

13 September 2013



Mr Chris Pattas
General Manager – Network Operations and Development
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

Dear Mr Pattas

Response to AER Draft Shared Asset Guidelines

ActewAGL Distribution welcomes the opportunity to provide this submission in response to the AER's Draft Shared Asset Guidelines.¹ ActewAGL Distribution is a member of the Energy Networks Association (ENA) and supports the ENA's submission on the draft guidelines. In addition, ActewAGL Distribution has the following key points to make.

Application of the guidelines

ActewAGL Distribution supports in principle the draft shared asset guidelines proposed by the AER and the inclusion of a cost reduction method within the guidelines because it provides transparency and certainty for service providers at the time of making a regulatory proposal. However, ActewAGL Distribution argued strongly in its response to the AER's Issues Paper that it was important for the guidelines to remain flexible enough for service providers to propose cost sharing mechanisms that take account of their individual circumstances, and that the AER should assess proposals on a business by business basis in order to provide the most equitable sharing arrangement possible between service providers and their customers.

Consequently, it is ActewAGL Distribution's view that the AER's method should be considered a default method only, with preference given to an alternative method where a service provider is able to demonstrate this provides a more accurate reflection of the extent of recovery of shared asset costs.

ActewAGL Distribution notes the AER's requirement that proposed cost reductions should be calculated using the method set out in the draft guidelines, or leave consumers "no worse off"² if calculated under another method. Whilst the AER has suggested "service providers have an incentive to minimise the value of cost reductions to consumers,"³ it has also acknowledged that "they may be better able to efficiently estimate some costs and revenues."⁴ The focus of the AER's cost reduction process should be on getting the balance right, not on compliance with the default method.

¹ AER, 2013, *Better Regulation: Draft Shared Asset Guidelines*, July.

² *Draft Shared Asset Guidelines*, cl 3.3(d)

³ AER, 2013, *Better Regulation Explanatory Statement, Draft Shared Asset Guidelines*, p.21

⁴ *Ibid*, p.21

In any case, the requirement that consumers are left 'no worse off' requires further clarification from the AER. It is not clear from this statement whether this means consumers should receive a higher proportion of revenue from shared assets, or if this relates to the National Electricity Objective (NEO) - the focus of which extends beyond financial benefits to consumers.

Where the AER's proposed cost reduction method is applied by service providers, ActewAGL Distribution supports the proposed benefit sharing proportion of 10 per cent of the value of unregulated revenues earned from shared assets. This will preserve incentives for the ongoing use of network assets to efficiently provide other services and broader social benefits while keeping the process as simple as possible.

Materiality threshold

The National Electricity Rules (NER) require that a shared asset cost reduction should only be applied where the use of the asset other than for standard control services is material.⁵ The AER's draft guidelines establish material use as being when annual unregulated revenues from shared assets are expected to be equal to or greater than 1 per cent of a service provider's total annual revenue requirement (ARR) for that regulatory year. ActewAGL Distribution supports the adoption of this threshold for the purposes of establishing material 'use' of shared assets.

However, ActewAGL Distribution does not agree with the AER's position that the materiality threshold should be applied on an aggregate basis because it is the "simplest approach and avoids definitional difficulties."⁶ Calculating unregulated revenue on a per service basis would not be so administratively complex as the AER purports and, consistent with clause 6.4.4(c)(1) of the NER, it would provide greater incentive for NSPs to provide shared assets for the provision of other unregulated services. Furthermore, it would exclude services that do not generate a material amount of revenue, thereby limiting the administrative burden on NSPs and the AER.

Information reporting

ActewAGL Distribution is cognisant of the AER's desire to maintain an awareness of actual unregulated services and revenues between regulatory periods, but does not support the AER's proposal for minimum annual reporting.

Clause 6.4.4(a)(2) of the NER clearly states that the AER can only make a cost reduction to reflect such part of the costs of that asset as the DNSP is recovering through charging for the provision of a service. It is ActewAGL Distribution's view that where an NSP may have in place pre-existing or legacy arrangements that prohibit the recovery of unregulated revenue from shared assets, then no cost adjustment would be required. Likewise, there should be no obligation on the NSP to submit information to the AER in relation to these assets. Such a requirement would increase compliance costs for the NSPs with no benefit to consumers.

Also, unregulated revenues are already reported in RINs that are submitted to the AER on an annual basis. ActewAGL Distribution proposes that if the AER's materiality threshold is triggered at the time of the regulatory reset, then NSPs would report details of unregulated revenues in their shared asset cost reduction proposal.

⁵ NER, 6.4.4(c)(3)

⁶ AER, *Better Regulation: Explanatory statement, Draft Shared Asset Guidelines*, p. 25

In relation to all information reporting requirements under the shared asset guidelines, ActewAGL Distribution strongly supports the ENA's proposal that the AER provide blanket confidential status to contractual information provided to the AER. The public release of information relating to an activity that is not regulated by the AER and containing confidential information could place NSPs in breach of contract, or discourage third parties from contracting with NSPs.

If you would like to discuss any aspect of this submission, please contact Shona Alexander, Principal Regulatory Advisor on (02) 6270 7929.

Yours sincerely,

A handwritten signature in blue ink, consisting of a stylized 'D' followed by a series of loops and a long horizontal stroke.

David Graham
Director Regulatory Affairs and Pricing