

19 December 2013

Mr John Pierce
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

National Electricity Amendment (Distribution Network Pricing Arrangements) Rule 2014 (ERC0161)

Dear Mr Pierce

As the national industry association representing the businesses operating Australia's electricity transmission and distribution networks and gas distribution networks, the Energy Networks Association (ENA) has welcomed the opportunity to respond to the Australian Energy Market Commission's Consultation Paper on Distribution Network Pricing Arrangements (the Rule change).

ENA understands from the AEMC's Consultation Paper that the purpose of the Rule change is to encourage distribution network prices to be set on a more cost-reflective basis; to provide more opportunity for consultation on the development of network tariffs; and to provide greater certainty on how network prices will change over time.

ENA welcomes the support of the Standing Council on Energy and Resources (SCER) and the AEMC for more cost-reflective network pricing. In our response to the Rule change ENA has adopted a position with four key features.

1. ENA supports the Rule change as an opportunity to advance cost-reflective network pricing, subject to our concerns with practicability and compliance risk being addressed.
2. ENA does not support a prescriptive approach that mandates that distribution network prices be set on the basis of long run marginal cost (LRMC).
3. The practical application of LRMC should be confronted in the Rule change and the AEMC's supporting analysis, including constraints on locational pricing; the relative significance of residual costs; and the discretion of distribution networks to take into account customer impacts.
4. Any Rule change must be implemented as part of an integrated suite of cost-reflective distribution network pricing reforms addressing: a national implementation framework for flexible pricing based on trigger events and consumption thresholds; a balanced approach to advanced metering; consumer information; refocussing customer hardship programs; and retail price deregulation.

In our submission ENA indicates our support for the AEMC undertaking an analysis of the potential impacts and limitations of the proposed changes within the Rule change to the distribution pricing principles. The AEMC's quantitative assessment could be an important contribution to developing shared expectations amongst policy makers, regulators and stakeholders of the potential outcomes from the Rule change.

At the recent AEMC stakeholder workshop, ENA argued that the AEMC's quantitative assessment needs to establish:

- empirical examples of LRMC estimates;
- broad analysis of the likely consumer impacts of mandating that prices are based on LRMC; and
- a clear line of sight of the likely "hard cases" and how these could be addressed in policy terms.

The ENA will be pleased to provide you with any further information or assistance that you might require. Please don't hesitate to contact me on 6272 1510 or by email jbradley@ena.asn.au.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'John Bradley', is positioned above the typed name.

John Bradley
Chief Executive Officer



ENA response to the AEMC Consultation Paper
National Electricity Amendment (Distribution Network Pricing
Arrangements) Rule 2014

19 December 2013

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Executive summary

The Distribution Network Pricing Arrangements Rule change (the Rule change) is seeking to encourage distribution network prices to be set on a more cost-reflective basis; to provide more opportunity for consultation on the development of network tariffs; and to provide greater certainty on how network prices will change over time.

ENA welcomes the support of the Standing Council on Energy and Resources (SCER) and the Australian Energy Market Commission (AEMC) for more cost-reflective network pricing. In principle ENA supports changes to the distribution pricing principles in the National Electricity Rules (NER) as an opportunity to advance cost-reflective network pricing, subject to our concerns with practicability and compliance risk being addressed.

The ENA does not support a prescriptive approach that mandates that distribution network prices be set on the basis of long run marginal cost (LRMC).

ENA considers that the practical application of LRMC should be confronted in both the Rule change and the AEMC's supporting analysis. It is fundamental, rather than a secondary consideration, to address the relative significance of residual costs, constraints on locational pricing and (as discussed later in this submission) the discretion of distribution networks to take into account customer impacts.

There are many complexities and challenges in achieving more cost-reflective network pricing, as recent reviews by the Productivity Commission and the AEMC have recognised. These complexities and challenges warrant a broader approach than considering changes to the distribution pricing principles in the NER in isolation.¹

Key Features of ENA Position

1. ENA supports the Rule change as an opportunity to advance cost-reflective network pricing, subject to our concerns with practicability and compliance risk being addressed.
2. ENA does not support a prescriptive approach that mandates that distribution network prices be set on the basis of long-run marginal cost (LRMC).
3. The practical application of LRMC should be confronted in both the Rule change and the AEMC's supporting analysis including: constraints on locational pricing; the relative significance of residual costs; and the discretion of DNSPs to take into account customer impacts.
4. Any Rule change must be implemented as part of an integrated suite of cost-reflective distribution network pricing reforms addressing: a national implementation framework for flexible pricing based on trigger events and consumption thresholds; a balanced approach to advanced metering; consumer information; refocussing customer hardship programs; and retail price deregulation.

¹ See Productivity Commission Inquiry Report, Volume 2, Electricity Network Regulatory Frameworks, p 427 and the AEMC Power of Choice Review, Final Report, p. 147

The need for a broader approach

An integrated approach has been recommended to SCER by both the Productivity Commission in *its Inquiry into Electricity Network Regulatory Frameworks* and the AEMC in its *Power of Choice Review*. Taking into account the recommendations of these earlier reviews, and the current policy development on metering, ENA considers that a broader integrated suite of cost-reflective network tariff reforms to be considered by SCER could include the following five measures.

1. A regulatory framework that facilitates the installation, on an economic basis, of metering required to support consumers to respond to cost-reflective pricing; that enables the benefits of distribution network derived benefits being passed on to consumers; and removes restrictions to the roll out of advanced meters by networks based on an economic business case.
2. A joint initiative between electricity networks, retailers and governments to inform and educate customers on the implementation of cost-reflective pricing and choices for customers.
3. A National Implementation Framework for Flexible Pricing that achieves a phased transition to the introduction of cost-reflective pricing, based on defined consumption thresholds and customer initiated trigger events (such as the connection of solar PV, battery storage and electric vehicles and connections to new premises).
4. The review and refocussing of customer hardship programs to support the introduction of sustainable cost-reflective pricing.
5. The implementation of long-standing Council of Australian Governments (COAG) commitments to deregulate retail prices in all jurisdictions, where markets are sufficiently competitive.

Addressing the Rule change

ENA understands that the AEMC is planning to undertake an analysis of the potential impacts and limitations of the proposed changes to the distribution pricing principles, within the Rule change process. The AEMC's quantitative assessment could be an important contribution to developing shared expectations amongst policy makers, regulators and stakeholders of the potential outcomes from amendments to the Rules to promote cost-reflective network pricing. At the recent AEMC stakeholder workshop ENA argued that the AEMC needs to establish:

- empirical examples of LRMC estimates;
- broad analysis of the likely consumer impacts of requiring prices to be based on LRMC; and
- a clear line of sight of the likely "hard cases" and how these could be addressed in policy terms.

We suggest that the AEMC could use this opportunity to review whether the side constraint provisions, both within and between regulatory periods are workable. The side constraints are effectively a brake on annual price changes and could conflict with the requirement for distribution network tariffs to be based on LRMC. The AEMC's analysis should also assess the potential for greater pricing volatility that may arise from any amendments to the Rules that place a greater emphasis on LRMC-based pricing.

ENA supports three outcomes from the Rule change.

- A workable, rather than a theoretical, approach to the calculation and application of LRMC in setting distribution network tariffs that advances more cost-reflective network pricing.
- Greater engagement with stakeholders on distribution network tariffs, including through consultation on a Pricing Structures Statement (PSS) in the regulatory determination process.
- Greater certainty on final distribution network tariffs at an earlier stage in the annual pricing proposal process.

A workable approach to LRMC

Most distribution networks currently evaluate the LRMC as an average for their networks, on a voltage level basis. In complying with the existing rules, distribution networks then seek to ensure that each tariff charging component is set with regard to LRMC, when expressed on an equivalent basis.

ENA is seeking a workable approach to the distribution pricing principles from the Rule change, rather than a theoretical one, which places the emphasis on the implementation outcomes and not the development of conceptual LRMC models. The workability of the proposed distribution pricing principles has the potential to impact on compliance risks.

The AEMC's Consultation Paper has put forward a definition from the *Power of Choice Review* which defines LRMC as *"the present value cost of bringing forward network capital and operating costs to meet a particular user's sustained incremental derived demand for the relevant network service."*²

Given the complexities and challenges in estimating LRMC at a granular level identified in the Productivity Commission's Inquiry, and in view of the restrictions in some jurisdictions on locational pricing, in practice the AEMC's definition appears unachievable.³ Further, as the AEMC commented in the *Power of Choice Review* *"designing network tariffs for every consumer that reflects the true locational variation of network costs would be far too complex."*⁴

In ENA's view not only is it complex to allocate costs based on LRMC on the basis of a particular user, but retailers are unlikely to want to reflect this degree of variation in network tariffs in retail tariffs. Rather than mandating a definition of LRMC that imposes a highly granular allocation of costs based on LRMC, which will increase the potential for compliance risks, distribution networks should have the flexibility to calculate values of LRMC at the level of the network that is appropriate to address constraints on the network and apply these values of LRMC to network tariffs.

ENA sought Gilbert+Tobin's advice on the potential for conflict that might arise if the proposed Rule made in response to the SCER's rule proposal contained a requirement for distribution networks to comply with jurisdictional instruments as well as a requirement to base tariffs on LRMC. Their advice is Attachment A to this submission. In their view:

² AEMC Consultation Paper, p. 58

³ Productivity Commission Inquiry, Report Volume 2, Electricity Network Regulatory Frameworks, p. 439-440

⁴ AEMC Power of Choice Review, Final Report, p. 150

“it would be preferable that if any amendments are to be made to the Rules, the drafting should deal clearly with how any conflicts between jurisdictional requirements and other requirements are to be resolved. This could be done, for example by stating that tariffs are to comply with the relevant principles set out in the Rules to the extent possible given jurisdictional requirements.”⁵

For an abundance of clarity, we ask that the AEMC give consideration to this suggested drafting if it proposes to make a Rule which requires both that tariffs be based on LRMC and comply with jurisdictional requirements.

The current rules require that networks have regard to whether a customer is able or likely to respond. The proposed change to the Rules would broaden this principle to require that distribution networks are to have regard to “how the tariff may impact retail customers within the relevant tariff class.”

This consideration is fundamental to the practical application of the Rule change.

ENA understands from the AEMC Consultation Paper that the intention of SCER is that in setting prices networks should consider:

- the ability of customers to respond to efficient prices and the price elasticity of demand, which is relevant to the efficiency of network tariffs; and
- the potential for bill shock, which could raise issues of community acceptance and fairness.

ENA considers that that if it is the above impacts that the AEMC considers should be taken into account in setting tariffs, the principle relating to customer impacts should be clarified in the Rules as opposed to leaving the matter to be dealt with in guidelines

In ENA’s view the Rules should be sufficiently clear and certain to enable distribution networks to understand what is necessary to comply with the relevant requirements. The Rules should however avoid a prescriptive approach, which could have unintended consequences for customers, and result in jurisdictions taking counter-action to ameliorate the impacts.

ENA considers that the appropriate balancing of these factors is that distribution networks should have the capacity within the Rules to use a range of well accepted economic methodologies for calculating and applying LRMC, and to choose between multiple approaches to recover residual costs. Distribution networks would agree a methodology and approach to be applied to annual pricing proposals within the regulatory period.

Greater engagement with stakeholders in the development of network tariffs

The AER’s Better Regulation *Consumer Engagement Guideline for Network Service Providers* (the Guideline) was developed in clear contemplation that it would apply to “*setting and designing tariffs (including time of use and critical peak tariffs)*”⁶ and it is therefore appropriate that it should apply to the

⁵ Attachment A, Memorandum of advice –Gilbert + Tobin, p. 7

⁶ AER Better Regulation, *Consumer Engagement Guideline for Network Service Providers*, Section 3.3, p.11

engagement on network tariffs proposed in this Rule change. The AER's Guideline should be relied on for this purpose both because it avoids unnecessary regulatory duplication but also because it is more likely to achieve one well-integrated consultative process with customers within the regulatory determination process. Therefore ENA does not consider that the development of a separate guideline for consultation with customers on network tariffs is appropriate.

One issue which is not addressed in the Rule change or the AEMC's supporting material is the extent to which any changes to distribution pricing principles should, or will, be passed through to end use customers by retailers. The potential for network tariffs to be charged on a more efficient basis for residential and small business customers will, of itself, incentivise retailers to pass through these network cost signals to retail customers. However, the ENA recommends that the AEMC assess over time and on an ongoing basis, the extent to which changes to more cost-reflective network tariffs are being passed through to small consumers by retailers.

As distribution tariffs better signal long run marginal costs, there may be value in providing greater transparency on the electricity bill for small consumers. ENA is interested in stakeholders' view on whether a requirement for greater transparency of the network charges for residential and small business customers could be beneficial, and whether this is appropriate to be addressed in the Rules or by another mechanism as part of a broader suite of cost-reflective pricing customer engagement initiatives. Greater transparency of the network tariff may facilitate more meaningful discussions with customers on the development of network tariff structures, than if stakeholders have to solely rely on information provided in the PSS once every five years.

Rather than being a compliance document as the AEMC suggests, ENA proposes that the purpose of the PSS should be to support customer engagement in a timely and meaningful way. If the document is to be used as a compliance mechanism with penalties and enforcement consequences, then it will fundamentally alter the approach of any regulated businesses in its preparation. Under a compliance regime it is likely that it will constrain the value of the PSS as a communication and engagement tool.

The proposed PSS could play an important role by informing customers about the overall network tariff strategy to apply over the regulatory period. It could include information on the nature and timing of proposed changes in network tariff structures and prices (incorporating the statement of expected price trends). The PSS could also provide a consultation plan for further or ongoing consultation on network tariffs should changes need to be made within the regulatory period.

ENA considers that the AER should not be required to approve or reject the PSS on the basis of its compliance with the distribution pricing principles. The AER would continue to assess the compliance of distribution networks' annual pricing proposals with the distribution pricing principles, rather than the PSS serving this purpose. The annual pricing proposals could be informed by, but not bound by the PSS.

Greater certainty at an earlier stage in the annual pricing proposal process

As an alternative to the timeframe (15 March) proposed by IPART for transmission networks to make final transmission prices available to distribution networks, Grid Australia proposed in their earlier submission to the IPART Rule change that a better balance could be struck by setting the date as 15 April . As the

availability of actual data on settlement residues from AEMO is a limiting factor on achieving an earlier date, it could be worthwhile for AEMC to investigate whether this information could be made available earlier than currently.

On the basis that transmission prices are made available on 15 April, the ENA proposes that distribution networks not be required to submit annual pricing proposals to the AER before 15 April. Rather, distribution networks would submit their annual pricing proposals to the AER on 30 April, as under the current arrangements, but based on the final transmission prices. This would mean that retailers and customers would have access to final network prices when published by the AER on 1 May, subject only to AER approval.

1 Introduction

1.1 Energy Networks Association

The Energy Networks Association (ENA) is the national industry association representing the businesses operating Australia’s electricity transmission and distribution and gas distribution networks. Member businesses provide energy to virtually every household and business in Australia. ENA members own assets valued at over \$100 billion in energy network infrastructure.

This submission by the ENA is in response to the Australian Energy Market Commission’s (AEMC) Consultation Paper on the Distribution Network Pricing Arrangements Rule change (the Rule change).

1.2 Need for a broader approach

The AEMC’s Rule change is seeking to encourage distribution network prices to be set on a more cost-reflective basis, more opportunity for consultation on the development of network tariffs and greater certainty on how network prices will change over time.

Cost-reflective network pricing has the potential to lower future distribution network costs by contributing to network efficiency. The ENA has long supported a transition towards cost-reflective pricing that reflects underlying distribution network cost drivers and enables customers to make informed and efficient consumption decisions.

Key Features of ENA Position

1. ENA supports the Rule change as an opportunity to advance cost-reflective network pricing, subject to our concerns with practicability and compliance risk being addressed.
2. ENA does not support a prescriptive approach that mandates that distribution network prices be set on the basis of long-run marginal cost (LRMC).
3. The practical application of LRMC should be confronted in both the Rule change and the AEMC’s supporting analysis including: constraints on locational pricing; the relative significance of residual costs; and the discretion of DNSPs to take into account customer impacts.
4. Any Rule change must be implemented as part of an integrated suite of cost-reflective distribution network pricing reforms addressing: a national implementation framework for flexible pricing based on trigger events and consumption thresholds; a balanced approach to advanced metering; consumer information; refocussing customer hardship programs; and retail price deregulation.

ENA welcomes the support of the Standing Council on Energy and Resources (SCER) and the AEMC for more cost-reflective network pricing. In principle ENA supports changes to the distribution pricing principles in the National Electricity Rules (NER) as an opportunity to advance cost-reflective network pricing, subject to our concerns with practicability and compliance risk being addressed.

The ENA does not support a prescriptive approach that mandates that distribution network prices be set on the basis of long run marginal cost (LRMC).

ENA considers that the practical application of LRMC should be confronted in both the Rule change and the AEMC's supporting analysis. It is fundamental, rather than a secondary consideration, to address the relative significance of residual costs, constraints on locational pricing and (as discussed later in this submission) the discretion of distribution networks to take into account customer impacts.

Changing the distribution pricing principles alone does not address a number of fundamental barriers to more cost-reflective pricing for household and small business customers. These include:

- jurisdictional instruments which impose a range of constraints on distribution network tariffs , including in some cases a cap on fixed charges, statewide (postage stamp) pricing which prevents locational pricing, common distribution network tariff structures for time of use charges and uniform retail tariffs which restrict the pass-through of the relevant network tariff;
- lack of the enabling metering capability, with only one third of small customers expected to have interval or smart meters by end 2013⁷;
- regulated retail markets, which impose uniform retail tariffs and restrict the pass through of the relevant network tariff;
- the potential willingness of customers to accept a step change in the way in which the use of the network is charged, and whether cost-reflective tariffs are optional; and
- a confusing communications environment in which residential and small business customers have varying degrees of awareness of, and engagement in network tariff and retail tariff options.

There are many complexities and challenges in achieving more cost-reflective network pricing, as recent reviews by the Productivity Commission and the AEMC have recognised. These complexities and challenges warrant a broader approach than considering changes to the distribution pricing principles in the NER in isolation.⁸

An integrated approach has been recommended to SCER by both the Productivity Commission in its *Inquiry into Electricity Network Regulatory Frameworks* and the AEMC in its *Power of Choice Review*. Taking into account the recommendations of these earlier reviews, and the current policy development on metering, ENA considers that a broader integrated suite of cost-reflective network tariff reforms to be considered by SCER could include the five measures identified below.

⁷ According to the Energy White Paper, Issues Paper, December 2013, p. 15, "by the end of 2013 more than one third of small energy users will have access to some form of smart metering". This is consistent with information in the Kema Report for the Department of Resources Energy and Tourism, *National Smart Meter Infrastructure Report*, February 2013

⁸ See Productivity Commission Inquiry Report, Volume 2, Electricity Network Regulatory Frameworks, p 427 and the AEMC Power of Choice Review, Final Report, p. 147

Additional Measures required in integrated suite of distribution network pricing reforms

1. A regulatory framework for advanced metering which supports consumers to respond to cost-reflective pricing; that enables the benefits of distribution network derived benefits being passed on to consumers; and removes restrictions on the roll out of advanced meters by networks on an economic basis.
2. A joint initiative between electricity networks, retailers and governments to inform and educate customers on the implementation of cost-reflective pricing and choices for customers.
3. A National Implementation Framework for Flexible Pricing that achieves a phased transition to the introduction of cost-reflective pricing, based on defined consumption thresholds and customer initiated trigger events (such as the connection of solar PV, battery storage and electric vehicles and connections to new premises).
4. The review and refocussing of customer hardship programs to support the introduction of sustainable cost-reflective pricing.
5. The implementation of long-standing Council of Australian Governments (COAG) commitments to deregulate retail prices in all jurisdictions, where markets are sufficiently competitive.

1.3 Addressing the Rule change

ENA understands that the AEMC is planning to undertake an analysis of the potential impacts and limitations of the proposed changes to the distribution pricing principles, within the Rule change. The AEMC's quantitative assessment could be an important contribution to developing shared expectations amongst policy makers, regulators and stakeholders of the potential outcomes from the Rule change. At the recent AEMC stakeholder workshop ENA argued that the AEMC needs to establish:

- empirical examples of LRMC estimates;
- broad analysis of the likely consumer impacts of mandating that prices are based on LRMC; and
- a clear line of sight of the likely "hard cases" and how these could be addressed in policy terms.

We suggest that the AEMC could use this opportunity to review whether the side constraint provisions, both within and between regulatory periods are workable. The side constraints are effectively a brake on annual price changes and could conflict with the requirement for distribution network tariffs to be based on LRMC. The AEMC's analysis should also assess the potential for a stronger obligation for LRMC-based pricing developed under the Rule change to be more volatile.

ENA supports three outcomes from the Rule change.

- A workable, rather than a theoretical, approach to the calculation and application of LRMC in setting distribution network tariffs that advances more cost-reflective network pricing.
- Greater engagement with stakeholders on distribution network tariffs, including through consultation on a Pricing Structures Statement (PSS) in the regulatory determination process.
- Greater certainty on final distribution network tariffs at an earlier stage in the annual pricing proposal process.

Our responses to the specific issues raised in the Rule change are set out in the rest of our submission.

In Section 2 ENA argues that mandating LRMC has the potential to advance cost-reflective distribution network pricing and improve the transparency of LRMC based pricing. However, ENA has a number of practical concerns with implementation and the potential for increased compliance risk that need to be considered in the Rule change. We consider that a workable approach requires sufficient flexibility within the Rules for distribution networks to adopt different approaches to calculating and applying LRMC in the setting of network tariffs that reflect the specific characteristics of networks and the needs of their customers. We suggest areas where the Rule change could be made clearer, more workable and lessen compliance risk.

In Section 3 ENA supports greater stakeholder engagement on distribution network tariffs and greater certainty on final network tariffs at an earlier stage of the annual pricing proposal process.

We consider that the PSS is an important document to support greater customer engagement. The PSS could be used by distribution networks to engage with customers on the overall network tariff strategy to apply over the regulatory period, and to indicate the direction and pace of change in network tariff structures and prices. Given that proposed changes to the distribution pricing principles will require that distribution networks take customer impacts into account in setting network tariffs, the PSS could provide the details of how this has been done and how it is consistent with the overall network tariff strategy.

Attachment A is the Memorandum of advice to the ENA from Gilbert + Tobin.

Attachment B provides information on the network tariff reforms underway at ActewAGL, Ausgrid, Energex, Ergon and SA Power Networks.

Attachment C provides the ENA responses to the questions raised in the AEMC Consultation Paper.

2 Distribution pricing principles

2.1 Changes to the pricing principles

SCER proposal

The SCER Rule change proposes a number of changes to the distribution pricing principles, including mandating the use of LRMC in setting distribution network tariffs. Distribution networks will be required to base tariffs on long run marginal cost and they must be determined by having regard to, amongst other things, how the tariff may impact retail customers within the relevant tariff class and any transaction costs.

The NER currently specifies that residuals are to be recovered under an approach that is similar to Ramsey pricing, according to the AEMC. The AEMC is to determine the approach or approaches that will apply in the future, whether Ramsey pricing, postage stamp pricing or some other pricing approach.

The AEMC proposes that guidance on the mandatory approach to LRMC is to be provided either in the Rules or through an AER guideline, noting that the AEMC recommended in the Power of Choice Review that the AER should produce a guideline relating to the components of LRMC.

The Rule change proposes three additional principles to require that:

- distribution network prices be based on the drivers of network costs to the maximum extent possible; and
- distribution networks consider :
 - the additional costs associated with demand at times of greatest utilisation of the distribution network and for which network investment is most likely to be contemplated; and
 - the extent to which the long run marginal cost of the service may vary by customer location.

Distribution networks will also be required to comply with relevant jurisdictional instruments.

2.1.1 Cost-reflective pricing

There is widespread acknowledgement that trends in technology and consumer choices mean that current network tariff structures for residential and small business customers are generally unsustainable. This is because the contribution of these customers to distribution network cost recovery is usually based on the total energy volume consumed, with a small fixed charge component, when distribution network costs are largely fixed.

This lack of cost-reflectivity can result in inefficient customer investment decisions and there are substantial and growing “hidden transfers” between different customers, that may only increase as customer choices to take up solar, electric vehicles and battery storage expand. As noted in the Productivity Commission Inquiry, a household running a 2 kilowatt reverse cycle air-conditioner in peak

times receives a subsidy from other households without airconditioners of \$350 annually.⁹ In a similar vein it has been estimated that in Queensland alone solar households add \$100 million annually in network costs to the bills of households without solar, excluding the costs of the feed in tariffs.¹⁰

The opportunity to advance greater cost-reflectivity in distribution network pricing may deliver the following benefits:

- improved investment efficiency in additional peak capacity, through cost-reflective tariffs lowering consumption at times of distribution network peak demand;
- greater recovery of distribution network costs on a user pays basis, given the changing mix in on-site (solar and battery storage users) and central generation, and the different profiles of energy consumption amongst customers who remain users of the distribution network; and
- more resilient distribution network tariff structures in an uncertain demand environment, that ensure the sustainable recovery of efficient system costs over time.

The proposed pricing principles address the efficiency of future network investment, and the potential for customers to face network charges that more closely reflect the cost of their use of the network, apparently with the conceptual assumption that advanced meters are in place and jurisdictions are willing to allow locational pricing. The Rule change proposal does not currently clarify the extent to which LRMC-based *tariff design*, rather than *cost allocation*, is to be addressed if these preconditions are not met. The AEMC is yet to provide a quantitative assessment of the practical application of the Rule change or its expected customer impacts.

In the absence of advanced meters the recovery of costs allocated on the basis of LRMC could occur via a fixed charge and a variable energy charge (either as flat tariffs or inclining-block tariffs).

ENA agrees with the AEMC's view expressed in the Power of Choice Review¹¹, that

In practice there are limitations on achieving complete cost reflectivity for consumers, even with interval metering technology in place. This is due to the difficulty of designing associated tariffs, the transaction costs involved and the need to develop prices that consumers understand and accept.

ENA supports the progressive implementation of more resilient, cost-reflective tariff structures over time, such as capacity or demand charging, and potentially higher fixed charges, as part of a broader integrated suite of cost-reflective pricing reforms to be considered by SCER. The potential benefits in capacity charging as a means of addressing the under-recovery of network costs from solar PV users, is illustrated in Box 1.

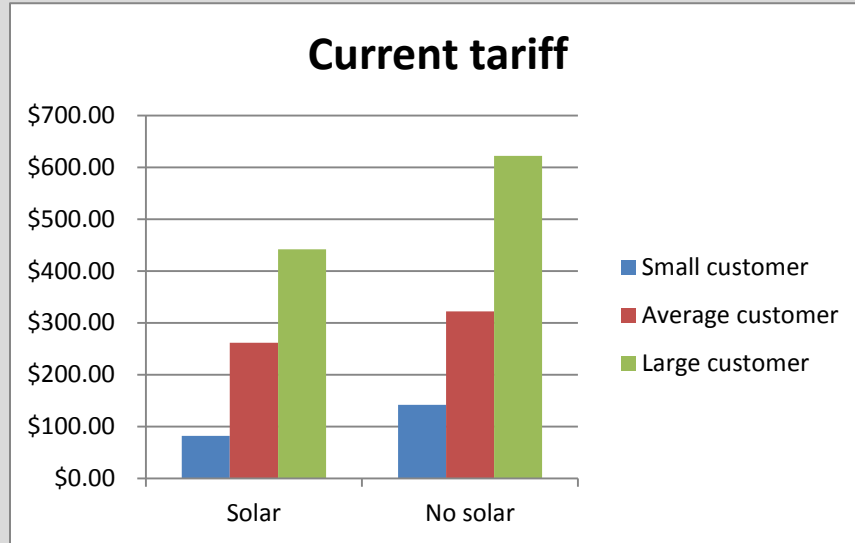
⁹ Productivity Commission Inquiry Report, Volume 2, *Electricity Network Regulatory Frameworks*, p. 352

¹⁰ Energy Supply Association of Australia, Discussion Paper, *Air-conditioners and solar - why electricity pricing needs to be reformed*

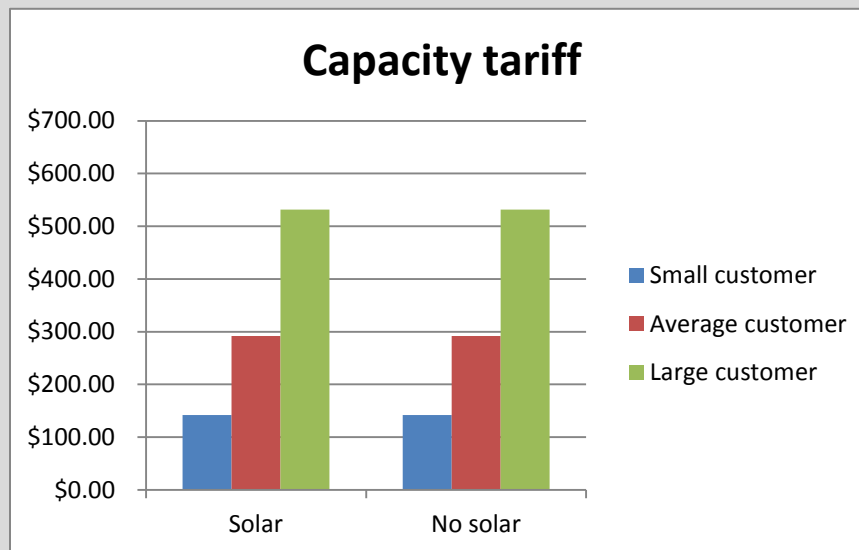
¹¹ AEMC *Power of Choice Review*, Final Report, p. 84

Box 1 Comparison of recovery of network costs from customers with identical peak demand

The charts compare the annual network charge to customers with and without 1.5KW of solar PV capacity, under current tariffs which have a small fixed charge and a variable charge in c/KWh, and a capacity tariff, which charges on a \$/KW basis. Customers with and without solar PV are assumed to have the same total energy usage and the same peak demand profile.



Under the current tariff structure distribution networks do not recover the cost of their use of the network from customers with solar PV.



Under a capacity tariff structure, customers will pay the same distribution network charge, as they are assumed to have the same peak demand. Small customers without solar PV have no change in their network charge, while average and large customers have a reduction in their network charge.

Source: Estimates provided by United Energy

However, ENA considers that it is appropriate that the pricing principles do not restrict the choice of network tariffs, whether energy or capacity-based, to recover distribution network costs. As the AEMC has indicated both energy-based and capacity-based charges are consistent with cost recovery based on LRM:

This principle should allow DNSPs some flexibility with regard to its introduction based on the individual DNSP's costs and technological impediments. For example both energy and capacity based approaches could be consistent with signaling LRM and have other advantages and disadvantages. The proposed pricing principles do not prescribe one form over another, and encourage DNSPs to innovate and tailor tariffs to their own costs and characteristics.”¹²

2.1.2 Mandating LRM

ENA notes that the changes in the pricing principles in the Rule change have been developed in response to SCER's view that there is insufficient obligation and guidance within the existing Rules, for distribution networks in applying LRM to network tariffs. While it is clear that generally households and most businesses do not face cost-reflective network prices, it is unclear the extent to which the distribution pricing principles are a contributing factor to this outcome.

In considering the implications of the Rule change, the ENA recognises that LRM-based network pricing is an appropriate methodology for signaling the future costs of investment in distribution networks. However, the practical application of LRM should be confronted in both the Rule change and the AEMC's supporting analysis. It is fundamental, rather than a secondary consideration, to address the relative significance of residual costs, constraints on locational pricing and (as discussed later) the discretion of distribution networks to take into account customer impacts.

Most distribution networks currently evaluate the LRM as an average for their networks, on a voltage level basis. In complying with the existing rules, distribution networks then seek to ensure that each tariff charging component is set with regard to LRM.

ENA is seeking a workable approach to the distribution pricing principles from the Rule change, rather than a theoretical one, which places the emphasis on the implementation outcomes and not the development of conceptual LRM models. The workability of the proposed distribution pricing principles has the potential to impact on compliance risks.

We agree with the Productivity Commission¹³ that:

The goal should not be to achieve the perfect scheme that accords with some textbook. Rather it should be to develop a workable and broadly acceptable approach that generally avoids the costs of catering for peak load demand that customers would be unwilling to pay for if they were charged genuinely cost-reflective prices.

¹² AEMC Consultation Paper, p 61

¹³ Productivity Commission, Inquiry Report, Volume 2, *Electricity Network Regulatory Frameworks*, p. 429

ENA has sought legal advice to assist us in understanding the practical effect of the Rule change and the advice from Gilbert + Tobin is included as an Attachment to this submission. We understand from this advice that requiring networks to base tariffs on LRMC will require that distribution networks:

...use LRMC at the outset of the tariff setting process, and where a DNSP departs from LRMC in setting ultimate tariffs it only does so where the rules provide for departure.¹⁴

From the AEMC Consultation Paper we understand that the in AEMC defines LRMC as:

“the present value cost of bringing forward network capital and operating costs to meet a particular user’s sustained incremental derived demand for the relevant network service.”¹⁵

It is not clear to ENA that a definition of LRMC is required in the Rules. While there is no definition within the existing Rules, as an economic concept LRMC is well understood and is applied by distribution networks on a case by case basis as appropriate.

Given the complexities and challenges in estimating LRMC at a granular level identified in the Productivity Commission Inquiry, and in view of the restrictions in some jurisdictions on locational pricing, in practice the AEMC’s definition appears unachievable.¹⁶ Further, as the AEMC commented in the Power of Choice Review *“designing network tariffs for every consumer that reflects the true locational variation of network costs would be far too complex.”¹⁷* In ENA’s view not only is it complex to allocate costs based on LRMC on the basis of a particular user, but retailers are unlikely to want to reflect this degree of variation in network tariffs in retail tariffs.¹⁸

Rather than the mandating of a definition of LRMC that imposes a highly granular allocation of costs based on LRMC, which will increase the potential for compliance risks, distribution networks should have the flexibility to calculate values of LRMC at the level of the network that is appropriate to address constraints on the network and apply these values of LRMC to network tariffs.

2.1.3 Implementation issues

ENA has considered three implementation issues which potentially could increase compliance risks:

- the need for additional principles;
- the potential conflict between mandating LRMC and compliance with relevant jurisdictional instruments under the NER; and
- the need for clarity in the Rules such that distribution networks can confidently take customer impacts into account.

¹⁴ Attachment A, Memorandum of advice – Gilbert+Tobin, p. 5

¹⁵ AEMC Consultation Paper, p.58

¹⁶ Productivity Commission, Inquiry Report, Volume 2, *Electricity Network Regulatory Frameworks*, p. 439-440

¹⁷ AEMC *Power of Choice Review*, Final Report, p.150

¹⁸ By way of example, the introduction of flexible pricing in Victoria was associated with the replacement of various forms of time of use pricing amongst the Victorian distribution networks, which reflected the network costs of service for each business, by a standard time of use structure.

Additional principles

The rationale for including the additional principles to encourage cost-reflective pricing within the distribution pricing principles is unclear to the ENA. The additional principles would require distribution networks to base prices on drivers of network costs (including LRMC) to the maximum extent possible and take into account co-incident peak demand and locational differences in peak demand. These factors are fundamental to the setting cost-reflective network tariff structures, and therefore it could be argued that a regulatory requirement is unnecessary.

Compliance with the additional principles proposed by the AEMC could conflict with the requirement to base prices on LRMC. Distribution networks would be under an obligation to explain to the regulator the differences between prices calculated on the basis of LRMC and prices that are set with regard to these additional principles. To ensure clarity in regulatory policy and minimize compliance risk the choice should be between LRMC based prices or whether prices should be set on the basis of the proposed additional principles. To include both measures in the Rule change proposal creates potential compliance issues for distribution networks without any demonstrable benefit and we therefore suggest that the additional principles should not be included in the distribution pricing principles.

Potential conflict with relevant jurisdictional rules

As rightly recognised in the proposed Rule change, the mandating of LRMC-based network tariffs could potentially be in conflict with jurisdictional instruments for tariffs to be set on another basis. Such jurisdictional instruments are exemplified by the following.

- All small customers in Queensland have access to regulated prices. Furthermore, the Government's Uniform Tariff Policy ensures that all Queensland electricity customers of a similar type (for example residential, or small businesses) who access regulated prices (the prices determined by the Queensland Competition Authority pay the same price for electricity, regardless of where they live.¹⁹ In addition the network cost component for small customers are based on the network charges to be levied by Energex, while for large customers, the network charges are based on the charges levied by Ergon Energy.²⁰
- The Victorian Government orders that instruct networks on how and when Advanced Metering Infrastructure tariffs are to be assigned in Victoria, and the permitted time consumption bands;
- SA Power Networks must maintain state-wide pricing for small customers, with annual consumption not exceeding 160KWh.²¹ In addition to the side constraints imposed by the NER, SA Power Networks cannot raise the fixed charge for small customers by more than \$10 per annum in this regulatory control period.
- Uniformity of tariffs for small customers in Tasmania is provided for under the NER (NER 9.48.4 B).

There are no state-wide pricing requirements in New South Wales, Victoria or the ACT.

¹⁹ Department of Energy and Water Supply, Electricity On-Supply in Queensland, Discussion Paper, p. 7
http://www.dews.qld.gov.au/__data/assets/pdf_file/0018/42444/on-suppy-electricity-discussion.pdf

²⁰ Queensland Competition Authority, Regulated Retail Electricity Prices 2014-15, Draft Determination, December 2013, page 10

²¹ Electricity Act 1996 Section 35B Electricity Pricing Order, 11 October 1999

The AEMC proposes that the potential conflict for distribution networks to comply with jurisdictional instruments and with the requirement to base tariffs on LPMC could be dealt with in the Rule change by introducing a requirement in the NER for distribution networks to comply with relevant jurisdictional instruments. ENA understands that the purpose of the AEMC in proposing this requirement is to confirm that jurisdictional instruments have primacy. Based on independent legal advice, ENA considers this may still be open to interpretation. We suggest that it may be preferable for the distribution pricing principles to state that network tariffs must comply with the distribution pricing principles to the extent possible given the jurisdictional instruments.

ENA sought Gilbert+Tobin's advice on this issue. In their view:

"it would be preferable that if any amendments are to be made to the Rules, the drafting should deal clearly with how any conflicts between jurisdictional requirements and other requirements are to be resolved. This could be done, for example by stating that tariffs are to comply with the relevant principles set out in the Rules to the extent possible given jurisdictional requirements."²²

For an abundance of clarity, we ask that the AEMC give consideration to this suggested drafting if it proposes to make a Rule which requires both that tariffs be based on LPMC and comply with jurisdictional requirements.

Clarity about taking customer impacts into account

The current rules require that networks must determine tariffs having regard to, amongst other things, whether a customer is able or likely to respond to price signals. The proposed change to the Rules would alter this principle to require that distribution networks are to have regard to "how the tariff may impact retail customers within the relevant tariff class."

This consideration is fundamental to the practical application of the Rule change.

ENA understands from the AEMC Consultation Paper that the intention of SCER is that in setting prices networks should consider:

- the ability of customers to respond to efficient prices and the price elasticity of demand, which is relevant to the efficiency of network tariffs; and
- the potential for bill shock, which could raise issues of community acceptance and fairness.

If this understanding of SCER's intention is correct, the ENA recommends that the principle relating to customer impacts should be clarified in the Rules as opposed to leaving the matter to be dealt with in guidelines. This should be done in such a way as to leave no doubt as to the discretionary capacity for DNSPs to take into account these issues without compliance risk under the Rules.

²² Attachment A, Memorandum of advice -Gilbert + Tobin, p. 7

2.1.4 Guidance on LRMC and recovery of residuals in the NER

The AEMC Consultation Paper asks stakeholders whether guidance in the calculation and application of LRMC should be in the Rules or in an AER guideline. ENA considers that it is appropriate that the guidance is within the Rules.

In ENA's view the Rules should be sufficiently clear and certain to enable distribution networks to understand what is necessary to comply with the relevant requirements. The Rules should however avoid a prescriptive approach, which could have unintended consequences for customers, and result in jurisdictions possibly taking policy counter-action to ameliorate the impacts.

ENA considers that the appropriate balancing of these factors is that distribution networks should have the capacity within the Rules to use a range of well accepted economic methodologies for calculating and applying LRMC, and to choose between multiple approaches to recover residual costs. There are advantages and disadvantages to the approaches identified in the Consultation Paper, as the AEMC has acknowledged. ENA considers that distribution networks, following direct consultation with their customers, are best placed to determine the appropriate methodology that takes into account the varying network characteristics and the needs of their customers. The risk in imposing a single uniform approach across all distribution networks to the inputs, the calculations or the application of LRMC and the recovery of residuals is that while it may result in more efficient network tariffs for one distribution network, it may not lead to efficient network tariffs for all distribution networks. Distribution networks would agree a methodology and approach to be applied to annual pricing proposals within the regulatory period.

3 Consultation and timing changes

3.1 Network tariff consultation framework

SCER proposal

The Rule change proposes that the consultation with stakeholders and approval of network tariff structures would occur during the regulatory determination process. There would still be an annual approval process for pricing levels.

SCER has proposed that the AER should be required to develop a new consultation guideline providing specific guidance on how distribution networks are to consult in developing and changing a Pricing Structures Statement (PSS).

The Rule change proposes the introduction of the PSS to address the consultation and pricing certainty issues raised by both SCER and IPART. The Rule change proposes that the AER would approve the PSS for compliance with the distribution pricing principles.

3.1.1 Engagement with customers on network tariffs

Integrated customer consultation

Many customers have tended to be relatively passive users of distribution networks, due to a range of technology and market factors. In the future customers, assisted by better price signals and technology developments, may become more active participants and deliver flexibility into the system that could help to manage and reduce peak demand.

Currently distribution networks may consult with their customers and stakeholders on network tariffs and pricing, although there is no formal requirement within the NER that requires them to do so.

ENA has supported a greater focus on engagement of consumers and other stakeholders in the regulatory determination process. We supported the AER's development of the high level framework for distribution networks to integrate consumer engagement and the best practice principles of clear, accessible, transparent and measurable communication.

The AER's Better Regulation *Consumer Engagement Guideline for Network Service Providers* (the Guideline) was developed in clear contemplation that it would apply to the *“setting and designing tariffs (including time of use and critical peak tariffs”*²³ and it is therefore appropriate that it should apply to the engagement on network tariffs proposed in this Rule change. The AER's Guideline should be relied on for this purpose both because it avoids unnecessary regulatory duplication but also because it is more likely to achieve one well-integrated consultative process with customers within the regulatory determination

²³ AER Better Regulation, *Consumer Engagement Guideline for Network Service Providers*, Section 3.3, p.11

process. Therefore ENA does not consider that the development of a separate guideline for consultation with customers on network tariffs is appropriate.

As will be the practice for revenue proposals in the regulatory determination process, we expect that distribution networks could be required to demonstrate to the AER how they have addressed the issues raised by customers in the engagement process on network tariffs.

One issue which is not addressed in the Rule change or the AEMC's supporting material is the extent to which any changes to distribution pricing principles should, or will, be passed through to end use customers by retailers. The potential for network tariffs to be charged on a more efficient basis for residential and small business customers will, of itself, incentivise retailers to pass through these network cost signals to retail customers. However, the ENA recommends that the AEMC assess over time and on an ongoing basis, the extent to which changes to more cost-reflective network tariffs are being passed through to small consumers by retailers.

As distribution tariffs better signal long run marginal costs, there may be value in providing greater transparency on the electricity bill for small consumers. ENA is interested in stakeholders' view on whether a requirement for greater transparency of the network charges for residential and small business customers could be beneficial, and whether this is appropriate to be addressed in the Rules or by another mechanism as part of a broader suite of cost-reflective pricing customer engagement initiatives. Greater transparency of the network tariff may facilitate more meaningful discussions with customers on the development of network tariff structures, than if stakeholders have to solely rely on information provided in the PSS once every five years.

The AEMC has raised the issue of the requirement for pass through of transmission charges in distribution network tariffs. ENA considers that there should be consistency in the approach adopted. If it is considered that pass through is appropriate, it should apply to both transmission and distribution components being passed through into the retail tariff. ENA notes that in the AEMC's Power of Choice Review, the AEMC argued that the retailer should

"have the option to either package that time varying network tariff up into a flat retail offer or to decide to pass through that network tariff to the consumer."²⁴

If there is to be further consideration of pass through in the Rule change, the impacts of pass through should be included in the AEMC's analysis of the Rule change.

3.1.2 Potential role of the PSS

The Rule change has proposed that the role of a PSS would be to set out a distribution network's tariff structures in sufficient detail to enable the AER to assess its compliance with the distribution pricing principles. The difficulty that ENA sees with this approach is that it is in effect asking that networks determine the content of their annual pricing proposals in advance, at the beginning of the regulatory period.

²⁴ AEMC Power of Choice Review, Draft Report, p. 100

In ENA's view distribution networks cannot always be certain at the beginning of the regulatory period what network tariffs and prices will be required in their annual pricing proposals. Under the AEMC's approach, this could mean distribution networks seeking AER approval for amendments to the PSS a number of times within the regulatory period and having compliance re-assessed. In effect, there could be no change in the regulatory burden of assessing compliance of the PSS compared with assessing compliance in the annual pricing proposals, if there are frequent changes in the factors affecting network tariffs.

The AEMC Consultation Paper has acknowledged the factors that contribute to a lack of certainty for the path of network pricing over the regulatory period.²⁵ In a dynamic environment in which there are unprecedented changes in demand and unpredictable take up of technology such as solar PV, battery storage and electric vehicles, there is also significant uncertainty over the structure of network tariffs and their application to different classes of customers over a regulatory period. To assist the AEMC in its consideration of this issue we have included information on the network tariff reform strategies underway in five distribution network businesses in Attachment B.

Rather than being a compliance document as the AEMC suggests, ENA proposes that the purpose of the PSS should be to support customer engagement in a timely and meaningful way. If the document is to be used as a compliance mechanism with penalties and enforcement consequences, then it will fundamentally alter the approach of any regulated businesses in its preparation. Under a compliance regime it is likely that it will constrain the value of the PSS as a communication and engagement tool.

The proposed PSS could play an important role by informing customers about the overall network tariff strategy to apply over the regulatory period. It could include information on the nature and timing of proposed changes in network tariff structures and prices (incorporating the statement of expected price trends). The PSS could also provide a consultation plan for further or ongoing consultation on network tariffs should changes need to be made within the regulatory period. Distribution networks could be required to consult with stakeholders on the changes to the PSS or the relevant aspects of the PSS.

Given ENA's alternative view of the purpose of the PSS and its content we consider that the AER should not be required to approve or reject the PSS. The AER would continue to assess the compliance of distribution networks' annual pricing proposals with the distribution pricing principles, rather than the PSS serving this purpose. The annual pricing proposals could be informed by, but not bound by the PSS.

The timing of when the proposed PSS should be introduced depends on whether its purpose is as a compliance document (further time for implementation would be required) or as a customer consultation document (which would have less implementation issues and could be introduced with sufficient lead time after the Rule change has been finalised).

²⁵ AEMC Consultation Paper, p. 45

3.2 Annual pricing process timing changes

SCER proposal

A key issue identified by the Independent Pricing and Regulatory Tribunal (IPART) in its rule change request is that retailers and customers do not always receive adequate notification of approved network tariffs.

As the problem of timing in the initial year is constrained by the completion of the regulatory determination process, the AEMC is to consider what course of action might be taken.

For subsequent years, the Rule change proposes that the timing pressures could be addressed:

- through making the PSS binding and including in the PSS sufficiently detailed information to allow the AER to assess compliance with the distribution pricing principles in advance of the annual pricing proposal;
- through moving forward the timeframe for the annual approval of distribution network prices to occur at least two months prior to taking effect.

The Independent Pricing and Regulatory Tribunal (IPART) has proposed a change in timeframe for the annual pricing proposal process.

There is no doubt that the current timeline for the annual approval of pricing proposals in jurisdictions with a 1 July commencement date, puts pressure on transmission and distribution networks, the AER and retailers. It is therefore desirable for final distribution network prices to be made available earlier, so that retailers have more of an opportunity to reflect network tariffs in retail tariff structures.

The opportunity to bring forward final network prices is dependent on the availability of final transmission network prices. Currently final transmission prices are published on 15 May each year and distribution networks are required to publish their approved distribution network prices on 1 June or as soon as is practicable.

In our submission in response to the earlier IPART Rule change Consultation Paper the ENA raised two issues impacting transmission networks that would need to be addressed to give effect to the IPART Rule change. These were the requirement for transmission networks to use March Quarter CPI (available in late April); and the availability of settlement residue auction results from AEMO (available between 15 – 20 March).

ENA has given further consideration to these two issues.

The transmission networks consider that the use of a forecast value in place of an actual March Quarter CPI estimate is not expected to have a material impact on the potential over or under-recovery of revenue, provided that actual CPI is ultimately reflected over the regulatory period.

Settlement residue auction data is used by transmission networks to finalise the actual costs for the current financial year and forecast costs for the coming year. As ENA and Grid Australia submissions indicated in

their earlier submissions on the IPART Rule change the proposed 15 March publication date for transmission prices would introduce too much price volatility relative to the likely timing benefits. Grid Australia in its submission to the Rule change illustrated the significance of the use of forecasts for settlement residues when it pointed out the difference between forecast settlement residues and year end actuals varied from -45 per cent to + 81 per cent between 2007-08 and 2012-13. Grid Australia also argued that there would be a disproportionate impact on directly connected transmission customers for whom transmission charges represent a relatively larger component of their final bill.

As an alternative to the timeframe (15 March) proposed by IPART for transmission networks to make final transmission prices available to distribution networks, Grid Australia proposed in their earlier submission to the IPART Rule change that a better balance could be struck by setting the date as 15 April . As the availability of actual data on settlement residues from AEMO is a limiting factor on achieving an earlier date, it could be worthwhile for AEMC to investigate whether this information could be made available earlier than currently.

On the basis that transmission prices are made available on 15 April, the ENA proposes that distribution networks not be required to submit annual pricing proposals to the AER before 15 April. Rather, distribution networks would submit their annual pricing proposals to the AER on 30 April, as under the current arrangements, but based on the final transmission prices. This would mean that retailers and customers would have access to final network prices when published by the AER on 1 May, subject only to AER approval.

Attachment A : Memorandum of advice - Gilbert+Tobin

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18 December 2013

To Garth Crawford and Lynne Gallagher, Energy Networks Association

From Catherine Dermody and Bridget Liedig

Matter No 1021183

Subject **Australian Energy Market Commission consultation on distribution network pricing arrangements**

1 Request for advice and summary

The Energy Networks Association (**ENA**) has asked us a number of questions in connection with a rule change request lodged by the Standing Council on Energy and Resources Senior Committee of Officials (**SCER**) which relates to the distribution network pricing framework. The Australian Energy Market Commission (**AEMC**) is currently considering the SCER’s rule change request (together with a rule change request lodged by the NSW Independent Pricing and Regulatory Tribunal which also relates to the distribution network pricing framework) and has published a consultation paper to that end.

Specifically the ENA has requested advice on those elements of the rule change request that would require Distribution Network Service Providers (**DNSPs**) to:

- base tariffs on long-run marginal cost (**LRMC**);
- determine tariffs having regard to a number of other matters; and
- comply with relevant jurisdictional instruments in setting tariffs.

This memo does not consider the appropriateness or otherwise of a requirement to base tariffs on LRMC (or any particular LRMC methodology), nor the practicalities of DNSPs being able to do so.

A summary of the questions the ENA has asked and our advice is set out in the table below.

	Question	Short answer
1	What would be the likely effect of the proposed change to provide that tariffs be “based on” the LRMC of providing the service?	The proposed change to provide that tariffs be “based on” LRMC is likely to impose a requirement that the initial calculations used to determine tariffs are undertaken by reference to LRMC. That is, that LRMC is the starting point for determining tariffs, with potential adjustments to be made from that point in light of other factors (see response to question 2).

	Question	Short answer
2	In light of the response to question 1, what is the practical impact of the two tiered guidance in the SCER's proposed drafting of clause 6.18.5 (b)(1) and (2) that is, what is the practical impact of tariffs needing to be "based on" LRMC but additionally having to be determined having regard to a series of other considerations listed in (2)(i)-(v)?	<p>As noted above, the requirement that tariffs be "based on" LRMC is likely to require that the initial calculations used to determine tariffs are undertaken by reference to LRMC.</p> <p>However, the requirement that tariffs be "based on" LRMC does not necessarily mean that tariffs must be set equal to LRMC.</p> <p>The SCER's proposed drafting indicates that LRMC is a starting point with adjustments made to that starting point to reflect other considerations which may result in the ultimate tariffs not being calculated strictly by reference to LRMC. These considerations include, for example, how tariffs may impact retail customers and transaction costs associated with implementing the tariffs.</p> <p>The DNSP would need to consider each of the matters listed in clause 6.18.5(b)(2)(i)-(v) in determining the tariffs and, where relevant, adjust the initial tariffs by reference to those considerations. Clause 6.18.5(c) also recognises that tariffs based only on LRMC may not be sufficient to recover regulated revenues and adjustments may need to be made to the initial tariffs calculated by reference to LRMC in order to recover expected revenue.</p>
3	Does the new proposed clause 6.18.5(b)(3) result in conflicting guidance for networks seeking to design tariffs, and the AER in potentially approving such tariffs?	<p>Potentially yes – the proposed rules would require tariffs to be based on LRMC (and for the initial tariffs calculated on this basis to be adjusted by reference to the considerations in 6.18.5(2)(i)(v)) as well as requiring tariffs to comply with jurisdictional requirements. In circumstances where jurisdictional requirements were inconsistent with tariffs calculated by reference to LRMC, there will be a conflict and one which the proposed drafting does not indicate how to resolve.</p> <p>It may be that the phrase "must be based on" a particular thing would be interpreted to give way to a requirement to "comply" with a particular thing, as the "based on" requirement may merely indicate a starting point from which adjustments may be made. Such adjustments could include any adjustments necessary to bring the tariffs into compliance with jurisdictional requirements. However, we consider that a requirement that tariffs be "based on" LRMC means that ultimate tariffs should bear some relationship to LRMC. If this relationship is inconsistent with jurisdictional requirements, a conflict between rule requirements is likely to arise. This is a drafting issue which ideally would be resolved through the AEMC's rule making process rather than being left to be determined by a court.</p>

2 Background to rule change request

2.1 Consideration of existing rules and SCER's proposed amendments

The rule change requests have been made by the NSW Independent Pricing and Regulatory Tribunal (**IPART**) and the SCER. Both rule requests seek amendments to the National Electricity Rules (**Rules**) that would require DNSPs to consult with retailers and customers on pricing and to take into account consumer impacts / consider consumer views in developing their approach to pricing. The SCER rule change request goes further than the IPART request in proposing rules that would require network pricing to be based on LRMC.

The current form of clause 6.18.5(b)(1) provides that a tariff (or its charging parameters) must “take into account” the LRMC for the service. In taking into account LRMC, DNSPs are to “have regard to”:

- transaction costs associated with the tariff or each charging parameter; and
- whether retail customers of the relevant tariff class are able or likely to respond to price signals.¹

The proposed amended form of subclause 6.18.5(b)(1) provides that a tariff must “be based on” the LRMC of providing the service. The matters which DNSPs are to have regard to in determining tariffs are also amended and expanded upon – such that the DNSP must have regard to:

- how the tariff may impact retail customers within the relevant tariff class;
- the additional costs associated with demand at times of greatest utilisation of the distribution network and for which investment is most likely to be contemplated; and
- the extent to which the LRMC of providing the service may vary by customer location.

In addition, a new clause is added to require prices to comply with relevant jurisdictional instruments (this is discussed in section 4.1 below).

The SCER’s rule change request also proposes that DNSPs submit a “pricing structures statement” (**PSS**) alongside their pricing proposals which are submitted to the AER. As part of the PSS, DNSPs will be required to provide a “description of how the *pricing structure statement* addresses the *pricing principles for direct control services*”.²

The AER’s decision making function set out in clause 6.18.8 is also proposed to be amended – the SCER’s rule change request prescribes that in addition to the AER approving a pricing proposal where it complies with the relevant part of the rules, the AER needs to be satisfied that the PSS is compliant with the Rules.

2.2 Consideration of LRMC methodologies

LRMC is not defined in the Rules or the National Electricity Law (**NEL**). In the Power of Choice Review, the AEMC defined LRMC as the “present value cost of bringing forward network capital and operating costs to meet a particular user’s sustained incremental derived demand for the relevant network service”.³ The AEMC also identified in its consultation paper that there are a number of potential methodologies that could be used for calculating LRMC – in particular:

- the Turvey approach;
- the average incremental cost (**AIC**) approach; and
- the long run incremental cost (**LRIC**) approach.⁴

As noted in the Power of Choice Review, most DNSPs use an AIC approach to determine LRMC.⁵ The SCER’s rule change request does not seek to require DNSPs to use one particular methodology

¹ NER, subclause 6.18.5(b)(2)).

² See proposed clause 6.18.1A in the SCER’s proposal: SCER, *Reform of the Distribution Network Pricing Arrangements under the National Electricity Rules to Provide Better Guidance for Setting, and Consulting On, Cost-Reflective Distribution Network Pricing Structures and Charges: Rule Change Request*, 18 September 2013.

³ AEMC, *Power of Choice Review – Giving Customers Options in the Way They Use Electricity: Final Report*, 30 November 2012, p 185.

⁴ AEMC, *Power of Choice Review – Giving Customers Options in the Way They Use Electricity: Final Report*, 30 November 2012, pp 184 – 185.

⁵ AEMC, *Power of Choice Review – Giving Customers Options in the Way They Use Electricity: Final Report*, 30 November 2012, p 184.

– however, the SCER leaves open the possibility for a supporting guideline to guide businesses in how they should interpret the requirement stating:

SCER notes that the AER can develop guidelines, where it considers this necessary for informing interpretation of the NER. Development of a supporting guideline could improve the clarity for businesses with regard to how they should interpret the requirement to base network prices on LRMC. For example, a guideline could contain information relating to:

- How the rules provision requiring network charges to be based on LRMC may be interpreted, and the types of methodologies and approaches that may be used; and
- Relevant factors the AER may take into account in determining whether network prices and pricing structures developed by the DNSPs are consistent with LRMC.⁶

In this regard we note that while the AER may be able to publish a guideline setting out how the AER may approach the requirement to base prices on LRMC and whether the AER considers that any amended Rule requires a particular methodology or approach to be adopted, only a court could ultimately determine whether the adoption of a particular methodology or approach was consistent with the requirements of the Rules.

The next section of this memo considers the impact of the SCER's proposed changes to setting tariffs.

3 Impact of proposed changes to setting tariffs

3.1 What would be the likely effect of the proposed change to provide that tariffs be “based on” the LRMC of providing the service?

The proposed change to provide that tariffs be “based on” LRMC is likely to impose a requirement that tariffs are calculated by reference to LRMC.

There is judicial commentary which suggests that “based on” requires “something more” than to “have regard to” or “take into account”.⁷ In particular, the High Court considered that a decision would be “based on” a certain factor where that factor was “critical” to the making of the decision.⁸ A factor may be critical where it forms the foundation for the decision.⁹ In contrast, to “take into account” a matter means (at least in respect of decisions that have reviewed such a requirement in the context of decisions made by decision-makers under statute) that the specified matter need not be critical to the outcome, rather that the decision-maker has turned their mind to the matter and has considered it.¹⁰

The effect of the SCER's proposed change may be then to require DNSPs to use LRMC to calculate tariffs – that is, that LRMC needs to be fundamental in deriving tariffs, as opposed to being a mere consideration in the overall calculation.

The above is consistent with the AEMC's interpretation of SCER's proposal. In the consultation paper the AEMC notes that a requirement that tariffs are based on LRMC will mean that DNSPs will “no longer have discretion as to whether or not LRMC is the principal basis for their network tariffs” and DNSPs will have to demonstrate that their proposed tariffs are based on LRMC.¹¹

⁶ SCER, *Reform of the Distribution Network Pricing Arrangements under the National Electricity Rules to Provide Better Guidance for Setting, and Consulting On, Cost-Reflective Distribution Network Pricing Structures and Charges: Rule Change Request*, 18 September 2013, p 8.

⁷ *Minister for Immigration and Multicultural Affairs v Rajamanikkam* (2002) 210 CLR 222, [155] (per Callinan J).

⁸ *Minister for Immigration and Multicultural Affairs v Rajamanikkam* (2002) 210 CLR 222, see Gleeson CJ at [33], see Gaudron and McHugh JJ, [56], see Kirby J, [116]-[117].

⁹ *Minister for Immigration and Multicultural Affairs v Rajamanikkam* (2002) 210 CLR 222.

¹⁰ *Minister for Aboriginal Affairs v Peko-Wallsend Ltd* (1986) 162 CLR 24; *Tickner v Chapman* (1995) 57 FCR 45.

¹¹ AEMC, *National Electricity Amendment (Distribution Network Pricing Arrangements) Rule 2014: Consultation Paper*, 14 November 2013, pp 56-57.

However, the requirement that tariffs be “based on” LRM (and therefore, be critical to calculation of tariffs) does not necessarily preclude some flexibility in the tariff-setting process. It may be the case that to “base” tariffs on LRM does not mean that tariffs must be set equal to LRM. This is recognised in the pricing principles rule (in both its current and proposed forms). For example, subclause 6.18.5(c) in effect recognises that LRM may not be sufficient to recover regulated revenues and adjustments would need to be made to the initial tariffs calculated by reference to LRM.

If the SCER’s proposed drafting was accepted, it may also be open to DNSPs to make adjustments to the initial calculation of tariffs based on LRM by reference to other considerations – for example, having regard to the matters which may result in tariffs not being calculated strictly by reference to LRM, including considerations such as impacts on retail customers and transaction costs associated with implementing the tariffs.

In this way, the use of the words “based on” rather than “must comply” may be read as not mandating that outcomes are consistent with LRM, but that LRM must be at least the starting point for the calculation of tariffs.

Therefore, in the event the SCER’s drafting was accepted by the AEMC, we consider that this would require DNSPs to use LRM at the outset of the tariff setting process, and where a DNSP departs from LRM in setting ultimate tariffs it only does so where the rules provide for departure – for example, where LRM tariffs do not recover expected revenue, where there is a conflicting jurisdictional requirement (as discussed below), or where a matter which DNSPs are to have regard to warrants a departure from strictly LRM-based tariffs.

In addition, and as discussed in section 2.2 above, the SCER’s proposed rules do not hardwire a particular methodology for calculating LRM – therefore, there appears to be some potential flexibility for the DNSP to select an accepted methodology from those identified in section 2.2.

3.2 What is the practical impact of the “two tiered guidance” in the SCER’s proposed drafting of clause 6.18.5(b)(1) and (2)

As noted above, we consider that under the SCER’s proposals, DNSPs would be required to use LRM as a basis / starting point for calculating tariffs. However, we interpret the matters listed in subclause (b)(2)(i)-(v) which DNSPs are to have regard to in “determining” tariffs, as requiring DNSPs to consider each of those matters and potentially, where relevant, to adjust initial LRM-calculated tariffs by reference to those considerations.

The phrase “must have regard to” has been recently considered by Justice Jackson in *Origin Energy v Queensland Competition Authority & Anor.*¹² In that case, his Honour considered that the requirement to “have regard to” actual costs, meant no more than that actual costs had to be regarded. His Honour did not consider that that requirement meant that actual costs were to be given weight as a fundamental factor in the decision being made, rather that the weight to be given to this factor was a matter for the pricing entity. Although this decision is in the context of construing a requirement to “have regard” to listed matters by an administrative decision maker in making a decision, there is nothing to suggest that the approach to the interpretation of the term should be different where the decision is being made other than by an administrative decision maker. In the discussion paper the AEMC appears to approach the requirement to “have regard” in much the same way, noting that under the current pricing rules DNSPs have the flexibility to apply LRM in a way that they consider appropriate in the circumstances, and “can use their own judgement in weighing efficiency against a range of other factors”.¹³

Therefore, while under the SCER’s proposed drafting LRM must form the basis for setting of tariffs, the matters set out in subclause (2)(i)-(v) are matters for consideration and DNSPs may give such weight to those considerations as the DNSP sees fit.

For example:

¹² [2012] QSC 414.

¹³ AEMC, *National Electricity Amendment (Distribution Network Pricing Arrangements) Rule 2014: Consultation Paper*, 14 November 2013, pp 56-57.

- the requirement that tariffs be determined having regard to LRMC which may vary by location does not mean that DNSPs *must* apply locational-based tariffs. Rather, it would require DNSPs to consider the appropriateness of such tariffs in its proposal. Therefore, if for some reason it was impracticable to apply location-based tariffs (such as lack of appropriate metering) then the requirement to have regard to this matter is unlikely to constitute a requirement that a DNSP apply locational-based tariffs;
- the requirement to take into account matters such as transaction costs may result in tariffs not precisely reflecting LRMC.

4 Potential for conflicting guidance between the pricing principles and jurisdictional requirements

4.1 Requirement to comply with jurisdictional instruments

As noted above, the drafting proposed by the SCER sets out a requirement that distribution prices comply with relevant jurisdictional instruments. These requirements potentially give rise to conflicting guidance – on one hand, DNSPs will be required to base the calculation of tariffs on LRMC, but on the other hand DNSPs must comply with jurisdictional requirements which may require tariffs to be based on something other than LRMC or which require such adjustments to the tariffs initially calculated by reference to LRMC that the ultimate tariffs no longer bear any real relationship to LRMC. This position is different compared to that under the existing rules, where the requirement to take into account LRMC is more obviously subordinate to the requirement to comply with jurisdictional requirements.

In circumstances where a conflict arises between tariffs based on LRMC and tariffs based on jurisdictional requirements, the drafting proposed by the SCER does not provide clear guidance on how any such conflict should be resolved. The SCER’s proposal recognises that DNSPs may be limited in the extent to which they can base prices on LRMC, locational, or temporal factors by jurisdictional policies (and other practical constraints).¹⁴ As such, the SCER’s proposal appears to be that the requirements in its proposal that prices be based on LRMC and take into account locational or temporal factors, would give way to conflicting jurisdictional requirements.

It is possible that the phrase “must be based on” one matter could be interpreted to give way to a requirement to “comply” with another matter, as the “based on” requirement may be considered to indicate that it is a starting point from which adjustments (such as for jurisdictional requirements) may be made. In this way, the phrase “must comply” which does not provide for any flexibility in its application may be considered to provide for something more stringent than a requirement to “base” a calculation on another matter.

That said, we consider that it would be preferable that if any amendments are to be made to the Rules, the drafting should deal clearly with how any conflicts between jurisdictional requirements and other requirements are to be resolved. This could be done, for example, by stating that tariffs are to comply with the relevant principles set out in the Rules to the extent possible given jurisdictional requirements. The AEMC notes the possibility of such an approach in the consultation paper.¹⁵

We do not consider that subclause 6.18.5(c) would operate to resolve any conflict between the pricing principles themselves, or as between a pricing principle and a jurisdictional requirement, in the calculation of the tariffs. Rather, the function of clause 6.18.5(c) is to allow for an adjustment of the ultimate tariffs (after applying LRMC and taking into account the prescribed matters, to the extent those matters can be taken into account) where those tariffs lead to under-recovery of expected

¹⁴ SCER, *Reform of the Distribution Network Pricing Arrangements under the National Electricity Rules to Provide Better Guidance for Setting, and Consulting On, Cost-Reflective Distribution Network Pricing Structures and Charges: Rule Change Request*, 18 September 2013, p 7.

¹⁵ AEMC, *National Electricity Amendment (Distribution Network Pricing Arrangements) Rule 2014: Consultation Paper*, 14 November 2013, p 66.

revenue. After calculating tariffs in accordance with the pricing principles, DNSPS can *then* undertake an ex-post adjustment to tariffs to recover expected revenue.

Finally on the point of jurisdictional requirements, we note that the term “jurisdictional instruments” which is used in the drafting proposed by the SCER is not defined in the Rules, nor the NEL. The term may be intended to bear (and likely should bear) a similar meaning to subsection 2D(1)(b)(c) of the definition of “regulatory obligation or requirement” as set out in section 2D of the NEL, albeit referencing price rather than the provision of services.¹⁶ Consideration could be given to either:

- changing the term used to “jurisdictional obligations or requirements” (which would not need to be a defined term as it should be relatively plain whether or not something is a jurisdictional obligation or requirement); or
- changing the term to “must comply with *applicable regulatory instruments* in the relevant *participating jurisdiction* to the extent they regulate *network service price*”, noting that the terms “applicable regulatory instruments” and “participating jurisdiction” are already defined in the Rules and which appear broadly appropriate for these purposes;¹⁷ or
- if the term “jurisdictional instruments” is to be retained, including a definition of this term which could be: “...an Act of a participating jurisdiction, or any instrument made or issued under or for the purposes of that Act that affects the pricing by a *Distribution Network Service Provider*, of *direct control services*”.

¹⁶ That is, *inter alia*, any obligation or requirement under an Act of a participating jurisdiction, or any instrument made or issued under that Act etc.

¹⁷ The term “applicable regulatory instruments” is defined as: “All laws, regulations, orders, licences, codes, determinations and other regulatory instruments (other than the *Rules*) which apply to *Registered Participants* from time to time, including those applicable in each *participating jurisdiction* as listed below, to the extent they regulate or contain terms and conditions relating to access to a *network*, *connection* to a *network*, the provision of *network services*, *network service price* or *augmentation* of a *network*.”

Attachment B : Network tariff reform strategies

This Appendix provides five examples of the network tariff reform strategies being implemented by distribution networks. Each network is progressively re-orienting their tariffs for residential and small business customers to be more cost-reflective. In practice this means that there are frequent but incremental changes in tariff structures or changes in the application of tariffs progressively to more customers.

ActewAGL

Pricing strategy

ActewAGL Distribution has developed and refined its network tariff structure over time, guided by its pricing strategy. The strategy involves:

- Setting prices to signal to customers the economic costs of providing distribution services;
- Providing customers with a choice of flexible and innovative tariffs to best meet their needs;
- Providing incentives and opportunities for demand management;
- Ensuring that tariffs are set to recover costs in a way that encourages efficient use of the network and signals to customers the cost of network expansion; and,
- Offering customers a clear and simple tariff structure, noting the need to take account of the ability of different customer groups to respond to price signals and the need to keep transactions costs low.

ActewAGL Distribution's pricing strategy has in recent years accommodated the development of some innovative tariffs and significant customer responses. For example, in line with the strategies of setting cost reflective prices and providing opportunities and incentives for demand management, ActewAGL Distribution has gradually introduced several time-of-use charging options for both commercial and residential customers. More than 50 per cent of the total load in the ACT is now subject to time-of-use or controlled load (off-peak) charges. For the non-residential sector, nearly 80 per cent of the load is on time-of-use or controlled load tariffs.

In October 2010, time-of-use tariffs became the default tariff for all new residential and commercial premises, with the option to select an alternative tariff.

The application of maximum demand and capacity charges in several commercial tariff options has further strengthened price signals to customers, provided incentives to use the network more efficiently and resulted in significant customer response. The maximum demand charges signal to customers the relatively high cost of providing capacity to meet demand and provide incentives to customers to improve both their load factor (that is, spread their load more evenly) and power factor (which allows the existing network to deliver more energy). Between 1999/00 and 2011/12, customers on the Low voltage demand network tariff improved their load factor and therefore their utilisation of the network by 12.5 per cent, increasing the average energy consumed relative to the average of their monthly maximum demand from 40.1 per cent to 45.1 per cent. Over the same period, high voltage customers increased their load factor, and therefore their utilisation of the network, from 54.2 per cent to 61.0 per cent, an improvement of 12.6 per cent.

These price signals have been effective demand management tools and have allowed ActewAGL Distribution to keep network augmentation costs to a minimum. For example, until the current regulatory period, no new zone substations had been built in the ACT since 1994.

Source: *ActewAGL Annual Pricing Proposal 2013-14*, <http://www.aer.gov.au/node/20200>

Ausgrid

Objective		Strategy/Comment
Achieve economic efficiency by providing customers with prices reflective of economic cost		Network tariffs have been designed to reflect economic cost to the extent possible given existing tariff structures and metering constraints. Ausgrid is also committed to investigating more cost reflective forms of network pricing, such as dynamic tariffs and more innovative approaches to signaling economic cost, such as dynamic rebates and to increasing the number of customers on more cost reflective network tariffs, where it is economically and socially desirable to do so. It is for this reason that Ausgrid proposes to re-assign a significant number of customers to a more cost reflective network tariff in FY14 given their consumption and metering functionality.
Achieve regulatory entitlements		Network tariffs have been developed in accordance with the Weighted Average Price Cap constraint and price limits and the pricing principles set out in the National Electricity Rules (refer to Part 2 of this document). As a result of increased uncertainty about future volume movements, greater emphasis has been placed on increasing those tariff components that are less sensitive to volumes where this is economically justified and socially desirable to do so.
Satisfy customers	Comprehensible	Ausgrid is committed to simplifying the network tariffs where appropriate.
	Fairness	Ausgrid is committed to developing network tariffs and assigning customers to network tariffs on a non-discriminatory basis.
	Stable	Ausgrid is committed to provide retailers and end-customers with certainty over the direction of network prices through publishing pricing documents, the retailer's forum and through the establishment of transitional price path arrangements to cost reflective levels.
Equitable recovery of common network costs		Ausgrid is committed to improving its allocation of network costs to individual tariff classes to ensure that the amount of distribution revenue recovered from customers in a particular tariff class is as close as possible to the costs that Ausgrid incurs on these customers' behalf.

Ausgrid believes that it is important to provide external stakeholders with an understanding of not only the basis of the proposed network prices for FY14, but also the potential medium to longer term direction of Ausgrid's network prices. In this way, retailers and other interested parties will be better aware of the potential reforms to network tariff structures.

Source: Ausgrid 2013-14 Annual Pricing Proposal (revised proposal), <http://www.aer.gov.au/node/20190>

Energex

Changes to tariffs

Energex has an ongoing program for reviewing network tariffs for its customers. In 2012/13, the focus was on the SAC Non-Demand residential tariffs; however, in 2013/14, the focus broadened to review all SCS tariffs. The changes proposed for 2013/14 are designed to give customers more choice by providing a more robust suite of network tariffs, specifically:

- improving cost-reflectivity in tariffs and encouraging maximum asset utilisation by replacing the power factor adjustment (PFA) methodology with straight kVA pricing for a range of charges. This approach is reflective of current practices by DNSPs in other Australian jurisdictions.
- supporting more specific pricing signals for residential customers and providing an incentive to facilitate demand management of smart appliances through the introduction of a second, voluntary ToU tariff, PeakSmart ToU, which reflects the cost of network augmentation and reflects the value of demand management to the network.

Straight kVA pricing for large customers

From 1 July 2013, it is proposed that straight kVA pricing will be introduced for a range of customers replacing the existing power factor adjustment (PFA) methodology and reflective of current practices in other Australian jurisdictions. A tariff based on kVA is a more accurate measure of a customer's impact on the network, relative to a tariff based on kW, as it better reflects the costs imposed on the network by the customer. Accordingly, a kVA tariff better meets Energex's Pricing Objectives as it is more cost-reflective and encourages improved network efficiency. Providing the correct pricing signals will assist in achieving maximum asset utilisation – an outcome that benefits all customers by reducing the need for Energex to spend additional funds on increasing the capacity of the network long term, thereby minimising tariff increases. The introduction of straight kVA pricing also provides an additional incentive for customers to improve their power factors which should, ideally, be as close as possible to unity (i.e. one (1)).

Energex has written letters to all customers within the impacted tariff classes specifically advising of the change to charging methodology and has responded directly to any enquiries received. In addition, since 2010/11 when the PFA methodology was introduced, customers have received advice of this future transition to straight kVA charging in their Annual Statement of Charges.

PeakSmart ToU tariff for residential customers

In addition to the residential default flat rate tariff and existing voluntary ToU tariff, from 1 July 2013, the tariff structure will include a second, voluntary ToU tariff, PeakSmart ToU.

Source: Energex *Annual Pricing Proposal 2013-14*, <http://www.aer.gov.au/node/20139>

Ergon Energy

Ergon Energy is currently reviewing the way we charge customers for the use of our regulated distribution network. To date, to help develop our future Network Tariff Strategy, we have consulted with a broad cross section of stakeholders on a range of network tariff proposals.

This has informed the development of a Tariff Implementation Report, which builds on the proposed tariff changes outlined in Ergon Energy's Stakeholder Consultation Paper of July 2013. This report is supported by a suite of documents aimed at enabling further engagement on the strategy with interested stakeholders. These documents, as well as a summary of the stakeholder submissions received through the consultation process to date, are available at www.ergon.com.au/futurenetworktariffs.

This overview provides the background on the need for change and the benefits to our customers; an update on the consultation process to date; a summary of how the network tariffs changes proposed could impact electricity prices; and the steps planned to move forward. There is then a high level summary of the proposed network tariff changes that we are currently planning to implement.

In broad terms, the network tariff changes proposed for implementation in 2014/15 involve introducing kVA as the basis for the demand tariffs used by our very large energy users, commencing the process of 'rebalancing' tariffs towards more fixed/less usage-dependent charges for our large users, and introducing new and optional broad-based tariff structures for our smaller customers. Further network tariff reform is then proposed for 2015/16.

Source: Ergon Energy, *Network Tariff Strategy Consultation*, <https://www.ergon.com.au/community--and--our-network/future-investment/network-tariff-strategy-consultation>

SA Power Networks

The need for tariff reform

To a greater extent than any other Australian distributor, SA Power Networks' summer demand is sensitive to the effect of air conditioning demand. High summer peak demands occur during heat wave conditions, which correspond with periods when the elements of the system have least capacity and the power factor of loads is poor.

Some 75% of the capital expenditure on SA Power Networks' network in the 2010-15 regulatory control period is growth related. That is, the expenditure is driven by the need to augment and expand the network to adequately meet peak summer demand and provide for the connection of new customers.

As a consequence, the management of summer demand has a high priority in SA Power Networks' tariff reform strategies. This leads to an emphasis on providing network price signals that will encourage both residential and business customers to manage their demand by the following means:

- The price levels of existing tariff structures;
- The development of more cost reflective tariff structures; and
- The development of innovative new tariff structures.

Network tariff strategy

SA Power Networks has a pricing strategy that will, within the limitations of metering arrangements and efficient tariff structures, signal the costs associated with increased demand placed on the network, including the use of air conditioning.

SA Power Networks' network tariff strategy aims to:

- Attain revenue sufficiency under the Weighted Average Price Cap;
 - Signal the long run marginal cost of supply through its network tariffs;
 - Improve cost reflectivity and reduce revenue variability by reducing the reliance on usage based tariff components where appropriate;
 - Pass on the cost of ElectraNet's transmission services to customers; and
 - Explore tariff based demand management opportunities, including voluntary capacity based tariffs.
- Sections 5.6 through 5.8 outline future tariff reform options under consideration and development.

Tariff reform 2005 to 2010

During the 2005-10 regulatory control period, SA Power Networks undertook a number of tariff reforms, including the following:

- The restructuring of the single rate tariffs for residential and low voltage business tariffs to introduce a greater number of steps and progressively increasing consumption charges for the higher consumption blocks;
- Businesses have been encouraged to adopt kVA demand price structures; and
- Power factor correction for businesses has been facilitated through the use of an excluded/negotiated service charge for excess reactive power requirements.

Source: SA Power Networks, *2013-14 Annual pricing proposal - revised 24 May 2013*

<http://www.aer.gov.au/node/20180>

Attachment C: Responses to AEMC Consultation Paper Questions

QUESTION	RESPONSE
<p>1. What other considerations should be included in the assessment framework?</p>	<p>Additional criteria that the AENC could consider are:</p> <ul style="list-style-type: none"> • Effectiveness of the proposed network pricing framework proposed in the Rule change; whether the network pricing framework is workable and limits compliance risk. • Revenue sufficiency which recognises that the distribution pricing principles are about the shares of revenue to be recovered from different customers and network tariff structures used to recover revenues, and not about allowable revenue. • Pricing simplicity and transparency. • Flexibility to address the different characteristics of the networks and the needs of customers in complying with the network tariff pricing framework.
<p>2. Does figure 6.1 reflect the key components of how network tariff structures and pricing levels determined by DNSPs?</p>	<p>The diagram does not fully represent the process used by distribution networks to set network prices. It omits the linkage to the price control mechanism, and to considerations outside of the pricing principles, such as the need for pricing simplicity and stability.</p>
<p>3. How often are network tariff structures likely to change during a regulatory period and what are some of the reasons for that change?</p>	<p>Distribution networks set network tariffs in line with their overall tariff strategy. Within a regulatory period there may need to be unanticipated changes to tariff structures, their application and prices. Changes include unanticipated changes in volume, reflecting not only economic conditions but the impact of changes in technology including solar PV, and use, including airconditioners. Under the AEMC's proposed approach compliance with the distribution pricing principles could need to be re-assessed frequently within a regulatory period as new tariffs are introduced and existing tariffs retired or grandfathered, or where existing tariffs are applied to new customers.</p>
<p>4. What level of information on network tariff structures and network tariff pricing levels should be included in a network tariff structures document to assist retailers and consumers to understand and</p>	<p>In ENA's view it is not possible to provide information with absolute certainty on network tariffs (structures and levels) in advance of the annual pricing process. For this reason, it would be inappropriate for the PSS to be binding on networks, although it will be appropriate for network businesses to outline how customers will be engaged if unforeseen material changes</p>

<p>respond effectively to changing prices and structures over the regulatory period?</p>	<p>are required to network tariff structures within the regulatory period. (See also Response to Q5 and Q9).</p> <p>Rather than being a compliance document as the AEMC suggests, ENA proposes that the purpose of the PSS should be to support customer engagement in a timely and meaningful way. If the document is to be used as a compliance mechanism with penalties and enforcement consequences, then it will fundamentally alter the approach of any regulated businesses in its preparation. Under a compliance regime it is likely that it will constrain the value of the PSS as a communication and engagement tool.</p> <p>The proposed PSS could play an important role by informing customers about the overall network tariff strategy to apply over the regulatory period. It could include information on the nature and timing of proposed changes in network tariff structures and prices (incorporating the statement of expected price trends).</p>
<p>5. Should DNSPs be able to vary their network tariff structures during the regulatory period? Why or why not?</p>	<p>Yes. Networks should have the flexibility to adjust tariff structures to promote efficient pricing and address revenue recovery within a period. Prohibiting changes in network tariff structures has the potential to constrict networks from adapting tariffs efficiently through phases of significant changes in demand patterns and consumer responsiveness. It also has the potential to undermine the capacity of the network to meet the minimum revenue recovery assessed as required by the AER to promote efficient investment incentives.</p> <p>This flexibility should not unduly undermine uncertainty if the PSS document is amended, where there are major changes, and there is an obligation on distribution networks to undertake further consultation in advance of the potential changes.</p> <p>Minor variations could be addressed in the annual pricing proposals.</p>
<p>6. If a document on network tariff structures is put in place, should this be an indicative document or should the DNSPs be required to apply it in their annual pricing proposals?</p>	<p>The PSS should be an indicative document in respect of network tariff structures and expected price trends and not binding on annual pricing proposals.</p>
<p>7. If a document on network tariff structures is binding on the DNSP, should it be able to be varied and under what circumstances? If so, should it be varied</p>	<p>PSS should not be binding on the annual pricing proposal process, and therefore there is no need to provide for a formal variation process through the regulator. The PSS could be amended, where there major changes, within a regulatory period in consultation with</p>

<p>outside or within the annual network pricing process?</p>	<p>stakeholders. The initial PSS at the beginning of the regulatory period could provide a consultation plan for describing the consultation process where amendments need to be made in a regulatory period.</p>
<p>8. Should DNSPs be required to consult with stakeholders before submitting their proposed pricing structures statement to the AER for approval through the regulatory determination process?</p>	<p>The AER should not be required to approve a PSS. ENA does not support the role of the PSS as a compliance document. If the AER was required to approve the PSS, then it should be strictly limited to confirming that it meets the information and consultation needs of stakeholders and not compliance with the distribution pricing principles. However, networks should be required to consult with customers in the development of the PSS and the PSS should be submitted to the AER for information in the regulatory determination process.</p>
<p>9. Is consultation necessary if DNSPs seek to amend their approved pricing structures statement during the regulatory period, as opposed to at the time of the regulatory determination? Are there any circumstances where amendments to the network tariff structures in the annual pricing process should be exempt from consultation on amendments to the previously approved pricing structures statement?</p>	<p>The PSS could be amended within a regulatory period where there is consultation with stakeholders on relevant issues. Distribution networks could provide a consultation plan in the PSS identifying a consultation process and the types of amendments to the PSS that would be consulted on. It is anticipated that the basis for consultation in such a plan should be based on the principles of the AER Better Regulation Guideline on Customer Engagement.</p>
<p>10. Is it necessary for the AER (as opposed to the DNSP) to consult with stakeholders before approving any proposed amendments to the pricing structure statement sought by the DNSP?</p>	<p>No because the AER should not be required to approve the PSS. The PSS should be a candid and important mechanism in the DNSPs direct relationship with pricing stakeholders rather than subject to intermediation by a regulator.</p>
<p>11. Should the AER be required to provide guidance on the consultation process for DNSPs? Should the guidelines be binding on the DNSPs?</p>	<p>The AER's Better Regulation <i>Consumer Engagement Guideline for Network Service Providers</i> (the Guideline) and Explanatory Statement reflects intensive discussions between consumers, the AER and industry on best practice consumer engagement principles. It would be highly duplicative and inefficient to include any requirement for the AER, industry and consumers to reproduce this work.</p> <p>The guideline itself was developed with the clear contemplation that setting and designing tariffs would be one of the matters it applied to (see Section 3.3 AER Consumer Engagement Guideline).</p>

It is not appropriate for a proposed guideline to be binding because:

- a binding guideline is equivalent to a rule, and rules should be subject to the rule-making process
- the AER is not established to be a rule making body, it applies the Rules
- this would potentially reduce the flexibility for consumers and networks to trial innovative approaches
- the AER's *Consumer Engagement Guideline for Network Service Providers* is deliberately designed to be facilitative and directed at promoting cultural changes and not compliance-based engagement.

12. Does the PSS need to be approved?

As per Question 8 above ENA does not support the role of the PSS as a compliance document. Therefore if the AER is to approve the PSS it could be on the basis that it meets the information and consultation needs of stakeholders and not compliance with the distribution pricing principles. Compliance with the distribution pricing principles should continue to be on the basis of the annual pricing proposals submitted by networks.

13. Should the AER be able to amend a DNSP's PSS? If the AER does not approve a DNSP's proposed pricing structures statement, what arrangements would be suitable for default network tariff structures?

The AER should not be able to amend a PSS.

It is not appropriate for the AER to have a role in designing individual network tariffs or structures, as default tariffs. The problem of the AER failing to approve a PSS should not be permitted to arise and the fact that Question 13 is required highlights what an intrusive regulatory arrangement it would represent were the AER in a position of providing approval, withholding approval or amending the PSS.

14. What are the risks to the annual pricing process if DNSPs do not comply with their approved pricing structures statement or are late submitting a full pricing proposal?

As ENA proposes that the PSS be non-binding on the annual pricing proposal. The pressures on distribution networks, the AER, retailers in the annual pricing proposal process are acknowledged in the ENA submission. ENA supports the purpose of the Rule change in achieving greater certainty on final distribution network tariffs at an earlier stage in the process.

15. How should DNSPs be incentivised to comply with their approved pricing structures statement in their annual pricing proposals?

Distribution networks already have intrinsic motivation to implement tariff reform in a systematic and orderly manner with the informed engagement of customers. Pricing proposals which materially depart from the PSS will do so for bona fide reasons in the long-term interests of consumers and should be the subject of consultation.

How should compliance incentives be balanced against the financial risks for DNSPs and certainty for

As per Question 14, ENA considers that the PSS should be non-binding on the annual pricing

stakeholders?

proposals while still representing an important stakeholder engagement mechanism informing annual pricing proposals. It should be the subject of consultation where there is material departure from the PSS in an annual pricing proposal.

If networks were required to comply with the PSS in their annual pricing proposal, it would be inappropriate to “incentivise” networks in the manner proposed in the Rule change. It is not sound regulatory practice to set in place financial penalties and incentive mechanisms on a pre-supposition that rule obligations will not be met. A failure to comply with a Rule is a compliance issue which should become a matter of AER enforcement action. Adopting ad hoc decision rules such as the maintenance of previously proposed pricing levels actually creates incentives for strategic non-compliance, and also introduces financial revenue recovery risks, with consequences for incentives for efficient investment that consumers may bear as well as the non-compliant network. For this reason a separate compliance and enforcement path which is more in line with normal enforcement of other Rules obligations is to be preferred.

The introduction of a new financial risk to recovery of regulated revenues is not only unjustified by any empirical evidence of systemic deficiency, it would also be inconsistent with the basis of the finalised AER guideline on Rate of Return released in mid-December. This guideline will not have considered this additional risk to the risk profile of the benchmark service provider. Creating this new financial risk would also undermine the relevance of the outcomes in the guideline to future network reviews, and effectively ‘strand’ a significant body of AER, industry and consumer work..

16. Should DNSPs include forecasts of their expected changes in network tariff pricing levels in the pricing structures statement?

The National Electricity Rules (Chapter 6, Clause 6.18.9(a)(3)) requires that distribution networks maintain a statement of expected price trends on their website. This must be updated for each financial year and give an indication of how the networks expect prices to change over the remainder of the five-year regulatory period and the reasons. ENA considers that it would be appropriate for the statement of expected price trends to be included within the PSS. If by forecasts, the AEMC means the expected annual average change in Network Use of System prices for the regulatory period (or the remainder of the regulatory period) this would be appropriate.

17. Should any changes to the network tariff pricing levels included in the pricing structures statement be subject to consultation? If so, what level of

Networks consider it appropriate to consult with stakeholders on changes to the PSS, where these changes could have a material impact on customers and would be reflected in annual pricing proposals. As noted above, the PSS should outline the proposed consultation plan in

<p>materiality should apply to the change?</p>	<p>accordance with the criteria in the AER <i>Consumer Engagement Guideline for Network Service Providers</i>. Changes to forecasts on which expected pricing levels are based would not generally fall into this category.</p> <p>Changes to network pricing levels unrelated to changes in network tariff structures are already governed by price control mechanisms. It is important that it is clear what factors in the consultation can be influenced in the regulatory period. As the ENA said in its submission to the earlier IPART Rule change Consultation Paper the approval of annual pricing proposals should not be linked to the accuracy of the forecasts in the statement of expected price trends. This is in effect a change in the price control mechanism for distribution businesses.</p>
<p>18. Should a pricing structures statement process be introduced as soon as possible? If so, what risks are there from having it in place before the next regulatory determination period?</p>	<p>ENA supports the PSS being used for the purpose of informing customers and retailers and engaging with stakeholders, in the regulatory determination process. If it is used in this manner, rather than as a compliance document it could be introduced relatively quickly after the Rule change has been finalized. If a PSS is to be used in a binding manner as a compliance document, then significantly greater time for implementation would be required because of the substantial change to the regulatory price control mechanism which it would represent.</p>
<p>19. Does the AER consultation guideline need to be in place before a PSS can be implemented?</p>	<p>See answer to Question 11. Such a guideline is already in place. An AER <i>Consumer Engagement Guideline for Network Service Providers</i> which was designed in consultation with consumers, retailers and networks, and which explicitly is designed to facilitate network and consumer engagement on tariff issues was released in November 2013.</p>
<p>20. If a PSS framework were implemented, would this reduce the timing pressures for the DNSPs, the AER and retailers that have arisen from the first year and subsequent year annual pricing process?</p>	<p>No.</p>
<p>21. What would be the likely impacts on customers of making an LRMC approach mandatory?</p>	<p>The potential impacts on customers of making LRMC approach mandatory are unclear because the practical application of the Rule change, including the definition of LRMC, remains unclear. It is fundamental, rather than a secondary consideration, to address the relative significance of residual costs, constraints on locational pricing and the discretion of DNSPs to take into account customer impacts.</p> <p>The impacts on customers will be limited to the extent that the fundamental barriers to LRMC</p>

based pricing are unchanged. ENA supports the AEMC undertaking the necessary analysis to AEMC needs to establish:

- empirical examples of LRM estimates;
- broad analysis of the likely consumer impacts of mandating LRM; and
- a clear line of sight of the likely “hard cases” and how these could be addressed in policy terms.

We suggest that the AEMC could use this opportunity to review whether the side constraint provisions, both within and between regulatory periods are workable, given that the side constraints are effectively a break on annual price changes and could conflict with the requirement for distribution network tariffs to be based on LRM. The AEMC’s analysis should also assess the potential for a stronger obligation for LRM-based pricing developed under the Rule change to be more volatile.

22. What would be the impacts on DNSPs of making an LRM approach mandatory? Does it result in increased compliance risk?

The potential impacts of making an LRM approach mandatory are unclear. ENA is seeking a workable approach to the distribution pricing principles from the Rule change, rather than a theoretical one, which places the emphasis on the implementation outcomes and not the development of conceptual LRM models. The ENA submission has identified issues in the drafting of the Rule change which may present increased compliance risks if not addressed.

The combination of a mandated LRM approach with its current drafting issues, and a binding PSS may represent a significant increase in the compliance risk facing distribution networks which has not been reflected in the AER’s Rate of Return Guideline which has only recently been finalised.

23. How limited will DNSPs be in basing prices at LRM if they must first comply with jurisdictional instruments?

Distribution networks will be significantly constrained in basing prices on LRM as defined in the Rule change proposal, if they must first comply with jurisdictional requirements.

There are relevant instruments in some but not all jurisdictions that require distribution network prices to be set on some other basis than LRM. ENA has proposed alternative drafting to ensure legal certainty for distribution networks which comply with jurisdictional instruments. For an abundance of clarity we ask the AEMC to consider whether “it would be preferable that if any amendments are to be made to the Rules, the drafting should deal clearly with how any conflicts between jurisdictional requirements and other requirements are to be resolved. This could be done, for example by stating that tariffs are to comply with the relevant principles set

out in the Rules to the extent possible given jurisdictional requirements.”

24. Should LRMC be defined? If so, what level of detail would be appropriate?

It is not clear that LRMC, a well understood economic concept, need be defined.

Rather than the Rule change mandating a definition of LRMC that imposes a highly granular allocation of costs based on LRMC as proposed by the AEMC, which will increase the potential for compliance risks, distribution networks should have the flexibility to calculate values of LRMC at the level of the network that is appropriate to address constraints on the network and apply these values of LRMC to network tariffs.

25. Should one methodology apply to calculating LRMC or should multiple methodologies be allowed? Which is/are the most appropriate methodology(ies)?

Distribution networks should have the capacity within the Rules to use a range of well accepted economic methodologies for calculating and applying LRMC, and to choose between multiple approaches to recover residual costs. There are advantages and disadvantages to the approaches identified in the Consultation Paper, as the AEMC has acknowledged. ENA considers that distribution networks, following direct consultation with their customers, are best placed to determine the appropriate methodology that takes into account the varying network characteristics and the needs of their customers. The risk in imposing a single uniform approach across all distribution networks to the inputs, the calculations or the application of LRMC and the recovery of residuals is that while it may result in more efficient network tariffs for one distribution network, it may not lead to efficient network tariffs for all distribution networks. Distribution networks would agree a methodology and approach to be applied to annual pricing proposals within the regulatory period.

26. Should the AER be required through a guideline to specify the methodology or methodologies of calculating and applying LRMC?

As in Question 24 and 25 there is no need for an AER guideline.

27. What is the impact of coincident peak demand on network costs and how are these additional costs currently recovered in network tariffs?

Co-incident peak demand at each of the different levels of the network drives the need for the expansion of the associated network assets. The recovery of these costs depends on the availability of advanced metering.

28. How should LRMC pricing reflect additional costs associated with coincident peak demand and what are the practical impediments to DNSPs adopting

The most significant practical impediment to offering tariffs that reflect coincident maximum demand is the lack of advanced metering for small customers and the customer support for advanced tariff design.

tariffs that reflect coincident peak demand?	
29. How important are locational pricing signals for distribution networks? Are locational pricing signals for some types of customers more important than others?	The network costs of meeting peak demand and augmenting the network vary considerably by location. Cost reflective, locational pricing is currently applied to large commercial and industrial users.
30. What are the practical impediments to DNSPs adopting tariffs that reflect locational pricing signals?	Some jurisdictions impose postage stamp pricing (Queensland, South Australia and Tasmania) which would prevent locational pricing for residential and small customers. It is not clear the extent to which there would be community acceptance of locational pricing for small customers, where it is practically feasible and in those jurisdictions where it could be applied as a consequence of the Rule change.
31. Is an additional principle required to further encourage network prices which are based on the drivers of network costs to the maximum extent possible?	No additional principles are required.
32. What are the pros and cons of using a Ramsey pricing approach or a postage stamp pricing approach?	The efficiency and equity considerations in applying Ramsey pricing or postage stamp pricing are well known and have been described in the AEMC Consultation Paper. From a distribution network perspective, networks are seeking to recover residual costs in a manner that has the least impact on the consumption decisions of customers, and balances efficiency and the impacts on customers.
33. Are there any other pricing approaches that should be considered to recover residual network costs?	Distribution networks should have the flexibility to prescription in the Rules as to the methodology or methodologies to be applied in recovering residual costs.
34. Should an approach or approaches be specified in the NER or an AER guideline?	The Rules should allow distribution networks the flexibility over how these residual costs should be recovered, and not specify an approach or approaches in the Rules or in a guideline.
35. What jurisdictional instruments or requirements could limit the ability of a DNSP to comply with any requirement to base tariffs on LRMC (including where that LRMC may vary with customer location	All small customers in Queensland have access to regulated prices. Furthermore, the Government's Uniform Tariff Policy ensures that all Queensland electricity customers of a similar type (for example residential, or small businesses) who access regulated prices (the prices determined by the QCA) pay the same price for electricity, regardless of where they live. In

or with different local peak demands)?

addition the network cost component for small customers are based on the network charges to be levied by Energex, while for large customers, the network charges are based on the charges levied by Ergon Energy.

The Victorian Government orders that instruct networks on how and when Advanced Metering Infrastructure tariffs are to be assigned in Victoria, and the permitted time consumption bands.

SA Power Networks must maintain state-wide pricing for small customers, with annual consumption not exceeding 160KWh. In addition to the side constraints imposed by the NER, SA Power Networks cannot raise the fixed charge for small customers by more than \$10 per annum in this regulatory control period.

Uniformity of tariffs for small customers in Tasmania is provided for under the NER (NER 9.48.4 B).

36. What are the potentials impacts of a NER requirement for DNSPs to comply with jurisdictional instruments?

ENA sought Gilbert+Tobin’s advice on the potential conflict for distribution networks to comply with jurisdictional instruments and with the requirement to base tariffs on LRMC. In their view:

“it would be preferable that if any amendments are to be made to the Rules, the drafting should deal clearly with how any conflicts between jurisdictional requirements and other requirements are to be resolved. This could be done, for example by stating that tariffs are to comply with the relevant principles set out in the Rules to the extent possible given jurisdictional requirements.”²⁶

For an abundance of clarity, we ask that the AEMC give consideration to this suggested drafting if it proposes to make a Rule which requires both that tariffs be based on LRMC and comply with jurisdictional requirements.

37. Should a requirement for DNSPs to take into account the impact of tariffs on consumers be included in the pricing principles?

ENA understands from the AEMC Consultation Paper that the intention of SCER is that in setting prices networks should consider:

- the ability of customers to respond to efficient prices and the price elasticity of demand, which is relevant to the efficiency of network tariffs, and

²⁶ Gilbert + Tobin Memorandum of Advice, page 7

	<ul style="list-style-type: none"> the potential for bill shock, which could raise issues of community acceptance and fairness. <p>ENA considers that that if it is the above impacts that the AEMC considers should be taken into account in setting tariffs, the principle relating to customer impacts should be clarified in the Rules as opposed to leaving the matter to be dealt with in guidelines.</p>
38. If a requirement is included, does the proposed principle provide enough guidance on how it is to be complied with, or would an AER guideline be useful?	As per Question 37
39. If a requirement is included, does the proposed principle conflict with other principles within the NER?	As per Question 37
40. Should network tariffs reflect transmission pricing signals? If so, what would the most appropriate way achieve this for different types of network customers?	<p>The AEMC has raised the issue of the requirement for pass through of transmission charges in distribution network tariffs. ENA considers that there should be consistency in the approach adopted. If it is considered that pass through is appropriate, it should apply to both transmission and distribution components being passed through into the retail tariff. ENA notes that in the AEMC’s Power of Choice Review, the AEMC argued that the retailer should “have the option to either package that time varying network tariff up into a flat retail offer or to decide to pass through that network tariff to the consumer.”</p> <p>If there is to be further consideration of pass through in the Rule change, the impacts of pass through should be included in the AEMC’s analysis of the Rule change.</p>
41. Is the change to a mandatory requirement to group customers into tariff classes likely to achieve the desired outcomes?	<p>ENA does not support the change to a mandatory requirement, as the current Rules provide sufficient clarity and certainty as to how distribution networks are to assign customers to different tariff classes. A prescriptive mandated approach could reduce the necessary flexibility for distribution networks to balance the need to group customers together on an economically efficient basis and the need to avoid unnecessary transaction costs.</p>
42. Is the change to a mandatory requirement to group customers into tariff classes likely to result in	As per Question 41

inconsistencies within the NER or with any jurisdictional instruments or requirements?	
43. Is the proposal to apply side constraints across regulatory periods likely to materially benefit consumers by protecting them from price shocks?	Such a requirement that the side constraints should apply across regulatory periods could potentially in conflict with the allowable revenue determined in the regulatory determination process, and is therefore inappropriate. ENA proposes that the issue of the workability of side constraints, and the application between regulatory periods and within regulatory periods needs to be addressed by the AEMC in its analysis of the impacts of the Rule change.
44. Is the proposal to apply side constraints across regulatory periods likely to lead to inconsistencies with other requirements in the NER?	As per Question 43
45. Are there likely to be implementation issues in applying side constraints across regulatory periods?	As per Question 43
46. Should network tariffs of customers with interval meters or other types of time-based meters be subject to side constraints?	As per Question 43