

Marinus Link

Decision: Transmission Determination Commencement and Process Paper

June 2023

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Amendment record

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Summary

Marinus Link is a proposed 1500 MW transmission link between Tasmania and Victoria. The project comprises two undersea High Voltage Direct Current cables running across the Bass Strait and converter stations in Tasmania and Victoria. Marinus Link will connect to the existing transmission networks in both states. Upgrades to the Tasmanian transmission network will be required to accommodate the new link.

This decision constitutes:

- publication of the notice of our decision to commence a transmission determination process for Marinus Link pursuant to clause 6A.9.2(f) of the National Electricity Rules (NER), and
- publication of our Commencement and Process Paper for Marinus Link, in which we specify modifications to the normal transmission determination process set out in Chapter 6A of the NER such that it will be divided into two stages for Marinus Link, namely:
 - Stage 1: an early works revenue determination which, at this stage, we anticipate would cover development and tendering work, and a construction cost determination, in which we would determine the cost of constructing the Marinus Link project, and
 - Stage 2: a full revenue determination, which, on the basis of the construction cost determination, we would determine all of the matters we are required to under rule 6A.14 of the NER, including determining an opening Regulatory Asset Base, and incorporate other elements of our building block methodology, such as operating expenditures and a rate of return allowance, to determine revenues and tariffs.

This decision allows Marinus Link to progress the project and submit a regulatory proposal to the AER for early works, allowing for better revealed costs and ongoing engagement with consumers and affected stakeholders. Stage 1 costs will not be recovered from consumers until the Marinus Link Interconnector is commissioned.

1. Background

1.1 About Marinus Link

Marinus Link is a proposed 1500 MW transmission link between Tasmania and Victoria. The project comprises two undersea High Voltage Direct Current cables running across the Bass Strait and converter stations in Tasmania and Victoria. Marinus Link will connect to the existing transmission networks in both states. Upgrades to the Tasmanian transmission network will be required to accommodate the new link.

Marinus Link will be owned and operated by Marinus Link Pty Ltd, a joint venture between the Tasmanian, Victorian and Australian Governments. The cost of the project is estimated at \$3.8 billion and will be partially funded by the Australian Government.

Consumers across the National Electricity Market (NEM) will benefit from Marinus Link. As coal plants are retired and replaced by intermittent wind and solar sources, firming up the supply of electricity generation will be required. Marinus Link will allow Tasmania to export electricity generated by its hydroelectricity plants when renewable electricity supplies in Victoria, and elsewhere in the NEM, are insufficient. Cost benefit assessments will provide an estimate of the net benefits to consumers, that is the benefits from the project less the additional transmission costs.

1.2 Regulation of Marinus Link tariffs

We regulate Transmission Network Service Providers (TNSPs) in the NEM under the regulatory framework set out in Chapter 6A of the National Electricity Rules (NER). The NER require us to publish a transmission determination for each TNSP. A transmission determination comprises a revenue determination and a pricing methodology. In a revenue determination, we must set the maximum allowable revenue a TNSP can recover from consumers during a regulatory control period (typically five years) to cover its efficient costs, and a rate of return to the owner.

To determine the maximum allowable revenue a TNSP may recover, we apply a building block model. The building blocks are:

- indexation of the TNSP's regulatory asset base
- a return on capital
- depreciation costs
- the estimated cost of taxation liabilities
- forecast operating expenditure
- revenue increments or decrements arising from the application from of incentive schemes
- any revenue decrements that may arise from providing services other than prescribed transmission services
- compensation for other risks.

Consumers pay for regulated transmission services through their electricity bills. TNSPs recover most of their costs from distribution network service providers (DNSPs). DNSPs in turn recover their costs from retailers and retail customers. Some large businesses are directly connected to the transmission network, rather than a distribution network. They also contribute to recovery of transmission costs.

It is expected that Marinus Link will receive financial support from the Australian Government. On 19 October 2022, the Tasmanian and Australian Governments signed a letter of intent to support Marinus Link.¹ That included expressing a commitment for:

- access to a concessional loan from Rewiring the Nation, through the Clean Energy Finance Corporation, for approximately 80 per cent of the project costs of Marinus Link
- equity funding for 20 per cent of the project costs, shared equally between the Commonwealth, Victoria and Tasmania
- access for TasNetworks to low-cost debt for the North West Transmission Development, which will link Cressy, Burnie, Sheffield, Staverton and Hampshire in Tasmania.

The transmission determinations we will make for Marinus Link and TasNetworks will factor in this financial support.

1.3 Commencement and Process Paper

In December 2022, the Australian Energy Market Commission (AEMC) implemented a rule change which provided for the AER to make a transmission determination for what is referred to as an “Intending TNSP”.² Marinus Link is an example of an intending TNSP.

On 31 March 2023, Marinus Link lodged an application requesting us to commence, and determine, the process for us to make a transmission determination. In so doing, Marinus Link proposed a three-stage revenue determination process with:

- early works (commencing July 2023)
- construction costs (commencing February 2024)
- final revenues (commencing January 2027).

For the reasons set out in this decision, we have decided to commence the process for making a transmission determination for Marinus Link. This decision also sets out the matters we are required to address in a Commencement and Process Paper that we must publish under the NER.

Section 2 of this paper sets out our reasons why we have decided to commence a transmission determination for Marinus Link. Section 3 of this paper sets out the process we have determined to apply to make a transmission determination for Marinus Link. Section 4 outlines the specific decision required under the NER, including the modifications to the revenue determination process.

¹ <https://www.pm.gov.au/media/rewiring-nation-plugs-marinus-link-and-tasmanian-jobs>

² Establishing Revenue Determinations for Intending TNSPs, AEMC, 22 December 2022

2. Decision to commence transmission determination

2.1 Marinus Link proposal

On 30 June 2022, the Australian Energy Market Operator (AEMO) published the 2022 Integrated System Plan (2022 ISP).³ The 2022 ISP identifies significant new transmission requirements to connect new renewable generation sources as well as firming capacity. One transmission project identified is Marinus Link. The ISP recommends commencing operation of cable one in 2029 and cable two in 2031. To meet AEMO's recommended timeframes, Marinus Link advises that construction must commence in 2025.

Marinus Link plans to make a final investment decision on the project in December 2024 so that it can commence construction in 2025 and meet AEMO's timelines. To inform this investment decision, Marinus Link is seeking to understand the revenues it may recover were it to be regulated by a transmission determination made by us under the NER. To this end, Marinus Link has submitted that we should commence (and determine the process for) determining a transmission determination that would apply to it. In support, Marinus Link submits:

- the Marinus Link project is an 'actionable ISP project'
- the project has been subject to investment analysis and a regulatory investment test for transmission (RIT-T) process
- the Victorian, Tasmanian and Commonwealth government have provided support for the project
- Marinus Link has been registered as an Intending TNSP by AEMO.

2.2 Rule requirements

Rule 6A.9 of the NER provides for an 'Intending TNSP' to request us commence the process for making a transmission determination for a proposed prescribed transmission service, and to determine the process to apply for making that transmission determination.⁴

An 'Intending TNSP' is defined as:⁵

...

- (a) an *Intending Participant* who intends to provide *prescribed transmission services* by means of its *proposed transmission system*; or
- (b) a *Market Network Service Provider* who intends to provide *prescribed transmission services* by means of its converting transmission system,

and ... includes that person once registered as a *Network Service Provider* for the provision of *prescribed transmission services* by means of its *transmission system*.

A 'proposed prescribed transmission service' is defined as:⁶

...

prescribed transmission services to be provided by means of:

- (a) a proposed *transmission system*; or

³

⁴ NER, cl 6A.9.2.

⁵ NER, cl 6A.9.1(b).

⁶ NER, cl 6A.9.1(b).

- (b) a converting transmission system.

Further, an 'Intending Participant' is defined as '[a] person who is registered by [the Australian Energy Market Operator] as an Intending Participant under Chapter 2 [of the NER]'.⁷

If an Intending TNSP then requests us to commence the process for making a transmission determination for a proposed prescribed transmission service, the NER affords us broad discretion in determining that request. Relevantly, clause 6A.9.2(e) of the NER provides:

In determining whether to commence the process for making a *transmission determination* requested by an Intending TNSP under [clause 6A.9.2(a)] the AER may have regard to any matters it considers appropriate, including:

- (1) whether the Intending TNSP intends to deliver an *actionable ISP project* or a project that is not an *actionable ISP project* but has been subject to the *regulatory investment test for transmission*;
- (2) the likelihood of the Intending TNSP delivering that project; and
- (3) in the case of a converting transmission system, the Intending TNSP's application to the AER to determine the service to be a *prescribed transmission service*.

An 'actionable ISP project' is defined as:⁸

A project:

- (a) that relates to a *transmission asset* or *non-network option* the purpose of which is to address an *identified need* specified in an *Integrated System Plan* and which forms part of an *optimal development path*; and
- (b) for which a *project assessment draft report* is required to be published in the *Integrated System Plan* that identifies that project.

Finally, we must determine whether to commence the process for making a transmission determination in a manner that will or is likely to contribute to the achievement of the national electricity objective, and if we consider appropriate, take into account the revenue and pricing principles.⁹

2.3 Discussion

We have decided to commence the process for making a transmission determination for Marinus Link. Our reasons for this are set out below.

Firstly, the company delivering the Marinus Link project, Marinus Link Pty Ltd, is an Intending TNSP. Marinus Link has been registered by AEMO as an Intending Participant,¹⁰ and the Marinus Link project is a proposed prescribed transmission service which is also an actionable ISP project. We are satisfied that Marinus Link, as an Intending TNSP, intends to deliver an actionable ISP project, which is one of the matters we may have regard in clause 6A.9.2(e)(1) of the NER. We also recognise that the Marinus Link project was subject to the RIT-T between 2018 and 2021, which has concluded that it will provide net economic benefits to consumers. This is consistent with AEMO's assessment in the ISP.

⁷ NER, ch 10.

⁸ NER, ch 10.

⁹ NEL, ss 16(1)(a) and 16(2)(b).

¹⁰ NER, Ch 10; https://aemo.com.au/-/media/files/electricity/nem/participant_information/nem-registration-and-exemption-list.xlsx?la=en

Secondly, in relation to the matter which we may have regard to in clause 6A.9.2(e)(2) of the NER, we consider that it is likely that Marinus Link Pty Ltd will deliver the Marinus Link project. This is for the following reasons:

- the Victorian, Tasmanian and Australian governments have all expressed support for the Marinus Link project, including providing financial support with equity funding of 20 per cent of the project's costs and concessional loans and otherwise undertaken considerable work in developing the project
- Marinus Link will help support the transition to renewable generation by providing additional firming capacity consistent with the ISP
- the planning and cost-benefit assessments undertaken by AEMO and Marinus Link suggest the project will provide net benefits to consumers.

3 Transmission determination process

3.1 Marinus Link proposal

The process for a transmission determination under Chapter 6A of the NER generally runs for 15 months. This process allows for stakeholders to provide submissions in response to an issues paper at the start of the process, and subsequently, a draft decision.

Marinus Link has proposed that a modified process should apply. This would involve three revenue decisions and three consultation processes, over two stages, as follows:

- Stage 1:
 - an early works revenue determination, which would cover development and tendering work
 - a construction cost determination, in which we would determine the cost of constructing the Marinus Link project, and
- Stage 2: a full revenue determination, which, on the basis of the construction cost determination, we would determine all of the matters we are required to under rule 6A.14 of the NER, including determining an opening Regulatory Asset Base, and incorporate other elements of our building block methodology, such as operating expenditures and a rate of return allowance, to determine revenues and tariffs.

Stage 1 is a pre-commissioning stage where prescribed transmission services are not provided, and revenues are not recovered from customers. Costs in Stage 1 are to be rolled into the regulatory asset base, to be determined in Stage 2. Stage 2 sets revenues and tariffs that apply once Marinus Link has been commissioned. The full revenue determination is part of this stage.

Marinus Link proposes a 5-month timeframe for the early works revenue determination process, commencing on 31 July 2023. For the construction cost determination, Marinus Link proposes a 9-month process, with lodgement of a proposal in February 2024 (after Marinus Link has run a tendering process) and for the AER to make a determination in November 2024. Finally, Marinus Link proposes a full revenue determination in 2028 that would follow the usual 15-month process.

3.2 Rule requirements

As we have decided to commence a transmission determination process for Marinus Link, we now must also publish a Commencement and Process Paper. The matters we must include in a commencement and process paper are specified in clause 6A.9.3 of the NER. These matters include:

- the commencement date for Marinus Link's transmission determination
- the date by when Marinus Link must submit its revenue proposal and proposed pricing methodology
- the modifications to the process we may determine in making Marinus Link's transmission determination
- whether the process for a transmission determination is to be completed in more than one stage, and if so, what matters are to be determined in each stage.

3.3 Discussion

The process and timeframes for making a transmission determination are set out in Chapter 6A of the NER.¹¹ This is a 15-month process between receiving a revenue proposal and making a final

¹¹ NER, ch 6A, part E.

decision for a transmission determination. This involves us publishing a framework and approach paper, an issues paper and a draft decision, all of which are subject to consultation. The framework and approach paper process must commence 32 months before the final decision.

However, for Intending TNSPs, we may modify the process for making a transmission determination under Chapter 6A for the proposed prescribed transmission services.

Without limitation, the modifications that we may make to the process for making transmission determinations under Chapter 6A may change the timetable or process for making draft decisions or final decisions. This may include shortening consultation periods if we are reasonably satisfied that:

- in the circumstances, the timetable or process would otherwise place a disproportionate administrative burden on the AER or the Intending TNSP; and
- there will be no material adverse impact on other stakeholders or the decision-making framework in Part E [of Chapter 6A of the NER].¹²

If we decide to modify the process for making a transmission determination, which may involve modifying the timeframes that are otherwise prescribed in Part E, we must specify the modified process in the Commencement and Process Paper.

Given the three determinations proposed, full 15-month processes would not provide decisions in time for a final investment decision in December 2024, commencement of construction in 2025 or AEMO's 2029 commissioning target for cable 1. In addition, full 15-month processes would place a disproportionate administrative burden on us and Marinus Link, given the relatively limited number of issues addressed by both the early works and construction cost proposals. We have therefore decided to set shorter timeframes for the early works and construction cost determination processes. The third revenue determination (the full revenue determination) will follow the usual 15-month process.

Marinus Link have proposed a five-month process for early works with consultation at the proposal stage and no draft decision. As early works costs are limited and the issues are reasonably straightforward given the expenditure is primarily for developing the project and market testing it, we consider that a one stage consultation process is fit for purpose and will not disadvantage stakeholders. Further we consider that the five-month timeline proposed is sufficient for us to conduct a one stage consultation process and fully assess the issues.

For the construction cost determination, Marinus Link proposes a nine-month determination process with consultation on an issues paper and a draft decision. This provides stakeholders with the same opportunities to provide submissions as our normal 15-month processes. Hence stakeholders will not be disadvantaged by the shorter process.

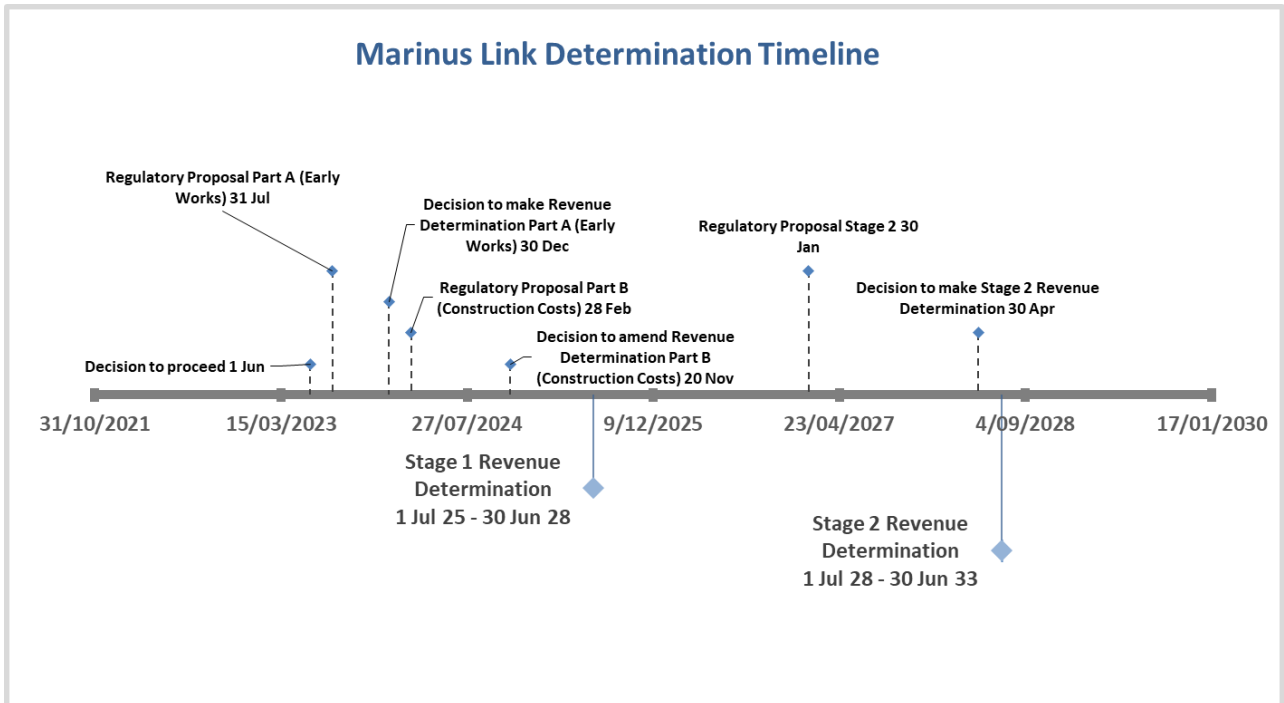
Marinus Link's proposed scope for early works includes significant engagement with consumers and affected stakeholders, design and specification work, procurement activities and financial and revenue forecasting. This work will result in better revealed costs and consumer engagement that will inform our position in our future determinations and support the final investment decision.

A separate issue is whether we have the capacity to fully address the proposal in the shorter time-period proposed. The issues are more limited than a normal revenue determination process as the focus is on construction costs only. Other elements, such as operating expenditures, depreciation, asset lives, tax and pricing methodologies, will be assessed separately as part of the final revenue determination. We consider that nine-months is sufficient given the limited number of issues being addressed.

Our decision is to adopt the timelines and process proposed by Marinus Link. The timelines are set out in Figure 1.

¹² NER, cl 6A.9.3(d)(2).

Figure 1: Marinus Link determination timeline



4 Decision

Our determination on the commencement of a transmission determination process for Marinus Link, and the matters we are required to set out in a Commencement and Process Paper, are set out below.

Matter	Decision
Commencement of a transmission determination process for Marinus Link	Yes.
Commencement date for Marinus Link's transmission determination	1 July 2025 to 30 June 2028
Date by when Marinus Link must submit its revenue proposal and proposed pricing methodology	Stage 1, Part A (Early works) – 31 July 2023 Stage 1, Part B (Construction costs) – 28 February 2024 Stage 2 (including Pricing Methodology) – 30 January 2027
Whether the process for a transmission determination is to be completed in more than one stage, and if so, what matters are to be determined in each stage.	Yes, in two stages: <ul style="list-style-type: none"> • Stage 1: <ul style="list-style-type: none"> ▪ an early works revenue determination, which we understand would cover development and tendering work ▪ a construction cost determination, in which we would determine the cost of constructing the Marinus Link project, and • Stage 2: a full revenue determination, which, on the basis of the construction cost determination, we would determine all of the matters we are required to under rule 6A.14 of the NER, including determining an opening Regulatory Asset Base, and incorporate other elements of our building block methodology, such as operating expenditures and a rate of return allowance, to determine revenues and tariffs. Attachment A sets out which matters under rule 6A.14 of the NER the AER will determine in each stage.
The modifications to the process we may determine in making Marinus Link's transmission determination	Modifications for Stage 1: <ul style="list-style-type: none"> • We omit <ul style="list-style-type: none"> ▪ the expenditure forecasting and pricing methodologies, ▪ the framework and approach paper (though relevant matters will be addressed in the Issues Paper) ▪ the overview paper • Information obligations of Marinus Link for the Part A and Part B regulatory proposals are modified as follows: <ul style="list-style-type: none"> ▪ Information relating to revenue setting, forecasting and pricing where these matters are not relevant to Marinus Link's expected circumstances during Stage 1; ▪ Information relating to the regulatory asset base, other than information required to determine the capitalisation of return of capital

-
- In relation to incentive mechanisms other than information required to determine the possible application of the capital expenditure sharing scheme (CESS)

- Early works determination: five-month process with one consultation step, commencing on 31 July 2023.
- Construction costs determination: nine-month process with two consultation steps (following an issues paper and a draft decision), commencing on 28 February 2024.

Modifications for Stage 2:

- There are no modifications applying to Stage 2. A full revenue determination is required using the standard 15-month process under Chapter 6A of the NER, commencing in January 2027.

The methodology to determine how the return on capital, earned in regulatory years prior to the provision of prescribed transmission services, is to be capitalised into the RAB for a proposed transmission system.

The AER will review Marinus Link's regulatory proposal for Stage 1, Part A (Early Works) and determine the methodology in our initial revenue determination.

Attachment A – Table of decisions to be made under rule 6A.14 of the NER by Stage/Part

Clause 6A.14.1 - Content of decisions	Stage 1 Part A	Stage 1 Part B	Stage 2
(1) on the Transmission Network Service Provider's current Revenue Proposal in which the AER either approves or refuses to approve			
(i) the total revenue cap for the provider for the regulatory control period;	Not Included	Not Included	Included
(ii) the maximum allowed revenue for the provider for each regulatory year of the regulatory control period;	Not Included	Not Included	Included
(iii) the values that are to be attributed to the performance incentive scheme parameters for any service target performance incentive scheme that is to apply to the provider in respect of the regulatory control period;	Not Included	Not Included	Included
(iv) the values that are to be attributed to the efficiency benefit sharing scheme parameters for any efficiency benefit sharing scheme that is to apply to the provider in respect of the regulatory control period; and	Not Included	Not Included	Included
(v) the commencement and length of the regulatory control period that has been proposed by the provider,	Included	Included	Included
(2) in which the AER either:			
(i) acting in accordance with clause 6A.6.7(c), accepts the total of the forecast capital expenditure for the regulatory control period that is included in the current Revenue Proposal; or	Included	Included	Included
(ii) acting in accordance with clause 6A.6.7(d), does not accept the total of the forecast capital expenditure for the regulatory control period that is included in the current Revenue Proposal, in which case the AER must set out its reasons for that decision and an estimate of the total of the Transmission Network Service Provider's required capital expenditure for the regulatory control period that the AER is satisfied reasonably reflects the capital expenditure criteria, taking into account the capital expenditure factors;	Included	Included	Included
(3) in which the AER either:			
(i) acting in accordance with clause 6A.6.6(c) or clause 6A.6.6(c1), accepts the total of the forecast operating expenditure for the regulatory control period that is included in the current Revenue Proposal; or	Not Included	Not Included	Included
(ii) acting in accordance with clause 6A.6.6(d), does not accept the total of the forecast operating expenditure for the regulatory control period that is included in the current Revenue Proposal, in which case the AER must set out its reasons for that decision and an estimate of the total of the Transmission Network Service Provider's required operating expenditure for the regulatory control period that the AER is satisfied reasonably reflects the operating expenditure criteria, taking into account the operating expenditure factors;	Not Included	Not Included	Included

(4) in which the AER determines:			
(i) whether each of the proposed contingent projects (if any) described in the current Revenue Proposal are contingent projects for the purposes of the revenue determination in which case the decision must clearly identify each of those contingent projects;	Not Included	Not Included	Included
(ii) the capital expenditure that it is satisfied reasonably reflects the capital expenditure criteria, taking into account the capital expenditure factors, in the context of each contingent project as described in the current Revenue Proposal;	Not Included	Not Included	Included
(iii) the trigger events in relation to each contingent project (in which case the decision must clearly specify those trigger events); and	Not Included	Not Included	Included
(iv) if the AER determines that such a proposed contingent project is not a contingent project for the purposes of the revenue determination, its reasons for that conclusion, having regard to the requirements of clause 6A.8.1(b);	Not Included	Not Included	Included
(5A) in which the AER determines how any applicable capital expenditure sharing scheme, small-scale incentive scheme or demand management innovation allowance mechanism is to apply to the Transmission Network Service Provider;	Included	Included	Included
(5B) on the allowed rate of return for each regulatory year of the regulatory control period;	Included	Included	Included
(5C) on the allowed imputation credits for each regulatory year of the regulatory control period;	Included	Included	Included
(5D) on the regulatory asset base as at the commencement of the regulatory control period in accordance with clause 6A.6.1 and Schedule 6A.2;	Included	Included	Included
(5E) on whether depreciation for establishing the regulatory asset base as at the commencement of the following regulatory control period is to be based on actual or forecast capital expenditure;	Not Included	Not Included	Included
Note: See clause S6A.2.2B.			
(8) on the Transmission Network Service Provider's current proposed pricing methodology, in which the AER either approves or refuses to approve that methodology and sets out reasons for its decision; and	Not Included	Not Included	Included
(9) on the additional pass through events that are to apply for the regulatory control period in accordance with clause 6A.6.9.	Included	Included	Included

Glossary

Term	Definition
2022 ISP	2022 Integrated System Plan
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
CESS	Capital expenditure sharing scheme
DNSP	Distribution Network Service Provider
ISP	Integrated System Plan
MW	Megawatt
NEM	National Electricity Market
NER	National Electricity Rule
RIT-T	Regulatory investment test for transmission
TNSP	Transmission Network Service Provider
