



DRAFT DECISION
ElectraNet transmission
determination
2018 to 2023

Attachment 14 – Negotiated
services

October 2017

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Note

This attachment forms part of the AER's draft decision on ElectraNet's transmission determination for 2018–23. It should be read with all other parts of the draft decision.

The draft decision includes the following documents:

Overview

Attachment 1 – Maximum allowed revenue

Attachment 2 – Regulatory asset base

Attachment 3 – Rate of return

Attachment 4 – Value of imputation credits

Attachment 5 – Regulatory depreciation

Attachment 6 – Capital expenditure

Attachment 7 – Operating expenditure

Attachment 8 – Corporate income tax

Attachment 9 – Efficiency benefit sharing scheme

Attachment 10 – Capital expenditure sharing scheme

Attachment 11 – Service target performance incentive scheme

Attachment 12 – Pricing methodology

Attachment 13 – Pass through events

Attachment 14 – Negotiated services

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Shortened forms

Shortened form	Extended form
AARR	aggregate annual revenue requirement
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
ASRR	annual service revenue requirement
augex	augmentation expenditure
capex	capital expenditure
CCP	Consumer Challenge Panel
CESS	capital expenditure sharing scheme
CPI	consumer price index
DMIA	demand management innovation allowance
DRP	debt risk premium
EBSS	efficiency benefit sharing scheme
ERP	equity risk premium
MAR	maximum allowed revenue
MRP	market risk premium
NEL	national electricity law
NEM	national electricity market
NEO	national electricity objective
NER	national electricity rules
NSP	network service provider
NTSC	negotiated transmission service criteria
opex	operating expenditure
PPI	partial performance indicators
PTRM	post-tax revenue model
RAB	regulatory asset base
RBA	Reserve Bank of Australia
repex	replacement expenditure
RFM	roll forward model
RIN	regulatory information notice

Shortened form	Extended form
RPP	revenue and pricing principles
SLCAPM	Sharpe-Lintner capital asset pricing model
STPIS	service target performance incentive scheme
TNSP	transmission network service provider
TUoS	transmission use of system
WACC	weighted average cost of capital

14 Negotiated services

This attachment sets out our draft determination on ElectraNet's negotiating framework for the 2018–23 regulatory control period.¹ We also specify the negotiated transmission service criteria (NTSC) that are to apply to ElectraNet.²

In contrast to our regulation of prescribed transmission services, the provision of negotiated transmission services is less directly regulated by the AER. Instead, under the National Electricity Rules (NER), negotiated transmission services are subject to negotiation between parties or, alternatively, arbitration and dispute resolution by a commercial arbitrator.

For the purpose of facilitating such negotiation and arbitration, a transmission business must prepare, for our approval, a negotiating framework which sets out procedures for negotiating the terms and conditions of access to a negotiated transmission service.³

In addition, we specify for each transmission business the NTSC that it must apply in negotiating terms and conditions of access, including the prices and access charges for negotiated transmission services.⁴ The NTSC are to be applied by a commercial arbitrator in resolving disputes about such terms and conditions and/or access charges.⁵ The NTSC for ElectraNet are identical to the criteria we developed and applied for other transmission businesses.

14.1 Draft decision

We approve ElectraNet's proposed negotiating framework.⁶ We will also apply to ElectraNet the NTSC we published in April 2017.⁷

14.2 ElectraNet's proposal

ElectraNet submitted its proposed negotiating framework for 2018–23 on 28 March 2017. ElectraNet stated that:⁸

- it is not proposing any material changes to its existing negotiating framework, which we approved in our final decision for the current regulatory period

¹ NER, cl. 6A.2.2(2); 6A.14.1(6).

² NER, cl. 6A.2.2(3); 6A.14.1(7).

³ NER, cl. 6A.9.5(a).

⁴ NER, cl. 6A.9.4(a)(1).

⁵ NER, cl. 6A.9.4(a)(2).

⁶ ElectraNet, *Proposed Negotiating Framework for Provision of Negotiated Transmission Services 1 July 2018 – 30 June 2023*, March 2017.

⁷ AER, *Negotiated transmission service criteria for ElectraNet - Regulatory control period 2018-2023 – Call for submissions*, April 2017.

⁸ ElectraNet, *Proposed Negotiating Framework for Provision of Negotiated Transmission Services 1 July 2018 – 30 June 2023*, March 2017.

- its proposed framework complies with the requirements of the NER.

14.3 Assessment approach

In reaching our draft decision, we considered whether:

- ElectraNet’s proposed negotiating framework specified the minimum requirements in clause 6A.9.5(c) of the NER⁹
- the NTSC reflect the negotiated transmission service principles in clause 6A.9.1 of the NER.¹⁰

14.4 Reasons for draft decision

We approve ElectraNet’s proposed negotiating framework because it specifies and meets the minimum NER requirements.¹¹ These include, among other things, a requirement for ElectraNet (and the service applicant) to negotiate in good faith, and that all disputes between the parties will be dealt with in accordance with the NER.¹²

Table 14.1 summarises our assessment of ElectraNet’s proposed negotiating framework. It shows that each of the requirements under the NER for a negotiating framework is satisfactorily addressed.

Table 14.1 AER's assessment of ElectraNet’s proposed negotiating framework¹³

NER requirements	AER assessment
Requirement for ElectraNet and the applicant for a negotiated transmission service to negotiate in good faith—clause 6A.9.5(c)(1)	Section 3 of ElectraNet’s proposed negotiating framework complies with this requirement.
Requirement for ElectraNet to provide all such commercial information reasonably required to enable the applicant of a negotiated transmission service to engage in effective negotiations—clause 6A.9.5(c)(2)	Sections 9 and 11 of ElectraNet’s proposed negotiating framework comply with this requirement.
Requirement for ElectraNet to identify and inform the negotiated transmission service applicant of the reasonable costs of providing the negotiated service, and to demonstrate that charges reflect costs—clause 6A.9.5(c)(3)	Section 9 of ElectraNet’s proposed negotiating framework complies with this requirement.
Requirement for a negotiated transmission service applicant to provide all such commercial information reasonably required to enable ElectraNet to engage in	Sections 5 to 8 of ElectraNet’s proposed negotiating framework comply with this requirement.

⁹ NER, cl. 6A.9.5(b)(2); 6A.14.3(f).

¹⁰ NER, cl. 6A.9.4(b).

¹¹ NER, cl. 6A.9.5(c).

¹² NER, Part K Commercial arbitration for disputes about terms and conditions of access for prescribed and negotiated transmission services, cl 6A.30 to 6A.30.8.

¹³ ElectraNet, *Proposed Negotiating Framework for Provision of Negotiated Transmission Services 1 July 2018 – 30 June 2023*, March 2017.

NER requirements	AER assessment
effective negotiation—clause 6A.9.5(c)(4)	
Requirement to specify a reasonable period of time for commencing, progressing and finalising negotiations; and a requirement for each party to use their reasonable endeavours to adhere to those time periods during the negotiation—clause 6A.9.5(c)(5)	Section 4 of ElectraNet’s proposed negotiating framework complies with this requirement.
Requirement to specify a process for disputes to be dealt with in accordance with the relevant provisions for dispute resolution —clause 6A.9.5(c)(6)	Section 15 of ElectraNet’s proposed negotiating framework complies with this requirement.
Requirement to specify arrangements for the payment of ElectraNet’s reasonable direct expenses incurred in processing the application to provide the negotiated transmission service—clause 6A.9.5(c)(7)	Section 16 of ElectraNet’s proposed negotiating framework complies with this requirement.
Requirement for ElectraNet to determine the potential impact of the provision of a negotiated transmission service on other network users—clause 6A.9.5(c)(8)	Section 13 of ElectraNet’s proposed negotiating framework complies with this requirement.
Requirement for ElectraNet to notify and consult with any affected network user and ensure the negotiated transmission service does not result in non-compliance with obligations in relation to other network users under the NER—clause 6A.9.5(c)(9)	Section 13 of ElectraNet’s proposed negotiating framework complies with this requirement.

Source: AER analysis

14.5 Negotiated transmission service criteria

Our draft decision NTSC are set out in Appendix A of this attachment.

In April 2017, we published an invitation for submissions on the NTSC that we considered should be applied to ElectraNet in the 2018–23 regulatory control period. The NSTC we published are set out in Appendix A. We did not receive any submission from stakeholders.

We consider the NTSC for ElectraNet that we published are consistent with the negotiated transmission services principles in the NER¹⁴ and with previous criteria we have applied for other TNSPs.

14.5.1 Background

We are required to specify the NTSC to be applied to ElectraNet in the 2018–23 regulatory control period. The NTSC set out the criteria to be applied by ElectraNet in negotiating terms and conditions of access for negotiated transmission services and any access charges. The NTSC also set out the criteria to be applied by a commercial arbitrator in resolving any dispute in relation to those matters.¹⁵ When developing the

¹⁴ NER, clause 6A.9.1

¹⁵ NER, clause 6A.9.4(a)

NTSC, we must specify criteria that give effect to and are consistent with the negotiated transmission service principles in clause 6A.9.1 of the NER.¹⁶

¹⁶ NER, clause 6A.9.4(b)

A Negotiated transmission service criteria

National Electricity Objective

1. The terms and conditions of access for a negotiated transmission service, including the price that is to be charged for the provision of that service and any access charges, should promote the achievement of the National Electricity Objective.

Criteria for terms and conditions of access

Terms and conditions of access

2. The terms and conditions of access for a negotiated transmission service must be fair, reasonable, and consistent with the safe and reliable operation of the power system in accordance with the NER.

3. The terms and conditions of access for negotiated transmission services, particularly any exclusions and limitations of liability and indemnities, must not be unreasonably onerous. Relevant considerations include the allocation of risk between the TNSP and the other party, the price for the negotiated transmission service and the cost to the TNSP of providing the negotiated service.

4. The terms and conditions of access for a negotiated transmission service must take into account the need for the service to be provided in a manner that does not adversely affect the safe and reliable operation of the power system in accordance with the NER.

Price of services

5. The price of a negotiated transmission service must reflect the cost that the TNSP has incurred or incurs in providing that service, and must be determined in accordance with the principles and policies set out in the Cost Allocation Methodology.

6. Subject to criteria 7 and 8, the price for a negotiated transmission service must be at least equal to the avoided cost of providing that service but no more than the cost of providing it on a stand-alone basis.

7. If the negotiated transmission service is a shared transmission service that:

- (a) exceeds any network performance requirements which it is required to meet under any relevant electricity legislation; or
- (b) exceeds the network performance requirements set out in schedules 5.1a and 5.1 of the NER

then the difference between the price for that service and the price for the shared transmission service which meets network performance requirements must reflect the TNSP's incremental cost of providing that service (as appropriate).

8. For shared transmission services, the difference in price between a negotiated transmission service that does not meet or exceed network performance requirements and a service that meets those requirements should reflect the TNSP's avoided costs. Schedules 5.1a and 5.1 of the NER or any relevant electricity legislation must be considered in determining whether any network service performance requirements have not been met or exceeded.

9. The price for a negotiated transmission service must be the same for all Transmission Network Users. The exception is if there is a material difference in the costs of providing the negotiated transmission service to different Transmission Network Users or classes of Transmission Network Users.

10. The price for a negotiated transmission service must be subject to adjustment over time to the extent that the assets used to provide that service are subsequently used to provide services to another person. In such cases, the adjustment must reflect the extent to which the costs of that asset are recovered through charges to that other person.

11. The price for a negotiated transmission service must be such as to enable the TNSP to recover the efficient costs of complying with all regulatory obligations associated with the provision of the negotiated transmission service.

Criteria for access charges

Access charges

12. Any access charges must be based on the costs reasonably incurred by the TNSP in providing Transmission Network User access. This includes the compensation for foregone revenue referred to in clauses 5.4A(h) to (j) of the NER and the costs that are likely to be incurred by a person referred to in clauses 5.4A(h) to (j) of the NER (as appropriate).