



FINAL Determination

Easements tax change event pass-through for

AusNet Services

March 2015

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Overview

AusNet Services operates much of the electricity transmission system in Victoria. Their network is built on a series of easements across Victoria which are subject to the Victorian Government easements land tax. The National Energy Rules (the rules) provides 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.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.

On 19 February 2015 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. Its application submits that the amount it will pass-through to electricity users, to be recovered through transmission prices in 2015–16, is \$2,900,998.

The AER must make a determination on AusNet Services' pass-through application. We must consider, with reference to the factors specified in the rules², whether the pass-through is justified and whether the relevant amounts have been correctly calculated.³

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; and
- AusNet Services' 2014–17 revenue determination.

We determine that AusNet Services has correctly identified the pass-through amount. AusNet Services can adjust its maximum allowed revenue in 2015–16 by this amount in accordance with the revenue determination.

¹ NER, cl 11.6.21.

² NER cl 6A.7.3(j).

³ NER cl 6A.7.3(d).

1 Determination

We consider that 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 rules require us to determine the amount that should be passed through to customers.⁴ We base our decision on an assessment of the factors set out in cl 6A.7.3(j) of the rules. 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 \$2,900,998, and will be passed through in the 2015–16 regulatory year in accordance with the procedures set out in AusNet Services' 2014–17 revenue determination.⁵

⁴ NER cl 6A.7.3(d)(2).

⁵ 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, *Draft Decision: AusNet Services Transmission Determination 2014–15 to 2016–17*, August 2013, p. 158.

2 AusNet Services' application

AusNet Services' application was submitted on 19 February 2015. The application and its attachments are available on our website.⁶

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.⁷ An allowance for it is made in the 2014–17 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.⁸ This is known as an easements tax change event.⁹ This is either a positive change event or negative change event for the purposes of the pass-through provisions in the rules.¹⁰ The transitional rules provide that the materiality threshold does not apply when considering an easements tax change event.¹¹

2.2 Calculation of the pass-through amount

AusNet Services provided the assessment notice from the State Revenue Office which shows tax payable of \$111,322,940 (\$ nominal) between May 2015 and April 2016.¹² Our 2014–17 revenue determination for AusNet Services made an allowance for forecast land tax costs of \$103,442,005 in real 2013–14 dollars. The forecast for land tax made in the determination is escalated from real 2013–14 dollars to nominal terms in order to be comparable. The escalator for forecast inflation in the 2014–17 revenue determination is 2.45 per cent.¹³

To calculate the equivalent nominal amount in current dollars AusNet Services escalates the \$103,442,005 real 2013–14 dollars forecast by the inflation forecast from our 2014–17 determination¹⁴. They then escalate this amount by an inflation index which is calculated by dividing the September 2014 CPI (106.4) by the September 2013's CPI (104) to arrive at current nominal dollars. We agree this calculation is correct but consider that AusNet Services' explanation of the calculation should be clarified. The initial real amount of \$103,442,005 \$2013–14 is escalated by the ratio of CPI indices to arrive at nominal 2014–15 dollars. This is then escalated by the 2.45% forecast inflation for the regulatory period to arrive at 2015–16 dollars.

⁶ <http://www.aer.gov.au/node/23976>

⁷ It comprises approximately 55 per cent of AusNet Services' forecast operating expenditure.

⁸ NER cl 11.6.21.

⁹ NER cl 11.6.21(a).

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

¹¹ NER cl 11.6.21(d).

¹² SP AusNet, Application for pass-through of easement tax change event, Appendix A, 19 February 2015.

¹³ AER, *Final Decision, SP AusNet 2014–17*, Appendix C, Table 5.

¹⁴ The use of forecast inflation as an escalator is discussed in section **Error! Reference source not found.** below.

The actual inflation index for 2013–14 is 106.4 divided by 104. The inflation forecast as per our 2014–17 determination is 2.45 per cent. 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) Determine the actual land tax payable: \$111,322,940 (in 2015-16 dollars)
- (b) Escalate the forecast allowance for land tax into comparable 2015–16 dollars (\$103,442,005 multiplied by 106.4/104 multiplied by 1+2.45 per cent): \$108,421,942
- (c) Determine the difference ((a) subtract (b)): \$2,900,998

AusNet Services submits that the approved pass-through amount will be allocated to the prescribed common transmission services category for pricing purposes. This is a continuation of established practice for recovering this amount from transmission network customers.

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.¹⁵ 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.¹⁶

AusNet Services has submitted that in order to determine whether an easements tax change event has occurred, it is necessary to know two things:

- the actual amount of land tax payable for the year by AusNet Services
- the forecast of land tax payable as made by our revenue determination for AusNet Services escalated by the inflation estimate and CPI index (where appropriate).

AusNet Services made its pass-through application on 19 February 2015, 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 2015
- the forecast of land tax payable was finalised in our revenue determination for AusNet Services on 31 January 2014

Therefore, we consider that the easements tax change event occurred on 15 January 2015, since that is the date on which the two necessary pieces of information were available.

3.2 Positive change event

In order to approve an amount of money to be passed through to energy consumers, we must determine that a positive change event has occurred. The rules define a positive change event as¹⁷:

...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, but does not include a contingent project or an associated trigger 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 follows¹⁸:

¹⁵ NER cl 6A.7.3(c).

¹⁶ NER cl 6A.7.3(e).

¹⁷ NER, chapter 10 (definition of 'positive change event').

¹⁸ NER, cl 11.6.21(a)

...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. 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

(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.

SPI PowerNet is the licensed transmission entity of AusNet Services.

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 2014–17 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 pass-through amount, that is, the higher costs that it has incurred in providing transmission services than it would have incurred in the absence of the easements tax change event.

We consider that the entire pass-through amount should be passed through to consumers, since the entirety of the cost relates to the increased liability of AusNet Services over and above the allowance made in the revenue determination. This difference should be recovered in the 2015–16 regulatory year, which is the year in which the liability has been incurred.

Since this is the second year of AusNet Services' regulatory control period, its maximum allowed revenue is updated for actual CPI in the September quarter 2014 and escalated by forecast inflation at 2.45% to arrive at 2015–16 nominal.

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 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) below¹⁹:

- We consider that AusNet Services has behaved 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.
- 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 2014–17 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.

¹⁹ NER cl 6A.7.3(j)(3)-(7).