



23 June 2020

Mr M Shannon
Senior Adviser
Australian Energy Market Commission (AEMC)
GPO Box 2603
Sydney NSW 2000

Email: mitchell.shannon@aemc.gov.au

Dear Mr Shannon

ERC0302 – Response to Consultation Paper on the proposed deferral of network charges

We refer to the Consultation Paper issued by the AEMC concerning the rule change proposed by the Australian Energy Regulator (AER) to defer the payment of network charges by retailers (**Proposed Rule Change**) and to our subsequent discussions concerning the 'urgent rule' change issues.

During those discussions we expressed our concern about the lack of information, evidence and justification (other than high level anecdotal observations) that was contained in the Proposed Rule Change. This lack of information, evidence and justification is even more troubling given that the Proposed Rule Change is being considered under the urgent rule change process.

As the AEMC is aware, that process does not provide stakeholders with an opportunity to:

- critically examine the information, evidence and justification provided by other stakeholders;
- confirm that such information and evidence is correct; or
- make submissions concerning the submitted information, evidence and justifications.

This is particularly concerning in this case because:

- the Proposed Rule Change did not include the level of information and evidence that would normally be included within a rule change request to justify the need for the rule change, explain the likely impacts upon stakeholders and consumers and establish that the rule change will, or is likely to, contribute to the achievement of the National Electricity Objective (NEO); and
- most of the information that has been requested by the AEMC can only be provided by retailers, and the stakeholders who will be most impacted by the rule change will be denied the right to comment on and/or refute that information.

We encourage the AEMC to consult with electricity network businesses and consumers following the closing of submissions, particularly in relation to the complex issues that are addressed in the Consultation Paper for which the AER did not provide any drafting. This will ensure that stakeholders are provided with adequate opportunity to discuss those issues and the AEMC is able to take into account stakeholder views on those issues in making the final rule.

This letter, and Attachment 1 to this letter, set out our detailed submissions in relation to the Proposed Rule Change. As requested by the AEMC, we have responded to the AEMC's questions using the AEMC's template.

We would also like to note that SA Power Networks has reviewed the detailed submissions made by Energy Networks Australia in relation to the Proposed Rule Change and generally endorses those submissions.

We have lodged this submission as early as possible in order to give the AEMC more time to consider the issues we have raised. Once the AEMC has had time to consider our submission, we would appreciate being given the opportunity to discuss our submission further with the AEMC.

1. Assessment of Proposed Rule Change

Under section 88(1) of the National Electricity Law (**NEL**), the AEMC may only make a rule if it is satisfied that the rule will, or is likely to, contribute to the achievement of the NEO, i.e. to promote efficient investment in, and efficient operation and use of, electricity services for the long-term interests of consumers of electricity with respect to:

- (a) price, quality, safety, reliability and security of supply of electricity; and
- (b) the reliability, safety and security of the national electricity system.

SA Power Networks is of the view that the Proposed Rule Change should be rejected as there is no evidence that it will promote efficient investment in, and efficient operation and use of, electricity services for the long-term interests of consumers of electricity.

2. Not in the long-term interests of consumers

The Proposed Rule Change reflects poor policy and is not in the long-term interests of consumers of electricity.

The Proposed Rule Change effectively requires electricity network businesses to underwrite, and potentially preserve, unregulated and financially stressed (if this is in fact the case) retailers. The AER states in its request that 'the direct beneficiaries of the proposed rule change are retailers that would effectively obtain a short term loan from electricity network businesses by deferring payment of network charges for eligible customers for 6 months'.¹

Competition is not deterred by business failures due to inadequate capitalisation of failed companies. There are no systemic barriers to future entry by efficient retailers. Exit is a feature of all competitive markets.

There is also no guarantee that financially stressed retailers (if there is in fact any) will not exit the market after the proposed six month payment deferral period, which would leave electricity consumers to bear the costs of the Proposed Rule Change for no reason.

Further, the AER appears to suggest that maintaining viability of all retailers by shifting cash flow impacts to electricity networks promotes the long-term interests of consumers. However, shifting this risk may ultimately result in electricity consumers paying more, which is clearly not in their long-term interest.

¹ AER, *Rule Change Proposal: Extension of time for retailers to pay network charges for eligible customers*, May 2020, AER, page 3.

3. Lack of evidence and analysis

There is no empirical evidence of the asserted need for the Proposed Rule Change, and no analysis that the Proposed Rule Change will adequately address that asserted need.

In addition, there has been no analysis of whether the existing Retailer of Last Resort (**RoLR**) scheme is inadequate to address the asserted need.

Further the AER has itself recognised in a recent decision that, under present circumstances, there is a high risk that forecasts of the COVID-19 impacts will be incorrect, especially given the dynamic nature of the issue.² This could result in consumers paying more than they need to, or a reduction in the necessary incentives for retail competition and customer participation.³

4. Impact on electricity networks

SA Power Networks agrees that electricity networks need to do their part to support customers during these unprecedented times of COVID-19. That is why we have been doing just that through voluntary initiatives such as the *COVID-19 electricity and gas network relief package (Voluntary Package)* which took effect from 1 April 2020 and complements other initiatives across the electricity and gas sectors. These significant voluntary measures are in addition to the material reduction in SA Power Networks' network charges that will take effect from 1 July 2020 under our final distribution determination for the 2020-25 regulatory control period.

However, the Proposed Rule Change does not consider, nor take into account, the impact it would have on, and the financial consequences for, electricity networks.

That impact will be on top of:

- (a) the impacts already being felt by electricity network businesses from recent, and impending, revenue cuts;
- (b) COVID-19 impacts on electricity network businesses (particularly in relation to financing costs) that the AER has not addressed in its distribution determinations for the 2020-25 regulatory control period; and
- (c) the financial consequences for electricity networks of the Voluntary Package in relation to effects of COVID-19.

The Proposed Rule Change will have significant cash flow impacts on electricity networks and longer-term adverse cost consequences. We currently bill retailers approximately \$100 million of network charges (transmission and distribution charges) each month. If we assume a nominal 10% of our network charges are deferred as a result of the Proposed Rule Change for six months, the cash flow impact for SA Power Networks would be around \$60 million⁴. The additional funding cost to SA Power Networks for this amount of deferral over a six-month period would be circa \$1.5 million, assuming funding costs of approximately 5% per annum⁵.

² See AER, *Default Market Offer Prices 2020-21 – Final Determination*, 30 April 2020, page 21.

³ Ibid.

⁴ 10% x \$100 million x 6 months = \$60 million

⁵ 5% per annum x 0.5 years x \$60 million = \$1.5 million



If the deferral period is extended a further six months, SA Power Networks would potentially incur an additional financing cost of \$1.5 million, that is a total of \$3 million additional cost over 12 months. While this amount is significant, it would still be well below the cost pass through materiality threshold of 1% of the annual revenue requirement (**ARR**) and would therefore be another cost impost to be absorbed by the business if the Proposed Rule Change does not include a new mechanism for electricity networks to recover these additional costs. This is discussed further in section 8 below.

5. Extensive support already available to consumers and retailers

The Proposed Rule Change does not take into account the extensive measures and support that have already been made available to consumers and retailers as a result of COVID-19.

These include the Voluntary Package put in place by electricity networks, as well as the numerous Government actions and support payments that may be available (e.g. JobKeeper payments, wage subsidies for apprentices and trainees, Coronavirus SME Guarantee Scheme, small business grants, tenancy relief, various waivers of licences and fees, and various Australian Taxation Office and State based tax relief and deferrals, to name just a few).

The AER itself has recognised in a recent decision that these measures and support should have a direct impact on potential cost increases related to bad debt and other costs for managing financially vulnerable customers.⁶

If the proposed deferral mechanism is implemented, it should only operate as a last resort to maintain a retailer's financial viability and should only apply to the extent that a retailer requires assistance above and beyond the extensive measures and support that are, and become, available.

6. Adequacy of Retailer of Last Resort scheme

The current regulatory framework is based on retailers bearing the risk of customer default and non-payment. From a whole of market perspective, these risks are mitigated by the RoLR scheme.

As mentioned above, there is no evidence that the RoLR scheme is not adequate to deal with the impact of COVID-19 in the long-term interests of consumers.

7. Sharing of cash flow impact

Electricity networks are already voluntarily sharing the cash flow impacts associated with COVID-19 through the Voluntary Package. We note that retailers are also doing this through existing regulatory obligations relating to hardship customers and voluntary arrangements.

If the AEMC forms the view that there is a further need for the cash flow impact of COVID-19 to be shared with electricity network businesses, then other parts of the supply chain should also be considered. By way of example:

- (a) No consideration has been given by the AER to the cash flow impact that should be shared by deferring payments to other parties in the electricity supply chain.
- (b) Although the materials accompanying the Proposed Rule Change indicate that transmission network businesses should share in the cash flow impact, the wording of the Proposed Rule Change does not reflect this.

⁶ Ibid, page 22.



8. Cost recovery by electricity networks

The AER has indicated that it 'will consider' the impacts on electricity networks as a separate rule change. This is unacceptable.

If this Proposed Rule Change is to proceed, the impacts on electricity networks must be considered and appropriately dealt with as part of one comprehensive and holistic rule change to ensure that the final rule will, or is likely to, better contribute to the achievement of the NEO. Assuming customers ultimately bear the cost of the rule change, it is critical that the long-term impacts on them are properly considered and made transparent in any decision.

The NEL provides that electricity network businesses should be provided with a reasonable opportunity to recover at least the efficient costs they incur in providing direct control network services and complying with regulatory obligations or requirements or making regulatory payments,⁷ so electricity network businesses should be provided with the opportunity to recover the costs associated with the Proposed Rule Change.

The AER has touched on some mechanisms which it considers might be used to ensure that electricity network businesses are able to recover the costs associated with the Proposed Rule Change. In addition, the AEMC has suggested that the annual pricing proposal process may allow electricity network businesses to recover any deferred revenue in the following regulatory year.

Our initial views on each of these mechanisms are as follows:

Cost pass through

As highlighted by the AER, the cost pass through mechanism in clause 6.6.1 of the National Electricity Rules (**NER**) is one mechanism that could be applied to allow electricity network businesses to recover the costs associated with the Proposed Rule Change. However, this mechanism is not appropriate because, in the words of the AER, 'the threshold may not be exceeded unless the impact on retailers is sustained and severe' (emphasis added).

A pass through event will result in an electricity network business incurring 'materially' higher costs if the change in costs (as opposed to the revenue impact) that the electricity network has incurred and is likely to incur in any regulatory year of a regulatory control period, as a result of that event, exceeds 1% of the annual revenue requirement for the electricity network business for that regulatory year.

Taking SA Power Networks' 2020/21 regulatory year as an example, the annual revenue requirement for SA Power Networks for that regulatory year, as per SA Power Networks' final distribution determination, is \$776m (\$nominal, smoothed) and 1% of that amount is \$7.8m.

As noted in section 4 above, the additional financing costs incurred by SA Power Networks to fund a deferral of our network charges would likely be under this amount.

Charging interest to retailers

Another mechanism suggested by the AER is for electricity network businesses to charge interest to retailers at the default interest rate, or a rate determined as part of the rule change that would be beneficial only to those retailers with higher financing costs.

The wording of the Proposed Rule Change does not reflect this position as it only requires retailers to pay interest at the default rate on any amount due to a distributor that remains unpaid after the due

⁷ NEL, s 7A.



date for payment (i.e. six months from the date of issue of a statement of charges), until the date on which that amount is paid in full.⁸ The default rate is the bank bill rate plus two percentage points per annum.⁹

SA Power Networks supports electricity network businesses charging retailers interest but if this mechanism is to be applied, further changes would need to be made to the NER to allow distributors to recover the full financing costs incurred by electricity network businesses resulting from the deferral of network charges.

The AEMC suggested in the Consultation Paper that the weighted average cost of capital (**WACC**) may be an appropriate level at which to set the interest rate, given that 'the WACC is intended to take into account the efficient financing costs of a benchmark efficient entity with a similar degree of risk as that which applies to an NSP providing the services covered by the NER'.¹⁰

SA Power Networks is not opposed to setting the interest rate at a level consistent with the applicable WACC.

Reopening determinations materially affected by COVID-19

The AER has also referred to its intention to propose another rule change 'providing for regulatory determinations materially affected by the pandemic to be reviewed, and where appropriate, amended'. We have been advised by AER staff that the AER is no longer proposing this change.

Annual pricing proposals

The AEMC has suggested that the annual pricing proposal process may allow electricity networks to recover any deferred revenue in the following regulatory year.

In accordance with Accounting Standard *AASB 15*, revenue is recognised in the period that the good or service was provided (billed), regardless of when or if the cash is received. The same methodology is required to be applied to electricity network businesses' Regulatory Information Notices, and in the revenue reported in annual pricing proposals through the unders and overs mechanism.

This means that the annual pricing proposal process will not allow electricity networks to recover any additional financing costs arising from the deferral of network charges.

9. Scope of Proposed Rule Change

SA Power Networks is of the view that, should the Proposed Rule Change proceed, it must be significantly reduced in scope and materiality to ensure that it is more proportionate and targeted to promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity. We elaborate on this in the Stakeholder Feedback template in Attachment 1.

The network charge deferral mechanism, the subject of the Proposed Rule Change, should be implemented such that it is a last resort for electricity retailers that are materially affected by COVID-19. We would expect that the AER carefully monitor the uptake of the deferral of network charges to mitigate the risk of abuse.

⁸ NER, cl 6B.A3.4.

⁹ The term 'bank bill rate' is defined in Chapter 10 of the NER as, on any day, the rate determined by AEMO (having regard to such market indicators as AEMO in its discretion selects) to be the market rate as at 10:00am on that day (or if not a business day, on the previous business day) for Australian dollar denominated bank accepted bills of exchange having a tenor of 30 days.

¹⁰ AEMC, Consultation Paper, page 19.



As noted above, we would be pleased to engage further with the AEMC on any aspect raised in our submission or any other matter relevant to the Proposed Rule Change. Please contact Richard Sibly, Head of Regulation on ((08) 8404 5613 / Richard.Sibly@sapowernetworks.com.au) for further discussion of this submission.

Yours sincerely



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ATTACHMENT 1

STAKEHOLDER FEEDBACK TEMPLATE

The template below has been developed to enable stakeholders to provide their feedback on the questions posed in this paper and any other issues that they would like to provide feedback on. The AEMC encourages stakeholders to use this template to assist it to consider the views expressed by stakeholders on each issue. Stakeholders should not feel obliged to answer each question, but rather address those issues of particular interest or concern. Further context for the questions can be found in the consultation paper. Stakeholders are also encouraged to provide evidence to support claims where possible.

SUBMITTER DETAILS

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CHAPTER 4 – SECTION 4.1 – THE PROBLEM - IMPACT OF COVID-19 ON THE RETAIL ELECTRICITY MARKET

Question 1 – Impact of COVID-19 on retailers

a) What is the expected impact of COVID-19 on retailers' cash flows? How material is this impact? How long are these cash flow impacts expected to last?	This information will need to be provided by retailers. We encourage the AEMC to consult with electricity networks and consumers following the closing of submissions, particularly in relation to this information. This will ensure that SA Power Networks and other stakeholders are provided with an adequate opportunity to assess and test the information and provide feedback concerning the information. The AEMC will then be able to take into account stakeholder views on those issues in making the final rule.
b) In the absence of the proposed rule change, what options are available to retailers to manage the cash flow impacts of COVID-19? Are existing support schemes that have been announced, including the Network Relief Package, sufficient to assist retailers to manage these impacts? If not, what are the areas where further assistance is needed?	Refer to question 1a).
c) What are the expected impacts of the proposed rule change on any cash flow issues currently being experienced by retailers as a result of COVID-19?	Refer to question 1a).

CHAPTER 4 – SECTION 4.2.1 – ELIGIBILITY TO DEFER PAYMENT OF NETWORK CHARGES

Question 2 – Retailer eligibility

a) Is it appropriate and/or necessary to expressly exclude certain classes of retailer from deferring the payment of network charges under the proposed rule change? If so, please provide reasoning to support your position.	<p>Yes.</p> <p>The Proposed Rule Change treats all retailers the same and could therefore result in large retailers that are not under financial stress being able to defer payments when deferral is not warranted.</p> <p>This lack of distinction between categories of retailer illustrates that the Proposed Rule Change is not well considered.</p> <p>If the Proposed Rule Change proceeds, SA Power Networks proposes that a combination of the approaches set out by the AEMC on pages 11 and 12 of its Consultation Paper be applied to determine how access to the deferral mechanism may be determined. This would ensure that only those retailers facing <u>material and imminent financial risk</u> receive the cash flow benefits of the deferral of payment of network charges.</p> <p>That is, that the following criteria be applied:</p> <ul style="list-style-type: none">a) the exclusion of certain classes of retailer (large retailers, government owned retailers, designated Retailers of Last Resort and other retailers with an investment grade credit rating or related to any member of a corporate group that has an investment grade credit rating);b) the establishment by a retailer that it was financially sound prior to COVID-19 and is facing significant liquidity problems <u>as a result of COVID-19</u> in order for that retailer to access the deferral mechanism; andc) the imposition of appropriate incentives on retailers, including allowing electricity network businesses to charge interest on deferred payments. <p>Regarding liquidity, SA Power Networks supports the New Zealand approach that requires a retailer to show that its overdue receivables have increased by at least 25% relative to the same month last year, or March 2020 in the case of new or growing retailers.</p> <p>SA Power Networks submits that it is both appropriate <u>and</u> necessary to expressly exclude certain classes of retailer from the proposed deferral mechanism, to ensure that only those retailers that have a 'demonstrable need' for the support are eligible. This is because, in the AEMC's own words, if this approach is not taken, 'the AER's proposal could result in financially stable retailers receiving a cash flow benefit in the form of deferred network charges despite not facing any imminent</p>
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	<p>financial risk. It may also substantially increase the materiality of the cash-flow burden that DNSPs are required to take on'.¹¹ Without that exclusion, the deferral of network charges by those excluded retailers would operate to more rapidly exhaust an electricity network businesses' capacity to support the deferral of network charges mechanism.</p> <p>Those excluded retailers should include large retailers, government owned retailers, designated Retailers of Last Resort and retailers with an investment grade credit rating or related to any member of a corporate group that has an investment grade credit rating.¹²The large retailers should be listed in the National Electricity Rules (NER), rather than being determined by a test that determines if a retailer is large, in order to adopt an approach that is consistent with the Voluntary Package. Those excluded retailers should have sufficient financial supports and alternative sources of liquidity to manage that risk (e.g. through other facilities or the support of shareholders, or other government support mechanisms such as JobKeeper) and should, as noted by the AEMC, have the 'capacity to absorb and manage the financial impacts of COVID-19 without resorting to this mechanism'¹³. The exclusion of large retailers and designated Retailers of Last Resort would also be consistent with the Voluntary Package.</p> <p>The exclusion of retailers with an investment grade credit rating or those related to any member of a corporate group that has an investment grade credit rating is generally reflective of the approach adopted by the Electricity Authority in New Zealand and supported by The Office of Gas and Electricity Markets (Ofgem) in Great Britain.</p>
d) If the onus is placed on retailers to show they have a legitimate financial need to access the proposed deferral mechanism, what eligibility criteria should apply?	<p>We have set out the eligibility criteria in our answer to Question a) above. That criterion requires a retailer to establish that it is facing significant liquidity problems as a result of COVID-19 in order for that retailer to access the deferral mechanism.</p> <p>SA Power Networks supports the approach adopted by the New Zealand Electricity Authority in its urgent amendments to the Electricity Industry Participation Code 2010, which is summarised by the AEMC on page 13 of its Consultation Paper. That approach requires a retailer to establish that it was financially sound prior to COVID-19, is likely to face significant liquidity problems as a result of COVID-19, and will more than likely be unable to pay its due debts within 12 months.</p> <p>A certified accountant is required to certify (in a report to be provided to the Electricity Authority in New Zealand) that the retailer has met those criteria in order for the retailer to benefit from the deferral of network charges. The same approach should be applied to the Proposed Rule Change to ensure that the retailer is required to establish that it has a legitimate financial need to access the proposed deferral mechanism, and so the verification process can be administered efficiently by the AER.</p> <p>In addition, a retailer should also be required to certify that it will not pay dividends or executive bonuses until all of the deferred network charges (including interest on those charges, if the charging of interest approach is adopted) have been</p>

¹¹ AEMC, Consultation Paper, page 11.

¹² For SA Power Networks, large retailers are AGL Energy, Origin Energy, EnergyAustralia, Simply Energy, Alinta Energy, ZEN Energy and Lumo Energy.

¹³ AEMC, Consultation Paper, page 11.

	<p>paid to the network. This will ensure that the mechanism is only used by retailers as a last resort and is reflective of the expectations of Ofgem in relation to an equivalent scheme operating to benefit retailers in Great Britain.¹⁴</p>
e) What would be an appropriate and efficient process for the verification of information provided by retailers under the approach described in (b) above?	<p>See our answer to Question 2d) above. We expect that certified accountants would be able to certify a retailer's satisfaction of the criteria and that the AER will verify those certifications.</p> <p>Those certified accountants should be required to undertake regular follow-up assessments of a retailer's position every 3 months during the deferral period. If an accountant finds that a retailer's financial position has improved, for any reason, then that retailer should no longer benefit from the deferral mechanism. This confirmation process will again help to ensure that only those retailers continuing to face material and imminent financial risk are benefitting from the mechanism.</p>
f) Do stakeholders have views on how the deferral mechanism could be designed to incentivise only those retailers that legitimately require immediate financial support due to COVID-19 to access this mechanism (including allowing DNSPs to charge interest on deferred payments)?	<p>This question relates to the third criterion set out in paragraph (c) of our answer to Question a) above.</p> <p>SA Power Networks supports the imposition of further appropriate incentives on retailers, to ensure that the deferral of network payments is only undertaken where it is critical to do so to protect a retailer's financial stability.</p> <p>This includes the charging of interest at a rate which provides for electricity network businesses to recover all their efficient costs. This criterion is required in addition to the other two criteria set out above (instead of as an alternative, as contemplated by the AEMC),¹⁵ to ensure that retailers with low credit ratings who are not materially impacted by COVID-19 do not benefit from the deferral mechanism solely because the interest rate is lower than the interest rate for financing otherwise payable by that retailer. We are not opposed to setting the interest rate at a level consistent with the applicable WACC.</p> <p>We note, however, that if this mechanism is to be applied, further changes would need to be made to the NER to allow distributors to recover interest on network charges not paid during the deferral period.</p> <p>In addition, SA Power Networks would support the approach in New Zealand that requires retailers to pay some of the costs of any application to the mechanism. In the words of the Electricity Authority, which apply equally to the mechanism the subject of the Proposed Rule Change, 'This is not a 'free hit' for retailers, which should deter frivolous applications'.¹⁶</p>
g) Do stakeholders have views on whether any of the approaches outlined above (or a combination of each) would be preferable?	<p>As reflected in our answer to Question 2a) above, SA Power Networks proposes that a combination of the approaches set out by the AEMC on pages 11 and 12 of its Consultation Paper be applied to determine how access to the deferral mechanism may be determined. This would ensure that only those retailers facing material and imminent financial risk receive the cash flow benefits of the deferral of payment of network charges.</p>

¹⁴ See: <https://www.ofgem.gov.uk/publications-and-updates/managing-impact-covid-19-energy-market-relaxing-network-charge-payment-terms>.

¹⁵ AEMC, above n 16, page 13.

¹⁶ Letter from Electricity Authority of New Zealand to all distributors dated 14 May 2020 and available at: <https://www.ea.govt.nz/about-us/media-and-publications/covid-19/response-to-potential-increased-retailer-debt/>.

Question 3 – Customer eligibility

<p>a) Do stakeholders have views on the types of customers that should be captured by the proposed deferral mechanism and how these customers can be clearly defined in the NER? Is it appropriate and/or necessary for this mechanism to include large commercial and industrial customers?</p>	<p>The Proposed Rule Change should be limited to customers that are materially impacted by COVID-19 as is the case with other forms of relief and support provided by Governments (e.g. JobKeeper, commercial leasing relief, etc).</p> <p>The wording of the Proposed Rule Change does not reflect this position, i.e. it applies in respect of any customer that enters into any deferred payment arrangement for any reason, and is not linked to COVID-19. To have such a broad effect is unjustifiable on any basis.</p> <p>Therefore, SA Power Networks submits that the Proposed Rule Change should be limited to the deferral of network charges by retailers in relation to customers that enter into one or more of the following arrangements between 1 March and 31 December 2020:</p> <ul style="list-style-type: none">a) a payment plan or instalment arrangement;b) any arrangement as a hardship customer; orc) a deferred debt arrangement, <p>provided that the customer has been able to demonstrate that they are materially impacted by COVID-19, and that the customer is not a large customer.</p> <p>The current regulatory regime under the NER and NEL places the risk of customer default and non-payment, and therefore the cash flow risk associated with the payment of electricity charges by customers, on retailers. It is simply not reasonable to propose to shift that cash flow risk to electricity networks where default and non-payment is not due to the impacts of COVID-19 and electricity networks have no mechanism for assessing and managing these risks.</p>
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CHAPTER 4 – SECTION 4.2.2 – DEFERRAL TIMEFRAME AND TERMS**Question 4 – Length of deferral period**

a) Is a six-month deferral of the payment of network charges an appropriate timeframe, having regard to the potential cash flow impacts of COVID-19 on the retail electricity market in the second half of 2020? Alternatively, would a shorter deferral timeframe be sufficient to allow retailers to overcome the financial pressures posed by the current environment?	<p>The Proposed Rule Change seeks to defer payment of network charges from the existing period of 10 days to 6 months.</p> <p>A deferral period of 6 months is too long, particularly when compared to similar changes implemented for the deferral of payment of network charges in New Zealand that allow a period of deferral of 60 days.</p> <p>SA Power Networks is of the view that deferring network payments by a period of 90 days would be more considered and reasonable.</p> <p>The wording of the Proposed Rule Change reflects that the deferral period of 6 months is <u>absolute</u>, yet retailers may well receive payments under a payment plan during that period. It is unreasonable to allow a retailer to retain the full benefit of any payments it receives from a customer during that time and not pass through to electricity networks at least a portion of the amounts received.</p> <p>The proposed deferral mechanism should only apply to the extent that an eligible customer has not paid any portion of the network charges that are payable by the customer during the deferral period. If, at any time during that period, that customer makes any payment, the retailer should be required to pass through to electricity network businesses the portion of that payment that can be attributed to network charges. This will reduce the interest payable by the retailer to the relevant network (if the charging of interest approach is included in the mechanism), and will reduce the financial impact of the deferral on electricity network businesses, and any costs payable by consumers.</p>
b) What are the implications (if any) of a six-month deferral period for NSPs, compared to a shorter or longer deferral period?	<p>If a longer deferral period is applied, the cash flow risk and additional financing costs would increase. Similarly, if a shorter deferral period is applied, the cash flow risk and additional financing costs would decrease.</p> <p>As an indication, our preliminary analysis (attached) suggests that the cash flow impact for SA Power Networks would be around \$60 million (if we assume a nominal 10% of network charges are deferred as a result of the Proposed Rule Change proposal, and that all retailers are eligible for deferral of network charges for a period of six months). In this event, the additional financing costs for SA Power Networks would be in the order of \$1.5 million, assuming a 5%pa financing cost.</p> <p>These amounts would double to \$120 million and \$3 million, respectively, if the deferral period is extended another six months.</p>

Question 5 – Extension of deferral period

<p>a) Is it appropriate and/or necessary for the AER to have the ability to extend the deferral period if this is considered necessary? If so, what conditions, considerations and/or consultation requirements should reasonably apply to the exercise of this power?</p>	<p>The economic impact of COVID-19 is rapidly evolving and, as mentioned above, Australia may end up coming out of the pandemic faster than initially anticipated.</p> <p>For this reason, any proposal to further intervene in the regulatory framework after the duration of the initial deferral period needs to be fully considered through a process that takes into account that context and further evidence available at that time.</p> <p>It is simply inappropriate to give the AER the discretion to unilaterally extend the deferral period without consulting with stakeholders where it is satisfied that it is reasonably necessary to do so.</p> <p>Any decision by the AER to extend the deferral period should be:</p> <ul style="list-style-type: none">a) based on clear and relevant principles and decision criteria;b) supported by reasons and evidence of the underlying policy objectives that will continue to be met by extending the deferral period;c) subject to adequate consultation with stakeholders (applying the existing NER approach to the making of guidelines or determinations by the AER); andd) made in a timely, predictable and transparent manner to enable all stakeholders, including directly impacted electricity networks, to put in place any required financing and other resourcing arrangements. <p>The AER should also only be able to extend the deferral period for one further 6 month period.</p> <p>Further, for transparency, the AER should be required to prepare a report at the end of the deferral period that includes a post-implementation assessment and identifies the actual impact of the Proposed Rule Change.</p>
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CHAPTER 4 – SECTION 4.2.3 – DEFERRAL OF PAYMENTS BETWEEN DNSPS AND TNSPS

Question 6 – Deferral of payment of transmission network charges

<p>a) Is it necessary and/or appropriate for DNSPs to be able to defer the payment of transmission charges to TNSPs under the proposed deferral mechanism? To what extent would this change the overall impact of the proposal on DNSPs? What would the impact of this approach be on TNSPs?</p>	<p>Yes.</p> <p>This is required to ensure that the cash flow impact of COVID-19 is appropriately shared with all parts of the supply chain.</p>
<p>b) Do stakeholders have views on how the deferral of payments from DNSPs to TNSPs would be implemented in practice? What issues would need to be addressed in the regulatory framework to facilitate this?</p>	<p>The deferral of payments from DNSPs to TNSPs should be implemented by:</p> <ul style="list-style-type: none">a) establishing the principle that where a DNSP is required to defer the recovery of network charges from an eligible retailer under the Proposed Rule Change then the TNSP will defer recovery of the transmission component of the network charges from the relevant DNSP for the same period (with the application of interest if applicable); andb) require the DNSP and TNSP to negotiate in good faith to implement arrangements that reflect that principle as soon as practicable after the Proposed Rule Change is made. <p>This would allow equivalent arrangements to the Voluntary Package to be agreed between the parties.</p>

CHAPTER 4 – SECTION 4.3 – PRACTICAL IMPLEMENTATION OF PAYMENT DEFERRALS

Question 7 – Process for deferring payment of network charges

a) Do stakeholders have views on appropriate processes which could be adopted to facilitate the proposed payment deferrals in an expedient manner?	The dispute process in the NER could be adopted to facilitate the application of the network charges deferrals to eligible retailers in an expedient manner. This would involve the electricity network issuing a statement of charges as per the normal NER requirements, and the retailer then identifying the customers affected by COVID-19 and applying a designated dispute code to determine eligibility.
b) Could the processes agreed between retailers and NSPs for implementing the Network Relief Package also be used to implement the AER's proposal?	Yes. This is the process set out in response to question 7a) above.
c) If the details of this process are not prescribed in the NER, what alternative approaches would ensure that the payment deferrals could be administered in a transparent, consistent and efficient manner? Is it feasible for the details of this process to be directly agreed between NSPs and retailers?	The process set out above is not prescribed in the NER, and is administered in a transparent, consistent and effective manner. The only additional precondition is that the retailer must sign a bi-lateral agreement confirming that the deferral request is in accordance with the Proposed Rule Change and the qualifying customer is receiving the benefit of the deferral.

CHAPTER 4 – SECTION 4.4 – IMPACT ON NSPs

Question 8 – Impact of proposed deferral mechanism on NSPs

a) Would a six-month deferral of the payment of network charges present a material financial risk to NSPs? If so, are there ways of addressing or reducing these risks through the design of the deferral mechanism?	Yes. To reduce the material financial cost to electricity networks that would arise from the implementation of the deferral of network charges mechanism, SA Power Networks submits that the deferral of network charges mechanism should be designed to minimise the amount of charges deferred. This would ensure that a network's ability to comply with its financial covenants and credit metrics is not compromised.
b) Do NSPs have views on whether, in practice, the annual pricing proposal process would allow NSPs to recover any deferred revenue in the following regulatory year as described above? Are there any issues that may arise in seeking to utilise this process for this purpose?	The AEMC has suggested that the annual pricing proposal process may allow electricity networks to recover any deferred revenue in the following regulatory year. In accordance with Accounting Standard AASB 15, revenue is recognised in the period that the good or service was provided, (billed) regardless of when or if the cash is received. The same methodology is required to be applied to an electricity network business' Regulatory Information Notices, and in revenue reported in annual pricing proposals through the unders and overs mechanism. This means that the annual pricing proposal process will not allow electricity networks to recover any additional financing costs arising from the deferral of network charges.
c) Do stakeholders have views on whether NSPs should be reimbursed for direct costs incurred as a result of the deferred payments and, if so, what would be the best mechanism for achieving this?	SA Power Networks considers that network electricity businesses should be reimbursed for direct costs incurred as a result of the deferred payments. We have set out our detailed analysis of various cost recovery methods proposed by the AER and the AEMC in section 8 of the letter accompanying this Attachment. By way of a summary, our view is that the charging of interest to retailers is the most appropriate cost recovery method.
d) If NSPs were to be reimbursed for their efficient costs (as well as recovering their total regulated revenue), do NSPs consider there would be any residual risk to their business arising from the deferral of network charges?	No.