



Determination

Vegetation management cost pass through

Evoenergy

February 2019

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Overview

On 7 December 2018, Evoenergy submitted a cost pass through application to the Australian Energy Regulator (AER). The application related to costs Evoenergy expects to incur as a consequence of the amendments to the *Utilities (Technical Regulation) Act 2014* (the Act), which took effect from 1 July 2018. The Act imposes new regulatory obligations on Evoenergy to manage vegetation in specific areas within the Australian Capital Territory and to inspect electrical infrastructure outside its network boundary. Evoenergy will incur material incremental costs to meet these obligations in 2018-19 that were not accounted for in the AER's remade decision on Evoenergy's electricity distribution determination for the 2014–19 regulatory control period.

The role of the AER, as the economic regulator of distribution network service providers (DNSPs) in the National Electricity Market (NEM), is to assess Evoenergy's application against the cost pass through requirements in chapter 6 of the National Electricity Rules (NER). Specifically, if a positive change event occurs, we must determine the required pass through amount and how much of that amount should be passed through to network users in each regulatory year. This decision addresses those requirements, which are set out in clause 6.6.1 of the NER.

We have determined that Evoenergy's pass through application satisfies the requirements of a pass through event, specifically a service standard event. In particular, Evoenergy's new responsibilities for the clearance of vegetation near aerial lines in specific areas within the Australian Capital Territory and the inspection of electrical infrastructure outside its network boundary materially increases Evoenergy's cost in providing direct control services.

Based on our assessment of the relevant factors listed in clause 6.6.1(j) of the NER, we conclude the approved pass through amount for Evoenergy is \$2,404,928 (\$2018-19), as at 30 June 2019. Evoenergy can recover this amount from customers through higher network charges in the 2019-20 and 2020-21 regulatory years, within the next regulatory control period, as set out in Table 1.

Table 1: Approved positive pass through amounts (\$2018-19)¹

	2019-20	2020-21	2021-22	2022-23	2023-24	Total
Approved pass through amounts	1,202,464	1,202,464	0	0	0	2,404,928

Source: AER Analysis.

¹ The time cost of money will be determined at the time of the annual pricing proposal, in accordance with the WACC we determine in our final decision for Evoenergy's 2019–24 distribution determination in April 2019.

Structure of determination

This determination is structured as follows:

- Chapter 1 – sets out our determination on Evoenergy's pass through application
- Chapter 2 – sets out Evoenergy's pass through application
- Chapter 3 – sets out the relevant regulatory framework and our assessment approach
- Chapter 4 – sets out our reasons for our determination.

1 Determination

We consider that Evoenergy's pass through application of 7 December 2018² establishes that a pass through event has occurred, being a service standard event and a positive change event as defined under the NER. We are also satisfied that a material increase in Evoenergy's costs will occur in 2018-19 as a result of this pass through event.

We have determined the approved pass through amount to be \$2,404,928 (\$2018-19). We are satisfied that this amount reflects the prudent and efficient costs that have been, or will be, incurred by Evoenergy in meeting its new compliance obligations arising from amendments to the *Utilities (Technical Regulation) Act 2014*.

We determine that this amount will be recovered by Evoenergy in the 2019-20 and 2020-21 regulatory years in two equal amounts, within the 2019–24 regulatory control period. This is because it is too late for Evoenergy to recover its expected compliance costs within the 2014–19 regulatory control period.

We note that we have also approved two other pass through applications submitted by Evoenergy on 7 December 2018.³ The sum of all the approved pass through amounts is \$8.42 million (\$2018-19). If this amount is recovered in 2019-20, it is likely to result in a material increase in Evoenergy's 2019-20 revenue requirement. Given the potential volatility in Evoenergy's revenue, our preferable approach is to allow Evoenergy to recover the approved pass through amounts in two equal instalments (with adjustment for the time cost of money) for all three pass through applications over the regulatory years 2019-20 and 2020-21. We consider this approach will minimise volatility in Evoenergy's revenue requirements while still allowing it to recover its efficient costs in a timely manner.

In making this determination we have considered the factors set out in clause 6.6.1(j) of the NER.

² Evoenergy, *Vegetation management cost pass through application*, 7 December 2018.

³ AER, *AER determination - Power of Choice reforms cost pass through - Evoenergy*, February 2019; AER, *AER determination - Ring-fencing guideline cost pass through - Evoenergy*, February 2019.

2 Evoenergy's application

On 7 December 2018, Evoenergy submitted a pass through application to the AER for the costs it expects to incur as a consequence of amendments to the *Utilities (Technical Regulation) Act 2014* (the Act), which took effect from 1 July 2018.

The amendments to the Act transferred two new areas of responsibility to Evoenergy:

- the clearance of vegetation near aerial lines on unleased territory land, rural leased land, and national land;⁴ and
- the inspection of electrical infrastructure on rural leased land outside the network boundary, issue of written notices to owners to repair and restore the electrical infrastructure to a safe state and, if the owner does not comply with a notice, conduct of repairs and restoration of the electrical infrastructure to a safe state, with the debt due by the owner.⁵

Evoenergy is seeking a pass through amount of \$2.40 million (\$2018-19) for the costs it expects to incur to meet these new regulatory obligations in 2018-19 and which it considers were not included in our determination of Evoenergy's revenue allowance for the 2014–19 regulatory control period.

Evoenergy's proposed pass through amount is consistent with our operating expenditure (opex) forecast in our draft decision for Evoenergy's 2019–24 distribution determination published on 27 September 2018. In its 2019–24 revenue proposal, Evoenergy forecast that it would incur \$3.70 million (\$2018-19) per annum within the 2019–24 regulatory control period to meet the regulatory obligations described above.⁶ We rejected Evoenergy's opex forecast on the basis that we were not satisfied the forecast costs were prudent or efficient and substituted our alternative estimate of the \$2.40 million (\$2018-19) per annum in our total opex forecast. For the purpose of this cost pass through application, Evoenergy has adopted our alternative estimate of \$2.40 million (\$2018-19) per annum to reflect the costs it expects to incur in 2018-19 for the same regulatory obligations.

Evoenergy proposes to recover all of its proposed pass through amount of \$2.40 million (\$2018-19) in the 2019–24 regulatory control period. Evoenergy proposes that, as the positive pass through amount reflects costs incurred in the 2014-19 regulatory period, the annual amount passed through to customers in each regulatory year of the 2019-24 period should be determined so as to provide for Evoenergy to recover the positive pass through amount as early in that period as practicable having regard to the impact of the annual pass through amount on network charges in the relevant regulatory year.

⁴ Part 5A.2, section 41D of the *Utilities (Technical Regulation) Act 2014* (the Act) imposes a new obligation on Evoenergy, as a "responsible utility", to clear vegetation near aerial lines on "unleased territory land", "rural leased land" and "national land".

⁵ Part 5A.3, section 41I of the Act.

⁶ Evoenergy. *Regulatory proposal -Appendix 6.1 - Vegetation management step change - revised in response to IR 014*, 27 April 2018, p.19.

3 Relevant regulatory requirements

The pass through mechanism recognises that an efficient revenue allowance cannot account for certain types of matters that are uncertain and outside the control of the business, and which cannot be prevented or mitigated by prudent operational risk management. A cost pass through enables a network service provider to recover (or pass through) the costs of defined unpredictable, high cost events that are not factored into our revenue determination.

The NER includes the following prescribed pass through events for all DNSPs:

- a regulatory change event
- a service standard event
- a tax change event
- a retailer insolvency event
- any other event specified in a determination as a pass through event (nominated pass through event).

This decision relates to a service standard event. Our discretion in assessing pass through events is limited in the NER under clause 6.6.1(j), which is outlined in section 3.2 and addressed in our assessment in section 0 of this decision.

3.1 Assessment approach

When assessing Evoenergy's pass through application, we must determine whether a 'positive change event' has occurred.

A positive change event for a DNSP is defined under chapter 10 of the NER as:

a pass through event which entails the DNSP incurring materially higher costs in providing direct control services than it would have incurred but for that event, [...]

This assessment is done with reference to the NER and the current AER determination applicable to the Evoenergy, which is our remade 2014–19 distribution determination for Evoenergy.⁷ As part of this process, we also determine the materiality of the proposed pass through amount.

Clause 6.6.1(d) of the NER provides that if the AER determines that a positive change event has occurred, the AER must determine:

- the approved pass through amount; and
- the amount that should be passed through to Distribution Network Users in the regulatory year in which, and each regulatory year after that in which, the positive change event occurred, taking into account the matters referred to in clause 6.6.1(j) of the NER.

⁷ AER, *Final decision Evoenergy 2014–19 distribution determination*, 15 November 2018.

3.2 Relevant factors

As required under clause 6.6.1(j) of the NER, in assessing Evoenergy's application and making this decision, we must take into account the following relevant factors:

- 1) The matters and proposals set out in any statement given to the AER by Evoenergy;
- 2) The increase in costs in the provision of direct control services;
- 3) The efficiency of Evoenergy's decisions and actions in relation to the risk of the positive change event, including whether Evoenergy failed to take any action that could reasonably be taken to reduce the magnitude of the eligible pass through amount and whether Evoenergy took or omitted to take any action that increased the magnitude of the amount;
- 4) The time cost of money based on the allowed rate of return;
- 5) The need to ensure that Evoenergy only recovers any actual or likely incremental costs that are solely as a consequence of the pass through event;
- 6) Whether the costs have already been or will be factored into the calculation of Evoenergy's annual revenue requirement in an existing or future distribution determination;
- 7) The extent to which costs are the subject of a previous pass through determination made by the AER; and
- 8) Any other factors the AER considers relevant.

3.3 Timing matters

Clause 6.6.1(c) of the NER requires that to seek the approval of the AER to pass through a positive pass through amount, a DNSP must submit to the AER a written statement specifying a range of details relating to the event within 90 business days of the relevant positive change event occurring. Thus, in the normal course of events, our assessment will involve consideration of two dates, and the period of time between them, namely:

- The date on which the pass through event could be said to have occurred
- The date on which the pass through application was received
- The number of days between these events.

We must also comply with the timing limit specified under clause 6.6.1(e) of the NER in making this determination, being 40 business days from the date of Evoenergy's cost pass through application.

However, it is permissible under the NER to extend the time limits that apply to the DNSP or the AER.⁸

⁸ NER, clause 6.6.1, paragraphs (k), (k1)-(k6).

3.4 What we considered in making this determination

We have made our determination in accordance with clause 6.6.1 of the NER. In forming our determination, we have considered:

- the application we received from Evoenergy
- the materials Evoenergy provided as part of its regulatory proposal for the 2019–24 regulatory control period, which included a step change proposal to account for the increased opex required in 2019–24 to comply with its new technical compliance obligations – the subject matter of this cost pass through application
- our own analysis undertaken as part of our draft decision for Evoenergy's 2019–24 distribution determination, in which we determined the amount of opex Evoenergy reasonably requires to meet the new compliance obligations
- the relevant factors set out in clause 6.6.1(j) of the NER.

4 Reasons for determination

We are satisfied that Evoenergy's pass through application establishes that the introduction of new technical compliance obligations under the amendments to the *Utility (Technical Regulation) Act 2014* (the Act) constitutes a pass through event, in the form of a positive change and service standard event. We consider that to comply with the new vegetation management and electrical infrastructure inspection responsibilities will materially increase Evoenergy's costs in providing direct control services from 2018-19 onwards. This section details our reasons in making this determination.

4.1 Occurrence of pass through event

The first step in our assessment is to determine whether a pass through event has occurred. A pass through event is defined in the clause 6.6.1(a1) of the NER as one of the following events:

- (1) a regulatory change event;
- (2) a service standard event;
- (3) a tax change event;
- (4) a retailer insolvency event; and
- (5) any other event specified in a distribution determination as a pass through event for the determination.

Evoenergy submitted that the pass through event qualifies as a 'service standard event' or, in the alternative, a 'regulatory change event'.⁹

In relation to DNSPs, the NER defines a service standard event as:¹⁰

A legislative or administrative act or decision that:

(a) has the effect of:

(i) substantially varying, during the course of a regulatory control period, the manner in which ... a DNSP is required to provide a direct control service;

(ii) imposing, removing or varying, during the course of a regulatory control period, minimum service standards applicable to ... direct control services; or

(iii) altering, during the course of a regulatory control period, the nature or scope of the direct control services, provided by the service provider; and

(b) materially increases ...the costs to the service provider of providing ... direct control services.

The NER defines a regulatory change event as:¹¹

A change in a regulatory obligation or requirement that:

(a) falls within no other category of pass through event; and

⁹ Evoenergy, *Vegetation management cost pass through application*, 7 December 2018, p. 7.

¹⁰ NER, Chapter 10 Glossary.

¹¹ NER, Chapter 10 Glossary.

- (b) occurs during the course of a regulatory control period; and
- (c) substantially affects the manner in which ... the DNSP provides direct control services ...; and
- (d) materially increases or materially decreases the costs of providing those services.

4.1.1 Service standard event

Evoenergy submits that the amendments to the Act, which imposes on Evoenergy new regulatory obligations, is a legislative act for the purposes of the service standard event definition in the NER. We agree with Evoenergy's view.

To find a service standard event, we must be satisfied at least one of sub-paragraphs (a)(i), (a)(ii) or (a)(iii) of the service standard event definition is satisfied, together with sub-paragraph (b).

For the reasons set out below, we are satisfied that the pass through event meets the definition of a service standard event. Having found that the event in question is a service standard event, we have not considered further in this decision whether the pass through event also meets the definition of a regulatory change event.

4.1.1.1 Sub-paragraph (a)(i) - substantially varying the manner in which Evoenergy is required to provide a direct control service

Evoenergy submits that the imposition of the new regulatory obligations has the effect of substantially varying the manner in which Evoenergy is required to provide a direct control service during the course of the 2014–19 regulatory control period, in satisfaction of paragraph (a)(i) of the service standard event definition. We agree with Evoenergy's position.

As Evoenergy has stated, the requirement for a variation in the manner in which a DNSP is required to provide direct control services necessitates a practical change in the way in which, or mode of action by which, the DNSP is required to provide direct control services. It does not necessitate changed activities that are new or dissimilar in nature to the DNSP's existing activities but something more than a legal change to the DNSP's regulatory obligations is required. The change must also be substantial.¹²

The *Utilities Act 2000* (ACT), the Act and the subordinate regulations and codes under those legislations provide a legal framework that prescribes safety and reliability standards for utilities' network infrastructure. The two key instruments containing the new responsibilities for Evoenergy are the Act and *Electricity Powerline Vegetation Management Code 2018* (the Code).

From 1 July 2018, the Act was amended to transfer the responsibility for vegetation clearing on unleased land in urban areas of the ACT from the ACT Government (Transport Canberra and City Services) to Evoenergy.¹³ This new responsibility represents an additional 16,918 spans that Evoenergy must now manage for vegetation when providing direct control

¹² Evoenergy, *Vegetation management cost pass through application*, 7 December 2018, p. 10.

¹³ *Utilities (Technical regulation) Act 2014*, section 41D.

services, which is an 80.2 per cent increase in the number of spans Evoenergy is currently responsible for vegetation management.¹⁴

In addition, Evoenergy became responsible for the inspection of electrical infrastructure on rural leased land outside the network boundary.¹⁵ This new obligation applies to approximately 221 private poles and associated lines across approximately 70 landholdings.¹⁶

Section 41D of the Act requires Evoenergy to comply with the technical requirements specified in the Code when managing the clearance of vegetation.¹⁷

The Code requires Evoenergy to:

- establish a Vegetation Management (Bushfire and Environmental) Works Plan (Works Plan) for non-urban land to protect the environment and the public from fires originating from electricity assets;
- reduce the visual impact of trimming of trees; and
- promote the healthy growth of trees around aerial lines and support structures through appropriate planning.¹⁸

Failure to comply with these obligations would result in Evoenergy being in breach of its licencing conditions and subject to penalties. A failure to comply with section 41D of the Act or the Code constitutes an offence.¹⁹

Evoenergy's new vegetation management responsibility represents an 80.2 per cent increase in the number of spans in which Evoenergy must manage vegetation, which is a substantial increase in scope of work and will require more resources. Evoenergy submits that it must develop and introduce a large-scale vegetation clearance and inspection programme of work.²⁰ The additional business activities that Evoenergy must undertake include:²¹

- **Tree clearing** - removing vegetation that is near an aerial line within defined clearances as set out in the amended Act by felling or lopping trees; trimming of roots or trees or other plants; or the clearing or removal of vegetation. Clearing must comply with legislation for heritage areas, protected trees, nature conservation and emergencies.
- **Outage and switching** - planning, preparing and implementing outages and switching for low and high voltage networks.

¹⁴ Evoenergy, *Vegetation management cost pass through application*, 7 December 2018, p. 11.

¹⁵ *Utilities (Technical regulation) Act 2014*, section 411.

¹⁶ Evoenergy, *Regulatory Proposal 2019-24, Appendix 6.1 Vegetation and private electrical infrastructure – operating expenditure step change 2019-24 (PUBLIC)*, January 2018, p. 14.

¹⁷ *Utilities (Technical regulation) Act 2014*, section 41D(3).

¹⁸ Evoenergy, *Vegetation management cost pass through application*, 7 December 2018, p. 9.

¹⁹ *Utilities (Technical regulation) Act 2014*, sections 16 and 41D(7).

²⁰ Evoenergy, *Vegetation management cost pass through application*, 7 December 2018, p. 11.

²¹ Evoenergy, *Vegetation management cost pass through application*, 7 December 2018, pp. 11-12.

- **Customer notifications and inquiries** - preparing the content of notifications, determining the customers affected for each outage and handling customer calls.
- **Reactive clearing** - additional trimming to meet clearances, and clearing the site after reactive tree cutting is conducted, outside the planned schedule of vegetation clearance.
- **Work planning** - identifying the number of affected overhead feeders, preparing work packages for contractors, creating work orders in Cityworks, and liaison with ACT Parks and Conservation for nature reserve entry.
- **Other material activities** - analysing and updating systems, preparing the annual program of work, storms/major event clean up, public safety announcements/media campaigns, tendering/contract management.

Based on the material Evoenergy has provided as part of its regulatory proposal for the purposes of its 2019–24 distribution determination,²² and Evoenergy's cost pass through application,²³ we are satisfied that Evoenergy's new regulatory obligations, which necessitate additional business activities Evoenergy must undertake to comply with those obligations, has the effect of substantially varying the manner in which Evoenergy is required to provide a direct control service during the course of the 2014–19 regulatory control period, in satisfaction of paragraph (a)(i) of the service standard event definition.

4.1.1.2 Sub-paragraph (b) – materiality

The NER defines “materially” as follows:

For the purposes of the application of clause 6.6.1, an event results in a DNSP incurring materially higher or materially lower costs if the change in costs (as opposed to the revenue impact) that the DNSP has incurred and is likely to incur in any regulatory year of a regulatory control period, as a result of that event, exceeds 1% of the annual revenue requirement for the DNSP for that regulatory year.²⁴

Evoenergy submits that the compliance costs associated with the new obligations are material in the 2018-19 regulatory year. We are satisfied the new regulatory obligations result in Evoenergy incurring costs higher than 1 per cent of its annual revenue requirement in 2018-19.

As part of our review of Evoenergy's 2019–24 regulatory revenue proposal, we have forecast an annual opex requirement of \$2,404,928 (\$2018-19) for Evoenergy to manage its new vegetation management and electrical infrastructure inspection responsibilities in our draft decision. This estimate is 36 per cent lower than Evoenergy's proposed opex of \$3.70 million (\$2018-19) per annum. Our assessment of Evoenergy's proposed opex for its new regulatory obligations are set out in our draft decision, available on our website.²⁵

²² Evoenergy, *Regulatory Proposal 2019-24, Appendix 6.1 Vegetation and private electrical infrastructure – operating expenditure step change 2019-24 (PUBLIC)*, January 2018.

²³ Evoenergy, *Vegetation management cost pass through application*, 7 December 2018.

²⁴ NER, Chapter 10 Glossary.

²⁵ AER, *Evoenergy 2019–24 - Draft decision - Attachment 6 - Operating Expenditure*, 27 September 2018, pp. 6-32 to 6-35.

For the purposes of its cost pass through application, Evoenergy has adopted our alternative estimate of \$2,404,928 (\$2018-19) for the costs it expects to incur to comply with its new responsibilities in 2018-19.

Evoenergy has used our remade 2014–19 final decision Post Tax Revenue Models (PTRMs) to obtain the sum of the unsmoothed revenues for distribution and dual function assets for 2018-19.²⁶ Evoenergy's unsmoothed annual revenue requirement for 2018-19 is \$164.38 million (\$2018-19).

Evoenergy's proposed compliance costs associated with the new responsibilities (\$2.4 million) represent 1.46 per cent of Evoenergy's unsmoothed annual revenue requirement in 2018-19, which exceeds the materiality threshold of 1 per cent. We are satisfied that Evoenergy has correctly calculated the pass through amount as passing the materiality threshold.

4.1.2 Positive change event

If we are satisfied that a pass through event has occurred, we must determine whether the pass through event qualifies as a 'positive change event'. That is, whether Evoenergy incurs materially higher costs in providing direct control services than it would have incurred but for the pass through event.

As discussed in section 4.1.1 above, we consider that a pass through event has occurred, in the form of a service standard event. We agree with Evoenergy that this pass through event materially increased its costs in providing direct control services. Therefore, the pass through event in question constitutes a positive change event.

4.1.3 Timing of Evoenergy's application

Clause 6.6.1(c) of the NER requires DNSPs to submit a pass through application to us within 90 business days of the positive change event occurring. Evoenergy submits that the positive change event occurred on 1 July 2018 with the imposition of the new obligations on Evoenergy.²⁷

On 18 June 2018, we approved Evoenergy's request for an extension, to allow this pass through application to be submitted 90 business days after publication of our remade final decision on Evoenergy's 2014–19 distribution determination.²⁸ This is because at the time of the positive change event, the AER was remaking Evoenergy's 2014–19 distribution determination which precluded Evoenergy from submitting a cost pass through application without knowing what its annual revenue requirement would be.²⁹

²⁶ AER, *Final Decision Evoenergy PTRM - Distribution*, November 2018; AER, *Final Decision Evoenergy PTRM - Transmission*, November 2018.

²⁷ Commencement notice CN2018, (26 April 2018), which provides that the *Utilities (Technical Regulation) Amendment Act 2017* (Amendment Act) (which makes the relevant amendments to the Act) commences on 1 July 2018.

²⁸ NER, cl. 6.6.1(k); AER, *Letter to Evoenergy - Request for extension - vegetation management cost pass through application*, 18 June 2018.

²⁹ Following its review of the AER's final decision made in April 2015 with respect to Evoenergy's 2015–19 distribution determination, the Australian Competition Tribunal remitted the decision to the AER to be remade in accordance with the

We published our remade final decision for Evoenergy's 2014–19 distribution determination on 15 November 2018. We received Evoenergy's pass through application 16 business days later, on 7 December 2018. Evoenergy has therefore submitted the application within the allowable timeframe.

4.2 Assessment of the pass through amount

Clause 6.6.1(c)(3) of the NER requires Evoenergy to specify the eligible pass through amount. The 'eligible pass through amount' is defined in the NER to mean 'the increase in costs in the provision of direct control services that, as a result of that positive change event, the DNSP has incurred and is likely to incur (as opposed to the revenue impact of that event)' until the end of the regulatory control period in which the positive change event occurred. Evoenergy submits that it has incorporated only incremental costs, and has not included allocated overheads, in the eligible pass through amount (\$2,404,928, \$2018-19) consistent with the NER.³⁰

In considering Evoenergy's pass through application and the eligible pass through amount, we took into account those factors set out in clause 6.6.1(j) of the NER. We discuss each of these factors below.

4.2.1 Matters and proposals set out by Evoenergy

We have reviewed Evoenergy's application and the evidence it has provided to justify its proposed opex increase in its 2019–24 regulatory proposal for the compliance costs of its new regulatory obligations, including its responses to our information requests as part of our review of its regulatory proposal. We made our pass through determination based on the matters and proposals provided by Evoenergy in its pass through application, which are consistent with what it has provided for our review of its 2019–24 regulatory proposal.

4.2.2 Increase in costs in the provision of direct control services

Evoenergy's regulatory proposal for the 2019–24 regulatory period and subsequent responses to our information requests included confidential information detailing the costs forecast to be incurred in complying with the new obligations. As part of that review process, we examined Evoenergy's proposed costs of the projected additional business activities, as outlined in section 4.1.1.1, totalling \$3.7 million per annum (\$2018-19) opex forecast for its new compliance obligations.

Throughout our assessment process, we have engaged closely with Evoenergy to understand its proposal and to test its assumptions. Based on the evidence and revised estimates Evoenergy provided, we constructed an alternative estimate of \$2,404,928 (\$2018-19) per annum as the prudent and efficient amount of opex Evoenergy will require to meet its new regulatory obligations.

For the purposes of this pass through application, Evoenergy has adopted our alternative estimate as its forecast costs for complying with its new regulatory obligations in 2018-19.

Tribunal's directions.

³⁰ Evoenergy, *Vegetation management cost pass through application*, 7 December 2018, p. 17.

Therefore, consistent with our forecast in our draft decision for Evoenergy's 2019–24 distribution determination, we are satisfied that this proposed pass through amount of \$2,404,928 (\$2018-19) reflects the efficient and prudent amount of incremental costs that Evoenergy will incur to meet its new regulatory obligations for 2018-19.

Table 2 shows the costs Evoenergy expects to incur in the 2014–19 regulatory control period to comply with its new regulatory obligations.

Table 2: Evoenergy's proposed compliance costs for new vegetation management and electrical infrastructure inspection obligations (\$, 2018-19)

	2014-15	2015-16	2016-17	2017-18	2018-19	Total
Opex	0	0	0	0	2,404,928	2,404,928

Source: Evoenergy vegetation management pass through application

4.2.3 Actions to reduce the magnitude of the pass through amount

We consider that, as an event, the amendment to the Act was exogenous to Evoenergy. We are satisfied that the imposition of the new vegetation management and electrical infrastructure inspection responsibilities were not risks which Evoenergy would have been able to mitigate prior to the event.

4.2.4 Time cost of money

Clause 6.6.1(j)(4) of the NER requires us to take into account the time cost of money based on the weighted average cost of capital (WACC) for the DNSP.

Given Evoenergy incurs the costs in the final year of the current regulatory control period and the proposed pass through amount is \$2,404,928 as at 30 June 2019, we consider it unnecessary to provide an allowance for time cost of money within the 2014–19 regulatory control period.

4.2.5 Recovery of costs solely a consequence of the pass through event

We have forecast Evoenergy's annual incremental costs arising from its new regulatory obligations in the context of our 2019–24 distribution determination process, following a comprehensive assessment of the incremental opex Evoenergy will reasonably require to meet its new regulatory obligations in the 2019–24 regulatory control period. Evoenergy has adopted our alternative estimate of \$2,404,928 (\$2018-19) as its forecast compliance costs in 2018-19 and the proposed pass through amount in this application. Therefore, we are satisfied that Evoenergy's proposed pass through amount only includes incremental costs that are solely attributed to the costs which it will incur in complying with its new regulatory obligations in 2018-19.

4.2.6 Whether the costs have been factored into the annual revenue requirement

In our remade final decision for Evoenergy's 2014–19 distribution determination, we determined that Evoenergy's forecast opex was \$290.82 million (\$real, 2018-19). This forecast did not anticipate any allowance for the costs of compliance with Evoenergy's new vegetation management and electrical infrastructure inspection responsibilities. Consequently, the current revenue allowance of Evoenergy does not factor in any allowance for these costs in the annual revenue requirement.

4.2.7 Whether the costs are subject of a previous pass through determination

Evoenergy's proposed pass through amount is not part of a previous pass through determination by us under clause 6.6.1 of the NER. We note Evoenergy in 2013 made a pass through application in relation to the costs of vegetation clearance. However, this was entirely unrelated to the present pass through application.

4.2.8 Any other factors we consider relevant

There are no other factors we consider relevant in making our determination on the pass through amount.

4.3 Calculation of the approved pass through amount

The approved pass through amount is \$2,404,928 (\$2018-19), as at 30 June 2019. This is based on a detailed forecast we constructed during our review of Evoenergy's proposed opex as part of its 2019–24 regulatory proposal.

We determine that this amount will be recovered by Evoenergy in the 2019-20 and 2020-21 regulatory years in two equal amounts, within the 2019–24 regulatory control period. This is because it is too late for Evoenergy to recover its expected compliance costs within the 2014–19 regulatory control period.

We note that we have also approved two other pass through applications submitted by Evoenergy on 7 December 2018.³¹ The sum of all the approved pass through amounts is \$8.42 million (\$2018-19). If this amount is recovered in 2019-20, it is likely to result in a material increase in Evoenergy's 2019-20 revenue requirement. Given the potential volatility in Evoenergy's revenue, our preferable approach is to allow Evoenergy to recover the approved pass through amounts in two equal instalments (with adjustment for the time cost of money) for all three pass through applications over the regulatory years 2019-20 and 2020-21. We consider this approach will minimise volatility in Evoenergy's revenue requirements while still allowing it to recover its efficient costs in a timely manner.

³¹ AER, *AER determination - Power of Choice reforms cost pass through - Evoenergy*, February 2019; AER, *AER determination - Ring-fencing guideline cost pass through - Evoenergy*, February 2019.