



Determination

ETSA Utilities application for revocation and substitution of 2010–11 to 2014–15 distribution determination

Feed-in tariff payments

February 2012

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AER reference: 47952/12-7504

1 Application by ETSA Utilities to revoke and substitute its 2010-11 to 2014-15 distribution determination

A number of jurisdictions have introduced feed-in tariff (FiT) schemes where payments (or credits) are made by Distribution Network Service Providers (DNSPs) to eligible generators for electricity generated by photovoltaic installations and fed into the distribution network.

The National Electricity Rules (NER) set out the manner in which DNSPs can recover FiT payments from their customers. A new rule, which commenced on 1 July 2010, includes a cost recovery mechanism for DNSPs to recover FiT payments (or credits) through the annual pricing process.¹

Transitional provisions were also included in the NER to give DNSPs the option to start using this new mechanism to recover their Jurisdictional Scheme Amounts (JSA) in their current regulatory period.²

As one of the prerequisites to using the annual pricing process in the current regulatory control period, the AER needs to agree to revoke and substitute the DNSP's distribution determination, if the payments are included in its opex allowance. On 23 December 2011 ETSA Utilities, South Australia's DNSP, made such a request regarding the 'Feed-in mechanisms' jurisdictional scheme. FiT payments are currently included in ETSA Utilities' opex allowance (table 1.1) with a nominated pass through event for over and under recovery. The revocation and substitution sought will remove the FiT allowance from opex calculations for the remainder of the 2010–15 regulatory period.

1.1 Determination

The Australian Energy Regulator (AER) determines that, with effect from the date of this decision:

(a) pursuant to clause 11.35.4(a) of the *National Electricity Rules*, ETSA Utilities' distribution determination for 2010–11 to 2014–15 (old distribution determination), as made by the AER in May 2010 and varied by the order of the Australian Competition Tribunal dated 19 May 2011 (Tribunal order), is revoked;

(b) pursuant to clause 11.35.4(b) of the *National Electricity Rules*, a new distribution determination is made for ETSA Utilities to apply for the remainder of the regulatory control period ending 30 June 2015. The new distribution determination differs from the old distribution determination in the following respects:

- (i) Table 1.2 in section 1.2 below replaces the table in the old distribution determination that is referred to in paragraph 1(a) of the Tribunal order, as varied by that paragraph.

¹ Clause 6.18.7A NER sets out the new cost recovery mechanism.

² The transitional provisions for the current regulatory control periods are set out in clause 11.35 of the NER.

- (ii) Table 1.3 in section 1.2 below replaces the tables in the old distribution determination that are referred to in paragraphs 1(f)-(g) of the Tribunal order, as varied by those paragraphs.
- (iii) Table 1.3 in section 1.2 below replaces the table in the old distribution determination that is referred to in paragraph 1(h) of the Tribunal order and as table 9 in schedule 2 to the Tribunal order as varied by paragraph 1(h) of the Tribunal order.

1.2 Reasons for determination

Clause 6.18.7A(e)(1)(ii) of the National Electricity Rules (NER) defines Division 3AB of the Electricity Act 1996 (SA), titled 'Feed-in mechanisms', to be a jurisdictional scheme. Hence under new clause 6.18.7A, ETSA Utilities may recover FiT payment amounts as part of the pricing proposal provisions for jurisdictional schemes.

Clause 11.35.4 of the NER sets out the transitional provisions for the process by which the AER may revoke and substitute a distribution determination with regards to jurisdictional scheme recovery.

11.35.4 Revocation and substitution of distribution determination for jurisdictional scheme recovery

- (a) The AER may revoke a distribution determination for a Distribution Network Service Provider during the current regulatory control period if:
 - (1) a forecast or estimate of amounts to be paid, credited or reimbursed under one or more jurisdictional schemes has been included in the Distribution Network Service Provider's forecast operating expenditure in its distribution determination (as adjusted under clause 6.6.1, if applicable) for the current regulatory control period; and
 - (2) the Distribution Network Service Provider gives the AER written notice that it intends to make an election under clause 11.35.2(c).
- (b) If the AER revokes a distribution determination under paragraph (a), the AER must make a new distribution determination in substitution for the revoked determination to apply for the remainder of the regulatory control period for which the revoked determination was to apply.
- (c) If the AER revokes a distribution determination under paragraph (a), the substituted determination must only vary from the revoked determination to the extent necessary to correct for the amounts referred to in subparagraph (a)(1).
- (d) The AER may only revoke and substitute a distribution determination under this clause 11.35.4, if it has first consulted with the relevant Distribution Network Service Provider and such other persons as it considers appropriate.

To revoke a distribution determination, the two requirements in Clause 11.35.4(a) must be met. First, the existing distribution determination must include an allowance for FiT

expenditure (clause 11.35.4(a)(1)). Table 1.1 sets out ETSA Utilities' revised forecast opex allowance for feed-in tariffs and replaces table 8.6 of the AER's final 2010 decision.

Table 1.1 ETSA Utilities revised proposal on feed-in tariff opex (\$m, 2009–10)

	2010–11	2011–12	2012–13	2013–14	2014–15	Total
ETSA Utilities' FiT allowances	7.0	0	0	0	0	7.0

Second, ETSA Utilities must give notice of its intention to elect to recover FiT payments under the JSA provisions. On 23 December 2011, ETSA Utilities gave notice of its intention to elect to the AER, satisfying clause 11.35.4(a)(2).³

The AER has used the PTRM to determine the effect of excluding the FiT payments from the forecast revenue allowance for ETSA Utilities. In accordance with clause 11.35.4(c), the revised distribution determination only differs from the revoked determination to correct for the removal of FiT allowances. Table 1.2 sets out ETSA Utilities' revised opex forecast, adjusted only for the removal of feed-in tariff allowances; it replaces table 1 of schedule 1 of the Tribunal order.⁴ Table 1.3 sets out ETSA Utilities' revised revenues and X-factors, adjusted only for the effects of the revised opex; it replaces table 6 of schedule 1 of the Tribunal order.⁵

Table 1.2 AER conclusion on ETSA Utilities total opex allowance (\$m, 2009–10)

	2010–11	2011–12	2012–13	2013–14	2014–15	Total
ETSA Utilities' proposed forecast opex	199.5	207.7	215.8	226.4	232.3	1081.7
Adjustments to controllable opex	-1.0	-1.5	-2.0	-2.7	-3.3	-10.5
Adjustments to self insurance	-1.5	-1.6	-1.7	-1.7	-1.8	-8.3
Adjustment to debt raising costs	-1.8	-1.90	-2.0	-2.0	-2.1	-9.9
Adjustment to cost escalators	-1.9	-3.2	-4.2	-5.0	-5.5	-19.7
Adjustment to feed-in tariffs	0.0	-8.7	-10.1	-11.1	-11.7	-41.5
AER opex allowance	193.1	190.8	195.8	203.9	208.0	991.6

Note: Totals may not add due to rounding.

³ ETSA Utilities, *Letter to the AER – Intention of election to adopt the NER jurisdictional scheme cost recovery mechanism*, December 2011.

^{4,5} Order of the Australian Competition Tribunal dated 19 May 2011 in respect of 'ETSA Utilities Distribution Determination 2010-11 to 2014-15' made by the AER in May 2010.

Table 1.3 AER conclusion on ETSA Utilities' annual revenue requirements and X-factors (\$m, nominal)

	2010–11	2011–12	2012–13	2013–14	2014–15
Regulatory depreciation	97.0	110.0	123.4	139.1	154.2
Return on capital	283.0	304.8	330.9	352.6	373.8
Opex	198.0	200.6	211.0	225.2	235.5
Tax allowance	80.7	81.8	80.3	84.1	86.7
Capex carryover	8.6	7.9	4.5	0.4	0.0
Annual revenue requirements	667.3	705.1	750.2	801.5	850.2
Expected revenues	618.8	726.6	761.9	825.7	851.5
Forecast CPI (%)	2.52	2.52	2.52	2.52	2.52
X factors (%)	-12.14	-18.10	-4.97	-7.00	-0.89

A copy of the amended PTRM is available for inspection on the AER website.

Dated: 17 February 2012