



## SUBMISSION TO AUSTRALIAN ENERGY MARKET COMMISSION

### Response to Draft Rule Determination – Electricity Transmission Revenue Regulation

18 September 2006

---

#### 1. Executive summary

- Distribution businesses broadly support the approach adopted for electricity transmission regulation as appropriate for that sector
- Some differences between the transmission and distribution sectors mean specific elements of these Rules would be inappropriate to apply to energy distribution businesses
- The Commission's cautious and balanced approach to implementing a propose-respond model which makes use of 'reasonable estimates' while providing certainty on cost of capital issues represents a positive movement towards a best practice regulatory approach but further improvements are possible
- ENA has provided the Commission with specific recommendations based on the distribution network sectors experience with a decade of access pricing regulation

The Energy Networks Association welcomes the opportunity to comment on the *Draft Rule Determination* and *Draft National Electricity Amendment (Economic Regulation of Transmission Services) Rule* (draft Rules) released by the Australian Energy Market Commission on 26 July 2006.

The distribution network sector wishes to offer its perspectives based on a decade of network access pricing regulation on appropriate regulatory rules and design for energy infrastructure regulation. These perspectives are offered on the basis of industry's understanding that elements of the Chapter 6 draft Rules are being used as an input into MCE's development of initial rules for the economic regulation of distribution services.

Energy network businesses broadly support the cautious and conservative approach which the AEMC has applied in relation to the decision making framework provided in the draft Rule. In particular, the positive decision to adopt a specific decision-criterion that states that the AER should assess whether operating and capital expenditure forecasts represent 'reasonable estimates' is welcomed. The distribution network sector considers this criterion realistically recognises the inherent imprecision of cost forecasting, and lowers the risk of regulatory error. Importantly, it also still provides the AER with sufficient discretion to reject forecasts which are not considered reasonable.

The decision by the AEMC to codify one form of a cost based 'building blocks' model into the draft Rules is one driven by the particular history and development of electricity transmission revenue regulation. Such an approach may not be as relevant or appropriate in any future distribution rules. There are a broader range of regulatory pricing approaches that may be appropriate to the different circumstances of energy distribution networks, which would mean that prescribing a single mechanistic cost-based pricing approach in rules as the only option would not be appropriate.

A remaining area of concern with the draft Rules is the complex series of potentially conflicting factors which the Rules require the AER to take into account in assessments of capital and operating cost forecasts. In ENA's view this approach is unwarranted and creates rather than resolves issues of regulatory certainty. It also conflicts with recent policy decisions of MCE aimed at providing greater clarity in guidance on regulatory decisions.

The use of the 'propose-respond' regulatory process throughout the draft Rules is strongly supported. It is noted that this model is used for the *regulatory process* even though in relation to the *regulatory decision-making model* the AEMC has not chosen to apply the propose-respond model (except in a constrained form on some of the elements of the building blocks approach, i.e. through the standard of '*reasonable estimates*'). This cautious and conservative approach is understandable, however, the ENA considers that a fuller use of the propose-respond regulatory decision-making model could be made in future distribution rules.

The draft Rules provide scope for the AER to develop a range of regulatory guidelines on some key issues which arise in revenue determinations. The appropriate role of guidelines is to offer non-binding guidance on the manner in which a regulator may exercise discretion available under existing regulatory regimes, not a mandatory set of obligations imposing substantive obligations.

Several ENA members have raised a number of uncertainties or ambiguities over some aspects of the legal basis of the draft Rules containing a requirement for the AER to develop effectively binding regulatory guidelines. The ENA consider the questions and issues raised in these submissions to require careful consideration by the AEMC in the context of its draft Rules, and, potentially, the MCE in its ongoing responsibility to monitor the effective implementation of its policy vision of clearly separating regulatory rulemaking and rule enforcement.

## 2. Background

The Energy Networks Association is the national representative body for gas and electricity distribution network businesses. The members of the ENA include:

- ActewAGL
- AGL Energy Networks
- AlintaGas Networks
- Aurora Energy
- Citipower
- Country Energy
- ENERGEX
- EnergyAustralia
- Envestra
- Ergon Energy
- ETSA Utilities
- Integral Energy
- Multinet Gas
- NT Power and Water Corporation
- Powercor
- SP AusNet
- United Energy Distribution
- Western Power

Energy network businesses deliver electricity and gas to over 12 million customer connections across Australia through approximately 800 000 kilometres of electricity lines and 75 000 kilometres of gas distribution pipelines. These distribution networks are valued at more than \$35 billion, and each year energy network businesses undertake investment of around than \$5 billion in network operation, reinforcement, expansions and greenfields extensions.

## 3. Basis for distribution network participation in review

Energy network businesses are keen to continue to actively participate in the development of the draft Rules.

The principal interest of energy network businesses in this submission is to offer their perspectives based on a decade of network access pricing regulation over appropriate regulatory rules and design.

These perspectives are offered on the basis of industry's understanding that elements of the Chapter 6 draft Rules are being used as an input into MCE's development of initial rules for the economic regulation of distribution services.

A particular objective of this submission is to highlight areas where approaches developed for electricity transmission may **not** be appropriate to extend to energy distribution.

**Attachment 1** sets out distribution network businesses initial views about specific areas of the draft Rules that could not be appropriately applied to networks.

## 4. Scope and form of regulation

Energy network businesses support the provision for less intrusive forms of regulation over services that may be subject to competitive supply, and improving the clarity over the definition of prescribed and negotiated services.

The retention of transmission-distributor connection services as prescribed services is supported. These services are:

- unlikely to be appropriate for commercial negotiations, given the complexity and potential cost of separate negotiations
- often required to be in place within a limited timeframe

Therefore the ENA supports the approach adopted in the draft Rules on this matter.

#### **Recommendation**

- Retain the approach set out in the draft rules providing that transmission-distributor connections shall be treated as prescribed services

## **5. Decision-making framework**

A key element of an effective regulatory framework is clarity over the standards of decision-making that will be required by the regulator.

### *Decision-making criteria*

The AEMC separates out the 'propose-respond' *process* from a 'propose-respond' *decision-making criteria* and has applied its interpretation of the Expert Panel's 'fit for purpose' approach in requiring approval of 'reasonable estimates' and codifying WACC parameters and methodologies in rules.

The AEMC draft Rules adopted a constrained form of the 'propose-respond' decision-making criteria across certain areas of a regulatory access arrangement. For example, the draft Rules provide for the AER to approve capital expenditure and operating expenditure forecasts which are assessed as 'reasonable estimates' against a set of factors in the Rules. Similarly, the AEMC has provided for depreciation allowances and 'X-factors' in revenue paths to be proposed by the transmission business. Transmission businesses will also be able to 'propose' inputs and values for an efficiency incentive scheme which will be developed by the AER.

Energy network businesses consider that the AEMC have adopted a highly conservative and constrained approach to utilising the propose-respond decision-making criteria (i.e. by allowing acceptance of 'reasonable estimates'), and understands that this approach may have been driven by the lack of experience with this approach to date in electricity transmission.

The National Gas Code and WA *Electricity Networks Access Code* provide examples of a far broader use of 'propose-respond' elements. As an example both the Gas Code and the Electricity Networks Access Code provide for regulated businesses to propose cost of capital estimates. The WA *Electricity Network Access Code* also explicitly provides that a regulator may not refuse to approve a proposed access arrangement on the basis that it

considers a different access arrangement may better or more effectively meet the objective and requirements of the Code.<sup>1</sup>

### *Codification of methodology*

The AEMC draft Rules also embody a choice to codify the operation of the cost-based 'building blocks' methodology.

The draft decision references widespread support amongst electricity transmission businesses for the codification of parts of the ACCC's previous Statement of Regulatory Principles, which was subject to extensive development and consultation with the transmission sector through its development.

Such an approach may not be as relevant or appropriate in any future distribution rules. There are a broader range of regulatory pricing approaches that may be appropriate to the different circumstances of energy distribution networks, which would mean that prescribing a single mechanistic cost-based pricing approach in rules would not be appropriate.

Examples of other approaches that may be appropriate some circumstances to detailed cost-based regulation of distribution networks include price monitoring (for example, for greenfields and smaller gas distribution networks) or total factor productivity based approaches. An approach in distribution is needed in to capture the benefits of being able to flexibly apply the most appropriate form of regulation, which may not be building blocks regulation in all cases (although elements of the building blocks approach may still be usefully described in any future distribution rules).

### *Use of the standard of reasonable estimate as a decision criterion*

Energy network businesses support the adoption of the decision criterion that where the AER is satisfied that a service providers forecast of future capital and operating costs represent 'reasonable estimates' they should be approved.

It is well recognised that by their nature forecasts of future operating and capital investment costs lie outside of the direct expertise of economic regulatory bodies, and that there is no single 'correct' value attributable to these. A number of recent policy reviews and inquiries have highlighted the risk of regulatory error where regulatory frameworks are premised on the precise identification of a single value by a regulator lacking direct commercial experience with complex and multifaceted operating and capital investment programs.

Importantly, the draft Rules provide the AER with the discretion to reject a service provider's estimated costs where the AER is not satisfied that they are 'reasonable'. That is, there is no requirement on the AER to approve an estimate if it is found to be unreasonable, and the *only* circumstance in which the AER must approve an estimate is where the AER itself is satisfied that the estimate is reasonable. In the ENA's view it is difficult to construct an alternative decision criterion that is rational in circumstances where the AER is satisfied with an estimate proposed. A decision criterion which stated

---

<sup>1</sup> Section 4.28 WA *Electricity Network Access Code*

that even where the AER is satisfied that an estimate is reasonable, it should retain the capacity to substitute its own preferred value, would not be appropriate or comprehensible.

The MCE Expert Panel's preferred formulation for a decision criterion is that estimates should be the 'best estimate on a reasonable basis'. There are a number of uncertainties and issues raised by this alternative construction which have not been addressed by the Expert Panel. These include:

- on what basis is an estimate judged to be 'best' - does this term incorporate concepts of a probabilistic or statistically 'expected value', or more qualitative considerations?
- how can a regulator arrive at judgements about a single 'best' estimate where there may be a number of equally probable scenarios implying markedly different operating and capital programs (such as a high, low and medium demand scenario)
- how does the criterion apply in situations where there are a number of reasonable basis's or methodologies which may produce different 'best' estimates
- how is assigning to a regulator the task of assessing whether a proposed estimate equals a 'best' estimate a more realistic or achievable for a regulator with no direct commercial experience of the design and nature of capital and operating expenditure programs than the task of making a broader informed assessment of whether an estimate is reasonable

Due to these uncertainties, and for these reasons, the ENA prefers the AEMC's proposed decision criterion that forecasts costs should be approved if the AER determines that they are 'reasonable estimates'.

#### **Recommendation**

- Retain the conservative and limited adoption of propose-respond decision criteria in respect of capital and operating cost elements, X-factors and depreciation allowances
- Recognise that other existing and effective regulatory framework adopt propose-respond decision criteria more widely than the draft Rules
- Retain the use of the 'reasonable estimates' criteria for capital and operating costs to minimise the risk of regulatory error and recognise there is no single 'correct' value

## **6. Expenditure forecasts**

The Commission has maintained its view that the prescription of listed factors for assessing reasonableness within the Rules is relevant and appropriate for assessing capital and operating expenditure forecasts.

The Commission has proposed that 13 different factors should be taken into account when assessing proposed capital expenditure, and 12 different factors should be taken into account when assessing proposed operating expenditure.

The ENA has three significant concerns with this approach. These are:

- uncertainty over how multiple conflicting factors will be resolved
- an inconsistency between the AEMC's proposed approach and more recent policy trends towards simplification and clarity in regulatory guidance
- the failure of the decision-criteria to reference critical considerations for economic regulatory bodies with no direct expertise in infrastructure service provision to take into account, such as concepts of 'good industry practice'

These concerns are discussed below.

### *Avoiding uncertainty in application of multiple factors*

The ENA has serious concerns about the inclusion of what might be characterised as a 'laundry list' of factors for consideration by the AER within the Rules. In the view of ENA, the inclusion of this list risks outcomes under the Rules not promoting the overall objective for the National Electricity Market.

Rules which require any regulator to resolve a range of conflicting factors are likely to create uncertainty, not certainty, this will result in increased undue regulatory risk. The MCE Expert Panel recently considered this issue in relation to the existing section 8.1 of the Gas Code. Section 8.1 of the Gas Code requires the regulator to consider six different factors. The Expert Panel did not consider the guidance provided by the section to be useful for the regulator on the basis that:

'by giving discretion to the regulator to balance the objectives where they conflict, uncertainty in their application is created'.<sup>2</sup>

The more specific and detailed a 'laundry list' of factors to consider is, the higher the risk that the AER may find be unable to act flexibly to adopt reasonable capital and operating forecasts.

The use of lists of multiple factors not only raises potentially conflicting factors, but also raises uncertainty in terms of interpretation. For example:

- what weights should the AER put on the matters listed to consider?
- are the listed matters any more important to other issues that the distribution business or the AER considers to be important? If so, to what extent?
- is this list all inclusive, i.e. the lists do not state that the AER can look at other factors - does this mean that no other issues should be considered by the AER?
- What weight can or should be attributed to other relevant matters omitted under these provisions?

A broader weakness of the multiple factors under 6A 6.6.(b)(2) and 6A.6.7 (b)(3) is that they form a list of factors which a diligent regulator would normally take into account as part of a pricing determination. As such they replicate and codify existing practice, rather

---

<sup>2</sup> Expert Panel, *Report to the Ministerial Council on Energy on Energy Accessing Pricing*, April 2006, p.107, found at [www.mce.gov.au](http://www.mce.gov.au)

than materially improving the actual quality of regulation. As an example, the requirement to 'take into account' the submissions received in consultation processes appears redundant, and to be adequately addressed through the normal practice of all Australian regulatory bodies, and basic legal requirements imposed on administrative decision-makers.

In other areas of these provisions, by contrast, specific obligations imposed on future transmission revenue rules by the *National Electricity Law* seem imperfectly translated into mere factors for consideration by the AER. For example, Section 35 (3) of the *National Electricity Law* provides that operators must be provided by the rules a 'reasonable opportunity' to recover the efficient costs of complying with regulatory obligations. It is not clear to ENA that this significant binding obligation of the NEL is discharged by making the 'the need to comply with all applicable regulatory obligations' one of 12-13 factors for consideration in assessing the reasonableness of capital and operating costs. In particular this approach appears to invite an uncertain and unintended approach of a range of conflicting factors of potentially differing weights being 'traded off' against each other.

### *Consistency with MCE approach of reducing conflicting guidance to regulators*

Within the Ministerial Council on Energy's most recent statement of approach – *A National Legislative Framework for Gas and Electricity* July 2006, the MCE has stated that the MCE's Rules will be less prescriptive than the AEMC's draft transmission revenue Rule proposal due to the diversity of approaches to the economic regulation of distribution by jurisdictional regulators.

The MCE Expert Panel within its recent report to the MCE – *Expert Panel on Energy Access Pricing*, observed that within the Productivity Commission's review of the gas access regime it was concluded that an overarching objective would be highly beneficial to clarify the policy intent of the regime and improve accountability to regulators. The Exports and Infrastructure Taskforce also recently made similar comments that<sup>3</sup>:

*It is important that this economic efficiency interpretation is the overriding objective of access regulation and that alternative 'laundry lists' do not distract from the consistent application of this central objective.*

The Expert Panel also concluded that a high level of prescription reduces the regulator's ability to accommodate the particular circumstances of individual market participants in regulatory decisions.<sup>4</sup>

The AEMC's approach of including a list of around 25 factors to be considered by the AER when assessing operating and capital expenditure is also in conflict with the MCE's agreement to remove similar guiding lists of factors to consider under the National Gas Code, s.2.24. Both the Productivity Commission and the Expert Panel recommended that all but 2 of the principles set out in s.2.24 be deleted in light of the inclusion of an overarching objects clause within the *National Gas Law*. There appears to be a significant risk of divergent approaches being applied by the AEMC and MCE in across gas and electricity in this key area of the appropriate role for regulatory guidance under rules.

---

<sup>3</sup> Export Infrastructure Taskforce, 2005, Report to the Prime Minister, May, p.40.

<sup>4</sup> Expert Panel, April 2006, *Energy Access Pricing Report to the Ministerial Council on Energy*, p.26.

### *High level rules incorporating the concept of 'good industry practice'*

The ENA views high level rules applying to operating and capital expenditure to be the most appropriate approach, instead of a potentially conflicting list of factors to be taken into account.

As part of the high level Rules, the ENA recommends that for forecasting of capital and operating expenditure, the concept of 'good industry practice' needs to be incorporated. The use of good industry practice as a benchmark has been demonstrated to be effective. For example, section 8.37 of the Gas Code relies on the concept of good industry practice in calculating non capital costs.<sup>5</sup> This recognition of the role for good industry practice within the regulatory framework has provided valuable guidance to regulatory bodies and, in ENA's view, contributed towards the maintenance of extremely high levels of safety and reliability in the Australia gas distribution and transmission sectors.

The importance of economic regulation of energy infrastructure being undertaken with reference to good industry practice has also been recently affirmed in changes to the economic regulatory environment for energy infrastructure in New Zealand. In response to Auckland's and surrounding areas blackouts earlier this year in June, the New Zealand Government in August released a draft *Government Policy Statement on Electricity Governance*. Section 87C of the Statement requires the Electricity Commission when considering operation, maintenance and capital costs to take into account good industry practice for power system operation.<sup>6</sup>

#### **Recommendation**

- Reduce the number and complexity of factors needing to be considered, with the objective of reaching streamlined provisions closer to provisions such as 8.36-8.37 of the Gas Code
- Include reference to good industry practice in any guidance to the AER on assessments of reasonable estimates of capital or operating costs

## **7. Cost of capital approach and review criteria**

The ENA broadly supports the approach taken in the draft Rules providing greater levels of certainty regarding cost of capital parameters and methodologies for electricity transmission businesses.

This approach recognises the particular national and market enabling characteristics of electricity transmission assets, and is an appropriate step following the emergence of a consistent ACCC approach developed through extensive consultation surrounding the *Statement of Regulatory Principles for Electricity Transmission Regulation*.

---

<sup>5</sup> National Third Party Access Code for Natural Gas Pipeline Systems (1997), sections 8.36-8.37, found at [www.coderegistrar.sa.gov.au](http://www.coderegistrar.sa.gov.au)

<sup>6</sup> Ministry of Economic Development, *Draft Government Policy Statement on Electricity Governance*, August 2006, section 87C, found at [www.med.govt.nz](http://www.med.govt.nz)

Energy network businesses strongly welcome the acceptance of the AEMC of the need identified by ENA and other parties for greater guidance for the AER in making five yearly determinations on cost of capital parameters and methodologies. The recognition of the need for persuasive evidence to be presented before changes are made to cost of capital values and methods is a positive acknowledgment of the need for stability and investment certainty surrounding benchmark returns on long-lived energy assets.

#### *Appropriate future approaches in distribution sector*

Industry considers a similar approach to that adopted in the draft Rules using the same values may well provide a useful transitional mechanism for distribution networks.

This approach would have the important advantages of:

- offering certainty to investors in energy distribution networks in the treatment of cost of capital issues in the move from State and Territory to national economic regulation
- allowing the streamlining of AER decision-making in the context of the AER being required to conclude approximately 25 separate energy network and transmission determinations in the five year period to 2012

Both within and beyond this transition phase, however, it is appropriate for distribution businesses to have the capacity to propose estimates costs of capital to the AER that recognise the differences in particular risk characteristics that might apply between electricity and gas and revenue and price cap regulated businesses.

#### **Recommendation**

- Retain the approach set out in the draft Rules for electricity transmission
- Recognise that a case for transitional arrangements which set initial benchmark parameters in a similar way may be appropriate in distribution, with the difference that there is a case for retaining the flexibility for individual gas and electricity businesses operating under different forms of price control to seek to have their specific risk characteristics recognised

## **8. Regulatory process**

Industry supports the adoption of the AEMC propose-respond regulatory process.

The adoption of the 'propose-respond' model for the regulatory process (as opposed to using it in relation to the decision-making requirements on the AER, where the AEMC has applied a fit-for-purpose model) recognises existing best practice as embodied in:

- Western Australian *Electricity Networks Access Code*, developed and introduced by the WA Electricity Reform Implementation Unit led by the current Chair of the AER, Steve Edwell

- the existing National Gas Code

There are a number of benefits to all stakeholders in adopting the AEMC proposed regulatory process, including:

- a requirement to provide reasons and specify the changes required to bring a proposal into compliance with the rules is an effective discipline to ensuring price review processes focus on key matters in contention
- clearly defining and simplifying the role of the regulator by focusing their task on assessing the compliance of the access proposal with the Rules.
- utilising to the extent possible the direct commercial experience of network businesses in relation to matters outside of the regulators expertise.
- continuing to provide regulators with the power and discretion to reject access proposals or prices which do not meet the requirements of the Rules.
- inherently better incentive properties, because it encourages the service provider to put up a structured and reasoned case and options, rather than having them imposed by an external body.

The AEMC has proposed a streamlined regulatory approval process, which allows for a 'global cap' of 13 months on the regulatory process and less individual prescription on timelines for individual parts of the process. The ENA supports the improved timeliness of regulatory decisions, and the approach adopted in the draft Rules which provides some flexibility around the timelines for individual components of the price review process.

#### *Guideline on revenue proposal submissions and the propose-respond process*

ENA members consider one aspect of the regulatory process to be potentially detrimental to all stakeholders involved.

The submission guideline provided for under 6.A10.2 has the potential to evolve into a prescriptive document which may undermine the operation and benefits of the propose-respond process by predefining elements of a revenue proposal.

This also has the potential to increase the costs of regulation. This clause should be amended to include consideration of the costs of providing the information in the form requested, and require only such information as would be reasonably required to understand how the elements of the proposal were derived and form an opinion as to compliance with the Rules.

### **Recommendation**

- Retain the propose-respond regulatory process set out in the draft Rules for electricity transmission
- Insert a requirement that any guideline on revenue proposal submission must not go beyond requiring such information as would be reasonably required to allow parties to form an opinion as to the compliance of the proposal with the rules, and to be able to understand the derivation of the proposed revenue requirement

## **9. Role of regulatory guidelines**

The draft Rules provide scope for the AER to develop a range of regulatory guidelines on some key issues which arise in revenue determinations. The AEMC has sought to adopt an approach where nature of the guidelines to be made are defined and deliberately constrained through reference either to principles with which the guidelines must comply, or in some areas, required minimum contents for the guidelines.

### *Separation of rule making and rule enforcement*

A key principle driving the establishment of the AEMC and AER has been a desire on the part of MCE to improve transparency and rigour of rule making activities, by ensuring a functional separation of rule making and rule enforcement roles (in the AEMCE and AER respectively). As part of this framework, and endorsed by the Expert Panel, is the principle that substantive rights and obligations of all market participants should be contained in energy laws and rules. Energy network businesses endorse this policy framework of clear separation of rule making and rule enforcement, which carries with it a requirement that substantive rule-making powers cannot not be delegated a body outside of the AEMC.

### *Appropriate role of guidelines*

In ENA's view, therefore, the appropriate role of guidelines is to offer non-binding guidance on the manner in which a regulator may exercise discretion available under existing regulatory regimes, not a mandatory set of obligations imposing substantive obligations. In some areas there may be a role for negotiated protocols or templates to enable the AER to compare information in a consistent manner.

### *Need for clear legal basis to draft rules on regulatory guidelines*

Several ENA members have raised a number of uncertainties or ambiguities over some aspects of the legal basis of the draft Rules containing a requirement for the AER to develop effectively binding regulatory guidelines. The ENA consider the questions and issues raised in these submissions to require careful consideration by the AEMC in the context of its draft Rules, and, potentially, the MCE in its ongoing responsibility to

monitor the effective implementation of its policy vision of clearly separating regulatory rulemaking and rule enforcement.

This issue is of particular concern to ENA in the context of future distribution rules. It is possible that future distribution rules will be less prescriptive in a number of areas than the current AEMC draft Rules for transmission revenue regulation. This leaves open the potential for uncertainties over the appropriate scope and legal status of regulatory guidelines to loom larger for any future distribution rules. In view of this, the ENA considers the issue requires clear resolution.

The Energy Networks Association

18 September 2006

**Elements of Draft Rules which would not be appropriate to apply to distribution**

<b>Element</b>	<b>Reason</b>
AER making universally applicable industry-wide cost of capital assessments following the 5 year 'lock-in' period	Electricity and gas distribution networks likely to be under a variety of price control will continue to have different risk characteristics requiring recognition
Limitation of 'propose-respond' decision criteria to only the elements of capital, operating expenditures, depreciation and X-factors	Electricity and gas distribution networks have a greater potential recognise the needs of individual customers and tailor terms and conditions to particular network characteristics and capabilities
Multiple conflicting factors to consider in establishing whether capital and operating costs are 'reasonable estimates'	Simplification of decision criterion by reducing the number of contradictory or competing sub-factors will improve flexibility and not increase uncertainty
Specification of numerical value of regulatory asset base in Rules, without a capacity to account for omitted assets	Asset bases for electricity and gas distribution networks have been incomplete and omitted significant assets in some cases, requiring a process to recognise and bring in omitted assets
Efficiency and service performance incentive schemes designed in full with operational details largely at the AER's discretion	Efficiency and service performance potentialities are likely to vary significantly between distribution networks which do not serve a single national market enabling function that transmission does. Scope for more tailored service provider proposed schemes.
Revenue cap mandated in Rules	Price caps widely acknowledged as an appropriate option for consideration in distribution pricing regulation
Single 'building blocks' cost-based approach specified in Rules	Wide acknowledgement, including of Expert Panel, that alternative options to building blocks exist and may be appropriate for incorporation into future distribution Rules