



Call for submissions

**Proposed negotiable component criteria for  
ACT and NSW distribution network service  
providers**

**Proposed negotiated distribution service criteria  
for EnergyAustralia**

**EXPLANATORY STATEMENT AND ISSUES PAPER**

June 2008

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## Glossary and Definitions

AER	Australian Energy Regulator
DNSP	Distribution Network Service Provider
NCC	Negotiable Component Criteria
NDSC	Negotiated Distribution Service Criteria
NEL	National Electricity Law
NER	National Electricity Rules

In this Explanatory Statement:

- (a) a reference to the ‘transitional Chapter 6’ is a reference to the transitional Chapter 6 of the NER set out in Appendix 1 of Chapter 11 of the NER
- (b) a reference to a ‘distribution determination’ is a reference to the distribution determination that the AER will make in relation to each DNSP operating in the ACT and NSW for the 2009–2014 regulatory control period
- (c) the words and phrases presented in italics *such as this* have the meaning given to them in the transitional Chapter 6, and
- (d) any reference to clauses, such as ‘clause 6.7A.1’, is a reference to clauses of the transitional Chapter 6 unless otherwise stated.

# 1 Introduction

Following amendments to the NEL and NER in December 2007 the Australian Energy Regulator (AER) will be responsible for distribution determinations applying to the DNSPs that operate in the ACT and NSW for the *regulatory control period 2009–2014*. These DNSPs are:

- ActewAGL
- Country Energy
- EnergyAustralia
- Integral Energy

(the ACT and NSW DNSPs).

Rather than Chapter 6 of the NER being applied to these ACT and NSW distribution determinations, Chapter 11 of the NER provides that a modified version of Chapter 6 - a transitional Chapter 6 - will apply. In this Explanatory Statement, a reference to the ‘transitional Chapter 6’ is a reference to the rules that will apply to these ACT and NSW distribution determinations. The transitional Chapter 6 rules were notified in the South Australian gazette on 20 December 2007.

Under the transitional Chapter 6, the AER must make distribution determinations for the ACT and NSW DNSPs.<sup>1</sup> The purpose of a distribution determination is to impose controls over the prices of *direct control services*, the revenue to be derived from *direct control services* or both.<sup>2</sup> However, not all services of a DNSP need to be subject to a direct form of regulatory control. This Explanatory Statement sets out a framework for a process to negotiate terms and conditions of access for certain services (being *EnergyAustralia negotiated distribution services* and the ACT and NSW DNSPs’ negotiable components of *direct control services*). Some of the DNSPs have provided potential examples of negotiable components of *direct control services*, which are listed in the Issues Paper set out in Attachment 3. This Explanatory Statement also distinguishes between certain services provided by EnergyAustralia because, unlike the other DNSPs, certain high voltage transmission services supplied by EnergyAustralia are deemed under the transitional Chapter 6 to be classified as *negotiated distribution services* and, therefore, are subject to negotiation (ie. *EnergyAustralia negotiated distribution services*).

The negotiable component of *direct control services* category is transitional in nature and is only used for the 2009–2014 *regulatory control period* for ACT and NSW DNSPs. The service category will not be used in subsequent *regulatory control periods*. The AER’s likely approach to the classification of *distribution services* provided by the ACT and NSW DNSPs in *regulatory control periods* following 2009–2014 will be included in the AER’s framework and approach paper which is prepared in anticipation of each distribution determination for those *regulatory*

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<sup>1</sup> Transitional Chapter 6, clause 6.2.4(a)

<sup>2</sup> Transitional Chapter 6, clause 6.2.5(a)

*control periods*. The AER's classification decision will be made at the time the AER makes each of those distribution determinations.

## 1.1 Negotiable Component Criteria

Under clause 6.12.1(16A) of the transitional Chapter 6, the AER must decide which, if any, components of *direct control services* are negotiable components. Under clause 6.12.1(16B), the AER must, if relevant, decide on the Negotiable Component Criteria (NCC) for the DNSP. These are two of the constituent decisions on which a distribution determination is predicated.

The NCC sets out the criteria that are to be applied by the DNSP in negotiating the *terms and conditions of access* for negotiable components, including the variations to the prices that are to be charged for the provision of the negotiable component of the direct control service concerned by the provider for the relevant *regulatory control period* and any *access charges* which are negotiated by the provider during that *regulatory control period*.<sup>3</sup>

The NCC will also be used by the AER in resolving any access dispute between a DNSP and a person wishing to be provided with a negotiable component in relation to the *terms and conditions of access* including the variation of the prices that are to be charged for the provision of the negotiable component of the *direct control service* concerned by the provider and any *access charges* that are to be paid to or by the provider.<sup>4</sup>

## 1.2 Negotiated Distribution Service Criteria

The effect of rule 6.7 and clause 6.12.1(16) of the transitional Chapter 6 is that the AER must decide on the Negotiated Distribution Service Criteria (NDSC) for *EnergyAustralia negotiated distribution services*. This is one of the constituent decisions on which a distribution determination is predicated.

The NDSC sets out the criteria that are to be applied by EnergyAustralia in negotiating *terms and conditions of access* for its *negotiated distribution services*, including the prices that are to be charged for the provision of *negotiated distribution services* by the provider for the relevant *regulatory control period* or any *access charges* which are negotiated by the provider during that *regulatory control period*.<sup>5</sup>

The NDSC will also be used by the AER in resolving any access dispute between EnergyAustralia and a person wishing to be provided with a *negotiated distribution service* in relation to the *terms and conditions of access* including the price that is to be charged for the provision of the *negotiated distribution service* by the provider or any *access charges* that are to be paid to or by the provider.<sup>6</sup>

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<sup>3</sup> Transitional Chapter 6, clause 6.7A.4(a)(1)

<sup>4</sup> Transitional Chapter 6, clause 6.7A.4(a)(2)

<sup>5</sup> Transitional Chapter 6, clause 6.7.4(a)(1)

<sup>6</sup> Transitional Chapter 6, clause 6.7.4(a)(2)

### **1.3 Proposed Negotiable Component Criteria and Negotiated Distribution Service Criteria**

In determining the NCC and NDSC, clause 6.9.3(a) of the transitional Chapter 6 requires the AER to publish for consultation proposed NCC for each ACT and NSW DNSP and proposed NDSC for EnergyAustralia. In accordance with this requirement, Attachment 1 to this Explanatory Statement sets out the proposed NCC for each ACT and NSW DNSP, and Attachment 2 sets out the proposed NDSC for EnergyAustralia.

The AER will make a separate determination of the NCC for each ACT and NSW DNSP in its distribution determination and the NDSC for EnergyAustralia in its distribution determination. The AER has prepared an Issues Paper, under clause 6.9.3(b) of the transitional Chapter 6, which forms part of this Explanatory Statement (see Attachment 3). The Issues Paper identifies specific issues raised in the ACT and NSW DNSPs' regulatory proposals. Interested parties are requested to review this Explanatory Statement and Issues Paper and provide written submissions on the proposed NCC and NDSC and, in particular, on the criteria that should be determined for each individual DNSP, or any relevant issues not discussed in this Explanatory Statement. These submissions will be taken into account in making the draft determination on the NCC that will apply to each ACT and NSW DNSP and the NDSC that will apply to EnergyAustralia.

## 2 Consultation process

The AER will engage in the following consultation process:

- publish the ACT and NSW DNSPs' *regulatory proposals* along with the proposed NCC for each ACT and NSW DNSP, proposed NDSC for EnergyAustralia and an issues paper inviting submissions by 8 August 2008
- consider submissions on the proposed NCC for the ACT and NSW DNSPs and proposed NDSC for EnergyAustralia
- include the proposed NCC for each ACT and NSW DNSP in its draft distribution determination and the proposed NDSC for EnergyAustralia in its draft distribution determination and invite submissions
- consider submissions on the proposed NCC for each ACT and NSW DNSP and proposed NDSC for EnergyAustralia.

The AER will include the final NCC for each ACT and NSW DNSP and the final NDSC for EnergyAustralia in their respective distribution determinations.



### 3 Invitation for written submissions

Interested parties are invited to make written submissions to the AER in relation to the proposed NCC for each ACT and NSW DNSP outlined in Attachment 1 of this Explanatory Statement and the proposed NDSC for EnergyAustralia outlined in Attachment 2 of this Explanatory Statement, and where possible, include examples which assist in clarifying aspects of the submission. The Issues Paper outlined in Attachment 3 of this Explanatory Statement may assist interested parties in this process; however, written submissions are also invited on relevant matters not canvassed in this Explanatory Statement.

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

- clearly identify the information that is the subject of the confidentiality claim
- provide a non-confidential version of the submission, in addition to a confidential one.

All non-confidential submissions will be placed on the AER's website.

Any submissions on the proposed NCC for each ACT and NSW DNSP and proposed NDSC for EnergyAustralia must be received by close of business 8 August 2008 and should be addressed to:

Mr Mike Buckley  
General Manager  
Network Regulation North Branch  
Australian Energy Regulator  
GPO Box 3131  
Canberra ACT 2601  
Email: [AERInquiry@aer.gov.au](mailto:AERInquiry@aer.gov.au)

## 4 Negotiable Component Criteria

In relation to *direct control services*, a DNSP's regulatory proposal must include a proposal as to whether any components of *direct control services* should be negotiable components.<sup>7</sup> The AER may include in a DNSP's distribution determination a decision that one or more components of the provider's *direct control services* are negotiable components.<sup>8</sup> A negotiable component may be a particular component of the direct control service or may relate to the terms or conditions on which a direct control service or a component of a direct control service is provided.<sup>9</sup>

The NCC in the distribution determination for each ACT and NSW DNSP will set out the criteria that are to be applied by the DNSP in negotiating *terms and conditions of access* and any *access charges* for negotiable components of *direct control services*.

The NCC is also used by the AER in resolving any dispute between the DNSP and a person wishing to be provided with a negotiable component in relation to the matters set out above.

In order to give effect to and be consistent with the negotiable component principles in the transitional Chapter 6, the NCC will need to provide that the price for a negotiable component must be the price for that component in the DNSP's *approved pricing proposal* unless the terms and conditions sought for the component are so different from those used for the purposes of establishing the *approved pricing proposal* as to warrant determination of the price without regard to the *approved pricing proposal*.<sup>10</sup> This requirement has been incorporated in criterion 5 of the proposed NCC in Attachment 1.

Under the transitional Chapter 6, negotiable components of *direct control services* are regulated under a negotiate/arbitrate regime. Therefore, the *terms and conditions of access* and any *access charges* for negotiable components are the result of commercial agreement. Failing agreement, the *terms and conditions of access* and/or *access charges* are determined by the AER.

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<sup>7</sup> Transitional Chapter 6, clause 6.8.2(7)

<sup>8</sup> Transitional Chapter 6, clause 6.7A(a)

<sup>9</sup> Transitional Chapter 6, clause 6.7A(b)

<sup>10</sup> Transitional Chapter 6, clause 6.7A.1(1)

## **5 AER's proposed negotiable component criteria**

In determining proposed NCC, the AER has considered the negotiable component principles set out in clause 6.7A.1, and developed criteria that give effect to and are consistent with those principles in accordance with clause 6.7A.4(b) of the transitional Chapter 6. The proposed NCC is set out in Attachment 1.

Submissions are invited on the suitability of these core criteria and any additional or different criteria that should apply to the ACT and NSW DNSPs in order to meet the requirements of the transitional Chapter 6 and the principles set out in clause 6.7A.1. Submissions received will be taken into account in tailoring the NCC to the extent necessary and appropriate for each ACT and NSW DNSP.

This approach provides the ACT and NSW DNSPs and their customers with certainty by setting out a common basis for determination of the NCC, while still providing the DNSPs and their customers flexibility to take into account specific circumstances.

## 6 Negotiated Distribution Service Criteria

Rule 6.7 of the transitional Chapter 6, which deals with *negotiated distribution services*, applies only to *EnergyAustralia negotiated distribution services*. For the purposes of the transitional Chapter 6, a service provided by EnergyAustralia by means of, or in connection with, the EnergyAustralia transmission support network and which would otherwise be a *negotiated transmission service* is deemed to be classified as a *negotiated distribution service* and is referred to as an “EnergyAustralia negotiated distribution service”.<sup>11</sup> The “EnergyAustralia transmission support network” is defined in clause 6.1.7(a) of the transitional Chapter 6 as “any part of a network owned, controlled or operated by EnergyAustralia and operating between 66 kV and 220 kV that operates in parallel to and provides support to the higher voltage *transmission network*”. None of the other DNSPs’ *distribution services* are deemed to be classified as *negotiated distribution services*.<sup>12</sup>

For the purposes of the 2009–2014 *regulatory control period*, the EnergyAustralia transmission support network is deemed to be part of EnergyAustralia’s *distribution network*.<sup>13</sup>

Under Chapter 6A of the NER, a *negotiated transmission service* is not subject to upfront price controls incorporated in revenue determinations and its price is the result of commercial agreement. The transitional Chapter 6 recognises this in relation to *negotiated transmission services* provided by EnergyAustralia by making EnergyAustralia’s deemed *negotiated distribution services* subject to access principles substantially similar to the access principles for *negotiated transmission services* in Chapter 6A of the NER.<sup>14</sup>

An *EnergyAustralia negotiated distribution service* will not be subject to upfront price controls in the distribution determination or *approved pricing proposal* and its price will be determined by commercial agreement. Accordingly, an *EnergyAustralia negotiated distribution service* is not treated the same as a negotiable component of a *direct control service* and, therefore, will be subject to the NDSC rather than the NCC.

The NDSC in the distribution determination for EnergyAustralia will set out the criteria that are to be applied by the DNSP in negotiating *terms and conditions of access* and any *access charges* for *negotiated distribution services*. The NDSC is also used by the AER in resolving any dispute between EnergyAustralia and a person wishing to be provided with a *negotiated distribution service* in relation to the matters set out above.

Under the transitional Chapter 6, *negotiated distribution services* are regulated under a negotiate/arbitrate regime. Therefore, the *terms and conditions of access* and any *access charges* for *negotiated distribution services* are the result of commercial

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<sup>11</sup> Transitional Chapter 6, clause 6.1.6(d)

<sup>12</sup> Transitional Chapter 6, clauses 6.2.3B and 6.2.3C

<sup>13</sup> Transitional Chapter 6, clause 6.1.6(b)

<sup>14</sup> See clause 6A.9.1 of the NER and clause 6.7.1 of the transitional Chapter 6.

agreement. Failing agreement, the *terms and conditions of access* and/or *access charges* are determined by the AER.

## **7 AER's proposed negotiated distribution service criteria**

In determining its proposed NDSC, the AER has considered the *Negotiated Distribution Service Principles* set out in clause 6.7.1, and developed criteria that give effect to and are consistent with those principles in accordance with clause 6.7.4(b) of the transitional Chapter 6. The proposed NDSC is set out in Attachment 2.

Submissions are invited on the suitability of these core criteria and any additional or different criteria that should apply to EnergyAustralia in order to meet the requirements of the transitional Chapter 6 and the principles set out in clause 6.7.1. Submissions received will be taken into account in tailoring the NDSC to the extent necessary and appropriate for EnergyAustralia.

# Attachment 1: Proposed Negotiable Component Criteria

## National Electricity Market Objective

1. The *terms and conditions of access* for a negotiable component of a *direct control service*, including the price that is to be charged for the negotiable component and any *access charges*, should promote the achievement of the *national electricity objective*.

## Criteria for terms and conditions of access

### Terms and conditions of access

2. The *terms and conditions of access* for a negotiable component must be fair and reasonable and consistent with the safe and reliable operation of the *power system* in accordance with the NER.
3. The *terms and conditions of access* for a negotiable component (including, in particular, any exclusions and limitations of liability and indemnities) must not be unreasonably onerous taking into account the allocation of risk between the DNSP and the other party, the price for the negotiable component and the costs to the DNSP of providing the negotiable component.
4. The *terms and conditions of access* for a negotiable component must take into account the need for the *direct control service* to be provided in a manner that does not adversely affect the safe and reliable operation of the *power system* in accordance with the NER.

### Price of Services

5. The price for a negotiable component must be the price for that component in the DNSP's *approved pricing proposal*, unless the terms and conditions sought for the component are so different from those used for the purposes of establishing the *approved pricing proposal* as to warrant determination of the price without regard to this criterion.
6. Subject to criterion 5, the price for a negotiable component must reflect the costs that the DNSP has incurred or incurs in providing that component, and must be determined in accordance with the principles and policies set out in the Cost Allocation Method.
7. Subject to criteria 5, 8 and 9, the price for a negotiable component must be at least equal to the cost that would be avoided by not providing it but no more than the cost of providing it on a stand alone basis.
8. Subject to criterion 5, if the *direct control service* of which the negotiable component is a component is the provision of a *shared distribution service* that:

- (i) exceeds any network performance requirements which it is required to meet under any relevant electricity legislation; or
- (ii) exceeds the network performance requirements set out in schedule 5.1a and 5.1 of the NER,

then the difference between the price for that *direct control service* and the price for the *shared distribution service* which meets network performance requirements must reflect the DNSP's incremental cost of providing that service (as appropriate).

- 9. Subject to criterion 5, if the *direct control service* of which the negotiable component is a component is the provision of a *shared distribution service* that does not meet or exceed the network performance requirements, the difference between the price for that service and the price for the *shared distribution service* which meets, but does not exceed, the network performance requirements should reflect the cost the DNSP would avoid by not providing that service (as appropriate).
- 10. Subject to criterion 5, the price for a negotiable component must be the same for all *Distribution Network Users* unless there is a material difference in the costs of providing the negotiable component to different *Distribution Network Users* or classes of *Distribution Network Users*.
- 11. Subject to criterion 5, the price for a negotiable component must be subject to adjustment over time to the extent that the assets used to provide the *direct control service* are subsequently used to provide services to another person, in which case such adjustment must reflect the extent to which the costs of those assets are being recovered through charges to that other person.
- 12. Subject to criterion 5, the price for a negotiable component must be such as to enable the DNSP to recover the efficient costs of complying with all *regulatory obligations or requirements* associated with the provision of the negotiable component.

## Criteria for access charges

### Access Charges

- 13. Any *access charges* must be based on costs reasonably incurred by the DNSP in providing *distribution network user access* and, in the case of compensation referred to in clause 5.5(f)(4)(ii) to (iii) of the NER, on the revenue that is likely to be foregone and the costs that are likely to be incurred by a person referred to in those provisions where an event referred to in those provisions occurs (as appropriate).



# Attachment 2: Proposed Negotiated Distribution Service Criteria

## National Electricity Market Objective

1. The *terms and conditions of access* for an *EnergyAustralia negotiated distribution service*, including the price that is to be charged for the provision of that service and any *access charges*, should promote the achievement of the *national electricity objective*.

## Criteria for terms and conditions of access

### Terms and Conditions of Access

2. The *terms and conditions of access* for an *EnergyAustralia negotiated distribution service* must be fair and reasonable and consistent with the safe and reliable operation of the *power system* in accordance with the NER.
3. The *terms and conditions of access* for an *EnergyAustralia negotiated distribution service* (including, in particular, any exclusions and limitations of liability and indemnities) must not be unreasonably onerous taking into account the allocation of risk between the DNSP and the other party, the price for the *negotiated distribution service* and the costs to the DNSP of providing the *negotiated distribution service*.
4. The *terms and conditions of access* for an *EnergyAustralia negotiated distribution service* must take into account the need for the service to be provided in a manner that does not adversely affect the safe and reliable operation of the *power system* in accordance with the NER.

### Price of Services

5. The price for an *EnergyAustralia negotiated distribution service* must reflect the costs that the DNSP has incurred or incurs in providing that service, and must be determined in accordance with the principles and policies set out in the Cost Allocation Method.
6. Subject to criteria 7 and 8, the price for an *EnergyAustralia negotiated distribution service* must be at least equal to the cost that would be avoided by not providing that service but no more than the cost of providing it on a stand alone basis.
7. If an *EnergyAustralia negotiated distribution service* is a *shared distribution service* that:
  - (i) exceeds any network performance requirements which it is required to meet under any relevant electricity legislation; or
  - (ii) exceeds the network performance requirements set out in schedule 5.1a and 5.1 of the NER,

then the difference between the price for that service and the price for the *shared distribution service* which meets network performance requirements must reflect the DNSP's incremental cost of providing that service (as appropriate).

8. If an *EnergyAustralia negotiated distribution service* is the provision of a *shared distribution service* that does not meet or exceed the network performance requirements, the difference between the price for that service and the price for the *shared distribution service* which meets, but does not exceed, the network performance requirements should reflect the cost the DNSP would avoid by not providing that service (as appropriate).
9. The price for an *EnergyAustralia negotiated distribution service* must be the same for all *Distribution Network Users* unless there is a material difference in the costs of providing the *negotiated distribution service* to different *Distribution Network Users* or classes of *Distribution Network Users*.
10. The price for an *EnergyAustralia negotiated distribution service* must be subject to adjustment over time to the extent that the assets used to provide that service are subsequently used to provide services to another person, in which case such adjustment must reflect the extent to which the costs of that asset are being recovered through charges to that other person.
11. The price for an *EnergyAustralia negotiated distribution service* must be such as to enable the DNSP to recover the efficient costs of complying with all *regulatory obligations or requirements* associated with the provision of the *negotiated distribution service*.

## **Criteria for access charges**

### **Access Charges**

12. Any *access charges* must be based on costs reasonably incurred by the DNSP in providing *distribution network user access* and, in the case of compensation referred to in clauses 5.4A(h) to (j) of the NER, on the revenue that is likely to be foregone and the costs that are likely to be incurred by a person referred to in those provisions where an event referred to in those provisions occurs (as appropriate).

# Attachment 3: Issues Paper

## Proposed negotiable components criteria and negotiated distribution service criteria

### Introduction

This Issues Paper accompanies the Explanatory Statement and provides an overview of the ACT and NSW DNSPs' regulatory proposals in relation to *negotiated distribution services* and negotiable components of *direct control services*.

### Regulatory proposals

The AER has received regulatory proposals from each of the ACT and NSW DNSPs, however, only EnergyAustralia and ActewAGL submitted substantive proposals in relation to *negotiated distribution services* and negotiable components of *direct control services*.

#### Negotiated distribution services

None of the ACT and NSW DNSPs identified any new *negotiated distribution services* as part of their regulatory proposals, although EnergyAustralia has provided a document that outlines its approach to classifying and differentiating *EnergyAustralia negotiated distribution services* from other services.<sup>15</sup>

#### Negotiable components of direct control services

None of the ACT and NSW DNSPs specifically identify any negotiable components of *direct control services* in their regulatory proposals. ActewAGL and EnergyAustralia consider that there is only limited scope for negotiation in relation to *direct control services* and that it is often difficult to define in advance which components will be negotiable. As a result, both DNSPs have proposed substantially similar definitions with examples to assist in identifying negotiable components of *direct control services*, rather than specifically identifying negotiable components.<sup>16</sup>

In effect, the definitions proposed by ActewAGL and EnergyAustralia are that a negotiable component of a *direct control service* should be any component (or terms and conditions on which that component is provided) where some variability can be applied to the provision of the *direct control service* without interfering with or in any way compromising a DNSP's ability to comply with any regulatory obligation or requirement of the NEL/NER.

Potential negotiable components include:

- the location of a substation to support customer load;
- the location of a customer's connection to the DNSP's distribution network;

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<sup>15</sup> EnergyAustralia, *Part II – Attachment 1.1: EnergyAustralia's Negotiated Distribution Services*, Sydney, 19 May 2008.

<sup>16</sup> ActewAGL's regulatory proposal, Chapter 14; EnergyAustralia's regulatory proposal, Part II, Chapter 3.

- the point of entry to the premises;
- location of metering;
- the voltage level of a customer's connection;
- the capacity of a customer's connection;
- assessment of a customer's load requirement;
- availability of standby supply from the DNSP's grid when on-site generation is unavailable;
- capacity of customer's connection before augmentation or other works will be required;
- distribution access charges for embedded generators;
- any increase (or decrease) in the security or reliability of the shared distribution service requested by a customer in excess of that which would otherwise be provided at that customer's point of supply;
- provision of standby network connections capacity (often applicable to embedded generation projects);
- special aesthetic requirements in relation to network equipment;
- non-standard substation configuration or use of non-standard equipment; and
- design planning criteria which exceeds the applicable security standard.<sup>17</sup>

ActewAGL considers that there is the potential to have negotiable components for direct control services that have non-standard or above standard customer connection requirements, where changes to technical or performance related components can have a direct impact on ActewAGL's costs of providing a connection. It suggests that special requirements are predominately imposed by developers or planning agencies for major commercial or residential developments.<sup>18</sup>

EnergyAustralia suggests that any elements of design of connection works required by EnergyAustralia to best satisfy the connection to the shared network may be negotiated with the customer is likely to be a negotiable component of a *direct control service*.<sup>19</sup>

#### **Negotiable Component Criteria and Negotiated Distribution Service Criteria**

The AER has developed its proposed NCC and NDSC based on the principles set out in clauses 6.7A.1 and 6.7.1 and has developed criteria that give effect to and are consistent with those principles in accordance with clauses 6.7A.4(b) and 6.7.4(b) of

<sup>17</sup> ActewAGL's regulatory proposal, p247; EnergyAustralia's regulatory proposal, p177.

<sup>18</sup> ActewAGL's regulatory proposal, p247.

<sup>19</sup> EnergyAustralia's regulatory proposal, p173 and 177.

the transitional Chapter 6. The AER has also included an additional criterion that promotes the achievement of the *national electricity objective* (see criterion 1 of the proposed NCC and NDSC).

EnergyAustralia supports the AER adopting the negotiable component principles in clause 6.7A.1 and the *Negotiated Distribution Service Principles* in clause 6.7.1 as the appropriate criteria.<sup>20</sup> EnergyAustralia notes the negotiated transmission service criteria determined in the AER's recent ElectraNet decision adopted the relevant principles from Chapter 6A as the criteria without any additional matters.<sup>21</sup> The AER notes, however, that the criteria determined in its ElectraNet decision also contained the additional criterion that referred to the national electricity market objective. This is similar to the approach that the AER has adopted in relation to its proposed NCC in Attachment 1 and NDSC in Attachment 2.

### **The AER's Position**

The AER is yet to form a view about whether its distribution determinations should determine that any components of *direct control services* are negotiable components. It invites submissions on whether any components of *direct control services* should be negotiable components; the issues raised in the ACT and NSW DNSPs' regulatory proposals; the proposed NCC and NDSC; the issues raised in this Issues Paper; and any relevant issues not discussed in the Explanatory Statement or this Issues Paper.

### **Specific issues for comment**

1. Should any particular components of *direct control services* be classed as negotiable components?
2. Should any terms and conditions on which a *direct control service* or a component of a *direct control service* is provided be classed as a negotiable component?
3. Is the definition of 'negotiable component' proposed in the DNSPs' regulatory proposals useful and appropriate?
4. Are the examples of potential negotiable components in the DNSPs' regulatory proposals useful and appropriate? Should any other component or terms and conditions on which that component or a *direct control service* is provided be included?
5. Do you agree/disagree with the AER's proposed NCC for each individual DNSP?
6. Do you agree/disagree with the AER's proposed NDSC for EnergyAustralia?
7. Are the criteria in the proposed NCC and NDSC suitable and appropriate for each applicable DNSP? Should any additional or different criteria apply in light of the transitional Chapter 6 and particularly the negotiable component principles in clause 6.7A.1 or *Negotiated Distribution Service Principles* in clause 6.7.1?
8. The AER also invites submissions on any other relevant matter, including those not raised in the Explanatory Statement.

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<sup>20</sup> EnergyAustralia's regulatory proposal, p215.

<sup>21</sup> Ibid.