



# **DETERMINATION**

## **Easement tax change event pass-through for 2020-21 regulatory year**

**AusNet Services**

March 2020

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## Overview

We determine that AusNet Services has correctly identified the positive pass-through amount of \$15,523,393. AusNet Services can adjust its maximum allowed revenue in 2020-21 by this amount in accordance with the revenue determination to recover this amount from customers in transmission prices in 2020-21.

On 13th February 2020 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. Its application submitted that the amount it will recover (positive pass-through) from electricity users through an increase in transmission prices in 2020-21 will be \$15,523,393.

AusNet Services operates the majority portion 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 (rules) provide a specific allowance for AusNet Services to pass-through to its consumers costs related to the payment of land tax on its easements.

An easements tax change event occurs when the actual easements land tax paid by AusNet Services to the Victorian Government differs from the regulatory allowance made for those purposes in AusNet Services' revenue determination.<sup>1</sup> 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<sup>2</sup>, whether the pass-through is justified and whether the relevant amounts have been correctly calculated.<sup>3</sup>

We have assessed AusNet Services' application under the framework provided by the rules. 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' 2017–22 revenue determination.

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<sup>1</sup> NER, cl 11.6.21.

<sup>2</sup> NER cl 6A.7.3(j).

<sup>3</sup> NER cl 6A.7.3(d).

# 1 Determination

We consider that AusNet Services has accurately calculated the effect of the positive change event on its business. Further, the pass-through amount that it proposes to pass on to customers is appropriate and meets the rule requirements. This pass-through amount is \$15,523,393, and will be passed through in the 2020-21 regulatory year in accordance with the procedures set out in AusNet Services' 2017-22 revenue determination.<sup>4</sup>

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 to be made by AusNet Services to the Victorian Government being higher than the allowance made for such payments in its revenue determination.

The National Energy Rules (the rules) require us to determine the amount that should be passed through to customers.<sup>5</sup> We base our decision on an assessment of the factors set out in cl 6A.7.3(j) of the rules.

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<sup>4</sup> 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, AER, *Final Decision: AusNet Services Transmission Determination 2017–18 to 2021–22*, April 2017, Attachment 7, pp7-44.

<sup>5</sup> NER cl 6A.7.3(d)(2).

## 2 AusNet Services' application

AusNet Services' application was submitted on 13 February 2020. The application and its attachments are available on our website.

### 2.1 Background

AusNet Services' application relates to the payment of land tax on its easements 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<sup>6</sup>. An allowance for it is made in the 2017–22 revenue determination.

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

### 2.2 Calculation of the pass-through amount

AusNet Services provided the assessment notice from the State Revenue Office which shows tax payable of \$161,365,940 between May 2020 and April 2021.<sup>11</sup> The Victorian State Revenue Office calculates land tax every year based on the most recent site valuation conducted by the local council.<sup>12</sup> As this land tax has been newly calculated, this tax payable amount will be the replicated in the following regulatory year.

Our 2017–22 revenue determination for AusNet Services made an allowance for forecast land tax costs of \$135,019,541 for the 2020–21 regulatory year (in real 2016–17 dollars)<sup>13</sup>.

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

- (a) Verify the actual land tax payable: \$161,365,940 (in 2020-21 dollars, as per the 2020 Land Tax Assessment Notice)
- (b) Escalate the forecast allowance for land tax into comparable 2020-21 dollars  
 $\$135,019,541 \times (1 + 2.399804305\%^{14}) \times (115.4/113.5) \times (113.5/111.4) \times (111.4/109.4) = \$145,842,547$ . This is further explained below in section 2.2.1.

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<sup>6</sup> It comprises of approximately 60 per cent of AusNet Services' forecast operating expenditure.

<sup>7</sup> NER cl 6A.7.3.

<sup>8</sup> NER cl 11.6.21(a).

<sup>9</sup> NER cl 6A.7.3. See also, NER ch 10 (definition of 'positive change event' and 'negative change event').

<sup>10</sup> NER cl 11.6.21(d)(2).

<sup>11</sup> AusNet, Application for pass-through of easement tax change event, Appendix A, 13 February 2020

<sup>12</sup> <https://www.sro.vic.gov.au/valuation>.

<sup>13</sup> AER, *Final Decision, SP AusNet 2017–22, Opex Model*.

<sup>14</sup> See footnote 14.

(c) Determine the difference ((a) subtract (b))

(d)  $\$161,365,940 - \$145,842,547 = \$15,523,393$

AusNet Services submitted that the approved pass-through amount will represent an increase of its allowable revenue requirements for pricing purposes. This is a continuation of established practice for trueing-up the difference between the actual tax paid and the forecast amount in the revenue determination.

### **2.2.1 Escalation of forecast land tax allowance in 2020-21 dollars**

The forecast for land tax made in the determination is escalated from real 2016–17 dollars to nominal terms in order to be comparable. The escalator for forecast inflation in the 2017–22 revenue determination is 2.399804305 per cent, rounded to 2.4 per cent as published.<sup>15</sup>

To calculate the equivalent nominal amount in current dollars AusNet Services escalates the \$135,019,541 real 2016–17 dollars as approved in the revenue determination forecast by the 2.4 per cent forecast inflation rate for the regulatory period to arrive at the relevant 2020-21 dollar amount. This figure is then escalated by an inflation index for each year to arrive at a figure represented in comparable 2020-21 dollars, which is calculated as:

- A ratio of the September 2019 CPI (115.4) and the September 2018 CPI (113.5)
- A ratio of the September 2018 CPI (113.5) and the September 2017 CPI (111.4)
- A ratio of the September 2017 CPI (111.4) and the September 2016 CPI (109.4).

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<sup>15</sup> AER, *Final Decision, SP AusNet 2017–22*, Attachment 3.

## 3 AER Assessment

### 3.1 Relevant dates

The rules provide that, for a positive change event, an application to us for a positive pass-through amount must be made within 90 business days of the relevant event occurring.<sup>16</sup> We must make a determination on the event within 40 business days of the business providing details of the event and supporting evidence to us.<sup>17</sup>

AusNet Services made its pass-through application on 13 February 2020, which is within the set timeframe. Our assessment is based on the following points:

- AusNet Services was issued with its land tax assessment on 15 January 2020
- The forecast of land tax payable was finalised in our revenue determination for AusNet Services on 28 April 2017.

Therefore we consider that the easements tax change event occurred on 15 January 2020, since that is the date on which the two above necessary pieces of information were available.

### 3.2 Positive change event

In order to approve an amount of money to be passed back to energy consumers, we must determine that a negative change event has occurred. The rules define a positive change event as<sup>18</sup>:

*... 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<sup>19</sup>:

*... a change in the amount of land tax that is payable by SPI PowerNet<sup>20</sup> in respect of the easements which are used for the purposes of SPI PowerNet's transmission network. 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*

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<sup>16</sup> NER cl 6A.7.3(c).

<sup>17</sup> NER cl 6A.7.3(e)

<sup>18</sup> NER, chapter 10 (definition of 'positive change event').

<sup>19</sup> NER, cl 11.6.21(a).

<sup>20</sup> 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 2017–22 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.

### **3.3 Calculation of the pass-through amount**

The details of the calculation are provided in section 2.2 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 forecasted.

We consider that the entire positive pass-through amount should be passed through to network users. This adjustment should occur in the 2020-21 regulatory year, which is the year this amount will be incurred. For this to happen, AusNet Services needs to advise AEMO of its 2020-21 revenue requirement by the end of April, for AEMO to publish transmission charges by mid May 2020.

### **3.4 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 3.1, 3.2 and 3.3 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) below<sup>21</sup>:

- 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) any action that would be likely to increase (or decrease) the magnitude of the positive change event.
- 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.
- 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.

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<sup>21</sup> NER cl 6A.7.3(j)(3)-(7).

- We do not consider there to be 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.
- 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 2017–22 regulatory control period.
- 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.
- We do not consider any other matters to be relevant