

The Project Partners:



Australian Energy Regulator

Attention: Mr Warwick Anderson

SAPN – Additional Bushfire Related Expenditure

A submission on SA Power Networks proposed additional
bushfire expenditure in the 2020-2025 Revenue
Determination

06 March 2020

Contents

1	Background	3
2	Summary of Recommendations	4
3	About the Project Partners.....	5
4	Context.....	6
5	Bushfire Liability Insurance Premiums Step Change	7
6	Bushfire Risk Review – Proposed Contingent Project	9
	6.1 Bushfire Risk Requirements on SAPN	9
	6.2 Process for Any Future Response.....	11
	6.3 Trigger events	12
7	Appendix 1. TERMS OF REFERENCE	14

Disclaimer

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The views expressed in this document do not necessarily reflect the views of Energy Consumers Australia (www.energyconsumersaustralia.com.au)

1 Background

The Australian Energy Regulator (AER) is in the final stages of determining SA Power Networks 2020-25 Regulated Revenue with a final determination due on April 30. SA Power Networks has made further submissions seeking to add a new step change to its opex allowance and also add a new contingent project.

These proposals have been provided by SA Power Networks late in the review process, after it lodged its revised proposal and after stakeholder submissions have been made. The AER decided to open a short consultation period to allow stakeholders to comment on these new proposals. This submission therefore represents a supplementary submission to that made by the Project Partners on the Revised Proposal (20 January 2020).

The two proposals are:

Bushfire Risk Review Contingent Project

On 15 January 2020, SA Power Networks submitted material additional to its revised proposal regarding costs it may incur relating to a recently initiated inquiry into bushfire risk. It proposes to address this through a new contingent project. Under clause 6.6A.1 of the NER, a regulatory proposal may include contingent capital expenditure, which SA Power Networks considers is reasonably required for a project that is probable but uncertain within the forthcoming regulatory control period of July 2020 to June 2025.

The costs related to a contingent project are not included as part of capital expenditure until specific triggers have been met. The costs are unknown at this stage.

Opex Step Change

On 10 February 2020, SA Power Networks made a submission further to its revised proposal seeking additional operating expenditure (a step change) for increased bushfire liability insurance premiums over the 2020-25 regulatory control period. SA Power Networks notes that following the recent bushfire events in Australia, it has received new information which indicates that bushfire insurance premiums will be materially higher than the premiums included in its 2018-19 base year operating expenditure. As a result, it is seeking an increase in its forecast operating expenditure that takes into account this information and the expected change in bushfire liability insurance premiums.

2 Summary of Recommendations

Our recommendations are for the AER to:

- Accept the basis for the Bushfire Risk Insurance Step Change
- Consider the proposed step change amount in the context of the Confidential Information provided by SA Power Networks, advice from your expert consultant and the equivalent expenditure by other Networks.
- Consider a NEM-wide review of the approach to bushfire risk insurance in the context of the recent fire season and the long-term interests of consumers, noting the different legislative provisions in each jurisdiction.
- Accept that a Bushfire Risk related contingent project is an appropriate mechanism even though we don't believe there is an imminent requirement.
- For the trigger events to be based only on the South Australian Government initiating new legislative or regulatory requirements and a RIT-D being subsequently completed to determine the "best" network or non-network investments to meet the identified need.

3 About the Project Partners

SAFCA

The SA Financial Counsellors Association supports the Financial Counselling and Low Income Support sectors in South Australia and the Northern Territory. The sector employs directly and indirectly over 500 individuals. These workers provide a much needed and valued service to all South Australians and Territorians.

Financial counsellors assist some 35,000 – 40,000 financially vulnerable South Australians and Northern Territorians and their families every year. This includes those on benefits and pensions, low income and people with high levels of debt.

SAFCA provides the professional development needed by financial counsellors to keep up with the latest developments in such areas as banking, utilities and debt collection practices around hardship and collections

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Uniting Communities

Uniting Communities is an inclusive not-for-profit organisation working alongside more than 30,000 South Australians each year as they strive for bright futures and great lives. We value diversity and are committed to providing respectful, accessible services to all.

Uniting Communities seeks to reduce inequality and improve wellbeing for all who are striving to overcome disadvantage – individuals, their families and communities – so that they can realise their potential and live the best lives they can. We do this in a way that is non-judgemental, generous and supportive; that embrace diversity; and that values and promotes fairness, justice and the benefits of strong communities.

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The Energy Project

The Energy Project is a specialist energy consulting firm. We provide independent analysis, insights and advice on a range of energy related challenges faced by commercial, institutional and government clients.

We don't sell equipment. Rather, we work closely with clients to provide them with the tools needed to make sound business decisions about their energy needs.

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4 Context

In our earlier submission “What’s Fair? An equity perspective” (20 January 2020) we said that:

“The ‘lens’ through which the Partners have considered the Revised Revenue Proposal is its likely impact on poorer members of the SA community, an approach summarised as ‘Rawlsian’ from the perspective of equity described by philosopher John Rawls. He proposed that a fair society is one that seeks to most improve the situation of the poorest member of society, in any policy or related action.”

We also consider the two additional revenue requests through this ‘lens’ and thought carefully from our perspective about “what is fair?”

The additional context for the two SAPN proposals is the very hot December 2019 weather conditions in southern Australia and associated widespread and damaging bushfires. Climate change projections also suggest that future summers will likely be just as hostile.

While it is reasonable to expect that SAPN would make adequate plans for summer readiness and the risk of bushfires in their regulatory proposal, we think it is fair to also say that the events of the 2019/20 summer were beyond reasonable planning and consequently increase the scope of consideration for summer readiness and bushfire risk for the summers of the 2020-25 regulatory period.

The following considers the two additional requests from SAPN.

5 Bushfire Liability Insurance Premiums Step Change

In writing to the AER, SAPN summarised their insurance premium step change as follows:

This letter and the Addendum, Annexure A and associated appendices together comprise our further submission concerning our Revised Proposal and, in particular, our proposal to seek an additional step change with respect to the material increase in our bushfire liability insurance premiums for the 2020-25 RCP that we have been advised will occur later in 2020 (Bushfire Step Change Submission).

The quantum of the proposed step change is \$16.3m in real terms over the five year regulatory period:

(June 2020, \$ million)	2020/21	2021/22	2022/23	2023/24	2024/25	Total
Bushfire step change	2.1	3.0	3.6	3.8	3.8	16.3

SAPN provided the Partners with a detailed briefing about their approach to determining the appropriate level of cover and achieving that at least cost. We are satisfied that the approach taken for insurance coverage, including bushfire liability insurance by SAPN, is diligent, thorough and reasonable. We understand that the lease of the South Australia distribution network includes a unique obligation to maintain a minimum bushfire liability cover of \$600m.

We understand that SAPN is due to receive its next round of insurance premium proposals in September/October 2020. It is also recognised that bushfire liability insurance for electricity network businesses is a global market and that there have been global, interstate and overseas events that have heavily impacted this very tight insurance market. We are also satisfied that while future premiums for bushfire liability insurance are unknown, the order of magnitude of likely increase has been estimated and will be substantially more than SAPN is currently paying.

Consequently, we believe that a material increase in bushfire liability insurance premiums is unavoidable and an opex step change an appropriate response. The question then is the amount. The proposal is based on a considerable amount of “confidential material” and hence we have not been able to scrutinise the amount proposed. We understand that the AER has appointed their own consultant to review the SAPN costings.

The mechanism would increase SA Power Networks regulated revenue by \$16.3m over the 5 years BEFORE the actual costs of SAPN's next "Insurance Year" are known later in 2020. While SA Power Network's carries the risk of underestimating these costs, we would prefer to see a mechanism that could incorporate "actual costs" over the period.

In our view, should actual insurance premiums materially exceed current and forecast expenditure, SAPN and / or the AER should convene a stakeholder engagement forum, including consumer groups and the South Australian Government, to explore any alternatives to amount of cover or the approach to market.

We also note that insurance premiums are rising significantly for all network businesses and that this issue warrants broader consideration than any individual network business and recommend that this be the subject of a separate AER review process to identify insurance cover risks for Australia network businesses and cost-effective options for achieving adequate cover.

6 Bushfire Risk Review – Proposed Contingent Project

The purpose of this proposed contingent project is stated by SAPN as follows

"This Addendum proposes an additional proposed contingent project for the 2020-25 RCP (the Bushfire Risk Review Contingent Project) and provides detailed information in support of our request for the AER to determine that the Bushfire Risk Review Contingent Project should be included as a contingent project in our final determination for the 2020-25 RCP."

The Partners also received a detailed and helpful briefing on this proposal from SAPN.

In considering this proposal the Partners have sought to separate the 'requirement' from the 'process' for responding to the contingent project proposal.

6.1 Bushfire Risk Requirements on SAPN

We first consider the 'requirement' that is central to the proposed contingent project. As background to this proposal, SAPN writes:

"On 7 January 2020, SA Power Networks met with representatives from the State Government and the Essential Services Commission of South Australia (ESCOSA) to discuss bushfire risk management practices. The State Government indicated during that meeting a desire to investigate how effectively electricity infrastructure is being managed in view of the increasing fire risk being experienced during the current fire season. The State Government also intends to investigate the potential implications and ramifications of an increasing bushfire risk profile due to climate change during future years. The State Government will therefore ask ESCOSA to write to SA Power Networks to conduct a review of bushfire risk management practices (Bushfire Risk Review) which review will extend to the management of electricity infrastructure in high and medium bushfire risk areas."

We are aware of three (somewhat) separate activities that appear to be relevant to this proposal by SAPN for a contingent project and related to potential future bushfire costs.

1. Firstly there is the Essential Services Commission of South Australia (ESCOSA) annual process that requests an update about preparedness for the coming summer with particular regard to service standards and other factors legislated

by the South Australian parliament including appropriate bushfire insurance cover. We understand this occurred prior to December 2019.

In January 2020, to our understanding, ESCoSA sent a similar letter to SAPN seeking updated advice on any further learning or perspective coming from the bushfires in South Australia in December 2019. We understand that this is part of an ongoing process where ESCOSA initiates a discussion with SAPN about summer readiness and associated risks including demand, bushfire risk etc.

ESCOSA, in its role of setting service standards could bring forward the next round of consideration of these standards if they consider that there is merit in an earlier conversation about responsiveness to climate change risk. ESCOSA sets service standards prior to each regulatory process for SA normally commencing about two years before the regulatory proposal is to be lodged, meaning the next service standards review would most likely start in about 2023. The summer of 2019/20 could bring this review forward, though we are unaware of any current plans to do so.

2. The second activity is the meeting of 7th January 2020 referenced by SAPN in the request for a contingent project. We understand that this meeting was associated with the standard annual summer readiness process undertaken collaboratively by the SA Government, SAPN and ESCoSA. So while the bushfires of December 2019 were beyond normal expectations, the 7 January meeting was more of a debrief than anything more formal or extraordinary, with all parties interested in any learning that had occurred in responding to the bushfires.
3. The third activity is the South Australian 2019/20 Bushfire Review being undertaken by the South Australian Fire and Emergency Services Commission and being led by Mick Keelty¹. The terms of reference for this review are attached as appendix 1. This review is described as a "*broad enquiry and review*" that has a focus on 12 factors under the headings of "*prevention, preparedness, response and recovery*." We understand that while SAPN's role in preparedness for bushfires will be considered as part of the review it comprises a relatively small component of a much broader review.

¹ www.premier.sa.gov.au/news/media-releases/news/independent-review-into-south-australias-201920-bushfire-season

From these three activities we do not see any particular requirement being placed on SAPN to undertake increased bushfire preparedness spending at this stage. The activities described above as the first and second activities and involving ESCoSA, we understand from discussions with ESCoSA, to be standard annual summer preparedness discussions and considerations rather than any new, focused review following on from the 2019/20 summer and associated bushfires.

The third activity, the 2019/20 Bushfire Review being undertaken by Mick Keelty through the South Australian Fire and Emergency Services Commission is a very broad enquiry that, at this stage, has not flagged any additional expenditure for SAPN.

We recognise that the fact that there are no current requirements for additional spending for bushfire preparedness for SAPN does not mean that additional requirements may be directed by the South Australian Government over the coming months.

In thinking this through, the Partners have no doubt that if the SA Government requires additional expenditure by SAPN to help reduce future bushfire risk, then that expenditure will need to be undertaken as efficiently and expeditiously as possible. We are not quite so sure about timing and have actively debated the best process to review any future, additional expenditure.

To the best of our knowledge, there are no current or imminent additional requirements being placed on SAPN for additional expenditure that would need to be regarded as a contingent project. So, while SAPN is appropriately flagging possible or likely future bushfire mitigation expenditure, it is too early to be able to consider responding to requirements that are unknown at this point of time.

6.2 Process for Any Future Response

When (or if) the South Australia Government requires additional bushfire risk reduction expenditure by SAPN, a consequent question is about the most appropriate mechanism to effectively consider the options and costs. We have actively debated amongst ourselves whether the best action would be a simple pass through or whether treatment as a contingent project is more appropriate.

Pass through

The National Electricity Rules describe a pass through as follows:

6.6.1 Cost pass through

(a1) Any of the following is a pass through event for a distribution determination:

(1) a regulatory change event;

(2) a service standard event;

(3) a tax change event;

(4) a retailer insolvency event; and

(5) any other event specified in a distribution determination as a pass through event for the determination.

A Contingent project is summarised in the National Electricity Rules as follows:

"Contingent Project

6.6A.2 Amendment of revenue determination for contingent project

Subject to paragraph (a1), a Distribution Network Service Provider may, during a regulatory control period, apply to the AER to amend a distribution determination that applies to that Distribution Network Service Provider where a trigger event for a contingent project in relation to that revenue determination has occurred.

(a1) An application referred to in paragraph (a) must be made as soon as practicable after the occurrence of the trigger event, ..."

6.3 Trigger events

Important to this discussion is the matter of timing and the topic of the defined trigger events of any contingent project. Regarding timing, the AER is due to make its final determination by the end of April 2020, just under two months from the writing of this submission.

As for trigger events, SAPN says:

"The AER must be satisfied that the trigger events in relation to the proposed contingent project are appropriate having regard to the requirements listed in clause 6.6A.1(c) of the NER.

SA Power Networks proposes the following trigger events for the Bushfire Risk Review Contingent Project:

1. Publication of a final report by the Bushfire Risk Review which includes a recommendation that new investment is required to be undertaken by SA Power Networks to reduce the risk of fire starts or improve bushfire safety in high and/or medium bushfire risk areas;

2. Imposition of a new or changed regulatory obligation or requirement on SA Power Networks which requires SA Power Networks to commence to undertake investment in relation to its distribution network to reduce the risk of fire starts or improve bushfire safety in high and/or medium bushfire risk areas during the 2020-25 RCP; and

3. Successful completion of the RIT-D in relation to the investment required to satisfy the new or changed regulatory obligation or requirement"

The view of the Project Partners is that:

1. a contingent project is a preferable mechanism to a pass through because a contingent project provides greater transparency and includes engagement with customers and other relevant stakeholders through a RiT-D process.
2. It is unlikely that a trigger event for a contingent project will occur before the AER's final determination, meaning to our understanding that a potential contingent project will be valid from a timing perspective by the time a trigger event eventuates.
3. Regarding trigger events we largely agree with those proposed by SAPN except that we consider only the South Australian Government making a bushfire risk obligation through legislation or regulation rather than any recommendation of the Keelty led review being regarded as a trigger. It is the Government's response that is consequential hence the first trigger is not required.

7 Appendix 1 – SA Independent Bushfire Review TERMS OF REFERENCE²

2019/2020 BUSHFIRE REVIEW

Introduction

1. The extraordinary circumstances of this fire season necessitate broad inquiry and review. Following events that have recently been felt, not only in South Australia but across the nation, there is national focus on bushfire risk. The proposed review will be broad and cover twelve factors across Prevention, Preparedness, Response and Recovery (PPRR) that all impact positively on reducing the impact of bushfire and keeping communities safer.

Discussion

2. A combination of drought conditions, catastrophic fire danger weather over several days, coupled with extended periods of severe and extreme fire danger periods as well as ignitions in remote and inaccessible areas all combined to create fire behaviour and conditions that made fires unstoppable and in many circumstances homes and assets un-defendable.

3. The volunteers of the South Australian Country Fire Service (CFS), supported by a range of personnel from many agencies conducted outstanding services to the South Australian Community to protect life and property in a time of greatest needs.

4. Tragically the lives of three people have been taken and whilst their deaths will be subject to coronial inquiry, any lesson learned from these recent fire events which can assist to avoid the reoccurrence of such loss should also be taken in to account.

5. The South Australian Fire and Emergency Services Commission (SAFECOM) is established under the Fire and Emergency Services Act 2005 (the Act) to lead the governance, strategic and policy aspects of fire and emergency services. Under section 8 of the Act, 'functions and powers' SAFECOM is responsible, for monitoring performance and taking corrective action as well as ensuring emergency services regularly review and revise as necessary any plans, structures, systems targets and practices to address changing circumstances and to improve emergency services.

6. The scope of the review includes the relevant areas of SAFECOM, CFS, the South Australian Metropolitan Fire Services (MFS) and the South Australian State Emergency Services (SES), the scope will also cover State Emergency Management Plan (SEMP), emergency management communications and collaboration between other Government agencies such as the South Australian Police (SAPOL) and the Department of the Premier and Cabinet (DPC).

² Available from <https://yoursay.sa.gov.au/decisions/yoursay-engagements-independent-review-sa-s-2019-20-bushfire-season/about>

7. A number of areas and issues for review are set out under in this Terms of Reference, these include bushfire ignitions, firefighting operations by skilled and motivated personnel, effective firefighting operations with the necessary equipment and resources, and extinguishing bushfires when they occur.

8. The community and government's recovery from the effects of bushfires will not form part of the review, however Rapid Damage Assessment and the State's current arrangements of the transition from response to recovery will be examined.

Terms of Reference, Areas of focus

Prevention

1. Reducing Bushfire ignitions

- *Electricity Infrastructure;*
- *Arson and Operation Nomad;*
- *Machinery and power tools;*
- *Lightning strikes and detection; and*
- *Hazard Reduction*

2. Community Preparation and resilience

- *Community Education and engagement;*
- *Home and contents insurance'*
- *Volunteer training, development, coordination, support and welfare; and*
- *Farm firefighting units.*

Preparation

3. State Bushfire Plan and State Bushfire Coordinating Committee

- *Developing a new state bushfire plan;*
- *The role of the state bushfire committee; and*
- *Developing policies and standards to reduce bushfire risk.*

4. State Emergency Management Plan including Extreme Heat Planning

- *Review of emergency planning arrangements*

5. State Development and Control planning

- *Bush fire zoning; and*
- *Local government planning, roles in emergency management.*

Response

6. Call taking and dispatch

- *000 and dispatch of resources;*
- *Preplanning of strike teams; and*
- *Links to public information and warnings.*

7. Equipment and resources

- *CFS/MFS appliances, communications and safety systems;*

- *Technology such as Automatic Vehicle Location (AVL), mapping, line scanning;*
- *Aviation resources including Large Aerial Tankers; and*
- *Logistics arrangements such as Humanihuts and retardant.*

8. Incident management and emergency coordination

- *Incident management teams and facilities;*
- *Operational alignment of control agency and the State Coordinator;*
- *Functions and coordination between the State Control Centre, State Emergency Centre, State Emergency Information Call Centre Capability (SEICCC) and the State Crisis Centre; and*
- *Reporting to government.*

9. Public Information and Warnings

- *Alert SA;*
- *Information Management systems to support improved messaging; and*
- *Coordination across Government messaging.*

10. Interstate Deployments

- *Support to other states; and*
- *Coordination of resource sharing arrangements.*

Recovery

11. Rapid Damage Assessment,

- *Aerial surveillance and remote pilot aircraft; and*
- *Messaging of damage impact.*

12. Transitional arrangements to recovery

- *Australian Defence Force Support;*
- *Commonwealth Assistance; and*
- *Leadership and Coordination.*