



Discussion paper

# **Objectives and priorities of electricity network service provider performance reports**

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## Contents

<b>1</b>	<b>Overview</b> .....	<b>2</b>
<b>2</b>	<b>Priorities and objectives of performance reporting</b> .....	<b>3</b>
2.1	Current reporting arrangements .....	3
2.2	Regulatory framework .....	4
2.3	Objectives of performance reporting .....	4
2.4	Priorities of performance reporting.....	5
2.5	Conclusion .....	6
<b>3</b>	<b>Consultation process</b> .....	<b>7</b>
	<b>Appendix A – Relevant Rules and Regulations</b> .....	<b>8</b>

# 1 Overview

Annual performance reports for electricity network service providers (NSPs) are an important element of the regulatory framework. The South Australian Minister for Energy, the Hon Patrick Conlon, MP, highlighted the importance of performance reporting in the gas market. The AER considers his statement equally applicable to the electricity market. Minister Conlon noted:<sup>1</sup>

[performance reporting is] a key aspect of transparency for service providers and will be of great benefit to gas users and consumers. Performance reporting on regulated services is an important element of the regulatory framework ....

This paper outlines a set of proposed objectives and priorities to be addressed through the publication of the NSP performance reports. The AER's priorities and objectives for preparing performance reports promote the national electricity objective (NEO). That being, to promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to electricity supply and the national electricity system.

Performance reporting enables stakeholders to assess compliance with regulatory determinations and compare the performance of network service providers. Annual performance reporting will further enhance the operation of the National Electricity Market (NEM) by encouraging active and informed stakeholder participation in regulatory processes.

The AER currently publishes performance reports for electricity transmission NSPs (TNSPs) and disparate information on the performance of distribution NSPs (DNSPs) was previously published by regulators in each NEM jurisdiction. The AER has progressively assumed responsibility for the economic regulation of NSPs in the NEM. As part of that responsibility, the AER will publish TNSP and DNSP performance reports. The purpose of the performance reports is to provide comparable information about NSPs' operations and financial performance. This includes information on the services provided by the NSPs and the costs of those services. Publishing this information will enhance transparency and accountability and allow efficient regulation and more effective engagement of consumers.

Stakeholders are invited to provide submissions on the proposed objectives and priorities. The AER will consider all submissions in developing and publishing a statement of approach outlining the final objectives and priorities of electricity NSP performance reporting.

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<sup>1</sup> Hon Patrick Conlon. MP. Minister for Energy, *National Gas (South Australia) Bill 2008, Second Reading Speech*, 9 April 2008.

## 2 Priorities and objectives of performance reporting

The AER is responsible for the economic regulation of NSPs in the NEM. Under the National Electricity Law (NEL) and the National Electricity Rules (NER) the AER is empowered to undertake a wide range of economic regulatory functions, including performance reporting.

Performance reporting is an important function of any utility regulator. Reporting the performance of regulated entities reduces the asymmetry of information between regulated networks and other stakeholders. Performance reporting also has the potential to provide an incentive for regulated businesses to improve their performance.

Reporting on the performance of regulated businesses is an important part of the regulatory process and an important input into the transmission and distribution determination processes. Reporting and explaining information that will be used in transmission and distribution determinations will make those processes more transparent and accessible.

### 2.1 Current reporting arrangements

#### Distribution

The AER has assumed responsibility for the economic regulation of DNSPs in the NEM. The DNSPs have previously been regulated by jurisdictional regulators, who have also had responsibility for reporting information on the DNSPs' performance. The AER will undertake responsibility for DNSP performance reporting, as it progressively takes on the distribution regulatory functions in each jurisdiction.

The AER made its final decision on the ACT and NSW distribution determinations for the 2009–10 to 2013–14 regulatory control period in April 2009.<sup>2</sup> In October 2010 these NSPs submitted their regulatory accounts to the AER for the first regulatory year (2009–10) of the current regulatory control period.

The AER will begin its performance reporting for electricity DNSPs based on the information provided to it by the ACT and NSW DNSPs for 2009–10. From 2010–11, the AER will begin performance reporting for the Queensland and South Australian DNSPs. Following this, the AER will also report on the Victorian DNSPs in accordance with the AER's reporting requirements.<sup>3</sup> Finally, from 2012–13 the AER will include the Tasmanian DNSP in its annual performance report.

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<sup>2</sup> AER, *Final Decision, Australian Capital Territory distribution determination 2009–10 to 2013–14*, April 2009 and AER, *Final Decision, New South Wales distribution determination 2009–10 to 2013–14*, April 2009.

<sup>3</sup> The AER currently reports on the Victorian NSPs under the previous regulatory framework administered by the Essential Services Commission of Victoria (ESCV).

## **Transmission**

The AER is responsible for the economic regulation of TNSPs in the NEM. Since 2002–03, it has published performance reports for the TNSPs. These are available on the AER’s website ([www.aer.gov.au](http://www.aer.gov.au)).

The AER has previously issued objectives and priorities with respect to TNSP annual performance reporting.<sup>4</sup> The AER intends for the revised objectives and priorities which are the subject of this discussion paper, to apply to both TNSPs and DNSPs. When finalised, the revised objectives and priorities will supersede the existing TNSP objectives and priorities.

## **2.2 Regulatory framework**

Section 7 of the NEL<sup>5</sup> provides that the objective of the Law is to promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to electricity supply and the national electricity system.

Section 15(1)(ea) of the NEL confers functions and powers of the AER to prepare and publish reports on the financial and operational performance of electricity NSPs.

Section 28F(3)(d) of the NEL provides that a regulatory information notice must not be served for the sole purpose of collecting information for performance reporting.

Section 28V of the NEL provides for the AER to report on the financial or operational performance, network profitability and other performance matters as considered appropriate.

Clause 8.7.4 of the NER<sup>6</sup> provides that prior to the AER preparing NSP performance reports it must determine appropriate priorities and objectives for the reports. NSPs and other stakeholders must be consulted during the preparation of the performance report. NSPs must also be given an opportunity to comment on a draft report prior to the publication of the final report.

## **2.3 Objectives of performance reporting**

The AER considers performance reports will assist in achieving a regulatory framework that improves over time, by enhancing the transparency and accountability of NSPs, and facilitating performance improvements. These objectives are discussed below.

### **Improvement of the regulatory framework**

Performance reporting will enable the AER to publish meaningful regulatory information. The information in performance reports will educate stakeholders on the NSPs’ performance and the outcomes of regulatory processes. Access to the

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<sup>4</sup> AER, *Final decision, Priorities and objectives of electricity transmission network service provider performance reports*, March 2009.

<sup>5</sup> See Appendix A.

<sup>6</sup> See Appendix A.

information will encourage a greater understanding of and participation in future regulatory processes. This should lead to greater effectiveness of the regulatory framework as a whole, and improvements in the regulatory framework over time.

### **Transparency**

Performance reporting promotes transparency. Reporting on the NSPs' expenditure, investment decisions and service levels allows for comparisons to be made between NSPs and over time. This will provide an insight into the NSPs' business practices and decision making. This will lead to better informed stakeholder participation in regulatory processes, and enhance the effectiveness of the regulatory framework.

### **Accountability**

Performance reporting enhances accountability through outcomes monitoring. Performance reports will allow users to see whether an NSP's actual expenditure is consistent with its forecast expenditure, and to review why differences may have occurred. Performance reports will also review and compare the NSPs' service performance levels. This information will provide all stakeholders with the opportunity to assess the actual performance of the NSPs against the forecast performance levels specified in the NSPs' regulatory proposals.

### **Improve performance**

Performance reporting will enable comparisons between the NSPs' expenditure, revenues and performance, in different regulatory years and jurisdictions. This may encourage NSPs to adopt more efficient processes and promote technologies applied successfully by better performing NSPs. It may also provide NSPs with an incentive to increase service performance while maintaining efficient investment levels.

Performance reporting will also establish benchmark expenditure and investment levels. These benchmarks may be applied by the AER when undertaking future transmission or distribution determinations to identify areas for more detailed review.

## **2.4 Priorities of performance reporting**

The AER considers that in order to achieve each of these objectives, the priorities of NSP performance reporting are:

- Report the NSPs' compliance with approved cost allocation methods, and elements of the regulatory determination, including service standards and incentive schemes.
- Report the NSPs' forecast and actual outputs, including measures of network utilisation and asset age, to identify areas of NSP performance that may be reviewed by the AER.
- Report forecast and actual capex and opex, and identify reasons for differences between forecast and actual expenditures.
- Report benchmark expenditure information to allow comparison of NSP performance over time and between NSPs, including in different jurisdictions.

- Report and compare the NSPs' network operations, including service standard levels and demand management information.
- Report comprehensive, accurate and reliable information, enabling stakeholders to undertake analysis of performance and have confidence in the results of that analysis. Provide information over time to enable trends to be identified and comparisons of changes in performance, outputs and expenditures to be made between NSPs.
- Report the NSPs' profitability, comparing businesses within and across jurisdictions and regulatory control periods.
- Report information that can be utilised for future distribution determinations, including information on cost drivers, expenditure trends, service levels and variations in network performance.

## **2.5 Conclusion**

The AER considers the proposed performance reporting objectives and priorities give effect to the regulatory framework and reflect the NEL requirements to foster the achievement of the NEO through incentive based regulation.



### 3 Consultation process

The AER will undertake consultation as required by the NEL and NER in developing the priorities and objectives of NSP performance reporting.

The AER is seeking comment on the proposed performance reporting objectives and priorities. Stakeholders are invited to make submissions on the AER's proposed priorities and objectives of NSP performance reporting. Submissions will close on Friday 28 January 2011.

The AER will deal with all information it receives in accordance with the ACCC/AER information policy. The policy is available at [www.aer.gov.au](http://www.aer.gov.au).

Submissions can be sent electronically to [aer inquiry@ aer.gov.au](mailto:aer inquiry@ aer.gov.au).

Alternatively, submissions can be mailed to:

Warwick Anderson  
General Manager – Network Regulation North Branch  
Australian Energy Regulator  
GPO Box 3131  
Canberra ACT 2601

The AER prefers that all submissions be publicly available to facilitate an informed and transparent consultative process. Submissions will be treated as public documents unless otherwise requested. Parties wishing to submit confidential information are requested to:

- clearly identify the information that is the subject of the confidentiality claim
- clearly explain the reasons for the confidentiality claim
- provide a non-confidential version of the submission.

All non-confidential submissions will be placed on the AER website [www.aer.gov.au](http://www.aer.gov.au).

The AER anticipates publishing its performance report for 2009–10 during the third quarter of 2011.

# Appendix A – Relevant Rules and Regulations

## Section 7 of the NEL: National Electricity Objective

The objective of this Law is to promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to-

- (a) price, quality, safety, reliability and security of supply of electricity; and
- (b) the reliability, safety and security of the national electricity system.

## Section 28V of the NEL: Preparation of NSP performance reports

- (1) Subject to this section, the AER may prepare a report on the financial performance or operational performance of 1 or more network service providers in providing electricity network services.

### Note-

The AER may only prepare a report under subsection (1) if the preparation of the report will or is likely to contribute to the achievement of the national electricity objective: see section 16.

- (2) A report prepared under this section may-
  - (a) deal with the financial or operational performance of the network service provider in relation to-
    - (i) complying with (as the case requires) distribution service standards or transmission service standards; and
    - (ii) standards relating to the provision of electricity network services to network service users or end users; and
    - (iii) the profitability of network service providers in providing electricity network services; and
  - (b) if the AER considers it appropriate, deal with the performance of the network service provider in relation to other matters or things if that performance is directly related to the performance or exercise by the AER of an AER economic regulatory function or power.

## Clause 8.7.4 of the NER: Preparation of NSP performance report

- (a) Before the AER embarks on the preparation of *network service provider performance reports*, the AER must consult with:
  - (1) *network service providers*; and
  - (2) bodies representative of the *network service providers* and *network service users*; and
  - (3) the public generally;

in order to determine appropriate priorities and objectives to be addressed through the preparation of *network service provider performance reports*.

- (b) In the course of preparing a *network service provider performance report*, the *AER*:
  - (1) must consult with the *network service provider* or *network service providers* to which the report is to relate; and
  - (2) must consult with the authority responsible for the administration of relevant *jurisdictional electricity legislation* about relevant safety and technical obligations; and
  - (3) may consult with any other persons who have, in the *AER's* opinion, a proper interest in the subject matter of the report; and
  - (4) may consult with the public.
- (c) A *network service provider* to which the report is to relate:
  - (1) must be allowed an opportunity, at least 30 business days before publication of the report, to submit information and to make submissions relevant to the subject matter of the proposed report; and
  - (2) must be allowed an opportunity to comment on material of a factual nature to be included in the report.