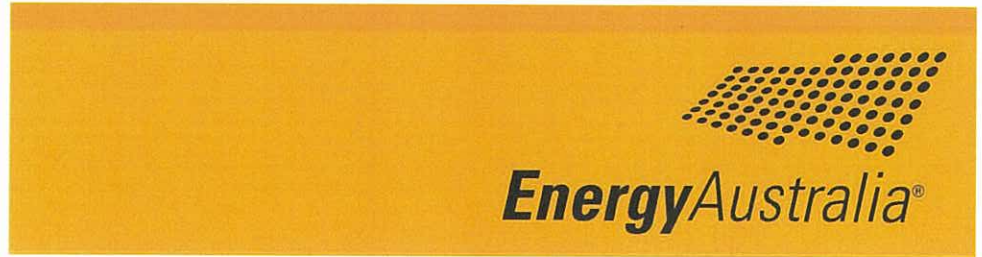


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1 October 2010

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

Dear Mr Pierce

EnergyAustralia submission on proposed Rule for recovery of transmission related charges

EnergyAustralia welcomes the opportunity to make a submission on the Rule change proposed by United Energy relating to the recovery of transmission related charges. EnergyAustralia considers that a distributor should be permitted to pass through to customers any upstream transmission charges and transmission related costs, including avoided TUOS and inter-DNSP charges. These charges derive from obligations under the Rules and are not for the benefit of the DNSP, but ultimately for the end use customer in the provision of network services. Accordingly, the Rules should ensure these charges are easily passed through to end use customers.

We note that the AER's draft decision for Victorian distributors challenges this principle. The AER claims the Rules create barriers for a distributor's entitlement to pass through charges for transmission services, avoided TUOS payments and inter-DNSP payments. Our view is that the current Rules enable distributors to recover all of these payments. Nevertheless, we support United Energy's proposed Rule on the grounds that it removes any uncertainty on the ability of a distributor to pass through transmission and transmission related charges to end use customers.

We support the Rule as drafted, subject to minor modification, but note that similar amendments should also be made to the Transitional Rules that apply to NSW and ACT distributors for 2009-14 to provide the same cost certainty to these distributors. Attachment 1 of our submission sets out our suggested drafting for consequential amendments to Chapter 11 of the Rules.

Our primary concern with the drafting of United Energy's proposed Rule relates to the wording of clauses 6.18.2(b)(6)(ii) and 6.18.7(a)(2), which enable a distributor to recover the net of inter-DNSP payments. We submit that payments received by a distributor should not be netted off against payments made by a distributor, as this would not enable a distributor to recover its annual revenue requirement. Proposed changes to the drafting of United Energy's Rule is set out at Attachment 2, and further explanation is provided in this submission.

The body of our submission has been structured to address the key questions raised in the AEMC's consultation paper on the proposed Rule. If you have any questions regarding our submission please contact Ms Jane Smith on (02) 9269 4171.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'C. Moody', written in a cursive style.

CRAIG MOODY
Executive General Manager (Acting)
System Planning and Regulation



Rule change proposal - DNSP recovery of transmission related charges

Response to first round AEMC consultation

OCTOBER 2010

DNSP Recovery of transmission related charges

October 2010

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1 Overview

This submission is in response to the AEMC's initial consultation process on a Rule change proposed by United Energy which seeks to amend general Chapter 6 of the National Electricity Rules to explicitly permit a distributor to recover charges for transmission services, including avoided TUOS and inter-DNSP charges.

EnergyAustralia's submission has been structured to address the key questions posed by the AEMC in its consultation paper of 2 September 2010.

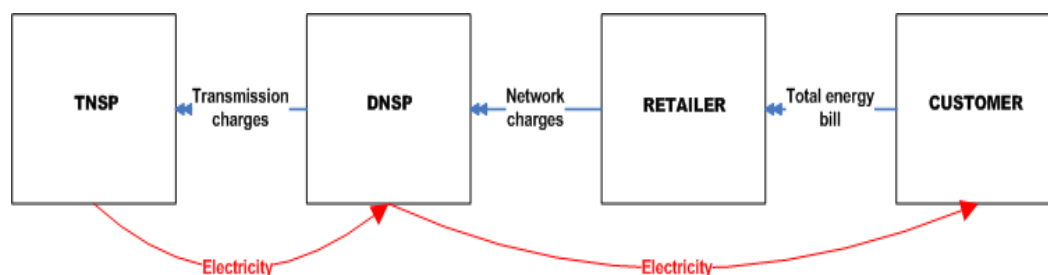
The key points raised in our submission are:

- A distributor should be permitted to pass through to customers any upstream transmission charges and transmission related costs.
- We do not support an interpretation of the current Rules which precludes the distributor from recovering upstream transmission charges and transmission related costs. Nevertheless, to avoid any uncertainty, we support proposed amendments to the Rules to make it explicitly clear that a distributor can recover charges for all relevant transmission services.
- We consider that upstream transmission charges and transmission related costs should not be included as part of the building block costs for a regulatory determination, and should be recovered separately as part of the annual pricing process.
- We consider that the proposed Rule will not increase the administrative burden of the AER or market participants, as it effectively prescribes the current practices applied in jurisdictions.
- EnergyAustralia considers that the AEMC should make consequential amendments to the Transitional Rules that apply to NSW and ACT distributors to ensure that all distributors receive the same level of certainty as to cost recovery.
- We consider the AEMC should make minor modifications to the drafting of United Energy's proposed Rule to ensure that a distributor can recover the gross payments it makes to other distributors, including charges for transmission services passed on by other distributors.

2 Responses to specific questions

2.1 What charges should be recoverable

An important principle in the current design of the National Electricity Market is the ability for upstream charges to be easily passed through to end use customers. This ensures that supply chain costs are minimised and promotes certainty to all stakeholders. This is depicted in the diagram below, where the retailer collects the total energy bill and passes on network charges to the distributor, who then passes on transmission charges to the TNSP.



It makes sense therefore that a distributor should be permitted to pass through to customers any upstream transmission charges and transmission related costs, including avoided TUOS payments as well as inter-DNSP payments. These charges derive from obligations under the Rules and are not for the benefit of the DNSP, but ultimately for the end use customer in the provision of network services. Accordingly, the Rules should ensure these charges are easily passed through to end use customers.

Our reasons for supporting recovery arrangements for each type of cost are set out below.

2.1.1 Transmission services

As a customer of a TNSP, a distributor incurs charges for its use of the transmission system. These charges enable TNSPs in a region to recover their maximum allowed revenue (MAR) for prescribed transmission services, in accordance with the AER's regulatory determination.

These transmission service charges reflect the cost of conveying electricity along the transmission system from generation sources to the point of supply to the distribution network. The ultimate beneficiaries of these transmission services are end use customers. The DNSP in passing through its own costs, also acts as an agent in passing through any upstream transmission related costs to the ultimate beneficiaries of the network.

Transmission charges can therefore be characterised as an 'upstream input' charge paid by a DNSP on behalf of the ultimate beneficiaries, to enable the recovery of the total MAR of TNSPs in a region. Relevantly, these costs are not recovered under the X-factors for direct control (distribution) services, as they are not services provided directly by the distribution network.

It is for this reason that the Rules enable a distributor to 'pass through' transmission charges to customers as an additional recovery item. The Rules provide for distributors to bundle network charges to recover the regulated revenue requirements for both the distributor and the TNSP. These arrangements lessen the administrative burden that would arise if a TNSP had to separately collect payments for prescribed transmission services from end use customers.

EnergyAustralia notes that the pricing provisions in Chapter 6A of the Rules require that a TNSP develop transmission charges for the recovery of its MAR. These charges include prescribed entry and exit charges that relate to the provision of prescribed connection services, comprising of connection services between network service providers, and certain 'grandfathered' connection services.

The issue that has arisen in light of the AER's draft decision for Victorian distributors is whether the current Rules enable a distributor to pass through these prescribed entry and exit charges that are charged by a TNSP. For EnergyAustralia, we note that prescribed exit fees accounted for approximately \$60 million of the charges we passed through to TNSPs in 2009-10.

The basis of the AER's decision is not totally clear but appears to be based on an interpretation of the Rules whereby only a particular portion of the transmission service charge can be passed through to customers. We note that the technical basis for this view is not apparent.

In our view, it would be incongruous for a DNSP to be obligated to pay charges for prescribed transmission services (which are provided for the benefit of end use customers and that have been calculated in accordance with Chapter 6A), while not being permitted to pass through all of the charges relating to these services to the end use customer. This interpretation of the Rules is contrary to the intent of policymakers who intended for distributors to ultimately pass through prescribed connection charges to customers. In its draft decision for the Economic Regulation of Transmission Services Rule, the AEMC stated¹ (emphasis added):

"The Commission has explicitly considered the treatment of connection assets between TNSPs and Distribution Network Service Providers (DNSP)...

the Commission accepts that moving to a commercial negotiation arrangement is unlikely to change, in any material way, the behaviour of participants where costs are ultimately passed through and the timeframe to expedite the connection service is, in many cases, limited.

On balance, the Commission accepts that connection services between TNSPs and DNSPs exhibit different economic characteristics to other connection services and agrees with the majority of submissions that these services should be classified as a prescribed service.

Therefore the definition of negotiated services in the Rules has been amended to specifically exclude connection services between Network Service Providers. This change has the effect of including TNSP to DNSP connections within the scope of prescribed services."

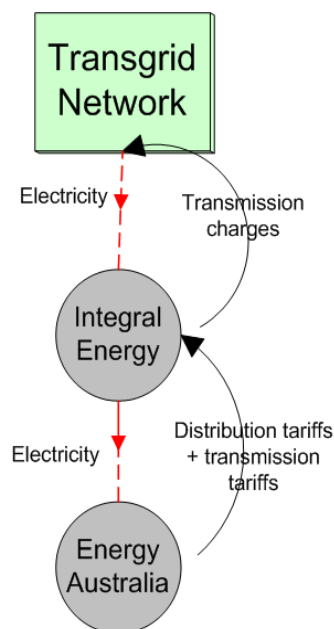
¹ AEMC, Draft Rule determination: Economic Regulation of Transmission Services) Rule 2006, 26 July 2006, p28.

It is sufficiently clear that the intent of the pricing and billing provisions in the Rules is to enable a distributor to recover all transmission charges that are properly charged to it under Chapter 6A of the Rules. We do not support any interpretation of the current Rules which precludes the distributor from recovering charges related to prescribed connection services. Nevertheless, to avoid the uncertainty that has arisen as a result of the AER's draft decision, we support proposed amendments to the Rules to make it explicitly clear that a distributor can recover charges for all relevant transmission services.

2.1.2 Inter-DNSP payments

A DNSP incurs charges from another distributor when it receives load through another distributor's network. For example, EnergyAustralia makes payments to Integral Energy for the use of Integral's distribution network in supplying load to EnergyAustralia's network at Carlingford and Guilford. EnergyAustralia currently pays in the order of \$9 million annually as inter-DNSP payments to Integral.

Integral's pricing proposal identifies EnergyAustralia as a distribution customer, and sets out transmission and distribution tariffs to apply at each connection point. The transmission tariff charges enables Integral to recover a proportion of the charges that it is required to pay TransGrid and other suppliers for the use of the transmission networks. The distribution tariff charges are for the use of Integral's distribution network assets in conveying electricity to EnergyAustralia's connection points. This is depicted in the diagram below.



There are three reasons why payments made to other distributors should be recovered from customers:

1. The charges incurred by EnergyAustralia are for the upstream supply of energy conveyed to our distribution network. In this respect, these charges are analogous to charges for the use of the transmission system, as they represent an upstream input cost that should be passed through to customers. IPART came to a similar view when making its 2004 distribution determination for EnergyAustralia, when explicitly allowing for these costs to be passed through to customers²:

“... (IDT payments) are essentially payments to another service provider for delivering electricity to a DNSP's network. It makes little difference whether the electricity is delivered to the DNSP via another DNSP or a TNSP.”

2. EnergyAustralia has an obligation to make payments to DNSPs that provide distribution services to our distribution network. Under clause 6.20.4 a distribution network user must pay distribution service charges properly charged to it. Under the definitions in the Rules, a distribution network user is a distribution customer (including a DNSP) which has a connection point with a distribution network. EnergyAustralia is not able to recover these payments under the X-factors for distribution and

transmission, as these costs are not included in a building block determination. It is for this reason that EnergyAustralia needs to recover the charges under a separate recovery item.

3. From an economic viewpoint, inter-DNSP arrangements will generally result in the most efficient use of the transmission and distribution systems. For instance, a distributor may avoid the need to build additional substations and feeders that it would otherwise need to supply customers directly from its distribution network. In this respect, the arrangement results in a lower total cost of providing electricity to distribution customers. Without an ability to recover these payments, a DNSP may have perverse incentives to build additional network to service the customers directly from its own distribution network.

EnergyAustralia notes that the current practice in NSW is to recover payments made to other DNSPs as part of charges for transmission services. This practice was proposed by EnergyAustralia in its regulatory proposal and accepted by the AER in its final determination. However, in its draft decision for Victoria, the AER has come to the view that inter-DNSP payments do not fall within the definition of TUOS. EnergyAustralia does not agree with an interpretation of the pricing and billing provisions in the current Rules that precludes the ability of the DNSP to recover these charges. However, we support a rule change that expressly permits a distributor to recover both the DUOS and transmission charges levied by other DNSPs on the basis that it removes any doubt as to cost recovery.

While we support the need for the Rule change, we have two issues with the drafting of the proposed Rule. The proposed Rule would expressly permit a DNSP to pass on charges incurred by the DNSP for distribution services provided by other DNSPs, net of distribution services provided to other DNSPs.

Our first concern relates to the netting off of charges for payments made and received by a distributor. We note that the current practice in NSW is to enable the DNSP to recover the gross payments made to another distributor. We submit that the provision should only refer to payments made by a DNSP, and should remove the reference to 'net' of services provided to other distributors.

In support of this view, we note that there is a conceptual distinction between the inter-DNSP payments a distributor makes and those which we receive:

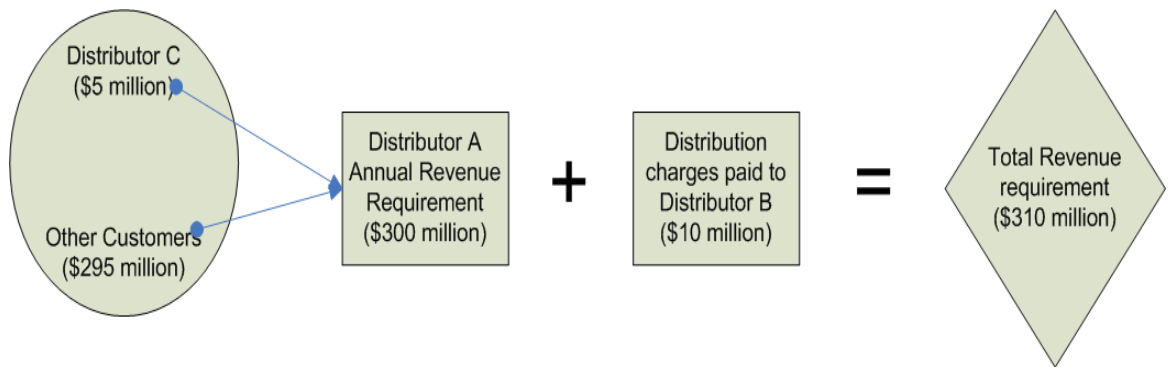
- The payments we make to other distributors (for example, Integral) *are not* accounted for in our building block costs used to determine the X-factors. Therefore EnergyAustralia must recover these payments as an additional recovery item.
- The payments we receive from customers are used to recover a portion of the annual revenue requirements (X-factors) for our standard control services, and the pass through of transmission charges (including our own revenue recovery). If we were to net off these payments, we would not be able to recover our revenue requirements and incurred TUOS charges.

To illustrate this point, consider an example where Distributor A's regulatory determination sets out an annual revenue requirement in Year 2 of \$300 million. In Year 2, Distributor A also incurs estimated charges of \$10 million from Distributor B. These charges are not accounted for in the building block costs used to determine the annual revenue requirements as they relate to upstream energy conveyed to Distributor A's network. In this situation, the distributor should be able to recover a total of \$310 million from its customers.

In the above example, consider that Distributor A supplies energy to Distributor C's network. The capital and operating costs of operating the network to supply Distributor C are included in the building block costs of Distributor A's regulatory determination. Consequently, distributor A charges distributor C for its use of the distribution network to recover the portion of annual revenue requirement that is attributable to the use of the distribution network by distributor C (in this example, \$5 million in Year 2). That is, Distributor A receives \$5 million of its \$300 million annual revenue requirement from Distributor C.

Under the proposed Rule, distributor A would have to net off the payments it receives from the payments it makes. This would result in the DSNP being able to recover only \$305 million³, when the total recovery amount should be \$310 million. The total revenue requirement that should be recovered from customers is depicted in the diagram below.

³ That is \$300 million in annual revenue requirements, plus \$10 million it pays to Distributor B, subtracted by \$5 million for the payments it receives from Distributor C.



It is for this reason that the current practice in NSW is for distributors to be able to recover the gross payments it makes to other distributors. We note that IPART came to a similar view in its 2004 distribution determination for EnergyAustralia⁴:

“...any revenue a DNSP receives from another DNSP for inter-distributor transfers will be treated as a revenue item in the weighted average price cap.”

We have suggested legal drafting that would address our issue with the proposed Rule, and have replicated this drafting for our proposed consequential amendments to the Chapter 6 Transitional Rules. This is set out at Attachment 1 and 2.

Our second concern is whether the proposed drafting needs to be more explicit to ensure certainty of recovery of the transmission tariffs imposed by another distributor. While we consider that the proposed drafting which allows recovery of transmission services addresses this issue, we note that the Rule could be drafted to expressly permit a DNSP to recover “charges for transmission services passed on by other Distribution Network Service Providers”.

To explain this issue further, we note that in addition to distribution tariffs, the receiving distributor is also charged transmission tariffs to enable the supplying distributor to recover transmission charges that are ultimately passed through to TNSPs.

In this case, the supplying distributor is required to use more energy from the transmission system to provide load to the receiving distributor, and consequently the supplying distributor incurs higher transmission charges. This cost is passed through to the receiving distributor through transmission tariffs. As explained above, these payments are not included in the building block costs of the receiving distributor (as they relate to an upstream charge).

We have suggested revised drafting to address the issue at Attachments 1 and 2 of our submission.

2.1.3 Avoided TUOS

EnergyAustralia notes that the Rules require us to make avoided TUOS payments to embedded generators. Under Clause 5.5 of the Rules, a DNSP must pass through to a Connection Applicant the amount for the locational component of prescribed TUOS services that would have been payable by the DNSP to a TNSP had the Connection Applicant not been connected to its distribution network. In 2009-10, EnergyAustralia paid approximately \$2.2 million for avoided TUOS charges.

The key premise for avoided TUOS tariffs is that an embedded generator reduces the amount of energy that is required to be supplied from the transmission network to the distribution network. In the absence of an embedded generator, the transmission system may need to augment its network earlier to ensure supply to the distribution network. The presence of an embedded generator therefore theoretically reduces the total costs of providing prescribed transmission services, that is, reduces the level of annual revenue requirements to be recovered from customers. Conceptually, the reduction in the revenue requirements is attributable to the embedded generator, and is transferred to embedded generators through avoided TUOS charges.

Similar to transmission payments made to TNSPs, the distributor’s role is restricted to recovering the avoided TUOS costs from customers, and passing this recovery amount to the embedded generators. As such, the avoided TUOS charge can be best characterised as a transfer of payments that would have been passed through to a TNSP, but which is now being passed through to an embedded generator.

The current practice in NSW recognises that these payments constitute obligations under the Rules and should be recovered from customers. As these payments are not included as a building block cost in a regulatory determination, they would need to be recovered as a separate revenue recovery item.

⁴ IPART, NSW Electricity distribution pricing: 2004/5 to 2008/9, Draft report, January 2004, p121.

EnergyAustralia considers that the current Rules enable us to recover avoided TUOS payments, however we support a Rule change that removes all certainty in respect of the ability to recover these payments.

2.2 How should the charges be recovered?

EnergyAustralia considers that upstream transmission charges and transmission related costs should be recovered separately to the recovery of building block costs/ X-factors. Further, we submit that the charges should be subject to an under and over recovery arrangement to ensure that distributors only recover the costs that are passed through to other parties.

We note that this is consistent with the design of the current pricing Rules, where a distributor recovers its annual revenue requirements/ X-factors for direct control (distribution) services through distribution tariffs. The X-factors are set so to recover the building block costs for distribution services provided by the DNSP.

The pricing Rules enable a distributor to set separate tariffs in an annual pricing proposal to recover the costs that it passes through to TNSPs and other parties.

- A distributor sets transmission tariffs to enable it to pass through the transmission charges payable to TNSPs.
- A distributor sets tariffs to recover charges/ credits it incurs under approved jurisdictional schemes such as feed in tariff schemes and climate change funds. These payments are passed onto customers and/ or Governments.

The Rules therefore distinguish between tariffs designed to recover the building block costs of a distributor, and tariffs which are set to recover amounts that are ultimately passed through to other parties. In our view, this distinction is important. We consider it more appropriate for upstream transmission charges and transmission related costs to be recovered separately from distribution tariffs. Our arguments are similar to that made in our submission to the AEMC on the Rule change to allow recovery of feed in tariff payments⁵, including that:

- The charges a distributor incurs from other parties are outside of the control of the distributor, and therefore should not be subject to the incentives under a building block approach.
- There is less forecasting error in estimating charges on an annual basis, as opposed to forecasting charges for a period of five years. This reduces the probability of windfall gains and losses for the distributor and customers. Further, an over and under adjustment mechanism, will ensure that a distributor only recovers the exact charges that it incurs.
- Customers have greater transparency on the charges that they pay for upstream transmission charges and transmission related costs.

For these reasons, we consider that it is more appropriate for these charges to be recovered separately from the x-factors.

2.3 How to ensure administrative efficiency?

We note that administrative efficiency is maximised when there is ease and certainty around the pass through of upstream costs through to end users. To the extent that interpretations of the current Rules challenge this ease and certainty, we support a change to the Rule.

We also note that the proposed Rule change is consistent with existing practice in NSW and other jurisdictions, and therefore will not result in additional burden for the AER or distributors.

2.4 What saving and transitional requirements should apply?

EnergyAustralia considers that the AEMC should make consequential amendments to the transitional provisions in Chapter 11 of the Rules to ensure that all distributors receive the same level of certainty as to cost recovery. Accordingly, EnergyAustralia has proposed transitional provisions at Attachment 1 of our submission.

As a general point, we note that the AER has already made a distribution determination for EnergyAustralia. The validity of this determination (in so far as it already provides for the recovery of transmission related payments) has not been challenged. Similarly, no challenge has been made to the validity of the AER's

⁵ EnergyAustralia, Submission on ETSA proposed Rule for feed in tariff payments, 12 February 2010.

approval of the pricing proposal that is currently in effect for EnergyAustralia. We have proposed changes to transitional provisions that confirm, rather than conflict with, the arrangements for the pass through of transmission related payments in the AER's decision for NSW and ACT businesses. We note it is important that neither this rule change proposal, nor any rule change made by the AEMC, is seen as undermining the validity of these earlier decisions by the AER.

The objectives of the proposed transitional provisions are two fold.

- Firstly, to make it clear that the rules, as amended, will apply to the AER's next decision on a pricing proposal. This rule change has been proposed on the basis that it will align the rules for the recovery of transmission related payments with the AER's existing practice. It follows that these rule changes should take effect immediately, in order to confirm the validity of the AER's approach to this issue. The proposed transitional provision makes this clear.
- Secondly, to make it clear that nothing in the rule changes made by the AEMC should be taken as casting doubt on the validity of the AER's previous decisions with respect to EnergyAustralia's transmission related payments.

Attachment 1 – EnergyAustralia’s Proposed consequential amendments to Chapter 11 of the Rules

Proposed consequential Amendments to Appendix 1 of Chapter 11 of the Rules (Transitional Chapter 6 Rules)

6.18.2 Pricing proposals

- (a) A *Distribution Network Service Provider* must:
- (1) submit to the AER, as soon as practicable, and in any case within 15 *business days*, after *publication* of the distribution determination, a *pricing proposal* (the **initial pricing proposal**) for the first *regulatory year* of the *regulatory control period*; and
 - (2) submit to the AER, at least 2 months before the commencement of the second and each subsequent *regulatory year* of the *regulatory control period*, a further *pricing proposal* (an **annual pricing proposal**) for the relevant *regulatory year*.
- (b) A *pricing proposal* must:
- (1) set out the *tariff classes* that are to apply for the relevant *regulatory year*; and
 - (2) set out the proposed tariffs for each *tariff class*; and
 - (3) set out, for each proposed tariff, the *charging parameters* and the elements of service to which each *charging parameter* relates; and
 - (4) set out, for each *tariff class* related to *standard control services*, the expected weighted average revenue for the relevant *regulatory year* and also for the current *regulatory year*; and
 - (5) set out the nature of any variation or adjustment to the tariff that could occur during the course of the *regulatory year* and the basis on which it could occur; and
 - (5A) in the case of a NSW Distribution Network Service Provider – set out how Climate Change Fund payments are to be passed on to customers and any adjustments to tariffs resulting from over or under recovery of those amounts in any previous *regulatory year*; and
 - (6) set out how the following charges incurred by the *Distribution Network Service Provider* are to be passed on to customers and any adjustments to tariffs resulting from over or under recovery of those charges in the previous *regulatory year*, other than those charges that fall within modified clause 6.18.2(b)(6A) and (6B):
 - (i) charges for transmission services (including charges for transmission services passed on by other Distribution Network Service Providers);
 - (ii) charges for distribution services provided by other Distribution Network Service Providers; and
 - (iii) avoided Customer TUOS charges;
- (6A) ****

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- (7) demonstrate compliance with the *Rules* and any applicable distribution determination; and
 - (8) describe the nature and extent of change from the previous *regulatory year* and demonstrate that the changes comply with the *Rules* and any applicable distribution determination.
- (b1) In its first *pricing proposal* after 1 July 2010 the NSW Distribution Network Service Provider must detail how the provider proposes to carry out adjustments to Climate Change Fund payments for the purposes of clause 6.18.2(b)(5A) and report to the *AER* on the recovery process under clause 6.18.7B(a) to (c).
- (c) The *AER* must on receipt of a *pricing proposal* from a *Distribution Network Service Provider* publish the proposal.

6.18.7 Recovery of charges incurred by Distribution Network Service Providers

(a) A *pricing proposal* must provide for tariffs designed to pass on to customers the following charges to be incurred by the *Distribution Network Service Provider*, other than those charges that fall within modified clauses 6.18.7A(a) to (c):

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(1) charges for transmission services (including charges for transmission services passed on by other Distribution Network Service Providers);

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(2) charges for distribution services provided by other Distribution Network Service Providers; and

(3) avoided Customer TUOS charges.

(b) The amount to be passed on to customers for a particular *regulatory year* must not exceed the estimated amount of charges for the items listed in paragraph (a) for the relevant *regulatory year* adjusted for over or under recovery in the previous *regulatory year*.

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(c) The extent of the over or under recovery is the difference between:

(1) the amount actually paid by the *Distribution Network Service Provider* by way of charges for the items listed in paragraph (a) in the previous *regulatory year*; and

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(2) the amount passed on to customers by way of charges for the items listed in paragraph (a) by the *Distribution Network Service Provider* in the previous *regulatory year*.

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6.12.1 Constituent decisions

A distribution determination is predicated on the following decisions by the *AER* (**constituent decisions**):

(19) a decision on how the *Distribution Network Service Provider* is to report to the *AER* on its recovery of the charges listed below for each *regulatory year* of the *regulatory control period* and on the adjustments to be made to subsequent *pricing proposals* to account for over or under recovery of those charges:

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(i) charges for transmission services (including charges for transmission services passed on by other Distribution Network Service Providers);

(ii) charges for distribution services provided by other Distribution Network Service Providers; and

(iii) avoided Customer TUOS charges;

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6.18.6 Side constraints on tariffs for standard control services

- (a) This clause applies only to *tariff classes* related to the provision of *standard control services*.
- (b) The expected weighted average revenue to be raised from a *tariff class* for a particular *regulatory year* of a *regulatory control period* must not exceed the corresponding expected weighted average revenue for the preceding *regulatory year* by more than the permissible percentage.
- (c) The permissible percentage is the greater of the following:
- (1) the CPI-X limitation on any increase in the *Distribution Network Service Provider's* expected weighted average revenue between the two *regulatory years* plus 2%;
Note:
The calculation is of the form $(1 + \text{CPI})(1 - X)(1 + 2\%)$
 - (2) CPI plus 2%.
Note:
The calculation is of the form $(1 + \text{CPI})(1 + 2\%)$
- (d) In deciding whether the permissible percentage has been exceeded in a particular *regulatory year*, the following are to be disregarded:
- (1) the recovery of revenue to accommodate a variation to the distribution determination under rule 6.6 or 6.13;
 - (2) the recovery of revenue to accommodate pass through of the following charges:
 - (i) charges for transmission services (including charges for transmission services passed on by other Distribution Network Service Providers);
 - (ii) charges for distribution services provided by other Distribution Network Service Providers; and
 - (iii) avoided Customer TUOS charges;
 - (3) ****
 - (3A) the recovery of revenue to accommodate pass through of Climate Change Fund payments.
- (e) This clause does not, however, limit the extent a tariff for customers with remotely-read interval metering or other similar metering technology may vary according to the time or other circumstances of the customer's usage.

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Proposed consequential amendments to Chapter 11 of the Rules

11.36 Definitions

For the purposes of this rule 11.36:

Amending Rule means *[insert title of amending rule]*.

commencement date means the date of commencement of the Amending Rule.

11.36.1 Application of the Amending Rule

Transitional Chapter 6, as amended by the Amending Rule, applies to any decision, amendment or requirement made or imposed by the AER under clause 6.18.8 on or after the commencement date.

11.36.2 Validity of distribution determinations and pricing proposals

Nothing in the Amending Rule affects the validity of:

- (a) a distribution determination made prior to the commencement date; or
- (b) a pricing proposal approved by the AER prior to the commencement date.

Attachment 2

EnergyAustralia's proposed drafting changes to United Energy's proposed amendments for General Chapter of the Rules

EnergyAustralia proposes the following alternative drafting for United Energy's proposed amendments to clause 6.18.2(b)(6), 6.18.7(a), 6.12.1(19) and 6.18.6.

6.18.2 Pricing proposals

(b) A pricing proposal must:

(6) set out how the following charges incurred by the *Distribution Network Service Provider* are to be passed on to customers and any adjustments to tariffs resulting from over or under recovery of those charges in the previous *regulatory year*, other than those charges that fall within modified clause 6.18.2(b)(6A) and (6B):

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(i) charges for transmission services (including charges for transmission services passed on by other *Distribution Network Service Providers*);

(ii) charges for distribution services provided by other *Distribution Network Service Providers*; and

(iii) avoided Customer TUOS charges;

6.18.7 Recovery of charges incurred by Distribution Network Service Providers

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(a) A pricing proposal must provide for tariffs designed to pass on to customers the following charges to be incurred by the *Distribution Network Service Provider*, other than those charges that fall within modified clauses 6.18.7A(a) to (c):

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(1) charges for transmission services (including charges for transmission services passed on by other *Distribution Network Service Providers*);

(2) charges for distribution services provided by other *Distribution Network Service Providers*; and

(3) avoided Customer TUOS charges.

6.12.1 Constituent decisions

A distribution determination is predicated on the following decisions by the AER (**constituent decisions**):

(19) a decision on how the *Distribution Network Service Provider* is to report to the AER on its recovery of the charges listed below for each *regulatory year* of the *regulatory control period* and on the adjustments to be made to subsequent *pricing proposals* to account for over or under recovery of those charges:

Deleted: Transmission Use of System

Deleted: ;

(i) charges for transmission services (including charges for transmission services passed on by other *Distribution Network Service Providers*);

- (ii) charges for *distribution services* provided by other *Distribution Network Service Providers*; and
- (iii) *avoided Customer TUOS charges*;

6.18.6 Side constraints on tariffs for standard control services

- (d) In deciding whether the permissible percentage has been exceeded in a particular *regulatory year*, the following are to be disregarded:
 - (1) the recovery of revenue to accommodate a variation to the distribution determination under rule 6.6 or 6.13;
 - (2) the recovery of revenue to accommodate pass through of **the following** charges:
 - (i) charges for *transmission services* (including charges for *transmission services* passed on by other *Distribution Network Service Providers*);
 - (ii) charges for *distribution services* provided by other *Distribution Network Service Providers*; and
 - (iii) *avoided Customer TUOS charges*;

Deleted: for *transmission use of system services* to customers.