Part A – Detailed Responses to Draft Recommendations – Electricity Network Regulatory Frameworks

Reference	Draft Recommendation	ENA Response
Incentive Regulation and Benchmarking		
5.1	The AER should develop an efficiency benefit sharing scheme to apply to capital expenditure that provides consistent incentives to reduce capital expenditure, both over time and when compared with operating expenditure.	The ENA supports the AER developing a capital expenditure incentive scheme and has been active in the current AEMC rule change process on network regulation in promoting rule amendments and regulatory guidance to assist in this regard.
5.2	The Rules should specify the interdependent nature of the parameters used to estimate the weighted average cost of capital, and specify that any merits review must also consider the relevant rule in that light.	The AEMC's final rule determination sets out an 'overall WACC objective' which highlights the holistic nature of the cost of capital determination approach under the new rules. In addition, the AEMC's rule sets out guidance which is designed to recognise the interdependencies in a WACC estimation process. The opportunity for the AER to issue a Rate of Return Guideline provides a further means of examining this issue. The ENA supports the principle that a merits review body should consider the regulatory decision against the relevant rules and regulatory guidance. This issue will be practically taken forward as part of the Standing Council on Energy and Resource's decisions following the recently completed *Review of Limited Merits Review*.
5.3	Estimates of the debt risk premium and risk free rate used in the calculation of the weighted average cost of capital should be calculated using long-term trailing averages.	The ENA supports the Rules providing scope for long-term trailing averages to apply where they can be implemented in a way that does not lead to increased uncertainty and refinancing risks. The AEMC's final rule determination provides for this approach to be adopted and allows for the AER to develop the implementation details of the approach, and decide on the appropriateness of its application to the circumstances of individual networks.
5.4	Where, within a given regulatory period, a network business spends materially more capital than that allowed for in the AER's final ex ante regulatory determination, then its entire capital expenditure should be subject to an ex post prudency test: • Only spending that is deemed efficient and prudent, given the information available to the network business at the time, should be included in the Regulatory Asset Base at the end of the period, subject to the condition that: – the maximum disallowable expenditure is no more than the difference between the	The AEMC's final rule determination has applied an approach with substantially similar features to this recommendation, on the basis of an extended consideration of the issues involved. ENA continues to consider that *ex post* review mechanisms substantially increase regulatory risk and have the potential to deter efficient levels and timing of investment.

Reference	Draft Recommendation	ENA Response
	ex ante forecast and realised expenditure • If a network businesses is aware that it is going to exceed pre-approved spending levels, it should be able to apply for pre-approval to avoid the ex post assessment. The prudency test should not apply to cost pass throughs and contingent projects permitted under chapters 6 and 6A of the Rules.	For this reason, the ENA did not support the adoption of these approaches, but worked with the AEMC to seek to implement appropriate regulatory guidance on its application to mitigate these risks where possible.
5.5	The Rules should be clarified to indicate that the AER is only required to test the reasonableness of the overall expenditure proposal. The Regulator should only be obliged to consider the reasonableness of a specific expenditure item if it could materially affect the judgment of the reasonableness of the total expenditure forecast.	The operation of the rules in this area has since the making of this draft recommendation been clarified by the Australian Energy Market Commission's issuance of its substantive Rule Determination on the *Economic Regulation of Network Service Providers*. The ENA does not support the view that the AER's assessment is, or should be, restricted to the reasonableness of the overall expenditure proposal. The reasonableness of the overall proposal must be informed by the reasonableness of the components.
5.6	In cases where the AER considers that the Rules constrain its capacity to make appropriate revenue determinations, it should publish its preferred estimate along with the final determination, explaining the differences. In any subsequent merits review of its determination, the AER should ensure that the reasons behind its preferred estimate are clearly communicated to the merits review body.	The ENA supports the early identification by the AER of any claimed rule deficiencies which the AER considers is substantially affecting its capacities to perform its functions This recommendation being in operation over the past five years would have avoided the regulatory uncertainty created by the AER finalising a nearly full set of regulatory determination over the period 2007-2011 whilst not indicating in any regulatory determination its subsequent view that the *National Electricity Rules* had promoted the approval of inefficiently high expenditure allowances by network firms. A lack of foreshadowing of its views that its own decisions were adversely affected by the existing Rules itself promotes a lack of certainty and predictability in the regulatory environment which is at variance with the goals of a stable regulatory framework and independent regulation of services provided by long-term network assets.

Reference	Draft Recommendation	ENA Response
Ownership		
7.1	State and territory governments should privatise their state-owned network businesses.	The ENA has no comment to make on ownership of network businesses as this is a matter for the relevant shareholders.
7.2	If state and territory governments do not implement draft recommendation 7.1, then they should promote more efficient outcomes for their state-owned network businesses by ensuring that: • directors are appointed on merit, following a transparent selection process • ministerial directions are publicly disclosed at the time they are made and disclosed in the annual report • directors and officers are subject to the obligations under the Corporations Act • governments review objectives currently given to network businesses and: – remove those that would be more appropriately allocated to other agencies – remove those that are non–commercial and make it clear that the board is expected to deliver a dividend payout and rate of return on the equity invested in the network business that would be considered acceptable by an independent investor – where conflicting objectives remain, provide publicly transparent guidance on how to prioritise them.	See response to *Draft Recommendation 7.1*
How should the Australian Energy Regulator use benchmarking?		
8.1	The AER should regularly undertake aggregate benchmarking of the performance of network businesses, including of their: • multifactor productivity — the output of services for given inputs • separate productivity of capital, labour and intermediate inputs. The results should control, to the best extent available, for any significant variations in the operating environments of the businesses, including customer density, line type and length, reliability requirements, and the capital vintage of relevant assets.	The ENA broadly supports the Commission's Draft Recommendation. It is important to note the need to take into account variations in the operating environment as described by the Commission and also the recommendations and limitations described in the Final Report of the AEMC on the use of Total Factor Productivity. In the ENA's earlier submission (*Appendix C*) we noted that statistical benchmarking is most likely to be successful at the disaggregated level where there are fewer cost drivers and they are easier to quantify. Aggregated measures of performance have a large number of independent variables and the difficulty in accurately measuring these variables mean that statistical estimates of efficient costs at an aggregate level are less likely to be robust.

Reference	Draft Recommendation	ENA Response
		It should also be recognised that network businesses regularly use benchmarking as an internal aid to improving business efficiency. As recommended in 8.12, a cost benefit study should be undertaken for all benchmarking analysis to ensure that the National Electricity Objective is being met.
8.2	Subject to compliance and other costs (draft recommendation 8.12), the AER should accompany aggregate analysis with detailed benchmarking of particular aspects of the performance of the businesses, including: • the rate of investment relative to the age-weighted capital stock by asset class • the efficiency of major maintenance activities • the adoption rate of best-practice commercial processes and equipment, including the use of customer panels and surveys, outsourcing, demand management, information technologies, financial controls, procurement practices, occupational safety, and project management. In determining relevant benchmarking performance and control variables, the AER should consult with: • network businesses, generators, retailers and network equipment suppliers • customer representatives • relevant experts within Australia and internationally.	See response to *Draft Recommendation 8.1.*
8.3	The AER should periodically assess the comparative performance of network business units within particular sub-regions of the NEM, where: • those sub-regions share similar physical operating environments • the costs and informational requirements of doing this are not too great (draft recommendation 8.12). The comparisons should relate to business units within a particular business, as well as comparable business units in different businesses. The AER should place most emphasis on comparisons of the efficiency of distribution networks in different metropolitan areas.	See response to *Draft Recommendation 8.1*.
8.4	The Rules should be changed to allow the Regulator to have the discretion to initiate a three-way negotiation of a mutually acceptable settlement, involving itself, the business, and a representative and qualified customer group similar, or identical, to that identified in draft recommendation 21.3. • Negotiation would only be triggered if the AER judged that the divergence between aggregate benchmarking estimates of forecast spending and the business's proposal were sufficiently narrow.	The ENA supports the Commission's Draft Recommendation and elements of this proposal have been addressed by the AEMC in its Rule change process for the *Economic Regulation of Network Service Providers*.

Reference	Draft Recommendation	ENA Response
	• Where an arrangement was successfully negotiated using this process, the AER should not be obliged to go through the current formal draft/final determination processes.	
8.5	In any of the next rounds of regulatory determinations, the AER should not use aggregate benchmarking as the exclusive basis for making a determination. Instead, the AER should use such aggregate benchmarking results as a diagnostic tool in responding to business cost forecasts. However, if the processes proposed in draft recommendations 8.9 to 8.11 led to sufficiently robust benchmarking, then: • a business would continue to make a detailed cost proposal, but if the overall proposal were divergent from the regulator's benchmarking estimate, the onus of proof would be for a network business to provide quantitative evidence demonstrating why its cost forecast was preferable in meeting the National Electricity Objective • the AER's efficiency threshold applied to firms should be set close to, but below, the level of the most efficient firm.	See the response to *Draft Recommendation 8.1*. The ENA does not support the second part of the recommendation, as the AER would appear to be able to determine when the time has arrived that benchmark forecast forms the default. This would be a step change point in the regulatory regime and should be subject to a formal rule change process.
8.6	The AER should develop and maintain appropriate benchmarking databases and in-house expertise for the technical analysis required to undertake sophisticated benchmarking.	The ENA supports the Commission's Draft Recommendation subject to the comments made in response to Draft Recommendation 8.1 and an assessment of the cost and benefits of the activity.
8.7	The AER should make all benchmarking input data publicly available (recognising that the businesses being benchmarked are regulated monopolies) except where the data can be demonstrated to be genuinely commercial-in-confidence. Where the latter holds, the AER should still make the full datasets available to: • independent researchers who are using the results for non-commercial purposes • the consumer group involved in any negotiations described under draft recommendation 8.4 – but subject to statutory requirements for non-disclosure of information predetermined as commercially-in-confidence, drawing on existing models for data protection.	The ENA supports the Commission's Draft Recommendation provided legitimate confidential information can be withheld. Examples include tender prices for equipment purchases or construction contracts where public disclosure would undermine the competitive tendering process and outcomes for consumers.
8.8	When making its revenue allowance determinations, the AER should make judgments about capital expenditure forecasts that take account of any discrepancy between the AEMO's top-down peak and average demand forecasts and the aggregate of distribution businesses' bottoms-up peak and average demand forecasts. The AER should use benchmarking of the discrepancies between previous expenditure	The existing *National Electricity Rules* already provide for the AER to take into account a wide range of information to test and assess capital expenditure forecasts. The AER is required to refuse to approve a capital expenditure forecast which it does not believe to be a

Reference	Draft Recommendation	ENA Response
	forecasts and actual outcomes by different parties to inform that process.	reasonable reflection of efficient required expenditure based on the information contained in the regulatory proposal, taking into account any soundly based alternative forecasts, analysis or other information relating to efficient levels of future capital expenditure required to meet realistic forecasts of demand (See for example NER Cl. 6.5.7 (c)-(d)). It is particularly appropriate that in relation to electricity distribution network primary weight is given to the service providers own forecasts. This is because distribution forecasting requires close reference to localised knowledge and experience and this needs to be adequately taken into consideration in the regulatory assessment process. A further point for consideration is that for AEMO 'top down' forecasting to be relevant to distribution forecasting assessments it would need to be built on a more regional basis than is currently the case (i.e. by terminal substation or terminal substation groupings). Past actual and forecast capital expenditure undertaken by the service provider is already a consideration which the AER is directed by the *National Electricity Rules* to consider in its capital expenditure assessment process. (See for example NER Cl. 6.5.7 (e))
8.9	The AER should collaborate with other leading regulatory agencies, academic experts and global commercial benchmarking specialists to enable robust meta-analysis of electricity network benchmarking results from individual country (and where credible, multi-country) studies. The collaboration should include cooperation in developing: • the most meaningful measures of performance • consistent data collection • consistent reporting of results • best-practice analytic frameworks.	The ENA supports the Commission's Draft Recommendation. Developments by the AER in this area should be made public as they are progressed.
8.10	The AER should submit its major benchmarking analyses of electricity networks for independent expert peer review to establish their ongoing relevance, scientific validity, adoption of best-practice, and to gauge the degree of uncertainty in the results.	The ENA supports the Commission's Draft Recommendation
8.11	The AER should make its benchmarking results publicly available, with: • accessible reporting of the results to inform consumer groups, network businesses,	See response to *Draft Recommendation 8.7*.

Reference	Draft Recommendation	ENA Response
	and others • disclosure of the importance of factors outside the control of businesses, but that may be controllable by governments • publication of the modelling strategy used to produce the results • the sensitivity of the results to changes in key assumptions • the performance of any statistical models against accepted scientific standards, including confidence intervals, parameter stability, and specification testing.	
8.12	The AER should periodically examine its detailed benchmarking methodologies and processes to assess their compliance costs for businesses and the costs for the AER. It should compare these costs with the likely benefits when determining the appropriate frequency and type of detailed benchmarking. In undertaking such assessments, the AER should consult closely with network businesses. The AER should make all such assessments publicly available. The overall costs of benchmarking should be subject to independent review after five years.	The ENA agrees with the Commission's Draft Recommendation.
Technologies to achieve demand management		
10.1	Distribution businesses should implement the roll-out of advanced metering infrastructure — so called smart meters — on a region-by-region basis within their network. • Before any roll-out, the AER, drawing on the proposal and supporting evidence from the distribution business, should assess the net present value of costs and benefits, and be required to consider demand management options that do not rely on smart meters. • When the AER determines the optimal start date of the roll-out, the relevant distributor must submit a costing to the Regulator for approval and agree to an appropriate timeline for implementation. • Mandatory time-based network charges to retailers (draft recommendation 11.3) should be implemented once smart meters are installed, appropriate customer consultation and education has taken place, and retail price regulation is removed (draft recommendation 12.3).	ENA supports rollout of smart meters by distribution businesses based on a positive business case which includes all costs especially communications and IT systems. ENA agrees that this may involve region-by-region rollouts within the network area (especially on system upgrades and meter replacements). It is important to note that networks require full access to meter data for network management proposes. The benefits of smart meters do not solely relate to demand management and the decision to support rollout by distribution businesses should not be reliant upon consideration by AER of this single issue. The ENA supports a policy of all new and replacement meters being smart meters. Any requirement for the installation of smart meters needs to be supported by the definition of a minimum smart meter functional specification which includes definition of the communication platform. It also requires national principles that set out the protocols and access to services associated with the meter, such as

Reference	Draft Recommendation	ENA Response
		load control. The ENA supports definition of a minimum smart meter infrastructure functional specification to support development of common processes and standards. The ENA supports introduction of retail price deregulation. Network businesses utilise price signals with industrial and commercial customers and have been moving towards their introduction to smaller customers over time when the requisite technology and support is available. The ENA does not consider that additional regulatory controls on distribution price structures are warranted, noting that the relative drivers of cost structures may differ markedly between network businesses and within network businesses over time.
Moving to time-based pricing for the distribution network		
11.1	The SCER should be tasked with overseeing the progressive implementation of cost-reflective, time-based pricing for electricity distribution network services, predicated on the long run marginal costs of meeting peak demand. Amongst other things, the Council should: • following consultation with key stakeholders, set timelines for the various steps in the development and implementation process, having regard to: – the Commission's specific proposals in relation to this process (draft recommendations 11.2 to 11.7) – progress in making necessary changes elsewhere in the system • monitor compliance with those timelines • address any areas where greater engagement between key stakeholders (distribution businesses, retailers, state and territory governments, the AER and customer representatives) would assist the expeditious implementation of the new pricing regime • if and as necessary, take specific steps to address implementation delays.	The ENA supports the oversight by SCER of progressive implementation of cost-reflective, time based pricing for electricity network services. The ENA does not support implementation of draft recommendations 11.2 to 11.5 as drafted. The ENA supports increasing engagement between key stakeholders to support transition to new processes. Network businesses utilise price signals with industrial and commercial customers and have been moving towards their introduction to smaller customers over time when the requisite technology and support is available. The ENA does not consider that additional regulatory controls on distribution price structures are warranted, noting that the relative drivers of cost structures may differ markedly between network businesses and within network businesses over time.
11.2	The SCER should initiate a process to establish a uniform set of licence conditions for all transmission and distribution network businesses in the NEM. The Council should task the AEMC to undertake a framework review to assist that process. The development of a uniform set of licence conditions should have regard to the Commission's proposed changes to the reliability framework (draft recommendations 15.1 and 16.1) and should not in any way conflict with, or impede, the implementation of that	Justification for this recommendation is not clear. A full analysis of the benefits of a national license should be carried out before this is agreed. The current framework is governed by the Annexure 2 of the *Australian Energy Market Agreemen*t. Network businesses operate in significantly different

Reference	Draft Recommendation	ENA Response
	framework. The uniform licence conditions should be included in the Rules and replace the current state and territory licence conditions. It may not be immediately feasible to develop standardised provisions governing technical standards and safety, though these should ultimately be encompassed in the national set of licence conditions. The justification for any jurisdiction-specific conditions included in the new licensing regime should be clearly and cogently spelt out in the supporting framework review. Before incorporation into national licence conditions, preparatory work would be needed to develop a common approach to the identification of customers in need of special support to meet their electricity bills or pay for smart meters (draft recommendation 11.6), but: • pending agreement on appropriate national criteria and approaches to funding, each state and territory government should continue to be responsible for targeted financial support to address affordability. The AER should be responsible for ensuring compliance with the new conditions and would have the authority to: • issue and retract licences • seek advice from relevant agencies on any technical matters relating to compliance assessment. Provision could also be made in the Rules for the AER to delegate responsibility for assessing compliance with particular licence conditions to a relevant state-level regulator.	environments (dense urban versus very sparse rural conditions; differences between transmission and distribution businesses). A uniform national set of licence conditions suitable for all businesses would be at a high level and still require supplementary local conditions for meaningful application. Regarding support for customers, ENA notes the current process of implementing the National Energy Customer Framework.
11.3	When the process of implementing cost-reflective, time-based prices for distribution network services is sufficiently advanced to reasonably allow for a tightening of relevant clauses in the Rules: • clause 6.18.5(b)(1) should be amended so as to ensure that time-based tariffs are determined by (rather than 'take into account') a reasonable estimate of the long run marginal cost for the service concerned • clause 6.18.3(d)(1) should be amended so as: – to ensure that the grouping of customers for the purposes of setting time-based tariffs is based on economic efficiency (rather than 'having regard to' it) – to make it explicit that significant differences in the long run marginal cost of meeting peak demand between locations and across customer groups should be reflected in network pricing structures.	While the ENA supports the approach of cost reflective network pricing in broad application, an overly detailed prescriptive approach would be administratively difficult and costly to apply and justify to customers. Consequently the ENA does not support this recommendation. The proposal to "make explicit that significant differences in the long run marginal cost of meeting peak demand between locations and across customer groups should be reflected in network pricing policies" does not consider the level of granularity in its application. The current rules recognise this and should not be changed.
11.4	When the process of implementing cost-reflective, time-based prices for distribution network services is suitably advanced, the requirements governing assessments by the AER of pricing proposals by distribution network service providers should be amended	The ENA does not support this recommendation. Clause 6.18.8 (a) 2 requires that that the AER must

Reference	Draft Recommendation	ENA Response
	such that the regulator: • can only approve a distribution business's peak demand forecasts if they include reasonable forward estimates of the likely demand response to time-based pricing • subject to the above condition, must approve any reasonable estimate by a distribution business of the long run marginal costs of meeting peak demand. To support these changes, the AER should develop a capacity to model demand responsiveness to time-based pricing.	approve a pricing proposal if the AER is satisfied that all forecasts associated with the proposal are reasonable. Demand response to time-based pricing may be a valid element for consideration in this process, but ENA does not consider that it requires separate specification above and beyond other elements. Network businesses utilise price signals with industrial and commercial customers and have been moving towards their introduction to smaller customers over time when the requisite technology and support is available. The ENA does not consider that additional regulatory controls on distribution price structures are warranted, noting that the relative drivers of cost structures may differ markedly between network businesses and within network businesses over time.
11.5	Clause 6.2.8(a)(3) of the Rules should be amended to: • require the AER to publish guidelines on the methodology or methodologies that are appropriate for estimating the long-run marginal costs of meeting peak demand, and the factors that should be encompassed in those estimates • give the AER the authority to publish binding guidelines about efficient, time-based tariff structures, including definitions of 'peak' pricing events. These guidelines should be developed in consultation with the relevant stakeholders and should be improved over time as the implementation of time-based pricing progresses.	The ENA does not support this recommendation. Clause 6.2.8 enables the AER to make guidelines. Clause 6.2.8. (c) states that the guidelines are not mandatory. It is not clear why this particular AER guideline should be both required to be made and mandatory/binding in application. AEMC Power of Choice draft report also recommends 'greater guidance on how networks should set their tariffs to reflect their costs'. Network businesses utilise price signals with industrial and commercial customers and have been moving towards their introduction to smaller customers over time when the requisite technology and support is available. The ENA does not consider that additional regulatory controls on distribution price structures are warranted, noting that the relative drivers of cost structures may differ markedly between network businesses and within network businesses over time. Distribution businesses are best placed to define and establish appropriate tariffs based on existing regulatory incentives.

<table>
<tr><th>Reference</th><th>Draft Recommendation</th><th>ENA Response</th></tr>
<tr><td>11.6</td><td>The implementation of cost-reflective, time-based pricing for distribution network services should be accompanied by assistance for vulnerable consumers, which should target those who:
• are potentially exposed to large price increases and who do not have reasonable opportunities to switch their demand to non-peak periods
• will potentially face significant difficulty in meeting the charges used to recover the costs of smart meters.
The SCER should develop common criteria for identifying who should receive such assistance, and when it should be delivered through electricity specific mechanisms rather than through the Australian Government’s tax and transfer system. These criteria should be based on the outcomes of a review commissioned by the Council of Australian Governments of concessions for utility services across all levels of government (consistent with recommendation 8.1 of the Productivity Commission’s Urban Water Sector Inquiry report).
These criteria, and a commitment to transparent funding of the electricity sector-specific support should then be reflected in the new NEM-wide licence conditions for network businesses (draft recommendation 11.2).</td><td>The ENA supports consideration of support for vulnerable consumers. Whether these are provided via a national or jurisdictional system is a matter for governments to determine.</td></tr>
<tr><td>11.7</td><td>The AER should require:
• distribution network businesses to demonstrate that they have actively engaged with retailers very early in the development of new time-based pricing structures, including on ways to incorporate those charges in retail prices to clearly signal to customers the costs of meeting peak network demand
• distributors and retailers to demonstrate that they have engaged with, and educated, customers prior to the introduction of smart meters, and again prior to the introduction of new time-based customer tariffs.
– Such engagement should occur sufficiently early to ensure that customers have the knowledge and time to respond appropriately to time-based pricing (including of the various means to manage their peak demand); are aware of the implications for their electricity bills; understand the way in which advance warning of critical peak pricing events will be communicated; and are aware of the support mechanisms in the event that the new pricing regime creates financial difficulties for them.</td><td>The ENA supports engagement between retailers and distribution businesses in relation to pricing structures, while acknowledging the relevant application of the Competition and Consumer Act.
While ENA welcomes the consideration of time-based network pricing structures, we recognise the existence of other cost drivers within retail businesses and support retail price deregulation.
The ENA recognises the need for engagement and education of customers on smart meters and time based customer tariffs by retailers and distribution businesses, but also by governments and other parties, such as consumer representative organisations. It is not clear to the ENA that this process is necessarily best addressed by detailed regulation.</td></tr>
<tr><td colspan="3">Complementary reforms to support demand management</td></tr>
<tr><td>12.1</td><td>Coinciding with the gradual roll-out of smart meters to allow more cost-reflective network pricing, revenues from all distribution network ‘standard control services’ should be subject to regulated weighted average price (not revenue) caps. This should not apply to</td><td>ENA does not support blanket prescription of the appropriate form of price regulation. These are properly matters for consideration through the regulatory process</td></tr>
</table>

Reference	Draft Recommendation	ENA Response
	transmission businesses, which, given the complexities and lower net-benefits, should continue to be subject to revenue caps.	itself. These issues are currently subject to consultation by distribution businesses and the regulator, taking into account change to distribution business' circumstances over time.
12.2	The AER should review the operation of, and the incentives provided by, the Demand Management and Embedded Generation Connection Incentive Scheme. In doing so, the AER should ensure that distribution companies' incentives are appropriately aligned with the objective of achieving efficient demand management. The innovation allowance component of this scheme should also be increased.	The ENA supports improvement to the operation of the Demand Management and Embedded Generation Connection Incentive Scheme. The AEMC Power of Choice inquiry recommended that the AER work with distribution businesses on improving the scheme and ENA supports this process.
12.3	Where retail price regulation exists, the AEMC should review the market for effective competition. • In jurisdictions where the AEMC advises that retail price regulation should be removed, the relevant state or territory government should remove retail price regulation as soon as practicable. • Where the AEMC advises that there is strong evidence that competitive pressures would be weak with the removal of the regulation, and could not be addressed by consumer awareness measures: – it should suggest any structural reforms that would be necessary to develop workable competition. These reforms should be promptly progressed by the relevant jurisdictions, and retail price regulations should be removed by no later than 2015.	The deregulation of retail prices would be expected to reduce prices and on this basis the ENA supports retail price deregulation.
Distributed Generation		
13.1	Governments should, as soon as practicable, discontinue subsidies for rooftop photovoltaic units and other forms of distributed generation delivered via feed-in tariffs, and the small-scale component of the Renewable Energy Target scheme. State and territory governments should change the way small-scale distributed generators are reimbursed for exporting power into the grid. This would involve: – feed-in tariffs that approximate the wholesale price of electricity at times of peak and non-peak demand – arrangements that provide for direct payments from distribution businesses to distributed generation providers, which reflect the network value of their distributed generation capacity and output. To provide a transition to the new arrangements, current feed-in tariff schemes should	Rooftop solar photovoltaic units have not proved an appropriate tool for addressing peak demand problems. The ENA supports Distributed Generation (DG) of the correct type and size installed in locations where networks are currently constrained and DG provides an economically and technically viable solution. To date the ability of distribution businesses to influence the installation of solar PV systems where they provide solutions to constraints has been limited. The AEMC has concluded that networks should not be constrained from owning and operating distributed generation where the primary purpose is for network

Reference	Draft Recommendation	ENA Response
	continue for existing customers until the end of their contract period or until those schemes expire (whichever is earlier), but be closed to new entrants one year from governments' formal acceptance of this recommendation. Prior to that date, state and territory governments should develop replacement feed-in schemes with tariffs that approximate the wholesale price of electricity.	support. ENA agrees that there is a need to clarify that network businesses may participate directly in the provision of DSP services.
Building a reliability framework in order to benchmark		
14.1	**Draft Finding**: Efficient levels of reliability are based on balancing the benefits to customers of fewer interruptions with the costs to network businesses of building, maintaining and operating reliable networks. Identifying the point at which the costs to network businesses of further increments in reliability exceed the additional benefits for customers should be the first step in regulating reliability.	ENA would contend that it is critical in this regard to also establish the level of efficient reliability for different customer categories in different locations rather than a single overall efficient level of reliability. It is important to note that the value of customer reliability (VCR) is a surveyed estimate of the financial cost of loss of supply to various customer categories. Willingness to pay (WTP) goes a step further as a surveyed estimate of the amount customers are willing to pay for a reliability improvement or are willing to accept for reliability deterioration. WTP values are therefore needed to justify a proposed reliability improvement against the customers' WTP for the improvement. The Draft Report focuses primarily on VCR studies, and we would encourage further attention be paid to choice modelling WTP studies, including their use in regulating reliability in other countries, such as the United Kingdom[1] and New Zealand.[2] VCR will tend to underestimate the value that residential customers place on reliability because it is not well suited to measuring non-financial costs, such as inconvenience. This would result in investments that could benefit customers overall not being undertaken. Identifying the point at which marginal benefits equal marginal costs is the first step in one type of regulation – mandatory standards. Another type of regulation – reliability incentives (via a Service Target Performance Incentive Scheme) – is based on an assumption that marginal costs of reliability are discovered by electricity

[1] For example, Accent 2008, Expectations of DNOs and willingness to pay for improvements in service, Report prepared for OFGEM, July.
[2] Electricity Authority 2012, Investigation into the value of lost load in New Zealand – Summary of findings, available at: http://www.ea.govt.nz/our-work/programmes/transmission-work/investigation-of-the-lost-load/

Reference	Draft Recommendation	ENA Response
		networks once they have a financial incentive to do so.
14.2	**Draft Finding**: Current estimates of the value that customers place on reliability are based on inadequate sampling, data and methodology and need to be updated regularly.	The ENA supports the Commission's Draft Finding.
14.3	The AEMO should commission and pay the Australian Bureau of Statistics to undertake regular, detailed, disaggregated surveys based on best practice methodologies to reveal the value of reliability for different categories of customers, with the methodologies and results made public. The AEMO should commission suitably qualified experts to consider and measure the costs of interruptions not likely to be captured in the Australian Bureau of Statistics surveys. This should include the costs associated with citywide disruptions, including to telecommunications, water services and public transport, and the resulting loss of international reputation from lower reliability. The AEMO should use these measures to supplement the results of the surveys.	The ENA is supportive of the ABS undertaking work to establish reliable and up to date VCR and WTP values that capture the diverse needs of the various customer segments in the distribution component of the NEM. ABS should utilise academic experts in non-market valuation to ensure the methods are kept up-to-date with advances in the field. For this to be achieved, the Steering Committee for National Regulatory Reporting Requirements (SCNRRR) customer categories would need to be re-defined. This is because the current customer categories incorporate a mix of different types of customers in the one category. It is more appropriate however to have customer types defined by use and location characteristics.
Transmission reliability		
15.1	The SCER should, in consultation with the AEMO and the AEMC, develop a NEM-wide reliability framework in which reliability settings would be determined by customer preferences. This framework should replace all jurisdiction-specific reliability settings.	The ENA notes that Grid Australia intends to respond to this question in its separate submission.
15.2	Drawing on the current Victorian experiences, the AEMO should carry out transmission planning for all transmission networks in the NEM. The Operator should: • use Values of Customer Reliability (as obtained through draft recommendation 14.1) • use best practice probabilistic processes in its cost-benefit analysis of network and non-network options to address reliability issues and/or constraints • describe its full cost-benefit analysis as part of its process for the RIT for Transmission • make public all methodologies, parameters, data and other inputs used in the analysis • work closely with each of the transmission companies concerned to make sure that their experience and input is fully understood and where mutually agreed, appropriately incorporated into the analysis	The ENA notes that Grid Australia intends to respond to this question in its separate submission.

Reference	Draft Recommendation	ENA Response
	• use its best estimate of peak demand forecasts, having sought input from all relevant stakeholders • ensure that planning decisions are consistent with NEM-wide efficiency objectives • not carry out the 'procurer' role currently done in Victoria until it can be demonstrated that the benefits of such an approach exceed the costs in the Australian NEM environment.	
15.3	In consultation with the transmission network businesses, the AEMO should specify the details of the network or non-network solution to an identified constraint. If the cost of the solution is less than an appropriate threshold, then: • the AEMO and the network business should negotiate and agree on the required expenditure. If there is no agreement, the AER should determine the allowable spending. If the costs exceed the above threshold, then: • the transmission business should submit detailed and final costings to the AER • with advice from the AEMO, the AER should determine the allowable expenditure. The AER should automatically include the relevant agreed allowable expenditure in the revenue allowance for the transmission business. At the next regulatory reset, the actual capital spent on such projects should be included in the transmission business's Regulated Asset Base.	The ENA notes that Grid Australia intends to respond to this question in its separate submission.
15.4	The AER should ensure that, in the AEMO's role as a transmission planner, its public reporting and planning processes are adequate, transparent and meet the National Electricity Objective.	The ENA notes that Grid Australia intends to respond to this question in its separate submission.
15.5	The AEMO should review and, where necessary improve, the technical aspects of its probabilistic processes, particularly those relating to low-probability, high risk events. In undertaking the review, the AEMO should closely consult with network businesses and seek independent peer review of its technical methods.	The ENA notes that Grid Australia intends to respond to this question in its separate submission.
15.6	If the SCER does not accept draft recommendations 15.2 and 15.3, then it should implement a second best option in which: • transmission businesses would retain the function of planning and making augmentation decisions • the AEMO would set hybrid standards for connection points every five years, with standards that could fall as well as rise, and would provide advice on efficient	The ENA notes that Grid Australia intends to respond to this question in its separate submission.

Reference	Draft Recommendation	ENA Response
	investment to meet those standards • in consultation with network businesses, the AEMO would develop peak demand forecasts. The AER would use these demand forecasts in its regulatory determinations in accordance with draft recommendation 8.4 • the Rules should be amended to allow the AER to accept the AEMO's advice on the preferred network and non-network options and their cost as the default proposal, requiring the transmission business to show why its alternative was more efficient • the Victorian Government should not be required to relinquish its current planning framework, with the adapted hybrid model only applying to other jurisdictions. Other jurisdictions should be free to adopt the Victorian planning model.	
15.7	Where necessary, the AEMO should assist the AER in its compliance and auditing of transmission networks, to ensure that the agreed projects are completed and intrinsic network reliability is maintained.	The ENA notes that Grid Australia intends to respond to this question in its separate submission.
15.8	The AEMO should act as the planner of last resort where it considers that underinvestment could expose the network to serious reliability problems, with the right to direct investment should the AEMO believe that not to do so could seriously compromise the reliability of the NEM. The AER would act as an arbitrator in any disputes.	The ENA notes that Grid Australia intends to respond to this question in its separate submission.
15.9	The AER should review the Service Target Performance Incentive Scheme for Transmission to ensure the incentives and targets are consistent with the new NEM-wide reliability framework.	The ENA notes that Grid Australia intends to respond to this question in its separate submission.
15.10	Transmission businesses not already using this approach should transition to dynamic capacity ratings on all critical equipment.	The ENA notes that Grid Australia intends to respond to this question in its separate submission.
Distribution reliability		
16.1	The SCER should specify that reliability requirements for distribution businesses be included in the AER's Service Target Performance Incentive Scheme, replacing all existing jurisdiction-specific reliability settings. • The reliability requirements should reflect the preferences of customers by using the estimated values of customer reliability, as spelt out in draft recommendation 14.1, and should be specific to the distribution business.	Refer to response to *Draft Recommendation 14.1* above

Reference	Draft Recommendation	ENA Response
16.2	The AER should also make the following amendments to the Service Target Performance Incentive Scheme: • reliability performance targets for the system average interruption duration index, system average interruption frequency index and momentary average interruption frequency index should be adjusted annually, according to rolling five-year average annual performance • revenue at risk should be negotiated as part of the AER's revenue determination process • the reporting and information component of this scheme should require distribution businesses to report their reliability performance at the zone substation level. Worst performing feeders should be identified as part of this process • reporting by all distribution businesses of performance against the parameters in the scheme should be published annually and be at least as detailed and comprehensive as current reporting mechanisms for distribution businesses in Victoria.	The ENA supports the principles behind the Service Target Performance Incentive Scheme, however, the level of prescription should be left with the AER who are the responsible authority for administration of the scheme. Comments on specific proposed amendments: • Not supported: There are pragmatic reasons why the five year cycle should be retained. A 'moving' yearly target is not practical because: ➢ It can take a minimum of 12 months to take corrective action to achieve a 'new' yearly target, and longer for larger projects. ➢ It takes at least another 12 months for the benefits to be realised in annual reliability improvement results. This is because results are only shown every June end-of-financial year, and 12 months of benefits need to be accrued before the full benefits are realised. ➢ It erodes the 5 year investment/return decision mechanism i.e. the revenue stream to pay for the project investment is uncertain and may not be recouped. • Supported: The ENA believes that a DNSP should have the flexibility to be able to propose to the AER a different overall cap on the revenue at risk to that specified in the scheme. • Not supported: There is no need for reporting reliability information at the zone substation level, even if this is already included in the Victorian reporting regime. While it could be used as a basis for a consistent nation-wide reporting pro-forma, the draft report has not established why this level of reporting (at zone substation level) is advantageous or better than other forms/levels of reporting. Moreover, the draft report strongly recommends including a customer centric focus on reliability regulation, but zone substation level reliability performance does not represent customer experience reporting any better than feeder level reliability performance reporting. This is because zone substation level performance reporting does not relate

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		to VCR, individual customer outcomes, or STPIS category targets. As noted in 14.1 above, it is preferred that annual reporting focus on individual customer performance reporting and whether customers are receiving acceptable reliability performance or not. • Supported.
16.3	Where a distribution business can show that they are unable to technically comply with one or more parameters of the Service Target Performance Incentive Scheme, and where satisfied that the benefits exceed the costs, the AER should: • approve the required revenue for the distribution business to install the necessary equipment • require compliance as soon as possible.	Supported (subject to comments in response to *Draft Recommendation 16.2* above).
The role of interconnectors		
17.1	**Draft Finding**: The available evidence suggests that, given the existing network conditions, the current physical capacity of interconnectors is reasonably appropriate.	The ENA notes that Grid Australia intends to respond to this question in its separate submission.
Efficient use of interconnectors		
18.1	In the absence of any unintended consequences identified during current consultation processes, the AEMC's 'optional firm access' package for generator access to the transmission network should be implemented. • It should operate for a period of at least 10 years. • It should be monitored by the AEMO for its effects on network planning and performance and, in concert with the AER, changes in observed patterns of generator bidding behaviour. Monitoring results should be made public annually.	The ENA notes that Grid Australia intends to respond to this question in its separate submission.
18.2	After the optional firm access package has been operational for 10 years, a cost-benefit analysis should be conducted, with particular regard to the structure of the NEM at the time, the views of consumers, and any remaining barriers to the introduction of nodal pricing. • If the analysis finds net benefits are likely, and no significant and insurmountable barriers or risks are identified, nodal pricing (including financial transmission rights) should be introduced with appropriate transitional arrangements and arrangements for disadvantaged consumers.	The ENA notes that Grid Australia intends to respond to this question in its separate submission.

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Identifying future transmission investment		
19.1	The RIT for Transmission should not be amended to include indirect effects of investment decisions.	The ENA notes that Grid Australia intends to respond to this question in its separate submission.
19.2	In combination with the adoption of probabilistic reliability planning (draft recommendation 15.3), the RIT for Transmission should be changed so that reliability is only assessed as a component of overall benefits and not as a separate criterion.	The ENA notes that Grid Australia intends to respond to this question in its separate submission.
Governance		
21.1	There should be an independent review of the resourcing and capacity of the AER to undertake all its functions, including whether there are impediments to its performance and options for improvement.	This recommendation is supported. The network sector supports an appropriately resourced regulatory body with a capacity to deliver on its functions and produce high quality regulatory outcomes. The AER has sequentially acquired a range of additional functions and responsibilities over the past seven years, without it having the opportunity to have its resourcing reviewed on a comprehensive or holistic basis by Australian governments.
21.2	The AER should have greater control over, and accountability for, the resourcing and management of its functions. It should: • have its own separate budget sufficient to meets its role • submit a separate annual report of its performance • publicly reveal its strategy for improving its performance • have an independent capacity to negotiate resource sharing arrangements with a range of agencies, not just the Australian Competition and Consumer Commission • ensure that it establishes and retains the necessary specialist expertise to competently carry out its role, in accordance with draft recommendation 8.6 • develop a program for regular ongoing communication and interaction with network businesses, their customers and other relevant stakeholders, with those interactions not just confined to periods of regulatory determinations.	The ENA supports this recommendation. It is important that the AER is not a consumer advocate and is independent from political intrusion in its regulatory responsibilities.
21.3	There should be adequate ongoing funding of a single but broadly representative consumer body with expertise in economic regulation and relevant knowledge and understanding of energy markets. This body would:	The ENA supports this recommendation.

Reference	Draft Recommendation	ENA Response
	• represent the interests of all consumers during energy market policy formation, regulatory and rule-making processes, merit reviews, and negotiations with providers of electricity networks and gas pipelines • subsume the role of the existing Consumer Advocacy Panel into its broader functions • be funded through a levy on market participants, drawing on the approach used to currently fund the Consumer Advocacy Panel • have a governance structure that involved a board of members appointed on merit, and an advisory panel to give the board advice on the needs of the mix of customers concerned.	A charter for the consumer body should be developed that includes an objective of satisfying the long term interests of consumers.
21.4	The National Electricity Law should be amended to expedite the making of Rules arising from any appropriately conducted independent review relevant to the NEM and that are agreed by the SCER. This should be achieved by giving the: • AEMC the power to expedite Rule requests and • South Australian Minister a broader power to make Rules.	This recommendation is not supported. This proposal is inconsistent with promoting stable and predictable development of the energy rules framework over time. In particular, the ENA considers that these proposals are at variance with the well-functioning separation of roles which is identified as good practice by the Commission itself, with SCER exercising policy-making functions, AEMC being responsible for rule-making and the AER executing regulatory functions.[3] The effect of both of the proposed recommendations would be to create a form of potential 'distributed' rule-making activities, occurring within SCER or *ad hoc* external independent review processes. This potential for rule changes to arise from nominated reviews outside of the AEMC or an ordinarily commenced rule change process has the potential to lead to erosion in overall coherence and confidence in the development of rule changes and their approval. A strong benefit of the existing framework is that the AEMC as a single body has clear accountability for the performance of rules which are made, and is able to apply a stable and consistent analytical framework over potential rule developments, their relationship to the national electricity and gas objectives, and their linkages to other rule developments. An example of this is its capacity to recognise cross-linkages in its recent reviews of consumer choice and the economic regulation of network service

[3] See Productivity Commission, *Draft Report – Electricity Network Regulatory Frameworks*, October 2012 , p.700

Reference	Draft Recommendation	ENA Response
		providers. If the recommendation proposed was implemented, three alternative processes could effectively result in significant energy rule changes, undermining any parties overall accountability for providing a clear and stable rules framework, and allowing for conflicting views of appropriate rules developments to be pursued in an overlapping, incoherent manner. Such a process would lend itself to the rule making process becoming a more unstable 'politicised' tool for the expression of conflicting views between different institutional players (SCER, AEMC, AER, AEMO and industry) in a manner which would detract from the goal of the rule change process to provide a single transparent and accountable mechanism for evolutionary rule development. This predictable, consistent and centralised approach to rule change assessment represents a fundamental underpinning for existing and potential investors considering making large sunk capital investments in long-term infrastructure assets. It allows, for example, all stakeholders to examine the AEMC's rule-making decisions over a period of time and form an assessment of ways in which the regulatory environment may evolve into the future, based on the Commission's assessments and institutional record. The ENA also considers the implementation of these recommendations to be highly problematic. The concept of an appropriately conducted independent review is an inherently subjective and qualitative standard, which is uncertain in operation. Further, it is unclear who would make this assessment in each case. The recommendation to allow a broader power for the South Australian Minister to make Rules with the agreement of SCER possesses all of the deficiencies outlined above, with the added uncertainty that it would effectively allow rules which govern long-term investments in network assets to be subject to alteration at any time SCER chose. This would represent an effective overturning of the Ministerial Council on Energy's policy decision to devolve rule-making to an independent body subject to

Reference	Draft Recommendation	ENA Response
		procedural and legal checks and balances, and with access to specialist regulatory rule-making expertise. This move would substantially increase regulatory risk, a cost which is ultimately borne by consumers by virtue of higher prices. Finally, it is unclear whether what is being addressed is an actual demonstrated (as opposed to potential) deficiency in the framework. That is, it is not apparent that a range of sound rule changes recommended by such independent reviews which clearly meet the rule-making test have been delayed by current arrangements. Where potential rule changes have not been immediately implemented through a rule change process, rather, it has been because a range of parties, including the AEMC, consumer groups, governments and industry have not agreed that the changes were uncontentious and unambiguously consistent with the promotion of the long-term interests of consumers.