

Evoenergy Power of Choice cost pass through application

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1. Introduction

Evoenergy submits this application to the Australian Energy Regulator (AER) for approval to pass through costs to customers that it has incurred to comply with the Power of Choice¹ (PoC) reform of the National Electricity Rules (Rules) and resultant changes to the market procedures administered by the Australian Energy Market Operator (AEMO).

The PoC reform arose from a review the Australian Energy Market Commission (AEMC) was directed to undertake by a predecessor to the Council Of Australian Governments (COAG) Energy Council to identify market and regulatory arrangements that would enable the participation of both supply and demand side options in achieving an economically efficient demand/supply balance in the National Electricity Market (NEM). The PoC reform of the Rules is comprised of a considered and holistic program of interrelated, interdependent and coordinated rule changes made by the AEMC in nearly all cases at the request of the COAG Energy Council, and to implement the AEMC's review recommendations, over a period of approximately two years. The PoC reform also resulted in consequential changes to market procedures by AEMO. The changes to the Rules and AEMO procedures operate together to achieve their common purpose - to enable the participation of supply and demand side options in achieving an economically efficient demand/supply balance in the NEM.

The pass through provisions in the Rules provide that material and efficiently incurred incremental costs resulting from new or changed regulatory obligations or requirements that come into effect within the regulatory control period may be approved by the AER and passed through to distribution network users.

Evoenergy incurred material costs in order to comply with the new regulatory obligations and requirements effected by the PoC reform. These unplanned and unforeseeable costs were not included in the AER's determination of Evoenergy's revenue allowance for the 2014-19 regulatory period. The PoC reform constitutes a positive change event that occurred on 24 November 2016 when the AEMC completed the reform package.

In this pass through application, Evoenergy sets out the details of the costs it incurred to comply with the changes to its regulatory obligations and requirements related to the PoC reform.² Evoenergy is seeking the AER's approval for a positive pass through amount of or \$3.97 million (2018/19 dollars, including the time value of money) to comply with these changes. This application includes information required for the AER to assess the proposed positive pass through amount and follows the AER's approval of Evoenergy's request for an extension of the fixed time limit to submit a pass through application.³

¹ On 29 March 2011, the Ministerial Council on Energy (MCE) directed the AEMC to undertake the PoC review, for which the AEMC published the final report in November 2012: AEMC 2012, Power of choice review - giving consumers options in the way they use electricity, Final Report, 30 November 2012, Sydney.

² The inter-related, interdependent and coordinated rule changes that together comprise the PoC reform are detailed in Appendix 1 to this application.

³ On 10 April 2018, in response to Evoenergy's request, the AER extended the fixed time limit for an application for a pass through related to the PoC reform to 90 business days after publication of the

1.1 Scope

- Section 2 describes the pass through mechanism in the Rules.
- Section 3 discusses the PoC review and reform of the Rules.
- Section 4 provides details of the positive change event and discusses its impact on the provision of direct control services.
- Section 5 provides details of the eligible and proposed positive pass through amounts, and demonstrates satisfaction of the AER assessment criteria.

2. Regulatory framework

The pass through mechanism in the Rules provides for the Distribution Network Service Provider (DNSP) to pass through material costs for providing direct control services to customers, which were not part of the distribution determination. A pass through event occurs if the requirements of one of the four pass through events defined in the Rules, or a nominated pass through event approved in a distribution determination, are satisfied.⁴

A pass through application is required within 90 business days of the pass through event but the AER may extend this time limit (if satisfied that the difficulty of assessing or quantifying the effect of the relevant pass through event justifies the extension)⁵.

The pass through clauses in the Rules set out the contents required for an application from a DNSP and the approach that the AER must take in assessing an application.

In assessing Evoenergy's application, the AER must take into account the following relevant factors⁶:

- 1) The matters and proposals set out in any statement given to the AER by Evoenergy;
- 2) The increase in costs in the provision of direct control services;
- 3) The efficiency of Evoenergy's decisions and actions, including whether Evoenergy failed to take any action to reduce the magnitude of the eligible pass through amount or took any action that increased the magnitude of the amount;
- 4) The time cost of money based on the allowed rate of return;
- 5) The need to ensure that Evoenergy only recovers any actual or likely incremental costs that is solely as a consequence of the pass through event;

AER's remade final decision on Evoenergy's distribution determination for the 2014-19 regulatory control period.

⁴ Rules, clause 6.6.1(a1)(1)-(5).

⁵ The AER, in response to Evoenergy's request, extended the fixed time limit to submit a pass through application in respect of the PoC reforms to 90 days after publication of the AER's remade final decision on Evoenergy's distribution determination for the 2014-19 regulatory control period.

⁶ Rules, clause 6.6.1(j).

- 6) Whether the costs have already been or will be factored into the calculation of Evoenergy's annual revenue requirement in any existing or future distribution determination;
- 7) The extent to which costs are the subject of a previous pass through determination made by the AER; and
- 8) Any other factors the AER considers relevant.

If the AER determines that a positive pass through event has occurred the AER must:

- 1) Determine the approved pass through amount;⁷ and
- 2) Determine the amount of that approved pass through amount that should be passed through to users in the regulatory year in which, and each regulatory year after, the positive change event occurred.⁸

3. The Power of Choice review and reform

3.1 The review

On 29 March 2011, the Ministerial Council on Energy (MCE) directed the AEMC to undertake a further Review into Demand Side Participation (DSP) in the NEM, referred to as the 'Power of Choice Review' (PoC Review). The PoC Review followed work already undertaken by the AEMC regarding DSP in the NEM.

The purpose of the PoC Review (formerly titled the Stage 3 DSP Review) was to identify market and regulatory arrangements that would enable the participation of both supply and demand side options in achieving an economically efficient demand/supply balance in the NEM.

The AEMC's PoC Review identified issues that prevented maximum consumer participation in energy markets. What was missing, according to the PoC Review, were:

- clear price signals for consumers about the cost of their energy consumption to manage their demand and appropriate incentive for supply chain businesses to implement and facilitate DSP options;
- information for consumers so they can identify and implement efficient demand options; and
- the technologies and skills required to support pricing, information, and demand management options, and to enable consumers to effectively respond to market signals.

The AEMC's final report and proposed implementation plan were provided to the Standing Council on Energy and Resources, formerly MCE, for their consideration on 30 November 2012. The AEMC's recommendations included measures to:

⁷ Rules, clause 6.6.1(d)(1).

⁸ Rules, clause 6.6.1(d)(2).

- reform distribution network pricing principles to improve consumer understanding of cost reflective network tariffs and give people more opportunity to be rewarded for changing their consumption patterns;
- expand competition in metering and related services to all consumers, putting greater discipline on competitive metering suppliers to provide services at efficient cost and consistent with consumer preferences;
- clarify existing provisions regarding the ability of AEMO to collect information on DSP to make its market operational functions more efficient;
- give consumers better access to their electricity consumption data;
- establish a framework for open access and common communication standards to support contestability in DSP end user services enabled by smart meters, so supporting consumer choice;
- introduce a new category of market participant for non-energy services in the Rules to facilitate the entry of innovative products for consumers;
- reform the application of the current demand management and embedded generation connection incentive scheme to provide an appropriate incentive for distribution businesses to pursue DSP projects which deliver a net cost saving to consumers; and
- establish a new demand response mechanism in the wholesale market - option for demand side resources to participate in the wholesale market for electricity.

As a consequence of the PoC Review and the AEMC's recommendations, a substantial reform of the Rules occurred.

3.2 The reform of the Rules

The PoC reform of the Rules was implemented through a deliberate and substantial program of interrelated, interdependent and coordinated rule changes initiated by the COAG Energy Council in response to the AEMC's PoC Review recommendations and made by the AEMC over a concentrated period.

3.2.1 The rule changes

The Rule changes comprising the PoC reform are:

- National Electricity Amendment (Customer access to information about their energy consumption) Rule 2014 No. 7;
- National Electricity Amendment (Distribution Network Pricing Arrangements) Rule 2014 No. 9;
- National Electricity Amendment (Improving demand side participation information provided to AEMO by registered participants) Rule 2015 No. 4;
- National Electricity Amendment (Demand management incentive scheme) Rule 2015 No. 8;
- National Electricity Amendment (Expanding competition in metering and related services) Rule 2015 No. 12 (Expanding Metering Competition Rule Change);

- National Electricity Amendment (Embedded Networks) Rule 2015 No. 15 (Embedded Networks Rule Change);
- National Electricity Amendment (Meter Replacement Processes) Rule 2016 No. 2;
- National Electricity Amendment (Updating the electricity B2B framework) Rule 2016 No. 6 (B2B Rule Change);
- National Electricity Amendment (Demand Response Mechanism and Ancillary Services Unbundling) Rule 2016 No. 10; and
- National Energy Retail Amendment (Improving the accuracy of customer transfers) Rule 2017 No. 1.

Appendix 1 details the key rule changes comprising the PoC reform and the determination and commencement time for each. As disclosed in Appendix 1, the Rule changes in the PoC reform package were made in the period November 2014 to November 2016 inclusive and all but two were initiated by the COAG Energy Council in response to the AEMC's recommendations in the PoC Review.

Of those rule changes, the Expanding Metering Competition Rule Change and the business-to-business (B2B) Rule Change have together effected the most significant changes to Evoenergy's regulatory obligations and requirements and resulted in the majority of its material incremental costs in the provision of direct control services incurred as a result of the PoC reform. Given their significance, these rule changes are discussed in further detail below.

Evoenergy observes, however, that it would not be appropriate to approach the Rule changes in the PoC reform program as discrete Rule changes for the purposes of the pass through regime. These Rule changes were made as part of a considered and holistic program of works by the AEMC at the instigation of the COAG Energy Council with a view to achieving a single, common purpose, being to enable the participation of both supply and demand side options in achieving an economically efficient demand/supply balance in the NEM. They were designed and made to operate together and their commencement dates have been set with this in mind, with the commencement dates aligned across several of the Rule changes.

Consequently, there are significant interrelationships and interdependencies between the Rule changes in the PoC reform package and it is not practicable to ascribe causation of Evoenergy's incremental costs arising from the PoC reform to any single Rule change. To the contrary, Evoenergy's efficient costs are a product of the interaction between those Rule changes in the PoC reform package that change Evoenergy's regulatory obligations and requirements. The pursuit of compliance activities by Evoenergy in response to any Rule change considered in isolation would have been impractical and inefficient.

3.2.2 The Expanding Metering Competition Rule Change

The Expanding Metering Competition Rule Change, made by the AEMC on 26 November 2015, provided for the introduction of competition in metering services and is intended to give consumers more opportunities to access a wider range of services.

The competitive framework introduced by the Expanding Metering Competition Rule Change is intended to promote innovation and lead to investment in advanced meters that deliver services valued by consumers at a price they are willing to pay. Improved access to the services enabled by advanced meters is, in turn, intended to provide consumers with opportunities to better understand and take control of their electricity consumption and the costs associated with their usage decisions.

The Expanding Metering Competition Rule Change changed the role and responsibilities of the Responsible Person to be undertaken by a new type of Registered Participant - a Metering Coordinator. Any person can become a Metering Coordinator subject to satisfying certain registration requirements.

Retailers are now required to appoint the Metering Coordinator for their retail customers, except where a party has appointed its own Metering Coordinator.

The Expanding Metering Competition Rule Change also includes a number of other features to support the competitive framework for the provision of metering services introduced by the Rule Change, including consumer protections.

The new arrangements for metering competition commenced on 1 December 2017.

3.2.3 The B2B Rule Change

The B2B Rule Change, made by the AEMC on 30 June 2016, is expected to enhance the benefits from the new competitive metering framework being introduced under the Expanding Metering Competition Rule Change.

The electricity B2B framework provides for communications between businesses on certain services related to small customer electricity meters.

The B2B Rule Change updates the B2B framework to facilitate communications between a wider range of parties that may be interested in providing and using services related to small customer meters.

Implementation of the B2B Rule Change is intended to enhance the efficiencies and benefits of the Expanded Metering Competition Rule Change and other PoC reforms by facilitating communications between the businesses offering and accessing services related to a small customer's meter. A shared communication method is expected to improve interoperability, as participants may only need to develop one set of processes in order to interact with other participants in the market. It is expected to reduce barriers to entry for new participants providing consumers with new services that are enabled by advanced meters and to support innovation in new services and reduce the costs of providing those services.

The B2B Rule Change amends the Rules to provide for a wider range of services being available through small customer meters, as well as providing for any additional parties that may be interested in providing or accessing those services. Specifically, the B2B Rule Change:

- amends the membership and governance arrangements for the Information Exchange Committee, the body responsible for developing and recommending changes to the B2B procedures;
- makes changes to the process and criteria for making B2B procedures;
- clarifies the requirements for the B2B e-hub, the electronic platform that can be used to send communications;
- creates a new accredited party role and requires anyone who uses the B2B e-hub to obtain accreditation;
- clarifies which parties are subject to rights and obligations under the B2B framework;
- clarifies which parties are subject to the cost recovery provisions and the costs that are recoverable; and
- provides for arrangements during the transitional period between 30 June 2016 and 1 December 2017.

The B2B Rule Change amended certain provisions of Chapters 7, 8, 10 and 11 of the Rules in respect of AEMO's obligations to publish procedures and B2B arrangements with effect from 30 June 2016. It also made further amendments to Chapters 2, 7, 8 and 10 of the Rules to introduce the new B2B framework with effect from 1 December 2017. These amendments align with the commencement of the new competitive framework for metering services introduced by the Expanding Metering Competition Rule Change and the new arrangements under the Embedded Networks Rule Change, which also took effect on 1 December 2017.

3.2.4 AEMO procedures

AEMO introduced changes to a range of procedures required by the Rules as in force following the PoC reform, which together provide for:

- Enabling technology and a new framework for competition in metering and data services for residential and small business customers.
- Establishment of a framework for open access, interoperability and common communication standards to support communication in DSP energy management services enabled by smart meters.
- Install type 4 meters in defined situations, including new connections, and meter refurbishments and replacements.
- Businesses to develop an ITC customer data portal to encourage consumer awareness, education and engagement, and to facilitate consumer access to electricity data.

As for the Expanding Metering Competition and B2B Rule Changes, the effective date for commencement of the changes to the AEMO procedures was 1 December 2017.

Appendix 2 lists the market procedures that have been changed as a result of the PoC reform.

4. Occurrence of positive change event

Clause 6.6.1(c)(1) requires Evoenergy to specify the details of the positive change event. A positive change event is defined in the Rules as a pass through event that entails Evoenergy incurring materially higher costs in providing direct control services than it would have incurred but for that event.

The PoC reform introduced new regulatory obligations and requirements. These changes affected the way that Evoenergy provides direct control services. To comply with these new obligations and requirements, Evoenergy was required to implement Information Technology (IT) systems and process changes including, in particular, to enable third parties to provide metering services and thus the metering contestability introduced by the Expanding Metering Competition Rule Change.

Evoenergy considers the PoC reform of the Rules by the AEMC constitutes a positive change event. The PoC reform of the Rules by the AEMC constitutes a 'service standard event' as defined in the Rules for the reasons discussed in section 4.1 below or, in the alternative, constitutes a 'regulatory change event' for the reasons discussed in section 4.2 below. This event resulted in Evoenergy incurring materially higher costs in providing direct control services for the reasons discussed in section 4.3 below.

Clause 6.6.1(c)(2) requires Evoenergy to specify the date on which the positive change event occurred. Evoenergy considers the positive change event, being the PoC reform of the Rules, occurred on 24 November 2016, being the date of completion by the AEMC of the PoC reform package. However, the AER extended the time limit for submitting a pass through application.

4.1 Service standard event

A service standard event is defined as:⁹

A legislative or administrative act or decision that:

- (a) *has the effect of:*
 - (i) *substantially varying, during the course of a regulatory control period, the manner in which ... a Distribution Network Service Provider is required to provide a direct control service; or*
 - (ii) *imposing, removing or varying, during the course of a regulatory control period, minimum service standards applicable to ... direct control services; or*
 - (iii) *altering, during the course of a regulatory control period, the nature or scope of the ... direct control services, provided by the service provider; and*
- (b) *materially increases or materially decreases the costs to the service provider of providing ... direct control services.*

Evoenergy considers the PoC reform of the Rules by the AEMC satisfies each of the requirements of the service standard event definition for the reasons set out below.

4.1.1 Legislative or administrative act or decision

The terms 'act' and 'decision' are not defined in the National Electricity Law (Law) or the Rules and, therefore, take their ordinary and natural meaning. The ordinary and natural

⁹ Rules, Chapter 10.

meaning of 'act' is anything done or performed, the doing of a thing, or the formal product of a legislative body, or a decree, edict, law, statute, judgement, resolve or award, in particular by the legislature, ruler, court or other authority, while the ordinary and natural meaning of 'decision' is a determination, resolution or judgement (as of a court).¹⁰ It follows that anything done, performed, determined or resolved of an administrative or legislative character satisfies the requirement for a legislative or administrative act or decision.

The AEMC is a body corporate established under the *Australian Energy Market Commission Establishment Act 2004* (SA).¹¹ The AEMC's functions relevantly include the rule-making, market development and other functions conferred on the AEMC under the Law and the provision of advice to the COAG Energy Council as requested by it.¹² The functions conferred on the AEMC by the Law, in turn, include:¹³

- undertaking reviews directed by the COAG Energy Council; and
- making a Rule at the request of any person, the COAG Energy Council or the Reliability Panel.

The AEMC is thus an administrative body authorised by statute to undertake reviews directed by the COAG Energy Council (or its predecessors) and make Rules on its request, and the PoC reform of the Rules is an act or decision of a legislative or administrative character¹⁴ and, therefore, 'a legislative or administrative act or decision' for the purposes of the service standard event definition.

4.1.2 Effect of the act or decision

It is sufficient for the relevant act or decision to have any one of the effects set out in paragraph (a). For the reasons discussed below, Evoenergy considers the PoC reform of the Rules satisfies paragraph (a) because it has the effects enumerated in subparagraphs (i) and (iii). Evoenergy does not discuss subparagraph (ii) as it does not consider the PoC reform of the Rules has the effect of imposing, removing or varying a 'minimum service standard'.

Paragraph (a)(i) of the service standard event definition requires a substantial variation to the way in which, or method by which, Evoenergy is required to provide direct control services. It does not necessitate that Evoenergy's changed activities are new or dissimilar in nature to its existing activities.¹⁵

¹⁰ Macquarie Dictionary Online; Merriam-Webster; The American Heritage® Dictionary of Idioms by Christine Ammer.

¹¹ *Australian Energy Market Commission Establishment Act 2004* (SA), section 5.

¹² *Australian Energy Market Commission Establishment Act 2004* (SA), section 6.

¹³ Law, sections 29, 41 and Part 7.

¹⁴ It is not necessary to resolve whether the AEMC's reform of the Rules to enable the participation of both supply and demand side options in the NEM is an exercise of delegated legislative power (and so a legislative act) or an exercise of administrative power (and so an administrative act) for the purposes of the present application, as 'service standard event' is defined to include both legislative and administrative acts.

¹⁵ AER 2012, *Final Decision Powercor cost pass through application of 13 December 2011 for Costs arising from the Victorian Bushfire Royal Commission*, March 2012, p. 20.

Evoenergy considers that the PoC reform effected a substantial change to the manner in which Evoenergy provides direct control services. In particular, the change in AEMO procedures required Evoenergy to implement changes in planning, designing, construction and commissioning activities for supporting network infrastructure. The PoC reform of the Rules results in a substantial change to how Evoenergy is required to structure and manage business operations to provide direct control services. Specifically, Evoenergy has incurred material costs in designing, building and testing IT system changes as well as updating business processes to comply with the changes to the Rules and AEMO's procedures.

Evoenergy has modified and introduced new procedures and processes as well as designed, developed, tested and implemented new IT systems to manage the changing requirements for delivery of direct control services.

By way of illustration, a key change made by the PoC reform, more specifically the Expanding Metering Competition Rule Change, is to change the person who has overall responsibility for metering services under the Rules from the retailer or DNSP for a connection point to a new type of Registered Participant - the Metering Coordinator - who can be any person that meets the registration requirements. Evoenergy was required to change its B2B operations to enable Evoenergy to continue to supply direct control services at the same time third parties provide metering services.

Evoenergy was also required to make changes to its billing system to facilitate separation of parent and child metering on multi-dwelling premises to implement the Embedded Networks Rule Change, and changes to business processes for the notification of meter failures to implement the Meter Replacement Processes Rule Change and Expanding Metering Competition Rule Change.

Evoenergy reviewed internal documentation governing the delivery of services and amended these artefacts where relevant in response to the PoC reform. Compliance with the new and amended AEMO procedures has required the introduction of new internal Evoenergy processes and amendment of existing processes, including:

- field works physical procedures;
- service level procedures;
- market settlement and transfer solution procedures;
- metrology procedure;
- meter churn procedures;
- retailer of last resort procedures;
- emergency priority procedures;
- procedures relating to the minimum services specification for small customer metering installations;
- procedures relating to the installation and removal of network devices; and
- B2B procedures.

Evoenergy's IT team worked closely with PoC Stay Compliant project staff that were engaged to review and update processes and procedures for compliance with the change in regulatory obligations and requirements.

In terms of Evoenergy IT systems, the primary impact of the PoC reform was in relation to the meter data and billing platform, Gentrack Velocity. This platform required extensive re-work with the removal and full replacement of a module.

The change process also involved building new modules and modifying components of existing IT systems. Evoenergy managed the design, build and testing of the IT system changes. The IT system work was conducted over a period of 22 months from April 2016 to February 2018. Evoenergy worked closely with the team to ensure the changes were fit for purpose by setting out the specifications and testing the draft changes.

Evoenergy has undertaken extensive stakeholder engagement, including with government, industry and consumers to prepare for the change in regulatory obligations and requirements from the PoC reform. The consultation strategy involved communicating changes in service requirements to external parties, including building industry associations, local developers and contractors, retailers, metering services providers, and the public.¹⁶ The Government of the Australian Capital Territory (ACT) and other peak bodies were also actively involved in the consultation process. Stakeholder consultation contributed to the efficiency of the IT solutions and procedural changes that Evoenergy adopted.

Subparagraph (a)(iii) requires the legislative or administrative act to have the effect of altering the nature or scope of the DNSP's direct control services. There is no need for that alteration to be 'substantial'.

The terms 'nature' and 'scope' take their ordinary and natural meanings, being the fundamental quality, essential or inherent character or constitution of a thing, and the 'extent or range of view, outlook, operation, effectiveness, etc' respectively.¹⁷ Evoenergy submits that subparagraph (a)(iii) requires an alteration in the quality or character of the DNSP's direct control services, or in the extent or range of those services. A change in amount or volume is a change in 'extent'.¹⁸

Evoenergy considers the PoC reform had the effect of altering, during the 2014-19 regulatory control period, the nature and scope of the direct control services it provides.

In short, some functions have been removed from, and other functions added to the services classified as direct control services for Evoenergy in the 2014-19 regulatory control period as a result of the PoC reform. Specifically, as a consequence of the

¹⁶ Evoenergy 2016 Power of Choice: Industry Information Paper, November 2016; and Evoenergy 2017 Power of Choice: Industry Discussion Paper, March 2017.

¹⁷ Macquarie Online Dictionary; Merriam-Webster Online Dictionary; The American Heritage® Dictionary of Idioms by Christine Ammer.

¹⁸ The Macquarie Online Dictionary defines 'extent' to mean 'the space or degree to which a thing extends; length, area, or volume'.

Expanding Metering Competition and B2B Rule Changes which took effect on 1 December 2017:

- Evoenergy is no longer permitted to install and maintain Type 1-4 meters. Contestable market providers appointed by energy retailers now provide these responsibilities.
- Evoenergy must now supply end users with usage data from Type 1-4 meters.

Specifically, the PoC reform has altered the nature and scope of the regulated metering services and data services that Evoenergy provides.

4.1.3 Materially increases costs of providing direct control services

The requirement of paragraph (b) of the service standard event definition, namely that the event materially increases Evoenergy's costs of providing direct control services, is satisfied for the reasons discussed in section 4.3 below.

4.2 Regulatory change event

If the AER does not agree that the PoC reform of the Rules is a service standard event, Evoenergy considers it would then fall within the definition of a regulatory change event. A regulatory change event is defined as:¹⁹

A change in a regulatory obligation or requirement that:

- (a) falls within no other category of pass through event; and*
- (b) occurs during the course of a regulatory control period; and*
- (c) substantially affects the manner in which the DNSP provides direct control services; and*
- (d) materially increases or materially decreases the costs of providing those services.*

Evoenergy considers that, in the event that the PoC reform of the Rules does not constitute a service standard event, it satisfies each of the limbs of the regulatory change event definition for the reasons set out below.

4.2.1 Change in regulatory obligation or requirement

The term 'regulatory obligation or requirement' is relevantly defined in section 2D of the Law to include an obligation or requirement under the Law or Rules.

The PoC reform is comprised of a package of coordinated, interrelated and interdependent changes to the Rules and necessitated changes to a number of the procedures with which the Rules require Evoenergy to comply. These changes effected a change to Evoenergy's obligations and requirements under the Rules.

This suffices to establish that the PoC reform constituted a change to a 'regulatory obligation or requirement' within the meaning of the Law and Rules.

4.2.2 Falls within no other category of pass through event

For the 'regulatory change event' category, the AER needs to be satisfied that no other category of pass through event is applicable.

¹⁹ National Electricity Rules, Chapter 10.

The PoC reform does not meet the definition set out in the Rules of a tax change event or a retailer insolvency event.

Similarly, the publication of the Guidelines does not meet the definition of any other pass through event specified in Evoenergy's distribution determination for the 2014-19 regulatory control period.

It follows, therefore, that if the AER does not agree that the PoC reform is a service standard event, it falls within no other category of pass through event.

4.2.3 Occurred during the course of a regulatory control period

Evoenergy considers the positive change event, being the PoC reform of the Rules, occurred on 24 November 2016, being the date of completion of the PoC reform package by the AEMC. It follows that the change in regulatory obligation or requirement described in section 4.2.1 above occurred during the course of the 2014-19 regulatory control period.

4.2.4 Substantially affects the manner in which Evoenergy provides direct control services

The effect element required for a regulatory change event is that the relevant event 'substantially affects the manner in which the [DNSP] provides direct control services'. There are differences between the articulation of this effect element and that in subparagraph (a)(i) of the service standard event definition (discussed in section 4.1.2 above), which requires that the relevant event has the effect of 'substantially varying ... the manner in which ... a [DNSP] is required to provide a direct control service'. However, the differences are largely differences of form, rather than substance, and are not of any significance in the present circumstances.

For the reasons outlined in section 4.1.2 above in relation to subparagraph (a)(i) of the service standard event definition, Evoenergy considers the manner in which it provides direct control services has been substantially affected by the PoC reform.

4.2.5 Materially increases costs of providing direct control services

The requirement of paragraph (d) of the regulatory change event definition, namely that the event materially increases Evoenergy's costs of providing direct control services, is satisfied for the reasons discussed in section 4.3 below.

4.3 Materiality requirement

Chapter 10 of the NER defines 'materially' such that an event results in materially higher costs if a change in costs (as opposed to the revenue impact) that a DNSP has incurred, and is likely to incur, in any year of a regulatory control period, as a result of the event, exceeds 1 per cent of the annual revenue requirement for the DNSP for that regulatory year.²⁰

²⁰ Chapter 10 of the NER defines 'materiality' as the change in costs (as opposed to the revenue impact) that a distributor has incurred, and is likely to incur, in any year of a regulatory control period. The change in costs must exceed 1 per cent of the annual revenue requirement for the distributor for that regulatory year.

Evoenergy has incurred materially higher costs in complying with the change in regulatory obligations and requirements effected by the PoC reform.

4.3.1 Details of costs incurred as a result of the PoC reform

Evoenergy implemented the PoC Stay Compliant project to manage the impacts of the PoC reform on the business, address the changing requirements for the supply of direct control services, and to remain compliant with the regulatory framework. The project involved Evoenergy designing and implementing a series of changes to business processes, work instructions and systems.

Evoenergy consulted with various stakeholders including consumers, industry bodies, retailers and AEMO to ensure that implementation of the PoC Stay Compliant project delivered outcomes that met requirements of the stakeholders concerned.

All the work on IT system and process changes were ready for 'Go Live' on 1 December 2017. Evoenergy incurred project costs from April 2016 in the lead up to the 'Go Live' date and for handover of the delivery of system and procedure changes in the subsequent six months. All project resources were concluded by the end of March 2018 with the exception of one customer support staff member in the Evoenergy call centre. This resource is expected to finish at the end of June 2018, at which time Evoenergy expects PoC enquiry volumes from industry and consumers to decline. The ongoing software support requirements will be replaced by business as usual (BAU) services.

Evoenergy has categorised the project costs into the following categories:

- Project management and administration;
- Business changes including processes and people; and
- IT systems.

4.3.1.1 PROJECT MANAGEMENT AND ADMINISTRATION COSTS

Expenditure for the project management and administration category are related to direct management of the project, change management and post implementation close out activities. This category of costs also includes project implementation and administration expenditure such as legal fees, regulatory activities, analysis of business impacts, training of Evoenergy staff, and building requirement specifications for the PoC Stay Compliant project.

Evoenergy employed a dedicated program manager to project manage the PoC Stay Compliant project and to oversee the delivery of project outputs.

4.3.1.2 BUSINESS CHANGES INCLUDING PROCESSES AND PEOPLE

This category includes expenditure for the extensive changes to business processes necessitated by the PoC reform program. It also includes costs for retraining staff and costs associated with the development and implementation of training on these process changes.

4.3.1.3 IT SYSTEMS

Expenditure for the IT category involved the costs of designing and implementing new systems, such as the customer access to data portal, and amending existing systems, including the Gentrack software, Velocity and Cityworks.

The principal IT systems costs involved retrofitting and deploying the latest version of the Gentrack software and separately making various 'site-specific' code changes to satisfy Evoenergy's business requirements. Following completion of the development phase for IT systems, Evoenergy incurred costs to participate in the industry testing and Go Live process. The IT systems solution aligned system processes with appropriate business processes to ensure market compliance.

4.3.2 Materially higher costs

Evoenergy has incurred a material change in costs as a result of the PoC reform.

The Rules require a comparison of the change in the costs a DNSP has incurred and is likely to incur in a regulatory year as a result of the event to 1 per cent of its annual revenue requirement for that year

The AER has, in previous decisions, maintained that the term "costs" in this context refers to the sum of operating expenditure (opex), return on capital, return of capital and tax (and other adjustments), consistent with the building blocks described in clause 6.4.3 of the Rules.²¹ The AER's building block methodology for calculating these costs is captured in the Post Tax Revenue Model (PTRM). Evoenergy has used the AER's final remade decision 2014-19 PTRM to calculate the annual revenue requirement with and without the PoC reform costs and assess materiality.

The additional opex and capital expenditure (capex) arising from compliance with the PoC reform are added to the AER's building block model in the PTRM. Table 1 shows the additional opex and capex costs incurred by Evoenergy in complying with the PoC reform.

Table 1 Power of Choice (PoC) Stay Compliant project costs (nominal)¹

\$, nominal	2015-16	2016-17	2017-18	Total
Opex	121,792	777,460	1,545,798	2,445,050
Capex	0	2,193,447	3,338,946	5,532,392

Notes: 1 Not including overhead costs

Evoenergy's PoC reform costs are material when compared to the AER's remade annual revenue requirements for the 2014-19 regulatory control period.

The annual revenue requirement and the change in Evoenergy's required revenues resulting from this pass through event in each of the relevant years are detailed in Table 2. The change in Evoenergy's required revenues represents 1.21 per cent of Evoenergy's

²¹ In determining whether Ausgrid's costs relating to the NSW solar bonus scheme are material, the AER considered the meaning of the terms "costs" and "materiality". AER 2011 Ausgrid cost pass through application in relation to the NSW solar bonus scheme, March 2011, p.2.

annual revenue requirement in 2017/18, which exceeds the materiality threshold of 1 per cent.

Table 2 Materiality of the PoC costs (nominal)

\$million, nominal	2014-15	2015-16	2016-17	2017-18	2018-19
Annual Revenue Requirement (ARR) (unsmoothed)	155.75	148.68	153.84	160.37	164.38
Positive pass through amount + ARR (unsmoothed)	155.75	148.80	154.64	162.32	165.22
Pass through amount	0.00	0.13	0.81	1.95	0.84
Materiality of positive change event	0.00%	0.08%	0.52%	1.21%	0.51%

5. Eligible and proposed positive pass through amounts

5.1 Eligible pass through amount

Clause 6.6.1(c)(3) of the Rules requires Evoenergy to specify the eligible pass through amount.

The 'eligible pass through amount' is relevantly defined in Chapter 10 of the Rules to mean 'the increase in costs in the provision of *direct control services* that, as a result of that *positive change event*, the [DNSP] has incurred and is likely to incur (as opposed to the revenue impact of that event)' until the end of the regulatory control period in which the positive change event occurred or, if the distribution determination for the regulatory control period following that in which the positive change event occurred does not make any allowance for the recovery of that increase in costs, the end of the regulatory control period following that in which the positive change event occurred.

The eligible pass through amount refers to the increase in costs in the provision of direct control services as a result of the pass through event. It covers all expenditure including the capex and opex incurred.

In determining the eligible pass through amount, Evoenergy incorporates only incremental costs consistent with the Rules to capture the total cost of compliance. Internal resources that were not fully allocated to the PoC Stay Compliant project, such as part time work on the project and allocated overheads, are not included in the eligible pass through amount.

5.2 Evidence of the costs for the eligible pass through amount

Clause 6.6.1(c)(6)(i) of the Rules requires Evoenergy to provide evidence of the actual and likely increase in costs included in the eligible pass through amount.

Table 3 and Table 4 provide a breakdown of the opex and capex included in the eligible pass through amount. The costs are actual costs for compliance with the changed regulatory obligations and requirements effected by the PoC reform. There are no forecast

or other likely costs to arise beyond June 2018. The expenditure activity is categorised into costs for project implementation and administration, IT and project management.

Table 3 PoC opex breakdown¹

\$, nominal	2014-15	2015-16	2016-17	2017-18	2018-19	Total
Project management and administration	0	121,792	427,908	889,343	0	925,022
Business changes	0	0	348,623	576,399	0	80,984
IT systems	0	0	928	80,056	0	1,439,044
Total	0	121,792	777,460	1,545,798	0	2,445,050

Notes: ¹ Not including overhead costs

Table 4 PoC capex breakdown

\$, nominal	2014-15	2015-16	2016-17	2017-18	2018-19	Total
Project management and administration	0	0	390,882	212,302	0	603,183
Business changes	0	0	0	2,775	0	2,775
IT systems	0	0	1,802,565	3,123,869	0	4,926,434
Total	0	0	2,193,447	3,338,946	0	5,532,392

The costs in Table 3 and Table 4 were captured and extracted from Evoenergy's corporate accounting system, Oracle. Section 5.3 below explains why the AER can have confidence that the costs in its Oracle accounting system occur solely as a consequence of the positive change event (an extract from Oracle is provided on a confidential basis as Attachment 1).

5.3 Costs included in eligible pass through amount are solely as a consequence of the positive change event

Clause 6.6.1(c)(6)(ii) of the Rules requires Evoenergy to provide evidence that the actual and likely increase in costs included in the eligible pass through amount occurred solely as a consequence of the positive change event. Similarly, clause 6.6.1(j)(5) of the Rules requires the AER, in determining the approved pass through amount and the amount to be passed through to users in each regulatory year, to take into account the need to ensure the DNSP only recovers any actual or likely increment in costs that is solely as a consequence of the positive change event.

In determining the eligible pass through amount, Evoenergy included only incremental costs for these activities that were incurred solely as a result of the positive change event.

Evoenergy captured expenditures on the PoC Staying Compliant project in a manner consistent with its accounting framework. Evoenergy employed the existing accounting system to clearly record and track the costs incurred as a consequence of the positive change event by creation of a separate project code in Oracle.

The costs recorded for the PoC Stay Compliant project differentiated between the expenditure incurred for activity types and business as usual (BAU) expenditure. The nature of the costs incurred included:

- direct costs, such as the costs of materials and contract services; and
- indirect costs (overheads) allocated through the use of a labour rate.

The accounting structure allowed separation of costs into pass through and non-pass through costs, and into capex and opex categories. Individual tasks associated with the PoC Stay Compliant project were tracked using Evoenergy's corporate accounting system, Oracle, to enable cost capturing at a detailed level throughout the life of the project.

The project costs attributed to the positive change event were separated from BAU expenditure. The relevant project costs were isolated to capture only those activities that are classed as direct control services, namely the provision of type 5, 6 & 7 metering services, resources employed as Full-time Equivalent (FTE) staff, and the associated activities of data management.

The remainder of the costs recorded for the PoC Stay Compliant project were incurred for BAU resources that were engaged to provide input to the project. These BAU costs are funded by means of the expenditure allowance for the 2014-19 regulatory control period. Evoenergy has not included BAU costs in the eligible pass through amount due to the shared nature of these costs and the difficulty in tracking these costs.

These BAU costs include, but are not limited to the following:

- Project board costs: where a project board member has spent a relatively small amount of time on project related tasks and this person is already employed by Evoenergy. The costs are not incremental and were not included in the eligible pass through amount.
- BAU staff meeting costs: staff from the business were required to attend meetings and training on an irregular basis. In these instances, the cost of tracking expenses outweighed any benefits and was considered an inefficient use of resources. These costs are excluded from the financial analysis for the PoC Stay Compliant project and, thus, from the eligible pass through amount.

5.4 Efficiency of eligible pass through amount

Clause 6.6.1(j)(3) of the Rules requires the AER, in determining the approved pass through amount and the amount to be passed through to users in each regulatory year, to take into account the efficiency of Evoenergy's decisions and actions in relation to the risk of the positive change event. This includes whether Evoenergy's actions have minimised the magnitude of the eligible pass through amount.

Evoenergy's actions in response to the PoC reform package were efficient. Evoenergy undertook steps that have reduced the magnitude of the costs, including undertaking an initial assessment of the change in regulatory obligations and requirements effected by the PoC reform to identify minimum actions required to achieve a sufficient level of compliance, and designing the PoC Stay Compliant project to deliver activities in a coordinated, efficient manner.

Evoenergy determined that the least cost approach for complying with the PoC reform program included a combination of procuring external services and contract staff. Efficiencies were achieved by leveraging existing third party arrangements, which had been market tested in the recent past and had demonstrated cost effectiveness, and negotiating on the scope of external services provided.

Evoenergy decided to directly engage contract staff for system design and testing functions, and thereby took on the risk for these functions, instead of having these services provided by a vendor who would have included a risk premium in their service fees. This enabled Evoenergy to realise efficiencies, which will be passed on to customers by way of lower project costs.

The efficacy of Evoenergy's actions in minimising the costs of achieving and maintaining compliance with the PoC reform is evident from the fact that it ultimately incurred costs that were materially lower than those budgeted at the commencement of the PoC Stay Compliant project. This was achieved by overhauling the project delivery approach from a rules-based package to a task-based project, which delivered efficient management of project resources and resulted in successful negotiation with the main software vendor (Gentrack).

Evoenergy maintains a comprehensive compliance program to effectively meet its legal and regulatory obligations.²² The changes in Evoenergy's regulatory obligations and requirements effected by the new PoC reform were added to Evoenergy's existing compliance register.

Evoenergy employed a dedicated program manager to project manage the PoC Stay Compliant project and to oversee the implementation of the outcomes and deliverables for the duration for the project. Evoenergy used the PRINCE 2 project management methodology to govern the implementation of the PoC Stay Compliant project and to maintain scope consistent with the project design and a phased delivery approach. An internal project board maintained oversight of the PoC Stay Compliant project. The project board was informed on the progress of the project through regular reporting, including with respect to the management of risks, project cost budgets, and tracking against budget.

Evoenergy resourced the PoC Stay Compliant project with staff who had commensurate skills and experience to implement activities across the project. Labour costs for these staff reflected competitive labour market rates for services in high demand given the industry-wide reforms, and the limited supply of appropriately skilled resources in the ACT market.

The management of resources balanced developing capabilities within the business and achieving value for money from outsourcing specialist services. Evoenergy considers these actions are consistent with least cost decisions.

²² Compliance management is a key component of a comprehensive corporate governance framework. Evoenergy maintains a comprehensive, integrated and effective Legal Compliance Framework that conforms to AS 3806-2006 Compliance Programs. The Legal Compliance Framework also complies with the good governance principles set out in the *ISO 19600:2015 Compliance management systems - Guidelines*.

To manage the change process, Evoenergy engaged an IT project manager who coordinated all activities relating to IT system changes. The engagement of the IT project manager ensured efficient integration of the new module within the Gentrack Velocity system as well as with other external IT systems such as scheduling systems.

With respect to IT system changes, Evoenergy engaged Gentrack, a firm with a proven track record of servicing the IT requirements of the business. Gentrack has previously demonstrated the required familiarity and skills for the IT systems, and the relevant market knowledge to implement the changes in a timely and cost effective manner. As the original author of the system, Gentrack provided the resources to do the software development work, including responsibility for supplying short-term engaged staff with the necessary IT scripting skills. Evoenergy considered using third party developers but it was not feasible and far outweighed by the intimate knowledge that Gentrack had of its own systems and the inherent knowledge of Evoenergy's operations gained through previous engagements.

Other vendors were engaged to deliver services for the changes to the Electricity Service and Installation Rules. These vendors were engaged using cost-effective competitive tendering and procurement processes.

The tendering and procurement processes enabled the required work to be carried out efficiently consistent with market-tested costs and value for money principles. Further, Evoenergy gained efficiencies by leveraging existing engagements and negotiating on the scope of external services provided.

The management of the response to the PoC reform considered the least cost approach for compliance, including tendering and procurement of external services. Financial analysis underpinned the decision to tender and procure external services.

5.5 Positive pass through amount

Clause 6.6.1(c)(4) of the Rules requires Evoenergy to specify the positive pass through amount that Evoenergy proposes in relation to the positive change event. The positive pass through amount is defined as an amount not exceeding the eligible pass through amount.

Evoenergy proposes a positive pass through amount of \$3.97 million (2018/19 dollars, including the time value of money).

Evoenergy has calculated the proposed positive pass amount as the change in its required revenues for the 2014-19 regulatory control period as a result of the positive change event. That is, Evoenergy's proposed positive pass through amount incorporates the opex and return of capital for the 2014-19 regulatory control period arising from the incremental capex required to comply with Evoenergy's new regulatory obligations and requirements resulting from the PoC reform, as well as the impact of the incremental costs on the cost of corporate income tax building block.

Evoenergy has provided the PTRM used to calculate the pass through amount with this application as Attachment 2.

5.6 Pass through amount in each regulatory year

Clause 6.6.1(c)(5) of the Rules requires Evoenergy to specify the amount that Evoenergy proposes to pass through to customers in the year, and each regulatory year after that, in which the positive change event occurred.

Evoenergy proposes to recover the proposed positive pass through amount of \$3.97 million (2018/19 dollars, including the time value of money) in the 2019-24 regulatory control period. Evoenergy proposes that, as the positive pass through amount reflects costs incurred in the 2014-19 regulatory period, the annual amount passed through to customers in each regulatory year of the 2019-24 period should be determined so as to provide for Evoenergy to recover the positive pass through amount as early in that period as practicable having regard to the impact of the annual pass through amount on network charges in the relevant regulatory year. Evoenergy does not propose specific dollar amounts for each regulatory year of the period in this application, as it expects better information to support an assessment of the impact of the annual pass through amount on network charges in the relevant regulatory year of the 2019-24 period will become available as the decision-making process on this application progresses.

Appendix 1 The PoC Reform of the Rules

Table 5 Key information on the PoC reform of the Rules

<i>Rule change</i>	<i>Initiator</i>	<i>Date made</i>	<i>Date commenced</i>	<i>Detail of amendments</i>
National Electricity Amendment (Customer access to information about their energy consumption) Rule 2014 No. 7	COAG Energy Council	6 November 2014	1 December 2014	<ul style="list-style-type: none"> Entitlement to metering data and access to metering installation, and Minimum requirements for metering data provision to retail customers Chapter 10 New Definitions AEMO to develop and publish the metering data provision procedure.
National Electricity Amendment (Distribution Network Pricing Arrangements) Rule 2014 No. 9	COAG Energy Council	27 November 2014	1 December 2014	<ul style="list-style-type: none"> Introduction of tariff structure statement to Chapter 6 Chapter 10 New Definitions Savings and Transitional Amendments.
			1 January 2017	<ul style="list-style-type: none"> Amendments to timing of transmission pricing processes in Chapter 6A
National Electricity Amendment (Improving Demand Side Participation Information provided to AEMO by registered participants) Rule 2015 No.4	COAG Energy Council	26 March 2015	26 March 2015	<ul style="list-style-type: none"> Amendments to Chapter 3 to provide for provision of DSP information to AEMO Savings and Transitional Amendments.

<i>Rule change</i>	<i>Initiator</i>	<i>Date made</i>	<i>Date commenced</i>	<i>Detail of amendments</i>
National Electricity Amendment (Demand management incentive scheme) Rule 2015	COAG Energy Council and TEC	20 August 2015	20 August 2015	<ul style="list-style-type: none"> Savings and Transitional Amendments
			1 December 2016	<ul style="list-style-type: none"> Insertion of new clause 6.6.3, Demand management incentive scheme and new clause 6.6.3A, Demand management innovation allowance mechanism Consequential amendments to Chapters 5 and 6 Chapter 10 New Definitions
National Electricity Amendment (Expanding Competition in metering and related services) Rule 2015 No.12	COAG Energy Council	26 November 2015	26 November 2015	<ul style="list-style-type: none"> Metering Coordinator registration and eligibility Savings and Transitional Amendments
			1 December 2017	<ul style="list-style-type: none"> Metering definitions and NMI references Newly inserted Chapter 7 Metering Glossary, new definitions.
National Electricity Amendment (Embedded Networks) Rule 2015 No. 15	AEMO	17 December 2015	17 December 2015	<ul style="list-style-type: none"> Entitlement to metering data and access to metering installation Savings and Transitional Amendments

<i>Rule change</i>	<i>Initiator</i>	<i>Date made</i>	<i>Date commenced</i>	<i>Detail of amendments</i>
			1 December 2016	<ul style="list-style-type: none"> Registration as a Network Service Provider
			1 December 2017	<ul style="list-style-type: none"> Embedded Network Manager Qualifications and registration requirements applying to Embedded Network Managers Definitions in Chapter 10
National Electricity Amendment (Meter Replacement Processes) Rule 2016, No. 2	ERM Power	10 March 2016	10 March 2016	<ul style="list-style-type: none"> Savings and Transitional Amendments
			1 December 2017, immediately after changes on the same date by the Embedded Networks Rule Change	<ul style="list-style-type: none"> Amendments to Chapter 7 requirements for AEMO's MSATS procedures concerning meter churn
National Electricity Amendment (Updating the electricity B2B framework) Rule 2016, No. 6	COAG Energy Council, Red Energy, Lumo Energy	30 June 2016	30 June 2016	<ul style="list-style-type: none"> AEMO obligation to establish, maintain and publish procedures, and B2B arrangements Savings and Transitional Amendments
			1 December 2017	<ul style="list-style-type: none"> B2B determination disputes B2B arrangements Application of B2B arrangements and definitions in Chapter 10.

<i>Rule change</i>	<i>Initiator</i>	<i>Date made</i>	<i>Date commenced</i>	<i>Detail of amendments</i>
National Electricity Amendment (Demand Response Mechanism and Ancillary Services Unbundling) Rule 2016, No. 10	COAG Energy Council	24 November 2016	1 July 2017	<ul style="list-style-type: none"> Amendments to Chapters 2 and 3 to introduce a new type of market participant - a market ancillary service provider - to offer customers' loads to FCAS markets

Appendix 2 AEMO Market Procedures changed as a result of the PoC reform

Table 6 Changed AEMO Market Procedures

<i>Procedure</i>	<i>Components</i>
Metering and Metrology Procedure Changes	Type 4 Meter Identification Type 4 Metrology Requirements Sample Metering for Controlled Load Profiles Network Device Management Disconnection & Reconnection – Site Identifier Disconnection & Reconnection – Provision of Services Emergency Priority Procedures Jurisdictional Matters
Meter Churn Procedures	Meter Churn
Minimum Services Specification	Service levels, performance standards and technical requirements
Embedded Networks	Embedded Networks
MSATS Procedures	Adopting the changes to 'RP' and introduction of 'MC' and 'ENM' MSATS Change Request Codes MSATS Objection Codes Retailer of Last Resort Requirements – Metering Coordinator Appointment Network Tariff Code Updates
Customer access to information	Developing systems to allow customers to access their energy consumption data