



Country Energy
draft distribution determination
2009–10 to 2013–14

21 November 2008

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Summary

Clause 6.10.1 of the transitional chapter 6 rules requires the Australian Energy Regulator (AER) to make a draft distribution determination in relation to Country Energy.

Under clause 6.12.1 of the transitional chapter 6 rules, this draft distribution determination is predicated on the following constituent decisions:

- (1) a decision on the classification of the services to be provided by the Distribution Network Service Provider during the course of the regulatory control period;
- (2) a decision on the Distribution Network Service Provider's current building block proposal in which the AER either approves or refuses to approve:
 - (i) the annual revenue requirement for the provider, as set out in the building block proposal, for each regulatory year of the regulatory control period; and
 - (ii) *****
- (3) a decision in which the AER either:
 - (i) acting in accordance with clause 6.5.7(c), accepts the total of the forecast capital expenditure for the regulatory control period that is included in the current building block proposal; or
 - (ii) acting in accordance with clause 6.5.7(d), does not accept the total of the forecast capital expenditure for the regulatory control period that is included in the current building block proposal, in which case the AER must set out its reasons for that decision and an estimate of the total of the Distribution Network Service Provider's required capital expenditure for the regulatory control period that the AER is satisfied reasonably reflects the capital expenditure criteria, taking into account the capital expenditure factors;
- (4) a decision in which the AER either:
 - (i) acting in accordance with clause 6.5.6(c), accepts the total of the forecast operating expenditure for the regulatory control period that is included in the current building block proposal; or
 - (ii) acting in accordance with clause 6.5.6(d), does not accept the total of the forecast operating expenditure for the regulatory control period that is included in the current building block proposal, in which case the AER must set out its reasons for that decision and an estimate of the total of the Distribution Network Service Provider's required operating expenditure for the regulatory control period that the AER is satisfied reasonably reflects the operating expenditure criteria, taking into account the operating expenditure factors;
- (5) a decision in relation to the rate of return in accordance with clause 6.5.2;
- (6) a decision on the regulatory asset base as at the commencement of the regulatory control period in accordance with clause 6.5.1 and schedule 6.2;
- (7) a decision on the estimated cost of corporate income tax to the provider for each regulatory year of the regulatory control period in accordance with clause 6.5.3;

- (8) a decision on whether or not to approve the depreciation schedules submitted by the Distribution Network Service Provider and, if the AER decides against approving them, a decision determining depreciation schedules in accordance with clause 6.5.5(b);
- (9) a decision on how any applicable efficiency benefit sharing scheme, service target performance incentive scheme, or demand management incentive scheme is to apply to the Distribution Network Service Provider;
- (10) a decision in which the AER decides other appropriate amounts, values or inputs;
- (11) a decision on the control mechanism (including the X factor) for standard control services;
- (12) a decision on the control mechanism for alternative control services;
- (13) a decision on how compliance with a relevant control mechanism is to be demonstrated;
- (14) a decision on the additional pass through events that are to apply for the regulatory control period;
- (15) a decision on any negotiating framework that is to apply to the Distribution Network Service Provider for the regulatory control period (which may be the negotiating framework as proposed by the provider, some variant of it, or a framework substituted by the AER);
- (16) if relevant, a decision in which the AER decides the Negotiated Distribution Service Criteria for the Distribution Network Service Provider;
- (16A) a decision in which the AER decides which, if any, components of direct control services are negotiable components;
- (16B) if relevant, a decision in which the AER decides the negotiable component criteria for the Distribution Network Service Provider;
- (17) a decision on the procedures for assigning customers to tariff classes, or reassigning customers from one tariff class to another (including any applicable restrictions);
- (18) a decision on whether depreciation for establishing the regulatory asset base as at the commencement of the following regulatory control period is to be based on actual or forecast capital expenditure;
- (19) a decision on how the Distribution Network Service Provider is to report to the AER on its recovery of Transmission Use of System charges for each regulatory year of the regulatory control period and on the adjustments to be made to subsequent pricing proposals to account for over or under recovery of those charges;

In addition to the constituent decisions in clause 6.12.1, the transitional chapter 6 rules set out the following requirements for the distribution determination:

- Clause 6.3.2 requires the AER to make a building block determination in relation to Country Energy, as a component of a distribution determination. The building block determination is to specify the following matters for a regulatory control period:
 - (1) the Distribution Network Service Provider's annual revenue requirement for each regulatory year of the regulatory control period;
 - (2) appropriate methods for the indexation of the regulatory asset base;

- (3) how any applicable efficiency benefit sharing scheme, service target performance incentive scheme, or demand management incentive scheme are to apply to the Distribution Network Service Provider;
 - (4) the commencement and length of the regulatory control period;
 - (5) any other amounts, values or inputs on which the building block determination is based (differentiating between those contained in, or inferred from, the service provider's building block proposal and those based on the AER's own estimates or assumptions).
- Clause 6.7A provides that the AER may include in the distribution determination a decision that one or more components of the DNSP's direct control services are negotiable components.
 - Clause 6.7A.3 provides that the determination specifying requirements relating to the negotiating framework (forming part of a distribution determination) is to set out requirements that are to be complied with in respect of the preparation, replacement, application or operation of its negotiating framework.
 - Clause 6.7A.4(a) provides that the determination specifying the negotiable component criteria (forming part of a distribution determination) is to set out the criteria that are to be applied:
 - (1) by the provider in negotiating terms and conditions of access including:
 - (i) the variations to the prices that are to be charged for the provision of the negotiable component of the direct control service concerned by the provider for the relevant regulatory control period; and
 - (ii) any access charges which are negotiated by the provider during that regulatory control period; and
 - (2) by the AER in resolving an access dispute, between the Distribution Network Service Provider and a person who wishes to be provided with a negotiable component, in relation to terms and conditions of access including:
 - (i) the variation of the prices that are to be charged for the provision of the negotiable component of the direct control service concerned by the provider; and
 - (ii) any access charges that are to be paid to or by the provider.

Clause 6.12.3(a) of the transitional chapter 6 rules allows the AER the discretion to accept or approve, or refuse to accept or approve any element of a regulatory proposal. Where the AER rejects an amount or methodology relating to a constituent decision, it must substitute an amount or methodology:

- (1) determined on the basis of the current regulatory proposal; and
- (2) amended from that basis only to the extent necessary to enable it to be approved in accordance with the Rules.

The AER's decisions for the distribution determination are set out below. Detailed analysis and discussion of the AER's considerations and reasoning is set out in the AER's draft decision, released with this draft determination. Reference to the draft decision is a reference to the AER's draft decision released with this draft determination on 28 November 2008, entitled *Draft decision, NSW distribution determination 2009–10 to 2013–14*. Abbreviations have the meaning given to them in the draft decision.

Draft determination – constituent decisions

In accordance with clause 6.12.1(1) of the transitional chapter 6 rules the AER decides that the following classification of services will apply to Country Energy for the next regulatory control period:

- a distribution service provided by Country Energy that was previously determined by IPART to be a prescribed distribution service (for the purposes of the current regulatory control period) is deemed to be classified as a direct control service and further classified as a standard control service
- a distribution service provided by Country Energy that was previously classified as an excluded distribution service by IPART, specifically the excluded distribution service of the construction and maintenance of public lighting infrastructure (for the purposes of the current regulatory control period) is deemed to be classified as a direct control service and further classified as an alternative control service
- a distribution service provided by Country Energy that was previously classified as an excluded distribution service by IPART, and is not the excluded distribution service of the construction and maintenance of public lighting infrastructure (for the purposes of the current regulatory control period) is deemed to be classified as an unregulated distribution service
- there are no services classified as negotiated distribution services
- other distribution services provided by Country Energy are unclassified and not regulated under the transitional chapter 6 rules.

In accordance with clause 6.12.1(2)(i) of the transitional chapter 6 rules the AER refuses to approve the annual revenue requirement proposed by Country Energy.

In accordance with clause 6.12.1(3)(ii) of the transitional chapter 6 rules the AER does not accept Country Energy's forecast capex for the next regulatory control period. The AER is not satisfied that Country Energy forecast capex, taking into account the capex factors reasonably reflects the capex criteria in clause 6.5.7 of the transitional chapter 6 rules. The AER's reasons for this decision are set out in section 7.8 of the draft decision. The AER's estimate of the total capex required by Country Energy in the next regulatory control period, that reflects the capex criteria taking into account the capex factors, is set out in table 7.6 of the draft decision.

In accordance with clause 6.12.1(4)(ii) of the transitional chapter 6 rules the AER does not accept Country Energy's proposed opex expenditure for the next regulatory control period. The AER's reasons are set out in section 8.6 of the draft decision. The AER's estimate of Country Energy's required opex for the next regulatory control period is set out in table 8.21 of this draft decision.

In accordance with clause 6.12.1(5) of the transitional chapter 6 rules the AER decides the rate of return to apply to Country Energy is 9.72 per cent.

In accordance with clause 6.12.1(6) of the transitional chapter 6 rules the AER has decided that the opening regulatory asset base at 1 July 2009 for Country Energy is set out in table 5.5 of the draft decision

In accordance with clause 6.12.1(7) of the transitional chapter 6 rules the AER has decided the estimated cost of corporate tax to Country Energy for each regulatory year of the next regulatory control period is specified in table 9.1 of the draft decision.

In accordance with clause 6.12.1(8) of the transitional chapter 6 rules the AER decides not to approve the depreciation schedules submitted by Country Energy. The AER has determined the depreciation schedule for Country Energy is set out in table 10.6 of the draft decision.

In accordance with clause 6.12.1(9) of the transitional chapter 6 rules the AER decides the efficiency benefit sharing scheme to apply to Country Energy is as defined in the AER's *Efficiency benefit sharing scheme for the ACT and NSW 2009 distribution determinations*, published in February 2008. The following opex cost categories will be excluded from the operation of the EBSS for the next regulatory control period:

- debt raising costs
- self insurance costs
- insurance costs
- superannuation costs relating to defined benefit and retirement schemes
- non-network alternatives.

These are in addition to the costs of pass through events which are excluded by the EBSS.

In accordance with clause 6.12.1(9) of the transitional chapter 6 rules the AER decides that, with the agreement of Country Energy the demand management incentive scheme to apply to Country Energy is the DMIA set out in the AER's *Demand management incentive scheme for the ACT and NSW 2009 distribution determinations – Demand management innovation allowance scheme*, November 2008, and the D-factor scheme set out in IPART's *Guidelines on the Application of the D-factor in the Tribunal's 2004 NSW Electricity Distribution Pricing Determination*.

In accordance with clause 6.12.1(10) of the transitional chapter 6 rules the AER decides the other appropriate amounts, values or inputs to apply to Country Energy are as specified in table 11.4 of the draft decision.

In accordance with clause 6.12.1(10) of the transitional chapter 6 rules the AER has decided that the other appropriate amounts, values or inputs with respect to energy consumption and customer number forecasting are to be provided by Country Energy as a revised energy delivered forecast, within the input sheet of Country Energy's post tax revenue model for standard control services, by COB on 20 February 2009.

In accordance with clause 6.12.1(11) of the transitional chapter 6 rules, the AER decides that the control mechanism for standard control services provided by Country Energy is a weighted average price cap. The applicable formulas are set out in section 4.5 of the draft decision.

In accordance with clause 6.12.1(11) of the transitional chapter 6 rules, the AER decides that Country Energy's:

- miscellaneous services, monopoly services and emergency recoverable works for the next regulatory period are set out in appendix G of the draft decision
- schedule of fees and/charges for miscellaneous services, monopoly services and emergency recoverable works for the next regulatory period are set out in appendix H of the draft decision.

In accordance with clause 6.12.1(11) of the transitional chapter 6 rules the AER decides the X factors to apply to Country Energy are as specified in table 16.18 of the draft decision.

In accordance with clause 6.12.1(12) of the transitional chapter 6 rules, the AER decides that the control mechanism for alternative control services is:

- a schedule of fixed prices in the first year of the next regulatory control period for assets constructed before 1 July 2009 and a schedule of fixed prices in the first year of the next regulatory control period for assets constructed after 30 June 2009
- a price path, such as CPI, for the remaining years of the next regulatory control period.

Country Energy will submit its proposed schedules of fixed prices and price path to the AER by 16 January 2009 for consideration by the AER and for public consultation. Country Energy must follow the approach set out in section 17.6.11 of the draft decision when preparing its proposed schedules of fixed prices and price path.

In accordance with clause 6.12.1(13) of the transitional chapter 6 rules, the AER decides that compliance with the relevant control mechanism is to be demonstrated through annual approval of changes in the schedules of prices.

In accordance with clause 6.12.1(14) of the transitional chapter 6 rules the AER decides that the nominated pass through events that are to apply to Country Energy for the next regulatory control period are a retail project event and a force majeure event as defined in section 15.7 of the draft decision.

In accordance with clauses 6.12.1(15) and 6.7A.3 of the transitional chapter 6 rules the AER decides the negotiating framework in appendix D of the draft decision is to apply to Country Energy for the next regulatory control period. The preparation of the negotiating framework for 2014–2019 regulatory control period must be undertaken in accordance with the framework and approach processes for that regulatory control period.

In accordance with clause 6.12.1(16A) of the transitional chapter 6 rules the AER decides that the components of Country Energy’s direct control services which are negotiable components are any component of a direct control service (or the terms and conditions on which that direct control service or component are provided) where:

- the direct control service exceeds the network performance requirements which the direct control service is required to meet under any jurisdictional electricity legislation;
- the direct control service, except to the extent of any prescribed requirements of jurisdictional electricity legislation, exceeds or does not meet the network performance requirements (whether as to quality or quantity) as set out in schedule 5.1a or 5.1 of the NER; or
- the direct control service is a connection service provided to serve network users at a single distribution network connection point, other than connection services that are provided by one network service provider to another network service provider to connect their networks where neither provider is a market network service provider.

In accordance with clause 6.12.1(16B) and 6.7A.4(a) of the transitional chapter 6 rules the AER decides the NCC for Country Energy is at appendix B of the draft decision.

In accordance with clause 6.12.1(17) of the transitional chapter 6 rules the AER decides the procedures be applied by Country Energy for assigning customers to tariff classes or reassigning customers from one tariff class to another are specified in appendix A of the draft decision.

In accordance with clause 6.12.1(18) of the transitional chapter 6 rules the AER has decided to use actual depreciation for establishing the regulatory asset base for the commencement of the 2014–19 regulatory control period.

In accordance with clause 6.12.1(19) of the transitional chapter 6 rules the AER decides that Country Energy must submit, as part of its annual pricing proposal, a record of the amount of revenues recovered from TUOS charges and associated payments in accordance with appendix I of the draft decision.

Building block determination

In accordance with clause 6.3.2(a)(1) of the transitional chapter 6 rules, the AER decides Country Energy's annual revenue requirement for each regulatory year of the next regulatory control period is as set out in table 16.18 of the draft decision.

In accordance with clause 6.3.2(a)(2) of the transitional chapter 6 rules, the AER decides an appropriate methodology for indexation of the regulatory asset base is as specified in section 16.5.2 of the draft decision.

In accordance with clause 6.3.2(a)(3) of the transitional chapter 6 rules, the AER decides that the application of:

- the efficiency benefit sharing scheme to apply to Country Energy is as specified in section 13.6 of the draft decision.
- the service target performance incentive scheme to apply to Country Energy is as specified in section 12.6 of the draft decision.
- the demand management incentive scheme to apply to Country Energy is as specified in section 14.6 of the draft decision.

In accordance with clause 6.3.2(a)(4) of the transitional chapter 6 rules, the AER decides the regulatory control period to which this draft determination applies commences on 1 July 2009 and will run for 5 years, ending on 30 June 2014.

In accordance with clause 6.3.2(a)(5) of the transitional chapter 6 rules, the AER decides any other amounts, values or inputs on which Country Energy's building block determination is based are as specified in section 16.5 and 16.6 of the draft decision.