

A few
words.



Mr Chris Pattas

General Manager Network Regulation South Branch

Australian Energy Regulator

GPO Box 520

Melbourne Vic 3000

28 August 2009

Re: Proposed Negotiated Distribution Service Criteria for ETSA

Dear Mr Pattas,

AGL welcomes the opportunity to comment on the Australian Energy Regulator's (AER) proposed negotiated distribution services criteria (NDSC) for ETSA.

As a general comment AGL supports the approach and sees benefit in the introduction of the new clauses into the relevant sections however we recommend that the AER consider the amendments proposed by AGL.

Should you have any questions or comments on this submission, please contact Sallie Proctor, Manager Regulatory Compliance and Advice (03) 8633 7871 or at sproctor@agl.com.au

Yours sincerely,

A handwritten signature in black ink that reads 'N Wallis'.

Nicole Wallis

Manager Retail Markets Regulation

- > Being selected as a member of the Dow Jones Sustainability Index 2006/07
- > Gaining accreditation under the National GreenPower Accreditation Program for AGL Green Energy®, AGL Green Living® and AGL Green Spirit
- > Being selected as a constituent of the FTSE4Good Index Series

SUBMISSIONS ON EACH PARTICULAR CRITERION

National Electricity Objective

1. The term and conditions of access for a 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.

AGL supports the inclusion of this new criterion.

Criteria for terms and conditions of access

Terms and Conditions of Access

2. The terms and conditions of access for a 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.

AGL supports the amendments made to this criterion. The replacement of 'should' with 'must' has removed the possible uncertainty associated with 'should'.

3. The terms and conditions of access for a negotiated distribution services (including in particular, any exclusions and limitations of liability and indemnities) must not be unreasonably onerous taking into account the allocation of risk between a distribution network service provider (DNSP) and any other party, the price for the negotiated distribution service and the costs to a DNSP of providing the negotiated distribution service.

AGL generally supports this criterion. It is highly likely that the Distributor will be the only participant who is able to provide the Negotiated Distributions Services. Therefore the allocation of risk should recognise this imbalance in market power. On this basis AGL recommends the inclusion of 'equitable' or 'reasonable' allocation of risk.

4. The terms and conditions of access for a 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

AGL supports this criterion.

Price of Services

5. The price for a negotiated distribution service must reflect the costs that a DNSP has incurred or incurs in providing that service, and must be determined in accordance with the principles and policies set out in the DNSP's Cost Allocation Method.

AGL generally supports this criterion in principle. However, there is a requirement that there is a transparent approach in determining the costs are efficient. This could be achieved through market testing or benchmarking of the prices.

6. Subject to criteria 7 and 8, the price for a 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 standalone basis.

AGL generally supports this criterion. AGL would recommend that the price for the negotiated distribution service should be at least equal to the lower bound which equal to the incremental costs of providing the services.

7. If a 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
- (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 a DNSP's incremental cost of providing that service (as appropriate).

AGL generally supports this criterion. However, we recommend the inclusion of 'net' difference between prices to take into account the potential benefit to the Network performance that may derive from the additional services.

8. If a 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 provide for the shared distribution service which meets, but does not exceed, the network performance requirements, should reflect the cost a DNSP would avoid by not providing that service (as appropriate)

AGL generally supports this criterion. The details set out in Criterion 7 are applicable for this criterion.

9. The price for a 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.

AGL supports this criterion.

10. The price for a negotiated service must be subject to adjustment over time to the extent that the assets used to provide that service are subsequently used to provide that service 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.

Although there is no amendment to this criterion, AGL provides the following comments:

- The Retailer requesting the negotiated service should only incur the proportioned costs associated with the assets that have been built or altered.
- Any future use of the assets should be on the basis the initiator of the original request should receive proportioned compensation.

11. The price for a negotiated distribution service must be such as to enable a DNSP to recover the efficient costs of complying with all regulatory obligations or requirements associated with the provisions of the negotiated service.

AGL generally support this criterion and propose the inclusion of incremental costs as a fairer way of approaching this.

Criteria for access charges

Access Charges

12. Any charges must be based on costs reasonably incurred by a DNSP in providing distribution network user access, and, in the case of compensation referred to in clauses 5.5(f) (4) (ii) and (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).

AGL generally supports this criterion. Any benefit that the DNSP derives from completing the amendment or installation of the new asset to the distribution network should be reflective in the calculation of the associated charges.

13. Any charges must be based on costs reasonably incurred by a DNSP in providing transmission network user access to services deemed to be negotiated distribution services by clause 6.24.2(c)ⁱ of the NER, and, in the case of compensation referred to in clause 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).

AGL generally supports this criterion. Any benefit that the DNSP derives from completing the amendment or installation of the new asset to the transmission network should be reflective in the calculation of the associated charges.

ⁱ Clause 6.24.2(c) any service that is provided by a Distribution Network Service Provider by means of, or in connection with, the Distribution Network Service Provider's dual function assets that, but for this Part, would be a prescribed transmission service for the purposes of Chapter 6A is deemed to be a negotiated distribution service.