Australian Government
Department of Climate Change, Energy, the Environment and Water

Ms Anna Collyer
Chair
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Dear Ms Collyer

Tranche 1 rule change request: network/pipeline expenditure proposals and assessment

Tranche 2 rule change request: network investment planning frameworks and the Australian Energy Regulator regulatory instruments revisions

As you would be aware, on 19 May 2023 Energy Ministers agreed to the final bill to incorporate an emissions reduction objective into the national energy objectives. At the same time, Energy Ministers agreed to expedite priority consequential rule changes that are needed to operationalise the amended energy objectives.

On behalf of Energy Senior Officials, I am submitting two rule change requests (see attached). I understand officials have been working closely with the AEMC to develop the rule change requests and would like to thank the AEMC for the close, cooperative relationship. I endorse these rule change requests and ask the AEMC to progress with their initiation.

Yours sincerely

Simon Duggan
Deputy Secretary, Department of Climate Change, Energy, Environment and Water

Chair of the Energy Senior Officials Group

3 July 2023

Rule change request

Priority rule changes to support the incorporation of an emissions reduction component into the National Energy Objectives - harmonising the rules for network/pipeline expenditure proposals and assessment

Name of rule change proponent

Energy Senior Officials on behalf of the Ministerial Council on Energy

Address of rule change proponent

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July 2023

Introduction – priority rule changes

On 12 August 2022, Energy Ministers (**Ministers**) (acting as the Ministerial Council on Energy (**MCE**)) agreed to fast track the introduction of an emissions reduction component into the National Energy Objectives (**energy objectives**), as a first action under the National Energy Transformation Partnership.

Box1: Revised wording of the National Energy Objectives

The National Electricity Objective revised wording will be:
 	
The objective of this Law is to promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to:
 	
• price, quality, safety and reliability and security of supply of electricity
• the reliability, safety and security of the national electricity system; and
• the achievement of targets set by a participating jurisdiction—
  ○ for reducing Australia's greenhouse gas emissions; or
  ○ that are likely to contribute to reducing Australia's greenhouse gas emissions.
 	
The National Gas Objective revised wording will be:
 	
The objective of this Law is to promote efficient investment in, and efficient operation and use of, natural gas services for the long term interests of consumers of natural gas with respect to—
 	
• price, quality, safety, reliability and security of supply of natural gas.
• the achievement of targets set by a participating jurisdiction—
  ○ for reducing Australia's greenhouse gas emissions; or
  ○ that are likely to contribute to reducing Australia's greenhouse gas emissions.
 	
The National Energy Retail Objective revised wording will be:
 	
The objective of this Law is to promote efficient investment in, and efficient operation and use of, energy services for the long term interests of consumers of energy with respect to—
 	
• price, quality, safety, reliability and security of supply of energy; and
• the achievement of targets set by a participating jurisdiction—
  ○ for reducing Australia's greenhouse gas emissions; or
  ○ that are likely to contribute to reducing Australia's greenhouse gas emissions.

This decision recognised the need to integrate emissions reduction and energy policy in the national energy laws (see Box 1),and enable Australia's energy market bodies – the Australian Energy Market Commission (**AEMC**), the Australian Energy Market Operator (**AEMO**) the Australian Energy Regulator (**AER**) and the Economic Regulation Authority in Western Australia (**ERA**)[1] to explicitly consider emissions reduction in how they undertake their respective powers and functions. Also, market participants and other entities regulated under the national energy laws that are required to take into account the energy objectives will now

[1] The *National Gas Access (WA) Act 2009* confers the functions of the AER to the ERA in Western Australia. From here on, any reference to the AER should be read as the ERA in a Western Australian context.

also need to consider emissions reduction, where relevant. For the avoidance of doubt, the purpose of amending the energy objectives was not to require AEMO to consider emissions reduction in its administration of wholesale energy markets, including real-time dispatch. Ministers recognised that to do so could have had unintended consequences that could negatively impact secure and reliable market operations.

While the amendments to the energy objectives will allow for the consideration of emissions reduction in various NEM processes, it is necessary to make the corresponding amendments to the Rules in order for the new emissions reduction component of the energy objectives to be fully operationalised and reduce regulatory uncertainty.

Public consultation[2] on the draft *National Energy Laws Amendment (Emissions Reduction Objectives) Bill 2023* (**the Bill**) was undertaken between 20 December 2022 and 7 February 2023, with over 50 submissions received.

On 19 May Energy Ministers agreed to the final draft Bill[3] for introduction into the South Australian Parliament.

On 6 June 2023, an information paper summarising refinements to the draft Bill and package was published, outlining how stakeholder views had been taken into account in the final Bill.[4]

On 14 June 2023, the final Bill was introduced into South Australian Parliament (note that it was introduced as the *Statutes Amendment (National Energy Laws) (Emissions Reduction Objectives) Bill 2023*).

On 27 June 2023, the Bill was read for a second time. In his second reading speech, the Hon A. Koutsantonis – Minister for Energy and Mining – noted:

> "To ensure the emissions component effectively operationalises the functions, powers and obligations assigned to the market bodies, a number of priority rule changes have been identified. To facilitate this, the Bill contains provisions for the Australian Energy Market Commission to take early actions on relevant rule change requests by Energy Ministers ahead of commencement of the Act."[5]

Statement of the nature and scope of the issues to be addressed

When the national energy laws, prior to amendment by the *Statutes Amendment (National Energy Laws) (Emissions Reduction Objectives) Bill 2023*, were developed between 2005 and 2012, a unitary energy objective formed a key component of their design, guiding the actions of the energy market bodies according to the common format emphasising "economic

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[2] https://www.energy.gov.au/government-priorities/energy-and-climate-change-ministerial-council/priorities/national-energy-transformation-partnership/consultation-proposed-legislative-changes-incorporate-emissions-reduction-objective-national-energy-objectives

[3] https://www.legislation.sa.gov.au/__legislation/lz/b/current/statutes%20amendment%20(national%20energy%20laws)%20(emissions%20reduction%20objectives)%20bill%202023/b_as%20introduced%20in%20ha/statutes%20reduction%20objectives%20bill%202023.un.pdf

[4] Incorporating an emissions reduction objective into the national energy objectives - Information Paper.pdf

[5] https://hansardsearch.parliament.sa.gov.au/daily/lh/2023-06-14/38?sid=68968ae9a2ec4e84aa

efficiency … in the long term interests of consumers”.[6] This unitary form, with distinct considerations to be weighed up by energy market bodies, is retained by the Bill adding to them the consideration of emissions reduction targets.

The energy objectives therefore play an integral guiding role in applying the national energy laws. They not only guide interpretation of the laws themselves, but also guide the AEMC in developing and modifying the rules which give effect to those laws through delegated statutory authority. They further guide the AER, which must apply those rules through its economic regulatory powers and functions, to regulate electricity and gas networks, and in clarifying the way it may exercise its regulatory discretion through issuing regulatory guidelines.

The present rules were developed – both initially by the MCE and subsequently by the AEMC – to align with the existing objectives of the energy laws. Now that the objectives are to change, there is a need to make consequential changes to the Rules to maintain that alignment. This rule change’s purpose is to give effect to that re-alignment of the Rules in respect of the AER’s economic regulatory functions and powers, as well as TNSPs, DNSPs and gas pipeline operators in what they are to consider in their expenditure proposals.

Bearing this in mind, senior officials have previously identified that upon passage of the Bill, the National Electricity Rules (**NER**), National Gas Rules (**NGR**) and National Energy Retail Rules (**NERR**) may need to be changed to ensure that the intent of the new emissions objective is properly reflected in the application of the Rules.

Supporting this, a number of stakeholder submissions on the draft Bill, including from the Australian Energy Regulator and the Australian Energy Market Operator, considered changes to aspects of the NER and NGR would likely be required to fully give effect to an emissions component in the energy objectives in some situations. Energy Networks Australia noted ‘there are likely to be some decision types where the impact of the proposed changes to the objectives may be muted, or at least delayed until there are consequential rule changes. This issue is likely to arise in two cases. First, where decisions are governed by prescriptive rules that do not directly reference the objectives, and secondly, where the contents of these rules are modelled on the existing objectives’.

Explanation of priority rule changes

The public consultation process for the Bill and the AEMC’s Transmission Planning and Investment Review (TPIR) identified a number of priority rule changes required to give effect to the new emissions reduction objective. The rules fall under three categories:

1. **Rules for network/pipeline expenditure proposals and assessment** *(i.e. revenue determinations/resets)* – including capital and operating expenditure assessment criteria and capital and operating expenditure objectives, where references to the separate components of the previous energy objectives are stated in rules.
2. **Rules for electricity investment planning frameworks** – including the Regulatory Investment Test (**RIT**) frameworks and the Integrated System Plan (**ISP**), and rules on

[6] This followed extensive review and revision to the preceding National Electricity Code and National Third Party Access Code for Natural Gas Pipeline Systems. See for example the Productivity Commission’s 2004 *Review of the Gas Access Regime* which recommended “sharpening the specification of the objectives of the regime by inserting an overarching objects clause with a focus on promoting efficiency and by removing inappropriate and conflicting objectives scattered through the regime” (p. xxii).

classes of market benefits, which do not currently reflect emissions reduction in the consideration of the energy objectives.

3. **Rules to enable a streamlined process for the AER to update its regulatory guidelines, guidance documents and instruments** to reflect the inclusion of the emission reduction component in the energy objectives – including consultation procedures to update those guidelines.

The Bill provides both for initial Rules to be made as needs be by the South Australian Minister, and also for early changes to be made through a standard AEMC rule change process. Energy Ministers consider the best option to progress these priority rule changes would be the standard AEMC rule change process given the complexity of the matters involved and need for public comment and participation.

The AEMC has noted “a consultative rule change process will help to ensure that incorporating the revised national electricity objective into the NER occurs transparently and leads to clear and predictable rules. Emissions reduction will be a pertinent consideration in many areas of the NER – such as the economic assessment and revenue determination processes – and a consistent approach to considering emissions reduction will be important to reduce administrative burden.”[7]

Energy Senior Officials believe such a process would also be desirable for the provisions of the NGR identified in this request as necessary to be changed.

This rule change request addresses the first of the categories above - rules for network/pipeline expenditure proposals and assessment. The rule changes are anticipated to be completed in early 2024.

To help meet this timefra7me, Energy Ministers have tasked Energy Senior Officials to prepare and submit the priority rule change requests on their behalf to the AEMC.

The Energy Senior Officials are submitting two separate tranches of rule change requests to the AEMC based on the three categories of rules set out above.

This rule change proposal reflects the first category of rule changes proposed, that is, rules for network/pipeline expenditure proposals and assessment. A second rule change proposal will address transmission planning issues and the revision of AER guidelines.

Submitting the rule change proposals in two separate tranches will provide the AEMC with some flexibility regarding the timeframes required for its rule change process.

How the rule change contributes to the national energy objectives

This rule change proposal relates to AER economic regulatory functions and powers under the NEL and NGL. In particular, it addresses rules that set out the operating and capital expenditure objectives by which the AER assesses the proposed expenditures of network businesses. These expenditures are primarily approved through regular revenue determinations (for electricity networks) and access arrangement reviews (for scheme gas pipelines).

These determinations exert great influence on the way that electricity networks and gas pipelines develop over time. Electricity networks must plan for the augmentation and

[7] ibid. p.9

replacement of capital assets, the capacity and location of which exert significant influence over both how much demand for electricity can be served, and which sources and locations for generation – both grid scale and distributed – can be connected and generate energy into the national electricity system. The effects upon the generation mix and, ultimately, energy sector emissions can be substantial. Electricity networks must, further, operate their networks efficiently, and choose between many alternative means of operating those networks which may have effects upon their capacity to serve customer demand and accommodate the input of energy from different generation types.

The AER must determine appropriate allowances for capital and operating expenditure as 'building blocks' in these revenue determinations, reflecting the costs that would be incurred by a prudent and efficient service provider. The AER must also determine incentive schemes to ensure that outcomes align to the public interest, and may determine subsequent adjustments to the allowed revenues of networks through pass-through applications and contingent project determinations. Each of these are guided by the rules and work together to deliver network services that are economically efficient and in the long term interests of consumers according to the energy objectives.

Similarly, for gas pipelines, the AER and ERA must set reference tariffs for scheme pipelines which reflect capital and operating expenditure building blocks, again reflective of the costs that would be incurred by a prudent and efficient service provider. This may have an effect on the quantity of gas demand that may be served by a pipeline due to its capacity, price effects on demand for gas, and the fugitive emissions from gas pipelines. These would have flow on implications for emissions from the gas sector.

Table 1 lists the relevant rules pertaining to these functions and powers.

Presently, the processes for assessment and approval of operating and capital expenditure are governed by rules that in some cases do not directly reference the energy objectives. In other cases, the rules are modelled on, and directly replicate in substance, the unamended energy objectives.

For example, the electricity distribution capital expenditure objectives in Chapter 6 of the **NER** are focused on meeting demand, complying with regulatory obligations and maintaining safety, quality, reliability and security of supply of standard control services. However, the rules as currently drafted may not adequately take account of all elements of the amended energy objectives i.e., the practical outcomes could be that the capital expenditure options that meet current capital expenditure objectives may not meet new energy objectives, and that capital expenditure options that do not meet the current capital expenditure objectives may be appropriate taking into account the new energy objectives.

The issue highlighted in the above example also applies to the prescribed transmission services in Chapter 6A of the NER.

In respect of gas pipelines, rule 79 in Part 9 of the **NGR** is similarly focused on identifying capital expenditure that either has a positive economic value or is necessary to maintain safety, service integrity or the service provider's ability to meet demand (or is the subject of a regulatory obligation). Equivalent issues arise in respect of the operating expenditure rules of the NGR to those identified in the NER.

This rule change, in seeking to explicitly align the rules governing AER economic regulatory functions and powers with the amended energy objectives directly contributes to the achievement of those objectives by ensuring that capital and operating expenditure decisions of network businesses take due consideration of the effects of these expenditures on emissions from the energy sector, contributing to the achievement of emissions reduction targets – noting the achievement of targets would need to be balanced with the other components of the objectives.

In summary, we are seeking consideration of changes to relevant rules under the NER and NGR relating to revenue determinations and resets to ensure regulated electricity and gas distribution and transmission providers would not be prevented from proposing and potentially securing a revenue determination and allowance to fund investment that would be likely to contribute to emissions reduction targets; recognising this should be subject to the emissions outcomes being balanced with consideration of other components of the energy objectives, and the overall goal of economically efficient investment in, operation and use of energy services for the long-term interests of consumers.

Description of the rule change proposal

The priority rule changes under the first tranche of the rule change requests are identified in table 1. The list of rules in table 1 is not exhaustive. The final rule changes will be subject to the AEMC's rule change process, and the validation of this process commencing early as provided for by transitional provisions 8 and 18 of the Bill. These provisions also clarify that rule changes undertaken under these sections may be undertaken as if the amended objectives were already in force.

The specific clauses identified in this request have been provided to assist the AEMC in understanding the key areas of the rules where the priority rule changes sit, and which processes they relate to. Energy Ministers would welcome AEMC's consideration of additional or consequential rule changes to support the implementation of the emissions component of the objectives. Any rules which should be changed as a priority should be identified as part of the AEMC's rule change process, which it is recognised will be informed by stakeholder consultation processes.

Transitional arrangements may be required in relation to these rule changes, noting that the Bill also contains transitional provisions for specified multi-stage processes, such as the revenue determination/reset processes.

Potential impacts of proposed changes to rules

Benefits

The proposed priority rule changes for the electricity and gas economic regulatory rules frameworks in this request will harmonise the NER to the NEL, and the NGR to the NGL respectively, with the amended energy objective and provide clarity for their application for market bodies and participants.

Any discord between the energy laws and the rules could create administrative costs for the market bodies and industry in applying the rules, and potentially create a legal risk by leaving the market bodies' decisions open to challenge. It also poses the risk of creating unintended consequences that do not align with the policy intent in the application of the Rules in the areas of economic regulation.

The risk of such discord is difficult to quantify, both in probability and consequence. However, given that the energy rules form the basis for regulation of the $11.4 billion per year[8] electricity network sector any risk of challenge or untoward outcome should be regarded as material.

The rule changes may support regulated electricity and gas distribution and transmission providers considering – and potentially undertaking – investments which under the unamended energy objectives would not be considered economically efficient, but which with the recognition of emissions reduction benefits may be supported under the updated framework. However, the electricity system accounts for about 33 per cent of national emissions, and there is now broad agreement on the likelihood of high costs to Australians from the effects of climate change. Overall therefore, it is considered there will be net benefits to energy consumers over the long term from a rules framework that supports investments that could contribute to reduced emissions compared to a counterfactual scenario, while delivering on the other components of the objectives.

The proposed rule changes will also provide clarity for transmission network service providers, consumers and other stakeholders on the application of the amended energy objectives to the operating and capital expenditure frameworks. This will allow for reduced administrative burden for these stakeholders in the revenue determination process.

As noted in the introduction to this rule change, the alignment will further serve to avoid the risks inherent in having Rules that are not aligned to the new objectives. These risks include that elements of the rules themselves are subject to legal challenge, and consequently that AER regulatory determinations must be set aside or remade.

The risk of setting aside or remaking regulatory determinations could have serious flow on implications for energy consumers:

- Firstly, prices for network services may not be reflective of an economically efficient service provider.
- Time spent in remaking a decision risks stalling investment in network services, with flow on implications for both energy emissions and also networks' safety, security, and reliability.
- This may have flow on implications for the generation sector, by undermining confidence in the regulatory framework underpinning the networks upon which they rely.

Avoidance of these risks is a key contributor to the benefits of the rule.

Costs

The proposed rule changes may initially increase the cost of regulatory decision making processes due to the need to revise guidance materials and approaches to include emissions

[8] AER State of the Energy Market Report 2022.

in the factors that need to be taken into account when preparing revenue proposals and cost benefit analysis.

This rule change request has been submitted by Energy Senior Officials on behalf of the MCE. It has been prepared by a cross jurisdictional working group. The individual jurisdictions will remain engaged throughout the rule change process conducted by the AEMC and participate when required.

Table 1 – Network/pipeline expenditure proposals and assessment (tranche 1)

Rule reference & description	Current rule	Reason for rule change
National Electricity Rules		
Distribution		
Operating expenditure objectives and criteria • 6.5.6	**6.5.6 Forecast operating expenditure** a) A building block proposal must include the total forecast operating expenditure for the relevant regulatory control period which the Distribution Network Service Provider considers is required in order to achieve each of the following (the operating expenditure objectives): 1) meet or manage the expected demand for standard control services over that period 2) comply with all applicable regulatory obligations or requirements associated with the provision of standard control services 3) to the extent that there is no applicable regulatory obligation or requirement in relation to: i. the quality, reliability or security of supply of standard control services; or ii. the reliability or security of the distribution system through the supply of standard control services, to the relevant extent: iii. maintain the quality, reliability and security of supply of standard control services; and iv. maintain the reliability and security of the distribution system through the supply of standard control services; and 4) maintain the safety of the distribution system through the supply of standard control services. c) The AER must accept the forecast of required operating expenditure of a Distribution Network Service Provider that is included in a building block proposal if the AER is satisfied that the total of the forecast operating expenditure for the	This rule is currently drafted to replicate the substance of the previous national energy objectives, instead of referring to the national energy objective in the NEL. For example, paragraphs 6.5.6(a) 3) and 4) of the operating expenditure objectives directly replicate the energy objective relating to quality, reliability and security of supply of electricity. Therefore, the change in the energy objective to incorporate emissions reduction will not naturally flow through to these rules. In order for these rules to reflect the updated energy objectives, clause 6.5.6(a) may need to be changed to the extent required to also allow for the consideration of emissions reduction when appropriate. The AEMC should consider whether any additional changes are required to the other parts of 6.5.6. For example, the operating expenditure criteria apply the operating expenditure objectives directly replicate the substance of the previous energy objectives (covered in (a) above). As above, the operating expenditure objectives in clause 6.5.6(a) may need to be changed, and such changes would flow automatically through to clause 6.5.6(c) to the extent required to also allow for the consideration of emissions reduction when appropriate

Rule reference & description	Current rule	Reason for rule change
	regulatory control period reasonably reflects each of the following (the operating expenditure criteria): 1) the efficient costs of achieving the operating expenditure objectives; and 2) the costs that a prudent operator would require to achieve the operating expenditure objectives; and 3) a realistic expectation of the demand forecast and cost inputs required to achieve the operating expenditure objectives.	
Capital expenditure objectives and criteria • 6.5.7	**6.5.7 Forecast capital expenditure** a) A building block proposal must include the total forecast capital expenditure for the relevant regulatory control period which the Distribution Network Service Provider considers is required in order to achieve each of the following (the capital expenditure objectives): 1) meet or manage the expected demand for standard control services over that period; 2) comply with all applicable regulatory obligations or requirements associated with the provision of standard control services; 3) to the extent that there is no applicable regulatory obligation or requirement in relation to: i. the quality, reliability or security of supply of standard control services; or ii. the reliability or security of the distribution system through the supply of standard control services to the relevant extent iii. maintain the quality, reliability and security of supply of standard control services; and iv. maintain the reliability and security of the distribution system through the supply of standard control services; and 4) maintain the safety of the distribution system through the supply of standard control services. (c) The AER must: 1) subject to subparagraph (c)(2), accept the forecast of required capital expenditure of a Distribution Network Service Provider that is included in a building block proposal if the AER is satisfied that the total of the forecast	This rule is currently drafted to replicate the substance of the previous energy objective, instead of referring to the national energy objective in the NEL. For example, paragraphs 6.5.7(a) 3) and 4) of the capital expenditure objectives directly replicate the objective relating to quality, reliability and security of supply of electricity. Therefore, the change in the national energy objectives to incorporate emissions reduction will not naturally flow through to these rules. In order for these rules to reflect the updated national energy objectives, clause 6.5.7(a) may need to be changed to the extent required to also allow for the consideration of emissions reduction when appropriate. The AEMC should consider whether any additional changes are required to the other parts of 6.5.7. For example, the capital expenditure criteria apply the capital expenditure objectives (covered in a), which directly replicate the substance of the previous energy objectives. As above, in order for these rules to reflect the amended energy objectives, the capital expenditure objectives in clause 6.5.7(a) may need to be changed and these may flow automatically through to clause

Rule reference & description	Current rule	Reason for rule change
	capital expenditure for the regulatory control period reasonably reflects each of the following (the capital expenditure criteria): i. the efficient costs of achieving the capital expenditure objectives; ii. the costs that a prudent operator would require to achieve the capital expenditure objectives; and iii. a realistic expectation of the demand forecast and cost inputs required to achieve the capital expenditure objectives. 2) not accept the forecast of required capital expenditure of a Distribution Network Service Provider that is included in a building block proposal if that forecast includes expenditure for a restricted asset, unless: i. to the extent that any such expenditure includes an amount of unspent capital expenditure for a contingent project in accordance with paragraph (g), an asset exemption has been granted by the AER under clause 6.4B.1(a)(2) in respect of that asset or that class of asset for that contingent project; ii. to the extent that any such expenditure relates to a positive pass through amount, an asset exemption has been granted by the AER under clause 6.4B.1(a)(3) in respect of that asset or that class of asset for that positive pass through amount; or iii. otherwise: (A) that Distribution Network Service Provider has requested an asset exemption under subparagraph (b)(5) in respect of that asset or that class of asset; and (B) the AER has granted that asset exemption.	6.5.7(c) to the extent required to also allow for the consideration of emissions reduction when appropriate.
Transmission		
Operating expenditure objectives and criteria • 6A.6.6	**6A.6.6 Forecast operating expenditure** a) A Revenue Proposal must include the total forecast operating expenditure for the relevant regulatory control period which the Transmission Network Service Provider considers is required in order to achieve each of the following (the operating expenditure objectives): 1) meet or manage the expected demand for prescribed transmission services over that period;	This rule is currently drafted to replicate the substance of the unamended energy objectives, instead of referring to the national energy objective in the NER. For example, paragraphs 6A.6.6(a) 3) and 4) of the operating expenditure objectives directly replicate the energy objectives relating to quality, reliability and security of supply of electricity.

Rule reference & description	Current rule	Reason for rule change
	2) comply with all applicable regulatory obligations or requirements associated with the provision of prescribed transmission services; 3) to the extent that there is no applicable regulatory obligation or requirement in relation to: i. the quality, reliability or security of supply of prescribed transmission services; or ii. the reliability or security of the transmission system through the supply of prescribed transmission services, to the relevant extent: iii. maintain the quality, reliability and security of supply of prescribed transmission services; and iv. maintain the reliability and security of the transmission system through the supply of prescribed transmission services; and 4) maintain the safety of the transmission system through the supply of prescribed transmission services. c) Subject to paragraph (c1), the AER must accept the forecast of required operating expenditure of a Transmission Network Service Provider that is included in a Revenue Proposal if the AER is satisfied that the total of the forecast operating expenditure for the regulatory control period reasonably reflects each of the following (the operating expenditure criteria): 1) the efficient costs of achieving the operating expenditure objectives; 2) the costs that a prudent operator would require to achieve the operating expenditure objectives; and; 3) a realistic expectation of the demand forecast and cost inputs required to achieve the operating expenditure objectives c1) If: 1) a Transmission Network Service Provider made network support payments in accordance with a relevant agreement for network support services in the previous regulatory control period; and 2) the Transmission Network Service Provider must continue to make network support payments to fulfil obligations under the relevant agreement for network support services in the relevant regulatory control period, the AER must accept the forecast of required operating expenditure of the Transmission Network Service Provider included in a Revenue Proposal in relation to the remainder of costs required to meet obligations under the	Therefore, the change in the energy objectives to incorporate emissions reduction will not naturally flow through to these rules. In order for these rules to reflect the amended energy objectives, clause 6A.6.6(a) may need to be changed to the extent required to also allow for the consideration of emissions reduction when appropriate. The AEMC should consider whether any additional changes are required to 6A.6.6. For example, the operating expenditure criteria apply the operating expenditure objectives, which directly replicate the substance of the unamended energy objectives (covered in (a) above). As outlined above, in order for these rules to reflect the amended energy objectives, the operating expenditure objectives in clause 6A.6.6(a) may need to be changed and these may flow automatically through to clauses 6.5.6(c) and (c1) to the extent required to also allow for the consideration of emissions reduction when appropriate. However, the AEMC should consider whether further changes are required.

Rule reference & description	Current rule	Reason for rule change
	relevant agreement for network support services in the relevant regulatory control period.	
Capital expenditure objectives and criteria • 6A.6.7	**6A.6.7 Forecast capital expenditure** a) A Revenue Proposal must include the total forecast capital expenditure for the relevant regulatory control period which the Transmission Network Service Provider considers is required in order to achieve each of the following (the capital expenditure objectives): 1) meet or manage the expected demand for prescribed transmission services over that period; 2) comply with all applicable regulatory obligations or requirements associated with the provision of prescribed transmission services; 3) to the extent that there is no applicable regulatory obligation or requirement in relation to: i. the quality, reliability or security of supply of prescribed transmission services; or ii. the reliability or security of the transmission system through the supply of prescribed transmission services, to the relevant extent iii. maintain the quality, reliability and security of supply of prescribed transmission services; and iv. maintain the reliability and security of the transmission system through the supply of prescribed transmission services; and 4) maintain the safety of the transmission system through the supply of prescribed transmission services. c) The AER must accept the forecast of required capital expenditure of a Transmission Network Service Provider that is included in a Revenue Proposal if the AER is satisfied that the total of the forecast capital expenditure for the regulatory control period reasonably reflects each of the following (capital expenditure criteria): 1) the efficient costs of achieving the capital expenditure objectives; 2) the costs that a prudent operator would require to achieve the capital expenditure objectives; and	This rule is currently drafted to replicate the substance of the unamended energy objectives, instead of referring to the energy objectives in the NEL. For example, paragraphs 6A.6.7(a) 3) and 4) of the capital expenditure objectives directly replicate the energy objectives relating to quality, reliability and security of supply of electricity. Therefore, the change in the energy objectives to incorporate emissions reduction will not naturally flow through to these rules. In order for these rules to reflect the amended energy objectives, clause 6A.6.7(a) may need to be changed to the extent required to also allow for the consideration of emissions reduction when appropriate. The AEMC should consider whether any additional changes are required to clause 6A.6.7. For example, the capital expenditure criteria apply the capital expenditure objectives (covered in a), which directly replicate the substance of the unamended energy objectives. As outlined above, in order for these rules to reflect the amended energy objectives, the capital expenditure objectives in clause 6A.6.7(a) may need to be changed and these may flow automatically through to clause 6A.6.7(c) to the extent required to also allow for the consideration of emissions reduction when appropriate, however the AEMC should consider whether further changes are required.

Rule reference & description	Current rule	Reason for rule change
	3) a realistic expectation of the demand forecast and cost inputs required to achieve the capital expenditure objectives.	
National Gas Rules		
New capital expenditure criteria • 79(1)	(1) Conforming capital expenditure is capital expenditure that conforms with the following criteria: a) the capital expenditure must be such as would be incurred by a prudent service provider acting efficiently, in accordance with accepted good industry practice, to achieve the lowest sustainable cost of providing services; and b) the capital expenditure must be justifiable on a ground stated in subrule (2); and c) the capital expenditure must be for expenditure that is properly allocated in accordance with the requirements of subrule (6).	This rule relates to service providers' capital expenditure incurred to achieve the lowest sustainable cost of providing services. It may not permit the regulators to consider capital expenditure incurred as a result of needing to meet emission reduction targets set by a participating jurisdiction. This rule may therefore meet all the amended energy objectives. In order for this rule to reflect the amended energy objectives it may need to be changed to the extent required to also allow for the consideration of emissions reduction when appropriate.
New capital expenditure criteria • 79(2)	(2) Capital expenditure is justifiable if: a) the overall economic value of the expenditure is positive; or b) the present value of the expected incremental revenue to be generated as a result of the expenditure exceeds the present value of the capital expenditure; or c) the capital expenditure is necessary: i. to maintain and improve the safety of services; or ii. to maintain the integrity of services; or iii. to comply with a regulatory obligation or requirement; or iv. to maintain the service provider's capacity to meet levels of demand for services existing at the time the capital expenditure is incurred (as distinct from projected demand that is dependent on an expansion of pipeline capacity); or d) the capital expenditure is an aggregate amount divisible into 2 parts, one referable to incremental services and the other referable to a purpose referred to in paragraph (c), and the former is justifiable under paragraph (b) and the latter under paragraph (c).	This rule is drafted to directly replicate the substance of the unamended energy objectives, instead of referring to the energy objectives. Therefore, the change in the energy objectives will not naturally flow through to these rules. Rule 79(2) provides a list of things which may indicate capital expenditure is justifiable, however emissions reduction is not mentioned. In order for this rule to reflect the amended energy objectives it may need to be changed to the extent required to also allow for the consideration of emissions reduction when appropriate.
New capital expenditure criteria • 79(3)	(3) In deciding whether the overall economic value of capital expenditure is positive, consideration is to be given only to economic value directly accruing to the service provider, gas producers, users and end users.	The change in the energy objectives will not naturally flow through to this rule. Consideration should be given to whether the rule may need to be changed to reflect consideration of the value of emissions

Rule reference & description	Current rule	Reason for rule change
		reduction when deciding whether the overall economic value of the capital expenditure is positive.
Criteria governing operating expenditure • 91(1)	(1) Operating expenditure must be such as would be incurred by a prudent service provider acting efficiently, in accordance with accepted good industry practice, to achieve the lowest sustainable cost of delivering pipeline services.	The change in the energy objectives will not naturally flow through to this rule. Consideration may need be given to whether economic concepts in this rule, particularly the reference to the lowest sustainable cost of delivering services, require any change to reflect incorporation of the emissions reduction component of the objective. The AEMC should consider whether any additional changes are required.

Note: The list of clauses in table 1 is not exhaustive. The AEMC has advised the final rule changes will be subject to its rule change process. The clauses above have been provided to assist the AEMC in understanding the areas of the rules where the priority rule changes sit, and which processes they relate to. Any rules which should be changed as a priority should be identified as part of the AEMC rule change process and stakeholders including market bodies, the jurisdictions, and market participants will be provided the opportunity to provide input to that process