Consolidated list of questions from Directions paper on Network Regulation Rule Change

Chapter 2: Assessment Framework

Question 1	Is the Commission's assessment approach, as set out in Chapter 2 and Appendix B, appropriate? Are there other factors that should be taken into account in assessing the rule change requests?

Chapter 3: Capex and opex allowances

Question 2	The Commission seeks further evidence on the drivers for increases in network costs, and in particular on the link between capex and opex allowances under the NER and such increases in network costs.
Question 3	Would it be appropriate for the wording of the NER to be clarified to better reflect the policy intent?
Question 4	What circumstances of the NSP should the AER be required to take into account when benchmarking?
Question 5	Would it be appropriate for the capex objectives to be clarified to better reflect jurisdictional reliability standards?
Question 6	What factors or features of the approaches of other regulators should be taken into account when reviewing other regimes to confirm the best practice approach to economic regulation?

Chapter 4: Capex incentives (and related issues)

Question 7	In what circumstances would an NSP need to spend more than its allowance under the NER?
Question 8	What is the best option for dealing with the capex incentive issues identified in this paper?
Question 9	How does using actual or forecast depreciation to determine the RAB affect a NSP's behaviour?
Question 10	The Commission notes the comments by the ERAA on the need for a rigorous approach to assessing capex reopeners and contingent projects. The Commission seeks submissions from retailers on any other options for minimising the impact of capex reopeners and contingent projects on retailers.
Question 11	More extensive use of the uncertainty regime means regulatory arrangements more closely resemble commercial contracts. Is this appropriate?
Question 12	To what extent would stronger capex incentives, through an EBSS for example, deal with incentives for a NSP to inefficiently change its capitalisation policy during a regulatory control period?
Question 13	How, and to what extent, does the incentive for a NSP to overspend or underspend vary depending on whether it uses a related party or not having regard to the other incentives for efficient capex, including the scope for the AER to determine efficient capex at the regulatory determination?
Question 14	To what degree would a parent company of a NSP be better off if related party margins, that are higher than those allowed for by the AER in the regulatory determination, are due to genuine higher costs?
Question 15	Should the AER be given the power to develop and implement pilot or test incentive schemes within a controlled environment?
Question 16	What limits should be placed on the extent of these schemes?
Question 17	Should the concept of compensation for consumers for use of shared assets be applied to transmission, as well as distribution?

Question 18	Stakeholders have suggested use of assets for alternative control services should be excluded from the uses for which consumers should receive compensation. Are there any other examples of such uses?
Question 19	What are the appropriate guiding principles allocating compensation arising from sharing assets between regulated and unregulated services?

Chapter 5: Rate of return frameworks

Question 20	Are some WACC parameter values more stable than others, and sufficiently stable to be fixed with a high degree of confidence for a number of years into the future? Would it be practical for periodic WACC reviews to cover only some parameters that are considered relatively stable in value, and require others to be determined at the time of each regulatory determination?
Question 21	Would it be useful if the AER periodically published guidelines on its proposed methodologies on certain WACC parameters as opposed undertaking periodic WACC reviews that locks in parameter values for future revenue/pricing determinations?
Question 22	Given the uncertainty in estimating certain parameters, should the AER be required to produce the best possible values for all parameters or adopt a range from which it can choose a preferred estimate? Which WACC parameters are inter-related and should the rules recognise the inter-relationships of these WACC parameters?
Question 23	How do the outcomes with the persuasive evidence test applying at the time of the regulatory determinations in Chapter 6 of the NER differ from the NGR rate of return framework? Does the persuasive evidence test make it less likely that values of WACC parameters will be updated as quickly as under the NGR framework, or vice versa?
Question 24	How has the rate of return framework under the NGR worked alongside the NER frameworks?
Question 25	Are there any concerns about the lack of guidance in the NGR on how the AER and ERA will approach the rate of return decision? To what extent is the rate of return framework under the NGR influenced by the WACC approach adopted for the electricity sector by these regulators?
Question 26	Are there reasons to adopt a WACC definition other than the vanilla post-tax nominal definition that is used under the NER? Alternative proposals should explain why that alternative is likely to result in a better WACC estimate.
Question 27	Should the AER/ERA be given discretion to consider models other than the CAPM when estimating the required return on equity under the NGR? What prescription or principles could the rules contain to guide the way in which information from other models might be used to produce a better WACC estimate?
Question 28	Are there any reasons why an appropriate WACC estimate cannot be provided to NSPs and gas service providers from a common WACC framework, without necessarily requiring the same parameter values to be adopted across the electricity transmission, electricity distribution and gas sectors?
Question 29	Which rate of return framework would best meet the key attributes identified? Are there any other attributes that should be considered?

Chapter 6: Cost of debt

Question 30	Is the benchmark DRP approach likely to overstate the prevailing cost of debt, having regard to the suggestion that the overstatement may be a reflection of shorter maturity debt leading to a higher refinancing risk for NSPs? What weight should be placed on the views of market analysts on the ability of stock market listed NSPs to out-perform their cost of debt allowances?
Question 31	What are the pros and cons of the recent approaches taken by IPART and the ERA in estimating the DRP?
Question 32	What evidence is there that the DRP benchmark in the NER may have changed? Would it be appropriate for the regulator to specify the DRP benchmark in any periodic reviews or would it be more appropriate to specify it at the time of the determinations?
Question 33	Is the EURCC's proposal of establishing the cost of debt using historical trailing average compatible with the overall framework for estimating a forward-looking rate of return? What are the potential benefits of using a trailing average and do they outweigh the potential costs if the estimate is less reflective of the prevailing cost of debt for NSPs?
Question 34	What possible changes would be required in the NER to implement the EURCC's trailing average approach?

Chapter 7: Regulatory determination process

Question 35	What factors or principles would promote an effective regulatory determination process?
Question 36	Which option(s) would be the best way of addressing problems with the regulatory determination process?
Question 37	Are there any other options that could address the issue of providing adequate time for consultation and assessment during the regulatory determination process?
Question 38	Should the AER be given more time to consider confidentiality claims in initial and revised regulatory proposals?
Question 39	Should the NER be clarified to reflect the NEL and/or common law position with respect to the AER's ability to give weight to confidentiality claims in initial and revised regulatory proposals?
Question 40	Alternatively, are there any other additional ways to address confidentiality claims in initial and revised regulatory proposals that are not currently available under the NER?
Question 41	Should the framework and approach paper be a discretionary stage in the distribution regulatory determination process? If so, what is the appropriate approach to triggering it? Should stakeholders other than NSPs have the ability to trigger a framework and approach paper, and in what circumstances?
Question 42	Is it appropriate if a service classification or control mechanism can only be amended at the time of an AER final regulatory determination for circumstances that were not reasonably foreseeable at the time of the framework and approach paper?
Question 43	Is there likely to be sufficient time for a NSP to accommodate an adjustment to a control mechanism in an AER draft regulatory determination?
Question 44	Should the material error list under Chapter 6A be amended to reflect the current prescribed list under Chapter 6 of the NER?

Question 45	Has the AER been constrained by the wording of Chapter 6 of the NER in its approach to revoking and substituting regulatory determinations as a result of material errors or deficiencies?
Question 46	What should be the approach for addressing complex cost pass through, capex reopener or contingent applications? Is the "stop the clock" mechanism appropriate for each type of application?