

Determination

**Cost pass through
AusNet Services' 2023–24
easement land tax event**

March 2023

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Inquiries about this publication should be addressed to:

Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001
Tel: 1300 585 165

AER reference: 13655884

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1 Overview

We determine an approved pass-through amount of \$55,919,717 as identified by AusNet Services in its 2023–24 easements tax cost pass through application. AusNet Services can adjust its maximum allowed revenue in the 2023–24 regulatory year by this amount, in accordance with its 2022–27 revenue determination. AusNet Services can recover this amount from customers, in transmission prices, in the 2023–24 regulatory year.

On 9 February 2023, AusNet Services submitted an application to the AER for a pass-through of costs related to a change in easements tax payable to the Victorian Government. The change in tax payable was higher than the amount forecast in the revenue determination for the 2022–2027 regulatory period. AusNet Services' application submitted that the amount it will recover (positive pass-through) from electricity users through an increase in transmission prices in 2023–24 will be \$55,919,717.

AusNet Services operates the majority of the Victorian electricity transmission network. Its network is built on a series of easements, which are subject to the Victorian Government's easements land tax. The National Electricity Rules (NER) provide a specific allowance for AusNet Services to pass-through costs related to the payment of land tax on its easements to consumers.

An easements tax change event occurs when the actual easement land tax differs from the regulatory forecast made for those purposes in the revenue determination for that regulatory period.¹ This pass-through provision provides assurance that neither AusNet Services, nor its customers, will receive a windfall gain (or loss) due to the actual land tax payments required of AusNet Services being lower (or higher) than forecast in its revenue determination.

The AER must make a determination on AusNet Services' annual pass-through application. We must consider, with reference to the factors specified in the rules,² whether:

- the pass-through is justified
- the relevant amounts have been correctly calculated.³

We have assessed AusNet Services' application under the framework provided by the NER. In particular, we have considered:

- the provisions of NER cl 6A.7.3 and cl 11.6.21
- the material provided in AusNet Services' application
- AusNet Services' 2022–27 revenue determination.

¹ NER, cl 11.6.21.

² NER cl 6A.7.3(j).

³ NER cl 6A.7.3(d).

2 Determination

We consider that AusNet Services has accurately calculated the effect of the positive change event on its business. The pass-through amount that AusNet Services proposes to pass on to its customers is appropriate and meets the rule requirements. This pass-through amount is \$55,919,717 and will be passed through in the 2023–24 regulatory year, in accordance with the procedures set out in AusNet Services' 2022–27 revenue determination.⁴

AusNet Services has established that a positive change event has occurred. The positive change event is an easements tax change event and is a result of the actual land tax payments required by AusNet Services to the Victorian Government being higher than the forecast made for such payments in its revenue determination.

The NER require us to determine the amount that should be passed through to customers.⁵ We base our decision on an assessment of the factors set out in cl. 6A.7.3(j) of the NER.

⁴ The revenue determination sets out that AusNet Services' maximum allowed revenue is arrived at by adding to or deducting from the allowed revenue the service target performance incentive scheme revenue increment (or decrement) and approved pass-through amounts. See AER, *Final Decision: AusNet Services 2022–27 – Attachment 6 – Operating expenditure*, January 2022, pp. 32–33.

⁵ NER cl 6A.7.3(d)(2).

3 AusNet Services' application

AusNet Services' application was submitted on 9 February 2023. The application and its attachments are available on our website.

3.1 Background

AusNet Services' application relates to the payment of easements land tax in Victoria. An easement is a section of land over which AusNet Services has certain usage rights for its transmission network. This cost is a significant part of its operating expenditure.⁶ A forecast for the easement land tax was made in the 2022–27 revenue determination.

The rules contain a transitional provision that allows AusNet Services to recover any difference between the actual amount of land tax payable and the forecast of land tax payable made in the determination to be recovered from consumers.⁷ The variance between actual land tax payable and the forecast is known as an easements tax change event.⁸ This is either a positive or negative change event for the purposes of the pass-through provisions in the rules.⁹ The transitional rules provide that the materiality threshold does not apply when considering an easements tax change event.¹⁰

3.2 Calculation of pass-through amount

AusNet Services provided the assessment notice from the Victorian State Revenue Office which shows tax payable of \$247,067,775 between May 2023 and April 2024.¹¹ The State Revenue Office calculates land tax every year based on the most recent site valuation.

AusNet Services has identified that of this amount, \$356,950 relates to non-regulated easements held by AusNet Services' commercial energy business, Mondo and therefore is not eligible to be included in the calculation of the pass through amount. The land tax payable in respect of the easements used to provide prescribed transmission services is \$246,710,825.

Our 2022–27 revenue determination for AusNet Services forecast land tax costs of \$173,610,305 for the 2023–24 regulatory year (\$2021–22).¹²

The appropriate pass-through amount is the difference between actual land tax payable and forecast land tax (escalated to nominal dollars), as per our determination. The calculation is as follows:

⁶ It comprises more than 60% of AusNet Services' forecast operating expenditure.

⁷ NER cl 6A.7.3.

⁸ NER cl 11.6.21(a).

⁹ NER cl 6A.7.3; and NER Ch 10 (definition of 'positive change event' and 'negative change event').

¹⁰ NER cl 11.6.21(d)(2).

¹¹ AusNet, *Application for pass-through of easement tax change event*, 9 February 2023.

¹² AER, *Final Decision: AusNet Services 2022–27 – Attachment 6 – Operating expenditure*, January 2022, pp. 32–33.

1. verify the actual land tax payable: \$246,710,825 (\$2023–24), as per the 2023 Land Tax Assessment Notice, less the amount excluded for unregulated easements
2. escalate the forecast easement land tax to a comparable basis (\$2023–24):
$$\$173,610,305 \times (1 + 2.45\%)^{13} \times (128.4/119.7)^{14} = \$190,791,108$$
3. determine the difference ((1) subtract (2)):
$$\$246,710,825 - \$190,791,108 = \$55,919,717$$

¹³ As per the AER's 2022–27 determination forecast, a constant inflation rate of 2.45% is utilised to convert the real forecast into nominal dollar terms. See, AER, *Final Decision Overview: AusNet Services 2022–27*, January 2022, p. 26. While the inflation value presented in this determination is rounded to two decimal places, the pass-through amount has been calculated using the unrounded value in the 2022–27 determination Post-Tax Revenue Model.

¹⁴ September 2022 CPI/September 2021 CPI. Source: ABS 6401.0 Consumer Price Index - Index Numbers; All groups CPI; Australia.

4 AER Assessment

4.1 Relevant Dates

AusNet Services made its pass-through application on 9 February 2023. Our assessment of the pass-through is based on the following dates:

- AusNet Services was issued with its land tax assessment on 16 January 2023
- the forecast of land tax payable was finalised in our revenue determination for AusNet Services on 28 January 2022.

We consider that the easements tax change event occurred on 16 January 2023, since that is the date on which the two above necessary pieces of information were available.

The rules specify that for a positive change event, an application must be made to the AER for a positive pass-through amount within 90 business days of the relevant event occurring.¹⁴ We must make a determination on the event within 40 business days of the business providing details of the event and supporting evidence.¹⁵

4.2 Positive Change Event

In order to approve an amount of money to be passed on to customers, we must determine that a positive change event has occurred. The rules define a positive change event as:¹⁶

‘... a pass through event which entails the Transmission Network Service Provider incurring materially higher costs in providing prescribed transmission services than it would have incurred but for that event.’

Further to this, transitional rule 11.6.21 provides that an easements tax change event is a positive change event, regardless of whether it meets the materiality threshold that would ordinarily form part of the consideration. An easements tax change event is defined as follows:¹⁷

‘...a change in the amount of land tax that is payable by SPI PowerNet in respect of the easements which are used for the purposes of SPI PowerNet’s transmission network.¹⁸ For the purposes of this definition, the change in the amount of land tax that is payable by SPI PowerNet must be calculated as the difference between:

(1) the amount of land tax that is payable in each regulatory year by SPI PowerNet, as advised by the Commissioner of State Revenue, Victoria; and

¹⁴ NER cl 6A.7.3(c).

¹⁵ NER cl 6A.7.3(e).

¹⁶ NER, chapter 10 (definition of ‘positive change event’).

¹⁷ NER, cl 11.6.21(a).

¹⁸ The legislation refers to SPI PowerNet, the previous name of the licensed transmission entity of AusNet Services.

(2) the amount of land tax which is forecast for the purposes of and included in the revenue determination for each regulatory year of the regulatory control period.’

AusNet Services has provided the assessment notice from the State Revenue Office showing the land tax payable. This amount differs from the amount forecast for this purpose in the 2022–27 revenue determination, as per the calculation in the section above. Thus, we are satisfied that an easements tax change event has occurred and that it is a positive change event.

4.3 Calculation of the pass-through amount

The details of the calculation are provided in section 3.2 above.

We consider that AusNet Services has correctly calculated the positive pass-through amount. That is, it has incurred an easements tax cost in providing transmission services that is higher than forecast.

We consider that the entire positive pass-through amount should be passed through to network users. This adjustment should occur in the 2023-24 regulatory year, which is the year this amount will be incurred. For this to happen, AusNet Services needs to advise AEMO of its 2023–24 revenue requirement in April, for AEMO to publish transmission charges by mid May 2023.

4.4 Other considerations

Clause 6A.7.3(j) of the rules sets out a number of matters that we are required to take into account when determining:

- whether a positive or negative change event has occurred
- the approved pass-through amount
- the amount of the approved pass-through amount that should be passed through to transmission network users.

Sections 4.1, 4.2 and 4.3 above set out our considerations of those matters relevant to cl. 6A.7.3(j)(1) and (2). We consider the remainder of the matters listed by cl 6A.7.3(j) in Table 1 below:¹⁹

Table 1: Relevant matters the AER must take into account to determine the pass through amounts

#	Requirement of the NER	Our consideration
1	We must take into account the efficiency of AusNet Services’ decisions and actions in relation to the risk of the event.	We consider that AusNet Services has operated efficiently in its decisions and actions relating to the risk of the positive change event occurring. As the land tax amount payable is a decision of the Victorian Government, we consider that AusNet Services has not taken (or omitted to take) any action that would be likely to increase (or decrease) the magnitude of the positive change event.

¹⁹ NER cl 6A.7.3(j)(3)-(7).

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2	We must take into account the time cost of money.	We consider that the time cost of money does not need to be taken into account by this decision as the costs are passed through to users in the regulatory year in which those costs occur.
3	We must take into account the need to ensure that the pass through amount reflects only the costs incurred solely as a consequence of the easement land tax.	We consider that the costs to be recovered by AusNet Services due to this pass-through event are solely attributable to the easements tax change event.
4	The AER will have regard to whether there has been any change in the way that the easement land tax is calculated or whether taxes that are complementary to the easement land tax have been imposed or removed.	We are not aware of any changes in the way other taxes are calculated, or any other taxes that have been removed or imposed which are complementary to this easements tax change event.
5	We must take into account whether the costs of this pass through event have already been factored AusNet Services' maximum allowed revenue for this regulatory period or subsequent regulatory periods.	We consider that the costs of the pass-through event are established by cl.11.6.21 and are defined as the difference between certain costs for which an allowance is made under the revenue determination, and the actual costs incurred. As such, the costs of the pass-through event are, by definition, not factored into AusNet Services' maximum allowed revenue for the 2022–27 regulatory control period.
6	We must consider the extent to which the costs that AusNet Services has incurred and is likely to occur are the subject of a previous determination made by the AER under clause 6A.7.3	We consider that the costs incurred relating to the pass-through event under consideration are not the subject of any previous determination by us under cl.6A.7.3.
7	We must consider whether any other factors are relevant.	We do not consider any other matters to be relevant.

Glossary

Term	Definition
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
NER	National Electricity Rules