

Attachment 11.1

Proposed Pass-Through Mechanism

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1. Overview

A pass-through mechanism provides NTESMO an opportunity to recover sufficient revenue if an event outside of our control occurs and increases the costs of meeting our regulated functions. These costs are unaccounted for in the regulatory determination, including in the allowed revenue and resultant regulated charges.

Our Initial Regulatory Proposal included a framework for managing uncertainty within the regulatory period. We proposed pass through events based on the events prescribed in the NT NER and nominated events. Previously we proposed a process where the prudence and efficiency of expenditure was mostly assessed on an ex-post basis.

2. Proposed Pass-Through Events

We propose that the Commission includes eight pass-through events, these are identified in the following sections.

2.1. Retailer failure

The failure of a retailer during a regulatory period, to pay NTESMO an amount to which NTESMO is entitled for the provision of system control or market operator services, if:

- a) an insolvency official has been appointed in respect of the retailer; and
- b) NTESMO is not entitled to payment of that amount in full under the terms of any local support in respect of that retailer.

2.2. Regulatory change event

A change in a regulatory obligation or requirement that:

- a) falls within no other category of pass-through event; and
- b) occurs during a regulatory period; and
- c) substantially affects the way NTESMO provides system control or market operator services; and
- d) materially increases or materially decreases the costs of providing those services.

2.3. Service standards event

A legislative or administrative act or decision that:

- a) has the effect of:
 - i) substantially varying, during a regulatory period, the way NTESMO is required to provide a system control or market operator service; or
 - ii) imposing, removing, or varying, during a regulatory period, minimum service standards applicable to system control or market operator services; or
 - iii) altering, during a regulatory period, the nature or scope of the system control or market operator services provided by NTESMO; and
- b) materially increases or materially decreases the costs to NTESMO of providing system control or market operator services.

2.4. Tax change event

A tax change event occurs if:

- a) any of the following occurs during a regulatory period for NTESMO:
 - i) a change in a relevant tax, in the application or official interpretation of a relevant tax, in the rate of a relevant tax, or in a way a relevant tax is calculated;
 - ii) the removal of a relevant tax; iii) the imposition of a relevant tax; and
- b) in consequence, the costs to NTESMO of providing system control or market operator services are materially increased or decreased.

2.5. Insurance coverage event

An insurance coverage event occurs if:

1. NTESMO:

- a) makes a claim or claims and receives the benefit of a payment or payments under a relevant insurance policy or set of insurance policies; or
- b) would have been able to make a claim or claims under a relevant insurance policy or set of insurance policies but for changed circumstances; and

2. NTESMO incurs costs:

- a) beyond a relevant policy limit for that policy or set of insurance policies; or
- b) that are unrecoverable under that policy or set of insurance policies due to changed circumstances; and

3. The costs referred to in paragraph 2 above materially increase the costs to NTESMO in providing system control or market operator services.

For the purposes of this insurance coverage event:

- 'changed circumstances' means movements in the relevant insurance liability market that are beyond the control of NTESMO, where those movements mean that it is no longer possible for NTESMO to take out an insurance policy or set of insurance policies at all or on reasonable commercial terms that include some or all of the costs referred to in paragraph 2 above within the scope of that insurance policy or set of insurance policies.
- 'costs' means the costs that would have been recovered under the insurance policy or set of insurance policies had:
 - the limit not been exhausted; or
 - those costs not been unrecoverable due to changed circumstances.
- A relevant insurance policy or set of insurance policies is an insurance policy or set of insurance policies held during the regulatory period or a previous regulatory period in which NTESMO was regulated; and

- NTESMO will be deemed to have made a claim on a relevant insurance policy or set of insurance policies if the claim is made by a related party of NTESMO in relation to any aspect of NTESMO's network or business; and NTESMO will be deemed to have been able to make a claim on a relevant insurance policy or set of insurance policies if, but for changed circumstances, the claim could have been made by a related party of NTESMO in relation to any aspect of NTESMO's functions.

Note for the avoidance of doubt; in assessing an insurance coverage event, the Commission will have regard to:

- i) the relevant insurance policy or set of insurance policies for the event;
- ii) the level of insurance that an efficient and prudent regulated entity would obtain, or would have sought to obtain, in respect of the event;
- iii) any information provided by NTESMO to the Commission about NTESMO's actions and processes; and
- iv) iv) any guidance published by the AER on matters the AER will have regard to in assessing any insurance coverage event that occurs.

2.6. Insurer's credit risk event

An insurer's credit risk event occurs if an insurer of NTESMO becomes insolvent, and as a result, in respect of an existing or potential claim for a risk that was insured by the insolvent insurer, NTESMO:

- a) is subject to a higher or lower claim limit or a higher or lower deductible than would have otherwise applied under the insolvent insurer's policy; or
- b) incurs additional costs associated with funding an insurance claim, which would otherwise have been covered by the insolvent insurer.

Note: in assessing an insurer credit risk event pass through application, the Commission will have regard to, among other things:

- i) NTESMO's attempts to mitigate and prevent the event from occurring by reviewing and considering the insurer's track record, size, credit rating and reputation; and
- ii) if a claim would have been covered by the insolvent insurer's policy, whether NTESMO had reasonable opportunity to insure the risk with a different provider.

2.7. Natural disaster event

Natural disaster event means any natural disaster including but not limited to cyclone, fire, flood, or earthquake that occurs during the 2024–27 regulatory period that changes the costs to NTESMO in providing system control or market operator services, provided the cyclone, fire, flood, earthquake, or other event was:

- a) a consequence of an act or omission that was necessary for NTESMO to comply with a regulatory obligation or requirement or with an applicable regulatory instrument; or
- b) not a consequence of any other act or omission of NTESMO. Note: In assessing a natural disaster event pass through application, the Commission will have regard to, among other things:
 - i) whether NTESMO has insurance against the event;
 - ii) the level of insurance that an efficient and prudent regulated entity would obtain in respect of the event. Terrorism event.

2.8. Terrorism event

Terrorism event means an act (including, but not limited to, the use of force or violence or the threat of force or violence) of any person or group of persons (whether acting alone or on behalf of or in connection with any organisation or government), which:

1. from its nature or context is done for, or in connection with, political, religious, ideological, ethnic, or similar purposes or reasons (including the intention to influence or intimidate any government and/or put the public, or any section of the public, in fear); and
2. changing the costs to NTESMO in providing system control or market operator services.

Note: In assessing a terrorism event pass through application, the Commission will have regard to, among other things:

- i) whether NTESMO has insurance against the event
- ii) the level of insurance that an efficient and prudent regulated entity would obtain in respect of the event; and
- iii) whether a declaration has been made by a relevant government authority that a terrorism event has occurred.

3. Materiality threshold

Our proposal is to apply a 5% materiality threshold to uncertainty mechanism claims. For a pass-through event to be eligible, the actual and forecast change in costs must be equal to or exceed 5% of the annual revenue requirement in the year in which the pass-through event occurs.

We propose that the level of costs may include the cost impact of a single pass-through event in a single year, or the total cost impact of an event over more than one year in the regulatory period to recognise the cumulative effect of the event in the regulatory period. We propose that a claim can also be made where more than one pass through event occurs in a regulatory year and the combined cost impact of those

events in that year is equal to or exceeds the 5% threshold which recognises the compounding impact of multiple events.

4. Proposed information to be provided to the Commission

We propose that when seeking approval for an eligible pass-through event, NTESMO will provide, by written notice, the following information:

- The details of the pass-through event include the date on which the event occurred.
- The increase in costs incurred and likely incurred in each regulatory year during the current regulatory period (and future regulatory periods where relevant) and the amount NTESMO proposes should be passed through to customers.
- Evidence of the actual and increase in costs and that these costs occur solely because of the event.

Information on NTESMO's decisions and actions in relation to mitigating the risk of and reducing the magnitude of costs associated with the pass-through event.

This is consistent with the Commission's decision paper.

5. Proposed process timeframes for eligible events

We propose the following steps and timeframes will apply in relation to notifications and approvals of pass-through events and associated claims:

- Within 20 business days of NTESMO becoming aware of the occurrence of a pass-through event that meets or exceeds the materiality threshold, or where multiple pass-through events occur in a regulatory year and the accumulative cost meets or exceeds the materiality threshold.
- NTESMO will provide a claim to the Commission if NTESMO considers the materiality threshold has been reached. The timing of the claim will be either:
 - If the claim relates to a single pass-through event in a single year, then within 90 business days of NTESMO becoming aware of the occurrence of a pass-through event, NTESMO is to provide the Commission with a claim that meets the information requirements (see section above) for approval.
 - If the claim relates to more than one pass through event occurs in a regulatory year and the combined cost impact of those events in that year exceeds the materiality threshold, then within 90 business days of the end of that regulatory year, NTESMO is to provide the Commission with a claim that meets the information requirements (see section above) for approval.
- Within 60 business days after receipt of a claim that meets the Commission's requirements, the Commission will approve or not approve the amount and the year (or years) in the regulatory period in which that amount is to be passed through to customers. Where a claim is not approved, the Commission will provide the reasoning for its decision.
- The Commission may request additional information by written notice in relation to a claim.
- During that 60-business day period, the Commission may extend the time for its assessment of NTESMO's claim by a further 60 business days by written notice to NTESMO if the Commission considers the complexity or difficulty of assessing or quantifying the effect of the pass-through event justifies the extension.
- Within 5 business days of notifying NTESMO of its decision to approve or not approve the claim, the Commission will publish its decision on the Commission's website.

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