



**Australian
Competition &
Consumer
Commission**

NBN Co Special Access Undertaking

**Long Term Revenue Constraint Methodology 2014–15:
Final Determination**

and

Price compliance reporting 2014–15

June 2016



Australian Competition and Consumer Commission

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List of abbreviations and acronyms

| | |
|-------|---|
| ABBRR | Annual Building Block Revenue Requirement |
| ACCC | Australian Competition and Consumer Commission |
| ACIPA | Annual Construction in Progress Allowance |
| CCA | <i>Competition and Consumer Act 2010 (Commonwealth)</i> |
| CFO | Chief Financial Officer |
| CIF | Cumulative Inflation Factor |
| CIP | Construction in Progress |
| CPI | Consumer Price Index |
| CPO | Chief Procurement Officer |
| ICRA | Initial Cost Recovery Account |
| LTRCM | Long Term Revenue Constraint Methodology |
| NBN | National Broadband Network |
| RAB | Regulatory Asset Base |
| SAU | Special Access Undertaking |
| WBA | Wholesale Broadband Agreement |

Executive Summary

This report sets out the Australian Competition and Consumer Commission's (ACCC) final determination in relation to NBN Co's Long Term Revenue Constraint Methodology (LTRCM) and its view on NBN Co's price compliance for the 2014-15 financial year. This report also sets out the ACCC's final decision on a proposed amendment to the 2013-14 LTRCM Determination.

The LTRCM is a component of NBN Co's Special Access Undertaking (SAU), which forms part of the regulatory framework for the National Broadband Network (NBN). The SAU was accepted by the ACCC on 13 December 2013.

The LTRCM is a methodology for determining the amount of revenue NBN Co is allowed to earn via its prices over the term of the SAU. The purpose of the LTRCM is to provide NBN Co with the opportunity to recover its prudent and efficient costs of supply, including an appropriate return on investment. The LTRCM is one of various incentives in the SAU to encourage NBN Co to operate and invest prudently and efficiently.

Schedule 1F of the SAU requires NBN Co to submit certain regulatory information for each financial year, including financial information required to determine the revenue NBN Co is allowed to earn via its long term revenue constraint. NBN Co is also required to certify that it has complied with the price controls set out in Schedule 1C of the SAU. NBN Co submitted this information on 30 October 2015, and it has been used by the ACCC to inform this final determination.

The ACCC's final LTRCM determination is to accept without modification NBN Co's proposed values (and the inputs to those values) for the Annual Building Block Revenue Requirement (ABBRR), Regulatory Asset Base (RAB) and Initial Cost Recovery Account (ICRA) in accordance with clause 1E.1.2 of NBN Co's SAU. The decision is consistent with the ACCC's draft determination, which was published in March 2016.

With regards to price compliance, the ACCC is satisfied that NBN Co's prices for 2014-15 did not exceed the maximum regulated prices applicable at the relevant point in time in accordance with Schedule 1C of the SAU.

In its 2014-15 LTRCM submission, NBN Co requested an amendment to the ACCC's 2013-14 LTRCM Determination to correct for an inadvertent omission. The ACCC considered NBN Co's proposed amendment during the LTRCM draft determination consultation process. The ACCC has accepted NBN Co's proposed amendment for the reasons outlined in section 3 of this report and discussed in detail in the draft determination. The amendment results in an adjustment to the ABBRR and ICRA values in the 2013-14 LTRCM Determination, and subsequently impacts the values in the ACCC 2014-15 LTRCM Determination.

1 Introduction

On 13 December 2013, the ACCC accepted a Special Access Undertaking (SAU) from NBN Co. The SAU is a long term undertaking that establishes the regulatory framework for the National Broadband Network (NBN). The SAU will expire on 30 June 2040.

The SAU requires NBN Co to submit certain regulatory information to the ACCC for each financial year, including financial information required to determine the revenues NBN Co is allowed to earn (its long term revenue constraint).¹ NBN Co is also required to certify that its prices have not exceeded the maximum regulated prices set by the SAU.² Following NBN Co's submission, the ACCC must make a Long Term Revenue Constraint Methodology (LTRCM) determination within 12 months after the end of each financial year.³

The LTRCM is a methodology for determining the amount of revenue NBN Co is allowed to earn via its prices over the SAU term. The purpose of the LTRCM is to provide NBN Co with the opportunity to recover its prudent and efficient costs of supply (including an appropriate return on investment). The LTRCM works with other parts of the SAU to provide incentives to NBN Co to operate and invest prudently and efficiently.

1.1 Background

LTRCM determination

The LTRCM determination will be prepared on an *ex-post* basis during the first 10 years of the SAU (the Initial Regulatory Period). In subsequent regulatory periods, NBN Co will be subjected to the standard building block approach where the ACCC undertakes an *ex-ante* assessment of NBN Co's proposed expenditures and their prudence.

In making an LTRCM Determination, the ACCC must determine the following values (and the inputs to those values):

- Annual Building Block Revenue Requirement (ABBRR)—this is the amount of revenue NBN Co is allowed to earn in each financial year
- Regulatory Asset Base (RAB)—this is the net value of NBN Co's regulated assets
- Initial Cost Recovery Account (ICRA)—this is an account for accumulating (and rolling forward) NBN Co's initial unrecovered costs.

The LTRCM sets out a mechanism for determining NBN Co's RAB and ABBRR based on a range of financial inputs that must be submitted by NBN Co. The ABBRR is in turn used, together with NBN Co's actual revenue (as defined in the SAU), to calculate the extent of unrecovered costs in each year, the cumulative value of which is captured in the ICRA. Once NBN Co begins to earn sufficient revenue each year to meet its annual revenue requirement, the SAU permits NBN Co to recover more than its annual revenue requirement until the ICRA reaches zero (subject to the price controls set out in the SAU).⁴

The ACCC's role in the LTRCM process

During the Initial Regulatory Period of the SAU, the ACCC's role in making an LTRCM determination is to determine whether capital expenditure and operating expenditure meet the relevant requirements in the SAU for inclusion in the RAB and ABBRR, respectively. If the

¹ Schedule 1F of the SAU.

² Schedule 1F.3 of the SAU.

³ Clause 1E.1.2 of the SAU.

⁴ See clause 1E.6.1 of the SAU.

ACCC is not satisfied that NBN Co's expenditure meets those requirements the ACCC can determine substitute values in its LTRCM determination.

In making the LTRCM determination, capital expenditure may only be included in the RAB to the extent that the ACCC is satisfied that:

- it meets the Prudent Cost Condition⁵ – broadly speaking, capital expenditure meets the Prudent Cost Condition if it was incurred in connection with the design, engineering and construction of the relevant assets under a 'conforming contract'⁶ (that is, generally, in accordance with the procurement rules); or in an open and competitive market; or through another 'value for money' process. The SAU requires NBN Co to develop procurement rules that establish procurement processes that seek to generate an efficient and competitive outcome and reflect good industry practice; and
- it meets the Prudent Design Condition⁷ – capital expenditure meets the Prudent Design Condition if it is 'materially consistent' with the Network Design Rules⁸ or a permitted variation, endorsed network change or ACCC approved network change to the Network Design Rules,⁹ or
- capital expenditure was incurred in connection with the specific matters listed in clause 1D.3.2(a)(ii) of the SAU – that is, capital expenditure is considered to be prudent under the SAU if it relates to: the Telstra or Optus arrangements, interim satellite or transit arrangements, Tasmania tri-area service arrangements, trial sites, or third party funded network changes; or was incurred prior to the approval of the SAU on 13 December 2013.¹⁰

Operating expenditure may only be included in the ABBRR to the extent that the ACCC is satisfied that:

- it was incurred in accordance with NBN Co's procurement processes (including in accordance with the procurement rules), was incurred pursuant to a 'conforming contract', was procured in an open and competitive market, or was procured in a manner that is likely to achieve value for money,¹¹ or
- it was incurred in connection with the specific matters specified in clause 1E.8.2(a)(ii) of the SAU – that is, operating expenditure is considered to be prudent under the SAU if it relates to: the Telstra or Optus arrangements, interim satellite or transit arrangements, Tasmania tri-area service arrangements, trial sites, or third party funded network changes; or was incurred prior to the approval of the SAU on 13 December 2013; or it was required to address an urgent network issue or a force majeure event.

The ACCC's role is to assess whether NBN Co has incurred its expenditure in accordance with these criteria, and that the relevant LTRCM components have been calculated in accordance with the formulas set out in the SAU, and to determine whether those expenditures (as set out in NBN Co's LTRCM proposal) should be included in the LTRCM determination. The ACCC may determine LTRCM values that are different from the values submitted by NBN Co, provided those values are determined in accordance with Schedule 1D and Schedule 1E of the

⁵ See clause 1D.3.2(a)(i)(A)

⁶ Clause 1D.4.1(a)(i)(B) contains additional requirements where there is a material change of circumstances affecting the Conforming Contract.

⁷ See clause 1D.3.2(a)(i)(B)

⁸ The document describes the design of NBN Co's network and network components. Capital expenditure must be in accordance with the Network Design Rules in order to be included in the Regulated Asset Base, in addition to meeting the 'Prudent Cost' condition. The Network Design Rules were updated on 30 June 2015.

⁹ Clause 1D.6 of the SAU.

¹⁰ Schedule 1D of the SAU.

¹¹ See clauses 1E.8.2(a)(i) and 1E.8.3.

SAU.¹² The SAU includes provisions which set out the factors to consider when determining a substitute amount of capital or operating expenditure.¹³

Price compliance and reporting

One of the features of the SAU is to set binding price caps, which provide long term pricing commitments to NBN Co's customers. The price controls act in conjunction with the LTRCM to provide incentives to ensure access seekers are not subject to unreasonable prices and to incentivise NBN Co to incur efficient expenditure. There are a number of pricing provisions in the SAU, the most important being an annual price increase limit of the Consumer Price Index (CPI) less 1.5 per cent.¹⁴

By 31 October each year, NBN Co must submit a price compliance report to the ACCC. The price compliance report includes certification from NBN Co's Chief Financial Officer (CFO) that the prices charged during the preceding financial year did not exceed the maximum regulated prices set by the SAU. The ACCC may also request information, at any time, from NBN Co that is reasonably necessary for the ACCC to determine NBN Co's compliance with Schedule 1C of the SAU.

1.2 Consultation process

In accordance with the SAU, the ACCC has invited submissions from NBN Co and other interested parties in making this LTRCM determination.

On 22 December 2015, the ACCC provided its preliminary view to NBN Co that it did not intend to determine a substitute amount of capital expenditure in accordance with clause 1D.3.2(d) or a substitute amount of operating expenditure in accordance with clause 1E.8.2(c) of the SAU. The ACCC's preliminary view is available on the ACCC website.

On 15 March 2016, the ACCC published a draft LTRCM determination for 2014-15 and the reasons for the draft determination for a four week consultation period. The ACCC did not receive any written submissions during this time. The ACCC's draft determination is available on the ACCC website.¹⁵

1.3 Structure of the report

This report sets out the ACCC's final LTRCM determination and its view on NBN Co's price compliance for the 2014–15 financial year. The report is structured as follows:

- Section 2 provides and an overview of the regulatory information submitted by NBN Co
- Section 3 summarises the ACCC's assessment of NBN Co's LTRCM proposal
- Section 4 sets out the ACCC's final decision regarding the amendment to the 2013-14 LTRCM determination, and
- Section 5 sets out the ACCC's final LTRCM determination and decision on price compliance for 2014–15.

¹² See clause 1E.1.2(c)(iv) of the SAU.

¹³ See clauses 1D.3.2(d) and 1E8.2(c). For example, a substitute amount of capital expenditure determined by the ACCC must meet the Prudent Design Condition and must be consistent with capital expenditure that has been included in the RAB in respect of any prior financial year, having regard to the relative amounts of capital expenditure incurred in those years, the relative cost of goods and services in those year, any relevant differences in the scale and scope of the relevant assets, the NBN Co Corporate Plan and any other matter the ACCC considers relevant.

¹⁴ Schedules 1C.5 and 2B.2

¹⁵ See: <http://www.accc.gov.au/regulated-infrastructure/communications/national-broadband-network-nbn/nbn-co-special-access-undertaking/ltrcm-2014-15>

2 NBN Co's 2014–15 LTRCM proposal

2.1 Proposed amendment to 2013-14 LTRCM Determination

In the 2013-14 LTRCM Determination, the ACCC adopted NBN Co's proposed values for the ABBRR, RAB and ICRA without modification. In its LTRCM submission for 2014-15, NBN Co requested that the ACCC amend the 2013-14 LTRCM Determination to address an error in the regulatory information NBN Co submitted to the ACCC. NBN Co indicated that it inadvertently omitted the value for 'working inventory' from its opening value of 'construction in progress' in its regulatory information for 2013-14 and that the LTRCM values would be affected for both the 2012-13 and 2013-14 financial years.¹⁶

NBN Co advised that working inventory comprises of equipment held by NBN Co before being released into particular construction projects. NBN Co proposed that working inventory should form part of the construction in progress allowance. NBN Co further clarified that working inventory is distinct from 'spares inventory', which consists of equipment held for network maintenance purposes and is reflected in capital expenditure. As such, working inventory was not otherwise reflected in any other aspect of the LTRCM.

NBN Co's proposed amendment to the 2013-14 LTRCM Determination to include working inventory in construction in progress would increase the ICRA by about \$6 million as at 30 June 2014.

2.2 2014-15 LTRCM regulatory information

On 30 October 2015, NBN Co submitted an LTRCM proposal to the ACCC as required under Schedule 1F of the SAU. NBN Co's LTRCM proposal consists of the following materials:

- NBN Co's actual financial information – this information is based on NBN Co's reported statutory accounts which are consistent with the definitions in the SAU
- NBN Co's proposed financial information – this is NBN Co's proposed values (and inputs to those values) for the ABBRR, RAB, ICRA and certain other inputs to the LTRCM
- an expenditure compliance report – a report signed by NBN Co's CFO certifying that NBN Co's expenditure complies with the requirements of the SAU
- a procurement compliance report – a report signed by NBN Co's Chief Procurement Officer (CPO) certifying that NBN Co's procurement rules comply with the requirements of the SAU, and
- a price compliance report – a report signed by NBN Co's CFO certifying that NBN Co's prices for the supply of its services comply with the requirements of the SAU.

To support its submission, NBN Co also lodged three independent assurance reports from PricewaterhouseCoopers (PwC), a price compliance spreadsheet, an LTRCM spreadsheet and a copy of NBN Co's Chart of Accounts.¹⁷

¹⁶ NBN submission to the ACCC – 2014-15 Regulatory Information and LTRCM Determination: Public version, 30 October 2015, p.19.

¹⁷ See: <http://www.accc.gov.au/regulated-infrastructure/communications/national-broadband-network-nbn/nbn-co-special-access-undertaking/ltrcm-2014-15>

2.2.1 Financial information

The financial information provided by NBN Co on 30 October 2015 includes the financial statements listed below.

- Schedule 6 – Statement of Capital Expenditure, Disposals, Construction in Progress, Asset Lifetimes and Taxation Asset Lifetimes
- Schedule 7 – Statement of Operating Expenditure
- Schedule 8 – Statement of Interest Expense
- Schedule 9 – Statement of Revenue
- Schedule 10 – Statement of LTRCM and RAB items, and
- Schedule 11 – Statement of Material Operating Expenditure, Capital Expenditure and Construction in Progress Variances.

This information was accompanied by an LTRCM spreadsheet, which provided the underlying calculations of NBN Co's proposed RAB, ABBRR and ICRA values. NBN Co provided two versions of the LTRCM spreadsheet – one based on the current 2013–14 LTRCM Determination and another based on NBN Co's proposed amendment to the 2013–14 Determination.

Table 2.1 summarises both the key financial information submitted by NBN Co for the 2014-15 LTRCM Determination (without the amendment to the 2013-14 determination) and the new financial information if the ACCC were to accept NBN Co's proposed amendment to the 2013-14 LTRCM Determination.

Table 2.1 Summary of NBN Co financial information (nominal, \$'000)

| | 2014–15 | 2014-15 (Amended) |
|------------------------------------|-----------|-------------------|
| Operating expenditure | 1 591 220 | 1 591 220 |
| Capital expenditure | 2 166 854 | 2 166 854 |
| Construction in progress (opening) | 2 315 416 | 2 315 416 |
| Interest expense | 59 | 59 |
| Revenue | 163 867 | 163 867 |
| RAB (closing) | 4 818 889 | 4 818 889 |
| ABBRR | 2 218 490 | 2 218 490 |
| ICRA - closing | 6 236 825 | 6 243 728 |

2.3 Price compliance reporting

On 30 October 2015, NBN Co provided the ACCC with a price compliance report and a price compliance spreadsheet, pursuant to clause 1F.3(a) of the SAU for the period from 1 July 2014 to 30 June 2015. NBN Co also submitted an independent assurance report by PwC to complement NBN Co's price compliance report and supporting information in its supplementary submission. The price compliance report provides CFO certification that the pricing of NBN Offers and Other Charges, over the period from 1 July 2014 to 30 June 2015, satisfied the relevant requirements in Schedule 1C of the SAU.

In addition, NBN Co lodged an independent assurance report by PwC on NBN Co's internal controls in relation to price compliance. PwC's limited assurance opinion is unqualified in nature and complements the NBN Co CFO's certification.

3 ACCC assessment of NBN Co's LTRCM proposal

The ACCC has assessed NBN Co's LTRCM proposal, having regard to the relevant provisions of NBN Co's SAU. The following section provides an overview of the ACCC's assessment.

On 15 March 2016, the ACCC released *NBN Co's Special Access Undertaking Long Term Revenue Constraint Methodology 2014-15: Draft Determination and Price Compliance Report 2014-15* (draft determination). The draft determination also included the ACCC's preliminary view on NBN Co's proposed amendment to the 2013-14 LTRCM determination.

In making its draft determination, the ACCC considered the regulatory information submitted by NBN Co under Schedule 1F of the SAU. The ACCC released its draft determination for public consultation for a period of four weeks. The ACCC did not receive any submissions in response to the draft determination.

3.1 Proposed amendment to the 2013-14 LTRCM Determination

In its submission of regulatory information, NBN Co requested an amendment to the ACCC's 2013-14 LTRCM Determination to correct for an inadvertent omission by NBN Co in the regulatory information that it submitted to the ACCC. NBN Co submitted that working inventory was inadvertently omitted from construction in progress due to a misunderstanding arising from the name of this account. Following further clarification regarding the nature of transactions included in the working inventory account, NBN Co became aware that it should have been included for the purposes of reporting under the SAU.

The ACCC is of the view that it may amend the LTRCM Determination under clause 1E.1.3 of the SAU on this occasion. The ACCC accepted the values proposed by NBN Co in its 2013-14 regulatory submission, and as a consequence the value of construction in progress in the 2013-14 LTRCM Determination did not include working inventory.

The ACCC considered NBN Co's explanation for the omission of working inventory and the description of the account. The ACCC's draft view was that the description provided by NBN Co appeared to be consistent with the nature of items that would be included in the construction in progress account as the working inventory expenditure relates to assets that are not yet in service. The ACCC understands that working inventory expenditure would have been subject to the same procurement processes and controls as other items of construction in progress that were included in the 2013-14 LTRCM Determination. The ACCC considered that it is reasonable to include the value of the working inventory account in construction in progress to the extent that it meets the requirements set out in clause 1D.3 of the SAU.

In its submission of regulatory information for 2014-15, NBN Co demonstrated that the value of working inventory can be reconciled with the regulatory information submitted by NBN Co. The ACCC considered this reconciliation along with the assessment of compliance with the prudence provisions in the SAU in making its draft decision and was satisfied that the proposed value of working inventory complied with the relevant prudence requirements.

The ACCC checked the calculations provided by NBN Co in its submission and the additional LTRCM spreadsheet, which recalculates the ABBRR and ICRA values for the period from 2008-09 to 2014-15 with the inclusion of working inventory. On the basis that the ACCC considered that the inclusion of working inventory would be consistent with the relevant clauses in the SAU, and did not identify any errors in NBN Co's proposed amendment calculations, the ACCC's draft view was that it would accept NBN Co's proposed amendment. The ACCC's draft decision on NBN Co's proposed amendment was to include working inventory for the years 2008-09 to 2013-14. The ACCC did not receive any submissions in relation to NBN Co's

proposed amendment and therefore confirms its draft decision to accept the amendment to include the working inventory account in construction in progress.

3.2 LTRCM 2014-15 determination

The ACCC has completed its assessment of NBN Co's 2014-15 LTRCM proposal submitted on 30 October 2015 and has decided to accept NBN Co's proposed values for the ABBRR, RAB and ICRA. This decision is consistent with the ACCC's draft determination.

The ACCC's draft determination proposed to accept NBN Co's proposed values (and inputs to those values) set out in its LTRCM proposal for the ABBRR, RAB and ICRA. The ACCC's draft determination concluded that:

- NBN Co had incurred capital and operating expenditure in accordance with the relevant provisions of the SAU, and
- NBN Co's proposed LTRCM values had been calculated in accordance with Schedules 1D and 1E of the SAU.

Further details of the ACCC's assessment are set out below.

3.2.1 ACCC assessment of NBN Co's expenditure compliance

The SAU requires NBN Co to ensure that its expenditure complies with the relevant prudency conditions. NBN Co provided its expenditure compliance report signed by NBN Co's CFO, the PwC limited assurance reports (which considered the design of controls applicable to capital expenditure and operating expenditure prudency) and a supporting submission to assist the ACCC in its determination.

In forming its draft view on expenditure compliance, the ACCC considered whether:

- NBN Co has developed adequate procurement rules
- there are processes and controls in place to support compliance with the prudency conditions in the SAU, and
- these processes and controls are operating effectively.

To assess the adequacy of NBN Co's procurement rules, the ACCC checked that NBN Co's Procurement Manual and Buying Guide complied with the relevant requirements in the SAU. The ACCC has also considered NBN Co's procurement rules compliance report.

To determine whether there were processes and controls in place to encourage compliance with the prudency conditions in the SAU, the ACCC relied on PwC's independent assurance report regarding the design of controls applicable to capital expenditure and operating expenditure. As PwC provided an unqualified opinion, the ACCC is satisfied that NBN Co has processes and procedures in place that support compliance with the prudency conditions in the SAU.

In assessing whether NBN Co had complied with these processes and procedures, the ACCC considered the additional information provided by NBN Co in its supporting submission regarding its internal audit work.

The ACCC's draft decision was that it was satisfied that the information provided by NBN Co was reasonable for the purpose of demonstrating that it had procedures and processes in place to enable compliance with the prudency conditions and procurement rules set out by the SAU. The ACCC did not receive any submissions in relation to NBN Co's expenditure compliance and therefore confirms its draft decision that NBN Co's expenditure complies with the relevant prudency conditions set out in Schedule 1D of the SAU.

3.2.2 ACCC assessment of NBN Co's compliance with the procurement requirements

The SAU requires NBN Co to develop procurement rules to establish procurement processes that, in broad terms, generate an efficient and competitive outcome and reflect good industry practice. NBN Co must also provide a copy of its procurement rules within 30 days after the SAU commencement date and within 30 days after NBN Co makes any material changes to the procurement rules.

The ACCC was satisfied that the procurement rules compliance report did not identify any exceptions during the period from 1 July 2014 to 30 June 2015. In December 2013, NBN Co provided the Procurement Manual v19 and Buying Guide v2.0 to the ACCC. Both the Procurement Manual v19 and Buying Guide v2.0 were updated on 1 August 2014 and updated versions of the documents were provided to the ACCC on 18 August 2014, which was within the 30 day timeframe required by clause 1D.5.2 of the SAU.

The ACCC considered the documents (and the amendments) and formed the preliminary view that the procurement rules compliance report met the SAU requirements.¹⁸ The ACCC did not receive any submissions in relation to NBN Co's compliance with the procurement requirements and therefore confirms its draft decision that the procurement rules compliance report met the requirements set out in clause 1F.2.3 of the SAU.

3.2.3 ACCC assessment of financial information

The ACCC is required to ascertain whether NBN Co's proposed LTRCM values had been calculated in accordance with Schedule 1D and Schedule 1E of the SAU.

As required under the SAU, NBN Co provided the ACCC with its Actual Financial Information and Proposed Financial Information for 2014-15. In addition, NBN Co provided the ACCC with an LTRCM spreadsheet which sets out in detail the step-by-step calculations of its proposed RAB, ABBRR and ICRA values. NBN Co also engaged PwC to conduct an audit of its financial information and to check that the input values in the spreadsheet were correctly extracted from the relevant financial statements and that the LTRCM calculations were undertaken in accordance with the SAU formulas.

In making its draft decision, the ACCC checked the calculations NBN Co submitted in its LTRCM spreadsheet and confirmed that the formulas used in the spreadsheet were as set out in Schedule 1E of the SAU. The ACCC's draft decision was to accept NBN Co's LTRCM proposal for 2014-15 without modification. The ACCC did not receive any submissions regarding NBN Co's financial information and therefore maintains the view that NBN Co's proposed values for the ABBRR, RAB and ICRA should be accepted without modification.

3.3 Price compliance reporting

Under Schedule 1F of the SAU, NBN Co is required to submit certain price compliance information to the ACCC, to demonstrate that it has not exceeded the maximum regulated prices set by Schedule 1C (the pricing schedule) of the SAU.

The ACCC's draft view on price compliance was that NBN Co's prices for 2014-15 did not exceed the maximum regulated prices applicable at the relevant point in time in accordance with Schedule 1C of the SAU. This preliminary view was informed by:

- NBN Co's price compliance report, which provides some assurance that NBN Co has key control procedures in place to ensure that the prices for NBN Offers and Other Charges did not exceed the applicable maximum regulatory price during the year

¹⁸ NBN Co was not required to submit the amendment to the Buying Guide on 18 March 2015 to the ACCC as the amendment was considered to be immaterial.

- ACCC analysis of NBN Co's price compliance spreadsheet, which did not identify any instances where the listed prices exceed the applicable maximum regulated price, and
- PwC's limited assurance review of NBN Co's price controls, which provides independent assurance that NBN Co has procedures in place to ensure that its prices do not exceed the maximum regulated prices in the SAU.

The ACCC found that there were some prices listed in the spreadsheet that were for new products. These new products do not have a price specified in the SAU, however, the ACCC recognised that NBN Co has the ability to determine the prices for new products.

The ACCC did not receive any submissions in relation to NBN Co's price compliance and therefore confirms its draft view that NBN Co's prices for 2014-15 did not exceed the maximum regulated prices applicable at the relevant point in time in accordance with Schedule 1C of the SAU.

4 ACCC final decision on the amendment to the 2013-14 LTRCM determination

In accordance with clause 1E.1.3 of the SAU, and for the reasons outlined above and set out in more detail in the ACCC's draft determination, the ACCC has decided to accept NBN Co's proposal to amend the 2013-14 LTRCM determination. The ACCC has determined revised values for certain values in the ACCC's LTRCM determination for the 2013-14 financial year, as set out in Table 4.1 below.

Table 4.1 Amendments to the 2013-14 LTRCM Determination

| Year | 2012-13 | 2013-14 |
|--|------------------|------------------|
| ABBRR (\$'000 Nominal) – as per clause 1E.4.1 | | |
| Annual construction in progress allowance – as per clause 1E.10 (original 2013-14 determination) | 39 340 | 94 345 |
| Annual construction in progress allowance – as per clause 1E.10 (amended determination) | 41 096 | 98 902 |
| ABBRR (original 2013-14 determination) | 1 015 902 | 1 681 744 |
| ABBRR (amended determination) | 1 017 657 | 1 686 301 |

| Year | 2012-13 | 2013-14 |
|---|------------------|------------------|
| ICRA and CFRA (\$'000 NOMINAL) – as per Clause 1E.5 | | |
| ICRA (start period) – as per clause 1E.5.2 (original 2013-14 determination) | 1 060 024 | 2 128 102 |
| ICRA (start period) – as per clause 1E.5.2 (amended determination) | 1 060 024 | 2 129 857 |
| Unrecovered Cost – as per clause 1E.5.1 (original 2013-14 determination) | 999 078 | 1 620 786 |
| Unrecovered Cost – as per clause 1E.5.1 (amended determination) | 1 000 833 | 1 625 343 |
| ICRA (end period) – as per clause 1E.5.2 (original 2013-14 determination) | 2 128 102 | 3 899 511 |
| ICRA (end period) – as per clause 1E.5.2 (amended determination) | 2 129 857 | 3 905 948 |

For ease of reading, a consolidated version of the 2013-14 determination incorporating these amendments is provided at Table 4.2 below.

Table 4.2 Consolidated 2013-14 LTRCM Determination (as amended)

| Year | 2007-08 | 2008-09 | 2009-10 | 2010-11 | 2011-12 | 2012-13 | 2013-14 |
|--|---------|---------|---------|---------|---------|---------|---------|
| June Qtr CPI (annual % change) | - | 1.4% | 3.1% | 3.5% | 1.2% | 2.4% | 3.0% |
| Cumulative inflation factor | - | 0.891 | 0.904 | 0.932 | 0.965 | 0.977 | 1.000 |
| Rate of Return – as per clause 1E.7.1 | | | | | | | |
| Risk free rate | - | 6.699% | 5.675% | 5.404% | 5.224% | 3.009% | 3.578% |
| Nominal rate of return | - | 10.199% | 9.175% | 8.904% | 8.724% | 6.509% | 7.078% |

| Year | 2007-08 | 2008-09 | 2009-10 | 2010-11 | 2011-12 | 2012-13 | 2013-14 |
|---|---------|---------|---------|---------|---------|---------|---------|
| Regulatory Asset Base (\$'000 Real) – as per clause 1D.2.1 | | | | | | | |

| | | | | | | | |
|---------------------------------|---|---|-------|---------|---------|-----------|-----------|
| Real RAB (start period) | - | - | - | 8 411 | 280 613 | 726 286 | 1 612 525 |
| Real Capital Expenditure | - | - | 8 411 | 273 580 | 507 876 | 1 059 300 | 1 596 522 |
| Real Disposals | - | - | - | - | - | - | - |
| Real Straight Line Depreciation | - | - | - | 1 378 | 62 204 | 173 061 | 307 909 |
| Real RAB (end period) | - | - | 8 411 | 280 613 | 726 286 | 1 612 525 | 2 901 139 |

| Year | 2007-08 | 2008-09 | 2009-10 | 2010-11 | 2011-12 | 2012-13 | 2013-14 |
|--|---------|---------|---------|---------|---------|-----------|-----------|
| Regulatory Asset Base (\$'000 Nominal) – as per clause 1D.2.2 | | | | | | | |
| Nominal RAB (start period) | - | - | - | 7 601 | 261 506 | 700 852 | 1 574 878 |
| Nominal Straight Line Depreciation | - | - | - | 1 284 | 60 026 | 169 021 | 307 909 |
| Nominal RAB (end period) | - | - | 7 601 | 261 506 | 700 852 | 1 574 878 | 2 901 139 |

| Year | 2007-08 | 2008-09 | 2009-10 | 2010-11 | 2011-12 | 2012-13 | 2013-14 |
|--|---------|---------|---------|---------|---------|-----------|-----------|
| ABBRR (\$'000 Nominal) – as per clause 1E.4.1 | | | | | | | |
| Return on capital | - | - | - | 677 | 22 814 | 45 621 | 111 467 |
| Nominal Regulatory Depreciation | - | - | - | 1 014 | 56 862 | 152 267 | 260 417 |
| Nominal Opex | - | 139 | 82 255 | 330 865 | 499 419 | 778 673 | 1 215 514 |
| Net Tax Allowance | - | - | - | - | - | - | - |
| ACIPA | - | - | - | 2 996 | 20 473 | 41 096 | 98 902 |
| ABBRR | - | 139 | 82 255 | 335 551 | 599 568 | 1 017 657 | 1 686 301 |

| Year | 2007-08 | 2008-09 | 2009-10 | 2010-11 | 2011-12 | 2012-13 | 2013-14 |
|--|---------|---------|----------|-----------|-----------|-------------|-------------|
| Taxation Calculations (\$'000 NOMINAL) - as per Clause 1E.9.3 | | | | | | | |
| Nominal Revenue | - | - | - | - | 1 944 | 16 824 | 60 958 |
| +Value of Assets Received for Nil Consideration | - | - | - | - | - | 122 854 | 67 251 |
| -Nominal Operating Expenditure | - | 139 | 82 255 | 330 865 | 499 419 | 778 673 | 1 215 514 |
| -Nominal Tax Depreciation | - | - | - | 1 245 | 57 929 | 164 904 | 300 744 |
| -Interest Expense | - | - | 0 | 0 | 15 | 123 | 1 |
| Taxable Profit | - | (139) | (82 256) | (332 110) | (555 420) | (804 023) | (1 388 050) |
| Tax Loss Carried Forward (Start period) | - | - | (139) | (82 395) | (414 505) | (969 924) | (1 773 947) |
| Tax Loss Carried Forward (End period) | - | (139) | (82 395) | (414 505) | (969 924) | (1 773 947) | (3 161 997) |
| Net Tax Allowance | - | - | - | - | - | - | - |

| Year | 2007-08 | 2008-09 | 2009-10 | 2010-11 | 2011-12 | 2012-13 | 2013-14 |
|--|---------|---------|---------|---------|-----------|-----------|-----------|
| ICRA and CFRA (\$'000 NOMINAL) – as per Clause 1E.5 | | | | | | | |
| ICRA (start period) | - | - | 139 | 82 407 | 425 296 | 1 060 024 | 2 129 857 |
| Unrecovered Cost | - | 139 | 82 255 | 335 551 | 597 625 | 1 000 833 | 1 625 343 |
| ICRA (end period) | - | 139 | 82 407 | 425 296 | 1 060 024 | 2 129 857 | 3 905 948 |
| Carry Forward Revenue Adjustment | - | n/a | n/a | n/a | n/a | n/a | n/a |

5 ACCC 2014-15 LTRCM final determination and price compliance assessment

In accordance with clause 1E.1.2 of the SAU, the ACCC has determined the values set out in Table 5.1 below for the ACCC's LTRCM determination for the 2014-15 financial year.

The ACCC is also satisfied that NBN Co's prices for 2014-15 did not exceed the maximum regulated prices applicable at the relevant point in time in accordance with Schedule 1C of the SAU.

Table 5.1 2014–15 LTRCM Determination¹⁹

| Year | 2014–15 |
|--|---------|
| CPI and Cumulative Inflation Factor | |
| June Quarter CPI (annual percentage change) – as per Attachment C to the SAU | 1.511% |
| Cumulative Inflation Factor - as per Clauses 1E.9.4(b) and (c) | 1.015 |

| Year | 2014–15 |
|--|---------|
| Rate of Return – as per Clause 1E.7.1 | |
| Risk free rate of interest - as per Clause 1E.7.1(b) and (c) | 3.749% |
| Nominal rate of return - as per Clause 1E.7.1(a) | 7.249% |

| Year | 2014–15 |
|---|-----------|
| Regulatory Asset Base (\$'000 REAL) – as per Clause 1D.2.1 | |
| Real RAB (start period) - as per Clause 1D.2.1(a) and (b) | 2 901 139 |
| Real capital expenditure | 2 134 603 |
| Real disposals | - |
| Real straight line depreciation | 288 575 |
| Real RAB (end period) - as per Clause 1D.2.1(b) | 4 747 166 |

| Year | 2014–15 |
|--|-----------|
| Regulatory Asset Base (\$'000 NOMINAL) – as per Clause 1D.2.2 | |
| Nominal RAB (start period) - as per Clauses 1D.2.1(a) and 1D.2.2 | 2 901 139 |
| Nominal straight line depreciation (as per Clause 1E.9.1(b)) | 292 935 |
| Nominal RAB (end period) - as per Clause 1D.2.2 | 4 818 889 |

¹⁹ The clause references in this table refer to the formulas in the SAU.

| Year | 2014–15 |
|---|----------------|
| ABBRR (\$'000 NOMINAL) - as per Clause 1E.4.1 | |
| Return on capital | 210 314 |
| Nominal regulatory depreciation – as per clause 1E.9.1(c) | 249 103 |
| Nominal operating expenditure | 1 591 219 |
| Net tax allowance | - |
| Annual construction in progress allowance – as per Clause 1E.10 | 167 853 |
| ABBRR | 2 218 490 |

| Year | 2014–15 |
|--|----------------|
| Taxation calculations (\$'000 NOMINAL) - as per Clause 1E.9.3 | |
| Nominal revenue | 163 867 |
| <i>Add</i> value of assets received for nil consideration | 117 429 |
| <i>Less</i> nominal operating expenditure | (1 591 219) |
| <i>Less</i> nominal tax depreciation | (288 228) |
| <i>Less</i> interest expense | (59) |
| Taxable profit – as per Clause 1E.9.3 | (1 598 210) |
| Tax loss carried forward (Start period) – as per Clause 1E.9.3 | (3 161 997) |
| Tax loss carried forward (End period) – as per Clause 1E.9.3 | (4 760 207) |
| Net tax allowance – as per Clause 1E.9.3 | - |

| Year | 2014–15 |
|--|----------------|
| ICRA and CFRA (\$'000 NOMINAL) – as per Clause 1E.5 | |
| ICRA (start period) – as per Clause 1E.5.2 | 3 905 948 |
| Unrecovered cost -as per Clause 1E.5.1 | 2 054 623 |
| ICRA (end period) – as per Clause 1E.5.2 | 6 243 728 |
| Carry forward revenue adjustment – as per Clause 1E.5.3 | n/a |