



Final decision

**Electricity distribution network service providers  
Service target performance incentive scheme**

November 2009

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# 1 Introduction

The Australian Energy Regulator (AER) is responsible for the economic regulation of distribution network service providers (DNSPs) in the National Electricity Market (NEM), in accordance with the National Electricity Rules (NER).

Under chapter 6 of the NER, the AER is required to develop and publish a service target performance incentive scheme (STPIS or scheme) for DNSPs. On 26 June 2008, the AER published the first version (version 1.0) of the STPIS for DNSPs. On 8 May 2009, the AER amended the STPIS (version 1.1) to address material issues regarding the interaction between the cap on revenue at risk and the equation for the calculation of the s-factor, and to improve the clarity of the operation of the scheme.

Since releasing version 1.1 of the STPIS, the AER has undertaken subsequent analysis of the scheme giving further consideration to issues raised by DNSPs regarding the application of the scheme in forthcoming regulatory determinations for South Australia and Victoria. The AER has also received requests for amendments to the scheme from SP AusNet (21 August 2009) and from ETSA Utilities (ETSA) as part of its regulatory proposal for the 2010–15 regulatory control period. A copy of SP AusNet’s request and ETSA’s regulatory proposal are available on the AER’s website.

Following consideration of these issues, and issues raised in submissions in response to the AER’s proposed amendments to the scheme released in September 2009, the AER has amended the scheme to:

- improve the clarity, effectiveness and operation of the scheme
- provide greater flexibility with respect to the statistical approach that can be used when determining if an event can be excluded from the scheme
- address a timing issue associated with the operation of the scheme in Victoria.

Specifically, the key amendments to the scheme are:

## **Amendments to the approach to determining the major event boundary**

- Outlier performance (for example, due to extreme weather or events) is excluded using the 2.5 beta method described in the US Institute of Electrical and Electronics Engineers (IEEE) Standard 1366-2003. The AER has amended the scheme to allow consideration of other statistical approaches to the data sets applied under the scheme, in cases where that data does not exhibit a log normal distribution.
- The AER has amended the scheme to allow a DNSP to propose a major event day boundary that is greater than the 2.5 beta that is currently permitted. The AER considers that this increased flexibility will allow a DNSP to propose a major event day boundary that more accurately reflects the service performance characteristics of its network.

## **Amendments to improve the application of the scheme in Victoria**

- The scheme specified the dates over which a DNSP's performance will be measured (i.e. 1 July until 30 June inclusive). The AER has amended the scheme to include references to regulatory years. This amendment eliminates the scope for gaps in performance measurement to occur.
- A number of consequential amendments associated with the amendment discussed above have also been introduced.

The AER has also made other amendments to further clarify the operation of the scheme and to correct typographical errors in the scheme.

This final decision sets out the reasons for all the amendments to the scheme and the AER's consideration of submissions received from stakeholders.

When developing version 1.2 of the STPIS the AER had regard to the NER requirements, which were discussed in the Final Decision to version 1.0 and 1.1.<sup>1</sup>

The AER will apply this scheme in the upcoming distribution determinations for South Australia, Queensland and Victoria.

Pursuant to clause 6.6.2(b)(1) of the NER the AER has consulted with the authorities responsible for the administration of relevant jurisdictional electricity legislation in developing and implementing this STPIS.

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<sup>1</sup> AER, *Electricity distribution network service providers Service target performance incentive scheme*, Final decision, June 2008, appendix B. AER, *Electricity distribution network service providers Service target performance incentive scheme*, Final decision, May 2009, appendix B.

## 2 Background

In June 2008, the AER published version 1.0 of the STPIS for DNSPs. In May 2009, the AER published version 1.1 of the STPIS. This followed public consultation, which began in February 2009 with the release of a proposed amendment to the scheme and an explanatory statement.

Each version of the scheme was developed following consultation with jurisdictional regulators and industry stakeholders in accordance with clause 6.6.2(b)(1) and rule 6.16 of the NER.

The AER published proposed amendments to the scheme in September 2009 to facilitate the public consultation process under the NER's distribution consultation procedures. This final decision sets out the AER's consideration of issues raised in submissions received from stakeholders and the AER's decision on amendments to the scheme. The AER received eight submissions which are available on the AER's website and listed in appendix A of this final decision.

Consistent with the Council of Australian Governments' objectives, this scheme is part of the suite of regulatory requirements designed to:

- streamline and improve the quality of economic regulation of energy networks
- reduce regulatory costs
- enhance regulatory certainty.

While the regulatory regime as a whole encourages a business to improve its operating and capital efficiency, the STPIS is designed to ensure that this increase in efficiency is not at the expense of a deterioration in service performance for customers. Further, the STPIS is designed to encourage a business to improve its service performance where customers are willing to pay for these improvements. The AER considers that in doing so, the STPIS plays an important part in balancing the incentives on regulated businesses to ensure outcomes are consistent with the national electricity objective in section 7 of the NEL, in terms of efficient price and non-price outcomes for the long-term benefit of users.

### **3 Rule requirements**

Clause 6.6.2 of the NER requires the AER to develop and publish a STPIS and sets out the requirements the AER must comply with in doing so.

When amending the STPIS, the distribution consultation procedures, as set out in rule 6.16 of the NER, require the AER to publish:

- a proposed STPIS
- an explanatory statement
- an invitation for submissions.

Stakeholders must be allowed at least 30 business days to make submissions to the AER. Within 80 business days of publishing the proposed STPIS, the AER must publish its final decision and STPIS. As noted, the AER is required by the NER to consult on the proposed STPIS amendments with authorities responsible for the administration of relevant jurisdictional electricity legislation.

In addition to the specific rules for the scheme set out at clause 6.6.2 of the NER, the scheme has been designed to be consistent with the building block proposal requirements as set out in clause S6.1.3 of schedule 6.1 to chapter 6 the NER.

## **4 Scheme requirements**

Clause 1.8 of the scheme indicates that the AER may amend or replace the scheme from time to time in accordance with clause 6.6.2(c) of the NER and the distribution consultation procedures.

Clause 1.8 of the scheme also provides that a DNSP or other person proposing an amendment to the scheme must submit the proposed amendment in writing to the AER. A proposal to amend the scheme must demonstrate how the proposed amendment is consistent with the objectives in clause 1.5 of the scheme.

As noted above, the AER has received requests from SP AusNet and ETSA to amend the scheme for forthcoming regulatory determinations for DNSPs in South Australia and Victoria. SP AusNet's request and ETSA's regulatory proposal for the 2010–15 regulatory control period are available on the AER's website.

The amendments to the scheme discussed in this final decision respond to those proposals as well as the issues raised in submissions. The amendments are also intended to improve the clarity, effectiveness and operation of the scheme.

## 5 Issues raised in submissions and AER response

This section outlines the issues raised in submissions from stakeholders in response to the AER's proposed amendments to the STPIS published in September 2009. The AER's response is also provided below.

### 5.1 Appendix D: Major event days

The AER proposed to amend the major event day boundary to permit:

- transformation of data that is not normally distributed
- application of a greater beta threshold.

The AER proposed these amendments to increase the STPIS' clarity, flexibility and operational effectiveness and to address concerns raised by ETSA Utilities and SP AusNet. The concerns raised by ETSA Utilities and SP AusNet are discussed in section 5.2 of the AER's explanatory statement to the scheme amendment published in September 2009, which is available on the AER's website.

Each amendment is discussed below.

#### 5.1.1 Transformation of data that is not normally distributed

The AER proposed that a DNSP be required to propose an alternative transformation method where SAIDI data collected under the scheme is not normally distributed — that is, the scheme currently assumes that data collected under the scheme exhibits a log normal distribution. The AER proposed this amendment to improve the operation and clarity of the scheme.

The AER also proposed that a DNSP seeking to use a transformation technique to transform data to a normal distribution be required to demonstrate to the AER that its approach would lead to an outcome consistent with the objectives of the scheme and provide supporting information, as required by appendix D and clause 2.2 of the scheme.

#### Stakeholder comments

CitiPower & Powercor Australia, EnergyAustralia and Ergon Energy Corporation Limited (Ergon Energy) supported this amendment.<sup>2</sup> However:

- Ergon Energy considered that the drafting of appendix D was confusing, requested clarification on a number of issues and proposed a number of revisions<sup>3</sup>

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<sup>2</sup> Ergon Energy Corporation Limited, *Proposed amendments – Service target performance incentive scheme – submission*, Australian Energy Regulator, 29 October 2009, pp. 4–7, CitiPower & Powercor Australia, *Submission to AER's proposed service target performance incentive scheme*, 30 October 2009, p. 2, and EnergyAustralia, *EnergyAustralia submission on AER's proposed amendments to STPIS*, 30 October 2009, p. 1.

<sup>3</sup> Ergon Energy Corporation Limited, *Op. Cit.*, pp. 4–7.

- EnergyAustralia considered that it would be appropriate to amend step 1 of appendix D to state that the dataset for unplanned SAIDI excluded the events identified in clause 3.3(a) of the scheme.<sup>4</sup>

Energex considered that the regulatory intent on the explanatory statement was not fully reflected in the proposed STPIS. Specifically, it noted that:<sup>5</sup>

The explanatory statement states an intention to *allow* a DNSP to propose an alternative transformation method where a data set is not normally distributed (p.8). However, Appendix D of the scheme appears to *require* a DNSP to propose an alternative transformation method where a data set is not normally distributed.

Energex considered that this concern could be addressed through modifying the text in appendix D to be more consistent with that in the explanatory statement. It also noted that there was a repetition of text in the initial paragraphs of appendix D.<sup>6</sup>

United Energy Distribution (United Energy) considered that the AER should modify its approach to the definition and identification of the major event day boundary, and proposed alternative text for use in appendix D.<sup>7</sup>

In relation to appendix D, Jemena considered that the AER should:<sup>8</sup>

- remove the text between steps 3 and 4
- amend step 1, based on the assumption that the type of exclusion events set out in clause 6.4(a) were excluded from the calculation of the major event day boundary
- remove the requirement to prove that data exhibits a log normal distribution.

Industry & Investment NSW considered that:<sup>9</sup>

- approval of other approaches to determining the major event day boundary would make comparison between DNSPs more difficult
- a DNSP seeking to take advantage of this approach in NSW should not be permitted to do so without prior consultation with Industry & Investment NSW.

No other stakeholders commented on this amendment.

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<sup>4</sup> EnergyAustralia, Op. cit., p. 1.

<sup>5</sup> Energex, *Response to Australian Energy Regulator, Electricity distribution network service providers, proposed service target performance incentive scheme, 30 October 2009*, pp. 2–3.

<sup>6</sup> Energex, *Ibid.*, p. 3.

<sup>7</sup> United Energy, *Re: Explanatory statement. Proposed amendment, Service target performance incentive scheme. Electricity distribution network service providers, September 2009, 30 October 2009*, pp. 4–5.

<sup>8</sup> Jemena, Op. cit., p. 1.

<sup>9</sup> Industry & Investment NSW, *STPIS proposed amendments IIN comments*, 4 November 2009.

## AER response

The AER considers that there is scope for appendix D to be refined to improve its clarity. In refining appendix D the AER has considered and balanced a number of competing proposals found in submissions. The AER considers that the revised text:

- strikes the appropriate balance between the concerns raised in submissions and the objective of this amendment
- improves the operation and clarity of the scheme.

The AER notes that it has amended the scheme and has introduced clearer steps to explain the process that is followed where the logarithms of a data set are not distributed normally. Appendix D also sets out the steps followed in different circumstances, including where:

- the logarithms of the data set are not normally distributed and the AER agrees with a DNSP that the use of an alternative data transformation method is not appropriate, or
- where the AER determines that an alternative transformation method is not appropriate.

Appendix D now states:

The *major event day* boundary is calculated at the end of each reporting period (typically one *regulatory year*) for use during the next reporting period using the 2.5 beta method as follows:

1. Collect values of daily *unplanned SAIDI* over five sequential *regulatory years* ending on the last day of the last complete reporting period —these values should reflect any exclusions permitted under clause 3.3 and 5.4 of the *scheme*. If fewer than five *regulatory years* of historical data are available, the most recent data should be used.
2. Only those days where an *unplanned SAIDI/day* value  $> 0$  are considered (do not include days that did not have any *interruptions*).
3. Calculate the natural logarithm ( $\ln$ ) of each daily unplanned SAIDI value in the data set.
4. Apply a commonly accepted statistical test to the data set and where application of the statistical test indicates:
  - (a) the logarithms of the data set are not normally distributed:
    - (1) Propose an alternative data transformation method which results in a more normally distributed data set in accordance with clause 2.2 of this *scheme*.
    - (2) Apply the proposed alternative data transformation to calculate each *daily unplanned SAIDI* value in the transformed data set.
    - (3) Find  $\alpha$  (alpha) as the average of each daily *unplanned SAIDI* value to which the proposed alternative data transformation method has been applied.

- (4) Find  $\beta$  (beta) as the standard deviation of each daily *unplanned SAIDI* value to which the proposed alternative data transformation method has been applied.
- (5) The boundary for an extreme event or *major event day* ( $T_{MED}$ ) is then calculated such that the transformed value is as follows:

$$\text{Transformed}(T_{MED}) = \alpha + 2.5\beta$$

(where the value of  $2.5\beta$  is adjusted to reflect any alternative amount permitted to be used in accordance with this *scheme*.)

- (b) the logarithms of the data set are normally distributed, or if the AER agrees with a DNSP that the use of an alternative data transformation method is not appropriate, despite the logarithms of the data set not being normally distributed, or where the AER determines that an alternative transformation method is not appropriate:

- (1) Find  $\alpha$  (alpha), the average of the logarithms of the data set.
- (2) Find  $\beta$  (beta), the standard deviation of the logarithms of the data set.
- (3) The boundary for an extreme event or major event day ( $T_{MED}$ ) is then calculated as follows:

$$T_{MED} = e^{(\alpha + 2.5\beta)}$$

(where the value of  $2.5\beta$  is adjusted to reflect any alternative amount permitted to be used in accordance with this *scheme*.)

5. Any day in the new reporting period where the total *unplanned SAIDI* exceeds this value of  $T_{MED}$  is classified as a *major event day*.
6. Where 4(a) applies a DNSP must, in addition to the requirements of clause 2.2 of this *scheme*:
  - (a) Demonstrate that the natural logarithm of the data set of each unplanned SAIDI value is not normally distributed.
  - (b) Explain the proposed alternative data transformation method.
  - (c) Provide the calculations that demonstrate the application of the alternative data transformation method to the unplanned SAIDI values.
  - (d) Provide the data set resulting from applying the proposed alternative transformation method.
  - (e) Demonstrate that the resulting data set is normally distributed or that the normality of the data set is improved.

The AER does not agree that permitting different transformation techniques will materially increase the difficulty for DNSPs to be compared. The AER considers that the flexibility provided by this amendment increases the scope for comparisons between DNSPs as it facilitates greater consistency in the data analysis that is used to determine the major event day boundary. That is, this amendment facilitates the use of a more consistent basis for data analysis when determining the major event boundary.

The AER notes that the requirement for a DNSP to provide an alternative transformation method where a data set is not normally distributed has been maintained. This requirement is noted in this final decision to remove any doubt (as identified by Energex) as to whether a DNSP ‘may’ or is ‘required’ to propose an alternative transformation method where a data set is not normally distributed.

The AER notes Industry & Investment NSW’s proposal regarding the need for consultation between a DNSP operating within a jurisdiction and the relevant jurisdictional body and further notes that this is an issue that can be addressed by these parties as part of the consultation process associated with a distribution determination.

### 5.1.2 Application of a greater beta threshold

The AER proposed to provide greater flexibility with respect to the exclusion threshold that can be applied under the scheme. The AER considered that this was required as there could be circumstances where a DNSP may consider that the use of 2.5 beta from the mean in setting the exclusion boundary was inappropriate, and may wish to apply a greater beta threshold to:

- better reflect the service performance characteristics of its network
- provide sufficient incentive for a DNSP to maintain or improve service performance.

The AER considered that this flexibility could, in certain circumstances, result in more efficient outcomes compared to the application of the 2.5 beta threshold.

The AER proposed that a DNSP be required to use a 2.5 beta threshold (the IEEE standard), as the minimum beta boundary while allowing a greater beta threshold to be used where appropriate. A DNSP seeking to apply a greater beta threshold would, however, be required to:

- demonstrate to the AER that its approach was consistent with the objectives of the scheme
- provide supporting information, as required by clause 2.2 of the scheme.

In addition, the AER proposed that a DNSP would be required to demonstrate that its approach was consistent with the objectives of the scheme and provide supporting information, as required by clause 2.2 of the scheme, where it was:

- subject to a beta boundary greater than 2.5 during a regulatory control period and sought to reduce its beta threshold in subsequent regulatory control periods
- seeking to apply a threshold that is greater than that applied in the previous distribution determination.

The AER proposed these amendments to address the potential for a reduction in a DNSP’s exclusion threshold to reduce its incentive to maintain and improve service performance.

### Stakeholder comments

Ergon Energy and CitiPower & Powercor Australia considered it appropriate for the AER to approve a beta threshold greater than 2.5.<sup>10</sup> CitiPower & Powercor Australia also considered that there was an error in the calculation of the incentive rate.<sup>11</sup>

Energex considered that the regulatory intent in the explanatory statement was not fully reflected in the proposed STPIS. Specifically, it noted that:<sup>12</sup>

- only allowing a threshold of 2.5 beta or above was not reflected in appendix D
- appendix D did not contemplate the scenario of a DNSP seeking to reduce a threshold previously above 2.5 to a lower figure but still above 2.5 beta.

United Energy and Energex considered that the definition of ‘major event day’ in appendix D should be amended to better reflect the amendments that the AER proposed.<sup>13</sup>

No other stakeholders commented on these amendments.

### AER response

The AER agrees that the proposed text relating to the application of a greater beta threshold be amended to more clearly reflect the regulatory intent as detailed in the explanatory statement published in September 2009. The AER has refined the text in appendix D, including that associated with the definition of a major event day. Specifically, the AER has introduced a new paragraph as the second paragraph of appendix D:

The 2.5 beta method is the AER’s minimum or ‘safe harbour’ approach to setting the *major event day* boundary that a DNSP may propose. However, in accordance with clause 2.2 of this *scheme*, a DNSP can propose a *major event day* boundary that is greater than 2.5 standard deviations from the mean. Provided the AER agrees to a DNSP’s proposal for a ‘greater’ boundary, natural events that are more than the agreed multiple of standard deviations from the mean of the log normal distribution of five *regulatory years*’ SAIDI data will be excluded.

The AER has also modified the fifth paragraph of appendix D (the fourth in the document released in September 2009), which now reads:

A DNSP may propose in accordance with clause 2.2 of this *scheme* a *major event day* boundary that is greater than 2.5 standard deviations from the mean. A DNSP subject to a beta threshold greater than 2.5 during a *regulatory control period* may also propose to reduce its beta threshold (to a minimum of 2.5 beta) in the subsequent *regulatory control period* in accordance with clause 2.2 of the *scheme*.

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<sup>10</sup> Ergon Energy, Op. cit., p. 5 and CitiPower & Powercor Australia, Op. cit., p. 2.

<sup>11</sup> CitiPower & Powercor Australia, Op. cit., p. 2.

<sup>12</sup> Energex, Op. cit., pp. 2–3.

<sup>13</sup> United Energy, Op. cit., pp. 4–5 and Energex, Ibid., p. 3.

The AER notes that it has reviewed the calculation of the incentive rate and considers that its calculation is correct and has therefore left the calculation unchanged from the scheme that was released in September 2009.

## 5.2 Timing of performance measurement

The AER proposed to amend the timing of performance measurement to better align the scheme with the Victorian DNSPs' current approach to reporting performance. The amendment permits performance to be measured on a continuous basis for all DNSPs through reference to regulatory years rather than financial years.

### Stakeholder comments

Ergon Energy, EnergyAustralia and Jemena supported the AER's proposed amendments.<sup>14</sup>

United Energy did not support the AER's proposed amendments. It noted that the proposed amendment would result in the recording of reliability results for Victorian DNSPs on a calendar year rather than financial year performance reporting. It considered that financial year reporting would strengthen the incentives in the scheme and that it would:<sup>15</sup>

- facilitate a closer alignment between the recording of performance outcome and the payment of a penalty or earning a reward
- only result in a six-month delay from the year in which performance was measured to when the s-factor was applied.

Industry & Investment NSW noted that its preference for the timing of performance measurement was financial years and considered that timing of performance measurement should be consistent to facilitate comparison across DNSPs.<sup>16</sup>

No other stakeholders commented on this amendment.

### AER response

The AER notes that this amendment, as proposed in September 2009:

- eliminates any gap in performance reporting for DNSPs currently reporting on a calendar year basis
- simplifies the operation of the scheme as it removes the need for the AER to establish a specific transitional arrangement, at the beginning of each regulatory control period, for DNSPs that report on a calendar year basis
- eliminates any transitional issues (and costs) that may otherwise be faced by DNSPs.

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<sup>14</sup> Ergon Energy, Op. cit., p. 8, EnergyAustralia, Op. cit., p. 2 and Jemena, Op. cit., p. 1.

<sup>15</sup> United Energy, Op. cit., pp. 5–6.

<sup>16</sup> Industry & Investment NSW, *STPIS proposed amendments IIN comments*, 4 November 2009.

The AER considers that these benefits more than offset any concerns identified by United Energy and Industry & Investment NSW. The AER accepts that there are benefits associated with increased consistency in the scheme, however, notes that this amendment addresses an existing inconsistency and results in the time period between performance measurement and application of the s-factor under the scheme being consistent across jurisdictions.

The AER also considers that its reference to regulatory years throughout the revised scheme maintains the strength of the incentives currently in place for DNSPs to maintain and improve their performance.

The AER considers that it is appropriate to include this amendment, as proposed in September 2009, in the STPIS.

## **5.3 Clarifications and other amendments**

### **5.3.1 Clarifications**

#### **5.3.1.1 General application of the scheme**

The AER proposed to amend the general application of the scheme to improve its transparency. The amendment involved the insertion of a new clause (clause 2.1 (d)) into the scheme to clarify what aspects of the scheme the AER will determine for a DNSP in its distribution determination.

#### **Stakeholder comments**

Ergon Energy and Jemena supported the insertion of clause 2.1(d) into the scheme.<sup>17</sup> However, Ergon Energy considered that clause 2.1(d)(8) failed to consider the situation where the AER would need to approve a beta threshold of 2.5 standard deviations.<sup>18</sup>

EnergyAustralia considered that the inclusion of clause 2.1(d) was helpful but noted that the scheme should not seek to limit the matters that a DNSP could raise in its regulatory proposal with respect to how the scheme should apply.<sup>19</sup>

Energex considered that clause 2.1(d)(8)(ii) captured all instances where the major event day boundary that applied to a DNSP in previous determinations was greater than 2.5 beta and suggested that the relationship between clause 2.1(d)(8)(iii) and 2.1(d)(8)(ii) may need to be reviewed.<sup>20</sup>

No other stakeholders commented on this amendment.

#### **AER response**

The AER notes that its intent in relation to clause 2.1(d) was to improve the transparency of the scheme by indicating the variable inputs and other matters which will be determined by it. The AER notes EnergyAustralia's concern but does not

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<sup>17</sup> Ergon Energy, *Ibid.*, p. 8, and Jemena, *Ibid.*, p. 1.

<sup>18</sup> Ergon Energy, *Ibid.*, p. 8.

<sup>19</sup> EnergyAustralia, *Op. cit.*, p. 2.

<sup>20</sup> Energex, *Op. cit.*, p. 4.

consider that this amendment changes the scope for a DNSP to raise matters that can be considered by the AER.

The AER does not consider it appropriate to amend clause 2.1 of the scheme to explicitly state that the AER will approve a threshold of 2.5 standard deviations, particularly where it is seeking a threshold of 2.5 standard deviations and where it has never sought any other (higher) threshold. The AER notes that 2.5 standard deviations is the default position of the scheme, which is based on the IEEE standard 1366-2003, and that this is stated in appendix D of the scheme. The AER therefore maintains the position taken in the proposed amendment released in September 2009 and only includes reference to situations where it is required to make an explicit decision regarding the major event day boundary that is to apply to a DNSP.

The AER has also reviewed the relationship between clause 2.1(d)(8)(i), (ii) and (iii) and considers it appropriate that all clauses remain in the scheme. The AER accepts that the clauses are similar but considers there are subtle differences between them that render them all necessary. Specifically, the AER considers that:

- clause 2.1(d)(8)(i) sets out that the AER will determine the major event day boundary where a DNSP has proposed a major event day boundary *that is greater than 2.5 standard deviations from the mean*
- clause 2.1(d)(8)(ii) sets out that the AER will determine the major event day boundary if the DNSP has proposed a major event day boundary *that is 2.5 standard deviations from the mean where in previous distribution determinations it has applied a major event day boundary that is greater than 2.5 standard deviations from the mean*
- clause 2.1(d)(8)(iii) sets out that the AER will determine the major event day boundary where a DNSP has proposed a major event day boundary *that is greater than 2.5 standard deviations from the mean if the DNSP has proposed a major event day boundary that is greater than 2.5 standard deviations from the mean in a previous determination.*

The AER notes that with respect to clause 2.1(d)(8)(iii) this includes the situation where a DNSP is seeking to maintain the same major event boundary as that in its current regulatory control period — one that is greater than 2.5 standard deviations from the mean — over the course of the next regulatory control period.

The AER considers that the inclusion of clause 2.1(d) into the STPIS is appropriate.

#### **5.3.1.2 Proposals to vary the application of the scheme**

The AER proposed to amend clause 2.2(a) by clarifying when a DNSP can make a proposal to vary the scheme

### **Stakeholder comments**

Jemena supported this amendment.<sup>21</sup> Ergon Energy, EnergyAustralia and Energex considered that this amendment unduly constrained them and was inconsistent with the NER.<sup>22</sup>

No other stakeholders commented on this proposed amendment.

### **AER response**

The AER considers that this amendment neither limits nor diminishes a DNSP's rights under the NER with respect to the STPIS. The NER do not allow for revisions or changes to the STPIS, or for that matter to a DNSP's regulatory proposal generally, that were not contemplated in the draft distribution determination. Even though clause 2.2(a) of the STPIS was amended to clarify that a DNSP may not submit a variation to the STPIS as part of its revised regulatory proposal, importantly, the AER notes this does not diminish the operation of clause 6.10.3(b) of the NER.<sup>23</sup>

The AER notes that the processes for revision available under clause 1.8 of the scheme remain in place and that its intent was not to limit this capacity. The AER also notes that DNSPs continue to have the capacity to propose how the scheme will apply through providing submissions on the proposed framework and approach paper that is released by the AER prior to it undertaking a distribution determination.

The AER accepts that its proposed amendment provided scope for confusion but considers that the proposed amendment to clause 2.2(a) of the scheme better reflects the requirements of the NER.

## **5.3.2 Consequential amendments**

### **5.3.2.1 Process for revision**

The AER proposed that clause 1.8(f)(1) be amended to better align the scheme with the Victorian DNSPs' current calendar year approach to measuring and reporting performance. The amendment involved the replacement of financial years with regulatory years to expand the type of information that a DNSP could provide to the AER when seeking to add or vary a parameter.

### **Stakeholder comments**

Ergon Energy and Jemena supported the amendments to the scheme.<sup>24</sup> No other stakeholders commented on these amendments.

### **AER response**

The AER considers it appropriate to include this amendment in the STPIS.

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<sup>21</sup> Jemena, Op. cit., p. 1.

<sup>22</sup> Ergon Energy, Op. cit., pp. 8–9, Energy Australia, Op. cit., p. 2 and Energex, Op. cit., pp. 2–3.

<sup>23</sup> Clause 6.10.3(b) of the NER states that a DNSP may only make the revisions referred to in 6.10.3(a) of the NER “so as to incorporate the substance of any changes required to address matters raised by the draft distribution determination or the AER's reasons for it”.

<sup>24</sup> Ergon Energy, Ibid., p. 9 and Jemena, Op. cit., p. 1.

### 5.3.2.2 Values for parameters — Reliability of supply

#### Performance targets

The AER proposed that calendar year data may be used as the basis for the setting of performance targets — this has been achieved through reference to regulatory years (clause 3.2.1(a) and 3.2.1(c)). The AER also proposed amendments (clause 3.2.1(a) and 3.2.1(a)(1)), which clarified that:

- performance targets are set so as not to decline across regulatory years
- historical performance data used to set the performance targets reflects the exclusion boundary adopted under appendix D of the scheme (as well as the exclusions listed in clauses 3.3 and 3.4).

#### Stakeholder comments

Jemena supported, and Ergon Energy “generally” supported, the proposed amendments.<sup>25</sup> However, Ergon Energy noted that the rate of improvement of performance over time may slow and sought clarification on:<sup>26</sup>

- the requirement that performance targets must not decline
- the objective of the amendment to clause 3.2.1(a).

EnergyAustralia was also concerned with the proposal that performance targets are set so as not to decline across regulatory years. It noted that there would be situations where it would be prudent for the AER to establish declining performance targets and that this proposal would limit the AER’s discretion.<sup>27</sup>

Energex similarly noted that it may be more appropriate to state that performance targets must not ‘deteriorate’ rather than ‘decline’ across regulatory years. It also noted that clause 3.4 was not present in the STPIS and requested that the AER confirm the correct application of the exclusion boundary and calculation of performance targets under the scheme.<sup>28</sup>

No other stakeholders commented on these proposed amendments.

#### AER response

The AER’s objective in stating that performance targets must not decline across regulatory years is to ensure that there is no deterioration in performance. Having considered the submissions the AER agrees that the September 2009 amendment to clause 3.2.1(a) should be refined to more clearly express this objective.

The AER does not accept that by specifying that performance must not deteriorate that it is restricting its discretion. The AER notes that in the rare situation where a deterioration in a DNSP’s performance is expected there are mechanisms that the AER

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<sup>25</sup> Ergon Energy, Op. cit., pp. 9–10 and Jemena, Op. cit., p. 1.

<sup>26</sup> Ergon Energy, Ibid., pp. 9–10.

<sup>27</sup> EnergyAustralia, Op. cit., pp. 2–3.

<sup>28</sup> Energex, Ibid., p. 4.

can apply in this situation, such as not applying an s-factor reward or penalty to the aspect of service performance in question.

The AER also accepts that reference to clause 3.4 in the draft explanatory statement is incorrect and has addressed this by including a reference to the correct clause, clause 5.4 of the scheme.

Following these refinements the AER has included these amendments in the STPIS.

#### **Incentive rates**

The AER proposed amendments (clause 3.2.2(h)(3) and 3.2.2(i)(3)) on how the incentive rates for unplanned SAIDI and SAIFI parameters are calculated to take into account leap years. The AER also proposed that the ‘worked example’ in appendix B be amended to reflect that change.

#### **Stakeholder comments**

Jemena supported, and Ergon Energy “generally” supported, the proposed amendments to the scheme.<sup>29</sup> No other stakeholders commented on these proposed amendments.

#### **AER response**

The AER considers it appropriate to include these amendments in the STPIS.

#### **5.3.2.3 Value of parameters — Customer service**

##### **Performance targets**

The AER proposed amendments to permit the use of five year’s worth of regulatory year data to determine the value of the performance targets (clause 5.3.1(a) and 5.3.1(d)). The AER also proposed a new clause (clause 5.3.1(b)(1)) to clarify the operation of the scheme.

##### **Stakeholder comments**

Ergon Energy and Jemena supported the proposed amendments to the scheme.<sup>30</sup> No other stakeholders commented on these proposed amendments.

##### **AER response**

The AER considers it appropriate to include these amendments in the STPIS.

#### **5.3.2.4 Appendix C: Adjustments to allowed revenue**

The AER proposed to amend a number of examples contained in appendix C to reflect the amendments made in clauses 2.4, 3.2 and 5.3 of the scheme (as detailed above). In general, the amendments involved the replacement of ‘years’ with ‘regulatory years’.

##### **Stakeholder comments**

Ergon Energy and Jemena supported the amendments to the scheme.<sup>31</sup> No other stakeholders commented on these proposed amendments.

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<sup>29</sup> Jemena, Op. cit., p. 1 and Ergon Energy, Op. cit., pp. 9–10.

<sup>30</sup> Jemena, Op. cit., p. 1 and Ergon Energy, Op. cit., p. 10.

## AER response

The AER considers it appropriate to include these amendments in the STPIS.

### 5.3.3 Minor amendments

#### 5.3.3.1 Exclusions (clauses 3.3 and 6.4)

The AER proposed two minor amendments to reflect the recent (2009) establishment of the Australian Energy Market Operator (AEMO). The amendments involved the replacement of NEMMCO with AEMO in clause 3.3(a)(4) and 6.4(a)(4).

#### Stakeholder comments

Ergon Energy and Jemena supported the amendments to the scheme.<sup>32</sup> No other stakeholders commented on these proposed amendments.

## AER response

The AER considers it appropriate to include these amendments in the STPIS.

#### 5.3.3.2 Appendix A: Performance incentive scheme parameters — standard definitions

The AER proposed that two definitions contained in appendix A be amended to reflect the amendments made in clauses 2.4, 3.2 and 5.3 of the scheme. The definitions amended were ‘Frequency of interruption’ and ‘Total duration of interruption’.

#### Stakeholder comments

Ergon Energy and Jemena supported the proposed amendments to the scheme.<sup>33</sup> No other stakeholders commented on these proposed amendments.

## AER response

The AER considers it appropriate to include these amendments in the STPIS.

## 5.4 Other issues — corrections

Jemena identified a potential error in the equation for the weighted average price cap (equation 1C) contained in appendix C of the scheme. The AER agrees that the nomenclature associated with this equation is incorrect and has amended it. The correct nomenclature for this equation is:

$$\frac{\sum_{i=1}^n \sum_{k=1}^m p_{ik}^{t+1} * q_{ik}^{t-1}}{\sum_{i=1}^n \sum_{k=1}^m p_{ik}^t * q_{ik}^{t-1}} \leq (1 + \Delta CPI_t) * (1 - X_{t+1}) * (1 + S_t) \dots \dots \dots (1C)$$

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<sup>31</sup> Jemena, Op. cit., p. 1 and Ergon Energy, Op. cit., p. 11.

<sup>32</sup> Jemena, Op. cit., p. 1 and Ergon Energy, Op. cit., p. 11.

<sup>33</sup> Jemena, Op. cit., p. 1 and Ergon Energy, Op. cit., p. 11.

## 6 Other issues raised outside the scope of the proposed amendments

As discussed in the introduction of this final decision, the AER received a number of submissions on issues which did not relate to the proposed amendments. These issues, which are set out below, have not been considered as part of this final decision.

Stakeholder	Issue/s
ACT Planning & Land Authority	<p>ACT Planning &amp; Land Authority noted the need:</p> <ul style="list-style-type: none"> <li>▪ to ensure that incentive schemes do not provide an opportunity to maximise short-term financial rewards at the expense of under investment in infrastructure maintenance and capital renewal.</li> <li>▪ for quality of supply to be considered as part of any incentive scheme.</li> </ul>
Jemena	<p>Jemena proposed that:</p> <ul style="list-style-type: none"> <li>▪ <math>T_{MED}</math> should be fixed for the duration of the regulatory control period to increase regulatory certainty surrounding DNSP investment</li> <li>▪ the definition of MAIFI be amended to be consistent with the current definition of MAIFLe.</li> </ul>
Industry and Investment NSW	<p>Industry and Investment NSW noted that the STPIS introduced requirements which differed from the 2007 ministerially imposed Design, Reliability and Performance Conditions.</p>
Energex	<p>Energex noted a number of procedural issues regarding regulatory certainty:</p> <ul style="list-style-type: none"> <li>▪ the proposed STPIS is the third version to be released by the AER</li> <li>▪ version 1.0 of the STPIS contained the limitation that any amendment to the scheme would not apply unless it was promulgated no less than 19 months before the commencement of a regulatory control period but that this limitation was removed in version 1.1 of the STPIS, thereby allowing subsequent amendments</li> <li>▪ the third version of the STPIS has been released at a time when Energex is in concentrated engagement with the AER (and the AER's consultants) with regards to its 2010–15 regulatory proposal.</li> </ul>

## **Appendix A: Submissions received on the proposed amended STPIS**

The following parties provided submissions on the AER's proposed amended STPIS published on 21 September 2009:

- Ergon Energy Corporation Limited
- ACT Planning & Land Authority
- CitiPower & Powercor Australia
- Energex Limited
- EnergyAustralia
- Industry and Invest NSW
- Jemena Electricity Networks
- United Energy.

Integral Energy provided a late submission supporting the amendments to the major event day exclusions and the timing of performance measurement, as discussed in sections 5.1 and 5.2 of this final decision.

## Shortened forms

AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
DNSP	distribution network service provider
ESCV	Essential Services Commission Victoria
IEEE	Institute of Electrical and Electronics Engineers (USA)
NEMMCO	National Electricity Market Management Company
NEL	National Electricity Law
NER	National Electricity Rules
s-factor	service standards factor
SAIDI	system average interruption duration index
SAIFI	system average interruption frequency index
STPIS	service target performance incentive scheme