



National Electricity Amendment (Accommodating financeability in the regulatory framework) Rule 2024 No. 8

The Australian Energy Market Commission makes the following Rule under the National Electricity Law to the extent applied by:

- (a) the *National Electricity (South Australia) Act 1996* of South Australia;
- (b) the *Electricity (National Scheme) Act 1997* of the Australian Capital Territory;
- (c) the *Electricity - National Scheme (Queensland) Act 1997* of Queensland;
- (d) the *National Electricity (New South Wales) Act 1997* of New South Wales;
- (e) the *Electricity - National Scheme (Tasmania) Act 1999* of Tasmania;
- (f) the *National Electricity (Victoria) Act 2005* of Victoria;
- (g) the *National Electricity (Northern Territory) (National Uniform Legislation) Act 2015* of the Northern Territory; and
- (h) the *Australian Energy Market Act 2004* of the Commonwealth.

Anna Collyer
Chairperson
Australian Energy Market Commission

National Electricity Amendment (Accommodating financeability in the regulatory framework) Rule 2024 No. 8

1 Title of Rule

This Rule is the *National Electricity Amendment (Accommodating financeability in the regulatory framework) Rule 2024 No. 8*.

2 Commencement

This Rule commences operation on 29 March 2024.

3 Amendment to the National Electricity Rules

The National Electricity Rules are amended as set out in Schedule 1.

4 Savings and Transitional Amendment to the National Electricity Rules

The National Electricity Rules are amended as set out in Schedule 2.

Schedule 1 Amendment to the National Electricity Rules

(Clause 3)

[1] Clause 5.16A.5 Actionable ISP project trigger event

In clause 5.16A.5, omit " if the *actionable ISP project* is a staged project) under clause 6A.8.2, all of the following criteria must be satisfied ("**trigger event**"):" and substitute ") under clause 6A.8.2, the following criteria must be satisfied ("**trigger event**") for each category:".

[2] Clause 5.16A.5 Actionable ISP project trigger event

In clause 5.16A.5, after "for each category:" insert:

Category 1 - contingent project application for an actionable ISP project

[3] Clause 5.16A.5 Actionable ISP project trigger event

In clause 5.16A.5(a), omit " if the *actionable ISP project* is a staged project".

[4] Clause 5.16A.5 Actionable ISP project trigger event

In clause 5.16A.5(d), omit "." and substitute "; or".

[5] Clause 5.16A.5 Actionable ISP project trigger event

After clause 5.16A.5(d), insert:

Category 2 - early works contingent project application

- (e) the *contingent project* application is an *early works contingent project application*.

[6] Clause 6A.6.3 Depreciation

In clause 6A.6.3(b)(1), omit "paragraph (c)," and substitute "paragraph (c) and clause 6A.6.3A,".

[7] Clause 6A.6.3A Financeability adjustment

After clause 6A.6.3, insert a new clause 6A.6.3A:

6A.6.3A Financeability adjustment

Definitions

- (a) In this clause:

benchmark gearing ratio means the benchmark gearing ratio set out in the *applicable rate of return instrument* applicable at the time the *AER* applies the *financeability test*.

financeability threshold means the benchmark credit rating used to estimate the return on debt component in the *applicable rate of return instrument*.

a reference to *concessional finance agreement* means a *concessional finance agreement* entered into after 14 December 2023.

Financeability request by TNSP

- (b) Subject to paragraphs (c) and (d), if an asset (or group of assets) forms part of an *actionable ISP project*, a *Transmission Network Service Provider* may, in conjunction with:
 - (1) a *contingent project* application under clause 6A.8.2(a)(2);
 - (2) a *Revenue Proposal* under clause 6A.10.1; or
 - (3) a revised *Revenue Proposal* under clause 6A.12.3,submit a request to the *AER* to:
 - (4) approve that the asset (or group of assets) be depreciated on a basis other than in accordance with clause 6A.6.3(b)(1); and/or
 - (5) adjust the X factors for each *regulatory year* in the remainder of the relevant *regulatory control period*,
(*financeability request*).
- (c) A *financeability request* must include:
 - (1) the *Transmission Network Service Provider's* proposed adjustments to the depreciation of the asset (or group of assets) and X factors (as applicable);
 - (2) if applicable, the information in paragraph (f); and
 - (3) any information required under the *financeability guidelines*.
- (d) A *Transmission Network Service Provider*:
 - (1) must not submit a *financeability request* in relation to an *early works contingent project application*; and
 - (2) may only submit a *financeability request* once for an *actionable ISP project*, or a stage of an *actionable ISP project* if the *actionable ISP project* is a staged project in a draft or final *Integrated System Plan*, (whether as part of a *contingent project* application under clause 6A.8.2(a)(2), a *Revenue Proposal* under clause 6A.10.1 or a revised *Revenue Proposal* under clause 6A.12.3).
- (e) A *Transmission Network Service Provider* must only submit a *financeability request* if the following conditions are satisfied:

- (1) where the *Transmission Network Service Provider* has entered into one or more *concessional finance agreements* for the *actionable ISP project* to which the *financeability request* relates:
 - (i) all of the benefits under each relevant *concessional finance agreement* are being passed through to consumers of electricity under clause 6A.3.3; or
 - (ii) where the benefits under each relevant *concessional finance agreement* are not all being passed through to consumers of electricity, the *concessional finance agreement* specifies how the benefits of the *concessional finance* that are retained by the *Transmission Network Service Provider* are to be taken into account by the *AER* in applying the *financeability test* and with the written approval of the *government funding body*; and
- (2) where the *Transmission Network Service Provider* has entered into one or more *concessional finance agreements* for any *actionable ISP project* other than the *actionable ISP project* to which the *financeability request* relates:
 - (i) all of the benefits under each relevant *concessional finance agreement* are being passed through to consumers of electricity under clause 6A.3.3; or
 - (ii) where the benefits under each relevant *concessional finance agreement* are not all being passed through to consumers of electricity, each relevant *concessional finance agreement* specifies how the benefits of the *concessional finance* that are retained by the *Transmission Network Service Provider* are to be taken into account by the *AER* in applying the *financeability test*.
- (f) If the *Transmission Network Service Provider* submits a *financeability request*, then in conjunction with a *contingent project* application under clause 6A.8.2(a)(2), a *Revenue Proposal* under clause 6A.10.1 or a revised *Revenue Proposal* under clause 6A.12.3, it must also provide to the *AER*:
 - (1) in the circumstances specified in paragraph (e)(1)(ii) or (e)(2)(ii), to the extent not already provided under clause 6A.3.3:
 - (i) a copy of every *concessional finance agreement* (including any amendments to it) relating to any *actionable ISP project* it, or a related entity of it, has entered into;

- (ii) if applicable, the written approval of the *government funding body* to which the *financeability request* relates;
 - (iii) if a *concessional finance agreement* was entered into by a related entity of the *Transmission Network Service Provider*, the name, ACN and contact details of the related entity that is party to the agreement and an explanation of the benefit of the *concessional finance* to the *Transmission Network Service Provider*;
 - (iv) a description of the capital expenditure in relation to which the *concessional finance* is being provided;
 - (v) a description of the benefits of the *concessional finance* to the *Transmission Network Service Provider* and an explanation of how the benefits are to be taken into account by the *AER* in applying the *financeability test*, in accordance with the *concessional finance agreement*; and
- (2) the information in clause 6A.8.2(b)(7) as it applies with and without the *financeability request* for the remaining *regulatory years* of the *regulatory control period*.
- (g) The *AER* may consult with the relevant *government funding body* in respect of the *financeability request* and in doing so, may:
 - (1) request information from the *government funding body*; or
 - (2) disclose any information received from the *Transmission Network Service Provider* in the *financeability request* for that purpose.
- (h) If the *AER* receives confidential information from a *government funding body*, the *AER* must treat that information as confidential information.

Financeability test by AER

- (i) If the *AER* receives a *financeability request*, it must apply the *financeability test*:
 - (1) in accordance with paragraphs (j) to (l) and the *financeability guidelines*; and
 - (2) having regard to the information set out in the *financeability request* and relevant *concessional finance agreements*.
- (j) The purpose of the *financeability test* is to determine whether or not there is a *financeability issue* as described in paragraph (l) for a *Transmission Network Service Provider*.
- (k) To determine whether or not there is a *financeability issue* for a *Transmission Network Service Provider*, the *AER* must:

(1) first, determine a financeability position without the *actionable ISP project* using the *post-tax revenue model* to determine the *Transmission Network Service Provider's maximum allowed revenue*, using:

- (i) the benchmark gearing ratio; or
- (ii) if a *government funding body* and *Transmission Network Service Provider* have agreed in a *concessional finance agreement* to adjust the benchmark gearing ratio by increasing the equity component in that ratio for one or more previous *actionable ISP projects*, the benchmark gearing ratio as adjusted in accordance with the relevant *concessional finance agreements*,

(step one); and

(2) second, determine a financeability position using the same process used under subparagraph (1), but including the relevant *actionable ISP project* and, if applicable, any adjustment to the benchmark gearing ratio for the increased equity component in that ratio agreed in a *concessional finance agreement* for that project **(step two)**,

(together, the *financeability test*).

(l) A *financeability issue* exists for the purposes of paragraph (k) if the *financeability test* demonstrates that the financeability position for the *Transmission Network Service Provider* is:

- (1) equivalent to or higher than the financeability threshold at step one, and deteriorates below the financeability threshold following the application of step two; or
- (2) lower than the financeability threshold at step one, and deteriorates below that financeability position following the application of step two,

(each, a *financeability issue*).

Addressing a financeability issue

(m) If the *financeability test* demonstrates that there is a *financeability issue*, the *AER* must, as part of:

- (1) the determination under clause 6A.8.2(e) if the *financeability request* is submitted in accordance with clause 6A.6.3A(b)(1);
- (2) the decision under clauses 6A.12.1 and 6A.13.1 if the *financeability request* is submitted in accordance with clause 6A.6.3A(b)(2); or
- (3) the decision under clause 6A.13.1 if the *financeability request* is submitted in accordance with clause 6A.6.3A(b)(3),

address the *financeability issue* by:

- (1) if paragraph (l)(1) applies, preventing the *Transmission Network Service Provider's* financeability position determined in step one from deteriorating below the financeability threshold following the application of step two; or
- (2) if paragraph (l)(2) applies, preventing the *Transmission Network Service Provider's* financeability position determined in step one from deteriorating below that financeability position following the application of step two,

to the extent possible.

- (n) If the *AER* makes a determination or decision under paragraph (m) to address a *financeability issue*, it may address the *financeability issue* by doing any one or more of the following:
 - (1) depreciating the asset (or group of assets) forming part of the *actionable ISP project* using a profile that it considers appropriate;
 - (2) adjusting the X factors for each *regulatory year* in the remainder of the relevant *regulatory control period*; and
 - (3) taking other steps through another mechanism available to the *AER* under the *Rules*.
- (o) If the *AER* determines under paragraph (n) that the depreciation adjustment or other steps will apply in a subsequent *regulatory control period*, then the depreciation adjustment is binding on the *AER* and the *Transmission Network Service Provider* for that subsequent *regulatory control period*.

Financeability guidelines

- (p) The *AER* must, in accordance with the *transmission consultation procedures*, develop and *publish* guidelines (the *financeability guidelines*).
- (q) The *AER* may, from time to time and in accordance with the *transmission consultation procedures*, amend or replace the *financeability guidelines*.
- (r) The *financeability guidelines* must set out:
 - (1) how the *AER* determines the financeability position for the *Transmission Network Service Provider* for the purposes of paragraph (l), which must be based on a selection of financial metrics and a specified weighting to apply to each of those metrics;

- (2) an explanation of the basis for the selection of each financial metric and the weighting to apply to each financial metric referred to in subparagraph (1); and
- (3) how the financeability position for a *Transmission Network Service Provider* relates to the financeability threshold for the purposes of paragraph (m).
- (s) The *financeability guidelines* may set out any other matters the *AER* considers appropriate.

[8] Clause 6A.8.2 Amendment of revenue determination for contingent project

In clause 6A.8.2(b)(7)(v), omit "; and" and substitute ";".

[9] Clause 6A.8.2 Amendment of revenue determination for contingent project

In clause 6A.8.2(b)(8), omit "." and substitute "; and".

[10] Clause 6A.8.2 Amendment of revenue determination for contingent project

After clause 6A.8.2(b)(8), insert:

- (9) if clause 6A.6.3A(b)(1) applies, the information in clauses 6A.6.3A(c) and (f).

[11] Clause 6A.8.2 Amendment of revenue determination for contingent project

In clause 6A.8.2(e)(1C), omit "; and" and substitute ";".

[12] Clause 6A.8.2 Amendment of revenue determination for contingent project

In clause 6A.8.2(e)(1D), omit "," and substitute "; and".

[13] Clause 6A.8.2 Amendment of revenue determination for contingent project

After clause 6A.8.2(e)(1D), insert:

- (1E) if clause 6A.6.3A(b)(1) applies and the *financeability request* complies with clauses 6A.6.3A(c) to (e) and there is a *financeability issue* as determined in accordance with clause 6A.6.3A(l),

**[14] Clause 6A.8.2 Amendment of revenue determination for
contingent project**

In clause 6A.8.2(e)(1)(iv), omit "; and" and substitute ";".

**[15] Clause 6A.8.2 Amendment of revenue determination for
contingent project**

In clause 6A.8.2(e)(1)(v), omit ";" and substitute "; and".

**[16] Clause 6A.8.2 Amendment of revenue determination for
contingent project**

After clause 6A.8.2(e)(1)(v), insert:

- (vi) if clause 6A.6.3A(b)(1) applies and there is a *financeability issue*, how to address the *financeability issue* in accordance with clause 6A.6.3A(m);

**[17] Clause 6A.8.2 Amendment of revenue determination for
contingent project**

In clause 6A.8.2(g)(8), omit "; and" and substitute ";".

**[18] Clause 6A.8.2 Amendment of revenue determination for
contingent project**

In clause 6A.8.2(g)(9), omit "." and substitute "; and".

**[19] Clause 6A.8.2 Amendment of revenue determination for
contingent project**

After clause 6A.8.2(g)(9), insert:

- (10) if clause 6A.6.3A(b)(1) applies, the *financeability guidelines* and any relevant *concessional finance agreement*.

**[20] Clause 6A.8.2 Amendment of revenue determination for
contingent project**

In clause 6A.8.2(h)(2), omit "; and" and substitute ";".

**[21] Clause 6A.8.2 Amendment of revenue determination for
contingent project**

After clause 6A.8.2(h)(2), insert:

- (2A) if clause 6A.6.3A(b)(1) applies, to address a *financeability issue* in accordance with clause 6A.6.3A(m); and

[22] Clause 6A.8.2 Amendment of revenue determination for contingent project

In clause 6A.8.2(h1), after "paragraph (a)", insert ", including information relating to a *financeability request* where clause 6A.6.3A(b)(1) applies,".

[23] Clause 6A.8.2 Amendment of revenue determination for contingent project

In clause 6A.8.2(k), after "stating that it requires information from an *Authority*", insert "or where clause 6A.6.3A(b)(1) applies, from a *government funding body*, "

[24] Clause 6A.8.2 Amendment of revenue determination for contingent project

In clause 6A.8.2(k), after "the *AER* receives that information from that *Authority*", insert "or that *government funding body*".

[25] Clause 6A.10.1 Submission of proposal, pricing methodology and information

Omit clause 6A.10.1(b) and substitute:

- (b) If applicable, a *Transmission Network Service Provider* may also submit to the *AER* a *financeability request* in conjunction with the *Revenue Proposal* submitted under paragraph (a).

[26] Clause 6A.10.1 Submission of proposal, pricing methodology and information

Omit clause 6A.10.1(d) and substitute:

- (d) If a *financeability request* is submitted pursuant to paragraph (b):
 - (1) the *financeability request* must comply with the requirements of clauses 6A.6.3A(c) to 6A.6.3A(f) (as applicable);
 - (2) the *Revenue Proposal* must set out the required revenue for the following scenarios:
 - (i) without the relevant *actionable ISP project*; and
 - (ii) with the relevant *actionable ISP project*, both with and without the *financeability request*; and
 - (3) the *Transmission Network Service Provider* must provide the *AER* with such additional information that the *AER* reasonably requests for the purposes of applying the *financeability test* or addressing the *financeability issue* in accordance with clause 6A.6.3A(m).

[27] Clause 6A.10.1 Submission of proposal, pricing methodology and information

In clause 6A.10.1(g)(3), omit "; and" and substitute ";".

[28] Clause 6A.10.1 Submission of proposal, pricing methodology and information

In clause 6A.10.1(g)(4), omit "." and substitute "; and".

[29] Clause 6A.10.1 Submission of proposal, pricing methodology and information

After clause 6A.10.1(g)(4), insert:

- (5) if applicable, a description of the *financeability request* and a summary of the *Transmission Network Service Provider's* proposal under clause 6A.6.3A(c).

[30] Clause 6A.11.1 Preliminary examination and determination of non-compliance with relevant requirements

Omit clause 6A.11.1(a)(2) and substitute:

- (2) a *financeability request* submitted by a *Transmission Network Service Provider*;

[31] Clause 6A.11.1 Preliminary examination and determination of non-compliance with relevant requirements

In clause 6A.11.1(a)(5), omit "; or" and substitute ";".

[32] Clause 6A.11.1 Preliminary examination and determination of non-compliance with relevant requirements

Omit clause 6A.11.1(a)(6) and substitute:

- (6) if applicable, the requirements of clauses 6A.6.3A(c) to (e); or

[33] Clause 6A.11.1 Preliminary examination and determination of non-compliance with relevant requirements

In clause 6A.11.1(a), after "as soon as practicable after receiving that *Revenue Proposal*, proposed *pricing methodology*" insert ", *financeability request*".

[34] Clause 6A.11.1 Preliminary examination and determination of non-compliance with relevant requirements

In clause 6A.11.1(b)(1), after "*Revenue Proposal*, proposed *pricing methodology*" insert ", *financeability request*".

[35] Clause 6A.11.1 Preliminary examination and determination of non-compliance with relevant requirements

In clause 6A.11.1(b)(1), after "or clause 6A.10.1(e)" insert ", or requirements of clauses 6A.6.3A(c) to (e)".

[36] Clause 6A.11.2 Resubmission of proposal, framework, pricing methodology or information

In clause 6A.11.2, after "*Revenue Proposal*, proposed *pricing methodology*" insert ", *financeability request*", wherever occurring.

[37] Clause 6A.11.2A Confidential information

In clause 6A.11.2A, omit "*Revenue Proposal* or the proposed *pricing methodology*" and substitute "*Revenue Proposal*, the proposed *pricing methodology* or the *financeability request*", wherever occurring.

[38] Clause 6A.11.2A Confidential information

In clause 6A.11.2A(c), omit "*Revenue Proposals* proposed *pricing methodologies*" and substitute "*Revenue Proposals*, proposed *pricing methodologies* and *financeability requests* (as applicable)".

[39] Clause 6A.11.3 Consultation

In clause 6A.11.3(a), omit "and any *pricing methodology guidelines*" and substitute ", and *pricing methodology guidelines* and *financeability guidelines*".

[40] Clause 6A.11.3 Consultation

Omit clause 6A.11.3(a)(2) and substitute:

(2) if applicable, the *financeability request*;

[41] Clause 6A.11.3 Consultation

In clause 6A.11.3(a), omit "*Revenue Proposal*, proposed *pricing methodology*" and substitute "*Revenue Proposal*, proposed *pricing methodology*, *financeability request*".

[42] Clause 6A.11.3 Consultation

In clause 6A.11.3(a), omit "*relevant regulatory information instrument* or clause 6A.10.1(e)" and substitute "*relevant regulatory information instrument*, clause 6A.10.1(e) or clauses 6A.6.3A(c) to (e)".

[43] Clause 6A.11.3 Consultation

In clause 6A.11.3(c), after "*Revenue Proposal*, the proposed *pricing methodology*" insert ", the *financeability request*"

[44] Clause 6A.12.1 Making of draft decision

Omit clause 6A.12.1(a1)(1) and substitute:

- (1) the information contained in or accompanying the *Revenue Proposal*, proposed *pricing methodology* and if applicable, the *financeability request* submitted under clause 6A.10.1(b);

[45] Clause 6A.12.1 Making of draft decision

Omit clause 6A.12.1(d) and substitute:

- (d) If the *AER* determines there is no *financeability issue* after applying the *financeability test*, the *AER's* draft decision must include details on the application of that *financeability test* and how the *Transmission Network Service Provider's* financeability position did not satisfy the requisite thresholds.

[46] Clause 6A.12.3 Submission of revised proposal or pricing methodology

In clause 6A.12.3(a)(1), omit "or".

[47] Clause 6A.12.3 Submission of revised proposal or pricing methodology

Omit clause 6A.12.3(a)(2) and substitute:

- (2) a *financeability request*;
- (2A) a revised *financeability request* with respect to a *financeability request* submitted under clause 6A.10.1(b); or

[48] Clause 6A.12.3 Submission of revised proposal or pricing methodology

Omit clause 6A.12.3(b) and substitute:

- (b) In relation to:

- (1) a revised *Revenue Proposal* or revised proposed *pricing methodology* referred to under subparagraphs (a)(1) and (a)(3) only, a *Transmission Network Service Provider* may only make revisions so as to incorporate the substance of any changes required by, or to address matters raised in, the draft decision; and
- (2) a revised *financeability request* referred to under subparagraph (a)(2A), a *Transmission Network Service Provider* may only make revisions to incorporate the substance of:
 - (i) any changes that result from revisions to the *Revenue Proposal* and *pricing methodology* in accordance with subparagraph (b)(1); or
 - (ii) new information and data relevant to the *financeability request* that has become available since the submission of the *financeability request* under clause 6A.10.1(b).

[49] Clause 6A.12.3 Submission of revised proposal or pricing methodology

Omit clause 6A.12.3(d) and substitute:

- (d) If a *financeability request* is submitted pursuant to paragraph (a)(2), it must comply with the requirements set out in clause 6A.10.1(d).

[50] Clause 6A.12.3 Submission of revised proposal or pricing methodology

In clause 6A.12.3(e1), omit "revised *Revenue Proposal* or the revised proposed *pricing methodology*" and substitute "revised *Revenue Proposal*, the revised proposed *pricing methodology*, *financeability request* or revised *financeability request*", wherever occurring.

[51] Clause 6A.12.3 Submission of revised proposal or pricing methodology

In clause 6A.12.3(e1)(3), omit "revised *Revenue Proposals* or the revised proposed *pricing methodologies* of other *Transmission Network Service Providers*" and substitute "revised *Revenue Proposals*, the revised proposed *pricing methodologies*, the *financeability request* or the revised *financeability request* (as applicable) of other *Transmission Network Service Providers*".

[52] Clause 6A.12.3 Submission of revised proposal or pricing methodology

Omit clause 6A.12.3(f)(2) and substitute:

- (2) if applicable, the *financeability request* or revised *financeability request*;

[53] Clause 6A.12.3 Submission of revised proposal or pricing methodology

In clause 6A.12.3(g), omit "revised proposed *negotiating framework* or revised proposed *pricing methodology*" and substitute "revised proposed *negotiating framework*, the revised proposed *pricing methodology*, and as applicable, the *financeability request* or the revised *financeability request*".

[54] Clause 6A.12.4 Submissions on specified matters

In clause 6A.12.4, omit "revised *Revenue Proposal* or revised proposed *pricing methodology*" and substitute "revised *Revenue Proposal*, revised proposed *pricing methodology*, *financeability request* or revised *financeability request*".

[55] Clause 6A.13.1 Making of final decision

In clause 6A.13.1(a1)(1), omit "*Revenue Proposal* and proposed *pricing methodology*" and substitute "*Revenue Proposal*, proposed *pricing methodology* and, if applicable the *financeability request* or revised *financeability request*".

[56] Clause 6A.13.1 Making of final decision

In clause 6A.13.1(b), after "rule 6A.14" insert ", and if applicable, clause 6A.6.3A and the *financeability guidelines*".

[57] Clause 6A.13.2A Out of scope revised documents or late submissions

In clause 6A.13.2A(a), omit "relevant *Revenue Proposal* or proposed *pricing methodology*" and substitute "relevant *Revenue Proposal*, proposed *pricing methodology* or *financeability request*".

[58] Clause 6A.13.2A Out of scope revised documents or late submissions

In clause 6A.13.2A(a), omit "revised *Revenue Proposal* or revised proposed *pricing methodology*" and substitute "revised *Revenue Proposal*, revised proposed *pricing methodology* or revised *financeability request*".

[59] Clause 6A.13.2A Out of scope revised documents or late submissions

In clause 6A.13.2A(b), after "a summary of any submissions on the draft decision in relation to the *Transmission Network Service Provider* or the revised proposed *Revenue Proposal* or revised proposed *pricing methodology*", insert "or the revised *financeability request*".

[60] Clause 6A.13.2A Out of scope revised documents

In clause 6A.13.2A(b), omit "information that the *Transmission Network Service Provider* was entitled to incorporate in the revised *Revenue Proposal* or revised proposed *pricing methodology*" and substitute "information that the *Transmission Network Service Provider* was entitled to incorporate in the revised *Revenue Proposal*, revised proposed *pricing methodology* or revised *financeability request*".

[61] Clause 6A.13.2A Out of scope revised documents or late submissions

In clause 6A.13.2A(d), after "revised *Revenue Proposal* or revised proposed *pricing methodology*" insert "or *financeability request* or revised *financeability request*".

[62] Clause 6A.13.2A Out of scope revised documents or late submissions

In clause 6A.13.2A, omit "relevant *Revenue Proposal*, proposed *pricing methodology* or submissions" and substitute "relevant *Revenue Proposal*, proposed *pricing methodology*, *financeability request*, revised *financeability request* or submissions".

[63] Clause 6A.14.1 Contents of decisions

Omit clause 6A.14.1(1)(ii) and substitute:

- (ii) subject to addressing any *financeability issue* in accordance with clauses 6A.6.3A(m), the *maximum allowed revenue* for the provider for each *regulatory year* of the *regulatory control period*;

[64] Clause 6A.14.1 Contents of decisions

In clause 6A.14.1(5), omit "[Deleted]" and substitute "in which the *AER* determines whether there is a *financeability issue* following the application of the *financeability test* and if so, how to address the *financeability issue* in accordance with clause 6A.6.3A(m);"

[65] Clause 6A.14.3 Circumstances in which matters must be approved or accepted

Omit clause 6A.14.3(b)(2) and substitute:

- (2) subject to addressing a *financeability issue* in accordance with clause 6A.6.3(m), the *maximum allowed revenue* for the *Transmission Network Service Provider* for each *regulatory year* of the *regulatory control period*,

[66] Clause 6A.14.3 Circumstances in which matters must be approved or accepted

In clause 6A.14.3(f), omit "[Deleted]" and substitute "If a *financeability request* is submitted under clause 6A.10.1(b) or clause 6A.12.3(a)(2) and there is a *financeability issue* following the application of the *financeability test*, the *AER* must address a *financeability issue* in accordance with clause 6A.6.3A(m).

[67] Clause 6A.14.3 Circumstances in which matters must be approved or accepted

In clause 6A.14.3(h), omit "revised *Revenue Proposal* or revised proposed *pricing methodology*" and substitute "revised *Revenue Proposal*, revised proposed *pricing methodology* or revised *financeability request*".

[68] Clause 6A.14.3 Circumstances in which matters must be approved or accepted

In clause 6A.14.3(h)(3)(i), omit "revised *Revenue Proposal* or the revised proposed *pricing methodology*" and substitute "revised *Revenue Proposal*, the revised proposed *pricing methodology* or the revised *financeability request*".

[69] Clause 6A.14.3 Circumstances in which matters must be approved or accepted

In clause 6A.14.3(h)(3)(ii), omit "revised *Revenue Proposal* or revised proposed *pricing methodology* differs from that contained in or accompanying the previous *Revenue Proposal* or proposed *pricing methodology*" and substitute "revised *Revenue Proposal*, revised proposed *pricing methodology* or revised *financeability request* differs from that contained in or accompanying the previous *Revenue Proposal*, proposed *pricing methodology* or *financeability request*".

[70] Clause 6A.14.3 Circumstances in which matters must be approved or accepted

In clause 6A.14.3(h)(4) omit "the amounts or values referred to in clause 6A.14.1(5)".

[71] Chapter 10 Glossary

In chapter 10, insert the following definitions in alphabetical order:

early works contingent project application

An application by a *Transmission Network Service Provider* to amend its *revenue determination* in respect of the costs of activities undertaken in respect of an *actionable ISP project* prior to construction of the *preferred option*.

financeability guidelines

The guidelines made by the *AER* under clause 6A.6.3A(p).

financeability issue

Has the meaning given to it in clause 6A.6.3A(l).

financeability request

Has the meaning given to it in clause 6A.6.3A(b).

financeability test

Has the meaning given to it in clause 6A.6.3A(k).

[72] Chapter 10 Glossary

In the definition of "*concessional finance agreement*", omit "or 6A.3.3" and substitute "*6A.3.3 or 6A.6.3A*".

Schedule 2 Savings and Transitional Amendment to the National Electricity Rules

(Clause 4)

[1] Chapter 11 Savings and Transitional Amendments to the National Electricity Rules

In Chapter 11, Part ZZZZZI, after rule 11.166, insert:

11.167 Rules consequential on the making of the National Electricity Amendment (Accommodating financeability in the regulatory framework) Rule 2024

11.167.1 Definitions

In this rule 11.167:

Amending Rule means the *National Electricity Amendment (Accommodating financeability in the regulatory framework) Rule 2024 No. 8*.

commencement date means 29 March 2024, being the commencement date of the Amending Rule.

effective date means 31 December 2024.

new Chapter 6A means Chapter 6A of the *Rules* as in force on and from the commencement date.

new clause 6A.6.3A means clause 6A.6.3A of new Chapter 6A.

new clause 6A.6.3A(b) means clause 6A.6.3A(b) of new Chapter 6A.

new clause 6A.6.3A(p) means clause 6A.6.3A(p) of new Chapter 6A.

transitional period means the period beginning on the commencement date and ending on the effective date.

11.167.2 Financeability guidelines

By 31 December 2024, the *AER* must develop and *publish* the *financeability guidelines* under new clause 6A.6.3A(p).

11.167.3 Financeability test before publication of financeability guidelines

(a) Subject to paragraph (b), new clause 6A.6.3A applies during the transitional period and a *Transmission Network Service Provider* may submit a request under new clause 6A.6.3A(b) at any time during the transitional period.

(b) If the *AER* has not yet published a final *financeability guidelines*, then:

- (1) the *financeability guidelines* do not apply to the *AER's* decision to approve or reject a request made by a *Transmission Network Service Provider* under new clause 6A.6.3A(b);
- (2) the *AER* must use its reasonable endeavours to give effect to the requirements of paragraphs (i), (j), (k), (l), (m) and (n) in new clause 6A.6.3A if it receives a request from a *Transmission Network Service Provider* under new clause 6A.6.3A(b); and
- (3) the *AER's* decision to approve or reject the request made by a *Transmission Network Service Provider* under new clause 6A.6.3A(b) is binding on the *AER* and the *Transmission Network Service Provider*.

[END OF RULE AS MADE]
