



CitiPower Pty  
ACN 064 651 056  
www.citipower.com.au

Head Office: 40 Market Street Melbourne Victoria  
Telephone: (03) 9683 4444 Facsimile: (03) 9683 4499 DX 433 Melbourne  
Postal address: Locked Bag 14090 Melbourne Victoria 8001 Australia



Powercor Australia Ltd  
ACN 064 651 109  
www.powercor.com.au

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Manager  
MCE Secretariat  
Department of Industry, Tourism and Resources  
GPO Box 9839  
CANBERRA ACT 2601

Email: [MCETMarketReform@industry.gov.au](mailto:MCETMarketReform@industry.gov.au)

Dear Sir/Madam

## DISTRIBUTION REVENUE AND PRICING RULES

Thank you for the opportunity to comment on the proposed changes to the *National Electricity Rules (NERs)* to establish a national regulatory framework for the economic regulation of electricity distribution.

CitiPower and Powercor Australia (**the businesses**) are Victorian electricity distributors which will be directly affected by the proposed amendments to the National Electricity Rules.

The businesses agree that the proposed rules make positive steps in many areas but remain concerned about a number of key issues.

### 1. Summary

*The key areas of the businesses concerns are as follows:*

- *There should be a transparent and accountable review process for the cost of capital parameters in accordance with previous communiqués issued by the MCE.*
- *The adoption of a one step regulatory proposal process rather than the more efficient and sequenced two step process previously advised to the industry.*
- *The 'fit-for-purpose' model not being adequately specified in the draft NER, leaving the standard of regulatory decision-making the AER must apply in some areas effectively undefined.*
- *The carry forward of negative decrements arising from the efficiency carry over mechanism between regulatory periods.*

## **2. Detailed response**

### **Clause 6.2.1(a): Classification of distribution services**

The current drafting of clause 6.2.1(a) provides no reference as to what may constitute a *non-regulated distribution service*. The businesses believe *non-regulated distribution services* should be afforded the same clarity as *direct control services* and *negotiated distribution service* through the addition of a third point in clause 6.2.1(a) defined by way of the same factors identified in clause 6.2.1(b) to provide greater certainty to both the Australian Energy Regulator (AER) and distributors.

With respect to classifying distribution services, clause 6.2.1(b) should be amended to include a competition test consistent with existing Victorian regulatory arrangements and clause 6.2.2(b)(1).

#### ***Proposed change***

*Include a definition of non-regulated distribution services in clause 6.2.1.*

*Include a competition test under clause 6.2.1(b).*

### **Clause 6.2.4(c) & 6.8.2(e): Duty of the AER to make distribution determinations**

Clause 6.2.4(c) states '*if more than one distribution system is owned, controlled or operated by a Distribution Network Service Provider, then, unless the AER otherwise determines, a separate distribution determination is to be made for each distribution system*'. A similar provision is replicated under clause 6.8.2(e) with respect to regulatory proposals. The businesses believe both provisions should be amended such that regulatory determinations or regulatory proposals can only be aggregated by the AER following an application by the *Distribution Network Service Provider*.

#### ***Proposed change***

*Amend clause 6.2.4(c) and 6.8.2(e) such that aggregation of regulatory determinations or regulatory proposals can only occur following an application by the Distribution Network Service Provider.*

### **Clause 6.2.6(c): Basis of control mechanisms for alternate control services**

Under clause 6.2.6 the AER is required to set the control mechanism for *standard control services* by reference to the distributor's total revenue requirement for the regulatory control period. In contrast, the only requirement with respect to *alternate control services* is that the control has a basis set out in the distribution determination. Hence as drafted in 6.2.6(c) it is conceptually possible for the AER to establish a control that fails to recover the costs associated with providing that *alternate control service*. Consequently clause 6.2.6(c) should be amended to require the AER to establish the control mechanism for *alternative control services* by reference to the costs incurred in providing that *alternative control service*.

#### ***Proposed change***

*The control mechanism for alternate control services be established by reference to the costs incurred in providing that service.*

### **Clause 6.4.3: Building blocks approach**

Clause 6.4.3 (b)(1)(ii) refers to indexation of the regulatory asset base by a negative adjustment for that year. It is not clear what is meant by ‘negative adjustment’ given that this clause refers to the inflation adjustment.

The building blocks described in clause 6.4.3(a) are highly prescriptive hence do not allow for other cost items that may arise through the transition from a jurisdiction to nationally based regulatory regime or as a result of changes to existing regulatory arrangements such as the service incentive or efficiency carry over arrangements. In the absence of a provision to manage these matters, it may not be possible for the AER to consider these matters.

#### ***Proposed change***

*Clarity is required as to what constitutes a negative adjustment.*

*Inclusion of an additional building block addressing ‘transition costs’.*

### **Clause 6.4.3(a) & (b): Revenue decrements arising from the ECM**

The businesses’ disagree with the proposal presented in clause 6.4.3(a) and (b) with respect to the carry forward of negative carry-over amounts arising from efficiency losses in the current regulatory period.

Carrying forward a negative amount will, all else being equal, reduce the reasonable expenditure forecasts of the distributor. Each subsequent regulatory period the available efficiency gains to a distributor diminish as they approach the efficient frontier. Further the expenditure allowances provided to distributors are routinely revised downward by regulators. Under such circumstances it would be expected that future revenues would fall below that reasonably required as a result of the carry forward of negative amount.

The consequences of a distributor’s allowed revenues falling below that reasonably required may be profound and impact directly on customers. In an effort to remain financially viable it would be expected the distributor will reduce expenditure on the network and consequently service performance decline. So whilst customers are receiving lower tariffs, they are also experiencing more frequent and extended outages. Declining network performance will invoke further penalties through the service incentive scheme. Again customer tariffs will fall further, but service performance will also fall further as the network is gradually starved of investment.

Such a scenario can not be considered consistent with *National Electricity Law* objective requiring the protection of the ‘*long term interests of customers with respect to price, quality, safety, reliability and security of supply of electricity*’. In fact it is more likely customers would prefer actions be taken to reduce further outages rather than further ratcheting downward of price and service.

It should also be remembered that an efficiency carry over mechanism can only operate effectively where a *revealed costs* approach is being applied to expenditure assessment. That is, the incentive properties of the efficiency carry over mechanism are considerably diminished where future expenditure is not established by reference to historical costs. The carry forward of a negative pass through amount has the effect of reducing future expenditure allowances below those historically incurred by the distributor. As a consequence, to achieve the regulatory rate of return, a distributor

would need to reduce its expenditure below that historically incurred for the period of the negative pass through. This would, all else being equal, appear an extremely onerous task.

It has also been common practice for Australian regulators to incorporate an explicit efficiency factor in expenditure allowances. In some instances this maybe in addition to efficiencies already included by the distributor. Because of this it is not sufficient for a distributor to reduce costs below their historical levels. In order to achieve a positive efficiency carry over allowance it needs to lower costs below their historical levels and below the efficiency factor incorporated by the regulator. The inclusion of an efficiency factor in the underlying expenditure forecasts means it is possible that a negative carry forward amount may arise not because the distributor has not reduced costs, but because the efficiency factor incorporated by the regulator proved excessive or too onerous. In such circumstances it would be inappropriate that a distributor be punished on the basis of an unreasonable efficiency factor calculated by the regulator.

The efficiency carry over mechanism also has a relationship with the service incentive scheme. In order for a distributor to generate a service improvement, it will be necessary to incur additional expenditure above and beyond that permitted in the regulatory expenditure forecasts. As a consequence by deciding to introduce a service performance improvement, the distributor will generate a negative carry forward amount.

Conceptually the distributor should be indifferent to generating service improvements. That is, the distributor will continue to incur penalties resulting from exceeding the expenditure benchmark up to the point the rewards through the service incentive scheme no longer cover that penalty. In reality however the respective schemes may not offset each other and as a consequence may result in delivery of a sub optimal level of service performance.

***Proposed change***

*There should be no carry forward of negative carry over amounts between regulatory period.*

**Clause 6.5.2: Cost of raising debt and equity**

Clause 6.5.2 makes no reference to recovery of costs associated with raising debt and equity finance, yet these are legitimate costs that are incurred by a distributor. Clause 6.5.2 should explicitly ensure that an allowance for these costs is included in the building blocks, either as part of the operating and maintenance expenditure allowance or as part of the post-tax weighted average cost of capital.

***Proposed change***

*Provision should be made for the recovery of equity and debt raising costs.*

**Clause 6.5.2(c): Nominal risk free rate and inflation**

Clause 6.5.2 (c) requires that the nominal risk free rate be determined from the yields on Commonwealth Government Bonds with a maturity of 10 years. Attached is recent analysis by NERA providing evidence that there is a downward bias in nominal yields on Commonwealth Government Bonds. The NER should therefore not be prescriptive about procedures for determining the nominal risk free rate.

Additionally, the building blocks approach in the draft NER results in the value of annual revenue requirement being sensitive to assumptions about inflation. However it is noted that the review of rate of return parameters under clause 6.5.2(i) does not mention inflation to be a reviewable parameter. If the intention of the MCE is to continue with the five yearly rate of return review approach, it is recommended that the procedures for calculating inflation are also reviewable, given that:

- It is standard Australian regulatory practice to infer inflation from real and nominal ten year yields on Commonwealth Bonds; and
- Recent evidence presented by NERA strongly indicates that since 2004 there has been a 20 basis point downward bias in real yields relative to nominal yields (see attached document).



NERA report - Bias  
in indexed ...

- At the time of the 2006-10 Victorian Electricity Distribution Price Determination Final Decision one of the four Indexed Commonwealth Government Bonds matured. The Essential Services Commission accepted that yields were distorted around the time of the maturity of the Bond and hence had to adjust their approach to finding a proxy for the real risk free rate. The next indexed bond will mature in August 2010, around the time of the next Victorian Electricity Distribution Price Determination.
- The longest dated Indexed Commonwealth Government Bond is one that matures in 2020. Therefore from 2010 there will be no ten year indexed bond to use as a proxy for the ten year risk free rate.

***Proposed change***

*The NER should not be prescriptive in methodology for determining the nominal risk free rate.*

*The procedure for calculating inflation be part of rate of return review.*

**Clause 6.5.2(f): Review of rate of return parameters**

Under clause 6.5.2 the AER will review the rate of return parameters on 1 July 2009 and every 5 years thereafter. Cost of capital methods and parameters play a critical role in establishing what is typically the largest single component of a building block revenue assessment – the provision of a return on capital employed in delivering distribution services.

The capital intensive nature of distribution networks makes clear accountable decisions in this area essential. The present clause 6.5.2 does not provide for accountable decision making due to the absence of merits review. To accommodate a more accountable process, the businesses believe the following model should be adopted for determining the cost of capital:

- Decisions on cost of capital estimates continue to be made as part of individual price determinations and hence accountable through merits review.

- The NERs empower the AER to develop a ‘statement of approach’ on distribution cost of capital assessments which would set out default AER views on cost of capital parameters, independent of the regulatory arrangements individual networks are subject to.
- The AER would be bound to apply the value it had determined under the statement of approach if a regulatory proposal included these pre-approved default values.
- Distributors would have the flexibility to propose for consideration:
  - An equity beta value different to that contained in the statement of approach because of the particular regulatory arrangements contained in the regulatory proposal (such as the adoption of price, revenue or hybrid caps, or the strength of performance incentives).
  - An equity beta value different to that in the statement of approach due to individual network characteristic.
  - Parameter values or methodologies different to those in the statement of approach provided the distributor put forward a compelling case based on new evidence or research that the AER preferred value is no long applicable.

Under this approach the AER would retain the capacity to set out an industry-wide view on parameters and methodologies, without being bound by the inflexibility to apply them in every circumstance. The statement would essentially form a ‘safe harbour’ provision, providing greater certainty over cost of capital estimates which would be approved by the AER.

***Proposed change***

*Decisions with respect to the cost of capital remain part of individual price determinations however the NER provide for establishment of a set of ‘safe harbour’ provisions reviewable by the AER every 5 years.*

**Clause 6.5.4: Estimated cost of corporate income tax**

In Australia, capital contributions and gifted assets form part of taxable income in the year of receipt under the *Income Tax Assessment Act*. To avoid any doubt, clause 6.5.4 should be explicit that the treatment of capital contributions and gifted assets for regulatory tax purposes should be consistent with Australian tax law.

***Proposed change***

*Treatment of capital contributions and gifted assets be consistent with tax law.*

**Clause 6.5.6(e)(5): Actual and expected operating expenditure**

For clarity, clause 6.5.6(e)(5) should be amended such that it refers to the ‘*Distribution Network Service Provider*’ as opposed to the ‘provider’ consistent with approach adopted for capital expenditure under clause 6.5.7(e)(5).

***Proposed change***

*Reference to ‘provider’ in clause 6.5.6(e)(5) be replaced with ‘Distribution Network Service Provider’.*

## Clause 6.6.1: Cost pass through

The businesses have a number of issues with the drafting of clause 6.6.1:

- The financial failure of a retailer could lead to a shortfall in revenue for a distributor and such risk is not generally included in the factors considered when regulating the distributor's prices. It would therefore be appropriate for failure of a retailer to be included as a pass through event under the NER.
- Clauses 6.6.1(c) and 6.6.1(f) are inconsistent with respect to the time within which a pass through event must be notified, clause 6.6.1(f) should be amended to provide 90 days to be consistent with clause 6.6.1(c)
- Clause 6.6.1(c) deals with positive pass through and is drafted in a different style to clause 6.6.1(f) which deals with negative pass through. The drafting approach in 6.6.1(f) is in our view clearer and therefore redrafting 6.6.1(c) in a similar style would have merit.
- Clause 6.6.1(h) would be improved by including the word 'reasonable' before the words 'time specified by the AER'.
- The definitions of *distribution regulatory change event* and *distribution tax change event* leaves a window of time between the distributor's response to the draft determination and the start of the next regulatory period where a distributor would be unable to seek pass through of costs. The words '*Has an impact that*' should be included before point (a) in the definition of *distribution regulatory change event* and point (d) in the *distribution tax change event* to manage this issue.

### ***Proposed change***

*Financial failure of a retailer be considered a pass through event and greater consistency be established in the process for administering positive and negative pass through events.*

*Amend the definition of distribution regulatory change event and distribution tax change event to allow a pass through application at anytime during the regulatory period.*

## Clause 6.6.2: Service incentive scheme

Clause 6.6.2 envisages a framework for service standard regulation that is largely based on the approach adopted for the transmission sector. Such an approach to service standard regulation is not appropriate for distributors as:

- Different network characteristics, such as the proportion of the network that is Single Wire Earth Return (**SWER**) line, or degree of undergrounding, will mean different approaches to service standard regulation may be appropriate. Differences in the density of populations, in particular between urban and rural customers, will also affect the approach to service standard regulation.
- A number of different service standard regimes are currently in place across Australia. These regimes underpin substantial private sector investment in the network as well as management strategies that balance investment in the network. These differences in historical approach influence the types of service standard regimes that should and can be implemented in the future. For

example Victorian distributors operate under quite sophisticated service standard incentive regimes, while other jurisdictions have rules based regimes. The imposition of a single approach is likely to undermine current efforts to improve service reliability and performance in all jurisdictions.

- Currently, distributors collect data to support a number of different service standard measures, as required under the various jurisdictional regimes. In many cases these measures, though they appear consistent, are defined differently, including different inclusions and exclusions. Further, not all distributors have the monitoring and reporting capabilities to support measures used in other jurisdictions. These differences mean that the imposition of a single service standard regulatory approach may not be possible across all jurisdictions.

The businesses note the draft NER allows for service standard parameters to differ between distributors. The businesses however consider that the differences outlined above go beyond differences in the parameters or values that may be appropriate for a network, but also extend to the appropriate measures, and the type of incentive regime, that should apply in each case.

The approach to service standard regulation is an integral part of regulatory proposal. This approach is reflected in the industry's Service Standards Regulatory Policy issued by the ENA, which sets out a process whereby the approach to service standard regulation, including targets, regimes and measures, is set with reference to customer preferences. This approach is clearly superior to an approach whereby the AER substitutes for the customer in determining customer preferences and setting service standards under the new national distribution regulatory framework.

The AER should also be provided specific guidance, with respect to modification of service standard scheme, particularly the commercial impact that may arise due to the transition to the new scheme. This is particularly important in Victoria where distributors already operate under a relatively high powered service incentive scheme.

If the above approach is not adopted, distributors should at least be given 3 months to incorporate a new service incentive scheme arrangement determined by the AER in its regulatory proposal as opposed to the current 2 months permitted under clause 6.6.2(f).

#### ***Proposed change***

*The service standard for next regulatory period, including targets should be proposed by the distributor as part of its regulatory proposal for the AER's consideration. Further in evaluating the proposal, the AER should be required to have regard to the outcomes of customer analyses, for example customer willingness to pay studies.*

#### **Clause 6.7.5: Negotiated distribution services**

Clause 6.7.5 provides a mandatory requirement for the distributors to prepare and provide a negotiating framework as part of its regulatory proposal. This clause does not appear to recognise the possible case where the distributor does not propose to offer any negotiate/arbitrate services. In such circumstance the requirements of clause 6.7.5 should not be mandatory.

***Proposed change***

*Distributors only be required to provide a negotiating framework in the event they are proposing negotiate/arbitrate services..*

**Clause 6.8.2: Submission of regulatory proposal**

As draft NER proposes a one step regulatory proposal process. In practice it will entail the distributor providing within its regulatory proposal a complete classification, pricing and negotiating framework. Within 6 months of receiving the distributor's proposal the AER is required to publish its draft decision. If the AER decides at this time that the form of regulation or that the control setting methodology is incorrect or inappropriate, then the distributor will be required to re-do or newly prepare a significant amount of work in a very short period of time. This approach will increase inefficiency as preparing an entire regulatory proposal based on incorrect threshold assumptions is a waste of resources and creates unnecessary uncertainty.

Such an approach is also inconsistent with the current NER requirement that changes in the form of regulation are notified two years prior to the new price control mechanism coming into effect. It is also inconsistent with previous statements at 9<sup>th</sup> February 2007 MCE forums that inferred a two stage process would be adopted.

The businesses consider it essential that the regulatory proposal process be a two-step process that comprises:

- The distributor submitting a threshold issues regulatory proposal containing the classification of distribution services and the control mechanism that apply to each distribution service. The AER would make a preliminary decision on this.
- The distributor submits a later complete regulatory proposal based on the AER's preliminary decision.

Lodgement of the threshold issues regulatory proposal should occur at least 2 years prior to the expiry of a distribution determination. The AER should be required to make a determination on the threshold issues within 2 months of receiving the threshold issues regulatory proposal.

***Proposed change***

*The NER adopt a two stage process to regulatory proposals.*

**Clause 6.10.3(a): Resubmission of regulatory proposal following a draft decision**

Clause 6.10.3(a) requires that if the distributor intends to submit a revised regulatory proposal, it must do so within 30 business days following publication of the draft determination. In contrast, clause 6.10.2(c) allows at least 45 business days for submissions on the draft determination to be received. The 30 business day time period within which a distributor can submit a revised regulatory proposal is an insufficient period of time for a distributor, particularly in light of the complex nature of electricity distribution regulation and the possible extent of changes required.

The time period within which the distributor be allowed to submit a revised regulatory proposal should be at least 45 business days. This would allow a distributor to carefully consider the draft decision and provide an appropriate revised regulatory proposal.

***Proposed change***

*The period for resubmitting a regulatory proposal following a draft determination be at least 45 business days.*

**Clause 6.18.5: Pricing principles**

Clause 6.18.5(b) requires that a tariff class must take into account the long run marginal cost (LRMC). The businesses consider this principle is a distraction and adds no further value to the overall pricing objectives as:

- The efficient tariff window already takes into account the cost to serve customers and therefore inherently includes the intended purpose of the LRMC requirement;
- The process of determining the LRMC is highly subjective and therefore it will have an ineffective contribution to the tariff design;

***Proposed change***

*The requirement for tariffs to take into account LRMC be deleted.*

**Clause 6.18.6(c) & (d): Side constraints**

The current Victorian side constraint arrangements exclude the impact of licence fees and the service incentive scheme. These items need to be added to clause 6.18.6(c) to ensure distributors are able to recover their allowed revenue requirement.

The side constraint presented in clause 6.18.6(d) would not allow not allow for existing tariffs to transition to cost reflective tariffs within a reasonable period. Further, the proposed constraint risks undermining the demand management benefits associated with the roll of automated interval meters. The businesses' believe a reasonable compromise position would be to restate the side constraint as CPI+2 per cent as opposed to the current CPI-X+2 per cent.

***Proposed change***

*The side constraint exclude factors treated exogenous from the revenue requirement.*

*The side constraint be equivalent to CPI+2 per cent.*

**Clause 6.20.1(c): Direct billing of distribution customers**

Clause 6.20.1(c) provides for the distributor to bill a customer directly for distribution services if agreed between the customer and the retailer. It should be noted that distributors are not generally set up to manage billing interfaces with individual customers and consequently such arrangements should be made subject to the agreement of the distributor also.

***Proposed change***

*Direct billing of customers only be permitted with the distributor's consent.*

**Clause 6.20.1(2)(i): Basis for charging**

Clause 6.20.1(2)(i) requires that demand based prices to the *Distribution Customer* be based on metered or agreed half-hourly demand. This provision is inconsistent with the current *Deemed Distribution Contracts* in Victoria which are based on 15 minute

demand. It is also inconsistent with encouraging more efficient price signalling to customers in terms of their impact on system peaks. Consequently the clause should be amended to permit charging based on meter or agreed 15 minute demand.

***Proposed change***

*Fifteen minute demand based charging be made permissible.*

**Clause 6.22.1(b): Capital contributions**

For clarity clause 6.22.1(b) should be amended to state ‘the *Distribution Network Service Provider* may receive a capital contribution, prepayment and/or financial guarantee up to the provider’s future costs related to the provision of *direct control services...*’

***Proposed change***

*Clause 6.22.1(b) should refer to future costs as opposed to future revenues.*

**Clause S6.1.1: Information and matters relating to capital expenditure**

It is noted clause S6.1.1(1)(iii) requires the disclosure of capital expenditure by location. Whilst this is conceptually possible, it would be difficult to determine and further, given the relatively low value, high volume expenditure profile that characterises distribution capital expenditure programmes, would be of questionable benefit to the AER. As such, the businesses believe the requirement to provide capital expenditure by location should be deleted.

***Proposed change***

*Capital expenditure not be required to be disclosed by location.*

**Clause S6.3.1: Additional information and matters**

Clause S6.1.3(11) requires the distributor to disclose depreciation by location. Such information has not previously been required from the businesses and consequently will require augmentation of existing systems and a number of largely arbitrary assumptions. It not clear what offsetting benefit the AER will get from a presentation of depreciation by location and as such the businesses believe the requirement should be deleted.

***Proposed change***

*Depreciation not be required to be disclosed by location.*

**Clause S6.2.1: Regulatory asset base**

Schedule S6.2.1 lists the regulatory asset base values to be used for the purposes of rolling forward the regulatory asset base. The Schedule does not identify that the Victorian distributor values are presented in 1 July 2004 dollars.

Schedule S6.2.1 (e) describes the method for rolling forward the regulatory asset base to the first regulatory year of a regulatory control period. However it does not identify the annual inflation adjustment that is necessary to ensure that the distributor can earn a nominal return on its regulatory asset base.

***Proposed change***

*The table in Schedule S6.2.1 be corrected to reflect the Victorian distribution business values are expressed in 1 July 2004 dollars as opposed to 1 January 2006.*

*Schedule S6.2.1 (e) be amended to allow for indexing of the regulatory asset base.*

**Implementing a ‘fit for purpose’ model**

In 19 May 2006 the MCE committed to introducing a ‘fit-for-purpose’ approach to the energy regulatory framework. This approach envisages a tailored decision-criteria and standards allowing the AER considerable discretion to ‘determine’ outcomes in some cases, but requiring acceptance of other elements of a regulatory proposal if it is determined to comply with the requirements of the NER in other cases.

In November 2006 the Australian Energy Market Commission (AEMC) released its final rule determination on the economic regulation of electricity transmission services. This final rule extensively considered and implemented the ‘fit for purpose’ approach. The final rule clearly sets out the decision criteria to apply across a range of areas. In the final rule, many of these decision criteria are specified in Clause 6A.14.3 ‘Circumstances in which matters must be approved’.

The draft NER follows the transmission rules across a range of areas, positively providing for a largely consistent regulatory decision-making process. The exception however is the omission of a distribution rule equivalent to Clause 6A.14.3.

The effect of this omission is that the AEMC’s transmission rule fully implements a ‘fit-for-purpose’ approach, where the draft distribution rules do not. The omission of an equivalent clause will have several broader adverse consequences including:

- Providing the AER with no guidance on the standard of decision-making to apply in assessing elements of a regulatory proposal;
- Creating uncertainty for distributors with respect to the approach taken to assessing key elements of a regulatory proposal;
- Potentially shifting the distribution regime towards a wholly ‘consider-determine’ regulatory decision-making model in conflict with both MCE’s policy decision on ‘fit-for-purpose’.

***Proposed change***

*A distribution equivalent of clause 6A.14.3 of the transmission rules be included in the NER.*

**Modification of guidelines**

The draft NER allows the AER to amend or replace binding guidelines, such as the *Post Tax Revenue Model* and *Cost Allocation Guidelines*, in accordance with the distribution consultation procedures from time to time. This suggests the AER could amend a binding guideline in the lead up to the lodgement of a distributor’s regulatory proposal.

The businesses consider it reasonable and appropriate that distributors are provided with some level of certainty with respect to the contents of each guideline in the lead up to lodging their regulatory proposals. Accordingly the businesses believe the amendment or replacement of a binding guideline should not apply to a distributor

who is within 3 month of lodging their regulatory proposal unless agreement to that amendment has been obtained from the affected distributor.

***Proposed change***

*Amendments to a binding guideline are not applicable to a distributor within 3 months of lodging their regulatory proposal.*

Should you have any further questions in relation to this submission, please do not hesitate to contact me on (03) 9683 4508.

Yours sincerely

[signed]

**Richard Gross**  
**GENERAL MANAGER REGULATION**