



EnergyAustralia
distribution determination
2009–10 to 2013–14

28 April 2009

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Summary

Clause 6.11.1 of the transitional chapter 6 rules requires the Australian Energy Regulator (AER) to make a distribution determination in relation to EnergyAustralia.

Under clause 6.12.1 of the transitional chapter 6 rules, this 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;
- (20) for EnergyAustralia prescribed (transmission) standard control services – a decision on the proposed pricing methodology, in which the AER either approves or refuses to approve that methodology and sets out reasons for its decision.

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 EnergyAustralia, 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 6.7.4(a) provides that the determination specifying the negotiated distribution service 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 prices that are to be charged for the provision of negotiated distribution services by the provider for the relevant regulatory control period; or
 - (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 about terms and conditions of access including:
 - (i) the price that is to be charged for the provision of a negotiated distribution service by the provider; or
 - (ii) any access charges that are to be paid to or by the provider.
 - 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 EnergyAustralia's distribution determination are set out below. Detailed analysis and discussion of the AER's considerations and reasoning is set out in the AER's final decision, released with this determination. Reference to the final decision is a reference to the AER's final decision released with this determination on 30 April 2009, entitled *Final decision, NSW distribution determination 2009–10 to 2013–14*. Abbreviations have the meaning given to them in the final decision.

Determination – constituent decisions

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

- a distribution service provided by EnergyAustralia 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 EnergyAustralia that was previously classified as an excluded 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 EnergyAustralia that was previously classified as an excluded 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
- a service provided by means of, or in connection with, the EnergyAustralia transmission support network and that, but for clause 6.1.6(d) of the transitional chapter 6 rules, would be a negotiated transmission service is deemed to be classified as a negotiated distribution service
- other distribution services provided by EnergyAustralia 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 for distribution proposed by EnergyAustralia.

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

In accordance with clause 6.12.1(3)(ii) of the transitional chapter 6 rules the AER does not accept EnergyAustralia's forecast capex for the next regulatory control period. The AER's reasons for this decision are set out in section 7.8 of the draft decision and 7.5 of the final decision.

The AER's estimate of the total distribution and transmission capex required by EnergyAustralia in the next regulatory control period, that reflects the capex criteria taking into account the capex factors, is set out in tables 7.17 and 7.18 respectively of the final decision.

In accordance with clause 6.12.1(4)(ii) of the transitional chapter 6 rules the AER does not accept EnergyAustralia's proposed forecast opex for the next regulatory control period. The AER's reasons are set out in section 8.6 of the draft decision and section 8.5 of the final decision.

The AER's estimate of EnergyAustralia's required opex for the next regulatory control period is set out in tables 8.24 and 8.26 of the final decision.

In accordance with clause 6.12.1(5) of the transitional chapter 6 rules the rate of return to apply to EnergyAustralia is 8.78 per cent.

In accordance with clause 6.12.1(6) of the transitional chapter 6 rules the opening regulatory asset base at 1 July 2009 for EnergyAustralia (distribution) is as set out in table 5.6 of the final decision.

In accordance with clause 6.12.1(6) of the transitional chapter 6 rules opening regulatory asset base at 1 July 2009 for EnergyAustralia (transmission) is as set out in table 5.7 of the final decision.

In accordance with clause 6.12.1(7) of the transitional chapter 6 rules the estimated cost of corporate tax to EnergyAustralia for each regulatory year of the next regulatory control period is specified in table 9.4 of the final decision.

In accordance with clause 6.12.1(8) of the transitional chapter 6 rules, the AER has not approved the depreciation schedules submitted by EnergyAustralia in its revised regulatory proposal. The AER has determined the depreciation schedule for EnergyAustralia which results in the regulatory depreciation allowances set out in table 10.4 of the final decision.

In accordance with clause 6.12.1(9) of the transitional chapter 6 rules the demand management incentive scheme to apply to EnergyAustralia 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(9) of the transitional chapter 6 rules the EBSS to apply to EnergyAustralia 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 costs.

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

In accordance with clause 6.12.1(10) of the transitional chapter 6 rules the other appropriate amounts, values or inputs with respect to energy forecasts for EnergyAustralia are those that were provided to the AER by EnergyAustralia on 9 April 2009, and outlined in table 6.10 of the final decision.

In accordance with clause 6.12.1(10) of the transitional chapter 6 rules the other appropriate amounts, values or inputs with respect to customer number forecasts for EnergyAustralia are those that were provided by EnergyAustralia to the AER on 29 October 2008, and were contained within table 6.7 of the draft decision.

In accordance with clause 6.12.1(10) of the transitional chapter 6 rules the other appropriate amounts, values or inputs regarding WACC parameters to apply to EnergyAustralia are as specified in table 11.9 of the final decision.

In accordance with clause 6.12.1(11) of the transitional chapter 6 rules the control mechanism for EnergyAustralia prescribed (transmission) standard control services is set out in section 4.6 of the final decision.

In accordance with clause 6.12.1(11) of the transitional chapter 6 rules the control mechanism for standard control services provided by EnergyAustralia is a weighted average price cap. The applicable formulas are set out in section 4.6 of the final decision.

In accordance with clause 6.12.1(11) of the transitional chapter 6 rules EnergyAustralia's miscellaneous services, monopoly services and emergency recoverable works for the next regulatory control period are set out in appendix G of the final decision.

In accordance with clause 6.12.1(11) of the transitional chapter 6 rules the schedule of fees and charges for EnergyAustralia's miscellaneous services, monopoly services and emergency recoverable works for the next regulatory control period are set out in appendix H of the final decision.

In accordance with clause 6.12.1(11) of the transitional chapter 6 rules the distribution X factors to apply to EnergyAustralia are as specified in table 16.31 of the final decision.

In accordance with clause 6.12.1(11) of the transitional chapter 6 rules the transmission X factors to apply to EnergyAustralia are as specified in table 16.31 of the final decision.

In accordance with clause 6.12.1(12) of the transitional chapter 6 rules, the control mechanism for EnergyAustralia's alternative control services is:

- a schedule of fixed charges 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 for the remaining years of the next regulatory control period.

The schedule of fixed charges applicable to EnergyAustralia for assets constructed before 1 July 2009 is contained in appendix P. The price path that has been applied to develop these charges is a straight-line smoothing which provides a fixed indexation rate for each year of the next regulatory control period.

The schedule of fixed prices for 2009–10 applicable to EnergyAustralia for assets constructed after 30 June 2009 is contained in appendix R. The prices will be adjusted annually by the December quarter CPI data as published by the ABS.

In accordance with clause 6.12.1(12) of the transitional chapter 6 rules prior to EnergyAustralia introducing a new public lighting asset to its customers, the efficient capital and maintenance charges for the asset must be approved by the AER, in accordance with the process specified in section 17.8.2 of the final decision.

In accordance with clause 6.12.1(13) of the transitional chapter 6 rules EnergyAustralia must demonstrate compliance with the standard control services control mechanism in accordance with appendices A, G, H, I, J and K of the final decision.

In accordance with clause 6.12.1(13) of the transitional chapter 6 rules EnergyAustralia's compliance with the alternative control services control mechanism is to be demonstrated through annual approval of changes in the schedules of prices. The process for demonstrating compliance with the annual schedule of charges and prices is specified in section 17.9 of the final decision.

In accordance with clause 6.12.1(14) of the transitional chapter 6 rules the additional pass through events that are to apply to EnergyAustralia for the next regulatory control period are the:

- retail project event
- smart meter event
- emissions trading scheme event
- general nominated pass through event

as defined in section 15.6 of the final decision.

In accordance with clauses 6.12.1(15) and 6.7A.3 of the transitional chapter 6 rules the negotiating framework in appendix E of the final decision is to apply to EnergyAustralia for the next regulatory control period. The preparation of the negotiating framework for 2014–19 regulatory control period must be undertaken in accordance with the framework and approach processes for that regulatory control period.

In accordance with clauses 6.12.1(16) and 6.7.4(a) of the transitional chapter 6 rules the negotiated distribution service criteria in appendix C of the final decision is to apply to EnergyAustralia for the next regulatory control period.

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

- (a) the direct control service exceeds the network performance requirements which the direct control service is required to meet under any jurisdictional electricity legislation;
- (b) 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
- (c) 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,

but excludes in relation to any component of a direct control service:

- (d) requirements imposed under a regulatory instrument (other than the final decision and the final determination);
- (e) a component of monopoly services as defined in the final decision;
- (f) a component of miscellaneous services or emergency recoverable works as defined in the final decision (other than a component which is the price or charge for that service where the price or charge is below (but not above) the price or charge set out in the final decision for that service);
- (g) a price or charge for the alternative control service of the construction and maintenance of public lighting infrastructure which is above the price or charge set out in the final decision for that service.

Note: Customer funded connections and customer specific services (as defined in the final decision) are classified as unregulated distribution services in chapter 2 of the final decision. According to clause 6.2.3A(a) of the transitional chapter 6 rules, an unregulated distribution service is not a direct control service. Therefore, unregulated distribution services cannot have negotiable components which are subject to part DA of the transitional chapter 6 rules. The AER notes that during the next regulatory control period, it is able to re-classify an unregulated distribution service as an alternative control service (which is a subclass of direct control services) if the DNSP is not in substantial compliance with the relevant requirements of IPART's Regulation of Excluded Distribution Services Rule 2004/1 (see clauses 6.2.3B(b), (c) and (e) of the transitional chapter 6 rules). If during the next regulatory control period an unregulated distribution service is re-classified by the AER as an alternative control service then it can have components negotiated under the negotiable component regime for direct control services set out in part DA of the transitional chapter 6 rules.

In accordance with clause 6.12.1(16B) and 6.7A.4(a) of the transitional chapter 6 rules the negotiable component criteria for EnergyAustralia is at appendix B of the final decision.

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

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

In accordance with clause 6.12.1(19) of the transitional chapter 6 rules EnergyAustralia must submit, as part of their annual pricing proposal, a record of the amount of revenues recovered from TUOS charges and associated payments in accordance with appendix I of the final decision.

In accordance with clause 6.12.1(20) of the transitional chapter 6 rules, EnergyAustralia's approved pricing methodology is set out in appendix T of the final decision.

Building block determination

In accordance with clause 6.3.2(a)(1) of the transitional chapter 6 rules EnergyAustralia's distribution annual revenue requirement for each regulatory year of the next regulatory control period is as set out in table 16.30 of the final decision.

In accordance with clause 6.3.2(a)(1) of the transitional chapter 6 rules EnergyAustralia's transmission annual revenue requirement for each regulatory year of the next regulatory control period is as set out in table 16.30 of the final decision.

In accordance with clause 6.3.2(a)(2) of the transitional chapter 6 rules the appropriate methodologies for indexation of EnergyAustralia's transmission and distribution regulatory asset bases are as specified in section 16.5.3 of the final decision.

In accordance with clause 6.3.2(a)(3) of the transitional chapter 6 rules the EBSS to apply to EnergyAustralia is specified in section 13.6 of the final decision.

In accordance with clause 6.3.2(a)(3) of the transitional chapter 6 rules the application of the demand management incentive scheme to apply to EnergyAustralia is as specified in section 14.6 of the final decision.

In accordance with clause 6.3.2(a)(4) of the transitional chapter 6 rules the regulatory control period to which this 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 other amounts, values or inputs on which EnergyAustralia's building block determination is based are as specified in sections 16.5 and 16.6 of the final decision.