

**Indicative changes to the National Electricity Rules showing changes made by the *National Electricity Amendment (Material change in network infrastructure project costs) Rule 2022***

**Note:**

This document shows indicative changes to the relevant parts of the National Electricity Rules (NER) as amended by the *National Electricity Amendment (Material change in network infrastructure project costs) Rule 2022*. This document is provided for information purposes only. The Australian Energy Market Commission does not guarantee the accuracy, reliability or completeness of this version of the NER.

## 5. Network Connection Access, Planning and Expansion

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### Part D Network Planning and Expansion

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#### 5.15.3 Review of costs thresholds

##### Regulatory investment test for transmission thresholds

- (a) Every 3 years the *AER* must undertake a review of the changes in the input costs used to calculate the estimated capital costs in relation to *transmission* investment as referred to in paragraph (b), for the purposes of determining whether the *cost thresholds* specified in paragraph (b) need to be changed to maintain the appropriateness of the *cost thresholds* over time by adjusting those *cost thresholds* to reflect any increase or decrease in the input costs since:
- (1) July 2009 in respect of the first *cost threshold review*; and
  - (2) the date of the previous review in respect of every subsequent *cost threshold review*.

##### Note

The *cost thresholds* are regularly reviewed by the *AER* under paragraph (b). The current thresholds are specified in the latest cost threshold determination available on the *AER*'s website [www.aer.gov.au](http://www.aer.gov.au).

- (b) For the purposes of paragraph (a), the *cost thresholds* for review are the following amounts:
- (1) **[Deleted]**
  - (1A) of less than \$200,000 referred to in clause 5.12.2(c)(1B)(iv);
  - (2) of less than \$5 million referred to in clause 5.16.3(a)(2);
  - (3) **[Deleted]**
  - (4) of less than \$5 million referred to in clause 5.16.3(a)(5);
  - (5) of less than \$35 million referred to in clause 5.16.4(z1)(1) and clause 5.16A.4(m)(1); ~~and~~
  - (6) in excess of \$5 million in relation to investment in *transmission assets* of the type referred to in the definition of *potential transmission project* in clause 5.10.2; and
  - (7) greater than \$100 million referred to in clause 5.16.4(k)(10) and clause 5.16A.4(d)(9).

##### Regulatory investment test for distribution costs thresholds

- (c) Subject to paragraph (f)(2), every 3 years, and at the same time as it undertakes its review of the *cost thresholds* for *regulatory investment test for transmission* under paragraph (a), the *AER* must undertake a review of the changes in the input costs used to calculate the estimated capital costs in relation to:
- (1) projects subject to the *regulatory investment test for distribution*; and

- (2) the *cost threshold* for committed investments that are to address an urgent and unforeseen *network* need subject to the *Distribution Annual Planning Report*,

for the purposes of determining whether the *cost thresholds* specified in paragraph (d) need to be changed to maintain the appropriateness of the *cost thresholds* over time by adjusting those *cost thresholds* to reflect any increase or decrease in the input costs since:

- (3) 1 January 2013 in respect of the first *cost threshold* review; and
  - (4) the date of the previous review in respect of every subsequent *cost threshold* review.
- (d) For the purposes of paragraph (c), the *cost thresholds* for review are the following amounts:
- (1) \$5 million referred to in clause 5.17.3(a)(2);
  - (2) **[Deleted]**;
  - (3) \$10 million referred to in clause 5.17.4(n)(2);
  - (4) \$20 million referred to in clause 5.17.4(s);
  - (4A) of less than \$200,000 referred to in S5.8(b2)(4);
  - (5) \$2 million referred to in S5.8(g); and
  - (6) greater than \$100 million referred to in clause 5.17.4(j)(13).

#### **Note**

The *cost thresholds* are regularly reviewed by the *AER* under paragraph (b). The current thresholds are specified in the latest *cost threshold determination* available on the *AER*'s website [www.aer.gov.au](http://www.aer.gov.au).

#### **Cost threshold reviews**

- (e) Each *cost threshold review* is to be commenced by the *AER* by 31 July of the relevant year.
- (f) The first review of the *cost thresholds* for:
  - (1) the *regulatory investment test for transmission* under paragraph (a) must be initiated in 2012; and
  - (2) the *regulatory investment test for distribution* under paragraph (c) must be initiated in 2015.
- (g) Within six weeks following the commencement of a *cost threshold review*, the *AER* must *publish* a draft determination outlining:
  - (1) whether the *AER* has formed the view that any of the *cost thresholds* need to be amended to reflect increases or decreases in the input costs to ensure that the appropriateness of the *cost thresholds* is maintained over time;
  - (2) its reasons for determining whether the *cost thresholds* need to be varied to reflect increases or decreases in the input costs;
  - (3) if there is to be a variation in a *cost threshold*, the amount of the new *cost threshold* and the date the new *cost threshold* will take effect; and
  - (4) its reasons for determining the amount of the new *cost threshold*.

- (h) At the same time as it *publishes* the draft determination under paragraph (f), the *AER* must *publish* a notice seeking submissions on the draft determination. The notice must specify the period within which written submissions can be made (the *cost threshold* consultation period) which must be no less than 5 weeks from the date of the notice.
- (i) The *AER* must consider any written submissions received during the *cost threshold* consultation period in making its final determination in respect of the matters outlined in paragraph (g).
- (j) The final determination on *cost thresholds* must be made and *published* by the *AER* within 5 weeks following the end of the *cost threshold* consultation period.
- (k) The *AER* may *publish* a draft determination under paragraph (g), a notice under paragraph (h), or a final determination under paragraph (j) for any *cost threshold reviews* under paragraphs (a) and (c) as a single document.

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## 5.16.2 Regulatory investment test for transmission application guidelines

### Definitions

(a0) In this clause 5.16.2:

**current application** has the meaning given to it by clause 5.16.2(g).

- (a) At the same time as the *AER* develops and *publishes* a proposed *regulatory investment test for transmission* under the *transmission consultation procedure*, the *AER* must also develop and *publish* guidelines for the operation and application of the *regulatory investment test for transmission* (the **regulatory investment test for transmission application guidelines**) in accordance with the *transmission consultation procedures* and this rule 5.16.
- (b) The *regulatory investment test for transmission application guidelines* must:
  - (1) give effect to and be consistent with this clause 5.16.2 and clauses 5.15.2, 5.16.3, 5.16.4 and rule 5.16B; and
  - (2) provide guidance on:
    - (i) the operation and application of the *regulatory investment test for transmission*;
    - (ii) the process to be followed in applying the *regulatory investment test for transmission*; and
    - (iii) how disputes raised in relation to the *regulatory investment test for transmission* and its application will be addressed and resolved.
- (c) The *regulatory investment test for transmission application guidelines* must provide guidance and worked examples as to:
  - (1) what constitutes a *credible option*;
  - (2) acceptable methodologies for valuing the costs of a *credible option*, including any acceptable cost estimate classification systems;
  - (3) what may constitute an externality under the *regulatory investment test for transmission*;

- (4) the classes of market benefits to be considered for the purposes of clause 5.15A.2(b)(4);
- (5) the suitable modelling periods and approaches to scenario development;
- (6) the acceptable methodologies for valuing the market benefits of a *credible option* referred to clause 5.15A.2(b)(4), including the option value, competition benefits and market benefits that accrue across regions;
- (7) the appropriate approach to undertaking a sensitivity analysis for the purposes of clause 5.15A.2(b)(11);
- (8) the appropriate approaches to assessing uncertainty and risks, including any appropriate role for contingency allowances; and
- (9) when a person is sufficiently committed to a *credible option* for *reliability corrective action* to be characterised as a proponent for the purposes of clause 5.15.2(b)(7); and
- (10) the purpose of, and appropriate approach to developing, RIT reopening triggers, as well as examples of potential:
  - (i) RIT reopening triggers; and
  - (ii) actions that may be taken in response to a RIT reopening trigger being triggered.
- (d) The *AER* must ensure that there is a *regulatory investment test for transmission* and *regulatory investment test for transmission application guidelines* in force at all times.
- (e) The *AER* may, from time to time, amend or replace the *regulatory investment test for transmission* and *regulatory investment test for transmission application guidelines* in accordance with the *transmission consultation procedures*, provided the *AER* publishes any amendments to, or replacements of, the *regulatory investment test for transmission* or *regulatory investment test for transmission application guidelines* at the same time.
- (f) An amendment referred to in paragraph (e) that relates to:
  - (1) applying the *regulatory investment test for transmission* to RIT-T projects, does not apply to a current application of the *regulatory investment test for transmission* and the *regulatory investment test for transmission application guidelines* under the *Rules* by a *RIT-T* proponent; and
  - (2) a *RIT-T* proponent ascertaining whether a material change in circumstances has occurred that would require it to reapply the *regulatory investment test for transmission* pursuant to clause 5.16.4(z3)(3), does not apply to a *RIT-T* project for which a *project assessment draft report* has been prepared prior to the date that the amendment is effective.
- (g) For the purposes of paragraph (f), a "current application" means any action or process initiated under the *Rules* which relies on or is referenced to the *regulatory investment test for transmission* and/or the *regulatory investment test for transmission application guidelines* and is not completed at the date of the relevant amendment to the *regulatory investment test for transmission* and/or the *regulatory investment test for transmission application guidelines*.

(h) The AER may specify the relevant parts of the regulatory investment test for transmission application guidelines that are binding on RIT-T proponents.

#### 5.16.4 Regulatory investment test for transmission procedures

- (a) If a *RIT-T project* is subject to the *regulatory investment test for transmission* under clause 5.16.3, then the *RIT-T proponent* must consult all *Registered Participants*, *AEMO* and *interested parties* on the *RIT-T project* in accordance with this clause 5.16.4.

##### **Note**

This paragraph is classified as a tier 3 civil penalty provision under the National Electricity (South Australia) Regulations. (See clause 6(1) and Schedule 1 of the National Electricity (South Australia) Regulations.)

#### **Project specification consultation report**

- (b) A *RIT-T proponent* must prepare a report (the *project specification consultation report*), which must include:
- (1) a description of the *identified need*;
  - (2) the assumptions used in identifying the *identified need* (including, in the case of proposed *reliability corrective action*, why the *RIT-T proponent* considers reliability corrective action is necessary);
  - (3) the technical characteristics of the *identified need* that a *non-network option* would be required to deliver, such as:
    - (i) the size of *load* reduction or additional supply;
    - (ii) location; and
    - (iii) operating profile;
  - (4) if applicable, reference to any discussion on the description of the *identified need* or the credible options in respect of that *identified need* in the most recent *Integrated System Plan*;
  - (5) a description of all credible options of which the *RIT-T proponent* is aware that address the *identified need*, which may include, without limitation, alternative *transmission* options, *interconnectors*, *generation*, demand side management, *market network services* or other *network options*;
  - (6) for each credible option identified in accordance with subparagraph (5), information about:
    - (i) the technical characteristics of the credible option;
    - (ii) whether the credible option is reasonably likely to have a *material inter-network impact*;
    - (iii) the classes of market benefits that the *RIT-T proponent* considers are likely not to be material in accordance with clause 5.15A.2(b)(6), together with reasons of why the *RIT-T proponent* considers that these classes of market benefits are not likely to be material;
    - (iv) the estimated construction timetable and commissioning date; and

- (v) to the extent practicable, the total indicative capital and operating and maintenance costs.
- (c) The *RIT-T proponent* must make the *project specification consultation report* available to all *Registered Participants*, *AEMO* and other *interested parties*.
- (d) The *RIT-T proponent* must:
  - (1) provide a summary of the *project specification consultation report* to *AEMO* within 5 *business days* of making the *project specification consultation report*; and
  - (2) upon request by an *interested party*, provide a copy of the *project specification consultation report* to that person within 3 *business days* of the request.
- (e) Within 3 *business days* of receipt of the summary, *AEMO* must *publish* the summary of the *project specification consultation report* on its website.
- (f) The *RIT-T proponent* must seek submissions from *Registered Participants*, *AEMO* and *interested parties* on the credible options presented, and the issues addressed, in the *project specification consultation report*.
- (g) The period for consultation referred to in paragraph (f) must be not less than 12 weeks from the date that *AEMO publishes* the summary of the *project specification consultation report* on its website.
- (h) A *RIT-T proponent* that is a *Transmission Network Service Provider* may discharge its obligation under paragraph (c) to make the *project specification consultation report* available by including the *project specification consultation report* as part of its *Transmission Annual Planning Report*.
- (i) A *RIT-T proponent* that is a *Distribution Network Service Provider* may discharge its obligation under paragraph (c) to make the *project specification consultation report* available by including the *project specification consultation report* as part of its *Distribution Annual Planning Report*.

#### **Project assessment draft report**

- (j) If one or more *Network Service Providers* wishes to proceed with a *RIT-T project*, within 12 months of the end date of the consultation period referred to in paragraph (g), or such longer time period as is agreed in writing by the *AER*, the *RIT-T proponent* for the relevant *RIT-T project* must prepare a report (the *project assessment draft report*), having regard to the submissions received, if any, under paragraph (f) and make that report available to all *Registered Participants*, *AEMO* and *interested parties*.
- (k) The *project assessment draft report* must include:
  - (1) a description of each *credible option* assessed;
  - (2) a summary of, and commentary on, the submissions to the *project specification consultation report*;
  - (3) a quantification of the costs, including a breakdown of operating and capital expenditure, and classes of material market benefit for each *credible option*;

- (4) a detailed description of the methodologies used in quantifying each class of material market benefit and cost;
- (5) reasons why the *RIT-T proponent* has determined that a class or classes of market benefit are not material;
- (6) the identification of any class of market benefit estimated to arise outside the *region* of the *Transmission Network Service Provider* affected by the *RIT-T project*, and quantification of the value of such market benefits (in aggregate across all regions);
- (7) the results of a net present value analysis of each *credible option* and accompanying explanatory statements regarding the results;
- (8) the identification of the proposed *preferred option*;
- (9) for the proposed preferred option identified under subparagraph (8), the *RIT-T proponent* must provide:
  - (i) details of the technical characteristics;
  - (ii) the estimated construction timetable and commissioning date;
  - (iii) if the proposed *preferred option* is likely to have a *material inter-network impact* and if the *Transmission Network Service Provider* affected by the *RIT-T project* has received an *augmentation technical report*, that report; and
  - (iv) a statement and the accompanying detailed analysis that the *preferred option* satisfies the *regulatory investment test for transmission*; and

(10) if each of the following apply to the *RIT-T project*:

- (i) the estimated capital cost of the proposed *preferred option* is greater than \$100 million (as varied in accordance with a *cost threshold determination*); and
  - (ii) *AEMO* is not the sole *RIT-T proponent*,  
the *RIT reopening triggers* applying to the *RIT-T project*.
- (l) If a *Network Service Provider* affected by a *RIT-T project* elects to proceed with a project which is for *reliability corrective action*, it can only do so where the proposed *preferred option* has a proponent. The *RIT-T proponent* must identify that proponent in the *project assessment draft report*.
  - (m) A *RIT-T proponent* that is a *Transmission Network Service Provider* may discharge its obligation under paragraph (j) to make the *project assessment draft report* available by including the *project assessment draft report* as part of its *Transmission Annual Planning Report* provided that report is *published* within 12 months of the end date of the consultation period required under paragraph (g) or within 12 months of the end of such longer time period as is agreed by the *AER* in writing under paragraph (j).
  - (n) A *RIT-T proponent* that is a *Distribution Network Service Provider* may discharge its obligation under paragraph (j) to make the *project assessment draft report* available by including the *project assessment draft report* as part of its *Distribution Annual Planning Report* provided that report is *published* within 12

months of the end date of the consultation period required under paragraph (g) or within 12 months of the end of such longer time period as is agreed by the *AER* in writing under paragraph (j).

- (o) The *RIT-T proponent* must:
  - (1) provide a summary of the *project assessment draft report* to *AEMO* within 5 *business days* of making the *project assessment draft report*; and
  - (2) upon request by an *interested party*, provide a copy of the *project assessment draft report* to that person within 3 *business days* of the request.
- (p) Within 3 *business days* of receipt of the summary, *AEMO* must *publish* the summary of the *project assessment draft report* on its website.
- (q) The *RIT-T proponent* must seek submissions from *Registered Participants*, *AEMO* and *interested parties* on the *preferred option* presented, and the issues addressed, in the *project assessment draft report*.
- (r) The period for consultation referred to in paragraph (q) must be not less than 6 weeks from the date that *AEMO publishes* the summary of the report on its website.
- (s) Within 4 weeks after the end of the consultation period required under paragraph (r), at the request of an *interested party*, a *Registered Participant* or *AEMO* (each being a relevant party for the purposes of this paragraph), the relevant *Network Service Provider* must meet with the relevant party if a meeting is requested by two or more relevant parties and may meet with a relevant party if after having considered all submissions, the relevant *Network Service Provider*, acting reasonably, considers that the meeting is necessary.

#### **Project assessment conclusions report**

- (t) As soon as practicable after the end of the consultation period on the *project assessment draft report* referred to in paragraph (r), the *RIT-T proponent* must, having regard to the submissions received, if any, under paragraph (q) and the matters discussed at any meetings held, if any, under paragraph (s), prepare and make available to all *Registered Participants*, *AEMO* and *interested parties* and *publish* a report (the *project assessment conclusions report*).
- (u) If:
  - (1) the *RIT-T proponent* is exempt from making a *project assessment draft report* under paragraph (z1); and
  - (2) a *Network Service Provider* affected by a *RIT-T project*, within 12 months of the end date of the period for consultation referred to in paragraph (g), or within 12 months of the end date of such longer time period as is agreed in writing by the *AER* elects to proceed with the proposed *transmission investment*,the relevant *Network Service Provider* must, having regard to the submissions received, if any, under paragraph (g) as soon as practicable prepare and make available to all *Registered Participants*, *AEMO* and *interested parties* and *publish* a report (the *project assessment conclusions report*).
- (v) The *project assessment conclusions report* must set out:

- (1) the matters detailed in the *project assessment draft report* as required under paragraph (k); and
  - (2) a summary of, and the *RIT-T proponent's* response to, submissions received, if any, from *interested parties* sought under paragraph (q).
- (w) The *RIT-T proponent* must:
- (1) provide a summary of the *project assessment conclusions report* to AEMO within 5 *business days* of making the *project assessment conclusions report*; and
  - (2) upon request by an *interested party*, provide a copy of the *project assessment conclusions report* to that person within 3 *business days* of the request.
- (x) Within 3 *business days* of receipt of the summary, AEMO must *publish* the summary of the *project assessment conclusions report* on its website.
- (y) A *RIT-T proponent* that is a *Transmission Network Service Provider* may discharge its obligation under paragraph (t) and (u) to make the *project assessment conclusions report* available by including the *project assessment conclusions report* as part of its *Transmission Annual Planning Report* provided that the report is *published* within 4 weeks from the date of making available the *project assessment conclusions report* under paragraph (t) or (u), as the case may be.
- (z) A *RIT-T proponent* that is a *Distribution Network Service Provider* may discharge its obligation under paragraph (t) and (u) to make the *project assessment conclusions report* available by including the *project assessment conclusions report* as part of its *Distribution Annual Planning Report* provided that the report is *published* within 4 weeks from the date of making available the *project assessment conclusions report* under paragraph (t) or (u), as the case may be.

**Exemption from drafting a project assessment draft report for RIT-T projects without material market benefits**

- (z1) A *RIT-T proponent* is exempt from paragraphs (j) to (s) if:
- (1) the estimated capital cost of the proposed *preferred option* is less than \$35 million (as varied in accordance with a *cost threshold determination*);
  - (2) the relevant *Network Service Provider* has identified in its *project specification consultation report*:
    - (i) its proposed *preferred option*;
    - (ii) its reasons for the proposed *preferred option*; and
    - (iii) that its *RIT-T project* has the benefit of this exemption;
  - (3) the *RIT-T proponent* considers, in accordance with clause 5.15A.2(b)(6), that the proposed *preferred option* and any other credible option in respect of the *identified need* will not have a material market benefit for the classes of market benefit specified in clause 5.15A.2(b)(4) except those classes specified in clauses 5.15A.2(b)(4)(ii) and (iii), and has stated this in its *project specification consultation report*; and

- (4) the *RIT-T proponent* forms the view that no submissions were received on the *project specification consultation report* which identified additional credible options that could deliver a material market benefit.
- (z2) The *RIT-T proponent* must address in the *project assessment conclusions report* any issues that were raised in relation to a proposed *preferred option* to which paragraph (z1) applies during the consultation on the *project specification consultation report*.

### Reapplication of regulatory investment test for transmission

(z3) If:

- (1) a *RIT-T proponent* has published a *project assessment conclusions report* in respect of a *RIT-T project*;
- (2) a *Network Service Provider* still wishes to undertake the *RIT-T project* to address the *identified need*; and
- (3) there has been any material change in circumstances ~~which, in the reasonable opinion of the *RIT-T proponent* means that the *preferred option* identified in the *project assessment conclusions report* is no longer the *preferred option*,~~

then the *RIT-T proponent* must:

- (4) notify the *AER* in writing of the material change in circumstances, which must also set out the nature of that material change in circumstances, any actions the *RIT-T proponent* proposes to take as a result of that material change in circumstances and the timeframes within which it proposes to complete any such actions;
- (5) provide any information necessary to support any actions the *RIT-T proponent* proposes to take, including any information necessary to demonstrate that the *RIT-T proponent* has had regard to the matters in paragraph (z4A); and
- (6) take the actions (if any) approved or required by the *AER* in a determination made under paragraph (z5A) within the timeframe specified by the *AER* in its determination~~reapply the *regulatory investment test for transmission* to the *RIT-T project*, unless otherwise determined by the *AER*.~~

(z3A) For the purposes of paragraph (z3), a *RIT-T proponent* is only required to consider whether a material change in circumstances has occurred if more than six months has elapsed since the later of the *RIT-T proponent* completing:

- (1) the analysis required to apply the *regulatory investment test for transmission*; or
- (2) the analysis required for any reapplication (in whole or in part) of the *regulatory investment test for transmission*.

(z4) For the purposes of paragraph (z3), a material change in circumstances ~~may~~ includes, but is not limited to:

- (1) a change to the key assumptions used in identifying ~~(1)~~ the *identified need* described in the *project assessment conclusions report*; ~~or~~

(2) for a RIT-T project contemplated by clause 5.16.4(k)(10), one or more RIT reopening triggers applying to the project having been triggered(2) — the credible options assessed in the project assessment conclusions report.; or

(3) a change in circumstances which, in the reasonable opinion of the RIT-T proponent, means that the preferred option identified in the project assessment conclusions report may no longer be the preferred option.

(z4A) When proposing any actions to take and/or associated timeframes under subparagraph (z3)(4), the RIT-T proponent must have regard to:

(1) whether, in the RIT-T proponent's reasonable opinion, the reapplication of the regulatory investment test for transmission to the RIT-T project is justified in the circumstances;

(2) the costs and delay that may result from the actions the RIT-T proponent proposes to take as a result of the material change in circumstances; and

(3) the costs and delay that may result from the reapplication (in whole or in part) of the regulatory investment test for transmission to the RIT-T project.

(z4B) The actions the RIT-T proponent proposes to take under subparagraph (z3)(4) must at a minimum include:

(1) publishing a statement that the preferred option identified remains the preferred option, as well as any supporting information necessary to demonstrate that the preferred option identified remains the preferred option; or

(2) publishing a statement that the preferred option is no longer the preferred option and identifying the new preferred option, as well as any supporting information necessary to demonstrate that the preferred option is no longer the preferred option and the reasons the new preferred option is the preferred option.

(z5) When making a determination under paragraph (z35A), the AER:

(1) must have regard to:

(i) the credible options (other than the preferred option) identified in the project assessment conclusions report;

(ii) the material change in circumstances identified by the RIT-T proponent; and

(iii) whether a failure to promptly undertake the RIT-T project is likely to materially affect the reliability and secure operating state of the transmission network or a significant part of that network; and

(iv) whether the RIT-T proponent has had regard to the matters required under paragraph (z4A); and

(2) may request additional information or analysis from the RIT-T proponent that the AER considers reasonably necessary to assist it in making a determination under paragraph (z5A).

(z5A) Subject to paragraph (z5C), within 40 days of receipt by the AER of a notice referred to in subparagraph (z3)(4), the AER must:

- (1) publish the notice referred to in subparagraph (z3)(4);
- (2) make a determination whether to approve or reject any actions (and/or associated timeframes) notified by the RIT-T proponent under subparagraph (z3)(4) and, where the AER approves any such actions, specify a reasonable timeframe within which such actions must be completed;
- (3) notify the RIT-T proponent of the determination;
- (4) where the AER rejects the actions (and/or associated timeframes) notified by the RIT-T proponent under subparagraph (z3)(4), specify the actions (if any) the AER requires the RIT-T proponent to take, which may include the RIT-T proponent reapplying (in whole or in part) the regulatory investment test for transmission to the RIT-T project, as well as a reasonable timeframe within which any such actions must be completed; and
- (5) publish the determination made under subparagraph (z5A)(2) or subparagraph (z5A)(4) (as applicable).

(z5B) If the AER does not make the determination within the time required by paragraph (z5A), then the AER is taken to have approved the actions notified by the RIT-T proponent under subparagraph (z3)(4).

(z5C) Where the AER requests additional information or analysis under subparagraph (z5)(2), the period of time for making a determination under paragraph (z5A) is automatically extended by the time it takes the RIT-T proponent to provide the additional information or analysis to the AER provided that the AER makes the request for additional information at least seven days prior to the expiry of the period of time for making a determination under paragraph (z5A).

(z5D) At the same time that a RIT-T proponent submits an application under clause 6A.8.2(a), the RIT-T proponent must provide the AER with a statement containing confirmation:

- (1) on whether or not there has been a material change in circumstances contemplated under subparagraph (z3)(3) and any supporting analysis;
- (2) that the RIT-T proponent has complied with its obligations under paragraphs (z3), (z4A) and (z4B);
- (3) of the actions (if any) the RIT-T proponent was required to take pursuant to a determination by the AER under paragraph (z5A) and timeframe within which any such actions were to be completed; and
- (4) of the actions (if any) the RIT-T proponent took as a result of the material change in circumstances and the date on which any such actions were completed.

(z5E) At the same time, or as soon as reasonably practicable after, the RIT-T proponent's submission under paragraph (z5D), the RIT-T proponent must publish the statement referred to in paragraph (z5D).

## **Declared transmission system operator may request assistance from AEMO to conduct market benefits assessments for replacement RIT-T projects**

- (z6) Where a *RIT-T proponent* is a *declared transmission system operator* within a *declared shared network*, it may in relation to *RIT-T projects* to address an *identified need* that arises from the retirement or de-rating of *network assets*, request assistance and information from *AEMO* as reasonably required for it to consider and conduct market benefits assessments as required by:
- (1) clause 5.16.4(b)(6)(iii);
  - (2) clause 5.16.4(k)(3) to (k)(6); and
  - (3) clause 5.16.4(v).
- (z7) *AEMO* must provide assistance and information requested under paragraph (z6) to the *declared transmission system operator* within a reasonable period of time.

...

### **5.16A.2 Cost Benefit Analysis Guidelines**

- (a) The *Cost Benefit Analysis Guidelines* developed and *published* by the *AER* in accordance with clause 5.22.5 must include guidelines for the operation and application of the *regulatory investment test for transmission* to *actionable ISP projects* in accordance with rule 5.15A and this rule 5.16A.
- (b) The *Cost Benefit Analysis Guidelines* must in relation to the application of the *regulatory investment test for transmission* by a *RIT-T proponent* to an *actionable ISP project*:
- (1) give effect to and be consistent with rule 5.15A and clauses 5.16A.3, 5.16A.4 and 5.16A.5; and
  - (2) specify requirements for *actionable ISP projects* on:
    - (i) the operation and application of the *regulatory investment test for transmission*;
    - (ii) the process to be followed in applying the *regulatory investment test for transmission*; and
    - (iii) how disputes raised in relation to the *regulatory investment test for transmission* and its application will be addressed and resolved.
- (c) The *Cost Benefit Analysis Guidelines* must provide guidance as to:
- (1) what constitutes a *credible option* for the purposes of clause 5.15A.3(b)(7)(iii)(C);
  - (2) acceptable methodologies for valuing the costs of a *credible option*, including any acceptable cost estimate classification systems; and
  - (3) how the *RIT-T proponent* must apply the *ISP parameters*; and
  - (4) the purpose of, and appropriate approach to developing, *RIT reopening triggers*, as well as examples of potential:
    - (i) *RIT reopening triggers*; and

(ii) actions that may be taken in response to a RIT reopening trigger being triggered.

...

#### 5.16A.4 Regulatory investment test for transmission procedures

- (a) If a *Transmission Network Service Provider* is identified as a *RIT-T proponent* in an *Integrated System Plan* for an *actionable ISP project*, then that *Transmission Network Service Provider* is the *RIT-T proponent* for that *RIT-T project* and must apply the *regulatory investment test for transmission* to, and consult all *Registered Participants*, *AEMO* and *interested parties* on, that *RIT-T project* in accordance with this clause 5.16A.4.
- (b) A *Transmission Network Service Provider's* obligations under paragraphs (a) and (c) cease if *AEMO* publishes an *Integrated System Plan* or an *ISP update* that shows that the *actionable ISP project* no longer forms part of the *optimal development path*.

#### Project assessment draft report

- (c) The *RIT-T proponent* must prepare a report in accordance with paragraphs (d) to (h) (*project assessment draft report*) and publish it by the date specified in the *Integrated System Plan* for that *RIT-T project* or such longer time period as is agreed in writing by the *AER* and make that report available to all *Registered Participants*, *AEMO* and *interested parties*.
- (d) The *project assessment draft report* must:
  - (1) include the matters required by the *Cost Benefit Analysis Guidelines*;
  - (2) adopt the *identified need* set out in the *Integrated System Plan* (including, in the case of proposed *reliability corrective action*, why the *RIT-T proponent* considers *reliability corrective action* is necessary);
  - (3) describe each *credible option* assessed;
  - (4) include a quantification of the costs, including a breakdown of operating and capital expenditure for each *credible option*;
  - (5) assess market benefits with and without each *credible option* and provide accompanying explanatory statements regarding the results;
  - (6) if the *RIT-T proponent* has varied the *ISP parameters*, provide demonstrable reasons in accordance with 5.15A.3(b)(7)(iv);
  - (7) identify the proposed *preferred option* that the *RIT-T proponent* proposes to adopt; ~~and~~
  - (8) for the proposed *preferred option* identified under subparagraph (7), the *RIT-T proponent* must provide:
    - (i) details of the technical characteristics; and
    - (ii) the estimated construction timetable and commissioning date; ~~and~~
  - (9) if each of the following apply to the *RIT-T project*:

(i) the estimated capital cost of the proposed preferred option is greater than \$100 million (as varied in accordance with a cost threshold determination); and

(ii) AEMO is not the sole RIT-T proponent,

include the RIT reopening triggers applying to the RIT-T project.

-

- (e) The *RIT-T proponent* must publish on its website the *project assessment draft report* within 5 business days of the *project assessment draft report* being made. The *RIT-T proponent* must promptly provide the *project assessment draft report* to *AEMO* after it is made and *AEMO* must publish on its website the report within 5 business days of receipt.
- (f) The *RIT-T proponent* must seek submissions from *Registered Participants*, *AEMO* and *interested parties* on the proposed *preferred option* presented, and the issues addressed, in the *project assessment draft report*.
- (g) The period for consultation referred to in paragraph (f) must be not less than 6 weeks from the date that *AEMO* publishes the report on its website.
- (h) Within 4 weeks after the end of the consultation period required under paragraph (g), at the request of an *interested party*, a *Registered Participant* or *AEMO* (each being a relevant party for the purposes of this paragraph), the *RIT-T proponent* must meet with the relevant party if a meeting is requested by two or more relevant parties and may meet with a relevant party if after having considered all submissions, the *RIT-T proponent*, acting reasonably, considers that the meeting is necessary.

#### **Project assessment conclusions report**

- (i) As soon as practicable after the end of the consultation period on the *project assessment draft report* referred to in paragraph (g), the *RIT-T proponent* must, having regard to the submissions received, if any, under paragraph (f) and the matters discussed at any meetings held, if any, under paragraph (h), prepare and make available to all *Registered Participants*, *AEMO* and *interested parties* and publish a report (the *project assessment conclusions report*).
- (j) The *project assessment conclusions report* must set out:
  - (1) the matters detailed in the *project assessment draft report* as required under paragraph (d); and
  - (2) a summary of, and the *RIT-T proponent's* response to, submissions received, if any, from *interested parties* sought under paragraph (f).
- (k) The *RIT-T proponent* must publish on its website the project conclusions report within 5 business days of the *project assessment conclusions report* being made. The *RIT-T proponent* must promptly provide the *project assessment conclusions report* to *AEMO* after it is made and *AEMO* must publish on its website the report within 5 business days of receipt.
- (l) A *RIT-T proponent* may discharge its obligation under paragraph (i) to make the *project assessment conclusions report* available by including the *project assessment conclusions report* as part of its *Transmission Annual Planning*

*Report* provided that the report is *published* within 4 weeks from the date of publishing the *project assessment conclusions report* under paragraph (i).

### **Exemption from drafting a project assessment draft report for RIT-T projects**

- (m) A *RIT-T proponent* is exempt from paragraphs (c) to (h) if:
- (1) the estimated capital cost of all *credible options* is less than \$35 million (as varied in accordance with a cost threshold determination);
  - (2) *AEMO* has identified in the relevant draft *Integrated System Plan* that the *identified need* to be addressed relates to *reliability corrective action* and will have the benefit of this exemption; and
  - (3) *AEMO* confirms that no submissions were received on the draft *Integrated System Plan* which identified additional *credible options* that could deliver a material market benefit.

### **Reapplication of regulatory investment test for transmission**

- (n) If:
- (1) a *RIT-T proponent* has *published* on its website a *project assessment conclusions report* in respect of a *RIT-T project*; and
  - (2) there has been either:
    - (i) ~~any material change in circumstances which, in the reasonable opinion of the *RIT-T proponent* means that the preferred option identified in the *project assessment conclusions report* is no longer the preferred option~~; or
    - (ii) *AEMO* has published an *Integrated System Plan* or *ISP update* that shows a change to the *identified need* in relation to the *actionable ISP project* the subject of the *project assessment conclusions report*,

then the *RIT-T proponent* must:

- ~~(3) notify the *AER* in writing that there has been either a material change in circumstances or a change to the *identified need* (as applicable and each as contemplated in subparagraph (2)), which must also set out the nature of that material change in circumstances or change to the *identified need*, any actions the *RIT-T proponent* proposes to take as a result of that material change in circumstances or change to the *identified need* and the timeframes within which it proposes to complete any such actions;~~
  - ~~(4) provide any information necessary to support any actions the *RIT-T proponent* proposes to take, including any information necessary to demonstrate that the *RIT-T proponent* has had regard to the matters in paragraph (o1); and~~
  - ~~(5) take the actions (if any) approved or required by the *AER* in a determination made under paragraph (q) within the timeframe specified by the *AER* in its determination. re-apply the regulatory investment test for transmission, unless otherwise determined by the *AER*.~~
- ~~(o0) For the purposes of subparagraph (n)(2), a *RIT-T proponent* is only required to consider whether a material change in circumstances or change to the *identified*~~

need has occurred if more than six months has elapsed since the later of the RIT-T proponent completing:

(1) the analysis required to apply the regulatory investment test for transmission; or

(2) the analysis required for any reapplication (in whole or in part) of the regulatory investment test for transmission.

(o) For the purposes of paragraph (n), a material change in circumstances ~~may~~ includes, but is not limited to:

(1) a change to the key inputs and assumptions (including as a result of an ISP update) used in identifying ~~(1)~~ the identified need described in the project assessment conclusions report; ~~or~~

(2) for a RIT-T project contemplated by clause 5.16A.4(d)(9), one or more RIT reopening triggers applying to the project having been triggered; ~~or 2)~~ the credible options assessed in the project assessment conclusions report.

(3) a change in circumstances which, in the reasonable opinion of the RIT-T proponent, means that the preferred option identified in the project assessment conclusions report may no longer be the preferred option.

(o1) When proposing any actions to take and/or associated timeframes under subparagraph (n)(3), the RIT-T proponent must have regard to:

(1) whether, in the RIT-T proponent's reasonable opinion, the reapplication of the regulatory investment test for transmission to the RIT-T project is justified in the circumstances;

(2) the costs and delay that may result from the actions the RIT-T proponent proposes to take as a result of the material change in circumstances or change to the identified need (as applicable and each as contemplated in subparagraph (n)(2)); and

(3) the costs and delay that may result from the reapplication (in whole or in part) of the regulatory investment test for transmission to the RIT-T project.

(o2) The actions the RIT-T proponent proposes to take under subparagraph (n)(3) must at a minimum include:

(1) publishing a statement that the preferred option identified remains the preferred option, as well as any supporting information necessary to demonstrate that the preferred option identified remains the preferred option; or

(2) publishing a statement that the preferred option is no longer the preferred option and identifying the new preferred option, as well as any supporting information necessary to demonstrate that the preferred option is no longer the preferred option and the reasons the new preferred option is the preferred option.

(p) When making a determination under paragraph ~~(n)~~, the AER:

- (1) must have regard to:
- (i1) the *credible options* (other than the *preferred option*) identified in the *project assessment conclusions report*;
  - (ii2) the material change in circumstances identified by the *RIT-T proponent* or *AEMO*; ~~and~~
  - (iii3) whether a failure to promptly undertake the *RIT-T project* is likely to materially affect the *reliability* and *secure operating state* of the *transmission network* or a significant part of that *network*; and
  - (iv) whether the *RIT-T proponent* has had regard to the matters required under paragraph (o1); and
- (2) may request additional information or analysis from the *RIT-T proponent* that the *AER* considers reasonably necessary to assist it in making a determination under paragraph (q).
- (q) Subject to paragraph (s), within 40 days of receipt by the *AER* of a notice referred to in subparagraph (n)(3), the *AER* must:
- (1) publish the notice referred to in subparagraph (n)(3);
  - (2) make a determination whether to approve or reject any actions (and/or associated timeframes) notified by the *RIT-T proponent* under subparagraph (n)(3) and, where the *AER* approves any such actions, specify a reasonable timeframe within which such actions must be completed;
  - (3) notify the *RIT-T proponent* of the determination;
  - (4) where the *AER* rejects the actions (and/or associated timeframes) notified by the *RIT-T proponent* under subparagraph (n)(3), specify the actions (if any) the *AER* requires the *RIT-T proponent* to take, which may include the *RIT-T proponent* reapplying (in whole or in part) the *regulatory investment test for transmission* to the *RIT-T project*, as well as a reasonable timeframe within which any such actions must be completed; and
  - (5) publish the determination made under subparagraph (q)(2) or subparagraph (q)(4) (as applicable).
- (r) If the *AER* does not make the determination within the time required by paragraph (q), then the *AER* is taken to have approved the actions notified by the *RIT-T proponent* under subparagraph (n)(3).
- (s) Where the *AER* requests additional information or analysis under subparagraph (p)(2), the period of time for making a determination under paragraph (q) is automatically extended by the time it takes the *RIT-T proponent* to provide the additional information or analysis to the *AER* provided that the *AER* makes the request for additional information at least seven days prior to the expiry of the period of time for making a determination under paragraph (q).
- (t) At the same time that a *RIT-T proponent* submits an application under clause 6A.8.2(a), the *RIT-T proponent* must provide the *AER* with a statement containing confirmation:

- (1) on whether or not there has been a material change in circumstances contemplated under subparagraph (n)(2)(i) and any supporting analysis;
  - (2) that the *RIT-T proponent* has complied with its obligations under paragraphs (n), (o1) and (o2);
  - (3) of the actions (if any) the *RIT-T proponent* was required to take pursuant to a determination by the *AER* under paragraph (q) and timeframe within which any such actions were to be completed; and
  - (4) of the actions (if any) the *RIT-T proponent* took as a result of the material change in circumstances and the date on which any such actions were completed.
- (u) At the same time, or as soon as reasonably practicable after, the *RIT-T proponent's* submission under paragraph (t), the *RIT-T proponent* must publish the statement referred to in paragraph (t).

...

## 5.17.2 Regulatory investment test for distribution application guidelines

### Definitions

- (a0) In this clause 5.17.2:
- current application** has the meaning given to it by clause 5.17.2(g).
- (a) At the same time as the *AER* develops and *publishes* a proposed *regulatory investment test for distribution* under the *distribution consultation procedure*, the *AER* must also develop and *publish* guidelines for the operation and application of the *regulatory investment test for distribution* in accordance with the *distribution consultation procedures* and this clause 5.17.2.
- (b) The *regulatory investment test for distribution application guidelines* must:
- (1) give effect to and be consistent with this clause 5.17.2 and clauses 5.15.2, 5.17.3, 5.17.4 and 5.17.5; and
  - (2) provide guidance on:
    - (i) the operation and application of the *regulatory investment test for distribution*;
    - (ii) the process to be followed in applying the *regulatory investment test for distribution*;
    - (iii) what will be considered to be a material and adverse *NEM* impact for the purposes of the definition of *interested parties* in clause 5.15.1.
    - (iv) how disputes raised in relation to the *regulatory investment test for distribution* and its application will be addressed and resolved.
- (c) The *regulatory investment test for distribution application guidelines* must provide guidance and worked examples as to:
- (1) how to make a determination under clause 5.17.4(c);
  - (2) what constitutes a *credible option*;

- (3) the suitable modelling periods and approaches to scenario development;
- (4) the classes of market benefits to be considered for the purposes of clause 5.17.1(c)(4);
- (5) the acceptable methodologies for valuing the market benefits of a *credible option* referred to in clause 5.17.1(c)(4);
- (6) acceptable methodologies for valuing the costs of a *credible option* referred to in clause 5.17.1(c)(6), including any acceptable cost estimate classification systems;
- (7) the appropriate approach to undertaking a sensitivity analysis for the purposes of clause 5.17.1(c)(9)(iv);
- (8) the appropriate approaches to assessing uncertainty and risks, including any appropriate role for contingency allowances; ~~and~~
- (9) what may constitute an externality under the *regulatory investment test for distribution*; and
- (10) the purpose of, and appropriate approach to developing, RIT reopening triggers, as well as examples of potential:
  - (i) RIT reopening triggers; and
  - (ii) actions that may be taken in response to a RIT reopening trigger being triggered;
- (d) The *AER* must develop and *publish* the first *regulatory investment test for distribution* and *regulatory investment test for distribution application guidelines* by 31 August 2013, and there must be a *regulatory investment test for distribution* and *regulatory investment test for distribution application guidelines* in force at all times after that date.
- (e) The *AER* may, from time to time, amend or replace the *regulatory investment test for distribution* and *regulatory investment test for distribution application guidelines* in accordance with the *distribution consultation procedures*, provided the *AER publishes* any amendments to, or replacements of, the *regulatory investment test for distribution* or *regulatory investment test for distribution application guidelines* at the same time.
- (f) An amendment referred to in paragraph (e) that relates to:
  - (1) applying the *regulatory investment test for distribution* to RIT-D projects, does not apply to a current application of the *regulatory investment test for distribution* and the *regulatory investment test for distribution application guidelines* under the *Rules* by a *RIT-D proponent*; and
  - (2) a *RIT-D proponent* ascertaining whether a material change in circumstances has occurred that would require it to reapply the *regulatory investment test for distribution* pursuant to clause 5.17.4(t)(3), does not apply to a *RIT-D project* for which a *draft project assessment report* has been prepared prior to the date that the amendment is effective.
- (g) For the purposes of paragraph (f), a "current application" means any action or process initiated under the *Rules* which relies on or is referenced to the *regulatory investment test for distribution* and/or the *regulatory investment test*

for *distribution application guidelines* and is not completed at the date of the relevant amendment to the *regulatory investment test for distribution* and/or the *regulatory investment test for distribution application guidelines*.

- (h) The *AER* may *publish* the *regulatory investment test for distribution*, the *regulatory investment test for distribution application guidelines*, the *regulatory investment test for transmission* and the *regulatory investment test for transmission application guidelines* in a single document.
- (i) The *AER* may specify the relevant parts of the *regulatory investment test for distribution application guidelines* that are binding on *RIT-D* proponents.

...

#### 5.17.4 Regulatory investment test for distribution procedures

- (a) If a *RIT-D* project is subject to the *regulatory investment test for distribution* under clause 5.17.3, then the *RIT-D* proponent must consult with the following persons on the *RIT-D* project in accordance with this clause 5.17.4:
  - (1) all *Registered Participants*, *AEMO*, *interested parties* and *non-network providers*; and
  - (2) if the *RIT-D* proponent is a *Distribution Network Service Provider*, persons registered on its *industry engagement register*.

##### Note

This paragraph is classified as a tier 3 civil penalty provision under the National Electricity (South Australia) Regulations. (See clause 6(1) and Schedule 1 of the National Electricity (South Australia) Regulations.)

##### Screening for options

- (b) Subject to paragraph (c), a *RIT-D* proponent must prepare and *publish* an *options screening report* under paragraph (e) if a *RIT-D* project is subject to the *regulatory investment test for distribution* under clause 5.17.3.
- (c) A *RIT-D* proponent is not required to comply with paragraph (b) if it determines on reasonable grounds that there will not be a *non-network option* or a *SAPS option* that is a *potential credible option*, or that forms a significant part of a *potential credible option*, for the *RIT-D* project to address the identified need.
- (d) If a *RIT-D* proponent makes a determination under paragraph (c), then as soon as possible after making the determination it must *publish* a notice setting out the reasons for its determination, including any methodologies and assumptions it used in making its determination.

##### Options screening report

- (e) An *options screening report* must include:
  - (1) a description of the *identified need*;
  - (2) the assumptions used in identifying the *identified need* (including, in the case of proposed *reliability corrective action*, why the *RIT-D* proponent considers *reliability corrective action* is necessary);
  - (3) if available, the relevant annual deferred *augmentation* charge associated with the *identified need*;

- (4) the technical characteristics of the *identified need* that a *non-network option* or (in relation to a *SAPS enabled network*) a *SAPS option* would be required to deliver, such as:
    - (i) the size of *load* reduction or additional *supply*;
    - (ii) location;
    - (iii) contribution to *power system security* or *reliability*;
    - (iv) contribution to *power system* fault levels as determined under clause 4.6.1; and
    - (v) the operating profile;
  - (5) a summary of *potential credible options* to address the *identified need*, as identified by the *RIT-D proponent*, including *network options*, *non-network options* and (in relation to a *SAPS enabled network*) *SAPS option*.
  - (6) for each *potential credible option*, the *RIT-D proponent* must provide information, to the extent practicable, on:
    - (i) a technical definition or characteristics of the option;
    - (ii) the estimated construction timetable and commissioning date (where relevant); and
    - (iii) the total indicative cost (including capital and operating costs); and
  - (7) information to assist *non-network providers* wishing to present alternative *potential credible options* including details of how to submit a proposal for consideration by the *RIT-D proponent*.
- (f) The *options screening report* must be *published* in a timely manner having regard to the ability of parties to identify the scope for, and develop, alternative *potential credible options* or variants to the *potential credible options*.
  - (g) At the same time as *publishing* the *options screening report*, the *RIT-D proponent*, if it is a *Distribution Network Service Provider*, must notify persons registered on its *industry engagement register* of the report's *publication*.
  - (h) *Registered Participants*, *AEMO*, *interested parties*, *non-network providers* and (if relevant) persons registered on the *Distribution Network Service Provider's industry engagement register* must be provided with not less than three months in which to make submissions on the *options screening report* from the date that the *RIT-D proponent publishes* the report.

#### **Draft project assessment report**

- (i) If one or more *Network Service Providers* wishes to proceed with a *RIT-D project* following a determination under paragraph (c) or the *publication* of a *options screening report* then the *RIT-D proponent*, having regard, where relevant, to any submissions received on the *options screening report*, must prepare and *publish* a *draft project assessment report* within:
  - (1) 12 months of:
    - (i) the end of the consultation period on an *options screening report*; or
    - (ii) where an *options screening report* is not required, the publication of a notice under paragraph (d); or

- (2) any longer time period as agreed to in writing by the *AER*.
- (j) The *draft project assessment report* must include the following:
- (1) a description of the *identified need* for the investment;
  - (2) the assumptions used in identifying the *identified need* (including, in the case of proposed *reliability corrective action*, reasons that the *RIT-D proponent* considers *reliability corrective action* is necessary);
  - (3) if applicable, a summary of, and commentary on, the submissions on the *options screening report*;
  - (4) a description of each *credible option* assessed;
  - (5) where a *Distribution Network Service Provider* has quantified market benefits in accordance with clause 5.17.1(d), a quantification of each applicable market benefit for each *credible option*;
  - (6) a quantification of each applicable cost for each *credible option*, including a breakdown of operating and capital expenditure;
  - (7) a detailed description of the methodologies used in quantifying each class of cost and market benefit;
  - (8) where relevant, the reasons why the *RIT-D proponent* has determined that a class or classes of market benefits or costs do not apply to a *credible option*;
  - (9) the results of a net present value analysis of each *credible option* and accompanying explanatory statements regarding the results;
  - (10) the identification of the proposed *preferred option*;
  - (11) for the proposed *preferred option*, the *RIT-D proponent* must provide:
    - (i) details of the technical characteristics;
    - (ii) the estimated construction timetable and commissioning date (where relevant);
    - (iii) the indicative capital and operating cost (where relevant);
    - (iv) a statement and accompanying detailed analysis that the proposed *preferred option* satisfies the *regulatory investment test for distribution*; and
    - (v) if the proposed *preferred option* is for *reliability corrective action* and that option has a proponent, the name of the proponent; ~~and~~
  - (12) contact details for a suitably qualified staff member of the *RIT-D proponent* to whom queries on the draft report may be directed; ~~and~~
  - (13) if the estimated capital cost of the proposed preferred option is greater than \$100 million (as varied in accordance with a cost threshold determination), include the RIT reopening triggers applying to the RIT-D project.
- (k) The *RIT-D proponent* must *publish* a request for submissions on the matters set out in the *draft project assessment report*, including the proposed *preferred option*, from:

- (1) *Registered Participants, AEMO, non-network providers and interested parties*; and
  - (2) if the *RIT-D proponent* is a *Distribution Network Service Provider*, persons on its *industry engagement register*.
- (l) If the proposed *preferred option* has the potential to, or is likely to, have an adverse impact on the quality of service experienced by consumers of electricity, including:
- (1) anticipated changes in voluntary *load* curtailment by consumers of electricity; or
  - (2) anticipated changes in involuntary *load shedding* and customer interruptions caused by *network* outages,
- then the *RIT-D proponent* must consult directly with those affected customers in accordance with a process reasonably determined by the *RIT-D proponent*.
- (m) The consultation period on the *draft project assessment report* must not be less than six weeks from the *publication* of the report.

#### **Exemption from the draft project assessment report**

- (n) A *RIT-D proponent* is not required to prepare and *publish* a *raft project assessment report* under paragraph (i) if:
- (1) the *RIT-D proponent* made a determination under paragraph (c) and has *published* a notice under paragraph (d); and
  - (2) the estimated capital cost to the *Network Service Providers* affected by the *RIT-D project* of the proposed *preferred option* is less than \$10 million (varied in accordance with a *cost threshold determination*).

#### **Final project assessment report**

- (o) As soon as practicable after the end of the consultation period on the *draft project assessment report*, the *RIT-D proponent* must, having regard to any submissions received on the *draft project assessment report*, *publish* a *final project assessment report*.
- (p) If the *RIT-D project* is exempt from the draft project assessment report stage under paragraph (n), the *RIT-D proponent* must *publish* the *final project assessment report* as soon as practicable after the publication of the notice under paragraph (d).
- (q) At the same time as *publishing* the *final project assessment report*, a *RIT-D proponent* that is a *Distribution Network Service Provider* must notify persons on its *industry engagement register* of the report's *publication*.
- (r) The *final project assessment report* must set out:
- (1) if a *draft project assessment report* was prepared:
    - (i) the matters detailed in that report as required under paragraph (j); and
    - (ii) a summary of any submissions received on the *draft project assessment report* and the *RIT-D proponent's* response to each such submission; and

- (2) if no *draft project assessment report* was prepared, the matters specified in paragraph (j).
- (s) If the *preferred option* outlined in the *final project assessment report* has an estimated capital cost to the *Network Service Providers* affected by the *RIT-D project* of less than \$20 million (varied in accordance with a *cost threshold determination*), the *RIT-D proponent* may discharge its obligations to *publish* its *final project assessment report* under paragraphs (o) and (p) by including the *final project assessment report* as part of its *Distribution Annual Planning Report* (where the *RIT-D proponent* is a *Distribution Network Service Provider*) or its *Transmission Annual Planning Report* (where the *RIT-D proponent* is a *Transmission Network Service Provider*).

### Reapplication of regulatory investment test for distribution

- (t) If:
- (1) a *RIT-D proponent* has *published* a *final project assessment report* in respect of a *RIT-D project*;
  - (2) a *Network Service Provider* still wishes to undertake the *RIT-D project* to address the *identified need*; and
  - (3) there has been any material change in circumstances ~~which, in the reasonable opinion of the *RIT-D proponent* means that the *preferred option* identified in the *final project assessment report* is no longer the *preferred option*,~~
- then the *RIT-D proponent* must:
- (4) notify the *AER* in writing of the material change in circumstances, which must also set out the nature of that material change in circumstances, any actions the *RIT-D proponent* proposes to take as a result of that material change in circumstances and the timeframes within which it proposes to complete any such actions;
  - (5) provide any information necessary to support any actions the *RIT-D proponent* proposes to take, including any information necessary to demonstrate that the *RIT-D proponent* has had regard to the matters in paragraph (u1); and
  - (6) take the actions (if any) approved or required by the *AER* in a determination made under paragraph (w) within the timeframe specified by the *AER* in its determination ~~reapply the *regulatory investment test for distribution* to the *RIT-D project*, unless otherwise determined by the *AER*.~~
- (t1) For the purposes of subparagraph (t)(3), a *RIT-D proponent* is only required to consider whether a material change in circumstances has occurred if more than six months has elapsed since the later of the *RIT-D proponent* completing:
- (1) the analysis required to apply the *regulatory investment test for distribution*; or
  - (2) the analysis required for any reapplication (in whole or in part) of the *regulatory investment test for distribution*.
- (u) For the purposes of paragraph (t), a material change in circumstances ~~may~~ includes, but is not limited to:

- (1) a change to the key assumptions used in identifying ~~:(1)~~ the identified need described in the final project assessment report; ~~or~~,
- (2) for a RIT-D project contemplated by clause 5.17.4(j)(13), one or more RIT reopening triggers applying to the project having been triggered; or
- (3) a change in circumstances which, in the reasonable opinion of the RIT-D proponent, means that the preferred option identified in the final project assessment report may no longer be the preferred option.
- ~~(2) — the credible options assessed in, the final project assessment report.~~
- (u1) When proposing any actions to take and/or associated timeframes under subparagraph (t)(4), the RIT-D proponent must have regard to:
- (1) whether, in the RIT-D proponent's reasonable opinion, the reapplication of the regulatory investment test for distribution to the RIT-D project is justified in the circumstances;
- (2) the costs and delay that may result from the actions the RIT-D proponent proposes to take as a result of the material change in circumstances; and
- (3) the costs and delay that may result from the reapplication (in whole or in part) of the regulatory investment test for distribution to the RIT-D project.
- (u2) The actions the RIT-D proponent proposes to take under subparagraph (t)(4) must at a minimum include:
- (1) publishing a statement that the preferred option identified remains the preferred option, as well as any supporting information necessary to demonstrate that the preferred option identified remains the preferred option; or
- (2) publishing a statement that the preferred option is no longer the preferred option and identifying the new preferred option, as well as any supporting information necessary to demonstrate that the preferred option is no longer the preferred option and the reasons the new preferred option is the preferred option.
- (v) When making a determination under paragraph ~~(tw)~~, the AER:
- (1) must have regard to:
- (i1) the credible options (other than the preferred option) identified in the final project assessment report;
- (ii2) the material change in circumstances identified by the RIT-D proponent; ~~and~~
- (iii3) whether a failure to promptly undertake the RIT-D project is likely to materially affect the reliability and secure operating state of the distribution network or a significant part of that network; ~~and~~
- (iv) whether the RIT-D proponent has had regard to the matters required under paragraph (u1); and
- (2) may request additional information or analysis from the RIT-D proponent that the AER considers reasonably necessary to assist it in making a determination under paragraph (w).

- (w) Subject to paragraph (y), within 40 days of receipt by the AER of a notice referred to in subparagraph (t)(4), the AER must:
- (1) publish the notice referred to in subparagraph (t)(4);
  - (2) make a determination whether to approve or reject any actions (and/or associated timeframes) notified by the RIT-D proponent under subparagraph (t)(4) and, where the AER approves any such actions, specify a reasonable timeframe within which such actions must be completed;
  - (3) notify the RIT-D proponent of the determination;
  - (4) where the AER rejects the actions (and/or associated timeframes) notified by the RIT-D proponent under subparagraph (t)(4), specify the actions (if any) the AER requires the RIT-D proponent to take, which may include the RIT-D proponent reapplying (in whole or in part) the regulatory investment test for distribution to the RIT-D project, as well as a reasonable timeframe within which any such actions must be completed; and
  - (5) publish the determination made under subparagraph (w)(2) or subparagraph (w)(4) (as applicable).
- (x) If the AER does not make the determination within the time required by paragraph (w), then the AER is taken to have approved the actions notified by the RIT-D proponent under subparagraph (t)(4).
- (y) Where the AER requests additional information or analysis under subparagraph (v)(2), the period of time for making a determination under paragraph (w) is automatically extended by the time it takes the RIT-D proponent to provide the additional information or analysis to the AER provided that the AER makes the request for additional information at least seven days prior to the expiry of the period of time for making a determination under paragraph (w).
- (z) At the same time that a RIT-D proponent submits an application under clause 6.6A.2(a), the RIT-D proponent must provide the AER with a statement containing confirmation:
- (1) on whether or not there has been a material change in circumstances contemplated under subparagraph (t)(3) and any supporting analysis;
  - (2) that the RIT-D proponent has complied with its obligations under paragraphs (t), (u1) and (u2);
  - (3) of the actions (if any) the RIT-D proponent was required to take pursuant to a determination by the AER under paragraph (w) and timeframe within which any such actions were to be completed; and
  - (4) of the actions (if any) the RIT-D proponent took as a result of the material change in circumstances and the date on which any such actions were completed.
- (z1) At the same time, or as soon as reasonably practicable after, the RIT-D proponent's submission under paragraph (z), the RIT-D proponent must publish the statement referred to in paragraph (z). -

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## 5.22.5 Guidelines relevant to the ISP

### Cost Benefit Analysis Guidelines

#### Definitions

(a0) In this clause 5.22.5:

**current application** has the meaning given to it by clause 5.22.5(g).

- (a) The *AER* must make, *publish* and may amend the *Cost Benefit Analysis Guidelines* in accordance with the *Rules consultation procedures*.
- (b) The *Cost Benefit Analysis Guidelines* are to be used:
  - (1) by *AEMO* to prepare an *Integrated System Plan*; and
  - (2) by ~~*RIT-T proponents*~~*Transmission Network Service Providers* in applying the *regulatory investment test for transmission to actionable ISP projects*; and
  - (3) by a *RIT-T proponent* in ascertaining whether a material change in circumstances has occurred that would require it to take the steps required pursuant to clauses 5.16A.4(n)(3), 5.16A.4(n)(4) and 5.16A.4(n)(5).
- (c) The *AER* may specify the relevant parts of the *Cost Benefit Analysis Guidelines* that are binding on *AEMO* and *RIT-T proponents*.

#### Application of Cost Benefit Analysis Guidelines to AEMO for the ISP

- (d) The *Cost Benefit Analysis Guidelines* must in relation to the preparation of an *Integrated System Plan* by *AEMO*:
  - (1) be consistent with the purposes of the *Integrated System Plan* referred to in clause 5.22.2;
  - (2) require *AEMO* to test the robustness of alternative *development paths* to future uncertainties through the use of scenarios and sensitivities;
  - (3) be capable of being applied in a predictable, transparent and consistent manner;
  - (4) describe the objective that *AEMO* should seek to achieve when:
    - (i) developing the counterfactual *development path*; and
    - (ii) selecting a set of *development paths* for assessment;
  - (5) describe the framework used to select the *optimal development path*, including the assessment of the costs and benefits of various *development paths* across different scenarios; and
  - (6) set out how *AEMO* describes the *identified need* relating to an *actionable ISP project*.

#### Developing and publishing the Cost Benefit Analysis Guidelines

- (e) In developing and publishing the *Cost Benefit Analysis Guidelines*, the *AER* must:

- (1) recognise the risks to consumers arising from uncertainty, including over investment, under-investment, premature or overdue investment;
  - (2) provide flexibility to *AEMO* in its approach to scenario development, modelling and selection of the *optimal development path*;
  - (3) require the *optimal development path* to have a positive net benefit in the most likely scenario;
  - (4) have regard to the need for alignment between the *Integrated System Plan* and the *regulatory investment test for transmission* as it applies to *actionable ISP projects*.
- (f) The *AER* may make minor or administrative amendments to the *Cost Benefit Analysis Guidelines* without complying with the *Rules consultation procedures*.
- (g) An amendment to the *Cost Benefit Analysis Guidelines*:
- (1) relating to a matter specified in subparagraphs (b)(1) or (2) does not apply to a current application of the *regulatory investment test for transmission* for an *actionable ISP project* or a current process for the development of an *Integrated System Plan*;
  - (2) relating to the matter specified in subparagraph (b)(3) does not apply to:
    - (i) a stage of an *actionable ISP project* that is a staged *actionable ISP project* after the *RIT-T proponent* has prepared a *project assessment draft report* in respect of that stage; or
    - (ii) an *actionable ISP project* that is not a staged *actionable ISP project* after the *RIT-T proponent* has prepared a *project assessment draft report* in respect of that project.
- (h) For the purposes of paragraph (g), a "current application" means any action or process initiated under the *Rules* which relies on or is referenced to the *Cost Benefit Analysis Guidelines* and is not completed at the date of the relevant amendment to *Cost Benefit Analysis Guidelines*.

### **Forecasting Best Practice Guidelines**

- (i) The *AER* must include in the *Forecasting Best Practice Guidelines* made under clause 4A.B.5 guidance for *AEMO's* forecasting practices and processes as they relate to an *Integrated System Plan* and the process (including consultation requirements) to be used for an *ISP update*.
- (j) The *AER* may specify parts of the *Forecasting Best Practice Guidelines* relevant to the *Integrated System Plan* that are binding on *AEMO*.

## 6. Economic Regulation of Distribution Services

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### Part C Building Block Determinations for standard control services

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#### 6.6A.2 Amendment of distribution determination for contingent project

- (a) 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 distribution 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*, but cannot be made:
    - (1) within 90 *business days* prior to the end of the penultimate *regulatory year* of the *regulatory control period*; and
    - (2) at any time in the final *regulatory year* of the *regulatory control period*.
  - (b) Subject to paragraph (b1), an application made under paragraph (a) must contain the following information:
    - (1) an explanation that substantiates the occurrence of the *trigger event*;
    - (2) a forecast of the total capital expenditure for the *contingent project*;
    - (3) a forecast of the capital and incremental operating expenditure, for each remaining *regulatory year* which the *Distribution Network Service Provider* considers is reasonably required for the purpose of undertaking the *contingent project*;
    - (4) how the forecast of the total capital expenditure for the *contingent project* meets the threshold as referred to in clause 6.6A.1(b)(2)(iii);
    - (5) the intended date for commencing the *contingent project* (which must be during the *regulatory control period*);
    - (6) the anticipated date for completing the *contingent project* (which may be after the end of the *regulatory control period*); and
    - (7) an estimate of the incremental revenue which the *Distribution Network Service Provider* considers is likely to be required to be earned in each remaining *regulatory year* of the *regulatory control period* as a result of the *contingent project* being undertaken as described in subparagraph (3), which must be calculated:
      - (i) in accordance with the requirements of the *post-tax revenue model* referred to in clause 6.4.1;
      - (ii) in accordance with the requirements of the *roll forward model* referred to in clause 6.5.1(b);

- (iii) using the *allowed rate of return* for that *Distribution Network Service Provider* for the *regulatory control period* as determined in accordance with clause 6.5.2;
  - (iv) in accordance with the requirements for depreciation referred to in clause 6.5.5; and
  - (v) on the basis of the capital expenditure and incremental operating expenditure referred to in subparagraph (b)(3).
- (b1) The forecast total capital expenditure referred to in paragraph (b) must not include *expenditure for a restricted asset*, unless:
- (1) the relevant *Distribution Network Service Provider* has requested an asset exemption under clause 6.6A.1(a1) for that asset or class of asset in respect of the contingent project; and
  - (2) the AER has granted that asset exemption.
- (c) As soon as practicable after its receipt of an application made in accordance with paragraphs (a), (a1) and (b), the *AER* must *publish* the application, together with an invitation for written submissions on the application.
- (d) The *AER* must consider any written submissions made under paragraph (c) and must make its decision on the application within 40 *business days* from the later of the date the *AER* receives the application and the date the *AER* receives any information required by the *AER* under paragraph (i). In doing so the *AER* may also take into account such other information as it considers appropriate, including any analysis (such as benchmarking) that is undertaken by it for that purpose.
- (e) Subject to paragraph (e1), if the *AER* is satisfied that:
- (1A) the trigger event has occurred;
  - (1B); ~~and that~~ the forecast of the total capital expenditure for the contingent project meets the threshold as referred to in clause 6.6A.1(b)(2)(iii); and
  - (1C) the *Distribution Network Service Provider* has complied with its obligations under clauses 5.17.4(z) and 5.17.4(z1),
- ~~;~~it must:
- (1) determine:
    - (i) the amount of capital and incremental operating expenditure, for each remaining *regulatory year*, which the *AER* considers is reasonably required for the purpose of undertaking the *contingent project*;
    - (ii) the total capital expenditure which the *AER* considers is reasonably required for the purpose of undertaking the *contingent project*;
    - (iii) the likely commencement and completion dates for the *contingent project*; and
    - (iv) the incremental revenue which is likely to be required by the *Distribution Network Service Provider* in each remaining *regulatory year* as a result of the *contingent project* being undertaken as

- described in subparagraphs (i) and (ii), such estimate being calculated in accordance with subparagraph (2);
- (2) calculate the estimate referred to in subparagraph (1)(iv):
    - (i) on the basis of the capital expenditure and incremental operating expenditure referred to in subparagraph (1)(i); and
    - (ii) otherwise in accordance with subparagraph (b)(7); and
  - (3) amend the distribution determination in accordance with paragraph (h).
- (e1) The capital expenditure referred to in subparagraph (e)(1) must not include *expenditure for a restricted asset*, unless:
- (1) the relevant *Distribution Network Service Provider* requested an *asset exemption* under clause 6.6A.1(a1) for that asset or class of asset in respect of the *contingent project*; and
  - (2) the *AER* granted that *asset exemption*.
- (f) In making the determinations referred to in subparagraph (e)(1), the *AER* must accept the relevant amounts and dates, contained in the *Distribution Network Service Provider's* application, as referred to in subparagraph (b)(2) to (b)(7), if the *AER* is satisfied that:
- (1) the forecast of the total capital expenditure for the *contingent project* meets the threshold as referred to in clause 6.6A.1(b)(2)(iii) and complies with paragraph (b1);
  - (2) the amounts of forecast capital expenditure and incremental operating expenditure reasonably reflect the *capital expenditure criteria* and the *operating expenditure criteria*, taking into account the *capital expenditure factors* and the *operating expenditure factors* respectively, in the context of the *contingent project*;
  - (3) the estimates of incremental revenue are reasonable; and
  - (4) the dates are reasonable.
- (g) In making the determinations referred to in subparagraph (e)(1) and paragraph (f), the *AER* must have regard to:
- (1) the information included in or accompanying the application;
  - (2) submissions received in the course of consulting on the application;
  - (3) such analysis as is undertaken by or for the *AER*;
  - (4) the expenditure that would be incurred in respect of a *contingent project* by an efficient and prudent *Distribution Network Service Provider* in the circumstances of the *Distribution Network Service Provider*;
  - (5) the actual and expected capital expenditure of the *Distribution Network Service Provider* for *contingent projects* during any preceding *regulatory control periods*;
  - (6) the extent to which the forecast capital expenditure for the *contingent project* is referable to arrangements with a person other than the *Distribution Network Service Provider* that, in the opinion of the *AER*, do not reflect arm's length terms;

- (7) the relative prices of operating and capital inputs in relation to the *contingent project*;
  - (8) the substitution possibilities between operating and capital expenditure in relation to the *contingent project*; and
  - (9) whether the capital and operating expenditure forecasts for the *contingent project* are consistent with any incentive scheme or schemes that apply to the *Distribution Network Service Provider* under clauses 6.5.8, 6.5.8A or 6.6.2 to 6.6.4.
- (h) Amendments to a distribution determination referred to in subparagraph (e)(3) must only vary the determination to the extent necessary:
- (1) to adjust the forecast capital expenditure for that *regulatory control period* to accommodate the amount of capital expenditure determined under subparagraph (e)(1)(i) (in which case the amount of that adjustment will be taken to be accepted by the *AER* under clause 6.5.7(c));
  - (2) to adjust the forecast operating expenditure for that *regulatory control period* to accommodate the amount of incremental operating expenditure determined under subparagraph (e)(1)(i) (in which case the amount of that adjustment will be taken to be accepted by the *AER* under clause 6.5.6(c));
  - (3) to reflect the effect of any resultant increase in forecast capital and operating expenditure on:
    - (i) the *annual revenue requirement* for each *regulatory year* in the remainder of the *regulatory control period*; and
    - (ii) the X factor for each *regulatory year* in the remainder of the *regulatory control period*.
- (i) A *Distribution Network Service Provider* must provide the *AER* with such additional information as the *AER* requires for the purpose of making a decision on an application made by that *Distribution Network Service Provider* under paragraph (a) within the time specified by the *AER* in a notice provided to the *Distribution Network Service Provider* by the *AER* for that purpose.

#### **Extension of time limit**

- (j) If the *AER* is satisfied that amending a distribution determination under subparagraph (e)(3) and paragraph (h) involves issues of such complexity or difficulty that the time limit fixed in paragraph (d) should be extended, the *AER* may extend that time limit by a further period of up to 60 *business days*, provided that it gives written notice to the *Distribution Network Service Provider* of that extension no later than 10 *business days* before the expiry of that time limit.
- (k) If the *AER* extends the time limit under paragraph (j), it must make available on its website a notice of that extension as soon as is reasonably practicable.
- (l) Subject to paragraph (n1), if the *AER* gives a written notice to the *Distribution Network Service Provider* stating that it requires information from an *Authority* in order to make a decision on an application made by the *Distribution Network Service Provider* under paragraph (a) then, for the purpose of calculating elapsed time, the period between when the *AER* gives that notice to the *Distribution*

*Network Service Provider* and when the *AER* receives that information from that *Authority* is to be disregarded.

- (m) Subject to paragraph (n1), if the *AER* gives a written notice to the *Distribution Network Service Provider* stating that, in order to make a decision on an application made by the *Distribution Network Service Provider* under paragraph (a), it requires information from a judicial body or royal commission then, for the purpose of calculating elapsed time, the period between when the *AER* gives that notice to the *Distribution Network Service Provider* and when that information is made publicly available is to be disregarded.
- (n) Where the *AER* gives a notice to the *Distribution Network Service Provider* under paragraph (l) or (m), it must:
  - (1) as soon as is reasonably practicable make available on its website a notice stating when the period referred to in paragraph (l) or (m), as the case may be, has commenced;
  - (2) as soon as is reasonably practicable make available on its website a notice stating when the period referred to in paragraph (l) or (m), as the case may be, has ended; and
  - (3) if the information specified in that notice is required from an *Authority*, promptly request that information from the relevant *Authority*.
- (n1) Paragraphs (l) and (m) do not apply if the *AER* gives the notice specified in those paragraphs to the *Distribution Network Service Provider* later than 10 *business days* before the expiry of the time limit fixed in paragraph (d).

#### **Amendment of distribution determination**

- (o) Except where paragraph (p) applies, if the *AER* amends a distribution determination under paragraph (h), that amendment must take effect from the commencement of the next *regulatory year*.
- (p) If a *Distribution Network Service Provider* submits an application under paragraph (a) within 90 *business days* of the end of a *regulatory year* (where this is permitted in accordance with paragraph (a1)), an amendment to the distribution determination must take effect from the second *regulatory year* that commences after the application is submitted.

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## 6A. Economic Regulation of Transmission Services

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### Part C Regulation of Revenue - Prescribed Transmission Services

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#### 6A.8.2 Amendment of revenue determination for contingent project

- (a) A *Transmission Network Service Provider* may, during a *regulatory control period*, apply to the *AER* to amend a *revenue determination* that applies to that *Transmission Network Service Provider* where:
- (1) for a *contingent project* in a *revenue determination*, a *trigger event* for a *contingent project* in relation to that *revenue determination* has occurred; or
  - (2) for an *actionable ISP project*, the *trigger event* under clause 5.16A.5 has occurred.
- (a1) An application referred to in paragraph (a) must be made as soon as practicable after the occurrence of the *trigger event*.
- (b) An application made under paragraph (a) must contain the following information (as applicable):
- (1) an explanation that substantiates the occurrence of the *trigger event*;
  - (2) a forecast of the total capital expenditure for the *contingent project*;
  - (3) a forecast of the capital and incremental operating expenditure, for each remaining *regulatory year* which the *Transmission Network Service Provider* considers is reasonably required for the purpose of undertaking the *contingent project*;
  - (4) how the forecast of the total capital expenditure for the *contingent project* meets the threshold as referred to in clause 6A.8.1(b)(2)(iii);
  - (5) the intended date for commencing the *contingent project* (which must be during the *regulatory control period*);
  - (6) the anticipated date for completing the *contingent project* (which may be after the end of the *regulatory control period*);
  - (7) an estimate of the incremental revenue which the *Transmission Network Service Provider* considers is likely to be required to be earned in each remaining *regulatory year* of the *regulatory control period* as a result of the *contingent project* being undertaken as described in subparagraph (3), which must be calculated:
    - (i) in accordance with the requirements of the *post-tax revenue model* referred to in clause 6A.5.2;
    - (ii) in accordance with the requirements of the *roll forward model* referred to in clause 6A.6.1(b);

- (iii) using the *allowed rate of return* for that *Transmission Network Service Provider* for the *regulatory control period* as determined in accordance with clause 6A.6.2;
  - (iv) in accordance with the requirements for depreciation referred to in clause 6A.6.3;
  - (v) on the basis of the capital expenditure and incremental operating expenditure referred to in subparagraph (b)(3); and
- (8) if paragraph (n) applies, a forecast of the total capital expenditure and the total incremental operating expenditure for the *contingent project* for the subsequent *regulatory control period*.
- (c) As soon as practicable after its receipt of an application made in accordance with paragraphs (a), (a1) and (b), the *AER* must *publish* the application, together with an invitation for written submissions on the application.
- (d) The *AER* must consider any written submissions made under paragraph (c) and must make its decision on the application within 40 *business days* from the later of the date the *AER* receives the application and the date the *AER* receives any information required by the *AER* under paragraph (h1). In doing so the *AER* may also take into account such other information as it considers appropriate, including any analysis (such as benchmarking) that is undertaken by it for that purpose.
- (e) If the *AER* is satisfied that:
- (1A) the trigger event has occurred;
  - (1B) ~~, and that~~ the forecast of the total capital expenditure for the *contingent project* meets the threshold as referred to in clause 6A.8.1(b)(2)(iii); and
  - (1C) the *Transmission Network Service Provider* has complied with its obligations under clauses 5.16.4(z5D), 5.16.4(z5E), 5.16A.4(t) and 5.16A.4(u) (as applicable),
- ~~,~~ it must:
- (1) determine (as applicable):
    - (i) the amount of capital and incremental operating expenditure, for each remaining *regulatory year* which the *AER* considers is reasonably required for the purpose of undertaking the *contingent project*;
    - (ii) the total capital expenditure which the *AER* considers is reasonably required for the purpose of undertaking the *contingent project*;
    - (iii) the likely commencement and completion dates for the *contingent project*;
    - (iv) the incremental revenue which is likely to be required by the *Transmission Network Service Provider* in each remaining *regulatory year* as a result of the *contingent project* being undertaken as described in clause 6A.8.2(e)(1)(i) and (ii), such estimate being calculated in accordance with subparagraph (2); and

- (v) if paragraph (n) applies, the total capital expenditure and the total incremental operating expenditure which the *AER* considers is reasonably required for the purpose of undertaking the *contingent project* in the subsequent *regulatory control period*;
  - (2) calculate the estimate referred to in subparagraph (1)(iv):
    - (i) on the basis of the capital expenditure referred to in subparagraph (1)(i);
    - (ii) to include the incremental operating expenditure referred to in subparagraph (1)(i); and
    - (iii) otherwise in accordance with paragraph (b); and
  - (3) amend the relevant *revenue determination* in accordance with paragraph (h) and if applicable paragraph (n).
- (f) In making the determinations referred to in subparagraph (e)(1), the *AER* must accept the relevant amounts and dates, contained in the *Transmission Network Service Provider's* application, as referred to in subparagraphs (b)(2) to (8), if the *AER* is satisfied that:
- (1) the forecast of the total capital expenditure for the *contingent project* meets the threshold as referred to in clause 6A.8.1(b)(2)(iii);
  - (2) the amounts of forecast capital expenditure and incremental operating expenditure reasonably reflect the *capital expenditure criteria* and the *operating expenditure criteria*, taking into account the *capital expenditure factors* and the *operating expenditure factors* respectively, in the context of the *contingent project*;
  - (3) the estimates of incremental revenue are reasonable; and
  - (4) the dates are reasonable.
- (g) In making the determinations referred to in subparagraph (e)(1) and paragraph (f), the *AER* must have regard to:
- (1) the information included in or accompanying the application;
  - (2) submissions received in the course of consulting on the application;
  - (3) such analysis as is undertaken by or for the *AER*;
  - (4) the expenditure that would be incurred in respect of a *contingent project* by an efficient and prudent operator in the circumstances of the *Transmission Network Service Provider*;
  - (5) the actual and expected capital expenditure of the *Transmission Network Service Provider* for *contingent projects* during any preceding *regulatory control periods*;
  - (6) the extent to which the forecast capital expenditure for the *contingent project* is referable to arrangements with a person other than the *Transmission Network Service Provider* that, in the opinion of the *AER*, do not reflect arm's length terms;
  - (7) the relative prices of operating and capital inputs in relation to the *contingent project*;

- (8) the substitution possibilities between operating and capital expenditure in relation to the *contingent project*; and
  - (9) whether the capital and operating expenditure forecasts for the *contingent project* are consistent with any incentive scheme or schemes that apply to the *Transmission Network Service Provider* under clauses 6A.6.5, 6A.6.5A, 6A.7.4, 6A.7.5 or 6A.7.6.
- (h) Amendments to a *revenue determination* referred to in paragraph (e)(3) must only vary the determination to the extent necessary:
- (1) to adjust the forecast capital expenditure for the relevant *regulatory control period* to accommodate the amount of capital expenditure determined under subparagraphs (e)(1)(i) or (e)(1)(v) (in which case the amount of that adjustment will be taken to be accepted by the *AER* under clause 6A.6.7(c));
  - (2) to adjust the forecast operating expenditure for the relevant *regulatory control period* to accommodate the amount of incremental operating expenditure determined under subparagraphs (e)(1)(i) or (e)(1)(v) (in which case the amount of that adjustment will be taken to be accepted by the *AER* under clause 6A.6.6(c)); and
  - (3) to reflect the effect of any resultant increase in forecast capital and operating expenditure on:
    - (i) the *maximum allowed revenue* for each *regulatory year* in the remainder of the relevant *regulatory control period*; and
    - (ii) the *X factor* for each *regulatory year* in the remainder of the relevant *regulatory control period*.
- (h1) A *Transmission Network Service Provider* must provide the *AER* with such additional information as the *AER* requires for the purpose of making a decision on an application made by that *Transmission Network Service Provider* under paragraph (a) within the time specified by the *AER* in a notice provided to the *Transmission Network Service Provider* by the *AER* for that purpose.

#### **Extension of time limit**

- (i) If the *AER* is satisfied that amending a *revenue determination* under subparagraph (e)(3) and paragraph (h) or if paragraph (n) applies, determining the total capital expenditure and the total incremental operating expenditure under subparagraph (e)(1)(v), involves issues of such complexity or difficulty that the time limit fixed in paragraph (d) should be extended, the *AER* may extend that time limit by a further period of up to 60 *business days*, provided that it gives written notice to the *Transmission Network Service Provider* of that extension no later than 10 *business days* before the expiry of that time limit.
- (j) If the *AER* extends the time limit under paragraph (i), it must make available on its website a notice of that extension as soon as is reasonably practicable.
- (k) Subject to paragraph (k3), if the *AER* gives a written notice to the *Transmission Network Service Provider* stating that it requires information from an *Authority* in order to make a decision on an application made by the *Transmission Network Service Provider* under paragraph (a) then, for the purpose of calculating elapsed

time, the period between when the *AER* gives that notice to the *Transmission Network Service Provider* and when the *AER* receives that information from that *Authority* is to be disregarded.

- (k1) Subject to paragraph (k3), if the *AER* gives a written notice to the *Transmission Network Service Provider* stating that, in order to make a decision on an application made by the *Transmission Network Service Provider* under paragraph (a), it requires information from a judicial body or royal commission then, for the purpose of calculating elapsed time, the period between when the *AER* gives that notice to the *Transmission Network Service Provider* and when that information is made publicly available is to be disregarded.
- (k2) Where the *AER* gives a notice to the *Transmission Network Service Provider* under paragraph (k) or (k1), it must:
  - (1) as soon as is reasonably practicable make available on its website a notice stating when the period referred to in paragraph (k) or (k1), as the case may be, has commenced;
  - (2) as soon as is reasonably practicable make available on its website a notice stating when the period referred to in paragraph (k) or (k1), as the case may be, has ended; and
  - (3) if the information specified in that notice is required from an *Authority*, promptly request that information from the relevant *Authority*.
- (k3) Paragraphs (k) and (k1) do not apply if the *AER* gives the notice specified in those paragraphs to the *Transmission Network Service Provider* later than 10 *business days* before the expiry of the time limit fixed in paragraph (d).

#### **Amendment of revenue determination**

- (l) Except where paragraph (m) or (n) applies, if the *AER* amends a *revenue determination* under paragraph (h), that amendment must take effect from the commencement of the next *regulatory year*.
- (m) Except where paragraph (n) applies, if a *Transmission Network Service Provider* submits an application under paragraph (a) within 90 *business days* of the end of a *regulatory year*, an amendment to the *revenue determination* must take effect from the second *regulatory year* that commences after the application is submitted.
- (n) If a *Transmission Network Service Provider* submits an application under paragraph (a) in the final *regulatory year* of a *regulatory control period* or during the last 90 *business days* of the penultimate *regulatory year* of the *regulatory control period* and the *AER* makes a determination under subparagraph (e)(1)(v), then the *AER* must within 6 months following the making of the *revenue determination* for the subsequent *regulatory control period*, amend that *revenue determination*:
  - (1) with effect from the second *regulatory year* of that subsequent *regulatory control period* in accordance with paragraphs (h) and (n);
  - (2) to include the incremental revenue which is likely to be required by the *Transmission Network Service Provider* in each *regulatory year* (other

than the first *regulatory year*) as a result of the *contingent project*, such estimate being calculated on the basis of:

- (i) the amounts determined under paragraph (e)(1)(v);
- (ii) paragraph (b)(7) applying in respect of the subsequent *regulatory control period*; and
- (iii) providing the *Transmission Network Service Provider* with the time cost of money based on the *allowed rate of return* for the provider for the relevant *regulatory control period* arising from the delay in the amendment of the current and/or subsequent *revenue determination*.

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## 10. Glossary

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### **RIT reopening trigger**

Means the events, factors, or circumstances which, if they occur or eventuate would mean that the preferred option for a RIT-D project contemplated by clause 5.17.4(j)(13) or RIT-T project contemplated by clause 5.16.4(k)(10) or clause 5.16A.4(d)(9) may no longer be the preferred option, and may include a change in the key assumptions used in identifying or ranking the credible options for that project.

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## 11. Savings and Transitional Rules

### **Part [XX] Material change in network infrastructure project costs**

#### **11.[xx] Rules consequential on the making of the National Electricity Amendment (Material change in network infrastructure project costs) Rule 2022**

##### **11.[xx].1.1 Definitions**

(a) For the purposes of this Part [XX]:

**Amending Rule** means the National Electricity Amendment (Material change in network infrastructure project costs) Rule 2022.

**commencement date** means the date on which Schedule 1 of the Amending Rule commences operation.

(b) For the purposes of this rule 11.[xx], a reference to a new clause is a reference to that clause as it is either set to commence or has commenced pursuant to the Amending Rule.

##### **11.[xxx].2.1 Application to existing projects**

(a) New clauses 5.15.3, 5.16A.2, 5.16A.4, 5.22.5 and 6A.8.2 do not apply to:

(i) a stage of an actionable ISP project that is a staged actionable ISP project if, prior to the commencement date, the RIT-T proponent has prepared a project assessment draft report in respect of that stage; or

(ii) an actionable ISP project that is not a staged actionable ISP project if, prior to the commencement date, the RIT-T proponent has prepared a project assessment draft report in respect of that project.

(b) New clauses 5.15.3, 5.16.2, 5.16.4 and 6A.8.2 do not apply to a RIT-T project if, prior to the commencement date, the RIT-T proponent has prepared a project assessment draft report in respect of that project.

(c) New clauses 5.15.3, 5.17.2, 5.17.4 and 6.6A.2 do not apply to a RIT-D project if, prior to the commencement date, the RIT-D proponent has prepared a project assessment draft report in respect of that project.

##### **11.[xxx].3.1 Updates to AER guidelines**

(a) Prior to the commencement date, the AER must update and publish:

(i) the Cost Benefit Analysis Guidelines required under clause 5.22.5 to comply with the requirements set out in new clause 5.16A.2, and in doing so must comply with the Rules consultation procedures.

(ii) the regulatory investment test for transmission application guidelines required under clause 5.16.2 to comply with the requirements set out in new clause 5.16.2(c), and in doing so must comply with the transmission consultation procedures; and

(iii) the regulatory investment test for distribution application guidelines required under clause 5.17.2 to comply with the requirements set out in new clause 5.17.2(c), and in doing so must comply with the distribution consultation procedures.

(b) If, prior to the commencement date and for the purposes of updating any of the guidelines described in subparagraph (a) in anticipation of the Amending Rule, the AER undertook consultation or steps equivalent to that as required in the Rules consultation procedures, transmission consultation procedures or distribution consultation procedures (as applicable), then that consultation or steps undertaken is taken to satisfy the equivalent consultation or steps under the Rules consultation procedures, transmission consultation procedures or distribution consultation procedures (as applicable).