of lessons for customer engagement relevant to both how AusNet Services engages, and what the Customer Forum found helpful and things for consideration in future applications of New Reg.

One issue relevant to the New Reg Process design and also noted in our stage 2 monitoring was engagement with customer advocates, upon which the Customer Forum reflected at the end of stage 3 that:

The Customer Forum would have benefited from greater feedback from customer advocates. The message that “prices are too high” was clearly received, but only limited feedback was received on how AusNet Services could reduce prices. Similarly, apart from the AER’s Consumer Challenge Panel, there was little response to the Customer Forum’s Interim Engagement Report, despite making direct contact with advocates to provide copies of the report.

The Customer Forum is concerned that community and welfare advocates have limited ability to engage with the EDPR process due to their lack of resources.

As we discuss in section 5.2.3, the Customer Forum observed that in future, having a consumer advocate within the composition of future Customer Forum memberships may help here.

Tensions between customer research and the customer submissions

The Customer Forum reported that some tension arose between its own customer research and independent engagement with customers (which was focused on gaining an objective understanding of the interests and views of all customers) and the views expressed in customer submissions.

One area where tensions arose was in relation to electric vehicles (**EVs**). Some customer groups and also AusNet Services wished to see the uptake of electric vehicles comprehensively accommodated in AusNet Services' proposals. However, the Customer Forum's formalised customer research clearly indicated for most customers that expenditure to accommodate a "speculative" uptake of EVs was not a priority. The Customer Forum readily conveyed customer sentiment on this issue beyond the regulatory team up to the AusNet Services board.

Assessing the value of reliability

The AER's measure of the Value of Customer Reliability (**VCR**) seeks to reflect the value different types of customers place on a reliable electricity supply and is expressed in dollars per kilowatt-hour (\$/kWh). While the VCR is not a single number and its measurement can vary across residential and business customer types, it is not assessed on granular geographic basis and it is based on certain assumptions about how customers understand reliability.

The Customer Forum reported that its research clearly indicated that reliability means different things, and has different values, to different customer groups and customer locations. For example, their customer research indicated a significantly higher tolerance of outages amongst rural Gippsland customers compared to city dwellers. Another example was the use of VCR in a single industry regional town. See Box 3.

Box 3 Use of VCR in a single industry town

The Customer Forum visited Australian Sustainable Hardwood (ASH) in Heyfield in Gippsland. The Customer Forum came to doubt the value and purpose of separate residential and non-residential VCRs in a location like Heyfield where more than half the town's workforce is employed by ASH. The Customer Forum felt that the VCR for the mill was effectively the value for the whole town as without a continuation of the business the entire economy of the town collapses.²⁰

In the Customer Forum's view, its feedback from customers did not align with AusNet Services' view that referred to customer preference on reliability as if it was a consistent customer preference throughout AusNet Services' network.

In our interviews we discussed the question of a uniform VCR measure used across all networks. AusNet Services noted they are observing differences that are real, but they are not quantified (or were found to be not statistically different in the AER's 2019 VCR review).

There was consensus that the current VCR measurement process is a broad average measure and was useful for its intended purpose, but that distribution businesses and their customers involved in any engagement activity should be well aware of different communities' circumstances and the potential for variation in the understanding of, and value of, reliability.

²⁰ Customer Forum, Final [Engagement Report](#), 31 January 2020, p.80.

AusNet Services considered such nuanced VCR variability could be accounted for in businesses planning considerations and decisions.

Finally, both AusNet Services and AER staff reported favourably on the work undertaken by the Customer Forum in influencing their thinking on understanding reliability preferences and values. AusNet Services stated that it had come to better appreciate that outage tolerance does vary between different geographic customer groups. AER staff reported that the Customer Forum's work had been a useful reference for its VCR study team.

5. Observations on final negotiations

We observed a diversity in participants' views about changes in roles and responsibilities during stage 3, with AusNet Services reporting no change, but the Customer Forum and the AER staff both reporting that there was change. This seems to have been driven primarily by changes in these two participants' views on their own roles.

The following sections explore the respective roles of AusNet Services, the Customer Forum and the AER in stage 3 by reference to the relevant steps of the New Reg process, providing evidence of how those steps were performed and lessons the participants reported for these.

5.1 AUSNET SERVICES' DELIVERY OF ITS APPROVED EARLY ENGAGEMENT PLAN

5.1.1 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.

5.1.2 Evidence

A dynamic conversation

Feedback on the Customer Forum's Interim Engagement Report and AusNet Services' Draft Regulatory Proposal including through the deep dives, was seen as informing and supporting the dynamic conversation between the participants during the final negotiation. Section 4.4. of the Regulatory Proposal explains how it informed AusNet's Services' final proposal.

The DER issue, which had not been settled for the interim negotiation, was iterated through this stage.

AusNet Services observed:

Most significantly, at the time of the interim report we had not worked through the detail of our DER integration expenditure, and so had not presented this to the Customer Forum for agreement. This was because the Vic Government's Solar Home program had recently been announced and we needed more time to work through the implications on expenditure. Finalised forecast expenditure was ultimately provided in a timely manner, tested with advocates at a Deep Dive in mid-2019 and enabled a final agreement to be incorporated in the revenue proposal.

The Customer Forum recorded the dynamic nature of this DER negotiation in its Final Engagement Report:

The Customer Forum's Interim Engagement Report noted that AusNet Services deferred its DER proposal to allow further consultation in 2019. Feedback received from Deep Dive Three conducted in May 2019, and from industry stakeholders enabled AusNet Services to present a DER proposal to the Customer Forum in July 2019. At subsequent meetings, the

Customer Forum requested additional information to clarify elements of the proposal. In particular, the Customer Forum sought a better understanding of how all AusNet Services' customers would benefit from the proposed expenditure, and the alignment of network and non-network components of the proposal. Specifically, the Customer Forum sought the following:

- 1. Identification of the network challenges arising from projected solar uptake and how these challenges impacted customers.*
- 2. A clear explanation of how the proposed expenditure would benefit customers.*
- 3. Clarity around the network and non-network components of the proposed expenditure, in line with AER guidance.*
- 4. An explanation of how the proposal would deliver a superior outcome to other options.*
- 5. A cost/benefit analysis of the proposal.*

AusNet Services presented a revised proposal to the Customer Forum in mid-November 2019.²¹

As noted in section 4.1, the Customer Forum also commissioned its own research on willingness to pay for solar export to inform this negotiation.

Provision of further information to the Customer Forum

The Customer Forum's Interim Engagement Report noted that further information from AusNet Services was required by the Customer Forum specifically in regard to some expenditure items. The Customer Forum reported that it mostly received information in a timely manner.

Throughout the process the Customer Forum made numerous information requests to AusNet Services which maintained a register, noting the date of request and when the information had been provided as well as monitoring outstanding tasks. In the main AusNet Services did well to respond to our requests although we occasionally had to remind the regulatory team of matters yet to be actioned.

However, it noted a key exception to this:

One request for additional information on AusNet Services' opex proposal was not responded to for several months which frustrated the Customer Forum. The need for discussion on the matter raised was negated in late-2019, however, when AusNet Services agreed to absorb additional opex costs.

The negotiation scope in the whole proposal context

The scope of negotiations is a subset of AusNet Services' total proposal, something the parties remained conscious of (as also observed in stage 2). As we explain in 3.3 above, stage 2 lessons for participants about the importance of keeping the Customer Forum informed about key elements of the overall proposal beyond the scope of the negotiation were reported to have been adequately acted upon. Both the Customer Forum and AusNet Services considered the Customer Forum had been kept sufficiently

²¹ Customer Forum, Engagement Report, 31 January 2020, pp. 39-40.

informed on how parts of the proposal outside the negotiating scope were tracking during the final negotiation.

Participants' roles in the negotiation

There were no significant changes to the participants' roles and responsibilities since the Interim Engagement Report and AusNet Services' Draft Regulatory Proposal. However, participants noted that:

- AER staff did broaden their guidance to cover some out of scope matters that AusNet Services and the Customer Forum had decided to discuss and negotiate on (which we discuss in section 5.3), and
- the Customer Forum involved itself in matters beyond the scope of the distribution price review (e.g. connections, which we discuss in section 5.2.3).

Issue resolution

All issues that arose during this stage were resolved between the parties. During these final negotiations, all parties confirmed that the formal escalation processes and forums agreed in the MOU were not used. When asked about this, they all observed that while not used, availability of this process was important. They variously stated:

Customer Forum | *The Customer Forum did not need to use the escalation procedure as we never found ourselves in a position where progress could no longer be made through negotiation. Although not used, the availability of escalation was useful and allowed us to contemplate what could happen in closing months of our engagement. In this sense it helped the Customer Forum map out its workload.*

AusNet Services | *Issues were resolved without needing escalation to the reference committee. However, its existence was important even if it was not used.*

Good communication and the good will being brought to the Customer Forum process meant that the escalation process was not needed. There were some challenges that arose after the release of the Draft Proposal that meant that discussions involving senior AusNet Services and AER staff were required. The key issue was the extension of the current regulatory period by the Victorian Government.

The unavoidable changes to the expenditure and overall revenue case during the course of the trial also presented challenges for the Customer Forum.

AER staff | *It wasn't necessary. AusNet and the Customer Forum engaged in a respectful, constructive manner and collaboratively worked through tensions, like the aforementioned productivity factor, to reach outcomes they could both support.*

5.1.3 Participants' lessons

Timeframes and iteration

The participants had learned from the lessons of stage 2 about the need for the negotiating parties to have a common understanding of what inputs will be updated during the early engagement process and when. This applied to matters such as rate of return, opex base year data, and those which were subject to AER industry-wide reviews including on tax treatment and productivity forecasts.

The Customer Forum comments about how the future processes should deal with this were:

A future Customer Forum would be well advised to use the first half of the process (assuming an interim engagement report is required at about the halfway mark) to focus on the quality of the services being delivered by the distributor to its customers. This would allow weaknesses in service delivery to be identified and give both the distributor and the Customer Forum a valuable focus prior to negotiations beginning.

It would also help if expectations around the opex negotiation conclusion were tempered by early advice that the numbers making up the final opex figure are subject to extensive review.

Providing an extensive list of opex elements, would also assist the next Customer Forum. AusNet Services told us that things were subject to change but they were telling us so much so quickly that it didn't register as a significant matter until we were in the midst of cost adjustments in late-2019.

We would go so far as to suggest that the process would benefit by the distributor being required to provide a list of opex cost elements early in the process and not be permitted to introduce any new costs beyond those listed through to the end of negotiations, This would avoid the Customer Forum feeling in any way that the process in its latter stages was being hijacked.

AusNet Services noted that it is difficult to avoid complications arising from the need for it to regularly update its information.

One option is to submit the revenue proposal based on data that is not up to date, but updates will inevitably be made throughout the remainder of the process, which will mean the final product is even further from the Customer Forums' agreement.

One solution may be for the AER to provide advice to the Customer Forum when asked on the driver of a change to the numbers. This may provide the Customer Forum confidence that the update was due to a new issue/ regulatory precedent, or correction of an error, or a new matter to arise.

It is important that the Customer Forum is clear this will occur from the outset and become comfortable with this degree of change

The AER staff commented:

In hindsight, we think that it would be beneficial for the AER and the business to develop a schedule of the inputs that may be updated over the course of the negotiations, when these updates are likely to occur, and which elements of the proposal they relate to.

For example, the AER could have provided the Customer Forum with guidance on the productivity factor work and the timelines for draft and final decisions during the educational phase of the Trial. AusNet could also have identified the inputs to opex and capex they were likely to update as actual data was received and when they expected to receive this data in its initial negotiating position notes. This would help set clearer expectations for the Customer Forum.

Adequacy of the timelines for the early engagement process

The Customer Forum provided the following comments on whether the timelines provided for the NewReg process were appropriate (noting there was a six month delay).

With the benefit of hindsight insufficient time was provided for some parts of the process prior to the extension. This is explained by understanding the nature of the negotiation. Much of what was being negotiated was not finalised until late in the process due to revision of costs. Opex was the best example of this. The difference between the position reached in late-2018 (when opex saving looked like an average cost reduction per customer of \$38) and late-2019 when the figure was 'at least \$110' reflects most of the actual negotiation being squeezed into the final few sessions. Had we not been granted an extension we may have had more difficulty resolving our position on opex.

On other matters there was less pressure. Repex, for example, was largely determined by the end of 2018, with only the independent consultant's assessment to be received and analysed. Similarly, Customer experience and Price Path were largely done in 2018.

The AER staff and AusNet Services however felt that the timelines were generally appropriate. The AER commented:

We believe the in scope matters could have been settled within the original timelines and that the delay allowed additional matters to be negotiated and agreed. However, we think the distributor should provide their initial negotiating position at the start of the process when the scope is being defined. This would help the Customer Forum have time to engage with both the topic and the scope in general, including undertaking research to inform their position. It would also help the AER advise the Customer Forum better if we had more time to process the information, develop guidance notes, and discuss these with the Customer Forum.

5.2 REPRESENTING CUSTOMERS' PERSPECTIVES

We note that, as with our stage 2 monitoring report, this aspect of our monitoring has 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 stage 3 of the trial.

5.2.1 Role

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

- 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*
- b) *be fully independent of the network business*
- c) *have the skills and expertise to serve the role of being a credible counterparty to the network business*
- d) *operate in an open and engaging way to establish and maintain its legitimacy with consumers and the wider community.*²²

²² Directions Paper, step 3, p.4.

5.2.2 Evidence

Process the Customer Forum took to form and refine its positions

We asked the Customer Forum what process it followed for deciding its positions. It responded:

The Customer Forum met privately before each negotiating session to discuss and review AusNet Services' proposals and evidence, share views and plan how the negotiation session would proceed. The Customer Forum considered both the evidence presented by AusNet Services to support its proposals and the evidence it had independently obtained through its customer engagement, customer research, and appraisal of other information such as independent technical reports.

In negotiation sessions the Customer Forum extensively interrogated AusNet Services staff to identify whether the business's performance in specific areas was a reasonable response to customer needs and expectations and whether their future proposals would result in service improvements in line with customers' needs and expectations.

The limits of this approach were not reached as long as the Customer Forum was still seeking further information or found the information provided, both written and verbal, inconsistent. We continually evaluated the advice provided by AusNet Services with customers' experiences as they had told us in the field and customer research. New connections is a great example of us using the contradiction between AusNet Services and customers to pull apart the original assurance that the performance was compliant and therefore satisfactory. The Customer Forum's use of repeated questioning drove the Customer Experience measures in particular and also enabled us to prolong the augex and repex negotiations, which both produced better results for customers. This approach greatly helped us in the opex negotiation which we largely framed around the question: is what AS offering enough to satisfy the average customer?

We asked whether the Customer Forum consulted with stakeholders in this process. It responded:

Yes, we met with key stakeholders in the AusNet Services organised deep dives and through one-on-one meetings initiated by the Customer Forum with a range of stakeholders, such as EWOV, VECCI, and local councils as well as individual customers.

Section 4.1 discusses the engagement that took place during this final negotiation stage.

Technical analysis undertaken

The Customer Forum commissioned further technical analysis in Stage 3 to assist with developing its positions. It requested an independent technical assessment of alternative options to AusNet Services' planned augmentation at Clyde North. AusNet Services commissioned WSP to carry out this piece of work. The Customer Forum had input into the terms of reference and met with the consultant. AusNet Services reported that this work was useful as it gave the Customer Forum the confidence that technically, the augmentation option it proposed was the most efficient option.

This technical analysis was in addition to the five customer research reports it commissioned, two of which occurred in this stage.²³

²³ These reports, along with the five customer research reports commissioned by AusNet Services, can be found on AusNet Services website [here](#).

Representing customer perspectives openly and transparently

We asked the negotiating parties how well the Customer Forum had performed its role. Both AusNet Services and the Customer Forum responded positively.

Feedback from the trial participants indicates that the Customer Forum has effectively undertaken its role to represent and act on behalf of all consumer voices through Stage 3. 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.

The customer and customer advocate survey returned 11 responses. These responses comprised the views of two consumers, four consumer advocates, two local governments, two community groups, one electrical contractor and one ombudsman scheme representative.

The full survey results are set out in Appendix A and are summarised in Table 5.1. This shows that a clear majority of respondents had confidence in the Customer Forum's representation and transparency.

Table 5.1: Survey responses by question

Question	Yes	No	Unsure
Do you feel the Customer Forum understood your expectations, preferences and concerns?	9	1	1
Do you feel the Customer Forum applied this to their negotiations with AusNet Services?	8	1	2
Do you feel the Customer Forum was independent (of AusNet Services) in its engagement and representation?	10	1	-
Do you feel the Customer Forum has the skills and expertise to act as a credible counterparty to AusNet Services?	9	1	-
Do you feel the Customer Forum adequately represented the perspective of, and acted on behalf of all consumer voices, having regard to the long term interests of current and future consumers?	9	1	1
Do you feel the Customer Forum operated in an open and engaging way to establish and maintain its legitimacy with consumers and the wider community?	9	1	1

Independence

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

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

Definitely yes. The Customer Forum consistently challenged AusNet Services, and sought independent evidence to support our negotiating position where we felt it necessary. We also rejected a number of elements outright such as AusNet Services higher IT expenditure request, which clearly did not align with customer expectations.

The Customer Forum stood up to the AusNet Services Board over the 18/19 summer impasse on our commentary in our Interim Engagement Report. We also established an eleventh hour position on opex which enabled a greater average cost reduction per customer to be achieved. In mid-2019, we were also successful in getting senior management and the MD to visit customers and listen to their concerns first hand, rather than rely on our advice.

At all times the Customer Forum was conscious that it should not be captured by either AusNet Services or the AER. The Customer Forum held Private Customer Forum meetings on numerous occasions to discuss AusNet Services proposals and form its negotiating position.

In the interview, the Customer Forum added that AusNet Services had consistently offered to leave the room before each meeting for any preparatory Customer Forum deliberations. It stated that the Customer Forum had the power to and did hold private deliberations when it felt it needed to.

AusNet Services stated:

Customer Forum continued to speak to our customers, bring back own views and ideas into the process. They set their own work program, and AusNet provided all resources that the Customer Forum requested without challenge.

The AER staff stated:

As above, we were impressed with the Forum's ability to engage with information provided by AER staff and others and interrogate it while maintaining their own views. For example, the AER made a decision on the productivity factor during negotiations which we communicated to the Forum. However, the Forum felt a higher productivity factor would more closely align with consumer preferences so negotiated for this to be increased above 0.5% through AusNet agreeing to absorb costs. AusNet agreed to absorb these costs on the basis that elements of its non-recurrent IT expenditure program will assist to deliver part of the productivity gain.

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 during the final negotiation.

The Customer Forum stated:

We were always confident in our collective ability to tackle the job given to us. Our confidence was supported by our collective and diverse skill set to appraise, evaluate, interpret and question a range of economic, customer research, engineering and other data and information. Notably, we found some of the engineering material easier to understand and challenge than the AER and AusNet Services anticipated. We attribute this to a combination of the way the information was presented, the time we had to review it, its tangible nature and our collective enquiring mindsets – if we had any difficulties we were not afraid to ask questions. The changing opex information (forecast numbers and dollars) and associated negotiations were more laboured but this was due mainly to the deluge of adjustments late in the process than the actual subject matter.

AusNet Services stated:

At this stage of the review the customer forum was very well informed and engaged in the in scope issues of the proposal, having been considering customer views and technical info related to these issues for over a year. They challenged us on points which shaped our ultimate proposal. They also had recourse to the Reference committee should it have been needed (ultimately it wasn't but remained an important back stop). Also the AER staff provided detailed guidance.

The AER staff stated:

We witnessed the Customer Forum undertake relevant and extensive research and engagement. In particular we were impressed by their ability to clearly identify and articulate areas they felt required further support and interrogate the material provided without parroting the information. They showed significant insights in their engagement with AER staff and our technical advisory group. The Forum also showed they could consider a wide range of views and were able to balance these out to establish clear negotiating positions. They then tailored their assessment and positions to these expressed experiences and expectations.

5.2.3 Participants' lessons

Lessons for inducting future customer forums

The Directions Paper explained at step 5 that:

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.

On the subject of induction, the Customer Forum observed in the reflections part of its Engagement Report that:

AusNet Services' personnel designed and delivered most of the induction materials with observers from the AER, Department of Environment, Lands, Water and Planning (DELWP), and other stakeholders joining some induction sessions. Although the Customer Forum benefited from the induction process, and it was essential for meaningful negotiations, the Customer Forum believes the process could be improved. In particular, the induction would have been enhanced with early and direct briefings from the AER and DELWP on their regulatory regimes and perspectives, rather than the Customer Forum second-guessing the roles of these and other agencies.

AusNet Services agreed that this would have been helpful, and should be added to future inductions. It also noted that during the final negotiation, it often had to start a given topic with a recap of the relevant elements of the induction materials for that topic to remind the Customer Forum of the principles and framework relevant to the topic. It considered that some of the later AER staff guidance would have benefited from doing this too given the time lapse between induction and final negotiations and the volume of materials the Customer Forum had needed to consider during the intervening period.

Lessons for other customer forums that could help inform future Early Engagement Plans

In regard to the scope of the negotiation, AER staff commented that while it thought that for the first trial it was appropriate to limit the scope, in future trials it may be beneficial to allow for the whole proposal to be in scope. AusNet Services commented that would be better if less time was used in defining the scope.

The Customer Forum noted the following lessons for other custom forums in future:

- *We would have benefitted from having someone who had been involved in an earlier Customer Forum to guide us, particularly in the early stages. Of course, there wasn't anyone who had done this before so it probably took us longer to figure out how we would fulfil our role.*
- *The Reflections Chapter in the Final Report contains a number of observations about things we learnt through the process.*

Other comments from AusNet Services were:

- *In hindsight the Customer Forum process would benefit if it been established earlier, as it would have made better use of the available time.*
- *The Customer Forum needs to be aware that this is a very resource intensive process.*
- *The Customer Forum needs to be aware and comfortable with the concept of input numbers being revised continually throughout the process.*
- *Success depends on the effectiveness of the individuals selected for the forum and their ability to work as a group.*

Other comments from AER staff were:

- *The interdependencies between approaches and preferences for related topics need to be considered, for example the research the Forum did on consumer willingness to pay for reliability is relevant to all capex decisions. This also allows the Forum to make trade-offs between different components of the proposal. For example, negotiating a change from investment in capex to procuring a service through opex.*
- *It was interesting that the AusNet Trial flagged a number of issues for all distributors to address, e.g. customer service incentive scheme, call centre experiences, connections processes, and price-reliability preferences varying across locations and consumer groups. How to capture and communicate this learning to other businesses could be a formal consideration. Although we note the Forum often pushed AusNet to commit to sharing points with the other Victorian distributors.*

Lessons for matters beyond scope

All three participants observed that it became clear through the early engagement process that representing customer perspectives necessarily caused the Customer Forum to engage AusNet Services on broader matters than not only the scope of negotiation, but also beyond matters that are within the AER's remit. For example, in this stage the Customer Forum observed that its role did expand somewhat:

The Customer Forum made a decision, in consultation with AusNet Services, that a case study on new connection delays it was considering for inclusion in the final report, should be produced as a separate report. This decision was based in the intricacies of the problem and its various causes; it would have been unfair to present it as a demonstration of an AusNet Services shortcoming that could be rectified by the network alone. The decision was also taken by the Customer Forum that a copy of the report would be provided to the Victorian Red Tape Reduction Commissioner, and this was something that AusNet Services supported. Copies will also be provided to the AER and the Essential Services Commission.

When asked about this, AusNet Services responded that it allowed a wider scope across the business than originally contemplated (e.g. the connections problems). It was a useful piece of work, though very broad. We had made it clear from the start that the forum could comment on any matter they saw fit. This is an example where they identify framework issues spanning customer experience, connections processes across the energy industry and its customer interactions for these that go beyond just AusNet Services as a distributor.

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 during this final negotiation stage.

...these answers are qualified slightly by our observations as detailed in the Reflections Chapter of our final Engagement Report that a secretarial function and appropriate catalogue of documents would have helped. As a result of a lack of these functions the Customer Forum spent more time than we had expected to managing paperwork and diary. This was even more apparent when we were writing the Final Engagement Report and wanted to cross-check sources of evidence and our referencing.

The Engagement Report reflections in section 14.1 provide a list of logistical and resourcing lessons for consideration in future New Reg Process trials. When asked about these, AusNet Services:

- Considered a sub-set of items were 'nice to haves' but likely to be costly including: cloud-based document management, having a secretariat in addition to the single point of contact into AusNet Services, having a serviced office (noting that AusNet Services always made meeting rooms available for the forum when requested)
- Agreed that there was value in: having the AER and DELWP play a greater role in the induction, providing an organisation chart, having an upfront agreement of the information provision on out of scope items, continuing to support external expert support, agreeing meeting dates and milestone in advance, and it agreed with the feedback on note taking and report writing skills.

Consumer advocate involvement in future customer forums

We received feedback from a Customer Forum member that there would be value in having a 'grass roots' consumer advocate as a member of future forums. It was felt that 'grassroots' customer advocates (financial counsellors and consumer lawyers) should play an important role in future Customer Forums. In addition there should be education program and training offered to consumer advocates so that when the New Reg process is next used there will be an expanded number of potential consumer advocates

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

The trial participants felt adequately supported by the AER staff, and the AER staff reported some expansion in their guidance role during this stage.

5.3.1 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.

5.3.2 Evidence

Agreeing scope

The scope was agreed in stage 1 and not formally amended in this stage.

AER staff support for the final negotiation

During this stage AER staff provided the following formal guidance:

- AER - AusNet Trial Staff [Guidance note 9](#) - draft proposal and interim engagement report in March 2019
- AER - AusNet Trial Staff [Guidance note 10](#) – AusNet’s final negotiating positions in October 2019.

The participants reported that AER staff provided guidance on matters that were out of scope matters that AusNet Services and the Customer Forum decided to discuss and negotiate. AER staff observed this growth in their scope as follows:

The AER decided to expand its responsibility to include providing high level guidance on topics considered to be out of scope in response to the initial negotiations and draft proposal. This guidance did not extend to dedicated staff guidance notes on these topics but rather raising a few key framework issues and considerations we felt the Forum should be aware of should they continue to negotiate these topics. This decision was partly based on interdependencies between topics under negotiation, as well as the desire to support the process delivering output consistent with the regulatory framework.

When we asked the Customer Forum about this additional guidance and whether it was helpful, they responded:

Extremely helpful because many things were outside the formal scope, including things like DER and solar energy.

The AER were terrific – anytime we wanted advice, we got it. We dealt with a lot of people at the AER and we had formal fortnightly chats with them which may have had a bit of an educative role with the AER staff too. They initially had a very dim view on the innovation allowance concept, but we feel our conversations helped to soften their position.

A benefit of the process was that AusNet Services got to see the contemporary thinking from the AER on various issues.

5.3.3 Participants' lessons

The participants did not report any further lessons about the AER's role, other than those noted above about the benefits of the AER staff providing additional guidance during this stage beyond the agreed scope of negotiation.

6. Observations on documenting the negotiation outcomes

6.1 ROLE

Steps 8 and 9 of the New Reg Directions Paper set out the role and expectations of the Engagement Report thus:

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.

- 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.*
- 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.*
- 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.*

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.

6.2 EVIDENCE

Meeting expectations of the Engagement Report

All three trial participants considered that all three elements of step 8 had been delivered in the Engagement Report.

AER staff observed that:

Yes, the sections added at the start of each topic clearly answer items a, b, and c. These topics are then elaborated within each section. Without this it would be more challenging to evidence how the negotiations, engagement and research were translated into the regulatory framework.

The Customer Forum considered that the engagement report did meet its expectations of step 8 of the NewReg directions paper model.

Clarity on what was agreed and disagreed? | The Customer Forum included a clear summary of what was agreed and disagreed in its Engagement Report along with reference to whether the matter was in the scope agreed to initially by the AER and AusNet Services, or subsequently by the Customer Forum with AusNet Services.

Link to consumer perspectives? | The Engagement Report was expected to explain why agreements reached with AusNet Services were consistent with, or best reflect, consumer perspectives and preferences - referencing any customer research or consultation undertaken during the process. The Customer Forum reported that it used a consistent set of questions that showed the link between the position it reached with the customer research. The background to the Customer Forum's thinking was largely recorded in the Interim Report.

Explain reasons where agreement could not be reached | The Engagement Report was expected identify and explain the reason for any aspects of a proposal for which the business and Customer Forum could not reach agreement. The Customer Forum reported that on a number of occasions, its decision not to support elements of the AusNet proposal (mostly in the opex negotiation) was resolved by AusNet Services withdrawing the request and indicating that it would self-fund that item and, in turn, use that decision to achieve greater productivity absorption. This was in line with expectations the Customer Forum had signalled from early on.

Scope and structure of the report

When asked if they were happy with the scope and structure of the Engagement Report, and noting the feedback provided by AER staff on the Interim Engagement Report, the Customer Forum and AER staff both confirmed they were happy with it.

The Customer Forum observed:

The Customer Forum is happy with the scope and structure of the Engagement Report. The Report was prepared collaboratively and was finalised with the explicit agreement of all five members of the Customer Forum. In writing the Final Engagement Report, the Customer Forum agreed to follow the structure of the Interim Engagement Report and not to duplicate the full contents of the Interim Engagement Report. The report represents a team effort. We wrote the Reflections Chapter with the next EDPR in mind and we hope this chapter useful to distributors, particularly AusNet Services, as well as the AER.

One thing worth noting is that writing two reports required us to accommodate AusNet Services' internal timelines that were more demanding than those laid down by the AER. This added some pressure to our final deadline which we hadn't envisaged at the commencement of the process.

It is also worth noting that when the Customer Forum was established we were given the option of engaging a report writer. However the Customer Forum quickly formed the view that it needed to write its own report to most accurately reflect its approach and position, and it would have more time consuming and challenging to review a third party writer's report on our work than to write it ourselves.

AER staff observed:

We appreciate the Forum responding to our requests to more clearly identify the requirements of the MoU following the draft interim report through the inclusion of a box at the start of each topic negotiated. We think that they used helpful headings and accessible language to present the narrative, evidence and considerations underlying their negotiations with AusNet. We find it particularly helpful that they documented their engagement with consumers as well as research undertaken to clearly evidence the statements they made. The addition of a lessons learned/thoughts on the process section at the end was also appreciated.

6.3 PARTICIPANT LESSONS

Lessons identified by the participants on the Engagement Report include:

- The AER staff views that flexibility for future customer forums to structure their reports should be retained, specifically staff stated:

We think that different customer forums may deliver different reports so the structure should not be too restrictive. However, by meeting the requirements of the MoU, the Forum clearly evidenced how their interactions with consumers and negotiations with AusNet impacted the regulatory proposal.

- The Customer Forum's reflection that, with hindsight, they did not need the report drafting resource they had been provided funding for from AusNet Services, instead needing to do it itself in practice 'as this was the most effective way of ensuring an accurate account of negotiations' and noting that while it had these skills, report writing was not an explicit skill sought in selecting its members. Therefore, future Customer Forums should include some members with this skill.²⁴ AusNet Agreed with this reflection.
- All parties found the interim negotiation and Interim Engagement Report at the end of stage 2 and the feedback this solicited at the start of stage 3 valuable step for various reasons discussed below.
- The Customer Forum noted various lessons about its development of the report discussed below.

The interim step (stage 2) was valuable to the final Engagement Report

The Customer Forum noted some lessons from the development of the Interim Engagement Report and the Initial Negotiating Position paper and how it informed its approach to the Final Engagement Report and the Regulatory Proposal

- *The presence of peak customer and business representative bodies and the operation of distributor and sector advisory bodies does not, of itself, ensure deep and broad perspectives. The Customer Forum set itself the task of ensuring we actively liaised with customer representatives, particularly from peak bodies, as we believed this would generate a rich vein of advice. More often than not this did not happen. Peak welfare bodies lamented the lack of funding to enable them to make a formal research based contribution as they had done to at least one earlier EDPR process. Industry bodies focussed on price and reliability. It was only when we visited business in regional and rural Victoria that we obtained more nuanced views of customers' needs and expectations.*

²⁴ Customer Forum, Engagement Report, 312 January 2020, p.53.

- *Compared to later negotiations we were surprised with the ease and speed of the negotiation around Customer Experience initiatives, to address customer needs and expectations. In hindsight that probably revealed a recognition within the business that customer relations was a weakness. It also served to tell us that there were blind spots within the business about customers' needs and this encouraged us to push the business harder through 2019.*

AusNet Services noted that Interim Engagement Report and Draft Proposal stage of the process made engagement with the AusNet Services Board to settle the final negotiation far more effective.

Lessons on the development of the Engagement Report

The Customer Forum indicated that it was happy with the scope and structure of the Engagement Report. The Report was prepared collaboratively and was finalised with the explicit agreement of all five members of the Customer Forum. In writing the Final Engagement Report, the Customer Forum agreed to follow the structure of the Interim Engagement Report and not to duplicate the full contents of the Interim Engagement Report.

The Customer Forum noted that writing the two engagement reports required it to accommodate AusNet Services' internal timelines that were more demanding than those laid down by the AER.

The Customer Forum drafted the Engagement Report itself rather than engaging a report writer. It thought this was the better approach, as this more accurately reflected its approach and position and was a more efficient process.

The Customer Forum also observed that:

In writing the report, greater clarity as to the AER audience would have been helpful. Throughout the engagement we were assisted by a small team of very helpful AER staff. Our extensive liaison with them gave us the sense they had a very well developed understanding of how we had approached our task, how our thinking had progressed and how our decisions were reached. Of course, the AER audience comprises a vastly greater number of people than those we dealt with and we were encouraged late in the process to flesh out the report to accommodate that audience. This added some work at the end of the process. While we appreciate the need for it although we didn't factor in that work to our initial report writing task.

7. Observations on the New Reg vision

7.1 PARTICIPANT COMMENTARY ON THE NEW REG VISION

The New Reg Directions Paper set out a vision for the project:

The overall vision for the project is that energy consumers' priorities should drive energy network business proposals and regulatory outcomes. We believe there are opportunities to better incorporate consumer preferences in revenue determination processes, and to improve consumer trust and confidence in network regulation. Further, there is scope to improve the efficiency and effectiveness of the regulatory process.²⁵

While stage 3 is the mid-point of the New Reg Process trial, participants already saw key advancements towards the New Reg vision – these are discussed below. They likewise noted that key elements of the vision and success of the process will only be assessible once later states of the trial are completed – these are discussed in section 7.2.

7.1.1 Broader benefits realised so far

Benefits for AusNet Services' customers

Both AusNet Services and the Customer Forum identified other positive impacts on AusNet Services' business processes and customer outcomes (besides those explicitly set out in the Regulatory Proposal) that have arisen as a result of the Customer Forum's work and negotiations with AusNet Services.

The Customer Forum observed that:

There have been a number of positive impacts on AusNet Services' business processes and customer outcomes as a result of the Customer Forum's work and negotiations. These include:

- *An overhaul of the customer claims procedure which arose from the Customer Forum drawing attention to distressed customers following a HVI event in Healesville.*
- *A number of specific customer case handling improvements as a result of the Customer Forum requesting AusNet Services provide advice to the customers – these instances followed Customer Forum contact with customers during field visits.*
- *An improved awareness amongst AusNet Services senior managers of the roles that local councils and MPs play in recognising ways that AusNet Services could improve customer relationships. Two common feedbacks from local government staff, for example, were customer dissatisfaction with planned outage management and the desire for more information on electricity generation opportunity maps, a useful tool for local government when hosting potential investors.*
- *A new appreciation amongst AusNet Services senior managers that reforming internal processes to benefit customers can sometimes save money for the business.*

²⁵ AER, ECA, ENA, [Directions Paper](#), March 2018, p.3.

- *Elevation of customer experience roles within AusNet Services and heightened recognition and importance of the monitoring of customer satisfaction.*
- *Greater appreciation of customers' needs and expectations throughout the business to the extent that many technical staff who rarely used the word "customer" are now putting customers at the forefront of their thinking.*

AusNet Services observed that the Customer Forum have contributed to a far broader cultural shift in its business. It responded that this has been one of the very significant benefits to AusNet Services' customers of the Customer Forum process.

The Customer Forum identified key customer concerns on the ground e.g. management of High Voltage Injection events, customer communication needs especially during outages, support for customers with high needs including business and farming customers and vulnerable customers, strengthening community connections and links to Councils. The Customer Forum then immediately worked with AusNet Services to develop improved management processes that are better for customers and which in many cases have saved money.

These changes are delivering immediate benefits for customers.

The Customer Forum process started at a time when AusNet Services was independently increasing the resources and profile of customer experience improvement in the organisation. The Customer Forum provided support and impetus for this significant change – the Customer Forum helped drive genuine cultural change which is a very significant achievement for AusNet Services and the Customer Forum. The Customer Forum were able to provide valuable advice to the customer experience team, including providing advice on AusNet Services' ongoing customer research programs and to participate in their customer journey mapping.

Also, the degree of customer and stakeholder engagement in the development of the Regulatory Proposal was genuinely a large step up – there was so many opportunities to engage and there was a high degree of transparency for interested advocates and stakeholders.

AusNet Services noted that the regulatory team and many others across the organisation worked very hard to support the achievement of these benefits.

Appendix F of the Engagement Report documents the AusNet Services customer experience actions agreed with the Customer Forum, and the dates which these were enacted. All these dates were concurrent with the early engagement process and predated the commencement of the new regulatory period. AusNet Services will publish an annual Customer Interaction Report to track the progress of these initiatives and present customer satisfaction results, with the first report due in mid-2020.

Benefits within the AER

AER staff observed various benefits that had already been seen within its organisation, including:

- The VCR study team found it helpful understanding the Customer Forum's deep thinking in this space (like peer review).
- Some Customer Forum feedback has helped to confirm anecdotes the AER staff was also hearing on pricing matters (e.g. customers changing their time of use energy consumption behaviour when they are not on time of use tariffs, by mistakenly thinking they were).

- Customer Forum feedback and research outcomes have tested AER staff thinking, which impacts things like the AER staff's thoughts on the engagement guideline and the review of the customer challenge panel.

7.1.2 Better incorporating consumer preferences in the revenue determination process

Ideally, there would be clear links between the Engagement Report and AusNet Services' Regulatory Proposal. We explored whether these links were adequate and whether they could be improved.

The Customer Forum was satisfied that there were sufficient links between the two reports. AusNet Services' Regulatory Proposal Summary was amended at the Customer Forum's request to strengthen the Customer Forum references and distinguish what customer consultation and research the Customer Forum had independently initiated. The Customer Forum also cross-checked the figures quoted in its Final Engagement Report with those reported by AusNet Services.

The Customer Forum was, however, cautious about being too involved with the development of AusNet Services' Regulatory Proposal, as it did not want to be seen as diminishing its independence. It also noted that AusNet Services' proposal is made up of numerous large documents and to read multiple versions would have taken significant time. To link the reports more closely would have also added pressure to both parties and may have compromised its ability to efficiently finalise negotiations and finalise its own report.

AusNet Services observed that there are clear links, stating:

Both AusNet Services' proposal and the Engagement Report comprehensively document the process, negotiations and agreements reached.

7.2 MATTERS FOR ASSESSMENT AFTER FUTURE STAGES OF THE TRIAL

We asked participants what elements of the trial and realisation of the New Reg vision remain to be tested in later stages of the trial. This section explores these. It also discusses participants' initial views on how the rules and their interpretation affected negotiations, noting that whether these factors ultimately affect the trial outcomes remains to be seen once the AER's decisions are made.

7.2.1 Matters to be assessed following decision stages

An overriding point made by participants that was it was not possible to fully evaluate the success of the trial until after the AER's final decision is made. Accordingly, stages 4 and 5 of the New Reg trial monitoring and evaluation plan coincide with the AER's draft and final decision respectively.

AusNet Services identified that the following remain to be tested at the AER's review stages:

- *Whether the volume of questions/ level of assessment by the AER on the areas agreed with the customer forum will be significantly reduced*
- *Whether the AER will endorse all areas of the proposal agreed with the form, or only endorse some of these, and its reason for rejecting any agreed parts*
- *Whether the AER will adapt previous practice to incorporate forum agreement – i.e. on innovation, price path*
- *How the AER will deal with any dissenting views from customer advocates*

The Customer Forum identified in the interview that there could be a loss of faith in terms of process if it doesn't have carriage of agreed positions through the AER review process (risk of people saying, 'well nothing is different'). 'We gave the AER some feedback, and we think it is important that they also take that on board.'

The forum also noted that to consolidate confidence, there needs to be a clear statement of the link between the process and the AER's decisions. This requires a tangible link in the decision *and* promoting and marketing this link. This will involve capturing the key elements of what made it work in the AER's view.

7.2.2 Implications of the National Electricity Rules and their interpretation

We asked AusNet Services and the Customer Forum whether they faced any constraints that impeded the desired scope, approach to and outcomes of the negotiation from either the NER or the AER's guidelines and approach to giving effect to these rules.

We likewise asked whether they think there are changes that could be made to the NER to facilitate a stronger outcome or make the New Reg Process more effective.

The following areas were identified: Long term and short interest of customers; the AER's approach to innovation; approach to the price path; and a proposal for a comprehensive review of the NER to better accommodate the New Reg Process.

Long term and short interest of customers

The National Electricity Objective (**NEO**) in the National Electricity Law (**NEL**) requires that regulatory decisions must be made in the long term interest of customers.²⁶

The purpose of the Customer Forum as stated in the MOU is to

*represent the perspectives and preferences of AusNet customers in negotiations with AusNet regarding certain matters in the Regulatory Proposal with a view to as far as possible reaching an agreed position on those matters that in the opinion of the Customer Forum will or is likely to contribute to the achievement of the NEO.*²⁷

But one of the objectives of the Customer Forum is also to, within, the Scope of Negotiation:

*understand and represent to AusNet Services the perspectives and preferences of AusNet Customers.*²⁸

The Customer Forum stated that it found itself at times pushing up against the long-term NEO focus given the MOU objective to understand and represent to AusNet Services the perspectives and preferences in the 2021-25 period.

It said that recognised early on that the NEO's focus on long term customer benefit created a problem when seeking the views of customers, as customers almost always expressed short-term views around price, reliability and planned outage management. Customers had the ability to offer longer-term views

²⁶ The NEO as stated in section 7 of the NEL is: 'to promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to:

- price, quality, safety and reliability and security of supply of electricity
- the reliability, safety and security of the national electricity system.'

²⁷ Clause 2.2 MOU

²⁸ i Clause 2.43 MOU

around matters like bushfire mitigation, but they also have strong views around their short-term needs and expectations.

A specific example of how this played out is discussed in Box 4. This example indicates that a focus on short term consumer outcomes by the Customer Forum appeared to lead to a greater level of inquiry into an expenditure decision that improved short term outcomes, while being consistent with appropriate long-term outcomes.

Box 4 Timing of a new transformer at the Doreen zone substation

An issue that arose in the augex negotiation was around the timing of a new transformer at the Doreen zone substation. The Customer Forum saw its role, based on customer expectations, as being to identify an outcome in which the new transformer could be delayed beyond 2025 while still maintaining an acceptable reliability for local customers. AusNet Services struggled with this approach and was initially resistant to it. The Customer Forum reconciled this difference by explaining that it accepted the need for a third transformer and was fully supportive of it being installed soon after 2025, and were even prepared to express this view in the report if it gave AusNet Services some comfort. In the end AusNet Services agreed that a short delay could be justified.

Considering this experience, there was discussion of the respective roles of the AER and the Customer Forum. The Customer Forum noted that it understood that the AER had a specific role to promote the long-term focus of the NEO and that the Customer Forum's input, which tended to reflect the short term focus of its customers, was an input into the final decisions.

There was no suggestion of any need to amend the NEO.

The AER's approach to innovation

AusNet Services identified its main example of a constraint as the AER's approach to innovation expenditure:

The AER indicated that under the NER, they were unable to approve a funding bucket for innovation, but needed to assess and approve individual projects. This impacted the negotiation with the forum as we focussed on the detail of specific innovation projects, whereas the Forum had previously been comfortable with an innovation allowance, with projects to be determined via a customer-centric governance mechanism.

The AER's view is that the Rules did not allow AusNet Services to agree an innovation allowance with the Customer Forum (and that AusNet Services could only agree capex or opex for defined projects). AusNet Services disagrees with this interpretation and considered that the Rules did allow an innovation allowance to be agreed with the Customer Forum. Regardless of the interpretation of the existing Rules, the idea of the innovation allowance was supported by customers and the Customer Forum (with appropriate governance and sharing of learnings across the industry). If an agreement such as this can be shown to be supported by customers and is in customers' long-term interests, then there should be scope for the Rules to allow for the agreement to be upheld.

The Customer Forum observed similar frustration:

The innovation negotiation was made more difficult, we felt, because of its novelty. The starting position appeared to be a distributor believing it had a convincing case for an innovation allowance and a regulator that appeared to severely doubt this. At times we felt as if we were mediating the acceptance of an allowance claim and undertaking remedial instruction to AusNet Services about the best way to shape a claim beyond the point we accepted it had merit. The AER staff remained dubious about the ability of any distributor to present a credible argument for an innovation allowance and this made our task of concluding the negotiation harder.

Approach to price path

The Customer Forum observed that the price path element of its scope and its ability to act upon customer feedback was also impeded by rule interpretation.

We felt that for some time at least there was questionable value in the inclusion of Price Path [in our scope] because the AER staff's position seemed for some months to be that rules prevented it from allowing too big a price decrease in the first year. While we appreciate that the process for setting prices has rules it struck us as unproductive to be encouraging us, on behalf of customers, to be looking at an outcome that would, at least in the period under review, fall short of their expectations (i.e. the bigger the price decrease in first year the better).

On this same matter AusNet Services observed:

A similar constraint [to innovation] applied when agreeing the preferred price path with the Customer Forum. The Customer Forum based on their understanding of customer concerns about affordability are adamant that they want to deliver the greatest possible price cut at the start of the regulatory period. The AER staff are concerned about a potential breach of the following aspect of the NER:

The NER requires that the 'smoothed' profile of the revenue path over the regulatory period—i.e., the change in revenue from one year to the next—must be set to minimise, as far as reasonably possible, the difference between the expected revenue for the final year of the regulatory period, and the annual revenue requirement for that final year.²⁹

The AER staff note that they apply the rules by “ensuring that the difference between the expected revenue and the annual revenue requirement in the final year is no greater than +/- 3%”. This is a guideline for applying the Rules.

Again, there should be scope for the AER to accept agreements supported by customers and that are aligned with the long term interests of customers.

Comprehensive review of the NER

AusNet Services observed:

More broadly, there is a need for a comprehensive review of the NER to identify the changes needed to better accommodate a NewReg model. Regardless of whether NewReg is adopted, it is clear there is a need to rebalance the regulatory price review process to

²⁹ From AER Guidance Note 6 here:

<https://www.aer.gov.au/system/files/AER%20-%20AusNet%20Trial%20Staff%20Guidance%20Note%206%20-%20Revenue%20Path%20Profile%20-%20August.pdf>

allow more time up front for customer engagement to agree the proposal and less time for AER review. It will also be crucial for the Rules to allow for acceptance of agreements aligned to the long term interests of customers and for streamlining of the AER's assessment processes on these.

Appendix A Customer and representative survey results

Do you feel the Customer Forum understood your expectations, preferences and concerns?	Do you feel the Customer Forum applied this to their negotiations with AusNet Services?	Do you feel the Customer Forum was independent (of AusNet Services) in its engagement and representation?	Do you feel the Customer Forum has the skills and expertise to act as a credible counterparty to AusNet Services?	Do you feel the Customer Forum adequately represented the perspective of, and acted on behalf of all consumer voices, having regard to the long term interests of current and future consumers?	Do you feel the Customer Forum operated in an open and engaging way to establish and maintain its legitimacy with consumers and the wider community?	Type of stakeholder
Yes	Unsure	Yes	Yes	Yes	Yes	Local Govt
Yes	Yes	Yes	Yes But, the replicability of this process would depend on the next forum being equally as skilled/ knowledgeable	Yes ... but they can't represent all segments	Yes	Local Govt
Yes	Yes	Yes	Yes	Yes	Yes	Community group
Yes The forum and selection of the members of the forum provided to only mechanism to engage with AusNet regarding issues they previously ignored. However the forum should be advertised more widely. It was luck that we met the forum	Yes AusNet have since engaged a customer relationship person, however it is only one resource in a very large company with many customers.	Yes	Yes It is critical to get this right. Tony Robinson as Chairman did an excellent job.	Yes	Yes However the forum was not well known and we, a major customer and employer in Regional Victoria would not have had a voice. We became one of the case studies.	Consumer

Do you feel the Customer Forum understood your expectations, preferences and concerns?	Do you feel the Customer Forum applied this to their negotiations with AusNet Services?	Do you feel the Customer Forum was independent (of AusNet Services) in its engagement and representation?	Do you feel the Customer Forum has the skills and expertise to act as a credible counterparty to AusNet Services?	Do you feel the Customer Forum adequately represented the perspective of, and acted on behalf of all consumer voices, having regard to the long term interests of current and future consumers?	Do you feel the Customer Forum operated in an open and engaging way to establish and maintain its legitimacy with consumers and the wider community?	Type of stakeholder
Yes	Yes I received some calls and updates thru the process which was really appreciated	Yes	Yes As a domestic customer reading some of these reports, the technical / pricing issues and negotiations appear mind-boggling. I would hope they had access to the specialist type of assistance for this.	Yes	Yes Absolutely. They continued follow up and I never doubted their commitment to the role of representing customer perspectives, experiences and expectations.	Consumer
Yes	Yes	Yes	Yes	Yes	Yes	Long Term Large Electrical Contracting Company Gippsland
Yes The Customer Forum engaged well with the issues and probed as required to understand the underlying issues	Yes The was an evident emphasis on complaints and improved operational focus on the end customer in the proposal	Yes	<i>Not answered</i>	Yes	Yes	Ombudsman scheme
Yes	Yes	Yes	Yes	Yes	Yes	Advocate

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<p>Yes The CF had a restricted scope which was pointed out to them, and as a result, it was agreed between AusNet and CF that the scope, particularly for capital projects would be increased. I think there is a real issue about whether the CF scope was appropriate and whether in fact that having a new set of eyes on some of the other topics like repex and replacement programs, as well as augmentation programs should have been included.</p>	<p>Yes The CF understood the scope limitations and sought to increase it with AusNet's agreement.</p>	<p>Yes Yes, I believe I saw independence of the CF when I was present during deep dive sessions. The reports are clearly written as an independent body, and the fact that AusNet acquiesced to so many items put forward by the CF shows that this was a more balanced negotiation of positions than we typically see when consumer advocates are involved.</p>	<p>Yes I think the skills of the CF were appropriate. The fact that none were experts in electricity was good as it brought some new thinking to the table. Given the importance of customer research, it was great that someone on the panel had experience in customer engagement and research. All the matters put forward to the CF are complex and their ability to engage, understand and make recommendations on these issues demonstrates that the scope could have been wider still.</p>	<p>Yes The CF brought the voice of the customer to the negotiating table - specific customers, specific research.</p>	<p>Yes I was impressed by the skills of the people on the CF and by their ability to maintain collegiate feeling in the room whilst being able to maintain their independence.</p>	<p>Advocate</p>

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No The CF made little attempt to identify my expectations, preferences and concerns	No As they did not know what my expectations preferences and concerns were they were unable to apply them to their negotiations	No While the CF was comprised of people independent of Ausnet staff, its composition was influenced by Ausnet. As the people comprising the CF had a modest (at best) understanding of the way a network operates, the CF had to access most of its knowledge about the network and its operations from Ausnet, so its knowledge base was not independent.	No The CF composition did not ensure that it had the requisite skills and knowledge to credibly interrogate the AusNet staff about its network and its operations	No Having said they did not have the skill base to credibly interrogate the information provided by AusNet, they did try to be a voice for consumers	No The CF did try to be open and engaging with consumers but its composition did not allow it to establish and maintain its legitimacy with the wider community	Advocate

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<p>Unsure The preferred answer is yes and no.</p> <p>We met with the Consumer Forum twice in 2018 and then participated in a number of very well run deep dives in April/May 2019 where the CF were present. We made a submission on the Interim Engagement Report in April 2019 but the Forum did not seek to discuss that submission with us. Page 56 of the Final engagement Report says "The Customer Forum would have benefited from greater feedback from customer advocates. The message that 'prices are too high' was clearly received, but only limited feedback was received on how AusNet Services could reduce prices".</p> <p>We agree with the benefits of greater feedback from customer advocates and would have welcomed the opportunity to provide that feedback in detail. Feedback from our members who are AusNet's customers was that the CF had more of a focus on residential and small business customers than larger customers. However the achievements outlined in the Final Engagement Report will be very welcome by our members.</p>	<p>Unsure Preferred answer is yes and no.</p> <p>The Final Engagement Report is a very well written, high quality report. It reflects many of the points we made at a high level to them at the two meetings in 2018 and in the deep dives. However we would have appreciated more engagement along the way as they negotiated the various parts of their scope so that more detailed feedback on our members expectations, preferences and concerns could have been provided.</p>	<p>Yes The approach of the Forum e.g. in the way it was able to undertake consumer engagement, its approach to challenging the AusNet approach across a whole range of issues and reach the outcome it did in a range of areas e.g. the 1% opex productivity, indicated that it was very independent in its engagement and representation.</p>	<p>Yes Our impression from the meetings in 2018 was that the CF had a range of excellent skills in consumer engagement, but seemed to have limited skills in the more technical and commercial issues around networks that were required for effective consumer representation in negotiations characterised by information asymmetry. The deep dives indicated some improved understanding. The evidence provided by the Final Engagement Report indicates that the CF did acquire a good level of skills in these areas over the course of their work.</p>	<p>Unsure Again the preferred answer is yes and no. Also I differentiate between process and content here.</p> <p>Content: As I read the Final Engagement Report, the CF has had significant achievements esp. in laying the ground work for a major improvements in AusNet's customer engagement. On the proposed expenditure, within the limited scope given to the CF, there have been important changes that have contributed to the price falls in the next reg period.</p> <p>Process: As noted in responses to earlier questions, we would have preferred being more engaged with the CF along its journey to provide our members' perspectives as medium/large customers. This would have provided more comfort that the CF was incorporating our members' views.</p>	<p>Unsure Again the preferred answer is yes and no.</p> <p>As I read the Final Engagement Report I see lots of evidence of high quality engagement. As noted above we would have appreciated more engagement to ensure the CF was representing the views of larger customers.</p> <p>It is interesting to see the questions that are not asked in this survey. While these answers are generally complimentary of the CF process, we look forward to the survey asking if the cost (AusNet Services advised an ECA forum last year that its costs were ~\$1m - then there are AER/ENA/ECA costs) has been worth it and whether other engagement approaches used by networks which have a much lower costs are just as good.</p> <p>The CF Final Report noted (p.56) that ""The Customer Forum is concerned that community and welfare advocates have limited ability to engage with the EDPR process due to lack of resources."" Large resources have been put into this trial and it should be evaluated against other models where that level of funding would be spread more widely to those advocates to facilitate the increased engagement the CF sought.</p>	<p>Advocate</p>